

WYMAN-GORDON FORGINGS, INC. (“Seller”) TERMS AND CONDITIONS OF SALE

1. **CONTRACT FORMATION.** These terms and conditions of sale (the “Seller Terms and Conditions”) apply to all quotations and offers made by and purchase orders performed by Seller. To the extent that the Seller Terms and Conditions conflict with or are different from those contained in any Customer purchase order or other procurement document, the Seller Terms and Conditions will control and any additional or inconsistent terms are rejected by Seller unless Seller’s acceptance is in writing and specifically refers to each such additional or conflicting term. Customer’s acceptance of or payment for parts will conclusively confirm Customer’s assent to the Seller Terms and Conditions.
2. **PRICES.** All quotations are made for prompt acceptance and any terms or prices quoted therein are subject to change without notice after thirty (30) days from the date thereon unless specifically stated otherwise on the quotation. Seller will not disseminate any cost breakdown information or pricing data which is used to determine its prices. Prices are subject to increases for changes requested by Customer, and any change in price resulting from a Customer-directed change must be agreed upon prior to any change of production equipment and prior to Seller’s manufacture of modified parts.
3. **TAXES.** All quoted prices are subject to the addition of any applicable sales, excise, manufacturer’s use or other taxes that may be levied by either municipal, state or federal authorities.
4. **TERMS OF PAYMENT.** Subject to credit approval, terms of payment for all goods and services shall be net thirty (30) days from date of shipment. Tooling charges will be invoiced upon completion of tools and fixtures and shall be payable thirty (30) days from the date of invoice. All payments will be in funds of the United States. If Customer fails to pay any charges when due, Customer agrees that Seller shall have the right to invoice, and Customer will pay, all costs, including reasonable attorneys’ fees expended in collecting overdue charges. All deliveries are subject to the condition that all past due invoices have been paid or resolved in full.
5. **TERMS OF DELIVERY.** Delivery will be Ex Works (EXW) Seller’s dock or Seller’s authorized location, per Incoterms 2000. The Importer/Exporter of Record is owner or purchaser of the Goods. Title and risk of loss pass to Customer at Seller’s dock. Seller may deliver in partial shipments if necessary to meet Customer’s requirements. A standard ship window of plus/minus 10 days will apply to all deliveries. Seller may elect to ship within that window and will advise Customer in advance of shipping intentions.
6. **TOOLING.** Tooling charges represent costs of dies, fixtures and development required in the initial production of parts. Once tooling has been established, any change will be at Customer’s expense. Payment of tooling charges conveys to Customer only the right of exclusive use of the tools and not title to the tools. Payment does not convey to Customer the right to possess the tools or to remove the tools from Seller’s plant. Seller agrees to maintain the tools and keep them available for three years after the date of shipment of the last order requiring their use. Thereafter, tools will be discarded and an additional tooling charge will be required for future orders.
7. **DIMENSIONAL TOLERANCES.** Dimensional tolerances are those specified in the stamped tolerance block on Seller’s proposal drawing or as listed in writing on the face of the quotation. If such a stamp or listing does not appear, the tolerances as shown on Customer’s drawing apply. If no tolerances appear on either the proposal drawing or Customer’s drawing, then normal industry tolerances apply. Parts will be furnished with an as-processed surface and without machine work, except for grinding or machining at Seller’s discretion to facilitate inspection.
8. **DELIVERY PROMISES.** Promises of delivery are given as accurately as conditions permit and reasonable efforts will be made to make deliveries as scheduled. Seller will not be liable for any damages incurred by Customer as a result of delay in shipment. Buyer may change its Delivery Schedules from time to time provided that no changes to Delivery Schedule may be made within ninety (90) calendar days of originally requested delivery date.
9. **PACKING AND SHIPPING.** Seller will not perform storage or cartage service. Parts will be packed at Seller’s discretion in a way adequate to protect the parts while in transit. Additional special handling, storage, preparation for storage or cartage costs will be billed to Customer as an additional charge. Unless requested in writing by Customer, no shipments are insured by Seller against damage or loss in transit.
10. **FORCE MAJEURE.** Seller shall not be liable for failure or delay in delivery due to acts of God, orders bearing priority rating established pursuant to law, differences with workmen, local labor shortages, fire, flood or other casualty, governmental regulations or requirements, shortages or failure of raw materials, supplies, fuel, power or transportation, breakdown of equipment, or any other cause beyond Seller’s reasonable control whether of similar or dissimilar nature than those enumerated. Seller shall have such additional time within which to perform as may be reasonably necessary under the circumstances and shall have the right to apportion its production among its customers in such a manner as it may consider to be equitable.
11. **MODIFICATIONS.** Order modifications which defer or stop deliveries are subject to Seller’s written approval. Prices are subject to renegotiation at Seller’s option when manufacturing schedules are modified, or where parts must be manufactured in smaller and/or less economical lot sizes. Seller reserves the right to pass raw material cost increases through to Customer if longer than anticipated delivery periods expose Seller to unanticipated increases in raw material costs. Work in process that is deferred or stopped is subject to a handling charge. Customer will accept shipment and pay for work in process that is within ninety (90) days of completion at time of modification request. Work deferred or stopped in excess of ninety (90) days from the

scheduled date of completion may be considered canceled at Seller's option, and Customer shall be liable to Seller for all unpaid invoices and the costs of settling any claims for necessary termination of related sub-contracts, as well as payment at the contract price for finished product, work in process, and raw material in inventory or on order provided that Seller is not able, in its judgment, to use such product, inventory or raw material for other purposes within 30 days of the cancellation.

