

**SIFCO Forge Group**  
Division of SIFCO Industries, Inc.  
**STANDARD PURCHASE ORDER TERMS AND CONDITIONS**

The following terms and conditions of purchase (these “Terms and Conditions”) are incorporated into and made part of each contract and purchase order (collectively, the “Orders”) pursuant to which SIFCO Forge Group or any of its affiliated companies (“Buyer”) purchases or pays for any goods or services (collectively, the “Articles”) from any individual company or other organization (“Seller”) and together with the Orders and these Terms and Conditions will constitute the entire agreement between Buyer and Seller. THESE TERMS AND CONDITIONS WILL TAKE PRECEDENCE OVER ANY CONTRADICTORY OR ADDITIONAL TERMS OR CONDITIONS WHICH APPEAR IN THE PURCHASE ORDER OR SIMILAR DOCUMENT ISSUED BY SELLER OR IN ANY DOCUMENTS INCORPORATED BY REFERENCE INTO THE ORDER OR SIMILAR AGREEMENT ISSUED BY SELLER (WHETHER WRITTEN OR ORAL). No term or condition of Seller’s Order or similar document which is additional to or different from these Terms and Conditions will become part of the Agreement unless explicitly agreed to in writing by Buyer. Agreement by Seller to enter into the Order or acceptance by Seller of any payment referenced thereunder, will be conclusively deemed acceptance of these Terms and Conditions. Buyer’s failure to object to any provision contained in any communication from Seller will not be construed as a waiver of any term or condition contained in these Terms and Conditions nor as an acceptance of any such provision.

1. **ORDERS.** Each Order will contain a description of the Articles and identify the specifications, drawings, quantities, prices, delivery schedule, terms and place of delivery. Each such order must be confirmed by Buyer or other authorized procurement representative in in writing in order to be binding on Buyer. Seller may ship only against a written Order.
2. **AGREEMENT/ACCEPTANCE/MODIFICATION.** An Order is Buyer’s offer to Seller and acceptance is expressly limited to its terms without additions, deletions, or other modifications. Seller’s commencement of performance, delivery of any supplies or services or acknowledgment of an Order will conclusively evidence such acceptance. No change or modifications to an Order (including any additional or different terms in Seller’s acceptance) will be binding on Buyer unless agreed to in writing.
3. **ORDER OF PRECEDENCE.** In the event of any inconsistency among the provisions of an Order hereunder, such inconsistency will be resolved by giving precedence in the following sequence: (A) provisions typed on the face of the Order, (B) these Terms and Conditions, (C) other documents, exhibits and attachments provided by Buyer and (D) the specifications provided to Seller by Buyer.
4. **CHANGES.** Buyer may by written notice make changes within the general scope of any Order. Seller will proceed immediately to perform this Order as changed. Upon receipt of notice of a change, the existing Order will be cancelled and a new Order will be issued. If any such change causes an increase or decrease in the cost of or the time required for the performance of any part of the work in Order, Buyer and Seller will agree upon an equitable adjustment in the purchase price or delivery schedule or both. To qualify for adjustment consideration, any notice of intent by Seller to file a claim under this clause must be delivered to Buyer within one (1) week from the date of receipt by Seller of such written notice of change. Buyer may act upon any such claim at any time prior to final payment under an Order. Nothing in this clause will excuse Seller from proceeding with the Order as changed. Seller will notify Buyer in writing of changes in product and/or process definition and, where required, obtain written approval from Buyer. Seller will notify Buyer in writing of any changes, which may affect the quality of the Article including changes in ownership, senior management, and manufacturing location.
5. **TERMINATION FOR CONVENIENCE.**
  - (A) The performance of work under an Order may be terminated, in whole or in part, by Buyer for its convenience. Termination of work will be effected by delivery to Seller of a notice of termination specifying the extent to which performance of work under the Order is terminated, and the date upon which such termination becomes effective.
  - (B) After receipt of a notice of termination and except as otherwise directed by Buyer, Seller will:
    - (i) Stop work under the Order on the date and to the extent specified in the notice of termination;

