



**1. GENERAL.** The agreement between Roller Bearing Company of America, Inc. or its subsidiary (“Company”) and any third party (“Purchaser”) with respect to the sale of any of Company’s products or services to Purchaser (the “Agreement”) will consist only of (a) the terms and conditions contained herein, (b) Company’s written quotation delivered to Purchaser, (c) such other terms expressly agreed to by Company and Purchaser in a writing signed by an authorized representative of each party, (d) Purchaser’s purchase order terms specifying quantity, type, delivery date and shipping location of the products or services ordered, but no other terms of such purchase order. COMPANY OBJECTS IN ADVANCE TO THE INCLUSION OF ANY ADDITIONAL, INCONSISTENT OR DIFFERENT TERMS PROPOSED BY PURCHASER IN ANY OTHER DOCUMENT. THE INCLUSION OF SUCH TERMS BY PURCHASER WILL BE OF NO FORCE OR EFFECT, AND SUCH TERMS WILL NOT BE CONDITIONS OR ADDITIONAL TERMS TO THE AGREEMENT, AND COMPANY’S PROVIDING OF GOODS OR SERVICES WILL NOT BE DEEMED AN ACCEPTANCE OF SUCH TERMS. No course of prior dealings between the parties and no usage of the trade will be relevant to determine the meaning of the Agreement.

**2. PRICING AND PAYMENT.** Pricing is as set forth in Company’s written quotation. All prices include packaging in accordance with Company’s standard procedures. Charges for special packaging, crating or packing are the responsibility of Purchaser. Prices are subject to change and surcharges without notice in the event of unforeseen material and operating cost increases. Payment terms will be as set forth in Company’s quotation, acknowledgment or invoice, in accordance with its credit and collections policy and assessment of Purchaser’s credit risk. Unless otherwise stated, payment will be due in advance of date of shipment. All payments shall be made in United States currency. Company may at any time decline to ship, make delivery or perform work except upon receipt of cash payment, letter of credit, or security, or upon other terms and conditions satisfactory to Company in accordance with its credit and collections policy and assessment of credit risk. All past due accounts will be subject to a 1.5% finance charge per month on the unpaid balance (an annual percentage rate of 18.0%). In the event Purchaser defaults in its payment obligations, Purchaser will be liable for Company’s costs of collection, including reasonable attorneys’ fees.

**3. TITLE AND RISK OF LOSS.** All product sales will be made Ex Works “EXW” (INCOTERMS 2020 or its successor) Company’s U.S. manufacturing facility and title and risk of loss or damage to such product will pass to Purchaser upon tender of delivery thereof to the common carrier. Purchaser will have the right to specify the method of transportation for the products and the common carrier to be used. Absent such specification, Company shall ship the products by a reliable common carrier of its own selection in order to meet the delivery schedule and invoice Purchaser for all applicable charges associated with such shipment. A security interest and right of possession to the products will remain in Company, regardless of mode of attachment to realty or other property until full payment has been made therefore. Purchaser agrees to do all acts necessary to perfect and maintain such security interest in Company and shall adequately insure products against all loss or damage, with Company being named as an additional insured.

**4. DELAY OR CANCELLATION; ACCEPTANCE.** An order placed with and accepted by Company cannot be delayed,

canceled, suspended or extended except with Company’s written consent and upon written terms accepted by Company that will reimburse Company for and indemnify Company against loss and provide Company with an acceptable profit for its materials, time, labor, services, use of facilities and otherwise. Purchaser will be obligated to accept any goods shipped, tendered for delivery or delivered by Company pursuant to the order prior to any agreed delay, cancellation, suspension or extension of the order. Any attempt by Purchaser to unilaterally revoke, delay or suspend acceptance for any reason whatever after it has agreed to delivery of or accepted any shipment will constitute a breach of the Agreement. For purposes of this paragraph, acceptance will be any waiver of inspection, use or possession of goods, payment of the invoice, or any indication of exclusive control exercised by Purchaser.

**5. ASSIGNMENT.** Neither party will assign or transfer its rights or obligations to the Agreement without prior written consent of the other party, which consent will not be unreasonably withheld.

