

STANDARD TERMS AND CONDITIONS OF SALE

1. **SCOPE** - The terms and conditions of sale contained herein constitutes the entire contract between and exclusively determines the rights and obligations of the parties hereto, any prior course of dealing, customer or usage of trade or course of performance notwithstanding and shall apply to all quotations made and purchase orders entered into by Carter Motor Company (Seller). The said terms and conditions may in some instances conflict with some of the terms and conditions affixed to the form or order and/or specified by the Buyer. Therefore, acceptance of the Buyer's order is made only on the express understanding and condition that insofar as the terms and conditions of this acceptance conflict with any terms and conditions of the Buyer's order, the terms and conditions of this acceptance shall govern irrespective of whether the Buyer accepts these conditions by a written acknowledgment, by implication, or acceptance and payment of goods ordered hereunder. Seller's failure to object to provisions of this acceptance. No agreement or understanding in any way purporting of this acceptance. No agreement or understanding in any way purporting to modify the terms and conditions herein shall be binding unless made in writing and executed by the President or Vice-President of Seller before becoming binding on either Seller or Buyer. All orders or contracts must be approved and accepted by Seller at its home office. No agent, employee or representative of Seller has any authority to bind Seller to any affirmation, representation or warrant concerning the goods sold hereunder, and unless an affirmation, representation or warranty made by agent, employee or representative is specifically included herein, it shall not be enforceable by Buyer. The said terms and conditions of sale shall be applicable whether or not they are attached or enclosed with the goods to be sold or sold hereunder.

2. **ACKNOWLEDGEMENT AND ACCEPTANCE** - This order must be acknowledged by Seller on the acknowledgement copy attached thereto. Such acknowledgement shall confirm shipping date agreed to by Buyer and Seller. Payment of invoice in whole or in part or acceptance of delivery by Buyer of the goods or services ordered herein shall constitute acceptance by the Buyer of all the "Terms and Conditions" set forth herein.

3. **CANCELLATION** - Orders may be cancelled only by written agreement signed by Buyer and Seller in which case Buyer shall pay to Seller and Seller agrees to accept in full payment for this order:

- The stipulated price with respect to goods completed in accordance with this order and acceptance by Buyer;
- Seller's cost and expense, including a reasonable allowance for profit, in connection with the unfinished work and raw materials on hand acquired specifically for this order and
- Cost or damages of completion or cancellation (as the case may be and at the election of Buyer) of contracts for raw materials ordered specifically for this order, (Provided that the total payments under (b) and (c) shall not exceed the stipulated price with respect to the same goods, if finished, less the estimated cost of finishing such goods and less the reasonable value of the unfinished work and unprocessed raw materials on hand acquired by Seller in connection with this order).
- All cost of shipping incurred prior to cancellation including costs of reshipment to Seller, if applicable.

4. **SUSPENSION OF CONTRACT** - This order shall be deemed suspended in the event of priorities, accidents to equipment or machinery, interruption of utility service, fire, acts of God, differences with workmen, delays in transportation or lack of transportation facilities, strikes, labor shortages, accidents to workmen, government acts, war, civil insurrection or riots, nuclear explosion or contamination or any other cause or acts beyond Seller's control, and so long as any said causes or acts prevent or delay completion or shipment of this order. Seller agrees to make and Buyer agrees to accept deliveries whenever such causes or acts cease.

5. **CLAIMS** - Any claim for credit due to shortages on shipment must be received in writing within ten days after the Buyer's receipt of merchandise or the count of Seller shall become final. All claims for material damaged in shipment shall be made by Buyer directly to the carrier.

6. **RETURNS** - Credit for returned merchandise may be allowed ONLY after obtaining prior permission from Seller for the return in writing. Shipping costs for all return shipments must be prepaid. On all merchandise returned for credit except in the case of defective goods or error on the part of Seller, a charge of 25% will be made to cover handling plus Seller's costs incurred for returning the returned goods to saleable condition.

7. **TERMS** - Unless otherwise specifically stated on the invoice, all shipments are made F.O.B Factory Warren, Illinois, and all costs of transportation shall be borne by Buyer. The terms of payments are as set forth on this invoice. No other terms are acceptable unless mutually agreed to in writing. Title to goods and risk of loss passes to Buyer upon delivery to carrier at our dock. No prepaid or drop shipments will be made.

8. **MINIMUM BILLING** - On any order, the minimum billing will not be less than \$75.00

9. **PRICES** - Prices at which this order is entered shall be subject to increase by the amount of any applicable Sales or Excise Tax levied or charged by the Federal, State or any other Governmental Agency. Seller warrants that the prices for the articles covered by this invoice do not exceed the ceiling prices established by any applicable ceiling price regulations or order.

10. **PROVISIONS** - Seller is not bound (by shipment or acknowledgement of orders, or otherwise) by any printed provisions of the customer's purchase orders unless expressly agreed to in writing by Seller.

11. **WARRANTY** - Seller's products (except replacement parts and repairs) are warranted by Seller for two years from date of original shipment from Seller against defective materials or, workmanship, provided Seller is given immediate written notice of such defect and such products, in Seller's opinion, have not been tampered with, disassembled, or repaired locally, and further provided they have been operated in accordance with nameplate specifications at proper duty cycle and ambient temperatures and not subject to overloads or abuse. Seller warrants that the products to be supplied hereunder will conform to all descriptions and specifications

agreed to by Buyer and Seller in writing, that it will convey good title thereto: that such products will be delivered free from any lawful security interest or other lien or encumbrance unknown to the Buyer; and Seller shall not be liable for any incidental or consequential damages for any breach of warranty. In the event that any products sold by Seller to Buyer hereunder prove to be not in compliance with force-going warranty, Seller upon receipt of the defective products shall, at the option of Seller, either repair or replace said products. The repair or replacement by Seller shall fulfill all of Seller's obligations to Buyer. Transportation charges are not included in warranty.

