

**SIFCO INDUSTRIES TERMS AND CONDITIONS**  
**Effective Jan. 2017**

1. **ACKNOWLEDGMENT.** This is the acknowledgment of a written purchase order on the Terms and Conditions herein contained. Any agreement resulting from this acknowledgment shall be deemed to include no printed form provisions contained in Purchaser's communications with respect to this sale which conflict or are inconsistent with the provisions herein contained, both printed and otherwise, unless agreed to in writing by Seller.
2. **PRICES.** Prices quoted herein are based on current costs of material and labor, and if any changes occur in such costs at any time before shipment, prices may be adjusted by us proportionately to such changes in cost - unless prices have been agreed to as firm -fixed for the duration of the order.
3. **TAXES.** All quoted prices are subject to the addition of any applicable sales, excise, manufacturer's, use, or other taxes levied by municipal, state, or federal authorities.
4. **CREDIT.** Terms of payment for forgings shall be net 30 days, FOB point of shipment, unless otherwise established by the Seller in writing or unless for any reason Seller requires payment upon shipment. Preparation charges for Tooling (as defined in Paragraph 7), when invoiced separately, shall, unless otherwise agreed by the parties, be payable upon completion of the Tooling.
5. **PAYMENT.** Payments are to be made in United States funds, unless otherwise stipulated. Seller has the right to require Purchaser to pay interest at a rate of 1½% per month, 18% per year, calculated on a 360 day basis (to the extent permitted by law) on all delinquent balances. Purchaser agrees to reimburse Seller for any attorney's fees or court costs in connection with Seller's collection of this obligation.
6. **DRAWINGS.** Forging design and specifications will be submitted by the Seller for approval by the Purchaser prior to actual production.
7. **PREPARATION CHARGES.** Preparation charges are those required for the initial production of the forgings, including casts of jigs, dies and other non-recurring tooling ("Tooling"). The payment of such charges does not convey any title or the right of possession to the Tooling. If Purchaser pays for or otherwise reimburses Seller for Tooling, Seller will use such Tooling solely to produce products for Purchaser pursuant to the purchase order. When for two (2) consecutive years, Purchaser places no orders for products to be produced using the Tooling, Seller may, by written notice to Purchaser at its last known address, notify Purchaser of Seller's intent to dispose of such tooling. If Purchaser fails to place an order within thirty (30) days of such notice, Seller may dispose of the Tooling in its sole discretion without liability to Purchaser.
8. **TOLERANCES.** Unless otherwise mutually agreed in writing, the Seller reserves the right to produce and ship in one lot the exact quantity which may be ordered, minus the underrun, or plus the overrun, according to the Table of Quantity Tolerances contained in the publication, "Tolerances for Impression Die Forgings," latest edition, as issued by the Forging Industry Association, which is hereby incorporated herein by reference and made a part hereof. Applicable dimensional tolerances are also as specified in the said publication. Unless otherwise mutually agreed in writing, forgings will be furnished with a natural forged surface and without machine work.
9. **DELAYS.** All orders are accepted by Purchaser, subject to Seller's ability to make delivery on time, and Seller shall not be liable for damages for a partial or incomplete shipment of or any added expenses incurred by Seller because of Purchaser's delay furnishing requested information to Seller, delay resulting from order changes by Purchaser, or delay in unloading shipments at delivery point.
10. **SHIPMENT.** Shipment of material to Seller shall be designated freight prepaid and shipments made by Seller shall be designated freight collect. Purchaser is responsible for all shipment charges and expenses. When shipping instructions are specified by Purchaser, Seller shall follow such instructions. If Purchaser fails to provide shipping instructions, Seller shall specify the shipment method, at Purchaser's sole expense. The foregoing includes, but is not limited to carrier's charges and notification prior to delivery, demurrage, delay in unloading, diversion or reassignment. Such charges as may occur in the tariff freight rates or transportation charges, after date of quotation or sale and on or prior to dates of shipment, will be for account of and borne by Purchaser.
11. **TITLE; RISK OF LOSS.** Title of, liability for, and risk of loss for services and materials hereunder shall pass to Purchaser at F.O.B. Seller's facility.
12. **IN TRANSIT CLAIMS.** Claims for damage or shortage in transit must be made against the carrier by Purchaser, since Purchaser is the owner of the shipment according to the F.O.B. terms of the order set forth in Paragraph 11 herein. Purchaser has the responsibility to inspect shipments before or during unloading to identify any such damage or shortage and see that appropriate notation is made on the delivery tickets or an inspection report furnished by the local agent of the carrier in order to support a claim.
13. **CANCELLATION.** Orders will not be subject to cancellation or modification, either in whole or in part, without the Seller's written consent, and then only under terms that will reimburse the Seller for all applicable costs incurred by it, including costs of purchased materials, tools and dies, and a reasonable allowance for profit.
14. **PATENT INFRINGEMENT.** No liability will be assumed by the Seller for the infringement of any patent rights asserted because of the nature, structure or use of any products ordered by the Purchaser, and the Purchaser shall indemnify and hold seller harmless from all claims for loss or damage, and from all court costs, attorney's fees and other expenses paid or incurred by or imposed upon Seller in connection with the defense of any action brought against Seller by reason of Seller's performance of any order. Upon request by the Seller, the Purchaser will undertake at the Purchaser's own cost and expense to defend any such action which may be brought against the Seller.
15. **WARRANTY, LIMITS OF WARRANTY, CLAIMS.** Seller warrants that forgings will be made in conformity with Purchaser's specifications as submitted to Seller within the applicable tolerances for quantity, size and shape as indicated thereby or, in the absence of such indication, as specified in the publication, "Tolerances for Impression Die Forgings," latest edition, as issued by Forging Industry Association. Said forgings will be free of defects in material or in workmanship, Seller's obligation hereunder being expressly limited to repair or replacement, without cost to the Purchaser, of defective forgings, or, at Seller's option, the repayment of the purchase price upon their return. This shall constitute Purchaser's sole and exclusive remedy. Purchaser will notify seller in writing of any forgings, which do not conform to this warranty within 48 hours of discovery but not later than 30 days after their delivery and if Purchaser should fail to give such notification, claims for breach of warranty, if any, shall be waived. There is no warranty that the forgings will be fit for any particular purpose unless specifically so stated herein, nor is there any other warranty as to merchantability or otherwise, expressed or implied, except such as is expressly set forth herein. **EXCEPT FOR THE EXPRESS WARRANTIES CONTAINED HEREIN, THE SERVICES ARE PERFORMED AND ALL DELIVERABLES PROVIDED "AS IS", AND TO THE FULLEST EXTENT PERMITTED BY LAW, WE EXCLUDE ALL OTHER EXPRESS AND IMPLIED TERMS, CONDITIONS, WARRANTIES OR REPRESENTATIONS REGARDING THE SERVICES AND DELIVERABLES ARISING BY LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY IMPLIED TERMS OF MERCHANTABILITY, SATISFACTORY QUALITY, REASONABLE SKILL AND CARE AND FITNESS FOR A PARTICULAR PURPOSE.** Purchaser hereby indemnifies Seller from all liability for damage or injury to any person or firm resulting from any design of a part manufactured by Seller for Purchaser pursuant hereto. Any action for breach of this warranty or other action hereunder must be commenced within one year after such cause of action arises or it shall be thereafter barred.