**6. DELIVERY AND DELAYS.** Delivery dates are approximate and not guaranteed. Company shall use commercially reasonable efforts to deliver the products or services on or before the specified delivery date and will notify Purchaser if the specified delivery dates cannot be honored and shall deliver the products or services as soon as practicable thereafter. In no event will Company be liable for any damages or expenses caused by delays in delivery times.

**7. CLAIMS.** All products damaged during shipment and all claims relating thereto must be made with the freight carrier in accordance with such carrier’s policies and procedures. Claims for products damaged during shipment are not covered under the warranty provision stated herein and in no event will Company be liable for such damaged products.

**8. COMPANY’S RIGHT TO STOP DELIVERY.** Purchaser is deemed to represent that it is not insolvent and will not be rendered insolvent by the purchase of products or services pursuant to the Agreement. In the event Purchaser becomes insolvent before delivery of products or services, it will immediately notify Company. The failure to notify Company immediately will be construed as a reaffirmation of Purchaser’s solvency at the time of delivery. Company will have the right to stop delivery of products by a bailee or other third party transporting the same if Purchaser becomes insolvent, repudiates the Agreement or any order thereunder, or fails to make a payment when due, so that Company can withhold or reclaim the products under the provisions of the Uniform Commercial Code.

**9. TAXES.** The price of products or services does not include any present or future foreign, federal, state or local property, license, privilege, sales, use, excise, value-added, gross receipts or other like taxes or assessments. Such amounts shall be itemized separately to Purchaser, who shall make prompt payment to Company or the appropriate taxing authority. Company will accept valid exemption documentation from Purchaser, if applicable.

**10. NO SET-OFF.** Purchaser will have no rights of set-off against any amounts that become payable to Company under the Agreement or otherwise.

**11. INTELLECTUAL PROPERTY.** Unless expressly agreed otherwise by Company in writing, Company retains all ownership, license and other rights to all patents, trademarks, copyrights, trade

secrets and other intellectual property rights related to the products and services, and, except for the right to use the products and services that are the subject of the Agreement, Purchaser obtains no rights to use any such intellectual property.

Company agrees to defend any suit or proceeding brought against Purchaser to the extent such suit or proceeding is based upon a claim that the use of the standard catalog products provided by Company infringes any patent of the United States of America, provided Company is promptly notified in writing and given authority, information and assistance for defense of same. Company shall, at its option, (a) procure for Purchaser the right to continue to use such products, (b) modify such products so that they become non-infringing, (c) replace such products with non-infringing products, or (d) remove such products and refund the purchase price. The foregoing will not be construed to include any agreement by Company to accept any liability whatsoever in respect to patents for inventions including more than the standard catalog products furnished hereunder, or in respect of patents for methods and processes to be carried out with the aid of such products. The provision of products or services by Company does not convey any license, by implication, estoppel, or otherwise, under patent claims covering combinations of such products or services with other devices or elements. The foregoing states the entire liability of Company with regard to patent infringement.

Notwithstanding the provisions of the preceding paragraph, Purchaser shall hold Company harmless against any expense or loss resulting from infringement of patents or trademarks arising from compliance with Purchaser's designs or specifications or instructions.

## **12. WARRANTIES.**

**Industrial Products.** Company's sole warranty is against defects in materials and workmanship for 90 days after date of shipment of product. The foregoing warranty is exclusive, and in lieu of all other warranties (whether written, oral or implied) including the warranty of merchantability and the warranty of fitness for a particular purpose. A no-charge replacement will be made on any product that, upon examination by Company, appears to be defective, provided it is returned to Company, transportation prepaid, prior to the end of the warranty period, and further provided it has been properly selected, installed or mounted and lubricated and not subject to abuse.

**Aerospace and Defense Products.** Company's sole warranty is against defects in materials and workmanship for 12 months after date of shipment of product. The foregoing warranty is exclusive, and in lieu of all other warranties (whether written, oral or implied) including the warranty of merchantability and the warranty of fitness for a particular purpose. A no-charge replacement will be made on any product that, upon examination by Company, appears to be defective, provided it is returned to Company, transportation prepaid, prior to the end of the warranty period, and further provided it has been properly selected, installed or mounted and lubricated and not subject to abuse.

