

RESOLUTION NO. 2025-41

**A RESOLUTION OF CITY OF DELTONA, FLORIDA;
APPROVING THE PURCHASE OF A PRE-FABRICATED
MODULAR BUILDING FOR THE FIRE DEPARTMENT
FROM MOBILE MODULAR A DIVISION OF MCGRATH
RENTCORP PURSUANT TO SUWANNEE COUNTY
SCHOOL DISTRICT SOLICITATION NUMBER RFP 20-209;
PROVIDING FOR IMPLEMENTATION AND AN EFFECTIVE
DATE.**

WHEREAS, the City of Deltona (the "City") approved the Fiscal Year 2025 Budget for the Fire Department with \$200,000 for training complex enhancements; and

WHEREAS, the purchase of a pre-fabricated modular building will provide a designated training space, enhancing on-site instruction, operational coordination, and overall training efficiency for the Fire Department; and

WHEREAS, Mobile Modular submitted a proposal to provide a modular building with restroom during Fiscal Year 2025 at a price not to exceed thirty-eight thousand two hundred and fifty dollars and no cents (\$38,250.00), which is attached hereto as "Exhibit A" (the "Proposal"); and

WHEREAS, the Purchasing Policies of the City of Deltona authorize "piggybacking" on other competitively bid government contracts; and

WHEREAS, Suwannee County School District has entered into Agreement with Mobile Modular pursuant to competitive solicitation Bid#20-209; and

WHEREAS, the City Commission desires to authorize the City Manager or his designee to utilize this piggyback agreement to award a purchase order to Mobile Modular for the modular classroom with restroom.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA:

Section 1. Recitals Adopted. That each of the above recitals are hereby adopted, confirmed, and incorporated herein.

Section 2. Purchase Approved. That the Proposal, in substantially the form which is attached hereto, is approved, and the City Manager or his designee is authorized

to accept the Proposal, once approved by the City Attorney as to form and legal sufficiency.

Section 3. Implementation. That the City Manager is hereby authorized to take any action which is necessary to implement this Resolution.

Section 4. Effective Date. That this Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, THIS _____ DAY OF _____, 2025.

BY: _____
Santiago Avila, Jr., MAYOR

ATTEST:

Joyce Raftery, CMC, MMC, CITY CLERK

Approved as to form and legality
for use and reliance of the City of
Deltona, Florida

TG Law, PLLC, CITY ATTORNEY

Name	Yes	No
Avila-Vazquez		
Colwell		
Heriot		
Howington		
Lulli		
Santiago		
Avila		

EXHIBIT A



a Division of McGrath RentCorp
 Corporate Headquarters
 5700 Las Positas Rd
 Livermore, CA 94551
 925-606-9000
 www.mgrc.com

Sale Quotation and Agreement	
Quote #	Q-490769
Date of Quote	02/05/2025
Quote Expiration Date:	03/07/2025
Estimate Del Date	01/03/2025
Buyer PO#:	

Buyer Name and Billing Address	Site Information	Seller Name
Deltona Fire Department ("Buyer") 1865 Providence Boulevard Deltona, FL 32725 Katy Hart Phone #: (386) 575-6905	Katy Hart 1865 Providence Boulevard Deltona, FL 32725 Cell: (386) 575-6905	Mobile Modular Management Corporation a Division of McGrath RentCorp ("Seller") Questions? Contact: Carolyn Prescott carolyn.prescott@mobilemodular.com Direct Phone: 1 (863) 508-6882

Equipment and Accessories	Qty	Purchase Price	Extended Purchase Price	Taxable
Custom 2 Floor Building (Prepayment Required for Delivery) (24x36 classroom with restroom. Used building sold "AS IS". ID 41859)	1		\$28,500.00	N

Charges Upon Delivery	Qty	Charge Each	Total One Time	Taxable
Custom 2 Floor Building (Prepayment Required for Delivery) (24x36 classroom with restroom. Used building sold "AS IS". ID 41859)				
Delivery	2	\$950.00	\$1,900.00	
Block and Level Custom Building	1	\$6,000.00	\$6,000.00	
Essential Material Handling Fee	2	\$75.00	\$150.00	
Drawings	1	\$1,250.00	\$1,250.00	
Removal, Axle	1	\$450.00	\$450.00	

Total Estimated Charges	
Subtotal	\$38,250.00
Taxes	\$00000.00
Total Charges (including tax)	\$38,250.00

Quote offered using Mobile Modular's Bid #20-209 with Suwannee County School District.

