
GENERAL TERMS AND CONDITIONS OF SALE

ARTICLE I ORDER OF PRECEDENCE

1.1 **TERMS AND CONDITIONS.** These General Terms and Conditions of Sale ("Terms and Conditions") shall apply to all sales of equipment, parts ("Products") and/or services ("Services") by Cook Compression & Waukesha Bearings, ("Company"), and are hereby incorporated into and made a part of every proposal or quotation issued by Company to the buyer identified in such proposal or quotation ("Buyer"). Buyer shall be deemed to have accepted and agreed to these Terms and Conditions by purchasing Products and/or Services from Company pursuant to such proposal or quotation.

ARTICLE II PURCHASES

2.1 **PURCHASE ORDERS.** All purchase orders placed by Buyer for Products and/or Services shall be subject to these Terms and Conditions and an order confirmation from Company accepting the purchase order for the Products and/or Services (the "Order Confirmation"). These Terms and Conditions, together with the Order Confirmation and any other document referenced herein are hereby collectively referred to as the "Contract". If any provision in the Order Confirmation is inconsistent with these Terms and Conditions, the provision of the Order Confirmation will govern. No additional or different terms or conditions in any purchase order or any modifications, changes or amendments to this Contract shall be binding upon Company unless specifically agreed to in writing by an authorized representative of Company. Any additional or different terms already or hereafter proposed by Buyer, whether in a purchase order or other communication or otherwise, are hereby rejected and shall not apply. The lack of objection by Company to any additional, modifying or deleting provisions contained in any purchase orders or other communications from Buyer shall not be construed either as a waiver of the terms of this Contract or as an acceptance by Company of any deviation from this Contract.

2.2 **PRICES.** All price, delivery and installation quotations made by Company are conditioned upon the terms of the Terms and Conditions. No order shall be binding upon Company until an Order Confirmation is issued by an authorized representative of Company. Prices for Products and/or Services are subject to change without notice, provided that Company shall not change the prices of any Products and/or Services subject to an accepted order. Price quotations, unless otherwise stated, are guaranteed for thirty (30) calendar days from the date issued and may be terminated at any time upon notice to Buyer. All prices for Products and/or Services listed in Company publications are intended as a source of general information only and not as an offer to sell, and all prices contained therein are subject to confirmation by formal quotation by Company. Prices for Products do not include transportation charges, insurance costs, export/import duties, licenses or fees, or any tax or governmental charge of any nature whatsoever. Prices for Services also assume Company will have free use and ingress/egress to and from Buyer's work site for Company crews without additional cost or payment of any permit or work fees.

2.3 **CHANGE ORDERS.** Changes and/or additions to the Products and/or Services in any order accepted by Company shall only be made by a written change order agreed to by Buyer and accepted by Company. Any such written change order shall describe the change in Products, quantity,

and price, scope of Services or estimated delivery dates affected by the change order.

2.4 **TAXES, FEES AND DUTIES.** All freight, shipping charges, insurance premiums, tariffs, export and import duties, custom broker's charges, taxes and other such charges shall be paid by Buyer. Any claim for exemption by Buyer shall, if applicable, be effective only after receipt of proper exemption forms by Company. Company will prepare export packaging when requested (at an additional quoted price), and furnish pro forma export invoices and export declarations according to its best ability and judgment, but without liability for fines or other charges due to unintentional error or incorrect declarations.

