



## Carlisle Brake & Friction Distributor Agreement

(Previously "Terms and Conditions of Sale")

### 1. GENERAL

All sales are pursuant to this "Distributor Agreement". Carlisle Brake & Friction (CBF) must explicitly approve any modifications of these conditions, in writing, on the part of the Distributor ("Distributor") or an authorized official of the Distributor.

### 2. ACCEPTANCE

These Standard Terms and Conditions of Sale ("Terms") are applicable to and part of all documents related to the sale of CBF's products or services (collectively, "Sale Documents"), including without limitation, purchase orders, invoices, acknowledgements and shipping documents, and are the only terms and conditions applicable thereto except for provisions in the Sale Documents providing for prices, quantities, delivery schedules, and the description and specifications of the products. CBF hereby objects to and rejects any terms or conditions appearing on, incorporated by reference in or attached to any purchase documents submitted by Distributor. Distributor's acceptance of products or services shipped by CBF pursuant to CBF's Sale Documents shall constitute Distributor's acceptance of these Terms.

### 3. PRICES, FEES, PAYMENT, ETC

Unless otherwise set forth in the Sale Documents, the price for the products or services shall be CBF's price in effect on the date of shipment. Material, energy or other surcharges may apply. Minimum order quantities, minimum order values and set up charges may apply. Quotations are valid for thirty (30) days. Expedited orders may be subject to premium charges. Prices are quoted exclusive of, and Distributor agrees to pay, any federal, state or local excise, sales, use, personal property or other tax, excepting only taxes based on CBF's income. CBF reserves the right to assess service charges of one and one-half percent (1½%) per month on overdue accounts. **Payment Terms will be net thirty (30) days from the date of shipment.** CBF reserves the right at any time to require full or partial payment in advance of shipment, based upon payment history, its assessment of Distributor's financial condition or other factors. In the event of non-payment, Distributor agrees to pay all costs of collection incurred by CBF, including expenses and reasonable attorneys' fees.

### 4. PRICE ADJUSTMENT POLICY

It is CBF's intent to give Distributors a 30-day notice prior to price adjustments. See Distribution Policy in Appendix#1

### 5. DELIVERY, RISK OF LOSS, FORCE MAJEURE

All shipments are F.O.B. CBF's plant unless otherwise provided in CBF's Sale Documents. CBF shall be entitled to select the means of transportation. Distributor agrees to pay all transportation charges incurred after the products are delivered to the carrier. If Distributor furnishes special transportation instructions (e.g., special handling, packaging, expedited shipping, etc.), all costs thereof shall be borne by Distributor. All costs of export (e.g., export duties, licenses, fees, etc.), if applicable, shall be borne by Distributor. All risk of loss or damage shall pass to Distributor when the products are delivered to the carrier at the point of shipping, and Distributor shall be solely responsible for filing any claims. CBF shall not be liable for any loss, damage, delay or default hereunder by reason of accident, fire, flood, weather conditions, acts of God, acts of Distributor, labor troubles, delay or default by suppliers, subcontractors or carriers, inability to secure materials, components, fuel or labor, acts of government or other similar or dissimilar causes beyond CBF's reasonable control.

### 6. WAIVER

All claims for failure of products shipped to conform to the item(s) or quantity ordered shall be waived unless presented to CBF in writing within fifteen (15) days after receipt of the shipment by Distributor. Waiver by CBF of a breach by Distributor of any of its obligations shall not be deemed a waiver of future compliance therewith, and such provisions, as well as all other provisions hereof, shall remain in full force and effect.

### 7. WARRANTY, DISCLAIMER

CBF warrants its products sold hereunder to be free from defects in material and workmanship under normal use for a period of thirty (30) days after first use provided that the products shall not have been altered or repaired after shipment to Distributor by anyone other than CBF's authorized employees, or for a period of twelve (12) months after first shipment of its products by CBF, whichever is earlier. If Distributor is an original manufacturer and incorporates CBF's products as a component in Distributor's product, CBF's warranty shall be for a period of thirty (30) days after the shipment of the assembly by Distributor, or twelve (12) months after first shipment of its products by CBF, whichever is earlier. CBF must be given an opportunity to make an

Distributor Initial	Date



investigation and inspection of any asserted defects, which must be reported promptly in writing within ten (10) days of discovery and not later than the expiration of the applicable warranty period. Products manufactured by others but furnished by CBF are not covered by this warranty, but are limited to the original manufacturer’s warranty. THIS WARRANTY IS THE SOLE WARRANTY OF CBF WITH RESPECT TO THE SALE OF PRODUCTS AND SERVICES. IT IS EXPRESSLY AGREED THAT THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. NO EMPLOYEE OR AGENT OF CBF IS AUTHORIZED TO MAKE ANY WARRANTY IN ADDITION TO THE WARRANTY SET FORTH HEREIN. DISTRIBUTOR’S EXCLUSIVE AND SOLE REMEDY FOR BREACH HEREOF IS LIMITED TO REPAIR OR REPLACEMENT OF DEFECTIVE PRODUCTS, F.O.B. CBF’S FACTORY, OR AT CBF’S OPTION, THE RETURN OF THE PURCHASE PRICE.

