

SHAKESPEARE FOUNDRY LIMITED TERMS AND CONDITIONS OF SALE

1. Terms of Contract

- 1.1 The Buyer's order is treated as an offer to purchase goods on these standard Conditions. No contract shall exist until the Seller accepts the order in writing on its own Order Acknowledgement.
- 1.2 Unless agreed in writing on the Seller's Order Acknowledgement, none of the Buyer's purchase conditions shall be part of a contract between the Buyer and Seller.
- 1.3 The Buyer, by entering into a contact with the Seller, does not rely on representations made by the latter and all statements are hereby excluded, unless incorporated in these Conditions.
- 1.4 English law shall apply throughout and any dispute shall be settled in the English Courts.

2. Price

- 2.1 The price payable by the Buyer is that ruling on the date of despatch. The Seller can increase the price prior to this date. Unless otherwise stated on the Order Acknowledgement, all quoted prices are ex-works.
- 2.2 The Seller may charge the Buyer additional amounts to cover extra costs caused by lack of instructions, requests to suspend work, unsuitability of the Buyer's patterns or other changes requested by the Buyer.
- 2.3 All testing and certification will be charged extra.
- 2.4 The Seller may impose minimum item, order line and total order charges.
- 2.5 The Seller may adjust the price if the actual casting weight is greater than the estimate.
- 2.6 Where the order price is in a currency other than sterling, the Seller reserves the right to alter the invoiced price to take account of adverse exchange rate movements.
- 2.7 Surcharges will be charged at the rate prevailing at the date of despatch.

3. Samples

- 3.1 The Seller may charge for samples.
- 3.2 The Seller may charge for radiography and other tests necessary to prove casting soundness, whether specified in the order or not.

4. Delivery and Risk

- 4.1 Delivery dates given by the Seller are his best estimates. Under no circumstances will the Seller be liable for any of the Buyer's losses consequent upon late delivery.
- 4.2 The Buyer shall inspect the Goods upon receipt and notify the Seller in writing of any defects or shortages within 7 days of delivery, failing which the Buyer shall be deemed to have accepted them.
- 4.3 Other than when delivery is included in the Contract, the Seller shall not be liable for non/short delivery or damage in transit.
- 4.4 The Buyer shall accept delivery whenever the Seller reasonably proffers it.
- 4.5 When the Seller loads goods onto the Buyer/Carrier's vehicle all risk of loss or damage to the goods passes to the latter. The Buyer is responsible for unloading the goods.
- 4.6 The Buyer is responsible for obtaining licenses for import of goods into the country of destination.

5. Passing of Property

- 5.1 Notwithstanding delivery and the passing of risk, property in and title to, the goods shall remain with the Seller until the Seller has received payment of the full price of (a) all Goods and/or Services the subject of the Contract and (b) all other Goods and/or Services supplied by the Seller to the Buyer under any Contract whatsoever. Payment of the full price shall include, without limitation, the amount of any interest or other sum payable under the terms of this and all other Contracts between the Seller and the Buyer.
- 5.2 The Seller may repossess goods which remain its property.

6. Payment Terms

- 6.1 If Credit Facilities have been granted, payment is due by the end of the month following the month of Invoice, unless otherwise agreed. If any item(s) remain unpaid by that due date charges will apply, in accordance with s5A and/or s6 of the Late Payment Commercial Debt (Interest) Act 1998 or any subsequent enactment. In addition, all invoices will become due and payable immediately and will be treated as overdue items, with appropriate charges applied and all costs reasonably incurred in collecting the debt payable by the Buyer.
- 6.2 On orders with a total value exceeding £50,000, the Seller reserves the right to invoice 30% of the total order value on receipt of the order.
- 6.3 Once a Buyer is in default of the Seller's terms of payment the Seller reserves the right to claim immediate payment for any goods not delivered as a result of the Buyer being placed on stop, and any goods delivered but not due for payment.

7. Blanket Orders

A delivery schedule constitutes an order and in the twelve weeks prior to delivery no cancellation or postponement is acceptable.

8. Patterns

- 8.1 The Seller is not responsible for the accuracy of a Buyer's pattern. If asked by the Buyer to check the pattern, this will be charged at the current rate.
- 8.2 All mounting and methoding of the Buyer's patterns will be at his expense.
- 8.3 If the Buyer's patterns are unsuitable they may, after notification to the Buyer, be altered or replaced at the Buyer's expense.
- 8.4 The Seller accepts no liability for loss or damage to the Buyer's patterns, whether by fire, theft or any other means.
- 8.5 The Seller reserves the right to charge the Buyer to store the Buyer's patterns. The Seller further reserves the right to destroy or otherwise dispose of such of the Buyer's patterns which are in the Seller's possession and which have not been the subject of an order within the previous two years.
- 8.6 Pattern boards, plates, methods and other such tooling remain the property of the Seller. Transfer can only be effected if the Buyer pays for their total cost. Cost of repair or replacement is borne by the Buyer.

9. Warranty

- 9.1 The goods shall be of satisfactory quality and comply with the specification noted on the Order Acknowledgement.
- 9.2 Any claims for defective goods must be made by the Buyer within the 12-month period following delivery. The Seller shall then be allowed to inspect such goods at the Buyer's works or have the goods returned at the Buyer's expense. If the goods are found to be defective, the Seller may either issue the Buyer with a credit note or repair or replace the goods.
- 9.3 The Seller's liability to the Buyer shall be limited to the invoice price of the goods. Specifically, the Seller shall not be liable for the costs of any repairs performed on the goods by the Buyer or by a third party to the Buyer's instructions, nor shall the Seller be liable for any of the Buyer's losses consequent upon the goods being defective. The Seller shall not be liable if the goods are defective as a result of misuse, abnormal working conditions or incorrect drawings, designs or specifications provided by the Buyer.
- 9.4 The Buyer shall indemnify the Seller against claims, losses and costs arising by reason of:
 - 9.4.1 The infringement of patents, design rights, trademarks and copyrights, etc arising out of work carried out in accordance with the Buyer's specification or from the use of the Buyer's pattern.
 - 9.4.2 Any loss, injury or damage suffered by a third party arising out of use of the goods.
- 9.5 Where the Buyer is responsible for the design concept of the castings and decides their technical specifications, any proposals by the Seller for improvement of specification are not to be taken as a transfer of responsibility for the design concept.

10. Force Majeure

The Seller has no liability to the Buyer for delay/failure in performance arising from causes beyond the Seller's control including, but not limited to, fire, floods, Acts of God, war, strikes and industrial disputes.

11. Confidentiality

All plans, drawings, specifications, patterns or other technical information, artwork or origination provided by the Seller relating to goods or services supplied or proposed to be supplied by the Seller or otherwise acquired by the Buyer relating to the business of the Seller shall remain the property of the Seller and (if in documentary form) forthwith upon completion of this contract shall be returned to the Seller in good condition. No such plan, drawing, specification, pattern, information, artwork or origination shall be shown nor its contents disclosed to any other person, nor shall it be copied or used by any other person nor shall it be copied or used for any purpose other than for the completion of the contract.

12. Intellectual Property

Intellectual Property rights in cast products supplied by the Seller shall remain with the Seller to the extent that the Seller has carried out or contributed to any design work and/or technical input to the design of those cast products.