

<p>1 Interpretation</p> <p>1.1 In these Conditions:</p> <p>'Buyer' means the person with whom the Seller makes a Contract in accordance with para 2.1;</p> <p>Conditions' means the standard conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller in respect of any particular goods;</p> <p>'Contract Date' means the date the Contract is made as determined in accordance with Condition 2.1</p> <p>'Goods' means the goods (including any instalment of the goods or any parts for them) which the Seller is to supply in accordance with these Conditions;</p> <p>'Seller' means INTERNATIONAL PRECISION CASTING SUPPLIES LIMITED (registered in England No 3576088)</p> <p>1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.</p> <p>1.3 The headings in these Conditions are for convenience only and shall not affect their Interpretation.</p> <p>2 Basis of the sale</p> <p>2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with the quotation of the Seller, which is to be the sole basis for the Buyer's order. Orders may be in writing or verbal (telephone). The Contract is made when the Buyer's order is accepted by the Seller issuing written confirmation of order or, if earlier, when the Goods are despatched by or on behalf of the Seller. The Seller's written confirmation of order shall be conclusive evidence of the terms of the order. In all cases the Contract will be subject to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such order is made or purported to be made, or any such quotation is accepted or purported to be accepted, by the Buyer.</p> <p>2.2 No variation to these Conditions shall be binding unless agreed in writing by authorised representatives of the Buyer and the Seller.</p> <p>2.3 The Buyer acknowledges that it does not rely on any representations of the Seller which are not confirmed in writing.</p> <p>3 Orders and specifications</p> <p>3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until it is confirmed in writing by the Seller or, if earlier, the Goods are despatched by or on behalf of the Seller.</p> <p>3.2 The Buyer shall be responsible for ensuring the accuracy of the terms of its order (including any a statement of the Specification reference number ("the Manufacturer's Designation")), and for giving the Seller any necessary information relating to the Goods with a sufficient time to enable the Seller to perform the Contract in accordance with its terms.</p> <p>3.3 The specification for the Goods will be as agreed between the Buyer and the manufacturer of the Goods ("the Specification"). The Company shall have no liability in respect of the Specification and the provisions of clause 3.6 shall apply. Upon agreement of the Specification the manufacturer will issue and notify the Buyer and the Seller of the Manufacturer's Designation in respect of goods to be manufactured to such specification.</p> <p>3.4 Subject always to Condition 9, the quantity of the Goods shall be that set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).</p> <p>3.5 No order which has been accepted by the Seller may be cancelled by the Buyer except with the Seller's agreement in writing and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of the Goods and all labour and materials), damages, charges and expenses incurred by the Seller in connection with the order or as a result of cancellation.</p> <p>3.6 The Buyer is responsible for ensuring that the Goods (including the Specification) are suitable for its purposes and the Seller makes no representation nor gives any warranty in this regard.</p> <p>4 Price of the goods</p> <p>4.1 The price of the Goods shall (subject to Condition 4.2) be the Seller's quoted price or, where no price has been quoted, the price last notified by the Seller to the Buyer before the Contract is made, or the price agreed in writing by the Buyer and the Seller. All quotations are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.</p> <p>4.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any change in delivery dates, quantities or specifications for the Goods requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions, or, for Goods which are to be delivered more than 30 days after the Contract Date, if the manufacturer of those Goods increases its price to the Seller.</p> <p>4.3 The price is exclusive of any applicable value added tax and any other sales or import duty, which the Buyer shall be additionally liable to pay to the Seller.</p> <p>5 Terms of payment</p> <p>5.1 Subject to any special terms agreed in writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods at any time after the Buyer's order is accepted.</p> <p>5.2 The Buyer shall pay the price of the Goods without any deduction or set off within 30 days of the date of the Seller's invoice or such other period as the parties shall have agreed in writing, and the Seller shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract.</p> <p>5.4 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to do all or any of the following:</p> <p>5.4.1 cancel the contract or suspend any further orders, contracts or deliveries to the Buyer;</p> <p>5.4.2 appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and</p> <p>5.4.3 charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of 4% per annum above the Seller's banker's base rate from time to time, until payment in full is made in cleared funds.</p> <p>6 Delivery</p> <p>6.1 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, loss of profits, loss of business, depletion of goodwill and like loss), cost, damages, charges, or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Seller's negligence). Time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.</p> <p>6.2 Where the Goods are to be delivered in instalments, any failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to refuse to take delivery of any other instalment or to treat the Contract as a whole as repudiated or breached or to any remedy other than in respect of the instalment concerned.</p> <p>6.3 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:</p> <p>6.3.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or</p> <p>6.3.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.</p> <p>6.4 Where the Seller agrees to deliver the Goods otherwise than at the Seller's premises, the Seller shall be under no obligation under section 32(2) of the Sale of Goods Act 1979.</p> <p>7 Risk and property</p> <p>7.1 Risk of damage to or loss of the Goods shall pass to the Buyer:</p> <p>7.1.1 in the case of Goods to be delivered by the Buyer collecting the Goods at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection;</p> <p>7.1.2 in the case of Goods to be delivered by way of delivery to the Buyer's carrier (including a carrier arranged by the Seller) at the time when the Goods are collected by the carrier;</p> <p>7.1.3 in the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.</p> <p>7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received</p>	<p>in cash or cleared funds payment in full of the price of the Goods including all transport packing and insurance costs and all VAT.