

TERMS & CONDITIONS OF SALE

1. General

- a. Buyer's acceptance of delivery or of Seller's quotations and placement of a Purchase Order shall constitute an acknowledgment of these Terms & Conditions of Sale as written. Any Purchase Orders with conditions modifying or taking exception to these Terms & Conditions of Sale shall not be binding upon Seller unless such changes are agreed to in writing by Weber Metals
- b. This Document and Buyer's Purchase Order constitute a contract which represents the entire agreement between Buyer and Seller with respect to the subject matter hereof.
- c. The contract between Buyer and Seller shall be governed by the laws of the State of California, without regard to the conflict of law principles thereof.
- d. Seller and Buyer irrevocably submit to the exclusive jurisdiction of the State or Federal Courts situated in Los Angeles County, California for the purposes of any suit, action or other proceeding arising out of this agreement or any transaction contemplated hereby and also irrevocably waive and agree not to assert in any suit, action or proceeding, any claim that it is not subject to the jurisdiction of said courts, the proceeding is brought in an inconvenient forum or that the venue of such proceeding is improper.
- e. No waiver of any provision hereof shall constitute a waiver of any other provision or breach hereof.
- f. The definition of "Goods" as used herein shall include any forgings, materials, or any other products sold by Seller.

2. Price

- a. All prices quoted are in US Dollars and do not include any sales, use, excise or any other direct tax on goods sold.
- b. Seller reserves the right to add surcharges and fees for such items imposed on Seller after quotation (i.e. energy, transportation, raw materials, etc.) whether incurred directly from Buyer or indirectly through governmental units, utilities, raw material suppliers, or other similarly situated non-parties to this contract. Seller will provide documentary proof of all costs passed on as surcharges to Buyer upon request. Buyer acknowledges that such surcharges may occur even after completion of the underlying transaction.

3. Terms

- a. Payment Terms
 - i. Payment terms will be established by Weber Metals' Finance department, subject to their assessment of Buyer's credit worthiness and will be reviewed and adjusted periodically, as Weber Metals in its sole and absolute discretion determines necessary.
 - ii. In the event that Buyer is extended credit per Section 3(a)(i), then payment due dates (i.e. net 30 days) will begin on the date that title of Goods transfers to Buyer.
- b. Shipment Terms
 - i. All Goods are sold per INCOTERMS 2020, FCA Seller's dock (domestic) and ExWorks (international). All freight and shipping costs shall be borne by Buyer, unless otherwise mutually agreed in writing.



- ii. All packaging is for domestic (USA) destination only. Additional packaging requests must be mutually agreed in writing, and Seller reserves the right to impose additional charges for such requests.
- iii. Any 3rd party delivery destinations are to be mutually agreed in writing prior to shipment.
- c. Seller reserves the right to charge a service fee equal to 1.5% per month or the maximum allowed by law, for maintaining an open account and carrying forward unpaid balances of Buyer for more than 30 days.
- d. Non-recurring charges and timing of payment(s) due for them will be negotiated between Seller and Buyer as needed.
- e. All payments must be in US Dollars.

4. Deliveries and Force Majeure

- a. Delivery dates will be as agreed between Seller and Buyer and explicitly set forth on the Purchase Order.
- b. Seller will advise Buyer to the best of its commercially reasonable ability if lead time and delivery dates will be adjusted, with no liability to Seller.
- c. Seller shall not be liable to Buyer for any failure or delay in performance hereunder or arising in any way from any action, order or requirement of any Subcontractor, Local, State, or Federal government agency which would cut, curtail or force cessation of operations to be used in producing Goods for this Purchase Order or make such operation economically impracticable in Seller's reasonable business determination, nor shall Seller be liable for any failure or delay in performance hereunder due to causes beyond its reasonable control including, without limitation, catastrophic equipment failures at Seller's or its Subcontractors' (or Subcontractor's Suppliers') facilities, acts of God or public enemy, flood, fire, earthquake, hostilities, war (declared or undeclared), pandemic outbreaks of any kind, acts of either general or particular application of de jure or de facto government or any of its subdivisions, bureaus or agencies, strikes or other labor troubles, whether direct or indirect, riots, insurrections, civil commotion, failure of usual means of supply, or loss or shortages of labor, transportation, raw materials or energy sources.

