

CONDITIONS OF SALE AND TERMS OF BUSINESS

1. Unless otherwise agreed in writing by INDUSTRIA BEARINGS & TRANSMISSIONS LTD ("the Company") these conditions shall override any terms stipulated by any purchaser of the Company's goods and services ("the buyer") whether in the order or elsewhere and no person acting or purporting to act on behalf of the Company has any authority to waive any rights or obligations hereunder unless such waiver is in writing and signed on behalf of the Company.
2. Contract
 - (i) No contract shall exist until the Company shall have issued a written acknowledgement of order to the buyer. Any quotation or tender constitutes an invitation to treat and no person acting or purporting to act on behalf of the Company has any authority to enter into an oral contract for the supply of goods.
3. Price and Specification
 - (i) Prices quoted are exclusive of value added or any other tax and the quoted price for goods may be varied by the Company in accordance with market conditions at the date of supply including any increase in the cost of labour and/or materials and/or transport.
 - (ii) The Company reserves the right to alter the specification or design of any goods provided that any substituted materials are of the same or better quality than those originally specified.
 - (iii) If the buyer shall have inspected a sample of any of the goods or of any materials used in their manufacture such inspection was solely to enable the buyer to judge the quality of such goods and materials and shall not be deemed to constitute a sale by sample under this Contract. The Company does not give any warranty that materials used in the manufacture of the goods shall exactly correspond with any such sample unless manufactured specifically to the buyer's drawings or specifications.
4. Payment
 - (i) Unless otherwise agreed in writing any sums due to the Company under the contract are payable in full within **Thirty days** of the end of month time being of the essence.
 - (ii) In default of payment as aforesaid
 - a) Interest on the amount outstanding at the rate of Four per cent. (4%) over the base lending rate for the time being of National Westminster.
 - b) The Company shall be entitled to suspend or cancel work (including dispatch) on any other orders without prejudice to its rights to payment for products supplied or work carried out.
 - (iii) The buyer shall not be entitled to withhold payment of any sums payable under contract with the Company because of any disputed claim by the buyer in respect of another such contract nor shall the buyer be entitled to set off against any amount due to the Company any monies which are not then presently payable by the Company or in respect of which the Company disputes liability.
5. Delivery
 - (i) The contract price shall not include the cost of delivery. Cases and packing material will be charged for unless returned in good condition carriage paid within two months of delivery.

- (ii) Any time or date named by the Company for delivery is given and intended as an estimate only and the Company shall be under no liability for any loss or damage whether arising directly or indirectly out of delay in delivery,
 - (iii) Delivery shall be taken by the buyer within the period if any named in the quotation or order and in any event within 12 months of the date of the first scheduled delivery. If the buyer does not accept delivery of the goods when the goods are due and ready for delivery the Company may store the goods at the risk and expense of the buyer in which event the goods shall be deemed to have been delivered to the buyer. This provision shall be in addition to and not in substitution for any other payment or damages for which the buyer may become liable in respect of his failure to take delivery of the goods.
 - (iv) Each delivery or installment of goods shall be deemed to be sold under a separate contract.
 - (v) The Company reserves the right to deliver and charge for up to Ten per cent. (10%) more or less than the quantity of special goods ordered. For the purposes of these conditions "special goods" shall mean goods manufactured in accordance with the requirements of the buyer and for which the Company does not have more than three customers in total for similar quantities.
6. The risk of loss or deterioration of or damage to the goods will be borne by the buyer from the time of delivery. If any goods are returned to the Company with its consent such goods shall remain at the risk of the buyer unless the Company shall otherwise expressly agree in writing.

7. Replacement of Damaged or Faulty Goods

- (i) In the event of any goods being proved to the satisfaction of the Company to be defective as a result of faulty materials or workmanship provided that it has received written notice of any defect within a period of 21 days from the date of delivery and provided that the goods are returned to the Company carriage paid within 21 days of the date of such notice the Company may at its option and expense either remedy the defect or replace the goods concerned and return them to the buyer carriage paid.
- (ii) The Company will repair or replace free of charge goods damaged or lost in transit provided that the buyer gives the Company written notice of such damage or loss within three days of delivery or within such time as will enable the Company to comply with any carrier's conditions of carriage as affecting loss or damage in transit or, with the conditions of any insurance policy covering such damage or loss and unless the buyer shall have actual notice of such conditions or requirements the time for giving such written notice by the buyer shall not be more than three days from delivery and time shall be of the essence.
- (iii) No goods shall be returned to the Company except with its prior written consent.
- (iv) The buyer shall satisfy himself that the goods are suitable for any process or manufacture contemplated by the buyer whether or not the same shall have been notified to the Company and that the goods will not adversely affect or be affected by any material commodity or environment with or in which the Purchaser intends to use or mix them.

