

## TERMS AND CONDITIONS

1. **PRICES:** All prices are f.o.b. Seller's plant and are based upon the material cost and labor rates in effect on the date of this sales order, unless otherwise stated.
  - A. On requirements contracts, which are orders subject to periodic schedules or releases, prices may be adjusted at the Seller's sole discretion as labor rates, material, and other costs change prior to the date of shipment.
  - B. Buyer agrees that the quantities committed affect the price of such units or parts and that if Buyer hereafter makes any change in the quantities shown on the face hereof, or the Buyer's original purchase order, the price of such units or parts shall be adjusted to meet Seller's price applicable to the quantities as changed.
  - C. Prices stated herein do not include any tax, excise, duty, or levy now or hereafter enacted or proposed by any governmental authority on the manufacture, sale, delivery, and/or use of any item delivered. If Seller is required to pay or collect any such amounts, unless Seller is furnished with a proper exemption certificate-relieving Seller of the obligation to pay or collect such tax, excise, duty, or levy, an additional charge will be made which shall be paid by the Buyer.
2. **TITLE AND RISK OF LOSS:** Title to and risk of loss of all articles sold by Seller to Buyer shall pass to Buyer upon delivery thereof by Seller to a carrier for shipment to Buyer.
3. **DELAYS:** Seller shall endeavor to meet Buyer's requested delivery dates as shown on Buyer's purchase order or on Seller's quotation; however, any requested delivery date is only approximate and Seller shall incur no liability whatsoever for any delays beyond the requested delivery date, unless specifically agreed to in writing. Notwithstanding the foregoing, Seller shall not be made liable for any default or delay in fulfilling any order caused by any condition beyond Seller's control, including but not limited to acts of God, strike, lockout, boycott, or other labor trouble, war, riot, fire, flood, any statute, regulation, rule, ordinance or order of any governmental entity or delays by any of Seller's subcontractors or supplier in furnishing material or supplies due to one or more of the foregoing causes.
4. **LEAD TIME:** The Buyer agrees to provide the Seller with a minimum lead time, prior to desired shipment date, of ninety days' fabrication authorization plus ninety additional days' raw material procurement authorization at all times unless otherwise stated on the face of this quotation. The Buyer assumes obligation for reasonable expenses for material excesses caused by cancellation or Buyer requested design change in accordance with these lead times.
5. **PATENT PROTECTION:** Seller agrees to hold Buyer and its customers harmless only against infringement of United States or Canadian patents covering the material or part in form sold by Seller, provided Buyer or its customer, as the case may be, promptly notifies Seller of any claim or litigation and tenders the defense thereof to Seller. Buyer agrees to defend, indemnify and hold Seller harmless from any threatened or actual liability of Seller for infringement of patents resulting from Seller's manufacture of parts or material in accordance with designs or specifications provided by Buyer or resulting from Buyer's incorporation of a part or material supplied by Seller into a more comprehensive assembly than sold by Seller, if such assembly or part thereof infringes any patent, provided Seller promptly notified Buyer of any such claim or litigation and tenders the defense thereof to Buyer. Seller grants no license, expressed or implied, other than the right of Buyer to use the specified material or part in the form delivered by Seller.
6. **FEDERAL AND STATE:** In the performance of this contract, Seller will comply with all provisions of any applicable, valid federal or state laws and rules or regulations thereunder, existing at the time this contract was executed. In the event that subsequent statutes or regulations apply to the production, sale, distribution or shipment of the product hereunder, Seller may increase the price charged Buyer for the product to compensate for any increases in costs to Seller to comply with such new statutes or regulations. To the extent that compliance with any federal, state, or local statute, regulation, order or ordinance, in the sole judgment of Seller, renders the production, marketing or delivery of the product economically, technically, or commercially infeasible, Seller may terminate this contract without further obligation to Buyer.
7. **CREDIT TERM:** Seller may, whenever it has reasonable doubt of Buyer's responsibility, suspend or alter credit terms and require payment before shipment, or before manufacture in the case of merchandise to be made to special order.