12. **EXCLUSION AND LIMITATION OF WARRANTIES** - THE ABOVE WARRANTY IS THE ONLY WARRANTY APPLICABLE TO THE PRODUCTS, ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE DISCLAIMED. IT IS UNDERSTOOD AND AGREED THAT SELLER'S LIABILITY WHETHER IN CONTRACT, TORT, WARRANTY, NEGLIGENCE OR OTHERWISE SHALL NOT EXCEED THE RETURN OF THE AMOUNT OF THE PURCHASE FOR SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES. THE PRICE STATED FOR THE PRODUCT IS A CONSIDERATION IN LIMITING SELLER'S LIABILITY, NO ACTION, REGARDLESS OF FORM SHALL BE BROUGHT BY BUYER MORE THAN ONE YEAR AFTER THE CAUSE OF ACTION HAS ACCURED.

13. **INSPECTION** - All products of Seller have been thoroughly tested and inspected by Seller and are subject to electrical and visual inspection by Buyer. No component of the product shall be moved, reformed, removed, physically tested or in any way altered by Buyer. Any modifications or use of unauthorized replacement parts made by anyone other than Seller completely relieves Seller of all obligations which relate in any manner to the construction and operation of said product and the conformance of said product with the warranty set forth in paragraph 11 above.

14. **WALSH-HEALEY, FAIR LABOR STANDARDS, EIGHT-HOUR LAW AND BUY-AMERICAN ACTS** - By acceptance of this order, we agree that the production of the materials furnished in this order, it will comply with the provisions when applicable of the Walsh-Healy Act (Act of June 30, 1939, P.L. No. 846 74th Congress) and the regulations, determinations and exemptions of the Secretary of Labor and the Fair Labor Standards Act (Act of June 25, 1938 as amended, the Contract Work Hours and Safety Standards Act (Eight-Hour Law) (Acts of August 13, 1982, P.L. 87-581 and August 9, 1969, P.L. 91-54), and the Buy-American Act (Act of March 3, 1933).

15. **PATENTS** - It is not the intention of the Seller to manufacture any product which is an infringement of a patented article and it is understood that the Seller be notified if the parts which he is quoting are infringements of letters patent. If any such infringement exists, the Seller reserves the right to withdraw the quotation. Buyer agrees, for the goods delivered under this order, to indemnify Seller, its successors and assigns, against all losses, damages, actions, causes of action, suits at law or in equity, judgements, decrees, fines, penalties and costs, including but not limited to Seller's reasonable attorneys' fees and cost of suit resulting from infringement of any United States Letters Patent to the extent that such infringement arises from designs, specifications or instructions furnished or expressly or implicitly required by Buyer. The sale of the goods, covered by this order shall not grant to Buyer and right or license of any kind under any patent owned or controlled by the Seller or under which Seller is licensed.

16. **CHANGES** - Seller reserves the right to make changes or improvements on its product from time to time without incurring any obligations to install such improvements on equipment previously sold, it is understood that the specifications of the equipment furnished are the standard factory specifications of the equipment being regularly produced which does not necessarily mean it will meet requirements for any specific conditions of operation, unless expressly set forth in writing that it will do so. All modifications or improvements subsequently required shall be made at the customer expense.

17. **SPECIFICATIONS** - When a UPC Code number and conflicting specifications are shown on an order, the specifications for the code number as shown in the catalog will overrule. Please check your acknowledgement or order carefully.

18. **INDEMNIFICATION** - Buyer shall indemnify and hold Seller harmless of and from all losses, costs, including Seller's reasonable attorney's fees and costs of suit damages, actions causes of action, suits at law or in equity, judgements, decrees, fines and penalties which Seller may incur arising in any manner from the purchase, inspection, storage, use, sale or resale, by Buyer or any purchase from Buyer, any subsequent purchaser or any user including but not limited to any form of consequential damage, economic loss, property damage or personal injury.

19. **ATTORNEY'S FEES CLAUSE** - In the event Buyer fails to pay all or any part of the purchase price specified herein or Buyer breaches any of the other Terms and Conditions of this Purchase Order. Buyer shall pay to Seller all its costs and expenses, including but not limited to, attorney's fees incurred in regard to attempting to obtain said purchase price or enforcing any of the other said Terms and Conditions, whether or not suit is commenced therefor, and any court of appropriate jurisdiction is authorized to determine the amount of said costs, expenses and attorneys' fees and enter judgement in favor of Seller and against Buyer.

20. **AFFILIATES** - This order may be performed and all rights hereunder against Buyer may be enforced by Seller or by any one or more of the corporation affiliated with Seller or in part by Seller and in part by Seller and in part by one or more of said affiliated corporations.

21. **REMEDIES AND WAIVER** - The remedies reserved herein to Seller are cumulative and additional to any other or further remedies provided at law or in equity and no provision hereof and no breach of any provision shall be deemed waived by reason of any previous waiver of such provision or of any breach thereof.

22. **APPLICABLE LAW** - This order and any contracts pertaining thereto including but not limited to these Terms and Conditions shall be construed according to Illinois Law.

23. **JURISDICTION** - The parties hereto, their heirs, successors and assigns hereby irrevocably submit themselves to the jurisdiction of the State of Federal Courts of the State of Illinois for the venue in which the principal offices of Seller are situated in the event of any enforcement or dispute regarding these terms and conditions and any contracts pertaining thereto.