

ISO 9001 Registered Company

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A917278-C

VANNER, INC. TERMS AND CONDITIONS OF SALE

The following terms and conditions of sale as they appear at www.vanner.com at the time of sale (the "Terms and Conditions") govern the sale of all materials, goods or services (the "Goods") supplied by Vanner, Inc. (hereinafter called the "Company") to any purchaser thereof (hereinafter called the "Buyer") and apply notwithstanding any conflicting, contrary or additional terms and conditions in any quotation, confirmation form, acceptance invoice, bill of lading, purchase order, request for quote, or other document or communication from the Buyer (including, but not limited to, the Buyer's website). By purchasing the Goods, the Buyer confirms that the Terms and Conditions apply to the Buyer's purchase of the Goods, regardless of the form or terms of the Buyer's order. The Terms and Conditions constitute all of the terms of this Agreement between the Buyer and the Company. No course of prior dealings or performance between the parties or usage in the trade shall be relevant to supplement or explain any terms used in this Agreement. No modification or waiver of these conditions of sale shall be binding upon the Company unless approved by the Company in writing. **ANY CONFLICTING WARRANTIES, TERMS, AND CONDITIONS IN THE PURCHASE ORDER OR ANY OTHER OF THE BUYER'S DOCUMENTS SHALL BE CONSIDERED MATERIAL ALTERATIONS, WILL BE OF NO BINDING EFFECT, AND ARE HEREBY SPECIFICALLY OBJECTED TO AND REJECTED BY THE COMPANY. NEITHER THE COMPANY'S ACKNOWLEDGMENT OF A PURCHASE ORDER NOR THE COMPANY'S FAILURE TO OBJECT TO CONFLICTING, CONTRARY, OR ADDITIONAL TERMS AND CONDITIONS IN A PURCHASE ORDER SHALL BE DEEMED AN ACCEPTANCE OF SUCH TERMS AND CONDITIONS OR A WAIVER OF THE PROVISIONS HEREOF. THE COMPANY'S ACCEPTANCE OF ANY PURCHASE ORDER IS EXPRESSLY MADE CONDITIONAL ON THE BUYER'S ASSENT TO THE TERMS OF THIS AGREEMENT (WHETHER SUCH TERMS ARE ADDITIONAL OR DIFFERENT TO THE TERMS FOUND IN SUCH PURCHASE ORDER).**

1. Acceptance of Orders

No order shall be binding upon the Company unless and until such order is accepted by the Company in writing at its offices in Hilliard, Ohio. Any order received by the Company is subject to credit approval and may be cancelled if the Buyer's credit standing is not satisfactory to the Company.

2. Prices/Firm Quotation/Minimum Charge

The price to be invoiced and paid is the price in effect on the date of delivery, as shown in the Company's price list in effect on the date of delivery, unless otherwise specified in the Company's order acceptance. Prices stated are subject to change without notice in the event of: (i) alterations in specifications, quantities, designs, or delivery schedules; (ii) increases in the cost of fuel, power, material, supplies, or labor; and/or (iii) foreign or domestic legislation enacted by any level of government, including tax legislation, which increases the cost of producing, warehousing, or selling the Goods purchased hereunder. Any quotation or offer by the Company to sell may be revoked without notice unless it is in writing and specifies that it is "firm", "valid", or the like, in which case it shall be deemed revocable without notice after thirty (30) days unless a longer validity period is specified. Prices stated are based on the Company's standard packaging. The Company reserves the right of packaging the Goods in pallets, bulk, or individual cartons. Packaging will be standard commercial package and acceptable to commercial carrier. Special Buyer packaging will be furnished only when specified and so stated herein, and the cost thereof shall be borne by the Buyer.

