



# Walker Machine & Foundry Corp.



## Quotation Terms and Conditions of Sale

1. Invitation: This Quotation is not an offer by Seller. It is an invitation to Buyer to submit an offer, by means of a Purchase Order or otherwise, to Seller upon the terms and conditions contained in this Quotation.
2. Payment and Security: Unless otherwise stated on the reverse side hereof, or unless otherwise stated on Seller's Acknowledgement of Buyer's Purchase Order or in a written contract actually physically signed by Seller (both herein referred to as "Contract"), payment by Buyer to Seller shall be net 30 days from date of Invoice; all payments due but not received within 30 days of the Invoice date shall bear interest from the Invoice date at the rate of 1-1/2% per month (18% ANNUAL PERCENTAGE RATE), compounded until paid in full. As security for payment of any sums due or to become due Seller from Buyer for any sale, Buyer grants a security interest to Seller in all of Buyer's property, of whatever kind, that is in Seller's possession at any time, including work in process and finished work. Seller shall have the right to retain, and shall have a lien upon, all such property of Buyer. The extension of credit or the acceptance of a check, note, trade acceptance or guarantee of payment shall not affect this right, security interest and lien. Credit terms may be changed at any time by Seller, but such changes shall not apply to orders acknowledged prior to such changes. All orders are subject to a minimum of \$ 100.00 per item ordered unless two or more items are ordered which shall be adjusted to \$ 50.00 per item.
3. Specially Manufactured Items: Delivery dates for items to be made to Buyer's specification and for specially manufactured items are approximations only. Seller reserves the right to ship plus or minus 10% of the quantity of such items and that shall constitute acceptable delivery. Seller will invoice, on a pro-rata price basis, for actual quantity delivered.
4. Delivery: Unless otherwise indicated on the reverse side hereof or in the Contract, all prices are F.O.B. Seller's platform and do not include any shipping containers or other shipping charges. Risk of loss to goods in transit shall be with Buyer. Seller is not liable to Buyer for production or delivery delays due to war, acts of God, labor disputes, civil disturbances, action of government, accidents, shortage or failure of supply materials or equipment, transportation delays, or other causes beyond control of Seller.
5. Quotation: Quantities and prices in this Quotation are in effect for only 30 days from the date of this Quotation unless otherwise indicated in writing. Seller reserves the right to adjust prices to cover increased costs at time of shipment. All weights are estimated, unless furnished by Buyer, and the prices cannot be guaranteed. Prices may be adjusted by Seller after establishing actual weight. Prices quoted for patterns are for initial purchase and rigging to fit Seller's molding equipment. All costs to maintain and/or repair Buyer's pattern equipment will be the responsibility of Buyer. Casting tolerances will be as outlined in Buyer's drawings unless otherwise specified on this quotation. Certifications, if required, will be billed as quoted.
6. Cancellation: Contracts may not be cancelled by Buyer, and non-defective items may not be returned, unless approved in writing by Seller in Roanoke, Virginia and only upon terms that will fully compensate Seller against loss. Further, it is Seller's policy that there can be no cancellation for, or return of, non-defective items made to Buyer's specification or for specially made items, or once Seller has begun preparing for breach of any provision of the Quotation, Terms and Conditions of Sale.
7. Claims: ALL SALES ARE FINAL. Unless approved in writing by Seller, no items will be accepted for return unless defective. All claims for defects, damages or shortages must be made in writing within 60 days after delivery. Failure to make such a claim within the stated time shall constitute irrevocable acceptance of the items and an admission that the items fully comply with the terms, conditions and specifications of the Contract. All claims for damage in transit or damage in shipping shall be made by Buyer.
8. Warranties: Other than as specifically set forth in the Contract, Seller warrants that items sold will, at time of shipping, be free from defects in material and workmanship. Buyer's exclusive remedy shall be repair, replacement or credit, at Seller's sole option. In no event shall Seller be liable or responsible for any costs, damages, lost profits, liquidated damages or penalties or for other direct, indirect, special, incidental or consequential damages, nor shall Seller be liable for any amount in excess of the price of any defective items. THERE ARE NO OTHER EXPRESS WARRANTIES AND THERE ARE NO IMPLIED WARRANTIES OF ANY KIND. THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE SPECIFICALLY EXCLUDED.
