



## Vanair® Manufacturing, Inc. Terms and Conditions of Sale- November 3, 2023

**1. Definitions** as used in this Order, the terms (a) "Seller" shall mean Vanair® and (b) "Buyer" shall mean the party executing this Order to purchase the products or services specified on the reverse side hereof and/or the party accepting delivery of Seller's products or services hereunder and (c) "product" consists of the equipment and consumable parts provided by Seller under this agreement.

**2. Prices and Quotation** are subject to change without notice. All prices, whether shown in the Price List or in order acknowledgements, or otherwise, quoted upon, are in U.S. dollars and are subject to change without notice at any time prior to actual shipment of goods. Price increases will not, however, be applied to (a) goods covered by an order acknowledgment stipulating a shipment date within thirty (30) days after the effective date of the increase, or (b) charges on goods sold under a 90-day firm order accepted by Vanair® prior to the effective date of the increase. Written quotations automatically expire, unless accepted, within thirty (30) days from the date quoted and are subject to termination by notice within that period.

Verbal quotations expire, unless accepted the same day they are made.

The price does not include any Federal, state or local property, license, privilege, sales, service, use, excise, value added, gross receipts, or other like taxes which may now or hereafter be applicable with respect to this transaction, the property, its purchase, sale, replacement, value, or use, or any other services performed in connection therewith. Buyer agrees to pay or reimburse Vanair®, its subcontractors or suppliers any such taxes which Vanair®, its subcontractors or suppliers are required to pay or collect, or which are required to be withheld by Buyer.

The price shall also be subject to adjustment in accordance with the published price. Adjustment clauses, which price adjustment information shall supersede the terms of this Section 4, where inconsistent herewith.

Prices shown in published literature are maintained as general sources of information and are not quotations or offers to sell.

Vanair® reserves the right to make corrects due to typographical, or engineering errors, or because of incomplete or inaccurate information from Buyer.

**3. Shipping Dates** are approximate. They are dependent upon credit approval and subject to delays beyond our control.

**4. Penalty Clause:** No penalty clause of any description, in any specification of order, with the exception of Section 6 and 16, will be effective unless specifically approved in writing by a principal officer of Vanair®.



**5. Cancellation:** Buyer shall have no right to cancel any or all portions of an acknowledged Order, or an Order that Vanair® has begun to fulfill unless Vanair®, at its sole discretion, agrees in writing that the specific Order or portion thereof may be cancelled. Any Vanair® approved cancellation initiated by Buyer, will be contingent upon the Buyer paying cancellation charges in accordance with the Vanair® Cancellation Charge Policy. Cancellation Charge Policy charges include, but are not limited to, costs and expenses incurred by Vanair® resulting from the cancellation, based upon: the timing of cancellation, the type of equipment, special options specified, and the phase of production. The total amount of cancellation fees shall not exceed the Product's purchase price. For additional details, please contact your Vanair® Sales Representative or your Authorized Vanair® Distributor. Vanair® Distributors may access the Cancellation Policy in the Vanair® Distributor Handbook.

Vanair® may cancel any pending or accepted order, even after it has been acknowledged by Vanair®, with no liability to Vanair®.

**6. Taxes:** IN THE ABSENCE OF PROPER EVIDENCE OF EXEMPTION SUPPLIED TO Vanair®, if any sales, use or similar tax is payable in connection with any transactions or part thereof, between Buyer and Vanair® with respect to the goods delivered, Buyer will, upon demand of Vanair® pay to the amount of any such tax.

**7. Terms:** Net 30 days to companies with established credit rating. In the event Buyer fails to fulfill previous terms of payment, or in case Seller shall have any doubt at any time as to Buyer's financial responsibility, Seller may decline to make further deliveries except upon receipt of cash in advance or other special arrangements.