3. Price and Delivery Terms/Transportation Allowance

Price and delivery terms are FOB the Company's plant and all transportation charges for shipments of the Goods shall be paid by the Buyer unless otherwise agreed upon in writing between the Company and the Buyer. Title and risk of loss pass to the Buyer upon the Company's putting the Goods into the possession of a carrier at the place of shipment and any claims for losses or damage shall be made by the Buyer directly with carrier. The Company shall not be liable for loss, damage, or expense due to delays in shipment or delivery. All reasonable efforts will be made to ship according to the Buyer's desired schedule, but any stated delivery dates are estimates only unless they are stated to be "guaranteed" in writing signed by an officer of the Company. The Company shall notify the Buyer of estimated ship dates, but is not responsible for delays in shipping. If shipment of the Goods is delayed by the Buyer, the Buyer shall pay on demand any costs incurred by the Company for handling, storage, and timely processing of the Buyer's order as well as demurrage and similar charges, if any. The Company's prices do not include taxes, impositions, and other charges, including: sales, use, excise, value added, and similar taxes or charges imposed by any government authority, international shipping charges, forwarding agent's and broker's fees, consular fees, document fees, and import duties, all of which shall be borne by the Buyer. If the Company shall be liable for or shall pay any of the foregoing, the same shall be paid by the Buyer to the Company in addition to the price of the Goods. In the event the Buyer claims an exemption from any tax, a valid tax exception certificate must be furnished to the Company. The Company reserves the right to make deliveries in installments and invoice for same at the Company's reasonable discretion. Delay in delivery of one installment shall not entitle the Buyer to cancel other installments. The Company may, in the Company's discretion; invoice for the Goods that the Company is ready to deliver but that the Buyer is not ready to receive.

4. Acceptance of the Goods and Transportation.

Inspection and acceptance of the Goods shall be the Buyer's responsibility. The Buyer is deemed to have accepted the Goods unless written notice of rejection is received by the Company within ten (10) days after delivery of the Goods. The Buyer waives any right to revoke acceptance thereafter. The Buyer shall report any discrepancy in shipment quantity or damage within ten (10) days after delivery of the Goods.

In the absence of shipping and packing instructions, the Company shall use its own discretion in choice of carrier and method of packing. The Company shall not be responsible for insuring shipments unless specifically requested by the Buyer, and any insurance so requested shall be at the Buyer's expense and valuation.

5. Termination, Cancellation and Changes

Orders cannot be terminated, cancelled, or modified, or shipment deferred after acceptance of the Buyer's order by the Company, except with the Company's written consent and subject to conditions then agreed upon which shall indemnify the Company against liability and expense incurred and commitments made by the Company and which shall provide for profit on work in process and contract value of products or parts completed and ready for shipment.

6. Product Returns

All products returns require advance approval from the Vanner Regional Manager and the market Vice President of Sales before a Return Goods Authorization (RGA) is issued. **PRODUCTS RETURNED MUST HAVE A VALID RGA AND AN ACCOMPANYING OFFSETTING ORDER FOR NEW PRODUCTS, EQUAL OR GREATER THAN THE CREDIT AMOUNT.**

Products must be returned freight prepaid with the RGA number clearly displayed on the return cartons and documents. Products received without an RGA number will not be accepted by Vanner's shipping department and will be refused, returned freight collect, or scrapped at the discretion of Vanner's Shipping Dept. **ANY PRODUCT THAT IS REFUSED, RETURNED, OR SCRAPPED WILL NOT RECEIVE CREDIT.** Products must be in new and resalable condition and the cartons and packaging undamaged and in like-new condition. **NO RETURNS WILL BE APPROVED OR ACCEPTED FOR SPECIALLY MODIFIED PRODUCTS.** Deductions will be assessed against credit to cover any and all refurbishing and repackaging costs.

Only product shipped within the previous 12 months of request to return will be considered for return. Vanner's policy is one of continuous improvement. If a product design has changed since originally purchased, the returned products are subject to

additional upgrade and refurbish charges, if deemed necessary by Vanner's Service Department.

A MINIMUM 25% HANDLING AND RE-STOCKING CHARGE WILL BE ASSESSED FOR ALL PRODUCT RETURNS. Vanner reserves the right to assess additional charges if unforeseen circumstances dictate it.