9. Taxes: Buyer shall pay any and all applicable federal, state and local taxes (domestic and foreign) to which the Contract, the sale and the sold items may be subject, including, without limitation, excise taxes, sales taxes, value-added taxes and use taxes.
10. Remedies: Seller shall have all remedies contained in this Quotation, the Contract and all those granted by law. If Seller incurs expenses (including, without limitation, court costs and attorney's fees) in attempting to collect any amount owed by Buyer or to enforce any term of condition of sale, then Buyer shall pay to Seller, in addition to any other sums owed or relief sought, all of those expenses to the fullest extent permitted by Virginia law. In the event of any breach or default by Buyer, then the Seller shall be entitled to retain any down payment made by Buyer and apply it first in reduction of Seller's damages to the extent of, and as an offset to, such damages and second, to the reduction of any other indebtedness of Buyer to Seller, however arising.
11. Severability: If any provision in this Quotation should be held invalid or unenforceable, that shall not affect any other provision; and all other provisions shall be carried out as if the invalid or unenforceable provision was never in existence.
12. Applicable Law and Venue: The sale, and the relations of Buyer and Seller to each other, shall be governed by the laws of the State of Virginia, excluding Virginia's law regarding conflicts of law. By purchasing any items from Seller or by entering into any Contract with Seller for the sale of any items, Buyer specifically agrees that any action at law, suit in equity or other judicial proceeding for the enforcement of any condition or term of the sale, whether instituted by Buyer against Seller or by Seller against Buyer, may only be commenced in, and venue shall be limited to, court (state or federal) in Roanoke, County, Virginia or the City of Roanoke, Virginia. Both Buyer and Seller agree that any such court shall have personal jurisdiction over each of them; and both Buyer and Seller agree not to contest or object to such a venue or the exercise of such personal jurisdiction by any of those courts.
13. General Trade Practices: Any situation arising that is not covered by this Quotation or by the Contract will be governed by general trade customs.
14. Indemnity: Buyer shall indemnify, save and hold harmless Seller from any and all loss, cost, expense and damages, including Seller's attorney's fees, on account of any and all manner of claims, demands, actions and proceedings, concerning any sold items, that may be instituted against Seller by anyone: (a) alleging infringement for items made to Buyer's specification; or (b) arising out of the change to, or alteration of, any of the sold items by anyone; or (c) involving the use by anyone of any sold item in a manner or application for which such item is not normally intended by Seller; or (d) involving any negligence whatsoever on the part of Buyer or anyone else.
15. Non-Waiver: Failure of Seller to insist upon strict compliance with any terms, covenants, or conditions shall not be deemed a waiver of such term, covenant, or condition, nor shall any waiver or relinquishment or any right or power at any one or more items be deemed a waiver or relinquishment of such right or power at any other time or times in the future.
16. Priority of Documents: Any Purchase Order submitted by Buyer to Seller shall be deemed an offer to purchase, which can be accepted by Seller only by means of a written Acknowledgment. Any terms and conditions in Buyer's Purchase Order that are in conflict with, differ from, or are additions to, this Quotation or Seller's Acknowledgment shall be of no force and effect, shall not become part a part of any contract between Buyer and Seller and shall be deemed objected to by Seller without need of further notice of objection. By submitting a Purchase Order to Seller, Buyer agrees that the terms and conditions in Seller's Acknowledgment and this Quotation shall prevail over the terms and conditions in Buyer's Purchase Order. In the event of any discrepancy between Seller's Acknowledgment and this Quotation, Seller's Acknowledgment shall prevail.
17. Surcharges: Temporary surcharges, such as required by environmental costs, steel scrap cost, or other fluctuations beyond the control of Seller, will be added when necessary.