**8. LIMITATION OF LIABILITY**

IN NO CASE SHALL CBF BE LIABLE FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, ANY LIABILITY, DIRECT OR INDIRECT, FOR DAMAGE OR INJURY TO PERSON OR PROPERTY, LOSS OF SALES OR PROFIT OR INCREASED COST OR EXPENSE, WHETHER BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY. IN ANY EVENT, CBF’S MAXIMUM LIABILITY HEREUNDER, REGARDLESS OF THE LEGAL THEORY, SHALL NOT EXCEED THE PURCHASE PRICE OF THE PRODUCTS DELIVERED BY CBF.

**9. REMEDIES**

Without waiving any other rights or remedies available to it hereunder, under applicable law or otherwise, CBF may, at its option, defer shipment or deliveries hereunder, or under or pursuant to any other contract with Distributor, until all past-due accounts of Distributor to CBF have been satisfied in full, and/or may cancel the unshipped balance of any order. If Distributor fails to make payment when due and CBF determines its obligations hereunder to be insecure, Distributor shall promptly return to CBF, on demand, all products furnished to Distributor hereunder for which payment in full has not been made, and if Distributor fails to return such products, CBF may, to the extent permitted by law, with or without notice and with or without legal process, enter upon any premises where such products may be located and take possession of the same. CBF may then sell such products, with or without notice, at private or public sale at which CBF may purchase, and the proceeds of such sale, less expenses of retaking, repairing, holding and reselling, will be applied to the unpaid purchase price without release of any deficiency, which deficiency (if any) shall be promptly paid by Distributor. Any surplus above the expenses and unpaid balance shall be remitted by CBF to Distributor.

**10. PROPRIETARY RIGHTS**

CBF shall retain all rights to technical data and information, technical processes and business methods, whether patentable or not, arising out of or evolving as a result of CBF rendering engineering services to and designing systems and products for Distributor's use. Distributor agrees not to enforce against CBF or customers of CBF any patent rights, the scope of which includes a system, process or business method utilizing products or engineering services delivered hereunder by CBF, and which relates to an invention made by or for Distributor on a date subsequent to the date of CBF's first submission of a Sale Document to Distributor.

**11. HAZARDOUS MATERIALS**

Distributor acknowledges that certain products supplied by CBF, or components thereof, may be, or become, considered as hazardous materials under various laws and regulations. Distributor agrees to familiarize itself (without reliance on CBF except as to the accuracy of special safety information actually furnished by CBF), with any hazard of such materials and their applications and the containers in which such materials are shipped. Distributor agrees to inform and train its employees and its customers as to such hazards. Distributor agrees to hold CBF harmless against any claims by Distributor or its employees or customers based on allegations relating to any such hazards except where such claims are based on CBF’s failure to meet written specifications or the inaccuracy of specific safety information actually furnished by CBF.

**12. OVER/UNDER SHIPMENTS, NO OBLIGATION TO STOCK PARTS**

CBF reserves the right to over or under ship any release by ten percent (10%) or less. CBF also reserves the right to discontinue or modify any line or type of product at any time without liability except to refund any sums already paid by Distributor for the undelivered portion of such products. CBF SHALL HAVE NO OBLIGATION TO STOCK OR SUPPLY REPLACEMENTS OR PARTS FOR THE PRODUCTS IT SELLS.

Distributor Initial	Date



**13. CANCELLATION**

Distributor shall be responsible for the payment of non-recoverable material costs and CBF’s in-process value-added costs on all cancelled orders. An order may not be cancelled within thirty (30) days of the shipping date set forth in CBF’s acknowledgment.

**14. GOVERNING LAW**

The agreement is applicable to the local laws from which the products being sold to Distributor hereunder are to be delivered by CBF to the carrier for shipment to Distributor. If any provision of these Terms is declared unlawful or invalid, the remaining provisions shall nevertheless continue in full force and effect.

**15. ENTIRE AGREEMENT**

These Terms and the Sale Documents to which they relate constitute the sole and entire agreement between CBF and Distributor, and shall govern exclusively as to the sale and delivery of any products or services to Distributor. These Terms supersede any different, additional or inconsistent language, terms and/or conditions in Distributor’s order or in any other communication between CBF and Distributor, notwithstanding any statement in Distributor’s terms to the contrary. All prior communications, representations, negotiations and promises with respect to this sale are deemed to be merged herein. Any purported modification or revision of these Terms or any part hereof, or waiver of any breach thereof, whether written or oral, shall (except as provided in Section 4 above) be of no effect unless expressly agreed to in a writing signed by an authorized representative of each party. No course of dealing or usage of trade shall be applicable.