5. Change Orders and Cancellations

- a. It is the responsibility of the Buyer to notify Weber Metals of any changes to drawings/CAD models or other product defining documents. Any resulting change in delivery schedules, product-defining documents, or other specifications necessitated thereby shall be in writing, and Seller shall not be bound by any such change or changes unless accepted in writing by Seller, which will include a point of incorporation. Buyer shall be responsible to either consume or pay the unit price of any inventory (whether finished goods or work in process) for Goods processed to the then-current revision prior to incorporation of the change. This inventory includes any reasonable forecasted quantities that are not on order by Buyer. Seller reserves the right to charge a minimum \$10,000 non-recurring fee for changes to work in process.
- b. Buyer shall be liable for any and all costs incurred by Seller for raw materials, tooling and engineering from the date of inception of the written Purchase Order to the date of requested changes, stop work order or cancellation including Selling, General & Administrative Expenses ("SG&A") and Profit.



- c. Changes to delivery schedules must be mutually agreed, in writing, before implementation. Seller, in its sole and absolute discretion, reserves the right to either charge a non-recurring fee, no less than \$500 per line item, or to adjust unit pricing to account for extended inventory carrying costs which result from schedule changes due to change orders. The minimum charge shall be 1.5% of the value of the inventory per month delay.
- d. Termination for Convenience. The following schedule will apply for orders that Buyer chooses to terminate.
 - 100% of metal portion of unit price if not started and non-fungible
 - 100% of metal portion of unit price if job has started
 - Value Add at 25% per-operational stage:
 - Prior to Issue, but within Total Replenishment Lead Time – 25%
 - Job Issue – 50%
 - Forging Ops Started – 75%
 - Post-Forge Processing Started – 100%
- e. Seller also reserves the right to cancel performance of the Purchase Order if it deems the Buyer's actions are a breach of these Terms & Conditions of Sale. Seller's cancellation shall result in the charges to the Buyer for any and all costs incurred by seller, including but not limited to, Expenses (including "SG&A") and Profit.
- f. Buyer shall promptly pay all charges under Sections 5(a) through 5(e) above, or risk losing credit standing.

6. Limitation of Warranty and Disclaimer of Liability

- a. Seller provides a 6-month limited warranty as described below from the date that title of Goods transfers to Buyer.
- b. Seller warrants that (i) all Goods sold hereunder will be free from defects in materials and workmanship, (ii) will comply with Section 9(a) below and (iii) will meet the specifications shown on the face thereof. Seller's liability for Goods rejected due to defects in materials or workmanship shall be limited to either replacing the rejected Goods in kind or correction of the rejected Goods to conform with the Purchase Order, at Seller's sole and absolute discretion, FCA Seller's plant, and only as reported to seller within 180 days after delivery of the Goods. THIS EXPRESS WARRANTY IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED BY OPERATION OF LAW OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- c. Seller's certification provides condition of supply upon transfer of title. Seller is not liable for damage to Goods due to improper carriage or storage by Buyer or Buyer's agents after transfer of title. Examples of such damage not covered by Seller's warranty and/or certification include, but are not limited to surface defects, handling marks, or corrosion caused by improper carriage or storage by Buyer or Buyer's agents.
- d. Seller's liability for breach of warranty or failure or delay in performance shall not include incidental, special, or consequential damages. Further, Seller shall not be responsible for damages measured by value added by Buyer prior to discovery of a defect on account of machine work, labor, manufacturing or repair costs or other reasons.
- e. Buyer shall save and hold Seller harmless and provide indemnification from any liability, costs or expenses of any kind or nature, including, without limitation, attorneys' fees, relating to or arising out of infringement or alleged infringement by Buyer of any patent in



the manufacture of any sale or use of any product described in Buyer's specifications or design provided to Seller.