DISTRIBUTOR/DEALER INVENTORY ADJUSTMENTS:

The purpose of the inventory adjustment is to assist the Distributor / Dealer with inventory turns. Non-selling inventory will be replaced with products that are selling within a specified period. **INVENTORY ADJUSTMENTS WILL ONLY BE CONSIDERED WITHIN AN 8-12 MONTH PERIOD OF NEW INVENTORIES BEING PURCHASED.** No handling fee will be charged on inventory adjustments. Non-selling products may be returned and replaced with an equal value of products that are selling within this period. An accompanying offsetting order must be submitted with the inventory adjustment request. The Distributor / Dealer ships the product freight prepaid to Vanner. Vanner will pay the freight charges for the equal value replacement order. **VANNER'S REGIONAL MANAGER AND MARKET VICE PRESIDENT OF SALES MUST APPROVE ALL INVENTORY ADJUSTMENT REQUESTS.**

7. Payment Terms/Security

Unless otherwise specified in the Company's quotation or order acceptance, payment of the net invoice price, with any applicable cash discount, shall be due within thirty (30) days of the date of Company's invoice. No discount will be allowed unless specifically set forth herein or agreed to in writing by an officer of the Company. The Buyer shall not be entitled to any further deferment or set off unless and until a credit memorandum or court judgment is issued in the Buyer's favor. The Company shall be entitled to recover all costs involved, in collection, including reasonable attorney's fees. Whenever the Company reasonably deems itself insecure, the Company may withhold shipment, withhold or revoke any extension of credit, enforce its security interest, created hereby, in all Goods (and proceeds there from) sold by the Company to the Buyer and take any other reasonable steps to secure itself without liability for breach or nonperformance of contract in whole or in part. The Buyer agrees to pay a delinquency charge of 1.5% of the net invoice amount per month, or if such rate shall exceed the maximum rate allowed by applicable law, then a delinquency charge calculated at such maximum rate, on the outstanding balances not paid when due, from the date such balances were due until payment with respect thereof is made in full. Until the purchase price and all other sums due pursuant hereto are paid in full, the Company retains a security interest in the materials described herein or in the invoice and in all proceeds thereof. The Buyer hereby grants to the Company a security interest in all Goods and all proceeds and products thereof until all amounts due or to become due hereunder have been paid. The Buyer, on request by the Company, irrevocably authorizes the Company to file financing statements naming the Company as secured party and the Buyer as debtor.

8. Warranty

The Company warrants that all new and unused Goods furnished by the Company are free from defect in material and workmanship at the time and place of delivery. The Buyer must notify the Company in writing within thirty (30) days of shipping of any nonconformity of product to the foregoing warranty. **THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES NOT EXPRESSLY SET FORTH HEREIN, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.** In the case of the Company's breach of any warranty or any other duty with respect to the quality of any of the Goods, the exclusive remedies therefor shall be replacement, repair, or return of the purchase price on returned Goods, provided, however, if the Company's breach of any warranty or any other duty with respect to the quality of any of the Goods occurs at the original equipment manufacturer's factory, the exclusive remedies therefor shall be replacement or return of the purchase price on returned Goods. Selection among these remedies shall in each case be at the Company's sole discretion and subject to the Company's reasonable return procedures. The Company and the Buyer expressly agree that the Buyer's sole and exclusive remedy against the Company shall be for the replacement or return of the purchase price on returned Goods, and if applicable, repair, as provided herein. No affirmation of the Company, by words or action, other than as set forth in this section 7 shall constitute a warranty.

This warranty shall not apply to any alteration or modification made to the Goods without the express prior written consent of the Company, or to any unauthorized repair or replacement, or to the Goods which have been subject to misuse, mishandling, misapplication, neglect (including but not limited to improper maintenance), accident, improper installation, modification (including but not limited to use of unauthorized parts or attachments), or improper operation, or to other than normal use or service.

Any claim by the Buyer with reference to the Goods sold hereunder shall be deemed waived by the Buyer unless submitted in writing to the Company within the earlier of (i) thirty (30) days following the date the Buyer discovered or by reasonable inspection should have discovered, any claimed breach of the foregoing warranty, or (ii) thirteen (13) months following the date of shipment. Any cause of action for breach of the foregoing warranty shall be brought within one year from the date the alleged breach was discovered or should have been discovered, whichever occurs first.

