

Standard Conditions of Sale

1. Orders

- (a) Any order based on this tender is subject to the following conditions. This tender is open for acceptance unless previously withdrawn for not more than 30 days from the date hereof unless otherwise stated. No contract shall arise until the Seller has sent to the Buyer written acknowledgement of the Buyer's acceptance of Seller's tender. The Seller's Terms and Conditions shall apply at all times.

2. Prices

- (b) Unless the order is accompanied by sufficient information, drawings, and patterns to enable work to proceed forthwith, the Seller is at liberty to amend prices quoted herein to cover any increase in costs during the period of delay caused by the lack of such details.
- (c) Any alterations by the Buyer in design, weight, quantities or specification any suspension of work due to instructions or lack of instructions will involve adjustment of the agreed or quoted prices, if the costs are affected thereby.
- (d) Prices quoted are for unmachined self-colour castings unless otherwise stated.
- (e) Unless otherwise stated prices quoted are exclusive of duty and taxes.

3. Payment

- (f) Prices quoted for overseas accounts (i.e. Outside China) are due for payment by Letter of Credit on terms set out in the quotation.
- (g) Prices quoted for domestic net Accounts are due for payment not later than end of the month following (the month of) despatch. When deliveries are spread over a period each consignment shall be invoiced when despatched and each month's invoices shall be treated as a separate account and payable accordingly.
- (h) Should the Buyer cancel suspend or reduce a quantity requirement including cancellation, suspension or reduction of "firm" schedules then any work already in progress will be delivered and invoiced in accordance with the earlier instruction of the Buyer and shall be paid for by the Buyer.
- (i) If and so far as work upon castings has been necessarily commenced in advance of "firm" schedules in order to provide, in accordance with a normal process time cycle for the deliveries indicated by "tentative schedule," the Buyer shall be liable to accept delivery of those castings at the times and in the quantities so indicated and to pay therefore the deliveries indicated by a "tentative schedule," the Buyer shall be liable to accept delivery of those castings at the times and in the quantities so indicated and to pay therefore.

4. Patterns

- (j) Where the Buyer supplies patterns the quotations of the Seller assume that such patterns are in good condition, true to drawing and entirely suitable for the Seller's methods of production and for the production of the castings in the quantities required.
- (k) For mutual benefit, when new patterns or equipment are to be made, the Seller requires to be consulted.
- (l) The Buyer shall pay for replacement of and alterations of repairs to Buyer's patterns, or equipment due to normal wear and tear.
- (m) Where the Buyer does not supply patterns, only such patterns as are especially made and separately charged in full shall become the property of the Buyer when paid for.
- (n) The seller shall take all reasonable skill and care to protect Buyer's patterns while they are

on the Seller's premises but does not accept liability for any loss, damage or expense arising from any cause whatsoever. The Seller shall be under no duty to exercise such reasonable skill and care in respect of patterns in the Seller's custody for which no castings have been ordered for a period of two years.

5. Carriage

Unless otherwise specified prices quoted are ex works.

6. Delivery

Time for delivery is estimated as accurately as possible, but is subject to any delays or breakdowns beyond the control of the Seller and is not guaranteed. The period specified for delivery on the Seller's quotation:

- (o) Is exclusive of any period occupied in making, altering or adapting patterns or in any experimental work connected with the castings.
- (p) Shall commence only after the receipt of written instructions to proceed together with all necessary information, drawings and (it to be supplied by the Buyer) patterns or equipment and
- (q) Shall (if a sample casting is to be submitted for the Buyer's approval) commence only from the date of receipt of written approval.

7. Quantities

Owing to the difficulty of producing exact quantities of castings the Seller reserve the right to deliver up to 5 percent in excess of the quantities of castings delivered.

8. Damage, shortage or loss

The Seller does not accept responsibility for any damage, shortage or loss in transit unless:

- (r) Damage or shortage is notified in writing both to the Seller and to the carriers within seven days of receipt of the goods and the goods have been signed for as "not examined," and have been handled by the Buyer in accordance with the relevant carrier's conditions, or
- (s) Non-delivery (in the case of total loss) is notified both to the Seller and the carriers within the permitted period specified by the relevant carriers' conditions.

9. Samples

Samples submitted will be payable by the Buyer unless otherwise agreed. In all instances where the Seller is working from a new pattern, an altered pattern, or a pattern fresh to the Seller's foundry, the Seller may submit sample castings for approval before executing the bulk of the order which will only be commenced on receipt of such approval in writing. Where small quantities only are required submission of samples will be made only if the Buyer requests such at the time of placing the order. Samples submitted by the Seller should be verified by the Buyer in a prompt manner. Payment for the patterns becomes due on approval or within 30 days, whichever is the sooner. Each component is classed individually and must be approved individually and paid for as such.