7. Default Indemnity

- a. In the event of a breach or default by Buyer hereunder, as determined by Seller in its sole and absolute discretion, Seller shall have the following remedies in addition to any other remedies provided by law or equity: (i) Seller may cancel the Purchase Order and recover all such damages as to which it may be entitled by law; and (ii) Buyer shall be liable for any and all expenses incurred by Seller in enforcing its rights hereunder, including without limitation attorney's fees actually incurred. Further, Seller's obligation to use equipment in accordance with Section 8(a) hereof shall immediately terminate upon Seller's determination of a breach or default by Buyer.
- b. Buyer agrees to indemnify and hold harmless Seller, together with its successors and assigns, for any and all liability, loss, cost, damage or expense, including attorney's fees, which Seller, its successors or assigns may suffer or incur as a result of Buyer's use of the Goods ordered or purchased hereunder or the breach of any term or condition hereof.

8. Equipment

- a. In the event Seller must obtain any Equipment (including jigs, fixtures, dies, and any other tool specific to produce a specific forging part number) to comply with Buyer's specifications, Seller may impose a service charge. Notwithstanding the imposition of any service charge, such equipment shall be and remain Seller's property. Such equipment, however, shall, during its useful life, be used by Seller exclusively for the manufacture of products ordered by Buyer. If, during any period of 36 consecutive months, no Purchase Orders are received from Buyer for products to be manufactured with such equipment, Seller may, after 30 days written notice to Buyer, use or dispose of the equipment in such manner as seller determines, for value or otherwise, without liability, accountability or recourse to Buyer.
- b. Costs of repair, refurbishment, or replacement of Equipment shall be borne by Buyer for the following conditions:
 - i. A 24-month lapse in demand of Goods produced from a respective die or tool
 - ii. Goods supporting an OEM Program for which build rates have been reduced to less than 20 sets per year.
- c. Any equipment provided by Buyer to Seller is provided at the sole and exclusive risk of Buyer. Buyer warrants the condition and suitability of any equipment provided to Seller for use in fulfillment of all Purchase Orders, applicable change orders, or any amendments thereto, and Buyer hereby indemnifies Seller for any and all damages to persons and property resulting from the use thereof.
- d. Seller shall not be liable for loss or damage to any equipment provided by Buyer whether or not caused by the negligence of Seller, its employees, or agents.

9. Scope of Performance

- a. All Purchase Orders are accepted with the understanding that parts or Goods furnished will be in accordance with drawings/CAD Models and specifications furnished to Seller by Buyer and specifically agreed to and accepted by Seller in writing. Buyer's Purchase Order may provide for the use of drawings/CAD Models or specifications provided to and accepted by



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Seller in connection with a previous order, but such Purchase Order shall identify and reference each specification which will apply.

10. Right of Access

- a. Buyer may have access to Seller's premises upon terms established by Seller and upon written request by Buyer no later than 30 days prior to the requested visit date. Actions of the visit will be determined on a case-by-case basis via mutually acceptable terms between Buyer and Seller. For avoidance of doubt, visits are only permissible to verify compliance with Buyer's Purchase Orders, and must ensure protection of Seller's proprietary information

11. Intellectual Property

- a. Proprietary Information disclosed by the originating party may be used by the receiving party solely for the purpose of preparing and acknowledging purchase orders and technical data packages. Both Seller and Buyer, as used herein shall include, individually and collectively, their officers, directors, consultants, advisors and employees.
- b. The receiving party will neither disclose to any third party nor use the Proprietary Information it receives from the originating party for any purpose other than that contemplated under this Agreement for so long as Proprietary Information must be maintained in confidence unless the originating party shall agree otherwise in writing. Each party agrees to take reasonable and appropriate measures to keep confidential and to safeguard from theft, or loss, and to limit access to Proprietary Information to those officers, directors, consultants and employees within the receiving party's organization who reasonably require access to the Proprietary Information for carrying out the purpose of this Agreement.
- c. For avoidance of doubt, regardless of any Foreground Intellectual Property created as a result of Buyer's order, parties retain ownership of their Background Intellectual Property, and Seller shall retain its rights with respect to any design or processes that Seller develops.