2.5 **SHIPMENT AND DELIVERY.** Unless otherwise agreed in writing between the parties, all Products shall be delivered Ex-Works, Company's facility (Incoterms 2010), and all delivery dates are approximate. Company reserves the right to make delivery in installments, unless otherwise expressly agreed to in this Contract; 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. Title to and risk of loss of the Products will pass to Buyer when the Products are made available to Buyer's nominated carrier at Company's factory. Buyer shall be responsible for all shipping charges, including but not limited to shipping, transportation, duties and insurance costs. Company's responsibility for damaged goods ceases upon acceptance by the carrier and all claims for loss or damage occurring after acceptance by the carrier must be filed by Buyer with the carrier. In the event of (a) shortage, or (b) visible damage, or (c) concealed damage, or (d) loss occurring prior to acceptance by the carrier, a claim must be made in writing by the Buyer against Company. All claims against the carrier or Company under this Section 2.5 must be made within ten (10) days after receipt of Products. Buyer's failure to timely make any such claim shall constitute unqualified acceptance and a waiver of all such claims by Buyer. Company may, at Company's option, require Buyer to (i) provide photographs or other documentation of such claim, and (ii) make the Products subject to the claim available for inspection by Company or its authorized representative in order to substantiate the grounds for rejection of the Products. All rejected Products must be returned to Company, at Buyer's expense, prior to replacement by Company. Any of the Products whose manufacture or shipment is delayed by or through Buyer, may be placed in storage by Company where Buyer would incur all costs associated with such storage.

2.6 **TERMS OF PAYMENT.** Unless specified otherwise by Company all Products and Services shall be invoiced upon shipment of the Products or fulfilment of the Services. Payment of the amount specified in all invoices shall be due within thirty (30) days from the date of invoice, provided that Company reserves the right to modify its payment terms from time to time, upon reasonable advanced notice to Buyer. Buyer shall make all payments by bank check payable in U.S. currency. A charge of 1½ % per month (or the maximum amount allowed by law, if less) will be made on past due accounts. Buyer shall reimburse Company for all collection costs, court costs, administration costs, investigation costs, attorneys' fees and all other incidental costs, charges or expenses incurred in the collection of past due amounts or otherwise resulting or arising from any breach by Buyer of this Contract. In addition to all other remedies available under the Contract or at law (which Company does not waive by the exercise of any rights under the Contract), Company shall be entitled to suspend the delivery of any Products and/or Services under this or any other agreement between the parties,

if Buyer fails to pay any amount when due hereunder and such failure continues for five (5) days following written notice thereof. Buyer shall not withhold payment of any amount due and payable by reason of any set-off of any claim or dispute with Company, whether relating to Company's breach, bankruptcy or otherwise.

2.7 SECURITY INTEREST. To the extent any Products and/or Services is sold to Buyer on credit, Buyer hereby grants to Company a security interest in all such Products and/or Services sold to Buyer on credit until such time as the purchase price for such Products and/or Services has been paid in full to Company. Buyer also hereby authorizes Company to file any initial UCC financing statements, continuation statements or amendments thereto necessary to effectuate and perfect such security interest and the proceeds thereof.

2.8 EQUIPMENT WARRANTY. Company warrants that new Products shall be free from material defects in materials and workmanship for a period of twelve (12) months after installation or use or eighteen (18) months after delivery to Buyer, whichever is earlier (the "Warranty Period"). Company will, at its option, repair, replace or correct any and all such defective Products that becomes apparent and is called to Company's attention prior to the expiration of the Warranty Period at Company's sole cost and expense, which shall include, without limitation, all costs associated with performing such repairs, replacements, or corrections, if necessary. Company may, at its option, participate in the defect investigation of the defective Products at the installation site and repair, correct or replace the defective Products at such site or at its designated facility. Defective Products covered by this warranty may be returned to Company at Company's expense if agreed to in advance in writing by Company. Repair, correction or replacement of defective Products in the manner provided above shall constitute fulfillment of all Company's obligations under this warranty. Company will accept no other returns of the Products, and any unapproved returns will be shipped back to Buyer at Buyer's expense.

