

## ***Terms and Conditions for Sales of Used Equipment***

### **1. Purchase Orders:**

- 1.1. Any quote, proposal, offer, or order (each, a “Purchase Order”) for the sale of equipment (“Equipment”) by Hoover Materials Handling Group, Inc. dba Hoover CS (“Hoover”) to an entity to which Hoover furnishes Equipment (“Customer”) is subject to acceptance by Hoover.
- 1.2. Any Purchase Orders so accepted will be governed by these terms and conditions (“Terms and Conditions”) and any additional terms agreed to in writing in the Purchase Order. These Terms and Conditions and any such additional terms are collectively referred to herein as the “Contract” and Hoover and Customer are each referred to herein as “Party” and collectively as the “Parties”.
- 1.3. Each Purchase Order will contain the specific pricing and delivery location for each unit of Equipment sold.

### **2. Warranty; Liability:**

- 2.1. As-Is/Where-Is; Disclaimer of Warranties. BUYER ACKNOWLEDGES THAT IT HAS FULLY INSPECTED THE EQUIPMENT AND ACCEPTS THE EQUIPMENT IN ITS PRESENT USED CONDITION ON AN “AS IS, WHERE IS” BASIS. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW HOOVER HEREBY DISCLAIMS AND EXCLUDES ANY AND ALL REPRESENTATIONS, WARRANTIES, CONDITIONS OR OTHER TERMS, WHETHER WRITTEN OR ORAL, EXPRESSED, OR IMPLIED, INCLUDING ANY REPRESENTATION OR WARRANTY OF QUALITY, PERFORMANCE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE.
- 2.2. Title: Hoover warrants that it will transfer title to the Equipment, free and clear of all taxes, liens, or other encumbrances, at the agreed delivery point.
- 2.3. Waiver of Consequential Damages: Neither Party shall be liable to the other Party for any indirect, special, incidental, or consequential losses or damages, including, without limitation, any loss of reputation, loss of data, loss of goodwill, increase in operating costs, facilities or operations downtime or interruptions, lost profits, financial or economic loss, or any other incidental damage.

**3. Delivery:** Title and risk of loss to all Equipment sold hereunder shall pass to Customer at the delivery point designated on the Purchase Order. Customer shall be responsible for all delivery costs and expenses and shall obtain appropriate insurance for all shipments.

**4. Cancellation Policy:** Cancellation of a Purchase Order may not be made without formal notification to Hoover and Customer’s acceptance of all actual expenses incurred or accrued prior to cancellation. No cancellation can be made once the Equipment has been delivered to Customer.

### **5. Price and Payment:**

- 5.1. Price: The price for each unit of Equipment shall be as stated in the Purchase Order. Prior to acceptance of a Purchase Order by Hoover, prices quoted are subject to change without notice.
- 5.2. Payment: Customer must notify Hoover in writing of any dispute with an invoiced amount within fifteen (15) days of Customer’s receipt of Hoover’s invoice. Unless prepayment is agreed in the Purchase Order, Customer shall pay all amounts due within thirty (30) days of receipt of each invoice, in each case without any withholding, deduction or set off by Customer.
- 5.3. Late Payment: Hoover’s invoices which are not timely paid hereunder shall accrue interest at the lesser of: (i) two percent (2%) per annum, or (ii) the highest rate permitted under applicable law. If Hoover instructs another party to collect its claim against Customer, Hoover shall be entitled to increase its claim by any judicial and extrajudicial costs reasonably incurred.

5.4. Taxes: Prices quoted do not include any applicable state or local sales or use tax. Any such taxes that Hoover is obligated to collect shall be added to the invoice as a separate charge to be paid by Customer.

**6. General Provisions:**

- 6.1. **Force Majeure**: Hoover shall not be liable for delay or non-performance of its obligations hereunder if the cause of delay or non-performance is an event which is unforeseeable, beyond its control, and cannot be remedied by the exercise of reasonable diligence, including without limitation acts of God, acts of civil or military authority, governmental orders, war, fire, explosion, labor unrest, or epidemic.
- 6.2. **Notices**: Any notice required under this Contract shall be given in writing, by overnight courier, or by U.S. mail at the address on the Purchase Order, or such other place as either Party may designate in writing to the other Party.
- 6.3. **Complete Agreement**: This Contract embodies the entire agreement between the Parties and prevails over any previous understandings, commitments or agreements pertaining to the subject matter hereof. In the event of a conflict between the terms of these Terms and Conditions and any Purchase Order, the controlling document shall be these Terms and Conditions, and then the applicable Purchase Order. These Terms and Conditions and any Purchase Order may only be amended in a writing executed by both Hoover and Customer. The Parties agree that the application of the United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from this Contract.
- 6.4. **Governing Law and Dispute Resolution**: This Contract shall be construed in accordance with and governed by the laws of the State of Texas excluding its conflicts of laws rules. Any disputes hereunder that cannot be resolved amicably will be subject to the exclusive jurisdiction of the District Courts of Harris County, Texas, and the Parties hereby consent to such jurisdiction.