



BUNTING BEARINGS LLC

Certified to ISO 9001
1001 Holland Park Boulevard
Holland, Ohio 43528
Visit us at: www.buntingbearings.com

Standard Terms and Conditions of Sale

- | | |
|---|--|
| 1. Scope | 9. Patents |
| 2. Changes | 10. Terms of Use |
| 3. Delivery | 11. Confidential Information |
| 4. Payment Terms | 12. Force Majeure |
| 5. Non- Conforming
Delivery and Risk of Loss | 13. Assignment and Subcontracting |
| 6. Order Cancellation | 14. Notices |
| 7. Limited Warranty | 15. Waiver |
| 8. Limited Liability | 16. Applicable Law |

1. SCOPE: The Terms and Conditions (“Terms”) contained herein shall apply to all quotations and offers made by and purchase orders accepted by Bunting Bearings, LLC herein “Bunting Bearings”. These Terms apply to all sales made by Bunting Bearings except to the extent the Terms conflict with a Sales Agreement signed by Bunting Bearings and Buyer. These Terms apply in lieu of any course of dealing between the parties or usage of trade in the industry. These Terms may in some instances conflict with some of the terms and conditions affixed to the purchase order or other procurement document issued by the Buyer. In such case, the Terms contained herein shall govern, and acceptance of Buyer’s order is conditioned upon Buyer’s acceptance of the terms and conditions herein, irrespective of whether the Buyer accepts these conditions by a written acknowledgement, by implication, or acceptance and payment of products ordered hereunder. Bunting Bearings failure to object to provisions contained in any communication from Buyer shall not be deemed a waiver of the provisions herein. Any changes in the Terms contained herein must specifically be agreed to in writing signed by an officer of Bunting Bearings before becoming binding on either party.

2. CHANGES: Orders arising hereunder may be changed or amended only by written agreement signed by both Buyer and Seller, setting forth the particular changes to be made and the effect, if any, of such changes on the price and time of delivery. Buyer may not cancel this order unless such cancellation is expressly agreed to in writing by Seller. In such event, Seller will advise Buyer of the total charge for such cancellation, and Buyer agrees to pay such charges, including, but not limited to, storage and shipment costs, costs of producing non-standard materials, costs of purchasing non-returnable materials, cancellation costs imposed on Seller by its suppliers, and any other cost resulting from cancellation of this order by Buyer which said cancellation being expressly accepted by the Seller.

3. DELIVERY: All sales are FOB Seller's shipping point unless otherwise noted. If Shipping and Handling Charges are quoted or invoiced, they will include charges in addition to actual freight costs. Delivery of the goods to the carrier at Seller's shipping point shall constitute delivery to Buyer and Buyer shall bear all risk of loss or damage in transit. The general method of shipment for each item is determined by the Buyer. However, Seller reserves the right, in its discretion, to determine the exact method of shipment. Seller reserves the right to make delivery in installments, all such installments to be separately invoiced and paid for when due per invoice, without regard to subsequent deliveries. Delay in delivery of any installment shall not relieve Buyer of Buyer's obligations to accept remaining deliveries.

Seller shall not be liable for any loss, damage or penalty as a result of any delay in or failure to manufacture, deliver or otherwise perform hereunder due to any cause beyond Seller's reasonable control, including, without limitation, unsuccessful reactions, act of Buyer, embargo or other governmental act, regulation or request affecting the conduct of Seller's business, fire, explosion, accident, theft, vandalism, riot, acts of war, strikes or other labor difficulties, lightning, flood, windstorm or other acts of God, delay in transportation, or inability to obtain necessary labor, fuel, materials, supplies or power at current prices.

4. PAYMENT TERMS: Unless otherwise agreed in writing, Payment terms shall be net thirty (30) days from the date of invoice. Buyer agrees to pay interest on any unpaid balance at a rate of five percentage points above the annual Federal Funds rate as specified in the Wall Street Journal on the day the balance becomes due. Unless otherwise agreed in writing, all payments are to be in United States dollars. For contracts outside the United States, Bunting Bearings may require payment to be secured by an irrevocable letter of credit or a bank guarantee acceptable to Bunting Bearings. Where payment is made by letter of credit, all costs of collection shall be for Buyer's account. In the event that Bunting Bearings is required to bring legal action to collect delinquent accounts, Buyer agrees to pay reasonable attorney's fees and costs of suit.