- (ii) Place no further Orders or suborders for materials, services, or facilities except as may be necessary for completion of such portions of the work under the Order that is not terminated;
  - (iii) Terminate all Orders and suborders to the extent that they relate to the performance of any work terminated by the notice of termination;
  - (iv) Assign to Buyer, in the manner, and to the extent directed by Buyer all the right, title and interest of Seller under the Orders or subcontracts so terminated;
  - (v) Settle all outstanding liabilities and all claims arising out of such termination of Orders and subcontracts subject to the approval or ratification of Buyer to the extent Buyer may require, which approval or ratification will be final for all the purposes of this Section 5;
  - (vi) Transfer title and deliver in the manner, to the extent, and at the times directed by Buyer (1) work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the terminated by the notice of termination, and (2) the completed or partially completed plans, drawings, information, and other property which, if the Order had been completed, would be required to be furnished to Buyer;
  - (vii) Use its best efforts to sell in the manner, to the extent, at the time, and at the price or prices directed or authorized by Buyer, any property of the types referred to above; provided however, that Seller (1) will not be required to extend credit to any purchases, and (2) may acquire any such property under the conditions prescribed by and at a price or prices approved by Buyer; and provided further that the proceeds of any such transfer or disposition will be applied in reduction of any payments to be made by Buyer to Seller under an Order or will otherwise be credited to the price or cost of the work covered by an Order or paid in such other manner as Buyer may direct;
  - (viii) Complete performance of such part of the work that has not been terminated by the notice of termination; and
  - (ix) Take such actions as may be necessary or as Buyer may direct for protection and preservation of the property related to an Order, which is in the possession of Seller and in which Buyer or Buyer's customer has or may acquire an interest.
- (C) After receipt of a notice of termination, Buyer will accept a written termination claim from Seller if such claim is received by Buyer not later than one (1) week from the effective date of termination. Settlement proposals for Seller's termination claim must be on the forms prescribed by Buyer unless otherwise agreed to by Buyer and Seller. Settlement proposals must be in the detail prescribed by such forms and must be accompanied by full and complete supporting documentation as required by Buyer. Buyer and Seller will work together to come to mutual agreement on any amounts owed by Buyer arising from a termination of an Order pursuant to this Section 5.
- (D) In no event will the total sum to be paid to Seller, pursuant to this Section 5, exceed the total Order price reduced by the amount of payments otherwise made and as further reduced by the Order price of work not terminated. Except for normal spoilage and except to the extent that Buyer will have otherwise expressly assumed the risk of loss, there will be excluded from the amounts payable to Seller the fair value as determined by Buyer of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to Buyer or to its customer. In no event will Buyer be responsible for the payment of any consequential, special, or incidental damages.
- (E) The obligation of Buyer to make any payments under this Section 5 will be subject to deductions with respect to (i) all unliquidated advance or other payments on account theretofore made to Seller applicable to the terminated portion of the Order, (ii) any claim which Buyer may have against Seller, in connection with the Order or any other transaction with Seller, and (iii) the agreed price for, or the proceeds of sale of any materials, supplied, or other things retained by Seller or sold, and not otherwise recovered by or credited to Buyer.

**6. STOP-WORK ORDER.**

- (A) Buyer may by written notice to Seller, require Seller to stop all, or any part, of the work called by an Order for a period not to exceed ninety (90) days after the stop-work order is delivered to Seller, and for any further period to which the parties may agree. Upon receipt of the stop-work order, Seller will immediately comply with its terms and take all reasonable steps to mitigate costs allocable to the work covered by the Order.
- (B) If a stop-work order or any extension thereof expires, Seller will not resume work without Buyer's written consent. Buyer will make an equitable adjustment in the delivery schedule or purchase order price, or both, where necessary in its reasonable discretion.

**7. TERMINATION FOR CAUSE.**

- (A) (1) The Order may be terminated by Buyer at any time immediately upon written notice in the event of Seller's material breach of any term or provision of these Terms and Conditions or if Seller fails to:
  - (i) Deliver the Articles within the time specified in an Order or any extension.
  - (ii) Make progress, so as to endanger performance of an Order.
  - (iii) Comply with any other provision of the Order or written directions or specifications provided by Buyer.(2) Buyer's rights to terminate an Order under the subdivisions above of this Section 7 may be exercised if Seller does not cure such failure within (10) days (or more if authorized in writing by Buyer) after receipt of the notice from Buyer specifying the failure.
- (B) If Buyer terminates an Order in whole or in part, it may acquire, under the terms and in the manner Buyer considers appropriate, Articles similar to those terminated, and Seller will be liable to Buyer for any excess costs for those Articles. However, Seller will continue the items not terminated.
- (C) If an Order is terminated for cause, in addition to any and all remedies available to Buyer, Buyer may require Seller to transfer the title and deliver to Buyer, as directed by Buyer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information and contract rights (collectively referred to as "manufacturing materials") that Seller has specifically produced or acquired for the terminated portion of an Order. Upon direction of Buyer, Seller will also take all actions necessary to protect and preserve property in its possession in which Buyer has an interest.
- (D) Buyer will reimburse Seller the reasonable cost for manufacturing materials delivered and accepted and for the protection and preservation of the property upon a termination of an Order pursuant to this Section 7. Buyer may withhold from these amounts any sum Buyer determines to be necessary to protect Buyer against loss because of outstanding liens or claims of former lienholders and Buyer's estimate of excess procurement costs and any other costs or expenses incurred by Buyer arising from the termination for cause.
- (E) In addition to the provisions of subsection (A) of this Section 7, Buyer may by written notice terminate the entire Order, or any part thereof, in the following circumstances:
  - (i) Seller consents to the appointment of a receiver, trustee, liquidator, assignee, custodian, sequestrator or similar official of Seller or of all or a substantial part of its property, or Seller admits in writing its inability to pay its debts generally as they come due, or makes a general assignment for the benefit of creditors; or

