

Terms and Conditions of Trading

Conditions of Trading

1. These conditions shall apply to every contract entered into by Niagara Falls Castings (UK) Limited for the sale of goods to or the undertaking of work on behalf of any person, firm or company. The placing of an order by the customer shall be deemed to be an acceptance of these conditions of trading notwithstanding any purported terms put forward by the customer.

Terms

2. All prices are quoted nett, no cash discount being allowed, and payment is due on delivery, except for approved accounts where payment is due by the end of the month following delivery. If payment is not received by the due date, interest will be charged weekly on the amount outstanding at an annual rate equivalent to 5% above the Bank of England minimum lending rate. A deposit of 33% of the total estimated value of the order may be requested before work is commenced. Credit facilities will normally only be granted to customers whose average requirements are not less than £500 per month. A minimum order value of £20 applies. This relates to fashion charge only and not to the cost of models, moulds, or materials.

Prices

3. All listed and/or quoted prices are subject to minimum quantity charges and to alteration without prior notice. Goods will be charged at prices ruling at the date of despatch, plus all duties and levies and value added and other taxes as appropriate.

Delivery

4. Whilst every effort will be made to meet estimated delivery dates, we regret that we are unable to accept responsibility for any delays beyond our control or any consequential or other loss or damages suffered by the customer arising therefrom. Time shall not be of the essence of the contract.

Risk and Property

5.1 Risk or damage to or loss of goods supplied by us shall pass to the customer in the case of goods to be delivered at our premises, at the time when we notify the customer that goods are available for collection, or in the case of goods to be delivered otherwise than at our premises at the time of delivery. Goods delivered by special delivery via the Royal Mail or other equivalent service where the recipient is required to sign for the goods, will be delivered at the time when the goods are signed for by or for and on behalf of the recipient. If the customer wrongfully fails to take delivery of the goods, delivery will be treated as taking place at the time when we tender delivery of the goods.

5.2 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 customer until we have received in cash or cleared funds payment in full of the price of the goods and all other goods agreed to be sold by us to the customer for which payment has not been made.

5.3 Until such time as the property in the goods passes to the customer: -

5.3:1 The customer shall hold the goods as our fiduciary agent and bailee, and shall keep the goods separate from those of the customer and third parties and properly stored, protected and insured and identified as our property.

5.3:2 The customer shall be entitled to re-sell the goods in the ordinary course of its business, but shall account to us for the proceeds of sale or hire of the goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any monies or property of the customer and third parties in a separate and readily identifiable bank account, and, in the case of tangible proceeds, properly stored, protected and insured.

5.4 Until such time as the property in the goods passes to the customer (and provided the goods are still in existence and have not been re-sold) we shall be entitled at any time to require the customer to deliver up the goods to us and, if the customer fails to do so, forthwith to enter upon the premises of the customer or any third party where the goods are stored and repossess the goods.

5.5 The customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the goods, which remain our property, but if the customer does so all monies due to us from the customer shall (without prejudice to any other right or remedy we may have) forthwith become due and payable.

Infringements

6. The customer shall indemnify us against all loss damages, penalties, costs and expenses arising out of the infringement (or any claim for infringement) of any patent, registered design, trade mark copyright or other industrial or intellectual property rights of any other person involved in work carried out in accordance with customers' patterns or specifications.

Customers' Patterns

7. We undertake to use the Customers' patterns exclusively for producing castings for that customer. We will take reasonable precautions to keep customers' patterns secure, and in the unlikely event of loss will replace the pattern with a facsimile. If this is not practical, we will only be liable for the cost of the materials and will not be liable for any consequential or other loss suffered by the customer.

Inspection

8. We undertake to reproduce customers' patterns as closely as possible. It is the responsibility of the customer to ensure that the pattern is of the exact quality and shape that is to be reproduced, as all imperfections in patterns will be reproduced in castings. Generally, it is the responsibility of the Customer to ensure the accuracy of any specification submitted by the Customer and for ensuring that all necessary information is given in good time.

Own Waxes

9. On request we will cast customer's own waxes but do so entirely at the risk of the customer. We would strongly recommend that a mould is made of any hand carved wax to enable copies to be made in the event of loss in the casting process.

Cancellation

10. If customers wish to cancel an order or orders, they are requested to give the earliest possible intimation. An order may be regarded as cancelled only when we notify the customer in writing that we accept the cancellation. We undertake to give such notification within seven working days of receipt of written cancellation.

Moulds

11. Moulds which are produced for customers shall become our property and be retained at our premises upon completion of the Contract under which they were made subject to our confirmation that we will not make further use of them other than as expressly authorised by the original customer. If a customer requests delivery of a mould we will comply with such a request provided that (1) we shall first be entitled to break the mould and (2) delivery of the broken mould shall be at the customer's expense.

Quality Warranties and Liability

12.1 We undertake to use our best endeavours to ensure sound materials and craftsmanship.

12.2 Nothing in clause 12 shall be deemed to exclude or restrict our liability for; (a) death or personal injury resulting from negligence; or (b) where such exclusion or restriction is not permitted pursuant to statute.

12.3 Each of the sub-clauses in clause 12 is to be treated as separate and independent.

12.4 We agree that if any defect covered by clause 12.5 is discovered during the twelve-week period following delivery and is notified to us within that period we will either repair the goods at our own expense or, if we choose to do so, replace them.

12.5 Sub-clause 12.4 covers defects caused by faulty manufacture, materials or workmanship only. It does not cover defects caused by abnormal use, misuse or neglect.

12.6 In consideration for receiving the benefit of this clause, the customer agrees that no other terms, conditions or warranties, express or implied, statutory or otherwise, shall form part of this contract (except where such exclusion is not permitted pursuant to statute).

12.7 We shall not be liable for any consequential or indirect loss suffered by the customer whether this loss arises from breach of a duty in contract or tort or in any other way (including loss arising from our negligence).

12.8 Our total liability for any one claim or for the total of all claims arising from any one act or default (whether arising from our negligence or otherwise) shall not exceed the contract price.

12.9 The nature of the technology of casting precious metals is such that some faults do not show up until final polishing is undertaken. Whilst we seek to minimise the possibility of faulty goods being shipped by performing frequent polishing tests, customers should undertake their own tests prior to incurring the cost of setting etc as we will not be liable to reimburse all or part of these costs.

General

13.1 Any notice required or permitted to be given by either party to the other under these conditions shall be in writing addressed to that party at its registered office or principal place of business or such other address as may at the relevant time have notified to the party giving the notice.

13.2 If any provision of these Conditions 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.

13.3 The Contract shall be governed by the Laws of England and Wales and the parties hereby submit to the exclusive jurisdiction of the Courts of England and Wales.

Last updated 29th October 2015