

CONDITIONS OF QUOTATION AND SALE

1. Unless otherwise agreed in writing by the Seller these conditions which supersede any earlier sets of conditions appearing in the Sellers Quotations or Order Acknowledgements shall override any terms or conditions stipulated incorporated or referred to by the buyer whether in the order or in any negotiations and all guarantees, warranties or conditions (including any conditions as to quality or fitness for any particular purpose) whether express or implied by statute, common law or otherwise are excluded and hereby negated excepting only those matters whose exclusion is rendered void by statute.

2. Quotations are subject to revision or withdrawal until written notice of acceptance of customer's order is issued. Prices at which orders are accepted are subject to amendment if necessitated by any alteration in the cost of materials, labour, transport or packages, or by any other circumstances beyond the Company's control. The right is reserved to modify the prices quoted for dies and castings in the event of any subsequent alteration by the customer in the design, material or weight of the castings.

3. No condition is made or to be implied nor is any warranty given or to be implied in relation to the castings or other goods supplied or that they will be suitable for any particular purpose or for use under any specific conditions notwithstanding that such purpose or condition may be known to the Seller unless otherwise specifically agreed in writing by the Seller.

4. Where the total value of the order exceeds £500, the prices quoted shall, unless otherwise stipulated, include free delivery. However, in all cases where delivery is required to be by Express Delivery, the same shall be at the expense of the buyer. Express delivery is deemed to include such services as Datapost, Red Star and Overnight. Packing materials are charged extra but credited in full if returned, carriage paid, in a condition to the Seller's satisfaction.

5. (a) Tooling charges are payable on submission of samples and terms of payment for castings or other goods are net cash monthly account unless otherwise agreed in writing. If payment is not made within 30 days of account being rendered the Seller reserves the right to suspend delivery of further castings or other goods or to cancel the remainder of the order and also any further or outstanding orders from the buyer or any subsidiary or related company or business without prejudice to any other rights and remedies the Seller may have.
- (b) The property in the castings or other goods the subject of the order will only pass to the buyer when all outstanding accounts owed to the Seller by the buyer, including those owed by subrogation or assignment, have been paid or fully satisfied.
- (c) Until the date of payment or full satisfaction of the outstanding accounts owed to the Seller, the buyer, if the Seller so desires, is required to store the castings or other goods in such a way that they are clearly marked or designated the property of the Seller. Nevertheless, the buyer will be entitled to sell or otherwise dispose of those goods to a third party within the framework of normal commercial practice and to deliver the same on the condition that, if the Seller so requires, the buyer, as long as he has not fully discharged his liabilities to the Seller shall immediately assign to the Seller the claims to payment or other satisfaction which he may have against the purchaser emanating from the transaction. The Seller shall not thereby be made liable for any obligations which may be owed by the buyer to the purchaser.

6. Castings or other goods represented by the buyer to be defective shall not form the subject of any claim by the buyer for work done or for any loss, damage, injury or expense whatsoever arising directly or indirectly from such defects but subject as hereinafter provided such castings or other goods if returned to the Seller at the cost of the buyer within 21 days of delivery and accepted by the Seller as defective will at the discretion of the Seller be replaced as originally ordered. Notwithstanding the foregoing the Seller reserves the right to credit the buyer with the cost of the castings or other goods which the Seller has agreed are defective but declines to replace without incurring any further liability to the buyer by virtue of the exercise of this discretion against replacement.

7. No claim for damage in transit shortage of delivery or loss of castings or other goods will be entertained unless in the case of damage in transit or shortage of delivery a separate notice in writing is given both to the carrier concerned and to the Seller within 2 days of the receipt of the same followed by a complete claim in writing within 7 days of delivery and in the case of loss notice in writing must be given to the carriers concerned and to the Seller and a complete claim in writing submitted to both within 9 days of the notified date of consignment. Where castings or other goods are accepted from the carrier without being checked the delivery book for the carrier must be signed "not examined" failure to do so will release the Seller from any liability or other obligation to replace or repair in whole or in part that consignment to which the acceptance signature relates.

8. From the time of delivery of castings or other goods to the buyer the risk of any loss or damage or deterioration of such castings or other goods from whatever cause arising shall be borne by the buyer notwithstanding the property in such castings or other goods may not have passed to the buyer by virtue of these conditions.

9. (a) Unless otherwise expressly stated charges for dies and appliances include only a portion of the cost and do not convey the right of removal from the Sellers possession.
- (b) In the event of a fewer castings or other goods being ordered than the full quantity for which a quotation is given or the order being subsequently reduced the Seller reserves the right to increase the price quoted for the castings or other goods delivered.