- (ii) Seller files a voluntary petition in bankruptcy or a voluntary petition or an answer seeking reorganization in any bankruptcy or insolvency case or an answer admitting the material allegations of a petition filed against Seller in any such case, or an order for relief is entered against Seller in any such case, or Seller seeks relief by voluntary petition, answer or consent, under the provisions of any other now existing or future bankruptcy or other similar law providing for the reorganization or winding-up of the corporation, or providing for an agreement, composition, extension or adjustment with its creditors; or
  - (iii) An order, judgment or decree is entered in any proceeding by any court appointing, without the consent of Seller, a receiver, trustee, liquidator, assignee, sequestrator similar official of Seller or of all or any substantial part of its property, or sequestering all or any substantial part of the property of/Seller, and any such order, judgment or decree of appointment or sequestration remains in force un-dismissed, unstated or unvacated for a period of ten (10) days after the date of entry thereof; or
  - (iv) A petition against Seller in any bankruptcy or insolvency case in effect is filed and is not withdrawn or dismissed within ten (10) days thereafter.
  - (v) The dissolution or liquidation of Seller; or
  - (vi) The cancellation, suspension or other revocation of licenses, permits or authorizations necessary for Seller to conduct its business.
- (F) In the event Seller enters into bankruptcy proceedings, whether voluntary or involuntary, Seller agrees to furnish written notification of the bankruptcy to Buyer within five days of the initiation of bankruptcy proceedings. The notification will include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy was filed, a listing of all outstanding Orders from Buyer and a listing of all buyer –furnished property in Seller’s possession.

**8. BUYER-FURNISHED PROPERTY.**

- (A) Seller will not use, reproduce, appropriate or disclose to anyone other than Buyer, any material, samples, tooling, dies drawings, designs, specifications, software, technical information, customer information and other property or data furnished by Buyer; nor will Seller use the same to produce or manufacture Articles other than those required hereunder without prior written authorization from Buyer.
- (B) Title to such Buyer-furnished property will be and remain with Buyer at all times. Buyer does not guarantee the accuracy of any tooling or the quality or suitability of any material supplied by it. Seller will bear the risk of loss, damage or destruction of the property furnished by Buyer and will promptly replace or repair without expense to Buyer any property which is lost, damaged or destroyed unless such loss, damage or destruction is solely, directly and proximately caused by Buyer’s negligence. All Buyer-furnished property, together with surplus materials, will be returned to Buyer at termination or completion of this Order unless Buyer will direct otherwise in writing.

- (C) When Buyer furnishes material, scrap allowance is per purchase order line quantity, per this table:

0-25 pieces	1 piece
26-50 pieces	2 pieces
51 pieces and up	3 pieces max.

Seller will be responsible for the value of all scrap in excess of the allowable amount.

- (D) Where Buyer’s data, designs or other information are furnished to Seller’s suppliers for procurement of supplies or services by Seller for use in the performance of Buyer’s Order, Seller will insert the substance of this provision in its subcontracts. Seller acknowledges that any such data, designs or other information of Buyer are unique, and that Buyer may enforce its rights under this paragraph by specific performance.

- (E) Seller will pay all taxes and similar charges, which are legally imposed upon any tools or materials in Seller's possession, to which Buyer retains or acquires title.
- (F) Designs, tools, jigs, fixtures, templates, patterns and drawings (hereinafter collectively called "tools") furnished by Buyer and tools (except as provided in (b) hereof) made or acquired by Seller for performance of Buyer's Order, the cost of which is separately quoted or amortized in the unit price, will remain or become the property of Buyer. Such tools will be used exclusively for production under Buyer's Orders.
  - (i) Seller will maintain the tools referred to in (i) above and will replace when necessary. Seller will not make any alterations in such tools without Buyer's specific written authorization.
  - (ii) Tools made or acquired by Seller for performance of Buyer's Order, the cost of which is chargeable to Buyer, will be separately identified as directed by Buyer. Payment for such tools will not be made until acceptable Articles have been received and approved by Buyer and satisfactory evidence is received by Buyer that proper identification has been made.
- (G) Seller will provide an annual accounting and physical inventory to Buyer of all buyer-furnished property including parts, tooling, fixtures, etc., provided to Seller as a result of this Order. Such accounting will be provided by Seller to Buyer within one (1) week after Buyer's request.
- (H) Seller agrees that a copy of this Order and any applicable attachments or supplements may be filed with any cognizant governmental agencies and agrees to execute required documents, including, without limitations, Uniform Commercial Code financing statements, and take other action as Buyer deems appropriate in order to protect Buyer's and Buyer's Customers' rights in Buyer-furnished property.