Special Notes

Quote based on availability. Temporary/Portable Holding Tanks: Lessor shall not be liable for loss or damage as a result of holding tanks that fill up more quickly than expected, or that overflow. Lessor strongly recommends that the equipment be connected directly to sanitary sewer lines. This proposal does not include steps, ramps, skirting, furniture, holdings tanks, or awnings unless specifically identified on quote. This proposal assumes the use of earth anchoring on grass or dirt surface. Customer is responsible for scheduling all locates (www.sunshine811.com) and making MMMC aware of any hazards before digging. FL Not included in scope of work: Site architect services, building permits, site contracting not limited to sidewalks, grading, site preparation, utilities/connections, grounding, fire alarm systems, fire sprinkler systems. If tires or axles need to be removed, this will be done at an additional charge.

Three hard copy sets of building plans will be provided at no cost. Additional sets and E-seals are available at an additional charge.

****ASPHALT and CONCRETE** Buildings set on asphalt or concrete will be at an additional charge of \$40/per anchor. PLEASE CIRCLE - (DIRT) (ASHPALT) (CONCRETE) or (OTHER) and INITIAL HERE.**

_____.

Clarifications

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Buyer PO#:	

- The Total Price quoted in this Agreement shall be valid through the Quote Expiration Date set forth herein or for 30 days from the Date of Quote, whichever is earlier. Notwithstanding the foregoing, in the event this Agreement is signed by Buyer after the applicable expiration date, Seller shall have the option to either accept as set forth below or reject the Agreement in writing. Seller may accept the Agreement by: (1) signing the Agreement below; (2) notifying Buyer in writing of Seller's acceptance; or (3) beginning performance of the Services set forth herein.
- This transaction is subject to prior approval of Buyer's credit to the sole satisfaction of Seller.
- Buyer is responsible for proper preparation of the Site prior to delivery of the Equipment in accordance with the terms and conditions of this Agreement.
- In-fleet used Equipment is subject to availability at the time of Buyer's signing of this Agreement.
- Unless otherwise noted, all Equipment is previously leased and in used condition. Any floor plans attached or provided are conceptual only. Materials, dimensions, and specifications might vary. Detailed specifications may be available upon request.
- A down payment may be required at the time of Buyer's execution of this Agreement, as specified in the Payment section of the Sale Terms and Conditions, or as may otherwise be specified in this Agreement.
- Sales and any other taxes will be calculated based on the applicable rates at the time of invoicing and the Total Price will be adjusted accordingly.
- Unless otherwise noted, prices do not include prevailing wages, Davis-Bacon Act wages or benefits, or other special or certified wages or benefits.

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Table with 2 columns: Field Name and Value. Fields include Quote # (Q-490769), Date of Quote (02/05/2025), Quote Expiration Date (03/07/2025), Estimate Del Date (01/03/2025), and Buyer PO#.

This Sale Quotation and Agreement is entered into by and between Seller and Buyer effective as of the date signed by Buyer. This Sale Quotation and Agreement includes the terms and conditions set forth in the following two documents (collectively, the "Agreement"), each of which is incorporated herein by this reference, and together shall collectively be one integrated contract:

- 1. Sale Terms and Conditions attached hereto; and
2. Supplemental Sale Terms and Conditions located at https://www.mobilemodular.com/contractterms as the same may be updated from time to time in the sole and absolute discretion of Lessor.

By signing below, Seller: (1) acknowledges and agrees that it has received, read and understands the terms of this Agreement and agrees to be bound by the terms of this Agreement, including prices and specifications, and (2) instructs Seller to make appropriate arrangements for the preparation and delivery of the Equipment identified herein.