**13. COMPANY'S RIGHT TO CURE.** If products or services are tendered that do not fully comply with the provisions of the Agreement and those products or services are rejected by Purchaser, Company will have the right to cure within a reasonable time after written notice thereof by substituting a conforming tender whether or not the time for performance has passed. Any rejection of products or services by Purchaser must be within 60 days from date of shipment.

**14. LIMITATION OF LIABILITY AND DAMAGES.** COMPANY'S LIABILITY UNDER THE AGREEMENT IS LIMITED TO REPLACEMENT OF DEFECTIVE PRODUCTS (AS PROVIDED ABOVE) ONLY, AND COMPANY WILL NOT BE LIABLE FOR THE

COST OF PROCUREMENT OF SUBSTITUTE PRODUCT. IN NO EVENT WILL COMPANY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES INCURRED BY PURCHASER OR ITS SUCCESSORS IN INTEREST ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT OR ANY BREACH THEREOF, WHETHER OR NOT SUCH DAMAGE IS BASED ON CONTRACT, WARRANTY, NEGLIGENCE, INDEMNITY, STRICT LIABILITY OR OTHERWISE.

**15. NUCLEAR LIABILITY.** Products sold under the Agreement are not intended to be used, nor should they be used, in any nuclear-related application either as a "Basic Component" under 10 C.F.R. part 21 (U.S. Nuclear Regulatory Commission) or otherwise under similar nuclear laws and regulations of the United States or any other country. In the event that such products are to be used in a nuclear facility, Purchaser shall, prior to such use, arrange for insurance and governmental indemnity protecting Company against all liability and hereby releases and agrees to indemnify Company and its suppliers for any nuclear damage, including loss of use, in any manner arising out of a nuclear incident, whether alleged to be due, in whole or in part, to product defects or the negligence or otherwise of Company or its suppliers.

**16. GOVERNMENT CONTRACTS.** No government contract regulations or clauses will apply to the products or services or any order for products or services or otherwise act to bind Company. Without Company's prior written consent, Purchaser shall not submit any request for or order to purchase products or services that Purchaser knows or has reason to know will be used in the performance of a U.S. government contract or subcontract that incorporates or is subject to federal regulations expressly or by reference, including the Federal Acquisition Regulation (FAR), Defense Acquisition Regulation (DFAR), Armed Services Procurement Regulations (ASPR), and Cost Accounting Standards (CAS). Purchaser shall indemnify, defend, and hold Company harmless from and against any loss, liability, or damage of any kind that Company incurs in connection with a breach of this section.

**17. U.S. IMPORT & EXPORT REGULATIONS.** Purchaser shall pay all handling and other similar costs from Company's facility, including the costs of freight, insurance, export clearances, import duties and taxes. Purchaser will be "exporter of record" with respect to any export from the United States of America and shall perform all compliance and logistics functions in connection therewith and shall also comply with all applicable laws, rules and regulations. Purchaser understands that Company and/or the products or services are subject to laws and regulations of the United States of America that may require licensing or authorization for, or prohibit export, re-export or diversion of Company's products or services to certain countries, and agrees it shall not knowingly assist or participate in any such export, re-export or diversion or other violation of applicable U. S. laws and regulations. Purchaser shall indemnify, defend, and hold Company harmless from and against any loss, liability, or damage of any kind that Company incurs in connection with a breach of this section.

**18. FORCE MAJEURE.** Company will not be liable for delays in delivery or failure to manufacture or deliver due to (a) causes beyond its reasonable control, (b) acts of God, acts of Purchaser, acts of civil or military authority, priorities, fires, strikes, floods, epidemics, quarantine restrictions, war, riot, delays in transportation or vehicle shortages, (c) uncontrollable inability to obtain necessary labor, materials, components, utilities or manufacturing facilities, (d) government policy, regulation, rule or law, or (e) any other commercial impracticability. Any such delays will effect a corresponding extension of Company's performance dates.

**19. NO THIRD PARTY BENEFICIARIES.** There are no third party beneficiaries of the Agreement. Without limiting the

generality of the foregoing, Purchaser's customers will have no rights against Company with respect to the Agreement.

**20. SURVIVAL.** The obligations of the parties under the Agreement that by their nature would continue beyond the termination, cancellation or expiration of the Agreement, including those in Sections 1, 2, 3, 7, 10, 11, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25 and 26 of these terms and conditions will survive such termination, cancellation or expiration.

