

AFM Industries General Term & Conditions of Sale

The limited liability corporation Award Fabricating and Machining Company Ltd. doing business as AFM Industries will be referred to in this document as "AFM Industries"

1. The conveyor belting manufactured by or for AFM Industries meets agreed specifications according to established tests performed under controlled laboratory conditions and specific test requirements. These tests do not necessarily reflect the performance of the product under actual conditions. Performance of the product as a component in a finished product may not necessarily meet the test requirements. Due to the number and variety of applications for which any conveyor belt product may be purchased and because AFM Industries has no control over (or knowledge of) the conditions under which the product may be used by others, AFM Industries does not recommend specific applications or product designs or assume responsibility for use results obtained or suitability for specific applications.

2. Standard tolerances. Conveyor belting is manufactured to industry standards that allow for normal deviations on belt specifications including belt width, belt length, belt thickness, and the standard allowance for factory repairs, splices and joints. Customer acknowledges purchased product will be subject to these deviations are if there is any reason for concern the customer should request clarification of these standards from AFM Industries before delivery and installation of the product.

3. No reliance. Customer acknowledges the use of its own knowledge, skill, judgment, expertise and experience in (i) the selection of the product and/or (ii) in the selection, provision, or designation of any specification or set of specifications for a product agreed upon by Customer and AFM Industries; and customer acknowledges that customer does not rely and is not relying on any oral or written statements, representations, or samples made or presented by AFM industries, its employees, agents and/or representatives to customer.

4. Limitation of warranty. Used, conveyor belt products and products not manufactured specifically for AFM industries are sold without warranty, "as-is".

5. Subject to the limitations of section 4 and unless otherwise expressly provided herein, conveyor belt product that has been manufactured specifically for AFM Industries, unless sold without warranty "AS IS", is warranted to be free from defects in material and workmanship providing notice of such a defect is communicated to AFM Industries within 12 months of delivery and the validity of the claim defect is undisputed by the manufacturer of the product. Subject to the preceding sentence, and except as otherwise expressly provided herein, AFM Industries makes no representation or warranty of any kind, express or implied, as to merchantability, fitness for a particular purpose, or any other matter with respect to the conveyor belting or any other product, whether used alone or in combination with any other material or product or in any process. AFM Industries shall not be liable for special, incidental and/or consequential damages, even if AFM Industries has been notified of the potential of such a loss or claim. Other than those specifically set forth herein, there are no warranties which extend beyond the description of the products on the face of AFM Industries' order confirmation, either express or implied.

6. Limitation of liability of AFM Industries and exclusive remedy. Any AFM Industries-manufactured conveyor belt product claimed to be defective in material or workmanship shall, upon AFM Industries approval, be returned to AFM Industries as designated, at the Customer's expense. AFM Industries will, as the exclusive remedy, make an adjustment for conveyor belt product it finds to be defective in material or workmanship either by repairing it or replacing it at an adjustment price, or in lieu thereof, at AFM Industries option, AFM Industries may refund the purchase price upon return of the product or offer credit on account against future purchases. Whenever a warranty for a specific product provides that no adjustment shall be made after a specified period of time, AFM Industries shall not be responsible under the terms of such warranty unless claim is made within such period of time. AFM Industries total responsibility and liability for any and all claims, losses and damages of any kind whatsoever arising out of any cause whatsoever (whether under any warranty or based in contract, negligence, other tort, strict liability, breach of warranty, other theory or otherwise) shall not exceed the original purchase price of the products in respect to which such cause arises, and in no event shall AFM industries be liable for special, incidental, consequential, exemplary, or punitive damages resulting from any such cause. No employee, agent and/or representative has authority to make any representation, promise or agreement, except as stated herein. AFM Industries shall not be liable for, and customer assumes all liability for, all personal injury and property damage connected with the handling, transportation, or further manufacture, fabrication, assembly, or processing of the product.

7. Prices are subject to change without notice and all such items will be billed at prices in effect at the time of shipment. Customer will be notified of any price increase and may cancel any undelivered portion of the order by written notice to AFM Industries provided such written notice is received by AFM Industries not more than 10 days after your receipt of notification of the increase. Upon such cancellation Customer shall have no liability to AFM Industries for the canceled portion of the order except as to product manufactured or in process, components procured by AFM Industries from outside sources, and special tooling and equipment procured for performance of the order.

