

PANNIER CORPORATION
INTERNATIONAL TERMS & CONDITIONS OF SALE

1. **GOVERNING LAW.** This sale between Buyer and Seller will be governed by the local domestic law of the Commonwealth of Pennsylvania, U.S.A., exclusive of its conflict of laws provisions, including its provisions of the Uniform Commercial Code, except as modified by the following conditions. This contract of sale shall be interpreted using the English language.

2. **ACCEPTANCE.** Seller's acceptance of Buyer's order or proposal is expressly conditioned on Buyer's assent to these terms and conditions and Seller rejects any terms of Buyer's order or proposal which conflict with or add to them, including any requirement that the rights and obligations of the parties shall be governed by the provisions of the 1980 United Nations Convention on Contracts for the International Sale of Goods. Buyer's acceptance of product shall constitute assent to these terms.

3. **MINIMUM ORDER.** USD \$100.00 net minimum billing, excluding freight.

4. **WAIVERS OF DEFAULT.** Waiver by either party of any performance or default by the other shall not be deemed a waiver of any subsequent performance or default.

5. **DRAWBACKS.** All drawbacks of duties paid by Seller on materials entering into the manufacture of product shall accrue to Seller, and Buyer agrees to furnish to Seller all documents necessary to obtain payment of such drawbacks and to cooperate with Seller in obtaining such payment.

6. **SHIPMENT.** If Buyer fails to furnish details and shipping instructions to enable Seller to perform the contract in accordance with its terms, Seller shall be entitled, at its option, to cancel such unexecuted portion of the contract or to make shipment in such manner as it may elect. Unless otherwise agreed, Seller shall be entitled to select the route, port of shipment and vessel with the privilege of stopping in transit at a port or ports. Product shall be sold ex works Glenshaw, PA.

7. **OTHER CHARGES.** Other than those stated in this contract, Seller shall have no liability for incidental transportation charges, duties or other customs charges, or foreign taxes.

8. **TITLE AND RISK OF LOSS.** Unless otherwise stated, risk of loss of product will be governed by the International Commercial Terms (INCOTERMS) in effect at the time of the sale. Title shall pass to Buyer upon payment in full.

9. **PAYMENTS.** Unless otherwise stated, Buyer shall make payments at par in legal tender of the United States of America, net thirty (30) days from date of invoice. Each shipment is to be considered a separate sale. If at any time the financial responsibility of Buyer shall become impaired or unsatisfactory in the opinion of Seller, Seller may require cash payment on delivery or satisfactory security. If Buyer fails to make arrangements for payment, as Seller should require, Seller may withhold shipment or terminate the contract.

10. **LATE PAYMENT.** Late payment shall be considered a fundamental breach of the contract. In the case of late payment, Seller may assess late payment charges at a rate not to exceed the maximum allowed by law. Buyer shall be liable to Seller for the amount of attorney's fees or other costs incurred by Seller for collection of payment from Buyer.

11. **REMEDIES.** Seller's maximum liability and Buyer's exclusive remedy for any cause of action arising out of Buyer's purchase of product from Seller and/or this contract, including negligence, breach of contract or strict liability in tort, is expressly limited, at Seller's option, to repair or replacement of or reimbursement of the purchase price of the product with respect to which damages are claimed, whether such claim is in respect to product delivered or failure of product delivery. In order to preserve a claim for product damage, defect, nonconformance and/or shortage discoverable at delivery, Buyer must (a) examine, or have examined if delivered to other than Buyer, product delivered and advise the agent of the carrier to note damage, defect, nonconformance and/or shortage prior to acceptance of product from the carrier; and (b) present written claim to Seller respecting any product shipment within thirty (30) days after receipt. Buyer shall return to Seller, upon Seller's request, the product in the same condition as received by Buyer. Any product claim not confirmed in writing to Seller within thirty (30) days of Buyer's receipt of product shall be deemed waived. Seller shall not be liable for loss of use or profit, or any other special, incidental, consequential, indirect, exemplary, punitive or any similar damages regarding any cause of action arising out of Buyer's purchase of product from Seller and/or this contract.

12. **RETURNS.** No product shall be returned to Seller without Seller's return authorization number and shipping instructions.

13. **RESTOCKING CHARGE.** Buyer shall pay a 20% restocking charge on all product returned, unless after inspection Seller determines that product did not meet Seller's standard manufacturing specifications.

14. **INSTALLATION AND MAINTENANCE.** Price for product does not include the cost of installation and maintenance, unless specifically stated.

15. **CANCELLATION.** After product is in progress, Buyer may cancel purchase only with the express written consent of Seller and subject to an agreed upon cancellation fee.

16. **PRODUCT HAZARDS.** Buyer acknowledges that the product may have certain hazards, that it is familiar with such hazards and has taken steps to inform, warn and familiarize its employees, contractors and customers who may handle the product, of such hazards. Buyer purchases product solely at Buyer's risk and assumes all risk and liability for the use, storage and handling of product.

17. **TECHNICAL ADVICE.** Buyer understands that any technical or safety advice furnished by Seller regarding product is supplied without consideration and accepts such advice at its sole risk. Seller assumes no obligation or liability for the accuracy or sufficiency of advice given or results obtained.