5. NON-CONFORMING DELIVERY AND RISK OF LOSS: Buyer shall notify Bunting Bearings of any visible defects, quantity shortages or incorrect product shipments within seven (7) days of receipt of the shipment. Failure to notify Bunting Bearings of any visible defects in the products or of quantity shortages or incorrect shipments within such period shall be deemed an unqualified waiver of any rights to return products on the basis of visible defects, shortages or incorrect shipments, subject to Buyer's rights under Section 7. Seller shall retain a security interest in the products until Buyer's final payment to Bunting Bearings for the products reducing the invoice balance to zero. Risk of loss and title shall pass to Buyer as soon as the products have been placed with a transport agent.

6. ORDER CANCELLATION: (a) Buyers Cancellation for Convenience: Buyer may cancel any order for convenience on the following terms: (i) For standard products, Buyer may cancel or reschedule a product without penalty if the cancellation is more than thirty (30) days prior to the Confirmed Shipping Date (as specified in Bunting Bearings Order Acknowledgement or other document); cancellations within 30 days of a Confirmed Shipping Date must be approved in writing by a Bunting Bearings VP of Sales & Marketing and may be subject to special charges (ii) For nonstandard parts, custom products, or standard parts with minimum usage, Buyer may cancel or reschedule more than ninety (90) days from the Confirmed Shipping Date, except that Buyer shall accept delivery of all such products which are completed at the time of cancellation or rescheduling. Those nonstandard products which are in the work-in-process inventory at the time of cancellation or rescheduling shall be paid for by Buyer at a price equal to the completed percentage of the product multiplied by the price of the finished product. Buyer also shall promptly pay to Bunting Bearings the costs of settling and paying claims arising out of the termination of work under Bunting Bearings subcontracts or vendors and any accounting, legal, and clerical costs arising out of the cancellation.

(b) Buyers Cancellation for Default: Upon written notice to Bunting Bearings, any order may be canceled in whole or in part in accordance with the terms hereof, because of Bunting Bearings' failure to deliver products by the Confirmed Shipping Date (this failure hereinafter called "Default"). Cancellation by Buyer for Bunting Bearings default, which may entitle Buyer to procurement costs, shall be effective only upon Bunting Bearings failure to correct such Default within a reasonable period of time, but not less than thirty (30) days after receipt by Bunting Bearings of written notice of such Default.

(c) Bunting Bearing's Cancellation: Bunting Bearings shall have the right to cancel any unfilled order without notice to Buyer in the event that Buyer becomes insolvent, adjudicated bankrupt, petitions for or consents to any relief under any bankruptcy reorganization statute, or becomes unable to meet its financial obligations in the normal course of business. Any order that can be canceled or rescheduled by Buyer pursuant to paragraph 6(a) may be canceled or rescheduled by Bunting Bearings if notice is given to Buyer.

7. LIMITED WARRANTY: Except as specified below, products sold hereunder shall be free from defects in materials and workmanship and shall conform to Bunting Bearings published specifications or other specifications accepted in writing by Bunting Bearings for a period of ninety (90) days the date of shipment of the products unless superseded by published specifications. The foregoing warranty does not apply to any products which have been subject to misuse, neglect, accident, modification or not suitable for use. Bunting Bearings shall make the final determination as to whether its products are defective. Bunting Bearing's sole obligation for products failing to comply with this warranty shall be, at its option, to

either repair, replace or issue credit for the nonconforming product where, within warranty period, (i) Bunting Bearings has received written notice of any nonconformity; (ii) after Bunting Bearing's written authorization, Buyer has returned the nonconforming product to Bunting Bearings; and (iii) Bunting Bearings has determined that the product is nonconforming and that such nonconformity is not the result of improper installation, repair or other misuse. If determined to be defective Bunting Bearings will offer the replacement of the defective product and it will be scheduled and shipped in accordance with Bunting Bearings' lead time for applicable product. THE FOREGOING WARRANTY AND REMEDIES ARE EXCLUSIVE AND MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED, IMPLIED OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. BUNTING BEARINGS DOES NOT ASSUME OR AUTHORIZE ANY OTHER PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH ITS PRODUCTS. Buyer shall pass this warranty to any third-party purchaser of Bunting Bearings products.