No document provided by Buyer including, without limitation, Buyer's purchase orders, work orders, bills of lading, or forms for receipt or acknowledgment or authorization ("Buyer Forms"), nor the terms and conditions associated with such Buyer Forms, shall amend, modify, supplement, waive, or release any term or condition of this Agreement even if such Buyer Forms are signed by an agent or representative of Seller.

The individuals signing this Agreement affirm that they are duly authorized to execute this Agreement by and on behalf of the parties hereto.

SELLER:
Mobile Modular Management Corporation
a Division of McGrath RentCorp

BUYER:
Deltona Fire Department

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

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SALE TERMS AND CONDITIONS

1. SALE. Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Equipment. "Equipment" means the modular buildings identified in the Agreement, and any Accessories to be furnished by Seller to Buyer. "Accessories" means any additions, attachments, add-ons, fitments, parts, components, or accessories to the modular buildings to be furnished by Seller to Buyer as may be specified in under this Agreement.

2. PAYMENT. Buyer shall pay Seller the Total Price set forth in the Agreement, which shall include all amounts owed for the Equipment, Accessories, and Services and which shall be subject to adjustments for changes, unknown conditions or unforeseen circumstances, including, but not limited to, driver waiting time, special transport permits, difficult site conditions, or increases in fuel prices, in accordance with the terms of this Agreement and subject to adjustments for all applicable taxes calculated at the time of invoicing (collectively, the "Purchase Price") on the applicable payment schedule listed below.

(a) NEW EQUIPMENT AND SERVICES PAYMENT SCHEDULE.

- Fifty percent (50%) of the Total Price upon Buyer's execution of this Agreement.
• Forty percent (40%) of the Total Price no less than three (3) business days prior to the scheduled delivery of the Equipment to the Site.
• Ten percent (10%) of the Total Price Net 30 days from the date of substantial completion of Seller's scope of work (substantial completion does not include punch list items).

(b) USED EQUIPMENT AND SERVICES PAYMENT SCHEDULE.

- Twenty-five percent (25%) of the Total Price upon Buyer's execution of this Agreement.
• Sixty-five percent (65%) of the Total Price no less than three (3) business days prior to the scheduled delivery of the Equipment to the Site.
• Ten percent (10%) of the Total Price Net 30 days from the date of substantial completion of Seller's scope of work (substantial completion does not include punch list items).

3. SELLER SCOPE OF WORK; EXCLUSIONS; CHANGE ORDER. Seller's scope of work is limited to (1) the procurement and/or preparation of the Equipment and Accessories (if any) to meet the specifications set forth in this Agreement; and (2) performance of the Services. The Total Price excludes all additional services, accessories, ancillary items or equipment and additional on-site labor. The following are obligations of the Buyer and specifically excluded from Seller's obligations under this Agreement: (i) permits and licensing related to the Site; (ii) Site engineering or other design services; (iii) selection or preparation of the Site (iv) utilities or temporary power, and (viii) utility connections, whether temporary or permanent. Buyer may request changes or alterations in Seller's scope of work, which Seller may or may not agree to in Seller's sole discretion. Any written change orders shall be incorporated by reference into this Agreement and subject to all Terms and Conditions set forth herein.

4. SCHEDULE; BUYER DELAYS.

(a) Buyer will schedule operations such that delivery and installation of the Equipment may be carried out by Seller in one continuous operation and in proper sequence. Should there be delays in the Buyer's preparation of the Site which would delay delivery and/or installation of the Equipment, Buyer shall notify Seller no less than ten (10) days in advance of the Estimated Delivery Date. In the event Buyer fails to comply with the foregoing requirements, Buyer will reimburse Seller for actual costs and damages incurred, including a reasonable markup for overhead and profit for work performed by Seller, resulting from such delay. Any such delay resulting therefrom will extend Seller's period of performance, which may not be a day for day extension of time.