**16. LIMITS OF LIABILITY.** SELLER'S TOTAL LIABILITY FOR ANY CLAIM OF ANY TYPE WHATSOEVER IN CONNECTION WITH THESE T'S & C'S OR UNDER ANY PURCHASE ORDER OR AGREEMENT SHALL BE LIMITED TO PROVEN DIRECT DAMAGES CAUSED BY SELLER'S SOLE NEGLIGENCE. PURCHASER'S EXCLUSIVE REMEDY FOR ANY CLAIM OF NEGLIGENCE WILL NOT EXCEED THE AMOUNT OF IMPACTED FORGINGS ACTUALLY PAID BY PURCHASER UP TO THE ONE (1) YEAR PERIOD PRECEDING THE DATE OF LIABILITY. SELLER SHALL NOT BE LIABLE IN CONTRACT LAW, TORT, OR ANY OTHER THEORY OF LAW, FOR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL, EXEMPLARY, EXTRA-CONTRACTUAL, OR CONSEQUENTIAL DAMAGE PERTAINING TO THE PRODUCTS OR EQUIPMENT COVERED BY THESE T'S & C'S OR ANY APPLICABLE SERVICES AGREEMENT OR STATEMENT OF WORK. NOR WILL SELLER BE LIABLE FOR LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF BUSINESS, LOSS OF USE, COST OF CAPITAL, COST OF SUBSTITUTED FACILITIES OR EQUIPMENT, OR SERVICE DOWNTIME COSTS. THE LIMITATIONS OF LIABILITY IN THIS PARAGRAPH 16 SHALL NOT APPLY TO THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF SELLER OR ITS EMPLOYEES.