18. **WARRANTY.** Unless otherwise stated, Seller makes no warranties in regard to any product sold hereunder, except that such product shall conform to its specifications in effect at the time of shipment; that it will convey good title thereto; that the product shall be delivered free from any lawful security interest or lien or encumbrance unknown to Buyer. **THIS WARRANTY IS EXPRESSLY IN LIEU OF ANY OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PURPOSE, AND OF ANY OTHER OBLIGATION ON THE PART OF SELLER.**

19. **FORCE MAJEURE.** Neither party to this contract and sale shall be liable for damages or otherwise to the other party hereto for any delay or failure to perform under this contract (other than to make payments when due hereunder) if delayed or prevented from performing by natural calamity, industrial disturbance, declared or undeclared war, law, regulation, ruling, order or action of any governmental authority, shortage or unavailability of product to be sold and purchased under this contract from the source(s) of supply or at the point(s) of origin from which shipments are normally made hereunder due to reductions in plant runs, plant shutdown, plant turnaround, shortage, unavailability or delay in delivery of other supplies of material necessary in the manufacture of product to be sold and purchased under this contract or other cause or any other cause or causes beyond such party's control whether similar or dissimilar to those stated above. Seller may, during any period of shortage due to any of said causes, prorate its supply of such goods among all its buyers in such manner as may be deemed equitable in sole judgment of Seller. Seller shall not be required to make up quantities of product which are not delivered during such period of force majeure, anticipated or encountered shortage, allocation program or other restriction and Seller shall have no liability to Buyer as a result of such product quantity reduction.

20. **LEGAL COMPLIANCE.** All shipments hereunder shall at all times be subject to the export control laws and regulations of the U.S.A. Buyer shall not make any disposition of U.S.A.-origin products (or technical data) purchased from Seller by way of trans-shipment, re-export, diversion or otherwise, other than in and to the country of ultimate destination specified in Buyer's order or declared as the country of ultimate destination on Seller's invoices, except as said laws and regulations may permit. Buyer shall comply with all applicable laws and regulations pertaining to the receipt, use or sale of the product. Buyer shall indemnify and hold harmless Seller, its successors, assigns and agents, against all costs, damages, claims and demands in connection with all claims arising from this contract and/or product regarding Buyer's negligence, willful misconduct or legal or regulatory non-compliance.

21. **INTELLECTUAL PROPERTY RIGHTS.** All intellectual property rights in product and anything, including tools, specifications, drawings, software, firmware and technology, developed in connection with product and/or this contract shall remain the property of Seller.

22. **PATENTS.** Seller shall indemnify, defend and hold Buyer harmless from and against any and all damages suffered by Buyer in any suit for infringement of a U.S. Patent by the product brought in a U.S. court, provided that the Buyer promptly notifies Seller of the claimed infringement, permits Seller to assume the defense thereof and cooperates with Seller in the defense of the action. If product is furnished under special specifications of the Buyer not customarily followed by Seller, there will be no patent warranty given and no liability under this paragraph to Seller, and further, in such event, Buyer shall hold Seller harmless, to the same extent and under the same conditions as stated in the first sentence of this paragraph with the position of Buyer and Seller reversed.

23. **REQUIRED CLAUSE.** Any clause that is required to be included in a document of this type by any applicable law or administrative regulation having the effect of law shall be deemed to be incorporated herein.

24. **ASSIGNMENT.** This contract shall extend to and be binding upon the parties hereto, their respective heirs, successors and assigns; provided that Buyer shall not assign, sell or otherwise transfer this contract, in whole or in part, without the prior written consent of Seller.

25. **FORUM.** Any disputes arising out of or relating to this sale and/or contract shall be brought in a court of competent jurisdiction within Pittsburgh, Pennsylvania. The proceeding shall be conducted in the English language. Each party shall be liable for costs of translating its relevant documents in other languages into English.

26. **STANDARD FORMS.** To the degree that either or both of the parties find it convenient to employ their standard forms of purchase order or acknowledgement of order in administering the terms of this contract, they may do so; but none of the terms and conditions printed or otherwise appearing on such form shall be applicable except to the extent that it specifies information required to be furnished by either party.

ADDITIONAL TERM AND CONDITIONS APPLICABLE TO CUSTOM PRODUCT SALES

27. **CHANGES.** All change orders must be in writing and agreed upon by Buyer and Seller. Change orders or tardy submission of software/format requirements shall not delay invoicing on the original product order or relieve Buyer of payment liability.

28. **INSPECTION/ACCEPTANCE.** Applicable if contract contains Buyer's requirement to inspect and/or inspect product prior to shipment. Following notification of product completion, Buyer shall have fifteen (15) days to inspect product and notify Seller of any alleged defect or nonconformance. Buyer shall be liable for all inspection charges. If Buyer fails to inspect or give notice to Seller of any alleged defect or nonconformance within this time period, Buyer will be deemed to have accepted the product as is and waived any claim Buyer may have against Seller with respect to defect or nonconformance discoverable then. Seller shall invoice Buyer immediately after the fifteen day time period. Delays by Buyer shall not delay invoicing or relieve Buyer of payment liability.

29. **INSTALLATION.** Installation shall be considered timely if done within forty-five (45) days of product shipment. Delays by Buyer shall not delay invoicing or relieve Buyer of payment liability.