

## Terms and Conditions of Sale of Inclinator Company of America

1. **ACCEPTANCE.** The acknowledgement and acceptance by Inclinator Company of America ("Seller") of the order of the addressee on the reverse side hereof ("Buyer") is made expressly conditional upon Buyer's assent to all of the terms and conditions (the "Terms") contained herein and upon no other terms. Buyer's assent shall be conclusively presumed from the first to occur of: (i) Buyer's execution of any document containing the Terms; (ii) Buyer's failure to object in writing to the Terms within ten (10) days of first receipt of same; or (iii) Buyer's acceptance of delivery of any product ordered from Seller ("Product"). Seller hereby objects to any terms or conditions at variance with, different from or additional to the Terms unless such terms and conditions are set forth in a writing signed by a duly authorized officer of Seller. Buyer acknowledges and warrants that the signatory on all documents relevant to this transaction is specifically authorized and legally permitted to execute said documentation on behalf of Buyer. Seller may revise these Terms at any time and such revised Terms will become effective thirty (30) days following notice of such revisions to Buyer unless Buyer objects in writing within such thirty (30) day period.

**LIMITED PRODUCT WARRANTY OF SELLER; SOLE AND EXCLUSIVE REMEDY** Coverage and length of warranty: This warranty applies to the repair or replacement, at Seller's option, of parts of the Product that fail due to defective workmanship or material. Seller may, at its option, provide factory reconditioned parts. The **basic coverage period for complete units** is twenty-four (24) months from the date that the equipment is shipped from Seller's factory, unless an additional multi-year extended warranty is purchased from Seller in accordance with the extended warranty terms below. The **basic coverage period for Buyer purchased parts**, representing less than a complete unit, is twelve (12) months from the date the part(s) are shipped from Seller's factory (collectively, the Warranty Period). The Limited Product Warranty applies only when an annual maintenance is performed by a qualified elevator contractor.

What is not covered.

- All labor costs that are incurred for removal, repair or replacement of warranty parts, including related travel time.
- Consumable items / parts such as light bulbs, lamps, batteries, UPS (Uninterruptible Power Supplies), oil seals, mechanical switches, guide shoe inserts, drive belts, hydraulic fluid, lubricants, etc.
- Structural or cosmetic components that are subject to normal wear and tear, external forces and/or misuse. This includes paint, stain, caulking, weather barriers, slide blocks, fluid seals, switches, metal panels, glass, Plexiglas, gates, travelling cable, doors, buttons, trim, upholstery, etc.
- Damage or malfunction caused by improper installation and/or repair, lack of maintenance in accordance with manufacturer's recommendations, improper or abnormal use, misuse, neglect, abuse or accident, improper adjustment, structural integrity of building and/or hoistway, exceeding weight limit, failure to follow operating instructions or acts of God.
- Damage or malfunction caused by the integration of any additional parts or items, the customization of any product or parts, and/or the use of non-Inclinator parts, if such integration, customization or use was performed without approval from Seller.
- Damage sustained in shipping. Buyer must file claim with shipping / freight company.

While necessary maintenance or repairs on Seller Product may be performed by any qualified elevator contractor, SELLER RECOMMENDS THAT ONLY AUTHORIZED INCLINATOR DEALERS PROVIDE SUCH SERVICES WITH PARTS SUPPLIED BY SELLER. IMPROPER OR INCORRECTLY PERFORMED MAINTENANCE OR REPAIR VOIDS THIS WARRANTY.

THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES WHATSOEVER, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND IS LIMITED TO A PERIOD OF TWO YEARS (UNLESS EXTENDED) FROM THE TIME THE PRODUCT IS SHIPPED FROM INCLINATOR'S FACTORY.

Buyer shall notify Seller of any warranty claim. Seller will provide a Return Material Authorization (RMA) number, ship replacement part(s) and issue an invoice for part(s) covered under warranty. Replacement part(s) will be shipped to the Buyer using standard shipping practices. Overnight and 2<sup>nd</sup> day shipment will be billed as an additional charge. Seller may, at its option, provide factory reconditioned parts for replacement. The warranted part(s) shall be returned from the Buyer to the Seller within 60 days from issuance of the RMA. Seller shall confirm that the parts are defective in materials or workmanship within two weeks of receipt from the Buyer and will issue credit for such parts confirmed to be defective. Should such defective parts not be promptly replaced, BUYER'S SOLE AND EXCLUSIVE REMEDY SHALL BE RECOVERY OF THE FULL PURCHASE PRICE OF THAT DEFECTIVE PART.

BUYER EXPRESSLY AGREES THAT THIS REMEDY IS THE SOLE AND EXCLUSIVE REMEDY OF BUYER AGAINST SELLER, AND THAT UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE TO BUYER FOR ANY OTHER LOSSES OR EXPENSES, INCLUDING BUT NOT LIMITED TO ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, CONTINGENT OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTIES, FAILURE OF ESSENTIAL PURPOSE, INTELLECTUAL PROPERTY INFRINGEMENT OR OTHERWISE.

