

DATE: 10/16/2019

INVITATION TO BID
THIS IS NOT AN ORDER

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BID NO.: 50-00128514

JEFFERSON PARISH

PURCHASING DEPARTMENT
P.O. BOX 9
GRETN, LA. 70054-0009
504-364-2678

VENDOR: 27118 BLANK BID COPY VENDOR

BUYER: RSCOTT@jeffparish.net

Bids will be received until 11:00 AM, 10/22/2019 via online at www.jeffparishbids.net or by hand delivery, USPS mail or other courier service to Purchasing Department, 200 Derbigny Street (General Government Building), Suite 4400, Gretna, LA 70053. For convenience, bidders may also submit bids in the East Bank Purchasing Department, Suite 404, Jefferson Parish Joseph S. Yenni Building, 1221 Elmwood Park Blvd., Jefferson LA 70123. However, if submitting bids on the day of bid opening, bidders must submit at the West Bank location only.

All bids submitted are subject to these instructions and general conditions and any special conditions and specifications contained herein, all of which are made part of this bid proposal reference. By submitting a bid, vendor agrees to comply with all provisions of Louisiana Law, as well be in compliance with the Jefferson Parish Code of Ordinances, Louisiana Code of Ethics, applicable Jefferson Parish ethical standards and Jefferson Parish Resolution No. 113646 and/or Resolution No. 113647. A copy of these resolutions may be obtained from the Office of the Parish Clerk, Suite 6700, Jefferson Parish General Government Building, 200 Derbigny Street, Gretna, LA 70053. You may also obtain a copy by visiting the Purchasing Department webpage at purchasing.jeffparish.net and clicking on On-line forms.

All vendors submitting bids should register as a Jefferson Parish vendor if not already yet registered. Registration forms may be downloaded from <http://purchasing.jeffparish.net> and by clicking on Vendor Information. Current W-9 forms with respective Tax Identification numbers and vendor applications may be submitted at any time; however, if your company is not registered and/or a current W-9 form is not on file, vendor registration is mandatory. Further, a current W-9 form and respective Tax Identification number must be supplied upon contract execution, should you be awarded a contract and/or issued purchase order. Failure to do so may result in delay of payment.

As per LSA-RS 47:301 et seq., all governmental bodies are excluded from payment of sales taxes to any Louisiana taxing body. Quotations shall be based on F.O.B. Delivered, anywhere within the Parish as designated by the Purchasing Department. JEFFERSON PARISH WILL ACCEPT ONE BID ONLY FROM EACH VENDOR. Items bid must meet specifications. JEFFERSON PARISH will accept one price for each item unless otherwise indicated. Two or more prices for one item will result in bid rejection. Bidders are required to complete, sign and return the bid form and/or complete and return the associated line item pricing forms as indicated. The price quoted for work shall be stated in figures. In the event there is a difference in unit prices and totals, the unit prices shall prevail.

JEFFERSON PARISH reserves the right to award contracts or place orders on a lump sum or individual item basis, or such combination, as shall in its judgment be in the best interest of JEFFERSON PARISH. Every contract or order shall be awarded to the LOWEST RESPONSIVE and RESPONSIBLE BIDDER, taking into consideration the CONFORMITY WITH THE SPECIFICATIONS and the DELIVERY AND/OR COMPLETION DATE

PROTESTS: Only those vendors that submit bids in response to this solicitation may protest any element of the procurement, in writing to the Director of the Purchasing Department. Written protest must be received within 48 hours of the release of the bid tabulation by the Purchasing Department. After consultation, the Parish Attorney's Office will then respond to protests in writing. (For more information, please see Chapter 2, Article VII, Division 2, Sec. 2-914.1 of the Jefferson Parish Code of Ordinances.)

JEFFERSON PARISH reserves the right to cancel all or any part of an order if not shipped promptly. No charges will be allowed for parking or cartage unless specified in the quotation. The order must not be filled at a higher price than quoted. JEFFERSON PARISH reserves the right to cancel at any time and for any reason by issuing a THIRTY (30) day written notice to the contractor.