This warranty shall not apply to any Products which have been subjected to (i) accident, misuse, abuse or neglect by Buyer, (ii) wear and tear from the normal use of the Products, (iii) repair, alteration or modification by any party, other than Company, without prior written authorization from Company, (iv) improper installation, use, storage, care or maintenance by Buyer, (v) exposure to conditions outside the range of the environmental and/or operating specifications provided for the Products, including but not limited to corrosion

THE REMEDIES SET FORTH ABOVE SHALL BE BUYER'S SOLE AND EXCLUSIVE REMEDY AND COMPANY'S ENTIRE LIABILITY FOR ANY BREACH OF THE WARRANTY SET FORTH IN THIS SECTION 2.8. COMPANY MAKES NO OTHER WARRANTIES, WHETHER EXPRESS, STATUTORY OR IMPLIED, WITH RESPECT TO THE PRODUCTS AND SERVICES INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR CONFORMANCE TO DESCRIPTION, OR ANY WARRANTIES ARISING FROM COURSE OF DEALING, TRADE PRACTICE OR OTHERWISE.

Any third party equipment, parts or services contained in the Products or Services, and to the extent any Products are third party equipment and/or parts, are not covered by the warranty in this Section 2.8. Any warranties made or given by such third parties for their equipment, parts or services which are assignable by their terms are hereby assigned to Buyer. If any warranties made or given by such third parties for their equipment, parts or services are not assignable, Company shall use reasonable commercial efforts to enable Buyer to receive the benefit from such warranties. FOR THE AVOIDANCE OF DOUBT, COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS, STATUTORY OR

IMPLIED, WITH RESPECT TO THIRD PARTY EQUIPMENT, PARTS OR SERVICES INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR CONFORMANCE TO DESCRIPTION, OR ANY WARRANTIES ARISING FROM COURSE OF DEALING, TRADE PRACTICE OR OTHERWISE.

ARTICLE III INDEMNITY, LIMITATION OF LIABILITY

3.1 BUYER INDEMNITY. EXCEPT AS EXPRESSLY PROVIDED HEREIN, BUYER RELEASES AND SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS COMPANY FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, DEMANDS, CAUSES OF ACTION, SUITS, AND LIABILITY OF EVERY KIND INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS AND REASONABLE ATTORNEY'S FEES WHICH MAY BE INCURRED BY COMPANY AS A RESULT OF CLAIMS ARISING OUT OF BODILY INJURY, LOSS OF LIFE, PERSONAL INJURY, EMOTIONAL OR PSYCHOLOGICAL INJURY, PROPERTY DAMAGE, PROPERTY OR WAGE LOSS, LOSS OF BENEFITS, ILLNESS, OR DEATH OF, ANY EMPLOYEES OF BUYER DIRECTLY OR INDIRECTLY ARISING OUT OF ANY PRODUCTS AND/OR SERVICES PURCHASED BY BUYER FROM COMPANY, INCLUDING WITHOUT LIMITATION ANY LOADING, UNLOADING, INGRESS, OR EGRESS OF PERSONNEL OR CARGO, REGARDLESS OF THE FAULT (OTHER THAN GROSS NEGLIGENCE, WILLFUL MISCONDUCT, MALICE, OR INTENTIONAL TORT), NEGLIGENCE (WHETHER SOLE, JOINT, CONCURRENT, ACTIVE OR PASSIVE OR OTHERWISE), PRE-EXISTING DEFECT, OR STRICT LIABILITY OF COMPANY. BUYER STIPULATES AND AGREES THAT IT SHALL NOT BE ENTITLED TO INVOKE ANY IMMUNITY IT MAY HAVE UNDER ANY WORKERS COMPENSATION ACT (THE "ACT") AS A DEFENSE TO ITS OBLIGATIONS TO INDEMNIFY COMPANY PURSUANT TO THIS CONTRACT, IT BEING EXPRESSLY UNDERSTOOD THAT ANY WAIVER OF SUCH IMMUNITY UNDER THIS PARAGRAPH SHALL BE EFFECTIVE ONLY TO THE EXTENT NECESSARY TO PRESERVE THE LEGAL VALIDITY OF BUYER'S INDEMNITY OBLIGATIONS UNDER THIS CONTRACT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CONTRACT TO THE CONTRARY, SUCH WAIVER SHALL NOT IN ANY WAY IMPAIR BUYER'S IMMUNITY UNDER THE ACT WITH RESPECT TO CLAIMS MADE AGAINST BUYER BY ITS OWN EMPLOYEES.

