

TERMS AND CONDITIONS OF SALE

1. **Compliance.** The buyer ("Buyer") identified on the applicable Lift Power INC ("Lift Power") quotation ("Quotation") hereby acknowledges and agrees to comply with applicable laws and regulations in performance of its obligations under these terms and conditions of sale ("Terms and Conditions"). Such applicable laws and regulations include but are not limited to those governing the use, maintenance, operation, recycling, and disposal of products, materials and equipment, such as those governing employers of operators of lift trucks, set forth in the applicable OSHA regulations (see Section 1910.178). Lift Power will provide a copy of the OSHA regulations upon written request.
2. **Operator Training.** Buyer understands that OSHA requires that operators of its lift trucks be trained, evaluated and certified as competent to safely operate the particular model truck used in the performance of the job. Buyer understands this obligation and will only permit properly trained and certified operators to use lift trucks. At Buyer's request, Lift Power will provide information on the training material and resources available through its Training Department.
3. **General.** The Quotation and these Terms and Conditions shall be the complete and exclusive terms and conditions applicable to the agreement between Lift Power and Buyer. Upon signing the Quotation or issuing a purchase order or the like, Buyer accepts the Quotation and these Terms and Conditions. In the absence of written acceptance or the issuance of a purchase order or the like, payment for the equipment shall constitute Buyer's acceptance of these Terms and Conditions. Lift Power shall not be bound by Buyer's terms and conditions unless expressly agreed to in writing. Any different or additional terms or conditions in any order, proposal, acknowledgment form, or any other document of Buyer are hereby deemed material alterations and are null and void and superseded by the Quotation and these Terms and Conditions.
4. **Price.** Prices as quoted are in U.S. dollars and are firm for the period of time set forth in the Quotation. Thereafter, they are subject to change without notice to the prices prevailing at time of acceptance. Prices are F.O.B. carrier's equipment at Crown's factory and are exclusive of all taxes—federal, state or local. If Crown is required to pay or collect any tax or duty owed by Buyer, such payment or collection shall be added to the price. If there is a delay in completion or shipment of order, due to any change requested by Buyer, or as a result of any delay on Buyer's part in furnishing information necessary for completion of the order, the price initially agreed upon at time of acceptance is subject to change.
5. **Surcharges.** Notwithstanding anything in the Quotation, these Terms and Conditions, or any related materials to the contrary, Lift Power reserves the right, at the time of order and/or at any time before starting production, to charge Buyer a surcharge on each unit of equipment ordered by Buyer, to cover increased commodity costs, duties, tariffs or other related items, in each case, which have impacted Lift Power. Buyer shall provide Lift Power written notice if Buyer objects to the surcharge, at which time Lift Power or Buyer shall be permitted to cancel the order; provided that Buyer's failure to provide written notice of cancellation within five (5) business days of being informed of the surcharge shall constitute Buyer's acceptance of the surcharge.
6. **Delivery Date.** The promised delivery date is the best estimate possible, based upon current and anticipated factory loads, of when the equipment will be shipped. Lift Power shall have no liability for lost profits or incidental or consequential damage due to delays. If any contingency beyond the control of Lift Power occurs that prevents Lift Power from shipping the equipment on time, Lift Power may allocate production and delivery among Lift Power's customers without liability.
7. **Payment.** Payment shall be net 10 days date of shipment unless otherwise agreed to in writing. Production, shipment, and delivery shall at all times be subject to the approval of Lift Power's credit department. Lift Power reserves the right at any time to modify or withdraw credit terms without notice and to require guarantees, security, or payment in advance of the amount of the credit involved. If Lift Power at any time doubts Buyer's financial responsibility, Lift Power may decline to make shipments hereunder except upon cash payment in advance or receipt of security or other proof of responsibility satisfactory to Lift Power.
8. **Title.** Title to all equipment shall remain in Lift Power until the complete purchase price and all additional costs and charges, as adjusted, are paid by Buyer. Lift Power shall retain a security interest in, and right to repossess, any such equipment until it is paid in full. Risk of loss shall pass to Buyer upon delivery to Carrier.
9. **Changes.** Any change order by Buyer will not be considered effective until mutual agreement has been reached between the Buyer and Lift Power as to the effect of any changes in prices, delivery, and other conditions of the order.
10. **Inspection and Notice of Defect.** Unless otherwise specified, the equipment to be furnished hereunder shall be subject to Lift Power's standard inspection at the place of manufacture. If inspection by the Buyer at the place of manufacture is provided for, Buyer's inspectors shall be deemed agents of Buyer to accept the equipment on Buyer's behalf regardless of deviation from formal specifications. Notice of any defects or claims of any nature (except warranty) must be made within 30 days of delivery.
11. **Returns.** Returns will not be accepted for any reason without Lift Power's prior written authorization. If Lift Power does provide written authorization of a return, Buyer shall be responsible for paying all return shipping costs, as well as any handling, restocking and related fees associated with the return, as determined by Lift Power in its sole discretion.
12. **Warranty by Lift Power.** The manufacturer's standard published warranties in effect at the time of shipment for the particular equipment shall apply. Notwithstanding anything in the quotations these terms and conditions or any related materials to the contrary, these warranties are exclusive and are in lieu of all other warranties, express, implied or statutory, including the warranty of merchant ability and warranty of fitness for a particular purpose.
13. **Limitation of Liability.** In the event Buyer claims that Lift Power has breached any of its obligations, whether in warranty or otherwise, Lift Power may request and require return of the equipment and refund the Buyer's purchase price upon Lift Power's receipt of the returned equipment. If Lift Power so requests the return of the equipment, the equipment shall be redelivered per Lift Power's instructions at Lift Power's expense. In such event, Lift Power shall absolutely have no further obligation to Buyer except to refund the purchase price. The remedy provided for in the paragraph shall constitute the sole recourse of Buyer against Lift Power for breach of any of Lift Power's obligations.