JEFFERSON PARISH requires all products to be new (current) and all work must be performed according to standard practices for the project. Unless otherwise specified, no aftermarket parts will be accepted. Unless otherwise specified, all workmanship and materials must have at least one (1) year guaranty, in writing, from the date of delivery and/or acceptance of the project. Any deviations or alteration from the specifications must be indicated on the bid form for each item and upon request, product data for same must be submitted by the time specified by the Purchasing Department.

If this bid requires a pre-bid conference (see Additional Requirements section), bidders are advised that such conference will be held to allow bidders the opportunity to identify any discrepancies in the bid specifications and seek further clarification regarding instructions. The Purchasing Department will issue a written response to bidders' questions in the form of an Addendum.

All formal Addenda require written acknowledgment on the bid form by the bidder. Failure to acknowledge an Addendum on the bid form shall cause the bid to be rejected; JEFFERSON PARISH reserves the right to award bid to next lowest responsive and responsible bidder in this event.

USE OF BRAND NAMES AND STOCK NUMBERS: Where brand names and stock numbers are specified, it is for the purpose of establishing certain minimum standards of quality. Bids may be submitted for products of equal quality, provided brand names and stock numbers are specified. Complete product data may be required prior to award.

Quantities listed are for bidding purposes only. Actual requirements may be more or less than quantities listed.

Bidders are not to exclude from participation in, deny the benefits of, or subject to discrimination under any program or activity, any person in the United States on the grounds of race, color, national origin, or sex; nor discriminate on the basis of age under the Age Discrimination Act of 1975, or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, or on the basis of religion, except that any exemption from such prohibition against discrimination on the basis of religion as provided in the Civil Rights Act of 1964, or Title VI and VII of the Act of April 11, 1968, shall also apply. This assurance includes compliance with the administrative requirements of the Revenue Sharing final handicapped discrimination provisions contained in Section 51.55 (c), (d), (e), and (k)(5) of the Regulations. New construction or renovation projects must comply with Section 504 of the 1973 Rehabilitation Act, as amended, in accordance with the American National Standard Institute's specifications (ANSI A117.1-1961).

Jefferson Parish and its partners as the recipients of federal funds are fully committed to awarding a contract(s) to firm(s) that will provide high quality services and that are dedicated to diversity and to containing costs. Thus, Jefferson Parish strongly encourages the involvement of minority and/or woman-owned business enterprises (DBE's, including MBE's, WBE's and SBE's) to stimulate participation in procurement and assistance programs.

INSTRUCTIONS FOR BIDDERS AND GENERAL CONDITIONS

IN ACCORDANCE WITH STATE REGULATIONS JEFFERSON PARISH OFFERS ELECTRONIC PROCUREMENT TO ALL VENDORS

This electronic procurement system allows vendors the convenience of reviewing and submitting bids online.

This is a secure site and authorized personnel have limited read access only. Bidders are encouraged to submit electronically using this free service; while the website accepts various file types, one single PDF file containing all appropriate and required bid documents is preferred. Bidders submitting uploaded images of bid responses are solely responsible for clarity. If uploaded images/documents are not legible, then bidder's submission will be rejected. Please note all requirements contained in this bid package for electronic bid submission.

Please visit our E-Procurement Page at www.jeffparishbids.net to register and view Jefferson Parish solicitations. For more information, please visit the Purchasing Department page at <http://purchasing.jeffparish.net>.

ADDITIONAL REQUIREMENTS FOR THIS BID

PLEASE MATCH THE NUMBERS PRINTED IN THIS BOX WITH THE CORRESPONDING INSTRUCTIONS BELOW.