3.2 LIMITATION OF LIABILITY. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CONTRACT, EACH PARTY WAIVES ANY CLAIM AGAINST THE OTHER FOR ITS OWN LOST PROFITS OR LOSSES DUE TO BUSINESS INTERRUPTIONS, OR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR OTHER SPECIAL DAMAGES, HOWEVER SAME MAY BE CAUSED, REGARDLESS OF THE FAULT (OTHER THAN GROSS NEGLIGENCE, WILLFUL MISCONDUCT, MALICE, OR INTENTIONAL TORT), NEGLIGENCE (WHETHER SOLE, JOINT, CONCURRENT, ACTIVE OR PASSIVE OR OTHERWISE), PRE-EXISTING DEFECT, OR STRICT LIABILITY OF THE RELEASED PARTY DIRECTLY OR INDIRECTLY ARISING OUT OF ANY PRODUCTS AND/OR SERVICES PURCHASED BY BUYER FROM COMPANY. BUYER AGREES THAT COMPANY'S ENTIRE LIABILITY, AND BUYER'S EXCLUSIVE REMEDY, IN LAW AND EQUITY OR OTHERWISE WITH RESPECT TO ANY PRODUCTS AND/OR SERVICES PURCHASED BY BUYER FROM COMPANY IS SOLELY LIMITED TO THE AMOUNT PAID BY BUYER FOR THE PRODUCTS AND/OR SERVICES TO WHICH THE APPLICABLE CLAIM RELATES.

3.3 Remedies. THE DAMAGE LIMITATIONS PROVIDED IN THIS CONTRACT AND THE REMEDIES

STATED HEREIN SHALL BE EXCLUSIVE AND SHALL BE BUYER'S SOLE REMEDY (EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN). THIS LIMITATION ON LIABILITY SHALL SURVIVE FAILURE OF ANY ESSENTIAL PURPOSE.

ARTICLE IV INTELLECTUAL PROPERTY

4.1 **CONFIDENTIAL INFORMATION.** A party (the "Receiving Party") shall keep in strict confidence all information which is of a confidential or proprietary nature (including any drawings, memoranda, ideas and information, technical or commercial know-how, specifications, inventions, processes or initiatives) and has been disclosed to the Receiving Party by the other party (the "Disclosing Party"), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under this Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. The Receiving Party shall remain liable for a breach of such obligations by the Receiving Party's employees, agents and subcontractors. The Receiving Party shall only use or make copies of confidential information (including any reproductions, extracts or analyses of that confidential information) in connection with and to the extent necessary for the purposes of this Contract.

4.2 **INTELLECTUAL PROPERTY RIGHTS.** Company retains all right, title, and interest in all of the intellectual property rights related to the Products and Services, and Buyer hereby assigns to Company any right that it may be deemed to own therein. The sale of any Products or Services to Buyer in no way conveys to Buyer, either expressly or by implication, any intellectual property ownership or license whatsoever.

ARTICLE V FORCE MAJEURE

5.1 **FORCE MAJEURE.** Company shall not be liable for damages under the Contract for a delay or failure in its performance under the Contract as a result of causes beyond its reasonable control, including any law, order, regulation, direction, or request of any government having or claiming to have jurisdiction over Company, its subcontractors and/or its suppliers; failure or delay of transportation; insurrection, riots, national emergencies, war, acts of public enemies, strikes or inability to obtain necessary labor, manufacturing facilities, material or components from Company's usual sources; fires, floods or other catastrophes; acts of God, acts of omissions of Buyer or any causes beyond the reasonable control of Company and/or of its suppliers. Upon the giving of prompt written notice to Buyer of any such causes of a delay or failure in its performance of any obligation under this Contract, the time of performance by Company shall be extended to the extent and for the period that its performance of said obligations is prevented by such cause.

