

ACM BEARINGS LIMITED

GENERAL CONDITIONS OF SALE

1. APPLICATION OF CONDITIONS

All quotations and tenders are made, and all orders are accepted upon the following Conditions. Any terms & conditions in any document of the Buyer inconsistent with or in any way qualifying these conditions shall not apply unless expressly accepted in writing by the Seller.

In these conditions, where the context allows, the expression "goods" includes both the goods and any services supplied in relation to those goods.

The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Seller which is not set out in writing.

2. QUOTATION & PRICE

Where goods are sold by reference to list prices, these are subject to alteration without notice, and the contract price shall be the list price ruling at the date of despatch.

Any quotation is given on the basis that no contract shall come into existence until the Company despatches an acknowledgement of order to the Buyer. Any quotation is valid for a period of 28 days only from its date, provided that the Seller has not previously withdrawn it. Delivery times or periods are based on capacity at the date of quotation and are subject to confirmation when the order is placed.

All quoted and list prices are ex works and exclude VAT.

If the Buyer orders goods to a value below the Seller's prescribed minimum order value, the Seller shall be entitled to charge the prescribed minimum value for the quantity ordered.

3. PAYMENTS

- a) The price for the goods shall be exclusive of any value added tax and all costs or charges in relation to packaging, carriage and insurance all of which amounts the Seller shall pay in addition when it is due to pay for the goods.
- b) Unless otherwise agreed in writing payment for each delivery of the goods shall be made within 30 DAYS FROM INVOICE DATE. Payment at the due date is a condition precedent to all subsequent deliveries. Time for payment shall be of the essence. In addition to its other remedies the Seller reserves the right to charge interest on overdue payments from due date of settlement on a day to day basis at 4% above The Royal Bank of Scotland plc base rate.
- c) The Buyer shall not have the right to set off any claim for damages or compensation of any kind against any amount payable to the Seller.
- d) All payments payable to the Seller under a contract incorporating these terms shall become due immediately on its termination despite any other provision.

4. **RETENTION OF TITLE & PASSING OF RISK**

- a) The risk in the goods shall pass from the Seller to the Buyer upon delivery of those goods to the Buyer. Ownership in the goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full for all goods delivered to the Buyer and all other sums (including interest) which are or which become due to the Seller from the Buyer on any account.
- b) Until ownership of the goods have passed to the Buyer, the Buyer shall hold the goods on a fiduciary basis, store the goods separately from all other goods of the Buyer or any third party so that they remain identifiable as the Seller's property and maintain the goods in satisfactory condition.
- c) The Buyer's right to possession of the goods shall terminate if the Buyer is insolvent or the Buyer fails to observe or perform any of its obligations to the Seller or is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or the Buyer ceases to trade.
- d) The Seller is entitled to recover payment for the goods notwithstanding that ownership of any of the goods has not passed from the Seller.
- e) The Buyer grants the Sellers its agents and employees an irrevocable licence at any time to enter any premises where the goods are or may be stored in order to inspect them or where the buyer's right to possession has terminated, to remove them.
- f) On termination of the contract, the Seller's rights contained in this condition 4 shall remain in effect.

5. **DELIVERY**

- a) All delivery dates are stated in good faith and are for guidance only and shall not be of the essence of the contract. Any estimated delivery period for goods shall commence on the date the Seller accepts a written order for those goods.
- b) If despatch is delayed or prevented in whole or in part by any circumstances beyond the Seller's reasonable control then at the Seller's option the contract or the balance of it may be cancelled or the time for delivery shall be reasonably extended. Such circumstances shall include but not be limited to war, civil disorder, fire, natural disaster, and government action, strikes of the Seller's workforce or any other workers, inability to obtain raw materials or supplier's delay or failure to supply.
- c) Each consignment delivered shall be considered a separate transaction so that defects in or failure of any one consignment shall not affect the due performance of the contract as regards other consignments.
- d) In any case where the contract provides that the goods may be called for at times specified by the Buyer all such calls must be made within three months of the first date specified for call up in the quotation. Payment becomes due on such calls being made or of the expiration of the three month period (whichever is the earlier).
- e) Delivery shall take place as follows:
 - (i) When the quotation is ex-works, upon the goods being loaded at the Seller's works on to the Buyer's or carriers vehicle.