12. **PATENT INFRINGEMENT.** Customer and Seller will indemnify, defend and hold harmless each other against any liability or claim for patent, trademark or other intellectual property right infringement or misappropriation arising out of or resulting from each other's respective design, specifications or manufacturing processes or procedures.
13. **LIMITED WARRANTY.** Seller warrants that parts will be made in accordance with Customer's specifications, in each case as determined and demonstrated by the then in effect inspection methods and standards directed or approved by Customer. Customer will notify Seller in writing of any parts which were not made in accordance with this warranty within thirty (30) days after their delivery, and if Customer should fail to give such notification, claims for breach of warranty, if any, shall be waived. Seller will, at its own expense and option, either repair or replace the parts which Seller determines not to be in conformance with this warranty, provided that Customer has notified Seller in writing of any such defect within the stated thirty (30) day period.

SELLER'S OBLIGATION HEREUNDER IS EXPRESSLY LIMITED TO REPAIR OR REPLACEMENT OF DEFECTIVE PARTS WITHOUT COST TO CUSTOMER. Customer's sole and exclusive remedy will be limited to such repair or replacement.

Parts may be returned at the expense of Seller only after inspection by a Seller representative and upon receipt by Customer of definite shipping instructions and an authorization identification number. Such returns shall be deducted from the total quantity shipped and replacements will be shipped against the original order.

The warranty provisions herein will not apply if (a) the parts were rejected by the use or application of test or inspection procedures or processes not agreed to by Seller; or (b) Customer has or has attempted to correct, repair, rework or otherwise alter the parts without Seller's prior written authorization. THESE WARRANTY PROVISIONS ARE IN LIEU OF ALL OTHER WARRANTIES OR OBLIGATIONS, EXPRESS OR IMPLIED. SELLER EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND SELLER DOES NOT WARRANT THE ADEQUACY OF CUSTOMER'S DESIGN OR SPECIFICATIONS OR THE INSPECTION PROTOCOL. No person is authorized to give any other warranties on Seller's behalf.

14. **AUDIT.** It is Seller's policy to not allow cost and pricing audits. Seller will not provide such data nor will it allow access to its books, records or facilities for such audits.
15. **DISPUTE RESOLUTION.** The interpretation of the terms and obligations hereunder will be construed and governed by the laws enacted in the state of Texas, excluding its choice of law rules and excluding the U.N. Convention on Contracts for the International Sale of Goods. The parties agree that, in any effort to enforce the terms and obligations hereunder, the complaining party will first notify the other party in writing of the alleged dispute and the parties will attempt in good faith to resolve the dispute through prompt discussion and meeting between representatives having decision-making authority regarding the dispute. If the dispute is not resolved by the 30th day after written notice of the dispute was first made, the parties agree to engage in non-binding mediation in Houston, Texas, using a neutral mediator mutually agreed to and paid for by the parties. If mediation does not resolve the dispute, the parties may resolve the dispute through appropriate legal action. Legal action may be brought only in the state and federal courts located in Houston, Texas, and the parties consent to the jurisdiction of such courts. Neither party will have any rights to set-off hereunder.
16. **LIMITATION OF DAMAGES.** CUSTOMER AGREES THAT SELLER SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND SUSTAINED FROM ANY CAUSE OR ARISING OUT OF ANY LEGAL THEORY, AND ACKNOWLEDGES THAT THE PRICES CHARGED CUSTOMER HEREIN CONTEMPLATE THE FOREGOING ALLOCATION OF RISK. These limitations also apply to any liability that may arise out of third-party claims.
17. **MISCELLANEOUS.** These Seller Terms and Conditions (and any agreement under which an order is issued) constitute the entire agreement between the parties with respect to the subject matter herein and supersede all previous proposals, both oral and written, negotiations, representations, commitments, writings and all other communications between the parties. No waiver, alteration, modification or addition to these Seller Terms and Conditions will be binding unless expressly agreed to in writing and signed by duly authorized representatives of Customer and Seller. A waiver of any of the terms or conditions hereof will not be deemed a continuing waiver, but will apply solely to the instance to which the waiver is directed. If any part of this agreement shall be adjudged by any court of competent jurisdiction to be invalid, such judgment will not affect or nullify the remainder of this agreement, but the effect thereof will be confined to the part immediately involved in the controversy adjudged. Neither party will assign its rights or obligations hereunder without the prior written consent of the other party, which consent will not unreasonably be withheld.