(b) If Buyer delays delivery of the Equipment for any reason for thirty (30) days or longer from the original Estimated Delivery Date, Seller, in its sole discretion may take one or more of the following actions which Buyer shall be notified of in writing: (1) revise

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prices to reflect current market rates for materials, equipment or services, which Seller shall notify Buyer of in a written change order prior to delivery of the Equipment; (2) require Buyer to pay any remaining balance of the Purchase Price in full; (3) require Buyer to pay a monthly fee for storage of the Equipment; and (4) terminate the Agreement and in so doing, Buyer shall be responsible for payment to Seller of a termination fee ("Termination Fee") for the costs incurred and profits lost as a result of Seller's performance of its obligations under this Agreement prior to such termination, and which must be paid to Seller within ten (10) business days of receipt of written notice from Seller. Any partial payments previously made to Seller will be credited against the Termination Fee and amounts in excess of the Termination Fee may be refunded to Buyer. In the event that Buyer fails to timely pay the Termination Fee, Seller shall have the right to collect the full Purchase Price plus all additional costs, including attorneys' fees, incurred due to Buyer's failure to timely take delivery of the Equipment and/or to pay such Termination Fee.

5. **CANCELLATION.** It is understood and agreed between the parties that, upon the Buyer's execution of this Agreement and acceptance of all Buyer obligations set forth herein, Seller shall proceed with procurement of any materials, equipment, labor, or otherwise in the performance of its obligations hereunder and in so doing, may incur extraordinary costs and expenses. All sales are final and non-refundable upon delivery of the Equipment to the Site. Any requests to cancel this Agreement prior to delivery may or may not be accepted in Seller's sole discretion and must be agreed upon by Seller in a writing that expressly references this Agreement and provides all the terms and conditions of the cancellation. In the event Seller accepts a cancellation requested by Buyer, the terms of the cancellation will include a payment to Seller for the costs incurred and profits lost as a result of Buyer's cancellation (a "Cancellation Fee"), which must be paid to Seller within ten (10) business days of receipt of written notice from Seller. Any partial payments to Seller will be credited against the Cancellation Fee and amounts in excess of the Cancellation Fee may be refunded to Buyer. No cancellation, even if accepted by Seller, shall be effective unless and until Buyer timely and fully pays the Cancellation Fee. In the event Seller accepts Buyer's cancellation but Buyer fails to timely pay the Cancellation Fee, Seller shall have the right to collect the full Purchase Price plus all additional costs, including attorneys' fees, incurred due to Buyer's failure to complete the cancellation.
6. **EQUIPMENT INSPECTION; ACCEPTANCE.** Following delivery and installation of the Equipment, Buyer shall inspect the Equipment within forty-eight (48) hours of substantial completion of Seller's scope of work for such Equipment. Buyer shall immediately notify Seller in writing of any observed defects upon completion of such inspection and should Buyer fail to submit such written documentation within the foregoing timeframe, it shall be conclusively presumed between Buyer and Seller that Buyer has inspected the Equipment and that all Equipment is in conformance with the Agreement and has been accepted by Buyer.
7. **RISK OF LOSS.** All risk of loss or damage to the Equipment shall transfer to Buyer upon delivery of the Equipment to the Site.
8. **INSURANCE.** Upon delivery of the Equipment and until Buyer has paid for the Equipment in full, Buyer shall procure and maintain, at its sole expense (including all premiums, deductibles and self-insured retentions), (i) property insurance covering the loss, theft, destruction, or damage to the Equipment in an amount not less than the full replacement value thereof (and with a deductible no higher than \$25,000), naming Seller as loss payee of the proceeds, and (ii) commercial general liability insurance (minimum of \$1,000,000 per occurrence and \$2,000,000 in the aggregate) (and with a deductible no higher than \$25,000), naming Seller and its designees as additional insureds. Buyer's insurance shall be primary and non-contributory to any insurance maintained by Seller or any other additional insureds. The liability insurance policy shall contain cross-liability and waiver of subrogation provisions in favor of Seller and any other additional insureds. All evidence of all required insurance shall be in a form reasonably acceptable to Seller and with a company having an A.M. Best rating of A- (VII) or better, and shall not be subject to cancellation without thirty (30) days' prior written notice to Seller. Buyer shall provide to Seller insurance certificates and endorsements (including without limitation, additional insured and loss payee endorsements) evidencing compliance with the insurance requirements of this Agreement (including without limitation, the deductible amounts and waiver of subrogation) prior to delivery of the Equipment and shall maintain all required insurance coverage until Buyer has paid for the Equipment in full. Seller will not and does not provide insurance for any of Buyer's personal property that may be in or on any Equipment. Any failure by Seller to obtain or receive certificates of insurance or any endorsements prior to delivering the Equipment to Buyer will not be deemed a waiver of Buyer's obligations to procure and maintain the insurance specified herein.