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1. All bidders must attend the MANDATORY pre-bid conference and will be required to sign in and out as evidence of attendance. In accordance with LSA R.S. 38:2212(l), all prospective bidders shall be present at the beginning of the MANDATORY pre-bid conference and shall remain in attendance for the duration of the conference. Any prospective bidder who fails to attend the conference or remain for the duration shall be prohibited from submitting a bid for the project.
2. Attendance to this pre-bid conference is optional. However, failure to attend the pre-bid conference shall not relieve the bidder of responsibility for information discussed at the conference. Furthermore, failure to attend the pre-bid conference and inspection does not relieve the successful bidder from the necessity of furnishing materials or performing any work that may be required to complete the work in accordance with the specification with no additional cost to the owner.
3. Contractor must hold current applicable JEFFERSON PARISH licenses with the Department of Inspection and Code Enforcement. Contractor shall obtain any and all permits required by the JEFFERSON PARISH Department of Inspection and Code Enforcement. The contractor shall be responsible for the payment of these permits. All permits must be obtained prior to the start of the project. Contractor must also hold any and all applicable Federal and State licenses. Contractor shall be responsible for the payment of these permits and shall obtain them prior to the start of the project.
4. A LA State Contractor's License will be required in accordance with LSA R.S. 37-2150 et. seq. and such license number will be shown on the outside of the bid envelope. Failure to comply will cause the bid to be rejected. Additionally if submitting the bid electronically, then the license number must be entered in the appropriate field in the Electronic Procurement system. Failure to comply will cause the bid to be rejected.
5. It is the bidder's responsibility to visit the job site and evaluate the job before submitting a bid.
6. Job site must be clean and free of all litter and debris daily and upon completion of the contract. Passageways must be kept clean and free of material, equipment, and debris at all times. Flammable material must be removed from the job site daily because storage will not be permitted on the premises. Precautions must be exercised at all times to safeguard the welfare of JEFFERSON PARISH and the general public.

INSTRUCTIONS FOR BIDDERS AND GENERAL CONDITIONS

7. **PUBLIC WORKS BIDS:** All awards for public works in excess of \$5,000.00 will be reduced to a formal contract which shall be recorded at the contractor's expense with the Clerk of Court and Ex-Officio Recorder of Mortgages for the Parish of Jefferson. A price list of recordation costs may be obtained from the Clerk of Court and Ex-Officio Recorder of Mortgages for the Parish of Jefferson. All awards in excess of \$25,000.00 will require both a performance and a payment bond. Unless otherwise stated in the bid specifications, the performance bond requirements shall be 100% of the contract price. Unless otherwise state in the bid specifications, the payment bond requirements shall be 100% of the contract price. Both bonds shall be supplied at the signing of the contract.
8. **NON-PUBLIC WORKS BIDS:** A performance bond will be required for this bid. The amount of the bond will be 100% of the contract price unless otherwise indicated in the specifications. The performance bond shall be supplied at the signing of the contract.
9. **NON-PUBLIC WORKS BIDS:** A payment bond will be required for this bid. The amount of the bond will be 100% of the contract price unless otherwise indicated in the specifications. The payment bond shall be supplied at the signing of the contract.
10. All bidders must comply with the requirements stated in the attached "Standard Insurance Requirements" sheet attached to this bid solicitation. Prior to contract executions/purchase order issuance, the successful bidder will be required to provide final insurance certificates which shall name Jefferson Parish as an additional insured in accordance with the instructions in the aforementioned "Standard Insurance Requirements" sheet.
11. A bid bond will be required with bid submission in the amount of 5% of the total bid, unless otherwise stated in the bid specifications. Acceptable forms shall be limited to cashier's check, certified check, or surety bid bond. All sureties must be in original format (no copies). If submitting a bid online, vendors must submit an electronic bid bond through the respective online clearinghouse bond management system(s) as indicated in the electronic bid solicitation on Central Auction House. No scanned paper copies of any bid bond will be accepted as part of the electronic bid submission.
12. This is a requirements contract to be provided on an as needed basis. JEFFERSON PARISH makes no representations on warranties with regard to minimum guaranteed quantities unless otherwise stated in the bid specifications.
13. Freight charges should be included in total cost when quoting. If not quoted FOB DELIVERED, freight must be quoted as a separate item. Bid may be rejected if not quoted FOB DELIVERED or if freight charges are not indicated on bid form.
14. **PUBLIC WORKS BIDS - Completed, Signed and Properly Notarized Affidavits Required;** This applies to all solicitations for construction, alteration or demolition of public buildings or projects, in conformity with the provisions contained in LSA-RS 38:2212.9, LSA-RS 38:2212.10, LSA-RS 38:2224, and Sec 2-923.1 of the Jefferson Parish Code of Ordinances. For bidding purposes, all bidders must submit with bid submission COMPLETED, SIGNED and PROPERLY NOTARIZED Affidavits, including: Non-Conviction Affidavit, Non-Collusion Affidavit, Campaign Contribution Affidavit, Debt Disclosures Affidavit and E-Verify Affidavit. For the convenience of vendors, all affidavits have been combined into one form entitled PUBLIC WORKS BID AFFIDAVIT. This affidavit must be submitted in its original format, and without material alteration, in order to be compliant and for the bid to be considered responsive. A scanned copy of the completed, signed and properly notarized affidavit may be submitted with the bid, however, the successful bidder must submit the original affidavit in its original format and without material alteration upon contract execution. Failure to comply will result in the bid submission being rejected as non-responsive. The Parish reserves the right to award bid to the next lowest responsive and responsible bidder in this event.
15. **NON PUBLIC WORK BIDS - Completed, Signed and Properly Notarized Affidavits Required** in conformity with the provisions contained in LSA – RS 38:2224 and Sec 2-923.1 of the Jefferson Parish Code of Ordinances. For bidding purposes, all bidders must submit with bid submission COMPLETED, SIGNED and PROPERLY NOTARIZED Affidavits, including: Non-Collusion Affidavit, Debt Disclosures Affidavit and Campaign Contribution Affidavit. For the convenience of vendors, all affidavits have been combined into one form entitled NON PUBLIC WORKS BID AFFIDAVIT. This affidavit must be submitted in its original format, and without material alteration, in order to be compliant and for the bid to be considered responsive. A scanned copy of the completed, signed and properly notarized affidavit may be submitted with the bid, however, the successful bidder must submit the original affidavit in its original format and without material alteration upon contract execution. Failure to comply will result in the bid submission being rejected as non-responsive. The Parish reserves the right to award bid to the next lowest responsive and responsible bidder in this event.
16. The ensuing contract for this bid solicitation may be eligible for FEMA reimbursement and/or Federal funding/reimbursement. As such, the referenced appendix will be applicable accordingly and shall be considered a part of the bid documents. All applicable certifications must be duly completed, signed and submitted with bid submission. Failure to submit applicable certifications with bid submission will result in bid rejection.

