

# STANDARD TERMS AND CONDITIONS

# BALLUFF

The following terms and conditions apply without exception to all sales by Balluff, Canada (“Balluff”)

**SOLE TERMS:** No term or condition on Buyer's purchase order or any other instrument, agreement or understanding (unless expressly agreed to on the face of Balluff's quotation and/or acknowledgment) shall be binding upon Balluff unless agreed to in writing. In the event of any conflict between these terms and conditions and any terms or conditions of Buyer, wherever contained, these terms and conditions shall control.

**QUOTE:** Balluff's quotation is firm only if Buyer enters an order within the time specified on the quote or, if none is mentioned, thirty (30) days from the date of the quote.

**ORDERS:** Orders shall be initiated by Buyer issuing a Purchase Order or by otherwise placing an order by electronic means acceptable to Balluff. Orders shall identify the products, unit quantities, part numbers, descriptions, applicable prices and requested delivery dates. All orders are subject to acceptance by Balluff. All stenographic and clerical errors are subject to correction. Balluff specifies a minimum order amount of \$75.00.

**DELIVERY AND RISK OF LOSS:** Shipments shall be FOB – Balluff Canada Inc., Mississauga, ON with all risk of loss or damage to goods passing to Buyer upon delivery to carrier selected by Buyer or by Balluff in its sole discretion.

**ACCEPTANCE:** Inspection and acceptance of the products shall be Buyer's responsibility. Buyer is deemed to have accepted the products unless Balluff receives a written notice of rejection within thirty (30) days after delivery of the products. Buyer waives any right to revoke acceptance thereafter. Buyer shall report any discrepancy in shipment quantity or damage within thirty (30) days after delivery of the products. Balluff will not accept returned products without a Return Material Authorization (“RMA”) Number. Returned products must be in original shipping cartons complete with all packing materials. All products for return shall be returned freight prepaid in the manner specified in the RMA and are subject to a restocking fee. If returned products are claimed to be defective, a complete description of the nature of the defect must be included with the returned products. Products built and/or adjusted to specific Buyer requirements are not eligible for return. Products not eligible for return shall be returned to Buyer, freight collect.

**PAYMENT:** Payment shall be net thirty (30) days from the date of invoice or unless otherwise formally agreed upon.

**TAXES:** The amount of any and all applicable taxes shall be added to the price and paid by Buyer. In lieu thereof, Buyer may furnish Balluff with exemption certificates acceptable to the taxing authorities.

**TERMINATION:** Except as may be specified differently on the quotation, Buyer may, prior to shipment, for any reason terminate an order in whole or in part upon written notice to Balluff, which shall be no less than standard product lead time in advance of requested delivery date. Buyer shall be liable for termination charges, which shall include (1) a price adjustment based on quantity of goods delivered, (2) all costs, direct and indirect, incurred and committed for Buyer's canceled order, and (3) reasonable allowance for prorated expenses and anticipated profits.

**FORCE MAJEURE:** Balluff shall not be liable for any delay in production or delivery of goods if such is due to accident, fire, flood, labor dispute, or any other cause whatsoever beyond Balluff's control. If, for reasons other than the foregoing, Balluff should default or delay or not deliver product, Buyer's sole remedy against Balluff shall be an option to cancel its purchase order through written notice to Balluff.

**EXPORT CONTROL:** The sale, resale or other disposition of products and any related technology or documentation are subject to the export control laws, regulations and orders of Canada and may be subject to the export and/or import control laws and regulations of other countries. Buyer agrees to comply with all such laws, regulations and orders and acknowledges that it shall not directly or indirectly export any products to any country to which such export or transmission is restricted or prohibited. Buyer acknowledges its responsibility to obtain any license to export, re-export or import as may be required.

**PATENTS:** In the event patent infringement charges are brought against you as the result of proper and intended use of the Balluff product, and Balluff determines the infringement charge to be valid, Balluff's indemnification obligation extends only to one of the following, the choice of remedy being at Balluff's sole discretion:

a) Replacement of infringing product with noninfringing product; b) rework of the product to make it noninfringing; c) securing a license under the patent; or d) refund of the purchase price.