**8. Trade Compliance:** Buyer acknowledges that the products, software, and technology, including technical information and documents (collectively "Items"), of Vanair® Manufacturing, Inc., are subject to regulation by agencies of the U.S. government including, but not limited to, the U.S. Department of Commerce. Buyer shall comply with the Export Administration Regulations (EAR) and all applicable U.S. laws and regulations regarding the sale, delivery, and transfer of said Items. Buyer shall not, without first obtaining the required licenses, authorizations or approvals from the appropriate U.S. government agency; (i) export, re-export, transfer or divert any Item directly or indirectly to any country or national resident thereof, or any person, entity or country that has restrictions imposed upon them by the U.S. government, (ii) engage in, or knowingly sell to any party engaged in activity related to the development, production, use, testing, or maintenance of Weapons of Mass Destruction, including uses related to nuclear, missile, chemical or biological warfare, or (iii) engage in, or knowingly sell to any party engaged in activity related to the development, production, use, or maintenance of any safeguarded or unsafeguarded nuclear fuel facility or components for such facilities. Buyer shall fully cooperate with Seller, without charge, in any official audit or inspection by an authorized agent, official, employee, or accredited representative of the U.S. government. Buyer shall indemnify and hold Seller harmless from, or in connection with, any violation of this Section by Buyer, its employees, consultants, agents, or customers. The obligations, requirements and claims described herein shall survive the expiration of any business relationship with Dwyer Instruments, LLC, including its divisions, subsidiaries, and affiliated companies.

**9. Returned Material:** No product may be returned without the written permission and specific shipping instructions of Vanair®.



Special products built to Buyer specifications will not be accepted for return.

Only material as currently manufactured will be considered for return unless otherwise agreed upon and approved by Vanair®. Products must be securely packed to reach Vanair® without damage.

Any cost incurred by Vanair® to put products in first class condition, either for resale or with any modifications to be made by Buyer's request for return use, will be paid by Buyer.

Replaced products become the property of Vanair®.

Material accepted for return is subject to a restocking charge of 15% of the billing invoice, plus all transportation charges incurred by Vanair®.

All such returns shall be in accordance with procedures reasonably established by Vanair®, and from time to time such procedures shall be available upon request.

**10. Shipping and Delivery** promises are made in good faith, shipping dates appearing on acknowledgment of orders, or given to the Buyer in any other manner, are approximate. Where the Buyer delays in supplying information necessary to proceeding with the order, the date of shipment may be extended accordingly, and determined by conditions at Vanair's factory at the time when the specifications were completed.

Vanair® shall not be liable for delay in delivery due to causes beyond its reasonable control, or due to acts of God, acts of Buyer, fire, strikes, or other concentrated action of workmen, compliance with import or export regulations, flood, epidemics, quarantine restrictions, war insurrection, or riots, civil or military authority, freight embargoes, car wrecks, delays or shortages in transaction, unusually severe weather or inability to obtain necessary labor, materials, or manufacturing facilities due to such causes, and in the event of any such delay the date of delivery shall be extended for a length of time as may be reasonably necessary to compensate for the delay.

All products are carefully packed for shipment, and Vanair® will assume no responsibility for delay, breakage, loss, or damage after delivery in good order has been made to the carrier.

The Buyer has the responsibility to inspect shipments prior to or during unloading to identify any damage and to make appropriate notations on the delivery tickets.

All claims for loss, damage, or delay must be made to the carrier by Buyer.

Claims for shortages or other errors must be made in writing to Vanair® within fifteen (15) days after receipt of shipment. Failure to give such notice shall constitute unqualified acceptance and a waiver of all such claims by Buyer.



**11. Transportation Expense:** Unless otherwise stated on the face thereof, products manufactured, assembled, or warehoused in the continental United States are delivered F.O.B. shipping point.

If Buyer requires shipment by method or routing other than that selected, Buyer shall pay any additional charges or other cost resulting from its requirement.

**12. Limited Warranty:** The Seller warrants all Vanair® equipment to be free from defects in workmanship or material under normal use and service for a period of one year from date of shipment.

The duration of this warranty for each category of Seller products is as follows:

