

Aichi Forge USA, Inc. Sales Terms and Conditions

1. TERMS OF PURCHASE

(a) The Seller hereby notifies the Buyer that the terms and conditions contained in this Agreement shall govern the terms and conditions of all sales of Goods (including those sales made with the aid of the electronic data interchange and/or other electronic or paperless ordering processes) from the Seller to the Buyer from and after the date of this Agreement, unless those Goods are sold pursuant to a specific written agreement which is a part of this Agreement in accordance with paragraph (c) of this paragraph 1.

(b) The Buyer understands that the Seller will rely on this Agreement.

(c) (1) This Agreement shall become binding upon the Buyer upon the issuance of the Buyer's Purchase Order or tender of the Buyer's offer.

(2) The Buyer and the Seller agree that

(A) This Agreement and any Specific Terms, but not Standard Terms or preprinted terms, of one or more Purchase Orders contains the entire agreement between the parties with respect to the purchase and sale of Goods and/or services that might relate thereto and there are no oral understandings, representations or warranties affecting it;

(B) The documents described in clause (a) of this paragraph operate as the exclusive terms of the Agreement between the parties and

(C) This Agreement cancels and supersedes any prior written contract between parties covering the sale and purchase of the Goods.

(3) Unless both the Buyer and the Seller sign an agreement that specifically, by its own terms, amends the provisions of this Agreement, no Order Documentation (other than Specific Terms - but not Standard Terms or preprinted terms - of Purchase Orders) may supplement or vary the terms of this Agreement, and the terms of this Agreement shall control and supersede the terms of any such other Order Documentation.

(4) The Seller objects to any acknowledgment, Purchase Order or any provisions in any other Order Documentation that states terms in addition to, different than, or which vary from the terms of this Agreement, and such additional, different or varying terms will not be part of any agreement between the Buyer and the Seller, even if such Order Documentation purports to govern or supersede this Agreement.

(5) Nothing in this paragraph (c) will be construed to prevent Specific Terms (but not Standard Terms or preprinted terms) of any Purchase Order from supplementing the agreement between the Buyer and the Seller with respect to the sale of specific goods and/or services subject to such Purchase Order. But if any of the terms

(including Standard Terms and/or Specific Terms) of any Purchase Order vary from or conflict with those of this Agreement, the terms of this Agreement will control.

(d) The Seller shall have the right to reject or refuse to accept or fulfill any and all Purchase Orders. The Seller shall not be obliged regarding or bound by any Purchase Order (whether Specific Terms or Standard Terms or otherwise).

2. CREDIT APPROVAL

This Agreement is expressly conditioned on the Buyer's maintenance of a credit history satisfactory in form and substance to the Seller. If the Buyer fails or refuses to provide internal financial information reasonably requested by the Seller in connection with any Purchase Order, the Seller may repudiate any Purchase Order without liability and refuse to ship any Goods to a Location.

3. PAYMENT TERMS

The Seller shall invoice the Buyer for the purchase price of the Goods. the Buyer shall pay the amount stated on the invoice in accordance with the terms of the invoice, the period for payment stated in the invoice shall begin to run on the date of the invoice regardless of when it is received. If any part of the purchase price is not paid when due, the Buyer shall pay the Seller a late charge equal to the higher of (a) two percent (2%) per month or (b) the maximum rate, if any, allowable under applicable law on the unpaid amount. the Buyer shall pay to the Seller on demand all costs, charges and expenses incurred and/or paid by the Seller, including, without limitation, attorney's fees and charges and collection fees and charges, in connection with the enforcement of this Agreement and/or the recovery of any amounts owed by the Buyer to the Seller in connection with this Agreement and/or the purchase of any Goods. If any amounts are due the Seller from the Buyer under this Agreement and/or in connection with the purchase of any Goods, the Seller shall be entitled to set off any amounts owed by the Seller to the Buyer against any amounts owed by the Buyer to the Seller, including any late charges, interest, attorney's fees and/or charges, and/or other collection costs.

4. TAXES, FREIGHT AND SHIPPING CHARGES

Unless specifically itemized in the relevant invoice or in other appropriate Order Documentation, the purchase price stated for the Goods does not include any taxes, licenses, fees, duties, tariffs, freight or shipping charges. Such charges shall, if applicable to the Goods, be added to the purchase price and are subject to change without notice. More specifically and without limitation, no sales or use taxes for any state, county, parish, or municipality into which the Goods are to be shipped are included in any price quoted for Goods. Any such sales or use taxes shall be added to the invoice price of the Goods unless the Buyer furnishes to or files with the Seller one or more valid resale exemption certificates or statements of tax exemption.

5. DELIVERY AND FORCE MAJEURE

(a) The Seller shall not be liable or responsible in any way for failure to deliver Goods on the date of delivery requested by the Buyer. Without limiting the generality of the

foregoing, the Seller shall not be liable for incidental or consequential damages arising out of or in connection with any failure of any Goods to be delivered on the date requested by the Buyer.