Balluff shall have no liability under this section unless customer: (i) gives Balluff prompt written notice of any claim made against customer, (ii) provides Balluff with the opportunity to take over, settle or defend any claim through counsel of Balluff's choice and under its sole direction, and (iii) makes available to Balluff all defenses against any such claim, action, suit or proceeding known to or available to customer.

**WARRANTY:** Balluff products are warranted to be free from defects in material and faulty workmanship and conforming to applicable specifications when used for their intended purpose for the period defined below unless otherwise specified on the quotation:

Standard 2-year warranty from the date of shipment applies to the following products still owned and used by the original user: photoelectric and flow sensors, capacitive sensors, read-write ID systems, magnetostrictive transducers (Micropulse AT is a 1-year warranty), connectors and cables, electromechanical limit and rotary switches, and all products with electromechanical relays.

Standard Lifetime warranty applies to the following products still owned and used by the original user: inductive sensors and magnetically operated sensors.

Balluff will replace or repair, at its discretion, without charge, any unit, which fails because of defective workmanship or material during this warranty period and which is returned to Balluff transportation prepaid. The warranty will not apply if, in the judgment of Balluff, damage or failure has resulted from accident, alteration, misuse, abuse, or operation on an incorrect power supply. The warranty expressly does not include any other costs such as the cost of removal of the defective part, installation, labor or consequential damages of any kind. Balluff assumes no responsibility for selection and installation of its products. The foregoing is in lieu of all other warranties expressed, implied or statutory and Balluff neither assumes nor authorizes any person to assume for it any other obligation or liability in connection with said products.

**SOLE REMEDIES:** Buyer's sole remedies are as provided herein. IN NO EVENT SHALL BALLUFF BE LIABLE FOR ANY COSTS OF BUYER'S COVER, OR FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES OF ANY SORT, WHETHER BASED ON TORT OR BREACH OF CONTRACT AND/OR WARRANTY.

**MISCELLANEOUS:** These terms and conditions (including those stated on the quotation) shall constitute the entire agreement of Balluff and Buyer, superseding all prior agreements or understandings, written or oral, and cannot be amended except by mutual writing. Buyer may not assign any rights or duties hereunder without Balluff's written prior consent. No representation, warranty, course of dealing or trade usage not contained or referenced herein will be binding on Balluff. No failure by Balluff to enforce at any time for any period the provisions hereof shall be construed as a waiver of such provision or of the right of Balluff to enforce thereafter each and every provision. Provisions herein, which by their very nature are intended to survive termination, cancellation or completion of customer's order that is accepted by Balluff, shall survive such termination, cancellation or completion.

**GOVERNING LAW:** These terms and conditions, and any agreement incorporating these terms and conditions, shall be governed by and interpreted in accordance with the laws of the Province of Ontario without giving effect to principles of conflict of laws.

**CHOICE OF FORUM:** Any cause of action arising out of any agreement which incorporates any, or all of these terms and conditions shall be brought only in the federal or provincial courts located in Toronto, Ontario. Buyer hereby irrevocably submits to the exclusive jurisdiction of such courts.

#### REPAIR SERVICES:

Balluff provides both warranty and out-of-warranty repair services, should the need arise. Established product repair rates for out-of-warranty repairs are provided prior to receipt of the items to facilitate quick turn-around. All returns must be accompanied by a Balluff Return Material Authorization (RMA), which is available from Balluff customer service. Please have the following information available when calling Balluff customer service:

The Balluff part number of the item to be repaired

The Balluff serial number (if applicable)

A brief description of the problem

Your Purchase Order number

Please contact Balluff Canada Customer Service @ 1-800-927-9654 for further details.

#### FIELD SERVICE RATES:

Service rates are as published in the current Balluff Canada Price Book. Please contact the Balluff Canada Inc. Application Engineering Department at 1-800-927-9654 for further details. at 1-800-543-8390 for further details.

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