It shall be the duty of every parish officer, employee, department, agency, special district, board, and commission; and the duty of every contractor, subcontractor, and licensee of the parish, and the duty of every applicant for certification of eligibility for a parish contract or program, to cooperate with the Inspector General in any investigation, audit, inspection, performance review, or hearing pursuant to Jefferson Parish Code of Ordinances Section 2-155.10(19). By submitting a bid, vendor acknowledges this and will abide by all provisions of the referenced Jefferson Parish Code of Ordinances.

DATE: 10/16/2019

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BID NO.: 50-00128514

JEFFERSON PARISH

PURCHASING DEPARTMENT
P.O. BOX 9
GRETN, LA. 70054-0009
504-364-2678

VENDOR: 27118 BLANK BID COPY VENDOR

BUYER: RSCOTT

As per LSA-RS 47:301 et seq., all governmental bodies are excluded from payment of sales taxes to any Louisiana taxing body. Quotations shall be based on F.O.B. Agency warehouse or jobsite, anywhere within the Parish as designated by the Purchasing Department.

JEFFERSON PARISH reserves the right to cancel all or any part of an order if not shipped promptly. No charges will be allowed for parking or cartage unless specified in quotation. The order must not be filled at a higher price than quoted. JEFFERSON PARISH reserves the right to cancel at any time and for any reason by issuing a THIRTY (30) day written notice to the contractor.

JEFFERSON PARISH is expecting all products to be new and all work to be done in workman-like manner, according to standard practices. Any deviations or alteration from the specifications must be indicated on the bid form for each item and upon request, product data for same must be submitted by the time specified by the Purchasing Department.

