

MATTCO FORGE, INC.
TERMS AND CONDITIONS OF SALE

- 1. Agreement.** These Terms and Conditions of Sale govern the purchase order ("Order") between the purchaser specified in the Order ("Purchaser") and Mattco Forge, Inc. ("Seller") for Purchaser's purchase of products ("Products") from Seller. The Order and these Terms and Conditions of Sale are collectively referred to herein as this Agreement. Seller will not be bound by, and specifically objects to, any term, condition, or other provision which is different from or in addition to the provisions of these Terms and Conditions of Sale (whether or not it would materially alter these Terms and Conditions of Sale) which is proffered by Purchaser in any Order, terms and conditions of purchase, receipt, acceptance, confirmation, or other terms, agreements, correspondence, or otherwise, unless Seller specifically agrees to such provision in a written instrument signed by Seller specifying Seller's intent to supersede these Terms and Conditions of Sale and the particular clause to be superseded. Seller's acceptance of any Order by Purchaser is expressly conditioned on Purchaser's agreement to these Standard Terms and Conditions of Sale. PURCHASER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, APPLICATION OF ARTICLE 2 OF THE UNIFORM COMMERCIAL CODE ("UCC") AND ACKNOWLEDGES THAT THESE TERMS AND CONDITIONS OF SALE EXPRESSLY SUPERSEDE AND CONTROL OVER ANY ADDITIONAL OR CONFLICTING TERMS IN ANY SUPPLIER TERMS, BILL OF LADING, CONFIRMATION OR OTHER DOCUMENT PROFFERED BY BUYER OR IN THE UCC.
- 2. Purchase and Sale; Variance.** Seller will sell to Purchaser, and Purchaser will accept and pay for, all Products ordered by Purchaser pursuant to an Order which has been accepted by Seller. All Orders are subject to acceptance by Seller either in writing or by shipping Products. Seller reserves the right to ship, as a complete Order, the greater of (a) Orders with variances of up to 10% and (b) Orders with variances in quantities in amounts consistent with industry standard applicable to the Products. Seller may accept any Order in whole or in part and Seller's shipment of less than all Products ordered will constitute acceptance only as to those Products shipped.
- 3. Changes, Cancellations, or Stop Work Orders.** Purchaser may not change, cancel, or issue a stop work order for Orders that have been accepted by Seller without first obtaining Seller's prior written consent to such change, cancellation, or stop work order, which Seller may grant or withhold in its sole discretion. In the event that Seller agrees to any such change, cancellation, or stop work order, then Purchaser will be fully responsible, and will reimburse Seller in full, for all of Seller's costs incurred therewith, including, without limitation, costs of raw materials, production, outside processing, tooling, non-recurring engineering charges, and any other costs incurred by Seller in connection with such change, cancellation, or stop work order.
- 4. Delivery, Acceptance and Returns.** Seller will use commercially reasonable efforts to meet any delivery date specified in the Orders, but will not be liable for any failure to meet such dates. Delivery is expressly contingent on Seller's receipt of all materials included in the Products. All Products will be shipped EXW, Seller's place of business in Paramount, California for domestic shipments and FCA, Seller's place of business in Paramount, California for international shipments. Risk of loss of all Products will pass to Buyer upon placement of the Products with the carrier for shipping. All Products delivered to Purchaser will be deemed accepted within ten (10) days of the date of shipment unless Purchaser provides Seller with written notice to Seller of its intent to reject the Products prior to the end of such ten (10) day period. Purchaser may initiate a return of rejected Products only if it follows Seller's nonconforming material reporting procedure. All fees and expenses, including packaging and shipment, of returned Products or any portion thereof will be at Purchaser's expense unless otherwise agreed to in writing by Seller and shipped by Purchaser EXW Seller's place of business in Paramount, California. Seller has no obligation or liability for any installation of the Products or to supervise any installation unless otherwise agreed to in writing by Seller. Any claims for shortages in Products must be made by Purchaser within seven (7) days of receipt.
- 5. Prices and Taxes.** Purchaser will pay Seller the prices specified in the applicable Order or, if no price is specified in the Order, the price set forth in Seller's written quotation issued to Purchaser or standard price list in effect on the date that the Order is accepted by Seller, the choice of which may be determined by Seller in its sole discretion. All prices are subject to review at the time of Order placement and Seller reserves the right to change prices at time of Order based on review of applicable blueprints, quality requirements, business conditions at the time of Order, and the availability and pricing of materials included in the Products, including, without limitation, prices for materials that may fluctuate due to market prices. All prices are in United States dollars and do not include any sales, use or other taxes. Purchaser will pay all shipping costs, insurance costs, and taxes, duties, tariffs and other amounts payable to governmental authorities in connection with the applicable transactions. Purchaser assumes all liability for shortage, loss, delay or damage of Products in transit. Purchaser agrees that it will keep these Terms and Conditions of Sale and the purchase price for Products confidential and will not disclose the same to any third party without the prior written consent of Seller.
- 6. Payment.** Unless otherwise stated in the invoice, Purchaser will pay the amount set forth on Seller's invoice in United States dollars within thirty (30) days from the date of such invoice for Products. Any wire or other fees associated with payment of invoices is the sole responsibility of Purchaser. Any amount not paid within such thirty (30) day period will be subject to a finance charge equal to 1.5% per month or the highest rate allowable by applicable usury law, whichever is less, determined and compounded daily from the date due until the date paid. Payment of such finance charges will not excuse or cure Purchaser's breach or default for late payment. Further, Purchaser will reimburse any costs or expenses (including, but not limited to, reasonable attorneys' fees) incurred by Seller to collect any amount not paid when due. Seller may accept any payment in any amount without prejudice to Seller's right to recover the balance of the amount due or to pursue any other right or remedy. No endorsement or statement on any payment, accompanying any payment or elsewhere will be construed as an accord or satisfaction.
- 7. Limited Warranty and Remedy.** Seller warrants that, upon delivery, each Product will (a) be free from defects in material and workmanship, and (b) will, in all material respects, meet the specifications in Seller's accompanying or related catalogs, manuals and other documentation available from or provided by Seller or an authorized representative of Seller. The foregoing