**17. GOVERNMENT REGULATIONS.** Seller will comply with all federal, state and local laws and governmental regulations necessarily applicable to any purchase order given pursuant to this quotation. This quotation is based also upon compliance with the Fair Labor Standards Act of 1938, as amended. Seller recognizes the necessity for giving access to its books of account to authorized Government agents in connection with the sale of forgings and also recognizes the requirements of the Renegotiations Act of 1945 as amended, as well as the requirements of the Termination Act when applicable or required, but considers the giving of cost breakdowns other than weight under DMS Regulation No. 1 with or in connection with quotations on supply contracts not to be required.

**18. STORAGE, PACKING, SPECIAL SERVICES.** Palletizing, storage, packing, cartage, oiling, heat-treating, or painting, and similar processes and services are not contemplated herein and will bear an additional charge.

**19. DEFERRED DELIVERIES.** Deferred deliveries are subject to Seller's approval. Should the Purchaser for good and sufficient cause request that deliveries be delayed and Seller approves; it shall be acceptable on the following conditions only.

- (A) If no release has been given by the Purchaser at the end of thirty days from receipt of such request, Seller reserves the right to render invoice and make shipment of the completed portion of order to destination specified in Purchaser's order and also to submit to Purchaser invoice for approximate value of steel or other raw material purchased and delivered to the Seller in anticipation of production.
- (B) If no release has been given by the Purchaser at the expiration of ninety days from receipt of such request, Seller reserves the right to declare the order cancelled on the terms set forth in paragraph 13.

**20. FORCE MAJEURE.** Seller shall make delivery in accordance with order documents or within a reasonable time in the absence of any commitment but Seller shall not be liable for delays or defaults if delivery caused by acts of God or public enemies, civil war, delay of carriers, terrorism, insurrection or riot, fire, flood, explosion, earthquake or serious accident, strike, labor trouble or work interruption or any cause beyond Seller's reasonable control. In the event that circumstances beyond Seller's reasonable control cause delay in or prevent performance of this contract until a date beyond that contemplated for performance, and if Seller thereby incurs expenses, loss or damage, there shall be a reasonable increase in the contract price to cover such added expense, loss, or damage.

**21. WAIVERS, ALTERATIONS, AND MODIFICATIONS.** No waiver, alteration or modification of the terms and conditions hereof shall be binding on Seller unless in writing and signed by the Seller's authorized representative.

**22. INTELLECTUAL PROPERTY.** Unless expressly agreed otherwise by the Parties, Seller shall have and retain exclusive intellectual property rights to all "Results", (as hereafter defined), obtained by Seller prior to as well as during execution of the Order. The term "Results" includes, without limitation, results of studies, developments, and services obtained or provided in accordance with execution of the Order, such as all inventions, documents, software, materials (samples, outlines, prototypes, etc.), information, data and specific know-how, whether or not technical. The Purchaser commits itself to taking all measures needed to prevent infringement, whether directly or by third parties, of our intellectual property rights in said Results, and to affix such markings as may be specified by us upon such documents or materials comprising or included in said Results, to the exclusion of any other marking including its own.