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9. **INDEMNIFICATION.** TO THE FULL EXTENT NOT PROHIBITED BY LAW, BUYER, ON BEHALF OF ITSELF, ITS SUCCESSORS, ASSIGNS, PARENTS, SUBSIDIARIES, VENDORS, SUBCONTRACTORS, AND AFFILIATES, AND THEIR RESPECTIVE REPRESENTATIVES, DIRECTORS, OFFICERS, MANAGERS, VENDORS, MEMBERS, SHAREHOLDERS, PARTNERS, CONTRACTORS, EMPLOYEES, AGENTS, AND ASSIGNS (EACH, A "BUYER PARTY," AND COLLECTIVELY, THE "BUYER PARTIES") SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS, SELLER, ITS SUCCESSORS, ASSIGNS, PARENTS, SUBSIDIARIES, VENDORS AND CONTRACTORS (INCLUDING BUT NOT LIMITED TO TRANSPORTATION AND DELIVERY VENDORS AND CONTRACTORS), AND AFFILIATES, AND THEIR RESPECTIVE REPRESENTATIVES, DIRECTORS, OFFICERS, VENDORS, CONTRACTORS, EMPLOYEES, AGENTS, AND ASSIGNS (COLLECTIVELY, THE "INDEMNIFIED PARTIES") FROM AND AGAINST ANY AND ALL LOSSES, FEES, COSTS, EXPENSES, CLAIMS, LIABILITIES, DAMAGES, PENALTIES, FINES, FORFEITURES, AND SUITS (INCLUDING COSTS OF DEFENSE, SETTLEMENT AND ATTORNEYS' FEES, ENVIRONMENTAL CONSULTANTS AND EXPERT WITNESS FEES WHETHER INCURRED IN THE ASSESSMENT OR MANAGEMENT OF ANY CLAIM OR AT TRIAL AND ON APPEAL) (COLLECTIVELY, "LOSSES") RELATING TO OR ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION : (1) ANY BREACH OR NON-FULFILLMENT OF ANY COVENANT, AGREEMENT, OR OBLIGATION TO BE PERFORMED BY BUYER UNDER THIS AGREEMENT; (2) BUYER'S OWNERSHIP AND UTILIZATION OF THE EQUIPMENT; (3) ANY DEATH OR BODILY INJURY TO ANY PERSON OR DESTRUCTION OR DAMAGE TO ANY PROPERTY TO WHICH THE ACTS OR OMISSIONS OF A BUYER PARTY CONTRIBUTED; OR (4) ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION OF ANY BUYER PARTY OR ANY ACTION RELATED TO OR ANY USE OF ANY EQUIPMENT. If the indemnity and defense obligations in this Paragraph are otherwise prohibited by law, Buyer agrees to indemnify, defend and hold the Indemnified Parties harmless from Losses to the maximum extent permitted by Law. The indemnity and defense obligations of the Buyer under this Paragraph and those elsewhere in this Agreement and any other related agreements (i) shall not be limited by any limitation on the amount or type of damages, compensation, or benefits payable under workers compensation acts, disability acts, or other employee benefit acts, (ii) shall survive any termination or expiration of this Agreement and shall apply to Losses arising before or after the performance of any obligation under this Agreement, (iii) shall not be construed to negate, abridge, or reduce any other rights, including rights of indemnity accorded by Law to the persons or entities indemnified, and (iv) shall not be limited or diminished in any way by insurance coverage.

