



Terms Of Sale - B.K. Thorpe

BKT-2

EFFECTIVE MAY 1, 2008 THESE GENERAL TERMS AND CONDITIONS OF SALE WILL APPLY TO ALL PRODUCTS SOLD BY B.K. THORPE COMPANY, A MEMBER OF THE M.A. STEWART GROUP. ("MAS")

PRICES: All prices of Products are subject to change by MAS without notice. All orders for Products will be invoiced at the prices in effect at the agreed time of shipment, provided that if through no fault on the part of MAS there is a delay in shipment, then the order will be invoiced at the higher of the prices that are in effect at the stipulated time of shipment or the actual time of shipment.

TAXES: The Purchaser shall pay all taxes, levies, charges and duties imposed upon the Purchaser or any agent of the Purchaser (the "Taxes") by any government, governmental agency or other taxing authority in connection with the production, transportation, consumption, purchase or sale of the Products, or those usually paid by a purchaser pursuant to usual trade practices or terms, including, but not limited to, Goods and Services Tax, provincial sales taxes, municipal taxes, and sales and use taxes. The purchase price for Products does not include the Taxes unless MAS specifies in writing that it does.

FREIGHT TERMS: All Products are shipped F.O.B.(Free on Board) our Signal Hill and Bakersfield warehouses.

TRANSFER OF TITLE/RISK OF LOSS: Title to Products and all risk of loss or damage to the Products shall pass to the Purchaser upon acceptance for loading of the Products by the carrier at MAS' warehouse notwithstanding that MAS may be bearing in whole or in part the cost of freight and/or other costs and fees.

TERMS OF PAYMENT: The Purchaser shall fully pay the purchase price within 30 calendar days from the date of invoice (the "Due Date") to the account designated by MAS. If the Purchaser fails to fully pay the purchase price to MAS by the Due Date, interest shall accrue on the unpaid balance of the purchase price outstanding from time to time at the rate of 18% per annum compounded monthly until the purchase price is paid in full.

QUOTATIONS: Possession of a price list or quotation shall not obligate MAS to sell or offer goods listed therein to anyone. MAS reserves the right to withdraw any quotation without notice prior to its acceptance in writing. Price and projected delivery times may be adjusted for design specifications and/or service conditions unknown at the time of the quotation.

CREDIT APPROVAL: The acceptance of orders is subject to the satisfactory credit approval of the Purchaser by MAS in its sole discretion, and MAS may at its sole discretion require payment in advance.

DELIVERIES: Products quoted as being available from MAS' inventory are subject to prior sale and may not be available for immediate shipment. Deferred or redirected deliveries are at the sole discretion of MAS, and are not binding on MAS unless MAS agrees in writing. MAS shall not be liable for any direct, indirect or consequential damages or loss caused by delay in delivery or failure to deliver, regardless of the cause of the delay or failure and whether it results from fire, flood, accidents, riots, the negligence of MAS or of any of its employees or agents, strikes, transportation delays, labour or material shortages or any other cause.

RETURNED GOODS: The Purchaser shall not have the right to return any Product unless (a) MAS in its sole discretion agrees and evidences that agreement in writing and issues to the Purchaser a Returned Goods Number; (b) the Product is in good and saleable condition; and (c) the Product is returned within the manufacturer's warranty period. Notwithstanding the foregoing, the following Products will not be accepted for return under any circumstances: (a) special order items; (b) non-stock Products; and (c) obsolete or used Products. If MAS decides in its sole discretion, the reasonableness of which is not subject to any inquiry or questioning by the Purchaser or any third party, to take back the Products, the Purchaser shall package the Products to be returned in a manner that will completely protect them from damage. Despite its prior consent to the return, MAS has the right either to reject the returned Products or to charge fees if in the opinion of MAS the Products sought to be returned are damaged from any cause whatsoever including without limitation improper packaging. The Purchaser shall pay all expenses and costs arising out of the return of any Products including all transportation charges and other expenditures directly or indirectly incurred by MAS. In addition, the Purchaser shall pay to MAS an amount equal to 25% of the purchase price as a restocking charge, and if refurbishing is required, the Purchaser shall pay to MAS (in addition to the restocking charge).

CLAIMS FOR SHORTAGES: The Purchaser shall make all claims for shortages in writing (which includes particulars of the shortage) within 5 calendar days after receipt of the Products at the Purchaser's warehouse. If notice specifying the particulars of the alleged shortage is not received by MAS within 5 calendar days after receipt of the Products by the Purchaser at the Purchaser's warehouse, the Purchaser shall be deemed to have received in good condition all Products that were invoiced by MAS as being part of that shipment, and the Purchaser shall be barred from making any claims in connection therewith.

GOVERNING LAW: These general terms and conditions of sale will be governed by, and construed in accordance with the laws of the State in the United States of America in which the agreement for the purchase of the Products was made, and the laws of the United States of America applicable in the State.

WARRANTY: Products found to be defective due to faulty workmanship or material shall be replaced without charge, provided that in each case, MAS, acting reasonably, is satisfied that the Product had been properly installed, that the Product was used in the service for which MAS and the manufacturer of the Product recommended and that written notice specifying the alleged defects is presented to MAS within one year from the date of installation or 18 months from the date of purchase, whichever occurs first (the "Warranty Period"). The liability of MAS under the warranty provided herein is limited to replacing the defective Products, or at MAS' discretion, refunding the purchase price paid. The Purchaser hereby agrees that the warranty provided herein is in the nature of liquidated damages to which the Purchaser might otherwise be entitled at law or in equity, and in particular the Purchaser hereby agrees that in lieu of any action for fundamental breach of contract or breach of a fundamental term of a contract, the Purchaser will rely solely upon the warranty provided herein. MAS shall not under any circumstances be liable whether during the Warranty Period or after the Warranty Period for any claims for labour, installation costs, damages including, but not limited to, loss of revenue or profits, or other expenses incurred by reason of any Products found to be defective. This warranty shall not apply to any Product modified or changed in design or function after leaving MAS' warehouse or to valve operators and components which are subject to the warranty conditions of the manufacturer.

CANCELLATION RESTRICTION: Orders of Products accepted by MAS for special alloy valves, valves and fittings not stocked by MAS are not subject to cancellation or change without the prior written consent of MAS (which MAS may give or withhold at its sole discretion) and upon terms which will protect, indemnify and hold MAS harmless from and against all consequential loss or damage.

MODIFICATION: No amendment or modification of these terms and conditions shall be binding upon MAS unless evidenced in a written document signed by the President or Vice President of MAS.