- (ii) When the quotation is FOB, CIF, C&F, Ex-Ship, or under other commercial terms in accordance with INCOTERMS 2000.
- f) If the Buyer fails to accept delivery of any goods when ready for delivery, or if the Seller is unable to deliver because the Buyer has not provided appropriate instructions, licences or authorisations:
 - (i) risk in the goods shall pass to the Buyer;
 - (ii) goods shall be deemed to have been delivered; and
 - (iii) the Seller may store the goods until delivery at the Buyer's cost and expense.

6. **WARRANTIES & CLAIMS**

- a) The Seller warrants that the goods shall for a period of 3 months from the date of delivery correspond in all material respects with their specification. Where goods include the delivery of services, those services shall be delivered using reasonable skill and care.
- b) If any of the goods do not conform with the warranty in 6a) by reason only of the Seller's defective workmanship or material, the Seller shall at its option replace or repair the goods or refund the price of the goods at the pro-rata contract rate on condition that:
 - (1) the goods have not been misused, neglected, improperly altered or modified or damaged in use storage transportation or handling or in installation by the Buyer;
 - (2) the goods have been used only in accordance with the Seller's instructions;
 - (3) The Buyer returns the goods to the Seller within 3 months of delivery;
 - (4) The claim must be made in writing and the Buyer must not include any further use of the faulty goods after giving the notice.
- c) If the goods include services, and they do not conform to the warranty in 6a), the Seller shall at its option repeat the services or refund the price of those services at the pro-rata contract price.
- d) The Seller makes every effort to ensure that its publications giving technical information about its products are accurate, however the information in those publications is not necessarily sufficient for the purpose of assessing the suitability of the goods for any particular application and a customer acting on the published information alone does so at his own risk.
- e) Subject to Condition 6g), if the Seller complies with condition 6b) it shall have no further liability to the Buyer for a breach of the warranty in condition 6a) in respect of those goods.
- f) No claim for short delivery or goods damaged in transit can be entertained unless either (where this is possible) a receipt is given to the carrier detailing the shortage or damage at the time of delivery or alternatively notification of the shortage or damage is given to the Seller within seven days of the date of delivery of the goods to the Buyer.

- g) Subject to the provisions at paragraph 6h) of this condition, in the event of any claim on any ground being made by the Buyer against the Seller in respect of the goods or any matter arising from or in relation to the Contract (Including without prejudice to the generality of the foregoing, any claim for non delivery of or for any defects in or damage to the goods, or in respect of any breach of any term, condition or warranty relating to the quality or quantity of the goods) the liability of the Seller to the Buyer shall be limited (in respect of each claim) to the invoice value of the goods and under no circumstances shall the Seller be under any further liability to the Buyer whether for loss of profit or for any other direct or consequential loss howsoever arising.
- h) Nothing in these conditions shall operate or be construed as operating to exclude or restrict any liability of the Seller for death or personal injury caused by the negligence of the Seller or for fraud or fraudulent misrepresentation.
- i) All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the contract.

7. INDUSTRIAL PROPERTY RIGHTS

Any drawings prepared by the Seller for the Buyer shall be treated as strictly confidential and shall not be reproduced nor divulged to any third party without the Seller's written consent. The Seller retains copyright in the drawings.

8. NOTICES

Any notice or agreement required by these Conditions to be given in writing may be given by fax or electronic mail.

9. GOVERNING LAW

The contract between the Buyer and the Seller will be deemed to be made in England and shall be governed and construed for all purposes and in all respects in accordance with English Law.

10. CONSTRUCTION

The headings of these conditions do not affect the misrepresentation of these conditions. If at any time one or more of the above conditions become in whole or in part invalid illegal or unenforceable, the validity and enforceability of the remaining provisions shall not in any way be affected or impaired.