

**BENTON FOUNDRY, INC.**  
**GENERAL CONDITIONS OF ALL QUOTATIONS AND SALES**

All quotations and all sales are made subject to the following terms:

1. **LAPSE OF QUOTATION.** This Quotation shall be binding for only sixty (60) days from the submission date set forth by Benton Foundry on the reverse side of this form and is and shall remain a firm offer until its expiration or rejection unless as otherwise provided in this Paragraph. No variance by Purchaser of the terms or conditions contained in the Quotation shall bind Benton Foundry without Benton Foundry's prior written consent. The prices set forth on the reverse side of this form shall be subject to increase thirty (30) days from the date of our letter advising you of the increase.
2. **TAXES.** Prices are exclusive of all city, state and Federal taxes, including, without limitation, taxes on manufacture, sales, receipts, gross income, occupation, use and similar taxes. Wherever applicable, any tax or taxes will be added to the invoice as a separate charge to be paid by Purchaser. Benton Foundry will accept valid sales and compensating use tax exemption certificates or direct payment permits in lieu of charging such state and/or local taxes.
3. **FREIGHT CHARGES AND RISK OF LOSS.** All castings shall be shipped F.O.B. Benton Foundry unless otherwise stated. Risk of loss shall pass to Purchaser as each shipment is delivered to the carrier.
4. **DISCLAIMER OF WARRANTIES, EXCEPT AS PROVIDED IN PARAGRAPH 5, BENTON FOUNDRY MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES AS TO MERCHANTABILITY OR AS TO THE FITNESS OF THE MERCHANDISE FOR ANY PARTICULAR USE OR PURPOSE, AND SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE, DIRECTLY OR INDIRECTLY, ARISING FROM THE USE OF SUCH MERCHANDISE OR FOR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF USE, LOSS OF TIME, LOSS OF PROFITS, OR LOSS OF INCOME.**
5. **LIMITED WARRANTY.** Benton Foundry will repair any castings rejected because of manufacturing defects caused by Benton Foundry. Claims for defects will be honored only if made in writing within sixty (60) days of receipt of the castings. Benton Foundry shall have a reasonable time in which to ascertain the validity of the claim and shall notify Purchaser if the claim is rejected. The provisions of this Paragraph 5 are available to only Purchaser, and do not extend to any subsequent owner of any casting sold pursuant to the Quotation. Benton Foundry shall not be responsible for any of the following:
  - (a) Damage due to welding of castings.
  - (b) Damage due to machining of castings.
  - (c) Purchaser's labor charges on castings.
  - (d) Personal injury or property damage.
  - (e) Consequential, incidental, or other damages, losses, or expenses incurred in connection with castings or delay in delivery of castings.
6. **PAYMENT UNAFFECTED BY CLAIMS.** Any delivery not in dispute shall be timely paid for in accordance with the terms of this Quotation without regard to any set offs or counterclaims relating to other delivered or undelivered merchandise. No payment by Purchaser or receipt by Benton Foundry of a lesser amount than any payment required to be paid under this Quotation shall be deemed to be other than on account of the earlier stipulated payment, nor shall any endorsement or statement on any check or any letter accompanying an check or payment be deemed an accord and satisfaction, and Benton Foundry shall accept such check or payment without prejudice to the right of Benton Foundry to recover the balance of such payment or pursue any other remedy available under this Quotation or at law.
7. **SECURITY UNIL FULL PAYMENT.** Until full payment of all obligations of Purchaser, Benton Foundry reserves, and Purchaser grants Benton Foundry (a) a security interest, pledge and possessory lien in all castings furnished hereunder and the same shall be considered as personal property subject to a purchase money security interest of Benton Foundry, and (b) a pledge and possessory lien in all patterns, dies, tooling, molds, plans, blueprints, sketches and other property owned by Purchaser, or in which Purchaser has any interest, in the possession of Benton Foundry. Receipt of any check, draft or other commercial paper shall not constitute payment until Benton Foundry has received cash in the full amount thereof. If Purchaser delays shipment, payments are to be made as though shipment had been made as specified.
8. **CATASTROPHIES.** Benton Foundry shall not be liable to Purchaser for any loss or damage caused by fire, strikes or other labor troubles, accidents, delays in delivery, or causes beyond the control of Benton Foundry.
9. **PATTERN LOSS OR DAMAGE.** Benton Foundry shall not be responsible for loss or damage to Purchaser's patterns unless caused by the negligence of Benton Foundry. Purchaser should carry its own insurance on its own patterns.
10. **BLUEPRINT, PATTERN AND CORE BOX EQUIPMENT VARIANCES.** If Purchaser furnishes patterns and core box equipment, without blueprint, Benton Foundry shall not be responsible for any variations between Purchaser's blueprints and Purchaser's pattern and core box equipment. Sample castings for Purchaser's approval will be supplied on request at Purchaser's expense.
11. **PATTERN STORAGE AND RETURN.** Pattern storage facilities are provided free of charge by Benton Foundry for only active patterns. Any patterns not used for a period of two (2) years will be returned to Purchaser at the risk and expense of Purchaser or, if stored thereafter by Benton Foundry. Purchaser shall pay a reasonable storage charge. All storage shall be at Purchaser's risk of loss.
12. **PATENT, TRADEMARK AND COPYRIGHT INFRINGEMENT.** Purchaser represents to Benton Foundry that Purchaser has full right to use all designs and specifications submitted by Purchaser for use in the work covered by this Quotation, and Purchaser agrees to defend, indemnify and hold harmless Benton Foundry for any expense or loss resulting from infringement of patents, trademarks or copyrights through compliance with the designs or specification of Purchaser.