(c) Dies and appliances will be maintained at the Sellers expense in good condition during their reasonable life. They will be used exclusively for the work of the buyer concerned unless otherwise agreed but subject to the matters set out in paragraph (d) below.

(d) Where loss is incurred by the occurrence of any event which would entitle the Seller to terminate an order in accordance with clause 13 below the Seller reserves the right to utilise or dispose of the tooling concerned including dies and appliances after giving due notice in writing of that intention to the buyer, his receiver, trustees in Bankruptcy or Liquidator as the case may be.

(e) The Seller reserves the right to dismantle and dispose of any die or appliance not used for a period of two years after notification in writing to the buyer at his last known business address.

(f) The Seller shall be entitled to subcontract the manufacture of dies, castings or other goods in whole or in part and no attempted amendment to this condition shall be effective unless specifically agreed in writing by the Seller.

(g) The said dies, appliances, patterns and tooling, whether paid for in part or in full or otherwise, shall, whilst they remain in the possession of the Seller, be held at the buyer's risk and accordingly the buyer should insure the same against such risk (if any) he thinks appropriate. The Seller accepts no liability whatsoever for any loss of or damage to any dies, appliances, patterns or tooling held by the Seller howsoever caused whether by the negligence of themselves, their servants or agents or otherwise.

10. (a) The buyer will indemnify the Seller against any action, claim, demand, costs, charges and expenses arising from or incurred by reason of any infringement or alleged infringement of any letters, patents, registered design, trade mark or trade name and against all costs and damages which the Seller may incur in any action for such infringement or for which the Seller may become liable in any such action arising from work carried out to specification of the buyer and to that end will provide reasonable funds on account of legal, professional or other fees and disbursements as they are incurred by the Seller.

(b) In the event of any claim being made or action brought against the Seller arising out of the matters referred to in this clause the Seller shall promptly notify the buyer who may at his own expense conduct all negotiations for the settlement of the same and any litigation that may arise therefrom. The Seller shall not unless the buyer shall have failed to take over the conduct of negotiations or litigation make any admission to any third party which might be prejudicial thereto. The Seller shall at the request of the buyer furnish all available assistance for any such purpose aforesaid and shall be repaid any expense incurred in so doing.

(c) The buyer on his part warrants that any design or instruction furnished or given by him shall not be such as will cause the Seller to infringe any letters, patents, registered designs, trade mark or trade name in the performance of the contract.

11. The Seller reserves the right to over or under delivery quantities to the extent of 5% of the total number of castings or other goods ordered on orders for any one item in excess of 500 and 10% in relation to orders for any one item less than 500.

12. While the Seller will make every endeavour to deliver castings at the date requested by the buyer it is a condition that the Seller will not be liable for any damage, injury or loss of any kind whatsoever arising directly or indirectly suffered by the buyer or by any third person by reason of the Sellers failure to meet delivery commitments and time will not be the essence of any order accepted by the Seller nor will any attempt in the terms of placing of an order invalidate or modify this condition unless it is expressly stated in writing by the Seller at the time of accepting the order that time shall be of the essence in relation to the anticipated delivery date.

13. (a) If the buyer shall make default in or commit any breach of any of his obligations to the Seller or if any distress or execution shall be levied upon the buyer his property or assets or if the buyer shall make or offer to make any arrangements or composition with creditors or commit any act of bankruptcy or if any petition or receiving order in bankruptcy shall be presented or made against him or if the buyer shall be a limited company and any resolution or petition to wind up the company or that of any parent, subsidiary or otherwise related company shall be passed or presented otherwise than for reconstruction or amalgamation or if a receiver of such companies undertaking property or assets or any part thereof or that of any parent, such termination being posted by the Seller to the buyers last known business address any subsisting order shall be deemed to have been terminated without prejudice to any claim or right the Seller may otherwise make or exercise and without entitling the buyer to any compensation damages or costs arising directly or indirectly from such termination.

(b) In the event of any of the matters referred to in paragraph (a) hereof occurring the buyer will take steps to preserve the property of the Seller in accordance with the terms of condition 5 hereof.

(c) In the event of any of the matters in sub-paragraph (a) hereof occurring, the Seller reserves the right to enter upon the buyer's premises for the purpose of seizing such of the Seller's property which is in the possession of the buyer in accordance with Clause 5 (b) and (c) hereof.