9. Limitation of Liability

THE COMPANY'S LIABILITY FOR ITS GOODS UNDER ALL THEORIES OF LIABILITY SHALL BE LIMITED TO REPLACING OR REPAIRING THOSE FOUND BY THE COMPANY TO BE DEFECTIVE, OR AT THE COMPANY'S OPTION, TO REFUNDING THE PURCHASE PRICE OF SUCH GOODS, PROVIDED, HOWEVER, THE COMPANY'S LIABILITY FOR ITS GOODS UNDER ALL THEORIES OF LIABILITY WHICH OCCURRED AT THE ORIGINAL EQUIPMENT MANUFACTURER'S FACTORY SHALL BE LIMITED TO REPLACING THOSE FOUND BY THE COMPANY

TO BE DEFECTIVE, OR AT THE COMPANY'S OPTION, TO REFUNDING THE PURCHASE PRICE OF SUCH GOODS. AT THE COMPANY'S REQUEST, THE BUYER WILL SEND, AT THE BUYER'S SOLE EXPENSE, ANY ALLEGEDLY DEFECTIVE GOODS TO THE LOCATION SPECIFIED BY THE COMPANY. IN NO EVENT SHALL THE COMPANY'S LIABILITY ARISING IN CONNECTION WITH OR UNDER THIS AGREEMENT (WHETHER UNDER THE THEORIES OF BREACH OF CONTRACT, TORT LIABILITY, MISREPRESENTATION, FRAUD, WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER THEORY OF LAW) EXCEED THE PURCHASE PRICE OF THE GOODS. IT IS UNDERSTOOD AND AGREED THAT THE BUYER ASSUMES ALL RISKS AND LIABILITIES RESULTING FROM THE ACCEPTANCE, HANDLING, TRANSPORT, STORAGE, USE, AND DISPOSAL OF THE GOODS. THE COMPANY NEITHER ASSUMES NOR AUTHORIZES ANY PERSON TO ASSUME FOR THE COMPANY ANY LIABILITY IN CONNECTION WITH THE SALE OR USE OF THE GOODS.

10. Consequential Damages

IN NO EVENT SHALL THE COMPANY BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SALE OF GOODS TO BUYER, INCLUDING WITHOUT LIMITATION BREACH OF ANY OBLIGATIONS OR WARRANTY IMPOSED ON THE COMPANY HEREUNDER OR IN CONNECTION HERewith. CONSEQUENTIAL DAMAGES FOR PURPOSES HEREOF SHALL INCLUDE, WITHOUT LIMITATION, LOSS OF GOODWILL, LOSS OF USE, INCOME OR PROFIT, OR LOSSES SUSTAINED AS THE RESULT OF INJURY (INCLUDING DEATH) TO ANY PERSON, OR LOSS OF OR DAMAGE TO PROPERTY (INCLUDING WITHOUT LIMITATION PROPERTY HANDLED OR PROCESSED BY THE USE OF THE GOODS), DAMAGES OR LOSSES RESULTING FROM CLAIMS OF OTHER PERSONS AGAINST THE BUYER, DESTRUCTION OR IMPAIRMENT OR LOSS OF USE OF OTHER GOODS, OR DAMAGES OR LOSSES SUSTAINED AS A RESULT OF WORK STOPPAGE. THE BUYER SHALL INDEMNIFY THE COMPANY AGAINST ALL LIABILITY, COST OR EXPENSE WHICH MAY BE SUSTAINED BY THE COMPANY ON ACCOUNT OF ANY SUCH LOSS, DAMAGE OR INJURY.