**23. INTELLECTUAL PROPERTY RIGHTS.** Unless expressly agreed otherwise by the Parties, delivery of Products shall not be deemed to convey to the Purchaser any license to our intellectual property rights. The Purchaser commits itself to take all measures needed to prevent infringement, whether directly or by third parties, of our intellectual property rights, and to affix such markings as may be specified by us upon documents and materials which refer to our property, to the exclusion of any other marking including its own.

**24. SEVERABILITY.** If individual provisions of these General Terms of Sale and Delivery become void in whole or in part, the remaining provisions shall remain in full force and effect. The parties to the contract agree that such void provision will be deemed amended to achieve as nearly as possible the same economic effect as the original terms.

**25. LAW; VENUE; PERSONAL SERVICE.** This order shall be governed by and shall be construed by the laws of the State of Ohio. The parties agree and consent to the exclusive jurisdiction of the federal and state courts located in Cuyahoga County, Ohio, and each party further consents to personal service in connection with any action brought in any such court. FOR ALL SERVICES PROVIDED IN THE STATE OF OHIO, PURCHASER HEREBY AGREES THAT SELLER MAY, AT ITS SOLE DISCRETION, HOLD PURCHASER'S MATERIALS AS COLLATERAL FOR THE NON-PAYMENT OF UNPAID CURRENT OR PRIOR INVOICES UNTIL SUCH ACCOUNT OF PURCHASER IS MADE CURRENT AND NEITHER THE EXTENSION OF CREDIT NOR THE COURSE OF BUSINESS BETWEEN THE PARTIES SHALL BE DEEMED A WAIVER OF ANY STATUTORY OR OTHER LIEN RIGHTS UNDER OHIO LAW.

**26. WAIVERS; AMENDMENTS.** Waiver by Seller of any breach of this agreement, or of any contract of which these terms and conditions are a part of, shall not be construed as a waiver of any other such breach. Seller may amend or modify these terms and conditions upon written notice to Purchaser.

**27. BANKRUPTCY:** Purchaser shall notify Seller in writing (i) upon the institution by or against Purchaser of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of Purchaser's debts, (ii) upon Purchaser making an assignment for the benefit of creditors, or (iii) upon Purchaser's dissolution or ceasing to do business.

**28. INDEPENDENT CONTRACTOR:** Seller is acting as an independent contractor under this agreement. Neither party is, or shall be deemed for any purpose to be, an employee or agent of the other and neither party shall have the power or authority to bind the other party to any contract or obligation. Seller retains the right to perform work for others during the term of this agreement.

**29. COMPLIANCE WITH EXPORT LAWS; FOREIGN CORRUPT PRACTICES ACT.** Purchaser agrees to comply will all U.S. export, import and anti-boycott laws and with the United States Foreign Corrupt Practices Act. Purchaser agrees not to, and agrees to inform its customers in writing that they may not sell, market, export, transfer, or re-export Equipment (including software with encryption), services, technical data or technology to any restricted country or to any company, individual or governmental entity listed in the Table of Denial Orders published from time to time by the U.S. Government (called denied parties). If it lawfully exports any Equipment or Services, Purchaser will be the exporter of record and will obtain any licenses or authorizations from the U.S. Department of Commerce or the U.S. Department of State required for the export or re-export of any Equipment or Services (or encrypted products), technical data or technology.

Purchaser agrees that its employees and agents will not offer, pay, promise to pay, give or promise to give any money or anything of value, directly or through third parties, to any government official, political party, political official, candidate for political office or to any other person, while knowing or having reason to know that all or a portion of such money or thing of value will be offered, paid, given or promised, directly or indirectly, for purposes of influencing any act or decision of any of the foregoing persons or entities or inducing any of the foregoing persons or entities to use his, her or its influence with a government entity or instrumentality to affect or influence any act or decision of such government entity or instrumentality. Purchaser agrees to indemnify, defend and hold harmless Seller and its suppliers from all losses, claims and damages incurred (including, but not limited to, attorneys' fees, court costs, and costs of investigation and defense) by Seller and its suppliers because of Purchaser's failure to comply with this Paragraph 29.