- EPEQ® Electrified Power Equipment®:
  - Inverters: 1 Year Parts / 1 Year Labor
  - Converters: 1 Year Parts / 1 Year Labor
  - Chargers: 1 Year Parts / 1 Year Labor
  - Electric Motors: 1 Year Parts / 1 Year Labor
  - EPEQT® Lithium Welder: 1 Year Parts / 1 Year Labor
  - Alternators: 1 Year Parts / 1 Year Labor
  - Compressor Air End:
    - Rotary Screw: Lifetime with Vanair® Authorized Service Kits and Lubricants: 3 Years Labor
    - Reciprocating: 3 Years Parts / 1 Year Labor
    - Scroll: 1 Year Parts / 1 Year Labor
  - Hydraulic Pumps/Motors: 2 Years Parts / 1 Year Labor
  - 1 Year Parts/Labor on the following:
    - All electronics and controls including, but not limited to:
      - I/O Boards
      - Modules
      - Panel Boxes
      - Instrumentation
      - Clutches
      - Solenoids
      - Running Gear/Trailers
      - Cooler Cores and Fans
      - Battery Management Systems and Controllers
- ELiMENT™ Battery ELiMENT™ 48V Lithium Iron Phosphate Battery Pack: thirty-six (36) Months, or 3.0 Adjusted Discharge Megawatt-hours (whichever comes first)
- Air N Arc® ALL-IN-ONE POWER Systems®, Reliant™ Series, PowerFlex™ Series, Pro Series, Contractor Series, Viper™ Series, and Utility Mounts:



- Lifetime Warranty Parts – 3 Years Labor
  - Rotary Screw Air Compressor Air End
- 6 Years Parts – 3 Years Labor
  - Vanair® Super Capacitor™ (VSC™)
- 3 Years Parts – 1 Year Labor
  - Reciprocating Compressor Air End
  - Generators
  - Welders
- 2 Years Parts – 1 Year Labor
  - Hydraulic Motors
  - Hydraulic Pumps
- 1 Year Parts – 1 Year Labor
  - All electronics including, but not limited to:
    - I/O Boards
    - Modules
    - Panel Boxes
    - Instrumentation
  - Solenoids
  - Clutches
  - Running Gear/Trailers
  - Compressor/Hydraulic Coolers, including Fan and Radiator Core
- UDSM PTO-Shaft Driven Underdeck Compressors, UDHD Hydraulic Driven Underdeck Compressors, Genair®, V2 and V3 Multi-Drive Systems, PTO Driven and Hydraulic Driven Generators, and Tractor-PAC:
  - Lifetime Warranty Parts – 3 Years Labor
    - Rotary Screw Air Compressor Air End
  - 2 Years Parts – 1 Year Labor
    - TEFC Generators
    - Hydraulic Motors
  - 1 Year Parts – 1 Year Labor
    - All electronics and controls including, but not limited to:
      - Remote Controls
      - I/O Boards
      - Modules
      - Panel Boxes
      - Instrumentation



- Sensors
- Harnesses
- Switches
- Clutches
- Solenoids
- Compressor/Hydraulic Coolers, including Fan and Radiator Core

EXCEPT FOR THE EXPRESS LIMITED WARRANTIES, IF ANY, SET FORTH ABOVE, SELLER MAKES NO EXPRESS OR IMPLIED WARRANTIES IN THIS ORDER OR OTHERWISE. TO THE FULLEST EXTENT PERMITTED BY LAW, SELLER DISCLAIMS ALL WARRANTIES WRITTEN, EXPRESS OR IMPLIED, INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE. SELLER EXPRESSLY DISCLAIMS ANY AND ALL LIABILITY TO BUYER FOR ANY CONSEQUENTIAL DAMAGES, DAMAGES FOR LOSS OF USE, LOSS OF PROFITS, INCOME, OR REVENUE, LOSS OF TIME OR INCONVENIENCE, LOSS OR DAMAGE TO ASSOCIATED EQUIPMENT, COST OF SUBSTITUTED OR REPLACEMENT EQUIPMENT, LOSS TO FACILITIES, LOSS OF CAPITAL, LOSS OF SERVICES OR COST OF REPLACEMENT AIR, POWER OR UTILITIES, THIRD-PARTY CLAIMS OR LOSSES BY BUYER'S CUSTOMERS, OR ANY OTHER INCIDENTAL CONSEQUENTIAL OR SPECIAL DAMAGE ARISING OUT OF THIS ORDER OR THE OPERATION, FUNCTION OR CHARACTERISTICS OF THE PRODUCTS OR SERVICES PURCHASED HEREUNDER OR OTHERWISE PROVIDED BY SELLER.