**9. QUALITY REQUIREMENT; BUYER'S REMEDY**

- (A) Seller will provide and maintain a Quality System approved by SIFCO Quality/Procurement group ("Quality System"). Seller will provide, at no charge to Buyer, appropriate facilities reasonably necessary to allow Buyer/or customer to perform quality inspection activities as they may be required pursuant to these terms.
- (B) Seller will provide and maintain a Quality System acceptable to Buyer and in compliance with MIL-1-45208A or MIL-Q-9858A if so identified in an Order. Seller agrees that, Buyer's authorized customer, purchasing, technical and quality assurance representatives and agents (including but not limited to DCAS and FAA representatives, as applicable) will be entitled to enter the plant of Seller at all reasonable times for the purposes of maintaining liaison between Seller's quality control system and Buyer, for reviewing Seller's manufacturing and processing plans and records, and for conducting preliminary inspection and tests of the Articles. Seller also agrees that a similar provision giving Buyer the right to enter the plants of Seller's subcontractors and suppliers will be included by Seller in its subcontracts relating to products. If required by Buyer, Seller will provide, at no charge to Buyer, appropriate facilities reasonably necessary to allow the customer/Regulatory Agencies/Buyer/Government/and/or/FAA representatives to perform quality control/inspection activities as may be required. Records of all inspection, processing and test work by Seller will be kept complete and be made available to Buyer during the effectiveness of this Agreement, the performance of any Orders hereunder and for such longer period as may be specified elsewhere in these Terms or in any such Order.
- (C) For Rolls Royce end use product the following record retention requirements apply per RR9000 SABRe, Section 5: All Inspection and testing procedures, laboratory and other test records, heat treatment and processing records and inspection history will be retained until informed by Rolls Royce (via SIFCO correspondence) that product has been withdrawn from use.
- (D) All Articles are subject to final inspection and acceptance by Buyer at destination, notwithstanding any payment or prior inspection at source. The final inspection will be made within a reasonable time after receipt of the Articles. Buyer may notify Seller if any supplies delivered hereunder are rejected, and such supplies will be held by Buyer or returned to Seller at Seller's risk and expense.

- (E) Inspection and test by Buyer do not relieve Seller of responsibility for defects or other failures to meet an Order's requirements discovered after acceptance. Sellers providing machining operations may be subject to first piece submittal to Buyer for inspection acceptance. Seller will maintain inspection records for the balance of each lot, which will be made available to Buyer upon request.
- (F) In addition to all other remedies provided by these Terms and Conditions and by law, including Buyer's right to claim any other damages and to require repair or replacement of nonconforming or defective Articles in its sole discretion, a \$450.00 charge for handling and re-inspection of all Articles which are found to be nonconforming or defective, may be charged to Seller. If the Articles are returned, all freight charges will be the responsibility of Seller. Further cost of any value added by Buyer will be the responsibility of Seller if the item furnished is found to be nonconforming or defective after processing has begun.
- (G) Seller will notify Buyer in writing of any Article that may be defective or nonconforming as a result of Seller's processing. Seller will be responsible for costs of defective or nonconforming Articles.
- (H) Raw material dimensional (size) tolerances provided as a supplement to these terms and conditions must be adhered to. Any variance or exception from these standards must be approved in advance by Buyer in writing. In addition the following surface quality requirements apply to all bars and billets purchased by the SIFCO Forge Group: (i) condition all forging stock to minimize or eliminate all detrimental surface imperfections; (ii) the depth of grinding will not exceed 1/32 inch for each inch of dimension up to a maximum of 1/2" inch (iii) all conditioned areas will be blended; (iv) the width of blend will be at least 4x the depth of metal removed; (v) the surface finish of the bars/billets and ground areas will not exceed 500 RMS.
- (I) Under no circumstance is Seller permitted to use substitute material to replace defective Articles or to repair or rework them by welding or otherwise without Buyer's prior written approval.
- (J) Seller's software Quality Program in supply of item(s) in an Order will be in compliance with the provisions of the revision of DOD-STD-2168 "Defense System Software Quality Program" in effect at the date of an Order, as applicable.

## 10. INSURANCE.

- (A) Seller agrees to secure and carry as a minimum the following insurance covering all work to be performed under this Order:
  - (i) General liability insurance in which the limit of liability will be as follows:
    1. Bodily injury and property damage – each occurrence \$1,000,000;
    2. General aggregate limit (other than products and completed operations) - \$2,000,000;
    3. Products and completed operations aggregate - \$2,000,000; and
    4. Personal injury and advertising injury - \$1,000,000.
  - (ii) Workers' Compensation insurance in which the limits of liability will be as follows:
    1. Workers' Compensation – statutory coverage;
    2. Employers' liability including Ohio Stop Gap - \$1,000,000;
    3. Bodily injury \$1,000,000, each accident;
    4. Bodily injury by disease \$1,000,000, policy limit;

