

NEP MIDLANDS LTD – Conditions of Sale

All contracts of sale made by NEP Limited T/A Nottingham Engineering Products, Rollerball Bearings, Boltworthy, Nottingham Bearing Company, Trent Valley Bearings, Eagle Engineering, Six Hills Welding Supplies (hereinafter called "The Company") are subject to these Conditions to the exclusion of any and all printed terms and conditions of the Buyer which shall not form part of the Agreement. These Conditions cannot be varied, suspended or added to except with the prior consent in writing of the Company.

1. Introduction

If subsequent to any contract of sale which is subject to these conditions a contract of sale, or contract made with the same buyer, whether "in writing or orally" without express reference to any conditions such contracts shall be deemed to be subject to these conditions.

2. Quotations and Orders

(a) All quotations of price (whether written or oral) are subject to withdrawal or amendment by the Company at any time prior to receipt by the Company of any acceptance and thereafter are subject to correction of errors at any time. If the Company has not received an acceptance within 30 days of the date of quotation, the quotation shall be deemed to have lapsed.

(b) The prices quoted by the Company's representatives are subject to stock availability, and whilst every endeavour will be made to supply at quoted prices, the Company reserves the right to revise prices without prior notice. In particular, should any increase occur in the cost of labour, materials, transport and all or any other direct costs between the date of quotation and despatch of the goods, the Company reserves the right to adjust the contract accordingly.

(c) The Company reserves the right to refuse any order, including any order made in response to the quotation. Written quotations are based on costs ruling on the date of the quotation and whilst generally valid for 30 days, are subject to change without prior notice.

(d) Any cancellations of an order will only be agreed to by the Company on condition that all costs and expenses incurred by the Company up to the time of cancellation and all loss of profits and other loss or damage resulting to the Company by reason of such cancellation will be paid forthwith by the Customer to the Company. Accepting cancellations is at the sole discretion of the Company and agreed on a case by case basis.

3. Payment Terms

(a) All prices are quoted exclusive of Value Added Tax, which where applicable, will be charged in addition to the price quoted.

(b) Invoices are due for payment within 30 days of their date. The Company reserves the right to demand payment in advance on any order.

(c) The Company may charge interest on overdue invoices at the rate equivalent to that set for the purposes of s.6 of the Late Payment of Commercial Debts (Interest) Act 1998.

(d) The Company reserves the right to refuse to complete orders and/or deliver goods if the Buyer has failed to make all payments due under that or any other contract.

(e) While the Buyer owes money to the Company, it has the right to keep any property it holds of the Buyer's until the Company is paid in full (a lien)

4. Delivery

(a) Any date or period for delivery or any rate of delivery stated in the Agreement is intended by the Company and accepted by the Buyer as being an estimate only, not giving rise to contractual obligations.

(b) If the Company fails to deliver within a reasonable time, the Buyer may (by informing the Company in writing) cancel the contract, however:

(b)(i) the Buyer may not cancel if the Company receives notice after the goods have been despatched; and

(b)(ii) if the Buyer cancels the contract, the Buyer can have no further claim against the Company under that contract.

(c) If the Buyer accepts delivery of the goods after the estimated delivery time, it will be on the basis that there is no actionable claim against the Company for delay (including indirect or consequential economic loss, or increase in the price of the goods).

(d) The Company may decline delivery if:

(d)(i) it believes that it would be unsafe, unlawful or unreasonably difficult to do so; or

(d)(ii) the premises (or the access to them) are unsuitable for the Company's carriers vehicle.

(e) If the Company is unable to deliver the goods within 14 days of informing the Buyer that the goods are ready for delivery, it:

(e)(i) may store them (space permitting) and charge the higher of 50p per ton or 50p per 40 cubic feet per week for storage costs.

(e)(ii) will treat delivery as having taken place on the fourteenth day after the Company informed the Buyer that the goods were ready for delivery, and invoice the Buyer accordingly.

5. Defects and Liability

(a) The Buyer shall have no right to claim in respect of defects not apparent on the visual inspection at the time of delivery by these conditions unless:

(a)(i) a written complaint is sent to the Company as soon as reasonably practicable after the defect is discovered and no use is made of the goods thereafter and no alterations made thereto or interference made therewith before the Company is given an opportunity to inspect the goods in accordance with this Condition; and

(a)(ii) the complaint is sent within 2 months of the date of delivery of the goods or in the case of an item not manufactured by the Company within the guarantee period specified by the manufacturer of such items.

(b) The Buyer shall not be entitled to any claim in respect of any repairs or alterations, undertaken by the Buyer without the prior specific written consent of the Company nor in respect of any defect arising by reason of fair wear and tear or damage due to misuse.

(c) The Company shall not be liable for loss or damage suffered by reason of use of the goods after the Buyer becomes aware of a defect or after circumstances, which should reasonably have indicated to the Buyer the existence of a defect.

(d) The Company's liability under Clause 5 shall be in lieu of any warranty or condition implied by law as to the quality or condition of the goods, and save as provided in that clause the Company shall not be under any liability, whether in contract, tort (including negligence and breach of statutory duty) or otherwise howsoever in respect of defects in goods delivered or for any injury, damage or loss resulting from such defects or from any work done in connection therewith.

(e) Nothing in these terms restricts or limits the Company's liability for death or personal injury resulting from negligence.

6. Buyer's Instructions

(a) If the Company prepares the goods in accordance with the Buyer's specifications or instruction, the Buyer must:

(a)(i) ensure that the specifications or instructions are accurate;

(a)(ii) ensure that goods prepared in accordance with those specifications or instructions will be fit for the purpose for which the Buyer intends to use them; and

(a)(iii) ensure that the company receives the specifications or instructions in good time to enable the requested obligations to be met.

(b) The Buyer shall be solely responsible for the accuracy of all drawings, advice and recommendations given to the Company by the Buyer, directly or indirectly hereunder unless the company specifically agrees in writing to accept responsibility.

(c) The Buyer shall indemnify the Company from and against all actions, claims, costs and proceedings which arise due to the manufacture of components to the drawings and specifications of the Customer where such drawings and specifications shall be at fault or where it is alleged that they involve an infringement of a patent, registered design, copyright or design copyright or other exclusive right.

7. Export Terms

(a) Where the goods are supplied by the Company to you by way of export from the UK, the 'Incoterms' of the International Chamber of Commerce which are in force at the time when the contract is made shall apply.

(b) The Buyer is responsible for complying with any legislation or regulations governing the importation of the goods into the country of destination and for the payment of any duties due.

(c) The goods shall be delivered as agreed, but the Company shall be under no obligation to give a notice under s.32(3) of the Sales of Goods Act 1979

(d) The Buyer has the right at their expense and by arrangement with the Company to inspect the goods at the Company's premises or at the point of shipment before shipment except where otherwise agreed. If the Buyer does not exercise that right then the fact the goods passed the Company's quality inspection will be conclusive proof that they were of the required quality. The Company is not liable for any defect in the goods which would be apparent on the Buyer's inspection unless a claim is made before shipment. The Company are not liable for any damage during transit.

(e) The Company shall have no liability for death or personal injury arising from the use of the goods where the goods are to be delivered in the territory of another State (within the meaning of s.26(3)(b) of the Unfair Contract Terms Act 1977).

8. Force Majeure

(a) If the Company is unable to perform its obligations to the Buyer (or able to perform them only at unreasonable cost) because of circumstances beyond its control, it may cancel or suspend any of its obligations to the Buyer, without liability.

(b) Examples of such circumstances include act of God, accident, explosion, fire, flood, transport delays, strikes and other industrial disputes and difficulty in obtaining supplies.