FURTHER, SELLER DISCLAIMS LIABILITY FOR ANY PERSONAL INJURY OR PROPERTY DAMAGE RESULTING FROM THE OPERATION OF A PRODUCT THAT HAS NOT BEEN FOUND TO BE DEFECTIVE. IN ADDITION, SELLER DISCLAIMS LIABILITY FOR ANY PERSONAL INJURY OR PROPERTY DAMAGE RESULTING FROM THE OPERATION OF A PRODUCT THAT HAS BEEN MODIFIED FROM THE ORIGINAL SELLER DESIGN OR TO WHICH ANY PARTS OR ITEMS HAVE BEEN ADDED WHETHER SUCH MODIFICATIONS OR ADDITIONS WERE MADE WITH OR WITHOUT THE WRITTEN AUTHORIZATION OF SELLER. NO PERSON OR COMPANY IS AUTHORIZED TO CHANGE THE DESIGN OR MAKE-UP OF THIS PRODUCT WITHOUT WRITTEN AUTHORIZATION BY SELLER.

THIS WARRANTY SUPERCEDES ALL OTHER PUBLISHED, PRINTED OR ORAL WARRANTIES WITH RESPECT TO THE PRODUCT.

3. **EXTENDED WARRANTY** Within 120 days from the date of shipment to Dealer, Dealer may purchase an additional multi-year warranty from Seller by signing and fulfilling the terms of the Dealer Extended Product Limited Warranty Purchase Form.
4. **INDEMNIFICATION** Buyer hereby agrees to indemnify, defend and hold harmless Seller, its officers, directors, shareholders, employees, agents and representatives, from any and all claims, actions, suits, demands, damages, losses, judgments, fines, penalties and other expenses of any type whatsoever, whether consequential, direct, indirect, foreseeable or not foreseeable, including, without limitation, actual attorneys' fees and court costs (collectively "Liabilities"), caused by or arising from personal injury, death, loss or damage to property caused by or arising from (1) the installation and use of the Products (a) for which Buyer failed to follow Seller's installation instructions and drawings, (b) which Buyer has modified with or without Seller's consent, or (c) to which Buyer has attached additional pieces of equipment either manufactured by Buyer or procured by Buyer from a third party with or without Seller's consent, or (2) Buyer's failure to install residential elevator Products on or after May 30, 2017 in compliance with American Society of Mechanical Engineers Safety Code (ASME) A17.1-2016/CSA B44-16 (revised as of November 30, 2016 and effective May 30, 2017).

Upon assertion of any claim against Seller that might give rise to indemnification hereunder, Seller shall give written notice to Buyer of the existence of such a claim and will give Buyer a reasonable opportunity to control, defend and/or settle such claim at its own expense and with counsel of its own selection. In the event that Buyer elects to defend such claim, Buyer shall not settle the claim without the prior written consent of Seller, which shall not be unreasonably withheld. In the event that Buyer fails to take up such defense within a reasonable period of time (not to exceed forty-five (45) days), then Seller shall proceed with such defense and Buyer shall remain liable for all Liabilities.

5. **INSURANCE** Buyer agrees to buy and maintain commercial general liability insurance with policy limits of at least \$1 million per occurrence and \$2 million in aggregate. Buyer hereby agrees to add Seller as an additional insured on Buyer's commercial general liability insurance policy within the next 30 days and shall provide proof of such coverage and such endorsement to Seller within 35 days.
6. **TITLE AND RISK OF LOSS** Unless otherwise set forth in a writing signed by Seller, prices and shipments are "FCA" Seller's manufacturing facilities in **Harrisburg, Pennsylvania**. Title to the Products passes from Seller to Buyer at the time of shipment from Seller's facility. Loss or damage that occurs during shipping is the responsibility of Buyer. Buyer shall notify Seller within fifteen (15) business days after receipt of the Products regarding shipment shortages, defects or the receipt of non-conforming goods. Failure to do so will constitute conclusive proof that the Products were tendered at the Seller's facilities without defect, error or fault.
7. **FORCE MAJEURE** Seller shall not be liable for any failure to perform under this Agreement resulting from any cause beyond the reasonable control of Seller, including but not limited to, an act of God; accident; telephone service provider problem; war; fire; lockout; strike or labor dispute; riot or civil commotion; act of the public enemy; enactment, rule, order or act of civil or military authority; or acts or omissions of any party, including Seller's vendors.
8. **PAYMENT TERMS** Net 30 unless otherwise specified on the reverse side. If Buyer fails to make timely payment pursuant to these Terms, Buyer shall be charged interest at a rate of up to twelve percent (12%) per annum on the unpaid balance and shall be liable for Seller's collection costs, including without limitation attorneys' fees.
9. **VENUE JURISDICTION AND APPLICABLE LAW** These terms shall be construed, interpreted, and governed in accordance with the laws of the Commonwealth of Pennsylvania without regard for conflicts of law provisions. Both parties irrevocably agree to submit themselves to the jurisdiction of the state and federal courts located in the Commonwealth of Pennsylvania and further agree and consent that service of process may be made upon the parties in any legal proceeding relating to these Terms by any means allowed under federal or Pennsylvania law. The provisions of the 1980 United Nations Convention on Contracts for the International Sale of Goods (as amended, superseded, or modified from time to time) shall not govern the rights and obligations of the parties under these Terms.
10. **SEVERABILITY** If any provisions of these Terms, or the application thereof to any person or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of these Terms or its application to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and the remainder of these Terms shall be valid and shall be enforced to the fullest extent permitted by law.