

TERMS & CONDITIONS

1. Payment and Terms of Payment.

- If Buyer has requested the Dealer Open Account payment plan via the Ford Dealer Statement in Part II of the order form, and Seller agrees to sell pursuant to such plan, then Buyer shall pay the total purchase price shown on the invoice.
- If Buyer has requested the Installment Plan (Fixed Rate) in Part II of the order form, and Seller agrees to sell pursuant to such Plan, then Buyer shall pay the Down Payment (if any), and the Total Balance in equal monthly installments in accordance with the terms set forth below.
- If Buyer has requested the Installment Plan (Variable Rate) in Part II of the order form, and Seller agrees to sell pursuant to such Plan, then Buyer shall pay the Total Cash Price and any interest thereon in accordance with the Loan and Security Agreement to be executed by Buyer and Seller.

2. Title. Title to Equipment purchased by Buyer from Seller shall pass to Buyer upon Seller's receipt of all amounts owing by Buyer to Seller hereunder.

3. Risk of Loss. Seller shall be responsible for risk of loss until Equipment is delivered to the location set forth herein, at which time risk of loss shall be the responsibility of Buyer.

4. Acceptance and Inspection. Buyer shall be deemed to have accepted Equipment upon Seller's delivery. Equipment shall be deemed to have been delivered in good condition unless Buyer gives Seller notice to the contrary within 10 days after Seller's delivery.

5. Delays. Seller shall not be liable for any failure or delay in delivering Equipment, or for any failure to perform any provision hereof, resulting from fire, flood or other casualty, riot, strike or other labor difficulty, governmental regulation or other restriction, or any other cause beyond Seller's control.

6. Unconditional Obligation. Buyer's obligation to make payments to Seller or its assignee shall be absolute and unconditional and shall continue unimpaired despite any loss, damage or other interruption in the use of Equipment. The obligation of Buyer to pay in full any amounts due under this contract shall not be subject to dispute, claim, counterclaim, defense or other right which Buyer may have to assert against Seller or the manufacturer of Equipment. Buyer acknowledges that (a) Buyer has selected Equipment and Manufacturer, and Buyer has determined Equipment's suitability and fitness for the Buyer's purpose; (b) Seller is not the manufacturer of Equipment; and (c) Manufacturer issues its own warranty and performs the obligation under such warranty.

7. Warranty. THE MANUFACTURER'S WARRANTY SHALL BE BUYER'S EXCLUSIVE REMEDY. RECOURSE OR DAMAGE FOR ANY DEFECT IN WORKMANSHIP OR MATERIAL OR ANY FAILURE OF THE EQUIPMENT. SELLER MAKES NO WARRANTIES, REPRESENTATIONS, WARRANTIES OR GUARANTEES WHATSOEVER WITH RESPECT TO EQUIPMENT, EITHER EXPRESS OR IMPLIED, ARISING BY LAW OR CUSTOM, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE LIABILITY OF THE SELLER SHALL BE LIMITED TO EXPRESS OBLIGATION TO DELIVER THE EQUIPMENT UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE OR RESPONSIBLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE, WHICH BUYER MAY INCUR, EXPERIENCE OR CLAIM, INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR LOSS OF PROFITS, INTERRUPTION IN BUSINESS, LOST OPPORTUNITY, WORK STOPPAGE OR OTHER IMPAIRMENT OF ASSETS, ARISING OUT OF MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY, IN TORT OR OTHERWISE, OR ON ACCOUNT OF ENTERING INTO OR RELYING ON THIS AGREEMENT, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8. Freight and Taxes. Freight costs and applicable taxes will be added to the final invoice and will be borne by Buyer.

9. Security Interest. Buyer hereby grants to Seller a continuing security interest in the Equipment, including all products and proceeds thereof, until all amounts due hereunder are paid. Buyer agrees to execute, and pay filing fees for, any financing statement or other documents deemed necessary by Seller to maintain a valid security interest in the Equipment.

10. Maintenance. Buyer shall use the Equipment carefully and properly. Buyer, at Buyer's own expense, shall maintain and repair all items of the Equipment in order to keep them in good order and condition and, in particular, shall comply fully with the maintenance, operating, usage or other instructions provided by the manufacturer. Buyer authorizes Seller, or any third party appointed by Seller, to inspect the Equipment when necessary. Buyer shall at all times keep the Equipment free and clear of all liens, charges or encumbrances.

11. Personal Property. Ford proprietary diagnostic equipment (including the software, if applicable) shall be kept at Buyer's premises as listed on the reverse side and shall remain personal property regardless of how and to what degree it may be altered or attached to any building or structure or what may be the consequence of its removal from such building or structure. Buyer shall not encumber the Equipment (including software, if applicable) until all amounts owing to Seller hereunder are paid. In addition, Seller grants to Buyer, and Buyer accepts, a non-exclusive license to use the Equipment (including the software, if applicable) in accordance with the terms and conditions set forth herein. The license (and Equipment) shall not be leased, sold, assigned or otherwise transferred, in whole or in part. In the event Buyer proposes to lease, sell assign or otherwise transfer the Equipment (and/or its software, if applicable), in whole or in part, to any person or entity, Ford Motor Company shall have a right of first refusal to purchase the Equipment (including its software, if applicable) for Ten and 00/100 Dollars (\$10.00) in US currency.