**21. GOVERNING LAW.** The Agreement and all questions and disputes concerning it will be governed by, and construed in accordance with, the laws of the State of Connecticut (without regard to the laws that might be applicable under principles of conflicts of law, and without regard to the jurisdiction in which any action or proceedings may be instituted) as to all matters, including matters of jurisdiction, validity, construction, effect and performance. The United Nations Convention on Contracts for the International Sale of Goods (1980) will specifically not apply to the Agreement.

**22. SEVERABILITY; WAIVER; REMEDIES.** A holding that any term or condition of the Agreement is void or unenforceable will not render void or unenforceable any other terms or conditions. No waiver of any term or condition of the Agreement will be effective unless the waiver is in writing signed by an authorized representative of the party to be charged. The failure of either party to enforce at any time or for any period of time any of the provisions of the Agreement will not be construed to be a waiver of such provisions nor the right of such party thereafter to enforce each and every such provision. The rights and remedies provided in the Agreement will not be exclusive and are in addition to any other rights and remedies provided by law.

**23. DISPUTE RESOLUTION.** The parties agree that before, and as a condition precedent to, the initiation of any legal action or proceeding, all claims, controversies, and disputes ("Disputes") arising out of or in relation to the performance, interpretation, application or enforcement of the Agreement, including any breach thereof, the following process must be completed: (a) in the event of a Dispute, the parties' respective project representatives familiar with the issue shall schedule a meeting (by telephone or in person) to discuss the Dispute and to attempt in good faith to resolve it; (b) if the Dispute is not resolved within 15 days, then as promptly as practicable an executive officer of Buyer and an executive officer of Seller shall meet (by telephone or in person) to discuss and attempt in good faith to resolve the Dispute; and (c) if after such discussions, either of the parties conclude that no resolution of the Dispute is possible, then the parties can pursue any available legal or equitable remedy or proceeding. The prevailing party in any such proceeding will be entitled to recover from the other party all reasonable attorneys' fees and costs related to such proceeding in addition to all other rights and remedies it might have.

**24. JURISDICTION.** Each of the parties agrees that all proceedings arising out of or based upon the Agreement shall be brought and maintained exclusively in the state or federal courts located in the State of Connecticut and each of the parties irrevocably submits to the jurisdiction of the state and federal courts located in the State of Connecticut for the purpose of any such proceeding. The provisions of this section will not restrict the ability of any party to enforce in any court any judgment obtained in the state or federal courts located in the State of Connecticut.

**25. COMPANY AS AN INDEPENDENT CONTRACTOR.** Company is acting as an independent contractor and nothing in the Agreement will be deemed to create a partnership, joint venture or similar relationship between the parties. Neither party may bind, nor represent itself as having the authority to bind, the other party.

Each party will be responsible for all compensation and benefits payable to its employees and contractors, and all tax obligations with respect thereto. Neither party will not be deemed to be a co-employer of the other party's employees.

**26. CONSTRUCTION.** The section headings contained in these terms and conditions are for convenience only and will not constitute a part of these terms and conditions for any other purpose and will not limit or affect any of the provisions hereof. The word "including" is deemed to be "including without limitation." Neither Company nor Purchaser will be deemed the drafter of the Agreement and its terms will be construed in accordance with their fair meaning and not strictly for or against either party.

**27. EXPERIMENTAL AND DEVELOPMENTAL PRODUCTS.**

Notwithstanding any other language contained herein that characterizes the present transaction as a quote or offer for sale, such language is negated and reversed for any transaction associated with a Product that is not reduced to practice such as a sample, demonstrative model, part of a small batch, prototype or other product under experimentation to determine if the product works for its intended purpose, this entire transaction is confidential and any embodiment of the Product associated with this transaction is solely for the purpose of Roller Bearing Company of America, Inc.'s confidential and controlled experimental testing to determine if the Product is suitable or works for its intended purpose. Roller Bearing Company of America, Inc. retains title for the Product. This transaction and any pricing associated therewith does not constitute a quote or an offer for sale of the Product and Roller Bearing Company of America, Inc. is not obligated to and does not warrant that it can or will fulfill any orders for the Product.