13. **CHANGES AND CANCELLATION.** No changes in or cancellations of orders shall be effective unless proposed in writing to, and accepted in writing by, Benton Foundry. Any work done or costs incurred by Benton Foundry prior to acceptance of such change or cancellation shall be paid by Purchaser.
14. **ASSIGNMENT.** Benton Foundry may delegate any of its duties or assign any of its rights or claims under this Quotation, but Purchaser may not and any such attempt by Purchaser shall be void.
15. **INSOLVENCY.** In the event of the insolvency of Purchaser, the filing of a voluntary or involuntary petition in bankruptcy by or against Purchaser, the inability of Purchaser to meet its obligations as they become due, the appointment of the receiver or trustee for Purchaser with or without the consent of Purchaser or the execution by Purchaser of an assignment for the benefit of creditors or of a receiver, Benton Foundry shall be entitled, at its sole option and in addition to any other right or remedy Benton Foundry may have at law or in equity, to cancel any unfiled part of this Quotation, stop any goods in transit and reclaim any goods received by Purchaser while insolvent, without any liability on the part of Benton Foundry.
16. **REMEDIES.** If purchaser defaults in paying or performing any of its obligations under this Quotation or any event described in Paragraph 15 occurs, or Purchaser, without the prior written consent of Benton Foundry, sells, transfers or leases any casting purchased under this Quotation, or any lien is placed thereon, or other persons have or acquire an interest therein, then in any such event, Benton Foundry, with or without notice, may treat all amounts owing hereunder by Purchaser, regardless of the payment date, to be immediately due and payable (subject to such credits as are required by law in order to enforce this contract formed by this Quotation), and when Purchaser is in default hereunder, Benton Foundry may repossess the castings and retain all patterns, and Purchaser agrees that it will permit Benton Foundry to do so, and in such cases, (i) Benton Foundry, upon such notice, if any, as required by law, may keep the castings as its own, free from any claim on the part of Purchaser, retaining as compensation for the use or decrease in value of the castings, all payments made thereon by Purchaser, or (ii) Benton Foundry, within four months from such repossession, upon giving to Purchaser not less than fifteen days advance written notice of Benton Foundry's intention in that regard, may sell the same for the account of Purchaser either at public sale (at which Benton Foundry may bid) or at private sale, whereupon the net proceeds of this sale, after paying Benton Foundry's costs and expenses in repossessing, transporting, reconditioning, storing and selling the castings shall be applied on the unpaid balance of the obligations of Purchaser hereunder and the surplus, if any, shall be returned to Purchaser, and in a deficiency remains, Purchaser shall continue liable to Benton Foundry therefor, Benton Foundry may retain Purchaser's patterns until all amount due hereunder are paid in full. In exercising any of the remedies aforesaid, Benton Foundry shall give such other and additional notices as are required by law.
17. **REIMBURSEMENT AND FURTHER ASSURANCES.** In any proceeding or action relating to a default by Purchaser, Benton Foundry shall be reimbursed (if permitted by law) for attorney's fees and costs incurred by it in respect thereof. No remedy herein provided shall be applicable when not permitted by law. When requested by Benton Foundry, Purchaser shall duly acknowledge this contract and execute, acknowledge and deliver to Benton Foundry, in Benton Foundry's usual form a security agreement, financing statement or statements, or other additional appropriate instruments which Benton Foundry may require to constitute the castings as the unencumbered security for the obligations of Purchaser hereunder, or to enable Benton Foundry to comply with all applicable filing or recording laws. In addition, Purchaser authorizes Benton Foundry, or its assignee, where permitted by applicable state law, to sign and file financing statements in order to perfect the security interest of Benton Foundry hereunder.
18. **ARBITRATION.** All disputes, controversies or matters of interpretation arising out of or in connection with this Quotation shall be submitted by either party for final and binding resolution by three (3) arbitrators selected in accordance with the Rules of the American Arbitration Association. The award rendered by the arbitrators may be entered as a judgment in any court of competent jurisdiction and shall not be subject to appeal. To the extent ascertainable by the arbitrators, the costs of arbitration and the counsel fees of the prevailing party shall be assessed against the other party against whom the award is rendered. The location for arbitration hearing shall be Wilkes-Barre, Pennsylvania.
19. **ACCEPTANCE.** Acceptance by Purchaser of this Quotation shall be in writing. The power of Purchaser to accept this Quotation is expressly limited to the terms of this Quotation, and any attempt to alter, omit, or add any term shall be deemed a rejection and a counteroffer. If Purchaser's form is used to accept this Quotation or is used as a supplement to this quotation form, it is expressly understood and agreed that the General Conditions of All Quotations and Sales set forth in this form shall prevail insofar as the terms or conditions of Purchaser's form may in any way conflict with or be an addition to the General Conditions of All Quotations and Sales set forth in this form. The issuance of such order by Purchaser shall be deemed to incorporate by reference the General Conditions of All Quotations and Sales set forth and shall constitute Purchaser's agreement to them.
20. **MISCELLANEOUS.** This Quotation shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, contains the entire agreement between parties with respect to its subject matter, and there are no other oral or written inducements, promises, understandings or agreements other than those expressly contained in this Quotation.