DELIVERY: FOB JEFFERSON PARISH

INDICATE DELIVERY DATE ON EQUIPMENT AND SUPPLIES

2-4 WEEKS

INDICATE STARTING TIME (IN DAYS) FOR CONSTRUCTION WORK

INDICATE COMPLETION TIME (IN DAYS) FOR CONSTRUCTION WORK

In the event that addenda are issued with this bid, bidders MUST acknowledge all addenda on the bid form. Bidder must acknowledge receipt of an addendum on the bid form as indicated. Failure to acknowledge any addendum on the bid form will result in bid rejection.

Acknowledge Receipt of Addenda: NUMBER: _____

NUMBER: _____

NUMBER: _____

NUMBER: _____

LOUISIANA CONTRACTOR'S LICENSE NO.: (if applicable) _____

*** ALL BIDDERS MUST COMPLETE SECTION BELOW ***	
FIRM NAME: <u>JOHN H. CARTER CO.</u>	
SIGNATURE: (Must be signed here)	TITLE: <u>Director</u>
PRINT OR TYPE NAME: <u>Joey Breauy</u>	
ADDRESS: <u>2728 No. ARNOULT RD.</u>	
CITY, STATE: <u>METairie LA</u>	ZIP: <u>70002</u>
TELEPHONE: <u>504 881-8550</u>	FAX: <u>504 881-8723</u>
EMAIL ADDRESS: <u>cathy.schwab@johnhcarter.com</u>	

TOTAL PRICE OF ALL BID ITEMS: \$ 11,108.⁰⁰

DATE: 10/16/2019

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INVITATION TO BID FROM JEFFERSON PARISH - continued

BID NO.: 50-00128514

SEALED BID

ITEM NUMBER	QUANTITY	U/M	DESCRIPTION OF ARTICLES	UNIT PRICE QUOTED	TOTALS
1	2.00	EA	<p>PURCHASE OF COMPRESSORS FOR THE JEFFERSON PARISH SEWERAGE DEPARTMENT</p> <p>0001 - Compressor, 5HP, 3250 rpm, oilless scroll compressor only, shall match existing unit already in service without modifications.</p> <p>Compressor on this bid is for a Powerex Model SLAE05E Serial no. RF2069 SCFM at 50 PSIG of 16.6 SCFM at 100 PSIG of 15.2 100 PSIG at 3250 RPM</p> <p>Please have items shipped to:</p> <p>Jefferson Parish Sewerage Department Attention: Rob Benoit No. 2 Humane Way Jefferson, LA 70123</p>	<p>\$5554.00</p>	<p>\$11,108.00</p>

Customer: JEFFERSON PARISH - PUMP STATION OPERATIONS

John H. Carter Co., Inc.

Contact: ROB BENOIT
Contact Phone: 504-736-6661
Contact Cell:
Contact Email: rbenoit@jeffparish.net

Phone: 225-751-3788
Fax:
Contact: Cathy Schwab
Email: cathy.schwab@johnhcarter.com
Sales Quote Ref: SQ207985
Last Modified Date: 10/21/2019 10:36:19 AM
Shipping Terms: Prepaid and Bill
Incoterms: FOB Shipping Point
Rev:
Customer Ref#: 50-00128514 - BID NO.

Payment Terms:
Quote Expiration Date: 11/20/2019

Line No.	Part No.	Description	Qty.	Unit Price	Ext. Amount	Leadtime
10000	SLAE05E	POWEREX CLAE05E COMPRESSOR, SCROLL OIL-LESS PUMP 5HP, 116 MAX, PSIG 16.6 @ 50 PSIG, 3250 RPM @100 PSIG, C SERIES CONVERSION KIT.	2	5,554.00	11,108.00	2 - 4 WEEKS (ARO)
TOTAL						11,108.00

Did you know that John H. Carter Company offers a wide variety of products? We even offer service & repair on most of these, as well as automated process control systems. For your convenience, please visit www.johnhcarter.com for a complete list of products & services.

TOTAL 11,108.00
excluding freight, tax, and alternates

Terms And Conditions Of Sale

NOTE: These Terms and Conditions of Sale control the rights and responsibilities of the parties in connection with goods and/or services sold to any customer or purchaser of goods or services hereunder (herein after, "Buyer") by John H. Carter Co., Inc. its affiliates and/or its subsidiary, ControlWorx, L.L.C. (individually and/or collectively "Seller"). Please read this document carefully because of its significant legal consequences.