8. Ownership

- (i) The ownership of the goods shall remain with the Company and such ownership will only be transferred to the buyer when the buyer has paid all that is owing to the Company no matter on what grounds. Until the date of actual payment, the buyer, if the Company so desires, is required to store the goods in such a way that they are clearly the property of the Company. The Company reserves the right to re-possess dispose of or resell the goods until payment in full has been received by it in accordance with the terms of its contract or until such times as the buyer sells and delivers the goods to its customers by way of bona fide sale at the full market value.
- (ii) The ownership of the goods shall not remain with the Company at any time after any of the goods are incorporated in or used as material for other goods before payment but, in such a case, both the Company and the buyer declare that the Company shall retain a charge over the whole of such other goods for the whole of the amount unpaid to the Company until payment in full has been made by the buyer to the Company.

Nevertheless, the buyer will be entitled to sell such other goods to a third party in the ordinary course of its business when the charge shall apply to the proceeds of sale thereof. This entitlement is revoked immediately the buyer goes into liquidation or a receiver of its assets is appointed.

(iii) Until the Company is paid in full for all the goods, the relationship of the buyer to the Company shall be fiduciary in respect of the goods or other goods in which they are incorporated or used and if the same are sold by the buyer the Company shall have the right to trace the proceeds thereof according to the principles in re. Hallett's Estate (1880) No. 13 Chancery Division Reports (at page 696). A like right for the Company shall apply where the buyer uses the goods in any way so as to be entitled to payment from a third party.

9. If the buyer shall be in breach of any of his contractual obligations or enter or be about to enter into any composition with his creditors or have a receiving order in bankruptcy made against him or being a company go into liquidation whether voluntary or compulsory otherwise than for the purpose of amalgamation or reconstruction the Company shall be at liberty without prejudice to any other rights against the buyer by notice to the buyer in writing to rescind any contract between the Company and the buyer or to suspend delivery of any goods and any amount then due to the Company shall be payable in full forthwith.

10. Warranties and Liabilities

(i) Except as aforesaid all conditions warranties and representations whether express or implied statutory or otherwise in relation to the goods are hereby excluded provided that nothing herein shall or shall be deemed to exclude or restrict any of the terms as to ownership or possession of the goods implied by statute or any liability on the part of the Company for death or personal injury resulting from negligence.

(ii) The Company shall not be liable for and the buyer shall indemnify the Company against all damages costs claims and demands arising as a result of or in connection with work done on behalf of the buyer in accordance with any order which infringes any third party's letters patent copyright or registered design.

(iii) Any liability of the Company to the buyer (apart from liability for death or personal injury resulting from negligence) shall not exceed the invoiced price of such goods as form the subject of any claim.

(iv) The Company shall use its best endeavours to assign to the buyer the benefit of any maker's guarantee or warranty where the goods supplied are not manufactured by the Company.

(v) Except as aforesaid the Company shall not be liable for any loss or damage including costs however caused whether direct or consequential incurred or suffered by the buyer or in relation to the supply of the goods.

11. The Company reserves the right to manufacture sell or offer to any one buyer goods manufactured for or to a design or pattern ordered by another buyer.

12. Any supply of goods in accordance with these conditions shall be subject to any necessary licenses or exchange control consents being obtained.

13. The contract should be governed by the laws of England and the Company and the buyer hereby agree to submit to the jurisdiction of the English Courts.

14. Export Terms

a) In these Conditions 'Incoterms' means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these conditions, but if there is any conflict between the provisions of Incoterms and these conditions, the latter shall prevail.

b) Where the Goods are supplied for export from the United Kingdom, the provisions of this clause shall (subject to any special terms agreed in writing between the Company and the Purchaser) apply notwithstanding any other provision of these conditions.

c) Unless otherwise agreed in writing between the Company and the Purchaser, the Goods shall be Ex Works and the Company shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.

15. Divisibility

If the goods or services are delivered/completed in instalments, the Company shall be entitled to invoice and Receive payment for each instalment as and when each instalment is delivered/completed notwithstanding Non-delivery/non-completion of other instalments or other default by the company.