(b) If labor disputes, fires, floods, accidents, epidemics, embargoes or directions of any governmental authority, war, breakdowns, fire, shortage or inability to obtain energy, equipment, transportation or raw materials, acts of God or other causes beyond the control of the Seller affect their respective abilities to order shipment of or to ship the Goods, the Seller may:

(1) Suspend shipment without liability to the Buyer for damages resulting from or incidental to such failure to deliver or late delivery of the Goods, and

(2) Allocate its available supply of Goods of the type described on the face of this Agreement among its customers as the Seller unilaterally deems to be fair and equitable.

6. LIMITED WARRANTY

The Goods sold hereunder shall be of merchantable quality and shall conform to the Seller's current standard specifications or such other specifications as shall have been made expressly part of this sale. The Buyer makes no other warranty, expressed or implied, of fitness for particular use or otherwise, whether used singly or in combination with other substances or any process.

7. CLAIMS

(a) The Buyer shall examine the Goods prior to taking ownership of the Goods. If any Goods fail to conform to the relevant Order Documentation (whether or not the non-conformity is immediately apparent, or is concealed or requires unpacking or inspection to discover) or are not in the quantities stipulated in the relevant Order Documentation, the Buyer shall note the non-conformities or shortages and give the Seller written notice of the non-conformities or shortages as soon as possible, and in any event not more than ten (10) calendar days after such delivery. The Buyer may return non-conforming Goods to the Seller but only in compliance with paragraph 10 below. If any Goods are damaged when they are shipped to a Location (whether or not the damage is immediately apparent, or is concealed or otherwise requires unpacking or inspection to discover) the Buyer must note the damages and notify the carrier which delivered the Goods as soon as possible and in any event within fifteen (15) calendar days after such delivery, and request inspection. The Buyer must also keep all packing materials with respect to such Goods. All such damaged Goods with respect to which the Buyer has complied in all respects with this paragraph shall be deemed as Notified Damaged Goods. the Buyer's remedies with respect to Notified Damaged Goods is set out in paragraph 9 below. the Buyer shall not be entitled to any remedy with respect to any other Goods damaged in shipment which are not Notified Damaged Goods.

(b) The Buyer shall accept tolerances in the Goods consistent with Forging Industry Association tolerances referenced at course of dealing and industry practice.

8. LIMITATION OF LIABILITY

DEFECTIVE OR NONCONFORMING PRODUCTS SHALL BE REPLACED BY THE SELLER WITHOUT ADDITIONAL CHARGES, OR IN LIEU THEREOF, AT THE SELLER'S OPTION, THE SELLER MAY REFUND THE PURCHASE PRICE UPON RETURN OF THE PRODUCTS AT THE SELLER'S EXPENSE. NOTWITHSTANDING THE ABOVE REGARDLESS OF THE CIRCUMSTANCES, THE SELLER'S TOTAL LIABILITY TO CUSTOMER FOR ANY AND ALL CLAIMS, LOSSES OR DAMAGES ARISING OUT OF ANY CAUSE WHATSOEVER, WHETHER BASED IN CONTRACT, NEGLIGENCE OR OTHER TORT, STRICT LIABILITY, BREACH OF WARRANTY OR OTHERWISE, SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE PRODUCTS IN RESPECT TO WHICH SUCH CAUSE AROSE. IN NO EVENT SHALL THE SELLER BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES. ANY CAUSE OF ACTION THAT CUSTOMER MAY HAVE AGAINST THE SELLER WHICH MAY ARISE UNDER THIS CONTRACT MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED.

9. RETURN OF GOODS

Goods may be returned to the Seller or any other Person only with prior approval and acceptance by the Seller and in accordance with the Seller's customary return policies and procedures for Goods of that kind. Goods should be returned in the original packaging or packaging appropriate for machined parts if already partially or fully machined by the Buyer.

10. INSURANCE

At its own expense, the Buyer shall maintain product liability, comprehensive general liability, auto liability, workers' compensation, and such other insurance (the "Insurance") as will reasonably protect the Buyer and the Seller against any claims which may arise in connection with the production, sale, use, consumption and/or delivery of Goods, and all other transactions or operations contemplated by this Agreement, whether such transactions are performed by the Buyer or other Persons engaged by the Buyer or any employees or agents of the Buyer or such other Persons. The Buyer shall cause the insurer to provide the Seller with thirty (30) days' advance written notice of changes in or cancellation of any Insurance. The Buyer will provide, upon the Seller's request, made for a valid business or legal reason, a copy of any accident report filed with the Buyer's Insurance carriers pertaining to accidents occurring as a result of anything furnished under or required by this Agreement. The Buyer shall also procure and maintain at its own expense insurance to protect the Goods from any loss, damage, or theft while they are stored in the Locations (the "Casualty Insurance"). Upon request by the Seller, the Buyer shall provide the Seller with the original policy of the Casualty Insurance, and in case all or a part of the Goods have been lost, damaged, or stolen, the Buyer shall fully cooperate with the Seller and follow the Seller's instruction in filing insurance claims under the Casualty Insurance. Notwithstanding foregoing, the Buyer shall be liable for all losses or damages to the Goods, irrespective of the availability of insurance coverage, stored at the Locations.