**16. END-USER STATEMENT**

I have read all of the above “Terms and Conditions of Sale” for distributing CBF branded products and agree to accept these guidelines while conducting business with CBF. I understand that any issues that arise will be resolved by referring back to these written terms and conditions. These signatures are valid throughout the partnership between my company (Distributor) and CBF. This agreement can be terminated by either party with 30 days written consent at any time during the partnership. An addendum will be written for any changes made to these terms and conditions of sale.

I/We confirm that the goods will be used solely by end users for the purpose indicated and will not be used in relation to nuclear, biological or chemical weapons or missiles capable of delivering these weapons. We also confirm that the goods will not be re-exported or sold to a third party per the US State Departments Embargoed Countries List. Any deviation must be reported to CBF and US Regulatory Agencies of the State Department or Commerce Department.

\_\_\_\_\_  
Distributor/Company Name

\_\_\_\_\_  
Distributor/Company Address

\_\_\_\_\_  
Authorized Official of **Distributor** (Print)    Official’s Signature    Title    Date

\_\_\_\_\_  
Authorized Official **CBF** (Print)    Official’s Signature    Title    Date

Distributor Initial	Date



## Appendix #1

To "CBF Distributor Agreement"

April 6, 2021

# CBF Aftermarket Distribution Policies

Effective Immediately

### Distributor Qualification

Please refer to Carlisle Brake & Friction (CBF) account representative for discount levels, program buy-in levels, and annual sales commitments. Purchases will be reviewed annually to insure that commitment requirements are met.

### Purchase Orders

No phone orders will be submitted. All orders must be placed via fax EDI, EDT or email. Orders will not be deemed accepted until confirmed and approved by CBF customer service department. The minimum order value is \$500.00 per order. Minimum order quantities by item will be adhered to where applicable. All caliper/brake assembly orders less than four (4) units per part number will incur a \$250.00 set-up charge.

### Price Adjustments

CBF reserves the right to change prices and/or discount structure at any time. CBF will attempt to give Distributors a 30-day notice prior to any/all price adjustments. When a price reduction is made, CBF will make every attempt to allow Distributors to purchase at their new reduced price for 90 days prior to announcing reduced list pricing. This will effectively eliminate any devaluation of on-hand inventory.

### Returned Goods

All merchandise that is to be returned for credit must be authorized by a CBF customer service representative PRIOR to being shipped. A list of the items to be returned must then be forwarded to CBF customer service representative for a Return Merchandise Authorization (RMA) number. An RMA number will be issued and must be clearly marked on the outside of the return package. All returns must be shipped freight prepaid. ALL FREIGHT-COLLECT SHIPMENTS WILL BE REFUSED. Returned merchandise is subject to CBF inspection and a 15% handling and repackaging charge. CBF will issue credit for products received (according to the price last paid by Distributor) and for freight cost for qualifying defective returns, all installation/removal labor costs excluded. Where applicable, CBF will issue the credit memo within 30 days of receiving merchandise from Distributor. DISCONTINUED OR OBSOLETE ITEMS WILL NOT BE ACCEPTED FOR CREDIT. Items not listed in the current year's catalog or price sheet are considered discontinued or obsolete.

### Freight Policy

Orders of \$2,500 in value shipping to one destination qualify for prepaid freight. All orders not meeting the prepaid freight requirements will be shipped collect and the freight charges will be billed to the Distributor. Prepaid shipments are only available within the "contiguous United States" (48 states excluding Alaska, Hawaii). CBF will determine the most effective carrier or delivery service for all prepaid shipments. Any accelerated delivery or special shipping charges are to be paid directly by distributor.

### Drop Shipments

Drop shipments will be accommodated on an exception-only basis. All shipments will be invoiced directly to the Distributor, subject to CBF normal payment terms. The Distributor will be responsible for all charges incurred by a refused shipment. A \$25 drop-ship fee will be added to the invoice.

### Expedite and De-expedite policy

Expediting an order is the process of moving up a due date on an existing order to ship within the part's lead-time. De-expediting an order is the process of moving out a due date on an existing order. All requests to expedite or de-expedite purchase orders must be communicated – in writing – to a CBF customer service representative. A purchase order cannot be moved out within 30 days of the due date. Due to various part lead-times, if a purchase is in process and there is a request to move it out the product can be moved out to ship on the last day of the same month the order is due. **Once a purchase order has been expedited, it cannot be reversed.**

Distributor Initial	Date



## Appendix #2

To "CBF Distributor Agreement"

April 6, 2021

### **Terms**

1. Duration

This agreement, when signed by both parties will have effective term of the signing date until November 31<sup>st</sup> 2021.

2. Pricing

Pricing based on list price. If a new copy is required please contact your account manager or customer service representative.

3. Payment Terms:

Net 30

4. Discount level:

- Will be determined based on Annual Sales Volume in first calendar year selling CBF products.

Distributor Initial	Date