5. Bodily injury by disease \$1,000,000, each employee;
- (iii) Commercial automobile insurance in which the limits of liability will be - \$1,000,000 each accident;
  - (iv) Commercial umbrella insurance in which the limits of liability will be - \$3,000,000 each occurrence/aggregate; and
  - (v) Contractual liability insurance sufficient in scope of coverage and amount (in Buyer's reasonable discretion) to cover the liabilities herein assumed by Seller.
- (B) All such insurance will be issued by companies with a financial rating of at least A-6 and authorized to do business under the laws of the applicable governmental authority for the place in which Seller is located, will be in form satisfactory to Buyer, and will contain a provision prohibiting cancellation except upon at least thirty (30) day's prior notice to Buyer. All such insurance policies will be primary in the event of a loss arising out of Seller's performance of work. Certified copies of said policies or certificates evidencing such insurance naming Buyer as an additional insured will be provided to Buyer upon request within 30 days after the date of an Order and within a reasonable time after any renewals or changes to such policies are issued. Any failure of Buyer to request evidence of such coverage will in no way reduce or affect Seller's obligation to name Buyer as an additional insured.
11. **WARRANTY.** Notwithstanding inspection and acceptance by Buyer of Articles furnished under an Order, Seller warrants that all Articles delivered under an Order will (A) be free from defects in material and workmanship; (B) be merchantable; (C) conform to applicable descriptions, specifications and drawings contained in an Order; (D) comply with all applicable federal, state, local and provincial laws and regulations; and (E) convey good title to Buyer and the Articles will be delivered free from any lien or encumbrance; and to the extent such Articles are not manufactured pursuant to detailed design by Buyer, will be free from defects in design and fit for the intended purposes. Seller's warranties will be enforceable against Seller by Buyer's customers, as well as Buyer. The exercise of any remedy herein shall be without prejudice to any other right or remedy available to either party. Upon its receipt of Articles from Seller, to the extent such Articles do not conform to specification or the other warranties set forth in these Terms and Conditions, Buyer may reject the Articles and return such rejected Articles to Seller, at Seller's expense. Seller shall then promptly replace such rejected Articles, at Seller's sole cost and expense. If Seller is unable to replace the Articles or if Buyer so chooses, Buyer shall be entitled, at its option, to (i) offset the amount paid for such rejected Articles against future amounts owed to Seller, or (ii) obtain a refund from Seller for the amount paid for such rejected Articles, including taxes, freight, and insurance paid by Buyer. Seller shall dispose of such rejected Articles at its own expense according to all appropriate regulations.
12. **PATENT PROTECTION / INDEMNITY.** Seller will defend, at Seller's expense, Buyer, its successor and assigns, and customers of Buyer, and indemnify and hold them harmless of, from and against any and all costs, liabilities, damages, losses, expenses (including attorney's fees) arising out of claims that Articles or services furnished by Seller under an Order infringe any United States Patent, copyright or invention rights and/or trade secrets under any applicable law, and with respect to any and all suits, controversies, demands, costs, damages, losses and liabilities (including attorney's fees) arising out of any such claims, whether against Buyer or against those selling or using the Articles covered by an Order.
13. **QUANTITY RECONCILIATION / ADJUSTMENTS.** All Articles shipped to outside process sources must be count verified by that source upon receipt of Articles. Any discrepancies in count must be reported to Buyer, in writing, within 2 days of receipt and prior to outside source commencing work. Shortages that arise after the Articles have been processed will be the responsibility of Seller. All scrap Articles must be returned to Buyer for verification. Failure to adhere to this procedure will result in adjustments to Seller's invoice.
14. **PAYMENT, DISCOUNT AND PRICES.**
- (A) Payment by Buyer will be made net 60 from the date Articles are delivered and accepted or an acceptable invoice is received, whichever is later. Any payment discounts will be calculated from the same date. Discount terms will be clearly stated on the face of each invoice.

- (B) Seller warrants and represents that Article's price in an Order does not exceed the contract price for the same or similar Articles to any other customer during the term of the Order. Seller guarantees that the price to be paid for the Articles will be quoted on the face of the Order. The price on the Order are not subject to any increase or additional charges because of increased costs, any change of law or any other reason.

**15. INVOICING, PACKING AND SHIPPING.**

- (A) Separate invoices are required for each Order and must be sent to SIFCO Forge Group, Attn: Accounts Payable, 970 East 64th Street, Cleveland, Ohio 44103. Buyer will only pay for Articles upon receipt of an invoice from Seller upon shipment that complies with this Section 15.
- (B) All invoices must be in English. Invoices for Articles must include the following:
  - (i) Purchase order number;
  - (ii) Seller invoice number and date;
  - (iii) Payment terms;
  - (iv) Purchase price and supporting detail as required by purchase order;
  - (v) Packing slip number;
  - (vi) Shipping date;
  - (vii) Name of Seller;
  - (viii) Billing Name and Address;
  - (ix) Delivery terms (e.g. FOB, DDP);
  - (x) Complete description of the Articles, including name, part number, serial number, quantity, weights and measures and any other identify markings;
- (C) Invoices are to be the same unit of measure as listed in the Order. An invoice should not contain items ordered on more than one Order.
- (D) Single item containers will be identified with Order number, part number, and quantity. When multiple Orders or items are combined in one container, they must be separately packaged inside the container and the packages identified as to Order number, part number and quantity.
- (E) Separate packing lists are required for each Order and must accompany each shipment. The location of the packing slip must be clearly marked on the container.
- (F) Premium transportation will be paid by Buyer only when specifically authorized. Seller will not prepay, insure or declare value of any shipment made F.O.B. shipping point.
- (G) Seller to comply with shipping instructions as stated on Orders.