10. **LIMITATION OF LIABILITY.** TO THE FULLEST EXTENT NOT PROHIBITED BY LAW, SELLER'S LIABILITY, IF ANY, SHALL BE LIMITED TO THE VALUE OF THE total PRICE, AND SELLER SHALL HAVE NO LIABILITY TO BUYER OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

11. **WARRANTIES.**

(a) **USED EQUIPMENT.** Except as specifically stated in Section 6(b) below, all Equipment is previously leased or used and will exhibit normal wear and tear consistent with other used equipment of similar age or use, including with respect to wall panel surfaces, ceiling tiles, windows, flooring, general appearance, etc. **BUYER ACKNOWLEDGES AND AGREES THAT THE EQUIPMENT IS SOLD "AS IS, WHERE IS, AND WITH ALL FAULTS."** SELLER MAKES NO WARRANTY, GUARANTY, OR REPRESENTATION WHATSOEVER, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE ADEQUACY OF THE SITE OR FITNESS OF UTILITIES AT THE SITE OR THE DURABILITY, CONDITION, QUALITY, DESIGN, CAPACITY, SUITABILITY, OR PERFORMANCE OF THE EQUIPMENT; AND SELLER EXPRESSLY DISCLAIMS, WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, ANY (A) WARRANTY OF MERCHANTABILITY, (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND (C) WARRANTY AGAINST INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK, TRADE SECRET OR OTHER PROPRIETARY RIGHTS OF A THIRD PARTY. BUYER ACKNOWLEDGES AND AGREES THAT IT HAS SELECTED AND INSPECTED ALL EQUIPMENT PRIOR TO MAKING FULL PAYMENT OF THE TOTAL PRICE OR BEFORE ACCEPTING DELIVERY AND RISK OF LOSS, AND THAT BUYER IS SATISFIED AS TO THE EQUIPMENT'S CONDITION.

(b) **NEW EQUIPMENT.** Notwithstanding any disclaimer of warranties elsewhere in the Agreement, if the Equipment purchased under this Agreement is sold as new equipment and identified as such in the Agreement, Seller warrants in accordance with this Paragraph for twelve (12) months from the date of manufacture that the Equipment shall be new upon delivery and free from major defects in materials and workmanship that prevent its normal use and operation under normal use and regular service and maintenance by Buyer. New Accessories shall carry the warranty of the manufacturer, which Seller shall assign to Buyer to the extent transferable. Provided Buyer provides written notice to Seller of any failure or defect in the Equipment within two (2) days after its discovery and within the applicable warranty period, Seller shall replace the Equipment or repair the defect. Failure to provide timely notice shall result in a limitation or voidance of this warranty. If Buyer does not grant access for repairs during normal working hours, which are 8:00 a.m. to 5:00 p.m., Monday through Friday, Buyer shall bear the cost of any overtime labor. This warranty does not extend to any Equipment that has been subjected to improper use, damaged by accident or abuse, or repaired or altered by Buyer without prior written authorization from Seller. **THIS EXPRESS WARRANTY FOR NEW EQUIPMENT IS SELLER'S SOLE AND EXCLUSIVE WARRANTY AND RECOURSE UNDER THIS AGREEMENT FOR NEW EQUIPMENT, AND IT IS LIEU OF, AND SELLER EXCLUDES AND EXPRESSLY DISCLAIMS, ALL OTHER WARRANTIES, GUARANTEES, AND REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, ANY (A) WARRANTY OF MERCHANTABILITY, (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE AND (C) WARRANTY AGAINST INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK, TRADE SECRET OR OTHER PROPRIETARY RIGHTS OF A THIRD PARTY.**