8. All prices are subject to increase from time to time to compensate for any tax, excise or levy imposed upon the products sold, or upon the manufacture, sale, transportation, or delivery of them or whenever any tax, excise, levy, law or governmental regulation has the effect, directly or indirectly, of increasing the cost of manufacture, sale or delivery. If any government action or law should have the effect of establishing a maximum price on product to be delivered, AFM Industries may, at its option and without liability to Customer, terminate its obligation with respect to future shipments upon thirty (30) days written notice.

9. AFM Industries shall not be liable or deemed in default for failure to deliver or delay in delivery due to any cause beyond its reasonable control. If unable to meet delivery schedules, AFM Industries will endeavor to allocate material fairly among its Customers, but reserves to itself final determination of the deliveries to be made without liability.

10. Limitation of Liability for Loss, etc. (a) The Customer agrees that the AFM Industries shall only be liable for any loss, damage expense or delay to the goods resulting from the negligence or other fault of AFM Industries; such liability shall be limited to an amount equal to the lesser of fifty dollars (\$50.00) per entry or shipment or the fee(s) charged for the services, provided that, in the case of partial loss, such amount will be adjusted pro rata;

(b) Where AFM Industries issues its own bill of lading and receives freight charges as its compensation, Customer has the option of paying a special compensation and increasing the limit of AFM Industries liability up to the shipment's actual value; however, such option must be exercised by written agreement, entered into prior to any covered transaction(s), setting forth the limit of the Company's liability and the compensation received;

(c) In instances other than in (b) above, unless the Customer makes specific written arrangements with AFM Industries to pay special compensation and declare a higher value and Company agrees in writing, liability is limited to the amount set forth in (a) above;

(d) Customer agrees that AFM Industries shall, in no event, be liable for consequential, punitive, statutory or special damages in excess of the monetary limit provided for above.

11. LIABILITY OF AFM INDUSTRIES. It is agreed that any claim or demand for loss, damage, expense or delay shall be only against the carriers, truckmen, lightermen, forwarders, customs brokers, agents, warehousemen or others in whose actual custody or control the goods may be at the time of such loss, damage, expense or delay and that the AFM Industries shall not be liable or responsible for any claim or demand from any cause whatsoever, unless in each case the goods were in actual custody or control of AFM Industries and the damages alleged to have been suffered to be proven to be caused by the negligence or other fault of AFM Industries, its officers or employees, in which event the limitation of liability set forth in herein shall apply.

12. AFM Industries may, at its discretion, hold or delay shipment of all or part of any order if the customers commercial account with AFM Industries is overdue or its credit limit has been reached. Shipment will proceed when the account is brought current and/or there is sufficient credit facilities to allow the order to proceed. Such delays are considered to be caused by the customer and will not be considered failure to deliver or breach of contract.

13. If credit is granted, the customer understands that the terms of the sale are net 30 days following purchase unless otherwise agreed upon by AFM Industries. AFM Industries may charge interest on any past due balance at the maximum rate allowed by law with said interest being calculated from the date of default. In consideration of AFM Industries extending credit to the customer, the customer agrees jointly and individually, to pay for all goods, wares and costs including reasonable attorney fees, court costs and finance charges. The customer agrees to (i) notify AFM Industries in writing, delivered by certified mail return receipt requested, of any change in ownership, form of business, or address, or the termination of a person's authority to incur charges under the account on behalf of the applicant; and (ii) indemnify AFM Industries for any loss incurred thereby as a result of our failure to provide said written notice. This agreement shall remain in full force and effect until written notice of revocation by AFM Industries.

14. All orders shipped by AFM Industries are subject to this agreement. Failure to cancel an order placed on AFM Industries within 10 days of receiving an order confirmation from AFM Industries will be considered the as the customers acceptance of these terms and conditions. Accepting delivery (all or partial) of goods will also be considered the as the customers acceptance of these terms and conditions. If the buyer issues its own form of terms and conditions, they shall not be incorporated into the agreement between the parties unless specifically agreed in writing by AFM Industries.