11. Force Majeure

The Company shall not be liable for delays in the execution of its obligations due to causes beyond its reasonable control, including, but not limited to, acts of God, acts of the Buyer, fires, strikes, labor disturbances, floods, epidemics, quarantine restrictions, war or terrorist act, insurrection or riot, acts of civil or military authority, compliance with priority orders or preference ratings issued by any Government, acts of Government authorities with respect to revocation of export or re-export permits/licenses, freight embargoes, car shortages, wrecks or delays in transportation, unusually severe weather, or inability to obtain necessary labor, materials or supplies or delays of subcontractors. In the event of any such delay, the set date for delivery of the Goods, if any, shall be extended for a reasonable period, or, the delivery of the Goods may be cancelled, without liability, at the Company's option. The contract of sale of the Goods

will in no event be subject to cancellation by the Buyer, due either to delay in delivery of the Goods or to any other cause, without the prior written consent of the Company. In the case of cancellation, cancellation charges judged adequate by the Company shall apply.

12. Compliance with Laws

The Buyer agrees that the Goods will not be used, resold, transferred, exported, or reused in any way by the Buyer in violation of any laws, regulations of any local state, or other governmental entity and the Buyer shall indemnify, defend and hold harmless the Company from any harm or damages or liability caused to it (including but not limited to reasonable attorney fees, court costs, and costs of investigation, and defense) by any of the foregoing uses or for the failure to comply with any laws or regulations. This Agreement is subject in part to applicable governmental laws, regulations, and rules of the government of the United States, including departments, agencies, and subdivisions thereof, and of the country in which the Goods and/or services to be sold will be installed, used, or performed. Should any governmental authority prohibit the performance of this contract, in whole or in part, or if the exportation or importation of the Goods which is the subject of this proposal, or any resulting contract, be precluded because of the inability, within a reasonable time, to obtain an export or import license therefore, as appropriate, then the Company's obligations under the quotation or any resulting contract shall be expunged, at the Company's option, and the Company shall be entitled to reasonable termination charges for the cancellation of any resulting contract. It shall be the Buyer's responsibility to provide any required applications, documentation, or any action which may be necessary to obtain any required license(s) to export from the United States or import into the Buyer's country. These documents as applicable, may include but are not limited to, U.S. Government Form ITA-629, International Import Certificate, Country End-User Certificate and Import License.

13. Termination

The Company may, without cost or liability to it, terminate this Agreement if one or more the following occurs: (a) the Buyer does not pay the Company for the Goods delivered in accordance with the terms hereof; (ii) the Company's cost for the Goods increases and the Company is unable to pass such costs along to the Buyer; (iii) the Company is unable to obtain sufficient quantities of the Goods to meet the Buyer's orders; or (iv) the institution of any proceedings against the Buyer, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee, or in the event that the Buyer shall make an assignment for the benefit of creditors. In addition to the preceding rights of termination, the Company may, upon thirty (30) days notice to the Buyer, terminate this Agreement at its convenience without cost or liability to it as to any Goods not delivered to the Buyer pursuant to any purchase order. The Company shall not be liable in damages for any failure or delay in delivery of materials due to causes beyond the Company's control and occurring without its fault or negligence, provided, the Company promptly notifies the Buyer as soon as possible after the beginning of any such cause. Additionally, the Buyer agrees to reimburse the Company for any and all

costs and fees incurred in the collection of any unpaid contract balance, including, but not limited to, any arbitration, and/or court costs, and fees (including attorneys fees).

14. Indemnity

The Buyer agrees to defend, indemnify, release, and hold harmless the Company from and against any and all claims, demands, damages, actions, or causes of action at law or in equity, together with any and all losses, costs, fines, penalties, expenses, and attorneys' fees in connection with, related to or in any manner growing out of the handling, use, transport, storing, and disposal of the Goods asserted by any entity, person, or persons, including but not limited to, employees of Buyer and all third parties for personal injury, disease, and/or death.

15. Ohio Law/Two Year Limitation Period/Effect on Third Parties

Ohio Law shall govern all transactions to which these standard Terms and Conditions of sale apply. Any legal action with respect to any such transaction must be commenced within two (2) years after the cause of action has occurred. All limitations herein on the Company's liability and remedies in the case of any breach of any duty of the Company to any buyer or user of any Goods furnished by the Company are hereby extended to the Company's suppliers (insofar as they may have any duties to any buyer or user of any Goods furnished by the Company) and are also extended to the Company's distributors (insofar as they may have any duties to any buyer or user of any Goods furnished by the Company), excepting only in the event and to the extent such suppliers or distributors expressly and in writing waive the benefits of this provision.