ARTICLE VI APPLICABLE LAWS AND JURISDICTION

6.1 **GOVERNING LAW.** This Contract shall be governed by and be construed in accordance with laws of the State of Texas without regard to conflict of laws principles.

6.2 **CONSENT TO FORUM.** Buyer hereby consents to the jurisdiction of any state court located within Harris County, Texas or federal court located in the Southern District of Texas

and consents that it may be served with any process or paper by registered mail or by personal service within or outside the State of Texas in accordance with applicable law. Furthermore, Buyer waives and agrees not to assert in any such action, suit or proceeding that it is not personally subject to the jurisdiction of such courts, that the action, suit or proceeding is brought in an inconvenient forum or that venue of the action, suit or proceeding is improper. Nothing contained in this Section 6.2 shall limit or restrict the right of Company to commence any proceeding in the federal or state courts located in the state where Buyer resides or maintains its chief executive offices, as applicable, or in any other state, to the extent Company deems such proceeding necessary or advisable to exercise remedies available under the Contract.

6.3 **WAIVER OF JURY TRIAL.** Company and Buyer each hereby waives any right to trial by jury in any action, suit, proceeding or counterclaim of any kind arising out of or relating to the Contract.

ARTICLE VII MISCELLANEOUS

7.1 **SEVERABILITY.** Wherever possible, each provision of this Contract shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of the Contract shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Contract.

7.2 **WAIVER.** Either party's failure at any time to require strict performance by the other of any of the terms or provisions of this Contract shall not waive or diminish that party's rights thereafter to demand strict compliance therewith or with any other provision. Waiver by either party of any default by the other shall not waive any other or similar defaults by the other party.

7.3 **AMENDMENTS.** The Contract is the exclusive agreement between the parties relating to the subject matter hereof and supersedes all prior understandings, writings, proposals, representations or communications, oral or written, of either party. The Contract may only be amended in writing by authorized representatives of both parties.

7.4 **CAPTIONS AND HEADINGS.** The captions and headings of Articles and Sections of this Contract are for convenience and reference only and in no way define, limit or describe the scope or intent of this Contract or any provision thereof.

7.5 **BINDING EFFECT.** This Contract shall be binding upon and inure to the benefit of Company, Buyer and their respective successors and permitted assignees. Buyer shall not assign its rights or obligations under this Contract (by operation of law or otherwise) without the prior written consent of Company, which consent will not be unreasonably withheld. For purposes of this Contract, assignment shall include a change in control of Buyer in which more than fifty percent (50%) of the equity interests of Buyer cease to be beneficially owned by the equity holders of Buyer as of the date the Products and/or Services are purchased by Buyer.

7.6 **USE OF BUYER NAME.** Buyer agrees that Company may use Buyer's name in connection with the marketing and promotion of the Products and/or Services; provided, however, Buyer shall be given the opportunity to review and approve all such marketing and promotional materials using Buyer's name before use by Company.

7.7 **COMPLIANCE WITH LAW.** The Products and/or Services provided by Company hereunder were, or will be produced by it in compliance with the U.S. Fair Labor Standards Act 1938, as amended, when applicable. Each party will comply with U.S. Federal, state, and local laws and regulations applicable to it as of the date of the Order Confirmation.

7.8 **EXPORT CONTROLS.** Buyer acknowledges that all shipments by Company are or may be subject to restrictions and limitations imposed by United States export controls, trade regulations and trade sanctions. Buyer at all times will comply with such sanctions, controls and regulations and will cause compliance with such sanctions, controls and regulations in its use and disposition of the Products. With respect to each Product shipment pursuant to this Contract, Buyer will obtain and supply to Company in writing all information required by Seller to obtain any U.S. export license, permit, approval or documentation applicable to such shipment. Notwithstanding any contrary provision in this Contract, Company will have no obligation to make any shipment to Buyer until it has received all such information and has obtained the applicable licenses, permits, approvals or documentation for shipment, if any.

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