RETURNS: Credit for returned goods can only be considered for material returned with our permission. Credit will be subject to our inspection and approval. Credit will be subject to our inspection and approval. Credit will be subject to our inspection and approval.

2. **FORM OF CONTRACT AND NO WAIVER:** Seller will not be deemed to have accepted any proposal or sales order through course of dealing, performance, implied consent, or waiver. Specifically, but without limitation, Seller's (i) supplying products and/or services, or performing services in response to Buyer's purchase order and/or proposal, and/or (ii) Seller's failure to complain of Buyer's non-compliance with these Terms and Conditions shall not constitute an acceptance of any conflicting terms and conditions in any other purchase order or proposal, and/or (iii) Seller's failure to object to any such terms and conditions in writing at the time of or prior to the purchase order, proposal, or acceptance of any payment for products or services, shall not constitute an acceptance of any such terms and conditions. All terms and conditions proposed by Buyer, or any other party, shall be deemed to have been accepted by Seller only if such terms and conditions are expressly accepted in a writing signed by Seller. The Terms and Conditions of Sale will be effective against Seller, by Seller's use to make such agreements.

agreement between Seller and Buyer and shall have no effect. Should a

5. **LIMITED WARRANTY:** Subject to the limitations contained below, Seller warrants that goods manufactured by Seller or consumables and services provided by Seller will be free from defect in material and workmanship under normal care and use until the expiration of the applicable warranty materials and workmanship under normal care and use until the expiration of the applicable warranty materials hereafter set forth. Said goods are warranted for eighteen (18) months from the date of shipment or twelve (12) months from date of initial operation, whichever is longer. Said consumables and goods are warranted for a period of ninety (90) days from date of shipment or provision. If Buyer discovers any warranty defects and notifies Seller therefrom in writing and during the applicable warranty period, Seller shall, at its sole discretion, promptly correct any errors that are found by the Seller in the services, or repair or replace at its own expense the price of the defective goods/services. All replacements or repairs to be defective, or refund the purchase price of the defective goods/services. All replacements or repairs necessitated by inadequate maintenance, normal wear and usage, unsuitable environmental conditions, accidents, misuse, or by improper installation, modification, repair, storage, or handling, or any other cause not the fault of Seller, are not covered by this limited warranty, and shall be at Buyer's expense. Seller shall not be obligated to pay any costs or charges incurred by Buyer or any other party except as expressly agreed upon in writing and in advance by an authorized Seller representative. All transportation and time and expenses of Seller's personnel for service and diagnosis under this warranty clause will be borne by Seller if it is determined to be a non-warrantable repair. Goods repaired and replaced during the warranty period shall be warranted for the remainder of the original warranty period or ninety (90) days, whichever is longer. This limited warranty is the sole warranty made by Seller and its authorized representative of Seller.

Products purchased by Seller from a third party for resale to Buyer ("Resale Products") shall carry only the warranty extended by the original manufacturer. Buyer agrees that Seller has no liability for Resale Products other than making a reasonable commercial effort to advise Buyer for procurement and shipping of the Products other than making a reasonable commercial effort to advise Buyer. THERE ARE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AT LAW, BY CONTRACT, OR OTHERWISE, AS TO THE MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, OR ANY OTHER MATTER WITH RESPECT TO ANY OF THE GOODS, CONSUMABLES, OR SERVICES.

6. **LIMITATION OF REMEDY AND LIABILITY.** In no event, regardless of the form of the claim or cause of action (including but not limited to claims based in contract, patent or trademark infringement, negligence, strict liability, other tort, or otherwise), shall Seller's liability to Buyer and/or its affiliates exceed the contract price. The parties agree that in no event shall either party's liability to the other and/or their affiliates extend to include incidental, consequential, punitive, or exemplary damages. The term "consequential damages" shall include, but not be limited to, lost or deferred production, loss of profits, loss of revenue, and cost of capital.

[illegible]

expenses incurred.