16. Complete Agreement

This Agreement sets forth the sole and entire agreement between the parties regarding the sale of the Goods herein and supersedes any and all prior or contemporaneous oral and written agreements between them regarding the same.

17. Miscellaneous

All agreements, covenants, conditions, and provisions contained herein shall apply to and bind the assignees and successors in interest of the Buyer. This Agreement is not assignable by the Buyer without the Company's prior written consent. The waiver by the Company of any breach or default in any payment shall not be deemed to be a waiver of any later breach or default. The exercise or failure to exercise any remedy shall not preclude the exercise of that remedy at another time or of any other remedy at any time. If any provision or portion of this Agreement is held to be invalid, illegal, unconscionable, or unenforceable, the other provisions and portions hereof shall not be affected. The several captions used herein are for the convenience of the parties only

and shall not affect the construction or interpretation hereof. Any clerical errors are subject to correction.

18. Patents

The Company shall defend any suit or proceeding brought against the Buyer insofar as such suit or proceeding is based on a claim that any Goods manufactured and supplied by the Company to the Buyer constitute direct infringement of any duly issued United States patent, and the Company shall pay all damages and costs finally awarded therein against the Buyer, provided that the Company is promptly informed and furnished a copy of each communication, notice, or other action relating to the alleged infringement and is given authority, information, and assistance (at the Company's expense) necessary to defend or settle said suit or proceeding. The Company shall not be obligated to defend or be liable for costs and damages if the infringement arises out of compliance with the Buyer's specification(s), or from a combination with, an addition to, or a modification of the Goods after delivery by the Company, or from use of the Goods, or any part thereof, in the practice of a process. The Company's obligations hereunder shall not apply to any infringement occurring after the Buyer has received notice of such suit or proceeding alleging the infringement unless the Company has given written permission for such continuing infringement.

If any Goods manufactured and supplied by the Company to the Buyer shall be held to infringe any United States patent and the Buyer shall be enjoined from using the same, the Company shall exert its reasonable efforts, at its option and at its expense, (i) to procure for the Buyer the right to use such Goods free of any liability for patent infringement or (ii) to replace such Goods with a non-infringing substitute otherwise complying substantially with all requirements of this contract or (iii) refund the purchase price and the transportation costs of such Goods.

If the infringement by the Buyer is alleged prior to completion of delivery of the Goods under this contract, the Company may decline to make further shipments without being in breach of this contract, and provided the Company has not been enjoined from selling said Goods to the Buyer, the Company agrees to supply said Goods to the Buyer, at the Buyer's option, whereupon the patent indemnity obligation herein stated with respect to the Company shall reciprocally apply with respect to the Buyer.

If any suit or proceeding is brought against the Company based on a claim that the Goods manufactured by the Company in compliance with the Buyer's specifications and supplied to the Buyer directly infringe any duly issued United States patent, then the patent indemnity obligations herein stated with respect to the Company shall reciprocally apply with respect to the Buyer.

The sale by the Company of the items ordered hereunder does not grant or convey or confer upon the Buyer or the Buyer's customers, or upon anyone claiming under the Buyer, a license, express or implied, under any patent rights of the Company covering

or relating to any combination, machine, or process in which said item might be or are used.

19. U.S. Government Contracts

If the Goods to be furnished under this contract are to be used in the performance of a U.S. Government contract or subcontract, and a U.S. Government contract number shall appear on the Buyer's purchase order, those clauses of the applicable U.S. Government procurement regulations which are required by Federal Statute to be included in U.S. Government subcontracts are incorporated herein by reference.

20. Affidavits and Certificates

No certificates of compliance, conformance, or chemical analysis shall be provided unless the Buyer's detailed requirements are stated on the face of the Buyer's order. The Company reserves the right to charge an additional fee for any such certificate.

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