



NOTICE: SEE OTHER SIDE OF THIS DOCUMENT FOR ADDITIONAL TERMS AND CONDITIONS

General Terms and Conditions of Sale

1. **Governing Law.** The parties acknowledge that the transaction that is the subject matter of this contract bears a reasonable relation to the state of Ohio and agree that the law of the State of Ohio will govern their rights and duties. The parties specifically intend that the provisions of Chapter 1302 of the Ohio Uniform Commercial Code will control as to all aspects of this contract and its interpretation, and that all the definitions contained in it will be applicable to this contract except where the contract may expressly provide otherwise. **THE COURTS OF OHIO SHALL HAVE EXCLUSIVE JURISDICTION OVER THE PARTIES AND THE CLAIMS ARISING UNDER OR RELATED TO THE AGREEMENT.**
2. **Recovery of Attorney's Fees.** To the extent otherwise permissible by law, American Carports, Inc. reserves the right to recover attorney's fees and reasonable expenses arising out of any cause of action for which American Carports, Inc. is successful and/or found least culpable.
3. **Formation, Integration, Modification.** The terms of this contract are intended by the parties as a final expression of their agreement with respect to these terms and also as a complete and exclusive statement of the terms. This agreement is a final, complete and exclusive statement of the Agreement of the parties. No modifications, limitations, waivers or discharge of the Agreement or any of its terms shall bind Seller unless in writing and signed by Seller's authorized employee at its home office. Notwithstanding anything to the contrary in this Agreement, no modifications, limitation, waiver, or discharge of any provision of the Agreement shall affect the Buyer's liabilities to Seller accrued prior thereto. Seller may correct unilaterally any mathematical and typographical errors in the Agreement. Typed provisions of the Agreement take precedence over printed provisions. A course of performance, course of dealing, or customs in the trade shall not constitute a modification or waiver by Seller of any right by Seller. The Agreement is only for the benefit of the parties, except all disclaimers and limitations applicable to Seller shall be for the benefit of Seller's agents, employees, contractors, and suppliers. If any provisions are determined to apply to third parties, all other provisions including limitations, waivers, and disclaimers shall also apply.
4. **Prices, Payment and Risk of Loss.**
 - a. Prices contained in Seller's published price lists, if any, are subject to change without notice. Prices in individual written quotations or proposals are firm only for a period of thirty (30) days from the date of the quotation after which Buyer should inquire of Seller as to their validity and request a written confirmation or revision. Prices do not include taxes and Buyer shall pay all applicable sales or other taxes levied with respect to Goods (and replacements) in the Agreement, unless exempt therefrom. All prices are in United States dollars. Buyer shall pay all government fees levied on the installation and inspection of the Goods. Buyer shall pay upon receipt all invoices rendered by Seller for any such items Seller may pay and for the Goods.
 - b. This Agreement is for the delivery and erection of fabricated metal structures and the Goods shall be delivered F.O.B. the Buyer's place of delivery. Risk of loss passes to the Buyer upon tender of the Goods to the buyer. Seller's breach of the Agreement shall not affect the passing of the risk of loss to Buyer notwithstanding any provision of law to the contrary. It is Buyer's responsibility to ensure that the building/carport is covered under Buyer's homeowner or other insurance.
 - c. Seller may unilaterally increase prices to cover increased costs (plus reasonable overhead and profit) of design, materials, and manufacturing required by changes requested by Buyer after the date of any quotation.
 - d. All amounts not paid to Seller when due shall incur a carrying charge of 5% per annum or the maximum allowed by applicable state law, whichever is lower.
 - e. All amounts due on installation or other event which requires the action or cooperation of Buyer which Buyer fails to supply timely shall become due upon such failure.
 - f. If payment is made by check and the check is returned NSF, Buyer will be responsible for additional expenses incurred by Seller as a result of the returned check. Seller reserves the right to charge additional fees as allowed by law for checks returned NSF. These fees may include a \$20 service charge.
5. **Delivery.** Shipping and Installation dates are estimated based on Seller's present engineering and manufacturing capacity and scheduling, and may be revised by Seller upon receipt or scheduling of Buyer's order. All shipping dates are approximate and shall be computed from the date of entry of the order on Seller's books. All shipping dates are further subject to Seller's prompt receipt from Buyer of a written purchase order or acceptance, letter of credit, down payment, and other conditions as specified in the Agreement, and of all drawings, information and approvals necessary to provide the Goods and to grant any credit proposed in the Agreement.
6. **Delay of Shipment or Performance Excused for Various Reasons.**
 - a. If shipment of any item or other performance by Seller is delayed at the request or due to the fault of the Buyer, the seller may at its option hold the item at the place of manufacture at the risk and expense of the Buyer from the time it is ready for shipment. In the event of any such delay in shipment, full and final payment for an item shall be due and payable thirty (30) days after the Buyer is notified that the item is ready for shipment. If the Seller is unwilling to accommodate the Buyer by holding such item, the Buyer shall accept shipment immediately.
 - b. Dates for Seller's performance are estimates only. In addition, the Seller shall not be in default because of its delay or failure to deliver or perform resulting, in whole or in part, from: (i) any foreign or domestic embargoes, seizures, acts of God, insurrections, war, or the adoption or enactment of any law, ordinance, regulation, ruling or order, or (ii) the lack of usual means of transportation, fires, floods, explosions, strikes or any other accidents, contingencies, or events, at the Seller's or its supplier's plant or elsewhere (whether or not beyond the Seller's control) which directly or indirectly interfere with, or render substantially more burdensome, Seller's production, deliver, or performance.
7. **Inspection, Testing and Rejection.**
 - a. If the Agreement expressly provides for Buyer's inspection and/or acceptance of the Goods, Seller's standard test procedures conducted by Seller's representative shall be the criteria for inspection and/or acceptance, unless other specific procedures have been specified in the Agreement.
 - b. All drawings, specifications, technical documentation, samples, prototypes and Goods shall be deemed approved and/or accepted by Buyer if Buyer does not provide a written objection and/or rejection within seven (7) days of receipt or other reasonable time established by Seller. Any objection and/or rejection by the Buyer must be in writing and state with specificity all defects and non-conformities upon which Buyer will rely to support its rejection. ALL DEFECTS AND NON-CONFORMITIES WHICH ARE NOT SO SPECIFIED ARE WAIVED.
8. **Customer Responsible for Locating Underground Utilities.** It is the sole responsibility of the customer to provide the factory approved independent contractor installers with the location of any underground cables, gas lines, or other utilities. This may include contacting the utility company to request that the locations of underground utilities be marked. American Carports, Inc. is not responsible for any damage caused to underground utilities.