IT IS EXPRESSLY UNDERSTOOD THAT THESE LIMITED WARRANTIES, IF ANY, ARE THE SOLE AND EXCLUSIVE REMEDY OF BUYER. IF A PRODUCT DOES NOT CONFORM TO THE WARRANTIES, IF ANY PROVIDED BY SELLER, OR IF BUYER MAKES ANY CLAIMS OR CAUSES OF ACTION AGAINST SELLER, BUYER'S EXCLUSIVE AND SOLE REMEDY SHALL BE LIMITED TO THE REPAIR OR REPLACEMENT OF THE PRODUCTS AT SELLER'S DISCRETION. IF REPAIR OR REPLACEMENT IS NOT FEASIBLE AS DETERMINED BY SELLER, SELLER MAY AT ITS SOLE OPTION REFUND THE PURCHASE PRICE FOR THE PRODUCTS.

**13. Consequential Damages:** Vanair® shall not be liable for any consequential, contingent, special, or incidental damages, claims or expenses whatsoever, which may arise as a result of the contract or otherwise.

**14. Indemnification:** Buyer shall defend, indemnify and hold harmless Vanair® and its agents from any claims, damages or expenses, including reasonable attorney's fees, arising or alleged to arise, from (1) any asserted deficiencies or defects in the goods caused by an alteration thereof, with or without Vanair's consent made by Buyer, or improper handling or storage by Buyer, (2) the breach of any terms or conditions stated herein, or (3) the act or omission of Buyer, irrespective of whether such claim, damage or expense is asserted under a strict or other product liability theory or any other legal theory.

**15. Non-Standing Jobs:** Any design requiring unusual production techniques will be charged extra. Such jobs will be estimated and priced at Vanair's home office. Any and all tooling required for a particular order are to be billed to and paid for by Buyer.

**16. Curtailment of Production:** If Vanair's production is curtailed or suspended for any reason, deliveries may, at its option, be canceled or may be prorated during the period of curtailed production and thereafter resumed until



delivery is made in full.

All tooling required for a particular order are to be billed to and paid for by Buyer.

**17. Credit:** Shipments and deliveries shall, always, be subject to the approval and limitations set by Vanair's credit department. Prior to any extension of credit, Buyer shall submit to Vanair® an application therefore in a form acceptable to Vanair®. Buyer shall execute such other instruments of documentation as Vanair® shall from time to time reasonably require prior to any extensions of credit to Buyer. If buyer shall fail to make any payments in accordance with the terms and conditions thereof or of any instrument of document referred to herein, or if Vanair® at any time has any doubt as to Buyer's financial responsibility, Vanair®, in addition to all other rights and remedies, but not in limitation thereof, may at its option and without notice defer shipments or deliveries hereunder, or under any other contract with Buyer, except upon receipt of satisfactory security or of cash before payment.

Upon request from Vanair®, Buyer agrees to execute a security agreement covering the products sold or other assets and to perform all acts which may be necessary to perfect and assure a security position of Vanair®. A service charge will be charged on all delinquent accounts.

**18. Cost of Collection:** Buyer shall pay all cost of collection, including but not limited to reasonable attorney's fees, court costs and collection agency fees involved in the collection of (a) past due accounts; (b) amounts owed to Vanair® by Buyer by reason of Buyer's breach of the Agreement, or any term or condition hereof, or any other agreement between Buyer and Vanair®, (c) any amounts due for repair work not covered by Vanair's limited warranty; and (d) any and all amounts owed by Buyer to Vanair® for any other reason whatsoever.

**19. Force Majeure:** Seller shall have no liability or obligation to Buyer of any kind, including but not limited to any obligation to deliver products or provide maintenance or services, arising from any delay or failure to perform all or any part of this Order as a result of causes, conduct or occurrences beyond Seller's reasonable control, including, but not limited to, commercial impracticability, fire, flood, act of war, civil disorder or disobedience, terrorism, act of public enemies, problems associated with transportation, (including car or truck shortages), acts or failure to act of any state, federal or foreign government or regulatory authorities, labor disputes, strikes, pandemic, or failure of suppliers to make timely deliveries of materials, goods or services to Seller.

**20. Acceptance:** All orders shall be subject to the terms and conditions contained or referred to in the Seller's quotation, acknowledgment, and to those listed here and to no others whatsoever. By placing an order, you accept our terms and conditions. No waiver, alteration or modification of these terms and conditions shall be binding unless in writing and signed by an executive officer of the Seller. All orders are subject to written acceptance by Vanair® Manufacturing, Inc., Michigan City, Indiana, U.S.A.