12. Insurance and Indemnification. Buyer shall defend, indemnify and hold harmless Seller from and against, and at Buyer's own expense, provide insurance satisfactory to Seller covering any and all losses, damages, claims, expenses and other liabilities (including attorney's fees) resulting to or arising out of (a) damage, loss, theft, or destruction of the Equipment, or (b) death, injury or property damage connected with the use, operation or condition (including without limitation defects whether or not discoverable by any party) of the Equipment. Buyer shall promptly notify Seller of any such claim. Seller shall have the right to participate, at its own expense, in any proceeding for which Buyer has undertaken the defense of Seller, and in no event shall Buyer settle any claim against Seller without Seller's prior written consent. Buyer shall provide evidence of such insurance to Seller upon demand. Seller is under no obligation to examine any insurance certificate or advise Buyer that its insurance does not comply with the requirements set forth herein. The losses covered by insurance will in all cases be payable to Seller and Buyer as their interests may appear. If Buyer fails to insure the Equipment as herein provided, Seller may, but is not obligated to, place such insurance upon the Equipment and the Buyer agrees to pay to Seller on demand the premiums for such insurance placed by Seller. In no event shall any insurance coverage be deemed to limit or replace Buyer's obligation to indemnify Seller as provided herein.

13. Default. In the event that Buyer: (a) fails to pay any amount due hereunder within ten (10) days of the due date; (b) fails to comply with any other provision hereof; (c) lies, or if there is fraud against Buyer, any person under any bankruptcy or insolvency laws or suffers the appointment of any trustee or receiver for all or any part of Buyer's business or assets; or (d) has any assignment (voluntary or involuntary), lien, attachment or levy issued against the Equipment (unless such person, assignment or attachment, lien, attachment or levy is withdrawn or nullified within twenty (20) days) then Buyer shall be in default hereunder and all of Buyer's indebtedness and obligations to Seller shall, at Seller's option, become immediately due and payable, and Seller may, at its option, terminate this contract and repossess any and all items of Equipment with or without legal process and sell the same at private or public sale without prior notice to Buyer to the extent permitted by law. Upon request, Buyer shall deliver the Equipment to Seller at a place designated by Seller. Repossession and/or sale of the Equipment upon such default shall not affect the Seller's right to retain all payments made prior to repossession or to recover the balance due hereunder for any deficiency. Buyer shall reimburse Seller all costs of collection, repossession and resale (including reasonable attorney's fees, court costs and other expenses incurred by Seller). Buyer hereby releases Seller from any liability for damages resulting from repossession hereunder, the rights and remedies of Seller. In the event of default, herein mentioned shall not be deemed exclusive but shall be cumulative and in addition to all other rights and remedies existing under law, and may be enforced successively or concurrently. Waiver by Seller of any default shall not be deemed a waiver of any other default.

14. General. The waiver by either party of, or failure to claim, a breach of any provision of this contract shall not be deemed to be a waiver of any provision of this contract, shall not be deemed to be a waiver of any subsequent breach or to affect in any way the effectiveness of such provision. This contract constitutes the entire agreement between the parties and may not be changed except by an instrument in writing signed by the party to be charged. This contract may not be assigned by Buyer without the Seller's prior written consent. Seller may assign this contract at any time but shall not thereby be relieved from any liability hereunder. In the event that one or more clauses of this contract are found to be unenforceable, illegal or contrary to public policy by court of competent jurisdiction, the remainder of this contract shall remain in full force and effect except for the unenforceable, illegal or other provisions. This agreement is a Michigan agreement and shall be interpreted, construed and enforced in accordance with the laws of the State of Michigan, United States of America. Each of the parties hereto agrees that any legal or equitable action or proceeding with respect to this agreement shall be brought only in any court of the State of Michigan, or in any court of the United States of America sitting in Michigan, and each of the parties hereto submits to and accepts generally and unconditionally the jurisdiction of those courts with respect to such party's person and property. Each party hereby irrevocably waives any objection to the laying of venue of any such action or proceeding in the above described courts.

15. Finance Charge. Monthly portion of Finance Charge (Part II, Item 3) due is calculated each month by multiplying 1/12 of the annual finance charge rate times the remaining portion of the Unpaid Balance of Cash Price, and is added to the portion of the Unpaid Balance of Cash Price due each month.

PART III

Installment Plan Agreement

- Cash Price \$ _____
- Down Payment (if any) \$ _____
- Unpaid Balance of Cash Price
(Difference between 1 and 2) \$ _____
- Finance Charge
(Finance charge will reduce each month)
Call 1-800-768-8632 for the current finance charge rate. \$ _____
- Time Balance (3 + 4) \$ _____
- Number of Installments
□ 12 □ 24 □ 36 □ 48 □ 60
Equal monthly payments. Taxes and transportation (if any) will be billed separately.
- Installment Payment Price (1 + 4) \$ _____

I agree to pay the time balance set forth in accordance with the above schedule and the terms and conditions of this order form.

Dealer Signature: _____ Date: _____

MAIL COMPLETED ORDER FORM TO:
ROTUNDA EQUIPMENT PROGRAM
P.O. Box 1450
Keweenaw, WI 53141

September 1997

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Prices subject to change without notice