9. **CANCELLATION BY BUYER:** Buyer may cancel its order, or any part of it, by sending written notice of cancellation to Seller and by paying Seller a reasonable cancellation fee. The reasonable notice fee will be determined by Seller and will reflect among other factors: the expense already incurred, other commitments made by Seller and will reflect among other factors: the expense already incurred, other commitments made by Seller and will reflect among other factors: the expense already received any price discounts for the quantity of goods ordered by Buyer, but has not purchased the applicable quantity at the time of cancellation, Buyer must also pay to Seller the difference between the price Seller paid and the price it would have been paid had Seller's price been based on the quantity actually purchased.

8b. RETURNS: Credit for returned goods can only be considered for material returned with our permission and issuance of a John H. Carter Company returned goods authorization number (RGAN#). Credit will be subject to our inspection and confirmation that the material is new, unused and in the original packaging. Returns must be made within 90 days of receipt by customer. Credit can only be allowed for items normally carried in JHC inventory. If material is special-ordered at the customer's request, credit for return will be subject to the discretion and policies of the respective vendor or factory involved.

9. PRICES. Unless otherwise specified by Seller, Seller's prices for the goods shall remain in effect for thirty (30) days from the date of Seller's quotation or acceptance of the order for the goods, whichever occurs first; provided that such quotation or acceptance shall constitute authorization for the immediate manufacture and shipment of the goods pursuant to Seller's standard ordering procedures as recited and accepted by the Seller from the Buyer within such time period. After such thirty (30) day period, Seller shall have the right to revise the price of the goods up or down at any time. However, if the goods are the time the order is released by Buyer and Seller prior to final manufacture and shipment of the goods, then the price of the goods shall remain in effect until the goods are manufactured by Seller and shipped to the Buyer. **Notwithstanding** however, that any such price revision for goods manufactured by the Seller shall not exceed seven percent (7%) during the six (6) month period following the date of Buyer's purchase of the goods. If the goods are not manufactured by Seller, then the price of the goods shall remain in effect at the time of shipment, whichever occurs first. The price for any Resale Products shall be Seller's price in effect at the time of shipment to Buyer.

10. **PATENTS:** Seller warrants that goods manufactured by Seller and sold pursuant to these Terms and Conditions of Sale, or their use as provided below, do not infringe any valid U.S. Patent in existence as of the date of delivery. This warranty is given upon condition that Buyer promptly notify Seller of any claim or act of delivery. This warranty is given upon condition that Seller is notified, that Buyer permit Seller to control involving Buyer in which such infringement is alleged, and Seller is affected, that Buyer permit Seller to control completely the defense or compromise of any such allegation of infringement. Seller's warranty is to use only applies to infringements arising solely out of the inherent operation (1) of such goods or (2) of any combination of goods sold hereunder in a manner designed by Seller. This warranty shall not apply to goods manufactured by Buyer in accordance with Buyer's specifications.

11. INSTALLATION: All goods shall be installed by and at the expense of the Buyer.

12. TAXES: Any tax or governmental charge or increase in same hereafter becoming effective increasing the cost to Seller of producing, selling, or delivering the goods or of procuring materials used therein, and any tax now cost to Seller of producing, selling, or delivering the goods because of the sale of the goods, such as Sales Tax, Use Tax, in effect or increase in same payable by the Seller because of the sale of the goods, such as Sales Tax, Use Tax, Retailer's Occupational Tax or Gross Receipts Tax may, at Seller's option, be added to the price herein specified.

13. **SOFTWARE AND FIRMWARE.** Notwithstanding any other provision herein to the contrary, Seller or applicable third party owner shall retain all rights of ownership and title in its respective firmware and software, applicable third party's copyright relating to such firmware and software and all copies of such firmware and software. Except as otherwise provided herein, Buyer is hereby granted a nonexclusive, royalty free license to use firmware and software as otherwise provided herein, incorporated into the Goods only in conjunction with such hardware, and copies of firmware and software, incorporated into the Goods only in conjunction with such hardware and only at the Buyer's plant site where the Goods are first used. Buyer may negotiate with Seller separate licenses to use such copies of firmware and software at other plant sites. Buyer's use of certain firmware (as licenses to use such copies of firmware and software at other plant sites) shall be governed exclusively by Seller's and/or third party owner's applicable license terms.