Failure of an invoice to comply with any of the requirements of this Section 15 may result in a holdback in payment by Buyer.



## 16. DELIVERY.

- (A) All shipments are F.O.B. Buyer's plant and risk of loss will pass only when and to the extent (i) conforming Articles have been received at Buyer's warehouse or other location designated by Buyer in an Order, and (ii) an authorized representative of Buyer has signed the bill of lading or other shipping document acknowledging receipt. Seller will not subcontract or manufacture in advance of reasonable flow time, or deliver any Articles in advance of requested delivery schedule. The shipping and/or arrival date specified in an Order is critical and Order shipment or work completion will be made within the time specified therein. If Articles are received more than three (3) days ahead of schedule, Buyer reserves the right to refuse delivery at the Seller's cost or keep the Articles and make payment as if the delivery was made per the delivery schedule.
- (B) Buyer reserves the right upon any such failure, upon notice to Seller, to cancel its order and purchase the Articles from a vendor of Buyer's choice and charge Seller with all loss or damaged occasioned thereby, unless deferred shipment or services has been authorized in writing by an authorized representative of Buyer. Seller will notify Buyer promptly in writing if at any time Seller has reason to believe that deliveries will not be made as scheduled, stating the causes for this anticipated delay. Time is of the essence, and Seller is notified that failure to ship on time will result in substantial damage to Buyer. Unless otherwise specified by an Order all Articles purchased under an Order must be tendered in a single delivery and not in lots from time to time. If delivery is not made as specified by these Terms and Conditions, Buyer may terminate an Order as to all or any portion of the Articles ordered and Seller agrees to indemnify Buyer for any loss, damage or penalty resulting from Seller's failure to make delivery as specified, including any incidental and consequential damages. If Seller fails to meet Buyer's time schedule, Seller, upon Buyer's request, will make express shipments at Seller's expense.
- (C) Seller will not reserve a security interest in shipped Articles. Seller will have a responsibility for and expense of preparing and filing claims against carriers for loss or damage to the Articles in transit. Seller will follow Buyer's written instructions as to mode and routing of shipments in addition to other rights and remedies provided in these Terms and Conditions. Buyer may reject the Articles shipped contrary to instructions or not in recognized standard containers.
- (D) For shipments originating and/or terminating outside the United States; unless otherwise specified in the Order, all shipments which originate outside the United States and terminate in the United States or outside the United States will be delivered "Delivery Duty Paid" (DDP), Buyer's designated destination. The term "DDP" and the rights and obligations of Buyer and Seller will be as defined by Incoterms 2000, the ICC Official Rules for the Interpretation of Trade Terms.
- (E) Should Seller experience or anticipate any delay in performing an Order, whether or not such delay is excusable under the Force Majeure clause, (Section 36), Seller will immediately notify Buyer of such delay, its expected duration and the reasons thereof. Neither such notification nor an acknowledgment by Buyer will constitute a waiver of the Order's delivery schedule. The delivery schedule will not be modified unless the parties do so in writing. Seller will be liable for any direct, special, incidental, or consequential damages resulting from a delay unless the delay is waived by Buyer in writing.
- (F) Partial shipments can only be made with Buyer's written approval. If unapproved partial shipment is made, Buyer, at its option may: (i) return item(s), (ii) and withhold invoice payment until the total order has been received or (iii) process the material and charge the Seller for any additional set-up cost incurred, plus \$500.00 for additional material handling and invoice processing.
- (G) A minimum and maximum weight tolerance is provided on each Order for raw material. All overages and under weight shipments of more the 10% must be communicated to Buyer prior to shipment for disposition. Failure to comply with this Order provision can result in over shipments being returned at Seller's expense.
- (H) Any delivery forecasts provided by Buyer to Seller relative to an Order is for planning purposes only and will be provided without any obligation or liability on Buyer's part. Such delivery forecasts will not relieve, modify, or otherwise alter Seller's obligations to meet the required delivery dates or quantity requirements set forth in this Order.