10. Tests

Unless otherwise stated, the cost of supplying, machining, or testing all test pieces required by the Buyer will be charged extra. When figures or particulars

relating the physical or chemical properties are indicted, they are to be regarded as a general guide only, and constitute no guarantee from the Seller unless specified margins have been agreed at the time of placing the order. The Seller accept no liability whatsoever whether or not such purpose is known to the Seller or in respect of castings found to be defective through faults in the design or construction of patterns supplied by the Buyer.

11. Exclusion of liability

- I. The invoice value of any castings made by the Seller and proved to be defective in workmanship or materials will be credited to the Buyer, provided that the castings are returned to the Seller within 3 months from date of despatch. Any such agreed defective castings will be replaced (and re-invoiced at the price credited) or made serviceable for their original purpose free of charge. The Seller shall not be liable if the specification is beyond the capability of the casting or finishing process and this has been conveyed to the Buyer.
- II. Where several component parts form part of an assembly or sub-assembly each component part shall be deemed an individual component for the purposes of sample approval and payment for pattern equipment. A failure of one component shall not entitle the Buyer to withhold payment for the other component parts.
- III. Except in those cases where the absolute prohibitions against exclusion or restriction of liability contained in Sections 2 (1), 6 (1) and (2) of the Unfair Contract Terms Act 1977 apply and subject to (i) above the Seller shall not be under any liability whatsoever howsoever arising (including without prejudice to the generality of the foregoing liability whether founded in contract, common law or statute arising from the negligence of the Seller or any person for whom the Seller is vicariously liable). In respect of or in connection with.
 - (t) Any defect in the castings, which could reasonably have been discovered by the Buyer on inspection or test prior to acceptance.
 - (u) Any claim under or in connection with this contract to the extent that it relates to loss or damage which is not directly and immediately consequent upon the matter complained of
 - (v) Any such claim(s) whatsoever to the extent that the total amount thereof exceed more than the total price for the castings or component under this contract.

12. Packing

Unless otherwise specified, packing cases and packing materials will be charged extra.

13. International Supply Contract

Contracts within the definition of International Supply Contracts contained in Section 36 of the Unfair Contract Terms Act 1977 will be subject to separate Conditions of Sale.

14. Infringements

The Buyer shall indemnify the Seller against all damages, penalties, costs and expenses arising out of the loss suffered as a result of the infringement of any Patent Registered Design Trade Mark Name or copyright or any claim for such infringement or any claim to passing off involved in or arising out of work carried out in accordance with Buyer's specifications. This indemnity shall continue to operate have effect notwithstanding that the contract for sale of the castings may have been completed or terminated.

15. Risk and Title

- I. Legal and beneficial ownership of the Goods shall remain in the Seller until full payment for the Goods have been made. Until ownership passes, the Buyer must keep the Goods free from any charge, lien or other encumbrance.
- II. The Buyer shall have possession of the Goods provided that the Buyer shall at all times remain accountable to the Seller on fiduciary basis in respect of the Goods or the proceeds of sale of the Goods until payment in full therefore has been made to the Seller.
- III. If the Goods or any part thereof become so affixed to other Goods (the “principal Goods”) that they cannot be removed without causing material damage to the principal Goods then the Buyer shall deemed to have charged such principal Goods in favour of the Seller for the amount of the purchase price of the Goods from time to time outstanding.
- IV. The Seller may at any time and from time to time until title has passed in the Goods require them to be returned to it and if this requirement is not immediately complied with may retake possession of the Goods (and may enter any premises of the Buyer for such purpose and sever the Goods from anything they are attached to with being responsible for any damage caused). Such return or retaking of possession shall be without prejudice to the obligation of the Buyer to purchase the Goods.
- V. The Seller or any person nominated by it may at anytime and from time to time until title has passed in the Goods have full access to all the books of accounts and documents and papers of the Buyer relating to any one or more of the following:
 - (w) The Buyer’s dealing with the Seller:
 - (x) The Buyer’s dealing with the Goods:
 - (y) The Buyer’s dealings with the proceeds of sale of the Goods.

VI. Risk in the Goods shall pass to the Buyer as from first delivery of the Goods to the Buyer, and notwithstanding any subsequent return or retaking of possession by the Seller. Whilst the Goods are in the possession of the Buyer and before title has passed to the Buyer the Buyer shall keep the Goods in the same condition as that in which they were delivered and make good any damage or deterioration that occurs.

VII. The price of the Goods shall be payable on or before the last day of the month following the month in which the Goods are first delivered to the Buyer, and on or after that day the Seller may maintain an action for the price of the Goods notwithstanding that title to them has not passed to the Buyer.

16. Confidentiality agreement

I. The Buyer shall not have dealings directly or indirectly with the supplying manufacturer without the express permission of KP Metallurgical Casting Company in writing. The Buyer shall have reasonable access to the plant in order to verify quality requirements are met.

II. The Seller shall ensure all reasonable care is taken to protect patent and copyright of the buyer are not infringed by the foundry or machinist and patterns are not used for any other purpose than to produce to the orders of the Buyer.

III. The Buyer will not approach the Sellers suppliers within a period of three years from curtailment date of any orders being placed.