- Notwithstanding any other provision in the quotation these terms and conditions or any related materials, in no event shall Lift Power be liable for incidental, special, indirect, indirect, exemplary, punitive, liquidated, or consequential damages, nor shall Lift Power's liability for any claims or damages arising out of or connected with the manufacture, sale, delivery, or use of the equipment, or otherwise, exceed the purchase price thereof. The remedies and limitations set forth in this section shall apply to all claims and damages, whether arising from negligence, breach of contract, warranty, tort, product liability, or otherwise, and whether or not such claims and/or damages were foreseeable.
14. **Proprietary Information—Confidentiality.** Any specifications, drawings, plans, notes, instructions, engineering notices, or technical data of Lift Power furnished to Buyer shall be deemed to be incorporated herein by reference the same as if fully set forth herein. Lift Power shall at all times retain title to all such documents, and Buyer shall not disclose such to any third party without Lift Power's prior written consent. Upon Lift Power's request, Buyer shall promptly return to Lift Power all such documents and copies thereof.
15. **Termination.** Lift Power may terminate upon immediate written notice to Buyer on the happening of any of the following events: (a) Failure of Buyer to accept delivery of equipment or to pay any indebtedness to Lift Power when due, accompanied by a failure within ten (10) days after demand therefor, to fully pay the same or provide assurance of payment satisfactory to Lift Power; (b) Failure by Buyer to honor any promise on Buyer's part or to perform any of its obligations, other than the payment of any indebtedness to Lift Power, after Buyer shall have been notified by Lift Power of such failure and in Lift Power's opinion shall have failed to correct the same within thirty(30) days after receipt of such notice; (c) Repetition by Buyer of a failure which is the same or substantially the same as the one previously corrected by Buyer after notice as provided in subparagraph (a) above; (d) The material inaccuracy of any information set forth in any application, claim, schedule, certificate, or other document heretofore or hereafter furnished by Buyer to Lift Power; and (e) If Buyer shall cease to function as a going concern, or makes an assignment for the benefit of creditors, or any proceeding under any federal or state bankruptcy, receivership, or insolvency laws is instituted by or against Buyer, or the liquidation, dissolution, merger, or consolidation of Buyer occurs, or a receiver or trustee for Buyer or any of its assets or property is appointed or applied for. Termination shall not release or affect, and this agreement shall remain fully operative as to, any obligations or liabilities incurred by Buyer prior to the effective date of such termination; provided, that all indebtedness of Buyer to Lift Power shall become immediately due and payable on the effective date of termination without demand, and Lift Power may deduct from any sums it owes to Buyer sums owed by Buyer to Lift Power. Any orders received from Buyer, which have not been shipped prior to Buyer's receipt of notice of termination or the effective date of termination or expiration, whichever shall occur first, shall only be shipped C.O.D. or cash in advance.
16. **Tooling.** Unless otherwise agreed to in writing, all tooling shall remain the property of Lift Power.
17. **Modifications and Specifications.** In the event Buyer modifies the equipment sold hereunder without the express written consent of Lift Power, or Buyer fails to implement any changes in the equipment directed by Lift Power, or where equipment is manufactured from patterns, plans, drawings, or specifications furnished by Buyer and such manufacturing results in an infringement or other intellectual property claim, Buyer agrees to indemnify, defend, and hold Lift Power harmless from any and all claims, demands, suits, costs, and expenses (including but not limited to attorneys' fees and litigation costs) incurred thereby, whether in contract, tort, or otherwise resulting from such modification, failure or infringement.
18. **Connected Products.** The equipment may be a "Connected Product" or include a "Connected Service" meaning that the equipment may collect data about the operation and use of such equipment and transmit such data to Lift Power. Lift Power's Data Use Policy for Connected Products and Services (available at: www.liftpower.com) is incorporated herein by reference and shall govern Lift Power's use of any data collected and transmitted to Lift Power through a Connected Product or Connected Service. Such Data Use Policy may be updated by Lift Power periodically as set forth therein.
19. **Contingencies.** Lift Power shall not be liable for any default or delay in performance if caused, directly or indirectly, by acts of God; war; force of arms; fire; the elements; riot; labor disputes; picketing or other labor controversies; sabotage; civil commotion; accidents; any governmental action, prohibition or regulation; delay in transportation facilities; shortage or breakdown of or inability to obtain or non-arrival of any labor, material, or equipment used in the manufacture of the equipment; failure of any party to perform any contract with Lift Power relative to the production of the equipment; or from any cause whatsoever beyond Lift Power's control, whether or not such cause be similar or dissimilar to those enumerated. Lift Power shall promptly notify Buyer of the happening of any such contingency and of the contemplated effect thereof on the manufacture and delivery of the equipment.
20. **Miscellaneous.** Buyer's rights and obligations hereunder may not be assigned or delegated without the prior written consent of Lift Power. Lift Power may freely assign its rights and obligations. The Quotation and these Terms and Conditions shall be governed by and construed in accordance with the Uniform Commercial Code. The Quotation and these Terms and Conditions supersede all prior written or oral agreements with respect to the subject matter hereof. The invalidity of any part of the Quotation or these Terms and Conditions shall not affect the validity of the remaining provisions. All claims or suits against Lift Power must be made within one (1) year of the date the cause of actions occurred (regardless of when they were discovered) or be forever barred. No waiver shall be effective against Lift Power unless Lift Power agrees to same in writing. Paragraph headings found herein are for convenience only and are not to be considered in interpreting any of the provisions hereof.