11. INDEMNITY AGREEMENT

The Buyer assumes all responsibility and liability for, and agrees to indemnify and hold the Seller and its employees and agents harmless from and against:

(a) Any and all damage, loss or injury of any kind or nature whatsoever (including personal injury and/or death resulting there from), to all Persons, whether employees of the Buyer or otherwise, and to all property (including loss of use thereof) and

(b) All damage, loss, injury, expense, or loss that the Seller or its employees and/or agents may sustain as a result of any claim pertaining thereto caused by, resulting from, arising out of or occurring in connection with, the Buyer's duties and/or obligations under this Agreement and any other Order Documentation which becomes a part of any agreement between the Seller and the Buyer, and/or any sale, resale, delivery, use and/or consumption of any Goods, except only for such damage or injury caused by the sole negligence of the Seller or its employees. The Buyer shall indemnify and hold the Seller harmless from and against any claims, liability, damage, costs, expenses or losses (including, without limitations, reasonable attorney's fees and expenses) either:

(1) Incurred by the Seller as a result of the Buyer's breach of any term, condition or provision of this Agreement and any other Order Documentation which becomes a part of any agreement between the Seller and the Buyer; or

(2) Arising out of or in connection with the installation, processing, sale, delivery use and/or consumption by any Person of any of the Goods, in whole or in part, unless such claim or injuries are due solely and exclusively to the negligence of the Seller or its employees.

The Buyer agrees to assume, on behalf of the Seller and its employees, the defense of any action at law or equity which may be brought against the Seller upon any indemnification under this paragraph 12, or to pay on behalf of the Seller or upon the Seller's request the amount of any judgment entered against the Seller in any such action. This obligation is continuing and shall not be diminished by any approval or acceptance of, or payment for work or Goods by the Buyer.

Further, the Buyer agrees that it shall take all precautions to ensure the safety of the Goods stored in the Locations and shall be held responsible for any loss or theft of or damage to the Goods stored in the Locations.

12. PRICING

The Seller reserves the right to change the prices at which its Goods are offered at any time and from time to time. Prices are established through Order Documentation outside this Agreement and the terms and conditions set forth herein.

13. CHANGES

The Seller reserves the right to make changes to the terms and conditions contained in this Agreement. Upon written notice to the Buyer, the revised terms and conditions will bind the Buyer and the Seller as is set out herein.

14. TOOLING OWNERSHIP AND PREPARATION

Charges for the preparation of tools and dies are those required for the initial production of the forgings (“Prototypes or PPAP Trials”). The payment of such charges by the Buyer does not convey any title or the right of possession of the Prototypes or PPAP Trials. Such payment does convey the right to the exclusive use by Seller for the Buyer of any special tool required and to their preservation by the Seller for two years after the date of shipment of the last order requiring their use. After the expiration of said two year period, Seller may dispose of said tools in whatever manner it sees fit.

15. GOVERNING LAW

This Agreement shall in all respects be governed by and construed in accordance with the laws (without regard to the conflicts of law rules) of the Commonwealth of Kentucky..

16. JURISDICTION AND VENUE

The Buyer consents to one or more actions being instituted and maintained in the Scott County, Kentucky, and/or the United States District Court for the Eastern District of Kentucky (at the Seller’s discretion) to enforce this Agreement and/or one or more of the other documents comprising the Order Documentation, and waives any objection to any such action based upon lack of personal or subject matter jurisdiction or improper venue. The Buyer agrees that any process or other legal summons in connection with any such action or proceeding may be served by mailing a copy thereof by certified mail, or any substantially similar form of mail, addressed to the Buyer at the address of the Buyer in the records of the Seller. The Buyer also agrees that it shall not commence or maintain any action in any court, administrative agency or other tribunal other than the Scott County, Kentucky, Circuit Court or the United States District Court for Eastern District of Kentucky with respect to this Agreement, any other of the documents comprising the Order Documentation, any of the transactions provided for or contemplated in any of those documents, or any cause of action or alleged cause of action arising out of or in connection with the Goods and/or any buyer and seller relationship between the Buyer and the Seller that may exist from time to time.

17. MISCELLANEOUS

This Agreement shall not be assigned in whole or in part by the Buyer or the Seller without the written consent of the other Party, except that the Seller may, upon written notice to the Buyer, assign its obligation hereunder to any corporation, subsidiary of or affiliated with the Seller. No waiver by either party of any breach of any of the terms and conditions herein contained shall be construed as a waiver of any succeeding breach of the same or any other term or condition.