14. COMPLIANCE WITH CERTAIN LAWS: Unless otherwise expressly provided herein, the goods shall be produced in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended, and applicable license terms.

15. ASSIGNMENT: Buyer shall not (by operation of law or otherwise) assign its rights or delegate its performance hereunder without the prior written consent of Seller, and any attempted assignment or delegation without such consent shall be void.

16. **INDEMNIFICATION.** Buyer shall release, defend, indemnify, and hold Seller harmless against liability or obligation, whether in contract, tort (including but not limited to negligence and strict liability) or otherwise, with respect to any expense, loss, injury or damage to Buyer and to any other person or entity resulting from goods subjected to: (a) improper installation or storage, (b) accident, damage, abuse or misuse; (c) abnormal operation, conditions or applications; (d) operating conditions or applications above the rated capacity of the goods, (e) conditions or applications not made known to or contemplated by Seller at the time of the agreement; or (f) constant conditions or applications not made known to or contemplated by Seller at the time the goods were designed.

17. **GOVERNING LAW.** The validity, interpretation, and performance of these Terms and Conditions of Sale and any dispute connected herewith shall be governed and construed in accordance with the laws of the State of Michigan, excluding its conflicts of laws rules.

18. **ENTIRE AGREEMENT AND SAVING CLAUSE:** These Terms and Conditions of Sale (and any of Seller's purchase or work orders in connection therewith) constitute a complete and exclusive statement of the agreement between Seller and Buyer. These Terms and Conditions of Sale control over any conflicting provision in any purchase or work order issued by Seller. There are no other promises, conditions, understandings, representations or warranties. All provisions are severable, and if any of these Terms and Conditions of Sale are found by a court of competent jurisdiction to be unenforceable, then the Terms and Conditions of Sale shall be reformed to make them enforceable.

12. **EXPORT CONTROLS STATEMENT:** The items that are sold and shipped to Buyer pursuant to any order/invoice are subject to the export laws of the United States and perhaps other countries as well. Seller and its subsidiaries are committed to compliance with all relevant export control laws. Buyer shall cooperate with any U.S. and foreign regulatory requirement or any government inquiry, audit, investigation or other inquiry upon its notice to Buyer or Seller or any relevant government or government agency, department, or commission. If Buyer intends to resell or re-export these products to another country(ies), Buyer is hereby notified and aware that these products are sold and/or re-exported by Seller in accordance with U.S. export control laws. Buyer is hereby notified that compliance with these laws is mandatory on all parties anywhere in the world under U.S. law and aware that any export of products or acts contrary to U.S. relevant foreign export laws is prohibited and may subject Buyer to diverse civil penalties and other sanctions. Moreover, Buyer shall release, defend, indemnify and hold Seller harmless from any liability or obligation (including, but not limited to, penalties, other sanctions, and defense costs) arising from or in any way connected to Buyer's failure to comply with such laws or to cooperate with such government entities.

20. **HIRING OF EMPLOYEES:** Buyer agrees that during the execution of the Services by Seller, and for a period of 24 months after completion of the Services, Buyer will not, directly or indirectly, individually or as a shareholder, investor, advisor, partner, member, manager, owner, director, officer, employee, consultant, or agent of any corporation, partnership, limited liability company, or any other entity (a) solicit, encourage or have contact with any of Seller's employees for the purpose of encouraging them to end their employment with Seller, (b) hire any employee of Seller, (c) solicit, encourage or have contact with any of Seller's contractors or their employees for the purpose of encouraging them to end their relationship with Seller, or (d) hire any Seller's contractor or employees as a Seller's contractor.

If Buyer breaches this Section 20, in addition to any and all other remedies available to Seller in law or equity, Buyer shall pay as damages, and not as a penalty, \$125,000 for each breach. The parties agree that the foregoing damages shall not preclude Seller from obtaining any further damages, in law or in equity, in connection with any and all breaches in this Section 20. In addition Buyer agrees that in the event that Seller institutes or becomes involved in any action to enforce or defend this Section 20, Seller shall be entitled to recover from Buyer all attorneys' fees and costs related to such action.