8. **USE OF TOOLING:** Tool and die charges, if any, are for the use-of-tooling and are in addition to the price for the product and are due and payable upon completion of the tooling. Charges for use-of-tooling do not convey title to Buyer or the right to Buyer to remove any tooling from Seller's factory or vendor's factory, nor prevent their use of such tooling for other purposes except in the case of a special agreement in writing signed by both parties.
9. **LIMITED WARRANTY:** The limited warranty offered by the Seller varies by product line. Refer to the face of this form or to the Seller for the specific limited warranty covering the product or products quoted.
10. **DRAWINGS:** Seller's prints or drawings attached hereto or hereafter furnished by Seller to Buyer in connection with performance of Buyer's order are the property of the Seller and represent a proprietary article in which the Seller and Auburn Gear retain any and all patent and other rights, including exclusive rights of use and/or manufacture and/or sale. Prints and drawings are to be reviewed only by authorized personnel of the Buyer. Seller does not convey any permission to show, reproduce, or manufacture the article or articles shown herein, such permission to be granted only by specific authorization in writing signed by an officer, or other authorized agent of Auburn Gear or Seller thereof. Buyer agrees that any drawings, specifications or designs provided to Buyer by Seller in connection with this quotation, or the obtaining or performance of any contract or purchase order from Buyer are the trade secrets of Seller, whether or not such drawings, specifications or designs actually may be proved to be trade secrets. Accordingly, Buyer shall protect such drawings, specifications and design as the confidential property of Seller and in the event Buyer, its employees, agents or former employees or agents utilize said drawings, specifications or designs without first obtaining express written permission from Seller, Buyer shall pay to Seller the amount of profit Seller would have realized from any sales resulting from said persons utilizing said drawings, specifications or designs.
11. **DISCLAIMER OF WARRANTIES:** To the extent allowed by law, SELLER SPECIFICALLY EXCLUDES AND DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND ANY IMPLIED WARRANTIES OF FITNESS.
12. **EXCLUSIVE REMEDIES:** Buyer's exclusive remedy and Seller's exclusive liability for breach of contract, for breach of warranty or for any other cause of action (including negligence) shall be for Seller to repair or replace, at its option, any defective goods or materials provided to Buyer. In no event shall either party be liable to the other for any incidental or consequential damages arising in connection with this contract or the goods or materials sold hereunder. Buyer assumes all risks and liability and Seller assumes no liability, with respect to unloading, storage, handling, sale and use of the goods or materials.
13. **APPLICABLE LAW:** This contract shall be governed by and construed in accordance with the laws of the State of Indiana.
14. **SEVERABILITY:** In the event that any provisions of this quotation, or contract resulting therefrom, is judged to be illegal or unenforceable, the remaining provisions shall remain in full force and effect.
15. **AMENDMENT:** The terms and conditions stated on the face and reverse side of this form constitute the full and final expression of the parties' agreement. No statements or agreements, oral or written, made prior to or at the signing of this contract shall vary or modify the written terms hereof and no modification, amendment or release of any provision hereof shall be effective unless such agreement is in writing signed by both parties and is specifically stated therein to be an amendment to this contract. No modification, or addition to this contract shall be effected by the acknowledgment or acceptance by Seller of any purchase order, acknowledgment, release or other forms submitted by Buyer containing additional or different terms and conditions.
16. **APPLICATION ANALYSIS:** Although Auburn Gear does not approve applications, we can provide life calculations for gearing and bearings based on customer loading inputs. We can assist customers in the proper drive selection based on loads and speeds provided, but customer, not AGI, must maintain final and ultimate responsibility for determining and validating the appropriateness of using AGI components in its products.
17. **PRODUCT PRICE ADJUSTMENTS:** Auburn Gear LLC retains the exclusive right to increase the pricing on the attached sales order acknowledgement due to increases in the Producers Price Index and/or Material Surcharge Trends. These indices will be reviewed on a regular basis. If a price adjustment is necessary you will be formally notified.