



wescast industries inc.

TERMS AND CONDITIONS OF SALE

General

All sales are made pursuant to these terms and conditions and Wescast Industries Inc., hereinafter called the seller, shall not be bound by any provisions in the buyer's purchase order and/or drawings, and/or specifications which differ from, are in conflict with or in addition to these terms and conditions, unless otherwise agreed to in writing.

Warranties

Seller warrants the manufactured goods to be free from defects in material and workmanship subject to commercial variations in material and production operations incident to the casting processes employed. Seller makes no other warranties, either expressed or implied in this regard. It is understood and the buyer agrees that the seller's liability, whether expressed or implied by law, shall be limited to the cost of repairing or replacing any goods found defective in the FOB point shown in this quotation, and in no case shall the liability of the seller exceed the amount paid by the buyer to the seller for the goods supplied. Seller shall not be liable for consequential, special or contingent damages, however caused. Without limiting the generality of the foregoing the seller shall not be responsible for machine work, labour charges, or other expenses incurred on castings which are later rejected as defective. The buyer must notify seller promptly and no later than 30 days after receipt of castings of any alleged defects and must give the seller opportunity to inspect any castings claimed to be defective before returning same to seller's plant.

Design

Notwithstanding any review or comment by seller, the buyer assumes complete responsibility for adequacy of buyer's design and specifications.

Force Majeure

The seller shall not be responsible for delays or non delivery by reason of fire, explosion, floods, storms, accidents, strikes, riots, insurrections, war, acts of God, power failures, transportation difficulties, government action, embargos, inability to secure raw material, or any cause beyond his reasonable control.

Patents

Seller shall not be held liable in any manner for loss or damage by reason of the manufacture or sale of any patented device, or parts thereof, made in accordance with drawings, design, models, or patterns furnished by the buyer and the buyer agrees to indemnify the seller and save him harmless for any patent infringements, claims or action.

Cancellations

All cancellations must be mutually agreed upon between the seller and the buyer and the buyer shall reimburse the seller for any cores, moulds, or castings, changes of design or alterations to existing tooling, made prior to cancellation and all other expenses suffered by the seller as a result thereof.

Quantities

The seller will make all reasonable effort, as operating conditions permit, to furnish exact quantities specified, but quantities are subject to variation in shipment of ten percent (10%) and buyer shall be invoiced based on actual quantities shipped.

Errors

Errors in weight and quantities of casting shipments must be reported to the seller within ten days after receipt by the buyer.

Pattern and Core Box Equipment

All pattern and core box equipment will be furnished by the buyer, free of charge, to the seller or if requested will be fabricated by seller at buyer's expense. Alterations to the pattern and core box equipment, replacements or repair thereto, necessitated by changes in design or ordinary wear and tear will be for buyer's account. Storage, when provided, shall be at the sole risk of the buyer. Insurance against fire and the elements is the responsibility of the buyer. The seller shall not supply storage space for pattern or core box equipment for which no orders have been received in a period of one year, and notification shall be sent to the buyer for advice as to whether such equipment is to be returned or destroyed. All transportation charges on such equipment shall be paid by the buyer including boxing or crating when necessary. Patterns, core boxes and loose pieces shall be properly marked by the buyer for identification purposes.

Identification

For identification purposes, the seller reserves the right to place its trademark on all castings produced.

Sample Castings

If requested, sample castings will be furnished for approval before seller proceeds with production. Such samples will be charged to the buyer. Production castings commercially like the approved samples and meeting casting specifications shall not be rejected by the buyer.

Shipments

The prices quoted are FOB seller's designated shipping point. Seller's responsibility ceases with the delivery of the castings in good order to transportation companies. Delivery is not guaranteed at/or to the destination. Claims for damage to/or loss of material in transit shall be filed by buyer direct with carrier, in the absence of definite shipping instructions seller reserves the right to ship all materials, upon completion, by any public carrier which seller deems satisfactory, at the expense and risk of the buyer.

Payment

If the buyer shall fail to make payments in accordance with the terms agreed upon, the seller may defer further shipments until such payments are made, may exercise a general lien upon all pattern and core box equipment for all or any moneys due from the buyer to the seller, or may terminate the contract. The seller may likewise defer shipments, require payment for any shipment hereunder in advance or terminate the contract if the buyer's financial responsibility becomes unsatisfactory to the seller.

Packaging

If included in the selling price, shall be as normally supplied by the seller. Any special packaging shall be provided at the buyer's expense.

Governing Law

All sales shall be governed by/and construed for all purposes, including but not limited to seller's obligations and liabilities relating to the products supplied, under the laws of the province of Ontario, and shall be determined in the courts of competent jurisdiction in Ontario.

Waiver

Waiver by the seller of any breach of this contract shall not be construed as a waiver of any other breach.