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(c) SERVICES. Seller warrants to Buyer that it shall perform the Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement. With respect to any Services subject to a claim under the warranty set forth in this Section, Seller shall, in its sole discretion, (i) repair or re-perform the applicable Services or (ii) credit or refund the price of such Services at the pro rata contract rate. The Seller shall not be liable for a breach of the warranties set forth in this Section unless: (i) Buyer gives written notice of the defective or non-conforming Goods or Services, as the case may be, reasonably described, to Seller within three (3) months of Seller's performance of the Services and within four (4) days of the time when Buyer discovers the defect. This warranty does not extend to any defect caused by accident or abuse, or repaired or altered by Buyer without prior written authorization from Seller. EXCEPT FOR THE SERVICES WARRANTIES SET FORTH IN THIS SECTION, SELLER MAKES NO WARRANTIES WHATSOEVER WITH RESPECT TO THE SERVICES. ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, ARE EXPRESSLY DISCLAIMED.

(d) MANUFACTURER WARRANTIES. Seller hereby assigns to Buyer any warranties applicable to the Equipment received from a manufacturer to the extent such warranties are still applicable, in force and assignable. Buyer hereby waives, and agrees that it will not assert, any claim of any nature whatsoever against Seller based on any manufacturer warranties. If any manufacturer warranties that remain valid and in force cannot be assigned or made available to Buyer, Seller agrees to use reasonable efforts at Buyer's cost to enforce such warranties.

12. DEFAULT; REMEDIES OF SELLER. Each of the following shall constitute an "Event of Default": (1) Buyer's failure to make any required payment to Seller within ten (10) calendar days after its due date, including but not limited to Buyer's failure to make timely payments in accordance with the payment schedules in Section 2(a) through 2(b) hereof; (2) Buyer's failure in the performance of any other obligation under this Agreement and the continuance of such default for ten (10) calendar days after written notice thereof by Seller to Buyer; (3) any warranty, representation or statement made or furnished to Seller by or on behalf of Buyer proves to be false in any material respect; (4) any uninsured loss, theft, damage or destruction to, or the attempted sale or encumbrance by Buyer of, the Equipment, or any levy, seizure or attachment thereof or thereon, prior to payment of the Purchase Price in full; (5) Buyer's insolvency, dissolution, winding up, termination of existence, or cessation or discontinuance of business prior to payment of the Purchase Price in full; (6) the appointment of a receiver of any part of, the assignment for the benefit of creditors by, or the commencement of any proceedings under any bankruptcy, reorganization or arrangement laws by or against, the Buyer prior to payment of the Purchase Price in full. Buyer acknowledges that any Event of Default will substantially impair the value of this Agreement to Seller; or (7) Buyer's breach of any other agreement between Buyer and Seller, regardless of whether the effective date of such agreement is before or after the Effective Date. Upon the occurrence of any Event of Default and any time thereafter prior to payment of the Purchase Price in full, Seller may exercise one or more of the following remedies: (1) terminate this Agreement; (2) declare all unpaid payments under this Agreement to be immediately due and payable; (3) direct Buyer at its expense to promptly prepare the Equipment for pickup by Seller and take possession of the Equipment wherever found, and for this purpose enter upon any premises of Buyer and remove the Equipment, without any liability to Buyer or requirement for a suit, action, bond or other proceedings; (4) use, hold, sell, lease or otherwise dispose of the Equipment on the Site or any other location without affecting the obligations of Buyer as provided in this Agreement; (6) proceed by appropriate action either in law or in equity to compel Buyer's performance or to recover damages sufficient to ensure that Seller receives the full benefit of its bargain under this Agreement, plus attorneys' fees and any other expenses paid or incurred by Seller in connection with repossession, holding, repair and subsequent disposition of the Equipment; (7) apply any deposit or down payment specified in this Agreement to payment of Seller's costs, expenses and attorneys' fees incurred in enforcing this Agreement (provided, however, nothing herein shall be construed to mean that Seller's damages are limited to the amount of such deposit or down payment); and (8) exercise any and all other rights of Seller under applicable law. These rights and remedies are nonexclusive and may be exercised concurrently or separately. Seller's waiver of any Event of Default shall not constitute a waiver of any other Event of Default or of any other right under this Agreement or applicable law.

Sale Terms and Conditions, Rev01/14/25