</p> <p>7.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property.</p> <p>7.4 Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold or incorporated into any other goods and are no longer readily identifiable), the Seller shall be entitled at any time to require the Buyer to deliver up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.</p> <p>8 Warranties and liability</p> <p>8.1 The Buyer shall only be entitled to the benefit of such warranty or guarantee as is given by the manufacturer of the Goods to the Seller. The Seller warrants that it will use all reasonable efforts to procure for the Buyer the benefit of the manufacturer's warranty.</p> <p>8.2 The above warranty is given by the Seller subject to the following conditions the Seller shall be under no liability in respect of:</p> <p>8.2.1 any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;</p> <p>8.2.2 any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's or manufacturer's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Seller's approval or the suitability or fitness for purpose of the Goods;</p> <p>8.3 Subject as expressly provided in these Conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.</p> <p>8.4 Any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification or any shortage shall (whether or not delivery is refused by the Buyer) be notified to the Seller within 7 days from the date of passing of risk in the Goods to the Buyer pursuant to Condition 7.1 or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If the Buyer does not so notify the Seller, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.</p> <p>8.5 Where any valid claim based on any defect in the quality or condition of any of the Goods (or any part), or their failure to meet specification, is notified to the Seller in accordance with these Conditions, the remedy of the Buyer will be to require the Seller to replace the defective Goods free of charge or, at the Seller's sole discretion, refund to the Buyer the price of such defective Goods but the Seller shall have no further liability to the Buyer. Subject to the foregoing provisions of these Conditions, the following provisions of this Condition 8 set out the entire liability of the Seller (including any liability for the acts or omissions of its employees, agents or sub-contractors) to the Buyer in respect of:</p> <p>8.6.1 any breach of these Conditions; and</p> <p>8.6.2 any representation, statement or tortious acts or omissions implied warranty condition or other term or any duty at common law including negligence arising under or in connection with the Contract.</p> <p>8.7 Nothing in these Conditions excludes or limits the liability of the Seller for death or personal injury caused by the Seller's negligence or fraudulent misrepresentation.</p> <p>8.8 Subject to Conditions 8.3 and 8.7:</p> <p>8.8.1 the Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise arising in connection with the performance or contemplative performance of the Contract shall be limited in the case of losses which are recoverable under the Seller's policies of insurance to £2,000,000 and in the case of uninsured losses (i.e. claims which are not covered by the Seller's policies of insurance) to the price of the Goods; the Seller shall not be liable to the Buyer for loss of profit goodwill or business opportunity or production downtime or any type of indirect or consequential loss or damage, costs, expenses or other types of consequential compensation whatsoever (howsoever caused) which arises out of or in connection with the Contract.</p> <p>The Buyer's attention is particularly drawn to the provisions of Condition 8 and is advised to effect insurance cover accordingly.</p> <p>9 Call-off deliveries and Stocks of the Goods</p> <p>Where the Buyer places an order for a quantity of Goods (Total Quantity) to be delivered on a call-off basis or without specifying quantities and dates for instalment deliveries, the Seller (while giving no warranty as to any actual stockholding level) may, in reliance on the Buyer's order, purchase from the manufacturer the Total Quantity of those Goods. The Buyer will be obliged to take delivery of all the Total Quantity of the Goods (i) at the same average annual delivery rate as applied for Goods of the same Manufacturer's Designation delivered to the Buyer over the period of 12 months before the order, or (ii) if sooner, within a maximum period of 12 months following the order, and the Buyer will be invoiced accordingly.</p> <p>10 Force Majeure</p> <p>The Seller shall have no liability in respect of any delay in performing, or any failure to perform, any of the Seller's obligations, if the delay or failure was due to any cause beyond the Seller's reasonable control.</p> <p>11 Insolvency of Buyer</p> <p>If: (a) the Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order goes into liquidation; or (b) an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or (c) the Buyer ceases, or threatens to cease, to carry on business; or (d) the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly, then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary and the Seller shall be entitled to enforce its rights pursuant to clause 7.4 (without limitation to any other rights which it may have).</p> <p>12 Exported goods</p> <p>12.1 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties thereon.</p> <p>12.2 The Buyer undertakes not to supply the Goods for end use in, or offer the Goods for resale in, any country notified by the Seller to the Buyer at or before the time the Buyer's order is placed, or which may from time to time be prescribed by the government of the United Kingdom or of any state to whose laws the manufacturer of the Goods is subject, or to sell the Goods to any person if the Buyer knows or has reason to believe that that person intends to resell the Goods in any such country.</p> <p>13 Assignment</p> <p>13.1 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Seller.</p> <p>14 General</p> <p>14.1 Any notice shall be in writing addressed to the relevant party at the fax, e-mail, geographical or other address used for the placing or accepting of orders or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. Failure or delay by the Seller in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract.</p> <p>14.2 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.</p> <p>14.4 If any provision of these Conditions (each part of each sub-clause of these Conditions being regarded as a separate provision for this purpose) is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.</p> <p>14.5 Save for the manufacturer of the Goods, a person who is not party to the Contract shall have no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of the Contract Agreement.</p> <p>14.6 The Contract shall be governed and construed in accordance with the laws of England and Wales and the parties submit to the exclusive jurisdiction of the Courts of England and Wales</p>
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