17. **ASSIGNMENT.**
- (A) Upon written notice to Seller, Buyer may assign this Order or any interest hereunder, without recourse.
  - (B) Performance of this Order will not be assigned or delegated by Seller in whole or in part without the prior written consent of Buyer.
18. **CLEARANCE OF MATERIAL INTENDED FOR PUBLIC RELEASE.** No news release, including photographs and films, advertisement, public announcement, denial or confirmation of same, or any part of the subject matter of an Order will be made without prior written approval of Buyer.
19. **SETOFF AND WITHHOLDING.** Buyer may set off an amount due from Seller, whether or not under an Order, against any amount due Seller hereunder. Buyer may withhold from payment to Seller an amount sufficient to reimburse Buyer for any loss, damage, expense, cost or liability relating to Seller's alleged or actual failure to comply with any requirements of an Order or any other Order issued by Buyer to Seller.
20. **DRAWINGS.** Seller may make no drawing changes without Buyer's prior written approval. Seller will provide updated drawings to the new configuration with explanation as to how the changes incorporated differ from the previous configuration on all changes.
21. **DISPUTES.**
- (A) In the event the parties hereto have a dispute under an Order concerning any questions of law or fact, the parties agree to attempt to resolve the dispute in good faith for a period of thirty (30) days. In the event such dispute cannot be settled between the parties in that time, either party hereto may avail themselves to whatever remedies may be available to them at law or in equity in accordance with Section 27 of these Terms and Conditions.
  - (B) Pending final decision of any dispute hereunder, Seller will proceed with performance of the Order. If the dispute arises out of a difference in interpretation between the parties as to the performance requirements of the Order, then Seller will continue performance with the interpretation of performance as determined by Buyer.
22. **ATTORNEY FEE.** If Buyer brings a successful action or asserts a successful counterclaim for enforcement of these Terms and Conditions, Seller agrees that Buyer will be entitled to an award of its reasonable attorney's fees and court costs associated with such enforcement or counterclaim proceedings.
23. **GRATUITIES.**
- (A) Seller (nor any agent or representative of Seller) will not offer gratuities to any employee of Buyer (Buyer may accept common courtesies, sales promotions, business related meals, entertainment, gifts or favors when the value involved is not significant and clearly will not place Buyer under any obligation to Seller). Failure of Seller to honor this commitment may, at Buyer's option, result in termination of one or more Orders per Termination for Cause.
  - (B) [All Orders are subject to the Anti-Kickback Act of 1986, which prohibits any person from providing or offering, or attempting to offer kickbacks or soliciting or accepting kickbacks. Seller will have and follow procedures designed to prevent and detect possible violations, will report in writing any violations to the SIFCO Forge Group, General Manager, and will cooperate fully with any federal agency investigating a possible violation. The substance of this clause will be included in all subcontracts issued under an Order. By acceptance of any Order with these terms and conditions, Seller (Subcontractor) hereby certifies that it has not paid kickbacks.]
  - (C) Seller warrants that it is in full compliance with the provisions of the Anti-Kickback Law, and any other federal procurement laws, and will indemnify and hold buyer harmless from any liability Buyer may incur resulting from Seller's failure in such compliance.

24. **COMPLIANCE WITH LAWS.**

- (A) Seller will comply with all federal, state, and local laws, executive regulations and orders. Seller will produce the Articles in compliance with all requirements of all applicable laws. Seller will indemnify and hold Buyer harmless to the full extent of any loss, damage or expense, including lost profit, attorneys' fees and court costs, for any failure or alleged failure of Seller to comply with the requirements of this paragraph.
- (B) **[Seller hereby certifies that any Articles called for by an Order that are manufactured in the United States have been or will be produced in compliance with the Fair Labor Standards Act of 1938 (29U.S.C. paragraph 201-219) and, insofar as applicable to this Order, the Walsh-Healy Public Contracts Act (41 U.S.C. paragraph 35-45) and the Work Hours Act of 1962 (40 U.S.C. paragraph 327-332), and any amendments thereto, as well as with the provisions of any other federal law with respect to labor relations, minimum wages and hours of employment, now in effect or hereafter enacted, and with any and all rules and regulations issued under each and every such act. Seller agrees that this certification may be considered as the certificate contemplated by the amendment dated October 26, 2949, to the Fair Labor Standards Act of 1938.]**

25. **INDEMNIFICATION.**

- (A) In addition to the other indemnification provisions set forth herein, Seller covenants and agrees to defend, indemnify, protect, and hold harmless Buyer, its officers, directors, employees and agents ("Indemnified Person") from and against any liability, claim of liability allegation, judgment, cost expense (including reasonable attorneys' fees), cause of action, loss, or damage whatsoever, including, without limitation, death or injury to any person or damage to any property, resulting from or arising out of Seller's performance under an Order, howsoever arising, including, without limitations, by reason of negligence, breach of warranty, defect in design, material, workmanship or Service, or strict liability, unless caused by the sole negligence of the Indemnified Person. In the event Buyer should bring an action for enforcement of this indemnification provision, Seller agrees that Buyer shall be entitled to be awarded its reasonable attorneys' fees and costs if Buyer prevails in such proceeding.
- (B) Seller agrees in any instance where any claims, suites, action or legal proceedings, are brought against Seller and in any way affect Buyer's interest under an Order or otherwise, that;
  - (i) Seller shall notify Buyer in a timely manner (not to exceed five (5) business days) after learning of any actual or threatened claims, suites, actions or legal proceedings, and shall not at any time consummate any settlement without Buyer's prior written consent;
  - (ii) Without releasing any obligation, liability or undertaking of Seller to indemnify Buyer hereunder, Buyer shall have the right to:
    1. Cooperate in the defense of such claim;
    2. With permission of the court, intervene in any such action; and
    3. Supersede Seller in the defense of any such claim.