warranty will be in effect for forty-five (45) days from the date of delivery of the Products (each, a "Warranty Period"). If Purchaser gives Seller written notice during the Warranty Period of any Product's failure to comply with this warranty, Seller will determine in its sole discretion whether the Products fail to comply with the warranty and, if Seller determines that the Products so fail to comply, will use commercially reasonable efforts to correct the noncompliance within a reasonable period of time by: (i) repairing or modifying the non-complying Product; (ii) providing Purchaser with a replacement Product; or (iii) refunding the price paid by Purchaser to Seller for the Product, each at Seller's sole discretion. This warranty will not apply to any Product that (y) has been repaired or altered by unauthorized personnel, or (z) has been misused, abused, damaged or subjected to operation for which it was not intended. In all cases, Seller's determination of warranty applicability in this Section 7 is final.

8. DISCLAIMER AND RELEASE. EXCEPT AS EXPRESSLY PROVIDED IN THESE TERMS AND CONDITIONS, ALL PRODUCTS, OTHER GOODS, AND SERVICES PROVIDED UNDER THIS AGREEMENT ARE PROVIDED "AS IS." THE WARRANTIES, OBLIGATIONS, AND LIABILITIES OF SELLER AND THE REMEDIES OF PURCHASER SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE AND IN SUBSTITUTION FOR, AND PURCHASER HEREBY WAIVES, RELEASES AND DISCLAIMS, ALL OTHER WARRANTIES, OBLIGATIONS AND LIABILITIES OF SELLER AND ALL OTHER RIGHTS, CLAIMS AND REMEDIES OF PURCHASER AGAINST SELLER, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, WITH RESPECT TO THE PRODUCTS AND ANY OTHER GOODS OR SERVICES DELIVERED UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO: (A) ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; (B) ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE; (C) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY IN TORT, WHETHER OR NOT ARISING FROM THE NEGLIGENCE (ACTIVE, PASSIVE OR IMPUTED), PRODUCT LIABILITY OR STRICT LIABILITY OF SELLER; AND (D) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY FOR INFRINGEMENT.

9. Excused Performance. Seller will not be responsible for or be considered to be in breach of or default under this Agreement on account of any cause beyond Seller's reasonable control or not occasioned by Seller's fault or negligence (including, but not limited to, Seller's inability to procure materials, parts, equipment or services).

