



## **TOYNE INC.**

104 Granite Ave. Breda, IA 51436  
(712) 673-2328 FAX (712) 673-2200

### **APPARATUS PURCHASE AGREEMENT**

THIS AGREEMENT (the "Agreement"), made by and between Toyne, Inc. Breda, IA, ("Toyne"), and the purchaser (the "Customer"):

Crete Fire Dept. Freightliner Chassis  
210 E 14th St.  
Crete NE 68333

Toyne, Inc. hereby agrees to furnish the apparatus and equipment according to the specifications hereto attached and made part of this contract, and to deliver the same as hereinafter provided.

Toyne agrees that all material and workmanship of the apparatus and equipment shall comply with the proposal specifications. In the event there is any conflict between Customer Specifications previously submitted to Toyne, and the specifications attached hereto, it is understood and agreed between the parties that the apparatus and equipment made the basis of this Agreement shall meet only the specifications attached hereto and made a part hereof, as if fully and completely set out herein, and no other. The sole and exclusive warranty accompanying this sale is contained in the warranty attached hereto, and made a part hereof by reference, as if fully and completely set out herein. Surety Bond, if required, will cover standard one year warranty period only and will not cover any extended warranties allowed by seller or other component manufacturers.

This fire apparatus shall conform with all Federal Department of Transportation (DOT) rules and regulations in effect at the time of Agreement's signing, and with all National Fire Protection Association (NFPA) Guidelines for Automotive Fire Apparatus as published at the time of Agreement's signing, except as modified by Customer Specifications.

Changes in state or federal regulations may require changes to the Specifications and/or apparatus. In any such event any cost increases incurred to comply with these changes will be passed along to the Customer as an addition to the price set forth below. In addition, any future upgrades to drive train (engines, transmissions, axles, etc.) or model-year surcharges will be passed along to the Customer as an addition to the price set forth below.

The apparatus and equipment shall be ready for delivery from Breda, IA, within about 900 days after the receipt and acceptance of this Agreement at Toyne's office at Breda, IA. Toyne shall not be responsible for delays due to strikes, failures to obtain chassis, materials, or other causes beyond its control; provided, any such delay shall be documented in writing to and accepted by the Customer, such acceptance not be unreasonably denied.

A competent representative shall, upon request, be furnished by first party to provide familiarization of the apparatus to the designated officials of the second party. It will be the responsibility of the second party to insure necessary instructions in the operation and handling of the apparatus is given to all individuals that will currently be using the apparatus as well as any potential future users.



The Customer hereby purchases and agrees to pay for said apparatus and equipment, the sum ("Contract Price") of:

**\$152,036.00**

This contract price represents the following payment schedule:

A payment of:	\$	0.00	due within	15 days of signing the contract by the purchaser.
			(for this the contract price includes a discount of	\$0.00 )
A payment of:	\$	152,036.00	due within	15 days of the arrival of the chassis at Toyne Inc.
			(for this the contract price includes a discount of	\$29,249.97 )
A payment of:	\$	-	due upon the delivery of the apparatus to the purchaser.	

Interest at 12 percent per annum, payable monthly, shall be charged on all past due payments. If deferred payment arrangements are made, such arrangements shall be in writing, and second party's obligation shall be evidenced by properly executed lease documents.

If more than one piece of apparatus is covered by this contract, the above terms of payment shall apply to each piece, and an invoice covering each piece shall be rendered in the proper amount.

In the event the apparatus is placed in fire service prior to payment in full, the first party reserves the right to charge a rental fee of Two Hundred Fifty Dollars (\$ 250.00) per day.

The name of the person authorized by the second party to authorize change orders shall be:

**Tom Ourada, City Administrator**

Any applicable taxes not specified noted above will be paid by the Customer directly, or will be added to the Contract Price and paid by the Toyne. If the Customer claims exemption from any tax, the Customer agrees to furnish applicable exemption certificate and save the party harmless from any such tax, interest or penalty, which may at any time, is assessed against Toyne.

Acceptance of goods shall occur when the Customer takes delivery. In case the Customer desires to test the apparatus, such tests shall be made within 10 days after arrival of the goods at destination and a written report of such tests shall be delivered to Toyne at its principal office at Breda, IA. If no such tests are to be made, or if no such report is made by the Customer within 10 days after arrival, then said apparatus and equipment shall be conclusively determined to be in full compliance with Agreement specifications and conclusively determined to be conforming and in accordance with the obligations under this Agreement. No revocation of acceptance shall take place unless communicated to Toyne within 10 days after delivery of the goods. In the event notice of revocation of acceptance is communicated to Toyne within 10 days, the Customer's right to revoke its acceptance shall be governed by the laws of the State of Iowa.

Toyne shall not be liable if performance failure arises out of causes beyond its control and without the fault or negligence of Toyne (acts of God, war, fires, floods, freight embargoes, order of any court, or specific cause reasonably beyond Toyne's control and not attributable to its neglect or nonfeasance). Should a performance failure occur, it will be the responsibility of Toyne to notify the Customer in writing and submit proof of the circumstances for non-performance. Immediately following the resolution of circumstances responsible for non-performance, Toyne must renegotiate delivery schedules.

It is agreed that the apparatus and equipment covered by this Agreement shall remain the property of Toyne until the entire Contract Price has been paid, but if more than one piece of apparatus is covered by this Agreement, then each piece shall remain the property of Toyne until the above listed price for such piece has been paid in full, and in case of an default in payment, Toyne may take full possession of the apparatus and equipment, or of the piece or pieces upon which default has been made, and any payments that have been made shall be applied as payment for the use of the apparatus and equipment up to date of taking possession.



This Agreement to be binding must be signed and approved by an officer of Toyne, or someone authorized in writing by it to do so. This Agreement and Specifications take precedence over all previous negotiations and no representatives are considered as entering into this Agreement except as are contained herein or in the specifications attached hereto. This Agreement cannot be altered or modified except by mutual written agreement signed by the parties.

If for any reason, the Purchaser wishes to cancel this Agreement. Toyne will be entitled to an amount not to exceed 10% of the total Agreement price plus 100% of all expenses incurred by Toyne and its authorized representative as a result of the cancelation. Such expenses would include, but not limited to, the following items:

- Manufacturing or engineering work already performed.
- Cancellation fees charged by component manufacturer's.
- Full cost of all un-returnable items.

If any part hereof is contrary to, prohibited by, or deemed invalid under applicable laws or regulations, such provision shall be deemed inapplicable and deemed omitted to the extent to contrary, prohibited or invalid, but remainder shall be deemed inapplicable and deemed omitted to the extent to contrary, prohibited or invalid, but remainder shall not be invalidated and shall be given effect so far as possible.

IN WITNESS WHEREOF, the said parties have caused these presents to be executed and the the Customer has caused its seal to be affixed, and attested by its authorized representatives on this:

\_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

By: \_\_\_\_\_

Title: \_\_\_\_\_

the Customer's Registered Name

By: \_\_\_\_\_

Fyr-Tek Sales Representative

Accepted at Toyne Inc. Corporate Office in Breda, IA

By: \_\_\_\_\_

Michael D. Schwabe - President

Date: \_\_\_\_\_