LIMITED WARRANTY

1. **Limited Warranty.** Seller warrants, for a period of 20 years from the date of completion of installation, against rust through on the framing only assuming normal user care and maintenance on **12 gauge material only**. **This warranty does NOT apply to 14 gauge materials.** Seller warrants, for a period of 1 year from date of complete installation, against defects in workmanship assuming normal user care and maintenance. **This warranty gives you specific legal rights. You also may have other rights, which may vary from state to state.**
 2. **Warranty Disclaimer.** THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF. THE WARRANTIES IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE EXPRESSLY DISCLAIMED.
 3. **Remedy.** Buyer agrees that its sole and exclusive remedy against seller will be limited to the repair and replacement of nonconforming goods at the warrantor's option, provided seller is notified in writing of any defect. However, warrantor will not elect refund unless it is unable to provide replacement, and repair is not commercially practicable and cannot be made within the time for performance. This exclusive remedy will not be deemed to have failed of its essential purpose so long as seller is willing and able to repair or replace the defective parts and, in any event, seller's liability for any damages due buyer will be limited to the purchase price of the goods. THIS PARAGRAPH STATES BUYER'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY.
 4. **Limitation on Liability.** THE MAXIMUM LIABILITY, IF ANY, OF SELLER FOR ALL DAMAGES, INCLUDING WITHOUT LIMITATION CONTRACT DAMAGES AND DAMAGES FOR INJURIES TO PERSONS OR PROPERTY, WHETHER ARISING FROM SELLER'S BREACH OF THIS AGREEMENT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR OTHER TORT, WITH RESPECT TO THE GOODS, OR ANY SERVICES IN CONNECTION WITH THE GOODS, IS LIMITED TO AN AMOUNT NOT TO EXCEED THE PURCHASE PRICE OF THE GOODS. IN NO EVENT WILL SELLER BE LIABLE TO BUYER AND/OR ANY THIRD PARTIES FOR ANY INCIDENTAL DAMAGES, CONSEQUENTIAL DAMAGES, SPECIAL DAMAGES, EXEMPLARY DAMAGES OR LABOR CHARGES, INCLUDING WITHOUT LIMITATION LOST REVENUES AND PROFITS, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- NOTE: SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF IMPLIED WARRANTIES OR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO SOME OF THE ABOVE TERMS MAY NOT APPLY TO YOU.**
5. **Warranty Limited to Original Purchaser.** This warranty extends only to the original purchaser of the product warranted by this document. Said warranty does not extend to transferee owners of the product.
 6. **Exclusions and Limitations.** American Carports does not warrant any products not installed and anchored by a factory-approved installer utilizing a factory approved anchoring system. Installation by other than a factory approved installer utilizing a factory approved anchoring system will VOID your warranty. Damages from improper anchoring, strong winds, snow or ice are not considered defects. American Carports does not warrant or guarantee any product in snow or ice under any circumstances. Buyer is responsible for removing accumulation of snow and ice to prevent collapse. American Carports does not warrant any temporary anchoring systems (e.g., rebar) utilized by the customer, nor shall American Carports be in any way responsible for damage caused by the use of such temporary anchoring systems. Additionally, American Carports does not warrant any damages caused to products resulting from or after movement of the structure from the original installation point.
 7. **Ceiling Fans Void Warranty.** The installation of a ceiling fan anywhere on the structure, no matter how it is installed VOIDS all warranties. The structure is not designed for them and they should not be used.
 8. **Modification of Structure Voids Warranty.** Any modification, addition, deletion, substitution, etc. to the structure without express written design approval by American Carports, Inc. will VOID the warranty. Our products are designed to specifically engineered to provide superior performance as manufactured. Any changes to the design by the Buyer could compromise the structural integrity of the unit.
 9. **Claims Procedure.** Any claim under this warranty must be in writing and sent to American Carports, Inc., 200 Industrial Avenue, Box 910, Pioneer, OH 43554 and be received within 30 days of discovering claimed defect. This written notification must include a description of the defect, proof of purchase, and the address of the installed product. As American Carports must have a reasonable opportunity to inspect the claim, do not begin any repairs prior to said inspection or the terms of the warranty could be voided.