10. LIMITATIONS OF LIABILITY. SELLER'S LIABILITY (WHETHER IN CONTRACT, TORT OR OTHERWISE, AND NOTWITHSTANDING ANY FAULT, NEGLIGENCE, STRICT LIABILITY OR PRODUCT LIABILITY OF SELLER) WITH REGARD TO ANY PRODUCT OR OTHER GOODS OR SERVICES FURNISHED UNDER THIS AGREEMENT WILL NOT EXCEED THE PURCHASE PRICE PAID BY PURCHASER TO SELLER FOR THE SAME. FURTHER, SELLER WILL NOT IN ANY EVENT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES, OR FOR LOSS OF REVENUE, LOSS OF BUSINESS OR OTHER FINANCIAL LOSS, ARISING OUT OF OR IN CONNECTION WITH ANY PRODUCT OR OTHER GOODS OR SERVICES FURNISHED UNDER THIS AGREEMENT.

11. Indemnification. Purchaser will indemnify, hold harmless and defend Seller against any claim, demand, loss, expense or liability, including attorneys' fees, in any way related to the manufacture and sale of Products manufactured in accordance with tooling, patterns, specifications, drawings or designs supplied by Purchaser, including, but not limited to, (a) actual or alleged infringement of any patents, trademarks or other intellectual property and (b) product liability claims of any kind from any third party, unless solely as the result of Seller's gross negligence.

12. Tooling. Seller will have no responsibility for errors or variations in tooling, patterns, specifications, drawings or designs furnished to it by Purchaser. Purchaser agrees to pay for changes in tooling or patterns made necessary by Purchaser's change in specifications, drawings or designs, and agrees to assume all risks of damage thereto resulting from such changes. Subject to Purchaser's approval, pattern and tooling changes, repairs or replacements which become necessary on account of ordinary wear shall be made at Purchaser's expense. Seller will not be liable for damages to tooling and pattern equipment except those damages due to Seller's gross negligence.

13. Title. Title to the Products shall remain with Seller and Seller shall have a security interest in any Product and good into which the Products are incorporated until such time as the Products have been completely paid for by Buyer or its designee in accordance with this Agreement. Purchaser hereby appoints Seller as its attorney-in-fact to execute all necessary documents to perfect Seller's security interest in the Products. Seller reserves all other rights in and to the Products, including any patent, copyright, trademark, trade secret and other intellectual property rights. No title or ownership of any intellectual property rights related to any Product is transferred to Purchaser pursuant to this Agreement. Purchaser will not attempt to reverse engineer any Product or component thereof or to otherwise misappropriate, circumvent or violate any of Seller's intellectual property rights.

14. Credit Approval. All shipments of Products are subject to the approval of Seller's finance department, and if such approval is not obtained or is withdrawn at any time by Seller's finance department, Seller will have the right to cease performance of any future or existing Orders and withhold delivery of any such deliveries without any penalty or liability of any kind, and all fees for any outstanding Orders will be immediately due and payable by Purchaser.

15. Unenforceable Provision. The invalidity or unenforceability of any provision of this Agreement will not affect the other provisions hereof, and this Agreement will be construed in all respects as if such invalid or unenforceable provision were replaced with a valid and enforceable provision as similar as possible to the one replaced.

16. Nonwaiver. Any failure by Seller to insist upon or enforce performance by Purchaser of any of the provisions of this Agreement or to exercise any right or remedy under this Agreement or applicable law will not be construed as a waiver or relinquishment to any extent of Seller's right to assert or rely upon any such provision, right or remedy in that or any other instance; rather the same will be and remain in full force and effect.

17. Assignment. This Agreement will inure to the benefit of and be binding upon the parties and their respective successors, assigns and legal representatives.

18. Applicable Law; Courts. This Agreement will be interpreted, construed, and enforced in all respects in accordance with the laws of the State of California, without reference to its choice of law principles. Neither the UCC nor the U.N. Convention on Contracts for the International Sale of Goods will apply to this Agreement. Purchaser will not commence or prosecute any suit, proceeding or claim to enforce the provisions of this Agreement, to recover damages for breach of or default under this Agreement, or otherwise arising under or by reason of this Agreement, other than in the federal and state courts located in Los Angeles County, California. Purchaser irrevocably consents to the jurisdiction and venue of such courts and to service of process by U.S. mail.

19. Attorneys' Fees. In any litigation or other proceeding between the parties arising out of or in relation to this Agreement, the prevailing party will be awarded, in addition to any damages, injunctions or other relief, such party's costs and expenses, including but not limited to reasonable attorneys' fees and costs.

20. Entire Agreement. This Agreement constitutes the entire agreement, and supersedes any and all prior agreements, between Seller and Purchaser with regard to the Products. No amendment, modification, or waiver of this Agreement will be valid unless set forth in a written instrument signed by the party to be bound.