26. **OCCUPATIONAL SAFETY AND HEALTH ACT. [Seller certifies it is in compliance with the provisions of OSHA. If the Articles purchased herein are considered toxic or hazardous as defined in Section 1910.1000 of General Industrial Stands, two copies of the material safety data sheet must be submitted to Buyer prior to shipment of the Articles.]**

27. **APPLICABLE LAW AND VENUE.** These Terms and Conditions and an Order issued hereunder are to be governed by and construed exclusively under the laws of the State of Ohio, U.S.A. Both Buyer and Seller hereby submit to the exclusive jurisdiction and venue of the Courts of General Jurisdiction of the State of Ohio in the County of Cuyahoga. Buyer and Seller hereby agree that the above sets forth the sole and exclusive jurisdiction and venue in which any lawsuit involving this contract may be filed.

28. **EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION.** [Seller will comply with the following sections of the Code of Federal regulations: 48 C.F.R. section 52.222-26 (“Equal Opportunity”) 48 C.F.R. section 52.222-35 (“Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans”); and 48 C.F.R. section 52.222-36 (“Affirmative Action for Workers with Disabilities”), Executive Order 13201 (“Notification of Employee Rights Concerning Union Dues and Fees), as the same may be amended from time to time, to the extent that such sections are applicable to Seller’s performance under an Order.]
29. **ETHICAL PRACTICES.** Seller will not recruit or induce Buyer’s employees whose area of direct responsibility is related to an Order to become employees of Seller during the term of an Order or for a period of two (2) years thereafter.
30. **PARTIAL INVALIDITY WAIVER.** If any provisions of these terms and conditions or an Order hereunder, is or become void or unenforceable, the other provisions will remain valid and enforceable. Any waiver by Buyer must be in writing, and waiver of one provision of these Terms and Conditions by Buyer will in no way act as a waiver of any other provisions herein.
31. **PATENT RIGHTS.** Seller agrees to assign and assigns to Buyer an interest Seller may have in inventions conceived by Buyer and reduced to practice by Seller using funds provided by Buyer under an Order. Seller hereby agrees to grant and does hereby grant to Buyer a worldwide irrevocable, non-exclusive, royalty-free license to make, use and sell any invention conceived or first actually reduced to practice in the course of or under the Order.
32. **CONDITIONS APPLICABLE IF GOVERNMENT CONTRACT NUMBER APPEARS IN THE ORDER.** If this Order contains a Government contract number, Federal Acquisitions Regulation Part 15 & 52 and Department of Defense FAR Supplement Part 252 are incorporated herein and made a part hereof to the extent that they apply to the Government contract and take precedent to the extent they conflict with any other terms herein.
33. **ITAR REQUIREMENTS.** Suppliers of goods and services to SIFCO Forge Group must meet International Traffic in Arms Regulations requirements as applicable.
34. **CUMULATIVE REMEDIES.** The rights and remedies herein reserved to Buyer will be cumulative and additional to any other or further rights and remedies provided in law or equity.
35. **SURVIVAL.** Seller agrees that the Warranty (11), Patent Protection/Indemnity (12), Delivery (16) Setoff and Withholding (19), Gratuities (23), Compliance with Laws (24), Indemnification (25), Applicable Law and Venue (27), Patent Rights (31) and Survival (35), of these Terms and Conditions and all provisions which relate to claims which may be made by Buyer under these Terms and Conditions will survive and continue in full force and effect upon the termination of an Order.
36. **FORCE MAJEURE.** Nether Buyer nor Seller shall be liable for delay or default in the fulfillment of their obligations under these Terms and Conditions due to matters beyond the reasonable control of the party charged with performance, including acts of God, accident, riot strike, war, embargo or government interference. During any such delay or default by Seller, Buyer may elect to purchase the Articles elsewhere and, at Buyer’s sole option, apply such purchases to reduce the quantity of goods or services deliverable under any Order.
37. **NO WAIVER.** Buyer’s failure to seek remedy for any breach by Seller or Buyer’s failure to insist on performance of any of the terms or conditions herein or exercise any right or privilege hereunder will not thereafter be deemed a waiver for any such terms, conditions, or privileges or any other terms, conditions, or privileges whether of the same or similar type.
38. **A WRITING.** Any mention of a requirement of written notice or other requirement of a writing may be satisfied by an email or facsimile transmission, in addition to traditional mail service.
39. **ENTIRE AGREEMENT.** These Terms and Conditions and an Order constitute the entire agreement between Buyer and seller and supersedes all prior oral and written agreements, course of performance, communications and negotiations between the parties with respect to the subject matter herein.