8. LIMITED LIABILITY: Neither Bunting Bearings nor Buyer shall be liable for incidental or consequential damages, including but not limited to, the cost of labor, requalification, rework charges, delay, lost profits, or loss of goodwill arising out of the sale, installation or use of any Bunting Bearings product. If Bunting Bearings has any liability for breach of contract, breach of any implied condition, warranty or representation, the aggregate liability of Bunting Bearing to Buyer shall be limited in respect of any occurrence or series of occurrences to the contractual value of the products or services that are the subject of the contract.

9. PATENTS: (a) Indemnification: Subject to the limitations herein, Bunting Bearings will defend any suit or proceeding brought against Buyer if it is based on a claim that any product furnished hereunder constitutes an infringement of any U.S. intellectual property rights. Bunting Bearings must be notified promptly in writing and given full and complete authority, information and assistance for defense of the suit. Bunting Bearings will pay damages and costs therein awarded against Buyer but shall not be responsible for any compromise made without its consent. In no event shall Bunting Bearing's liability for such damages and costs (including legal costs) exceed the contractual value of the products or services that are the subject of the lawsuit. In providing such defense, or in the event that such product is held to constitute infringement and the use of the product is enjoined, Bunting Bearings, in its discretion, shall procure the right to continue using such product, or modify it so that it becomes non-infringing, or remove it and grant Buyer a credit for the depreciated value thereof. Bunting Bearing's indemnity does not extend to claims of infringement arising from Bunting Bearings compliance with Buyer's design, specifications and/or instructions, or use of any product in combination with other products or in connection with a manufacturing or other process. The foregoing remedy is exclusive and constitutes Bunting Bearings sole

obligation for any claim of intellectual property infringement and Bunting Bearings makes no warranty that products sold hereunder will not infringe any intellectual property rights.

(b) Bunting Bearings Retains its Intellectual Property: The sale of any products hereunder does not convey any license by implication, estoppel or otherwise covering combinations of the products with other equipment data or programs.

10. TERMS OF USE: Bunting Bearings, LLC products are not authorized for use as critical components in aerospace or automotive systems without the express written approval of Bunting Bearings. Buyers using Bunting Products in these prohibited applications without the prior notice and written consent of Bunting do so entirely at their own risk. There will be no warranty extended thereto, or liability arising from Bunting products installed in unauthorized applications.

In the event that a Buyer wishes to have Bunting Bearings supply product for aerospace or automotive systems, Buyer must fully disclose the intended application of the product on the purchase order. Bunting Bearings may decline producing product for that purpose or it may have additional charges for these applications to cover additional quality activities, insurance or other related costs.

11. CONFIDENTIAL INFORMATION: Except as required by law, neither party shall use (except for purposes connected with the performance of its obligations hereunder), divulge or communicate to any third party any information provided by the other party which it reasonably knows to be confidential.

12. FORCE MAJEURE: Bunting Bearings shall not be liable for any damage or penalty for delay in delivery or for failure to give notice of delay when such delay is due to the elements, acts of god, acts of the Buyer, act of civil or military authority, war, riots, concerted labor action, shortages of materials, or any other causes beyond the reasonable control of Bunting Bearings. The anticipated delivery date shall be deemed extended for a period of time equal to the time lost due to any delay excusable under this provision.

13. ASSIGNMENT AND SUBCONTRACTING: Bunting Bearings shall be entitled at all times to assign its rights under the contract (in whole or in part) or to subcontract any part of the work or services to be provided under the contract as it deems necessary or desirable.

14. NOTICES: Any notices, demands, or consents required or permitted under this Agreement shall be in writing and shall be delivered personally or sent by certified, return receipt requested mail, or by overnight carrier with signature required to the party concerned at its last known address. Notice to Bunting Bearings shall be sent to Bunting Bearings, LLC. Attn: Legal Dept., 1001 Holland Park Blvd., Holland OH. 43528

15. WAIVER: Failure by Bunting Bearings to exercise or enforce any rights hereunder shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof at any time or times thereafter.

16. APPLICABLE LAW: Unless otherwise agreed in writing, the terms and conditions contained herein shall be governed by and construed under the laws of the State of Ohio, USA.

17. SEVERABILITY OF PROVISIONS: In the event that any provision hereof is found invalid or unenforceable pursuant to judicial decree, the remainder of this Agreement shall remain valid and enforceable according to its terms.

DRAFT