



Hynes Industries & Affiliates Terms and Conditions of Sale

Supplier's sale of Product to Buyer is expressly made conditional on Buyer's consent to all terms and conditions herein, including those which are different from or in addition to any terms and conditions contained in any form supplied by Buyer to Supplier, and Buyer's placement of an order for any Products from Supplier, and/or acceptance of delivery of same, shall be conclusive evidence of Buyer's acceptance of these terms and conditions of sale. Supplier objects to any terms or conditions contained in any form or document supplied by Buyer to Seller, and rejects such terms or conditions.

1 – Prices and Taxes. All prices are subject to change, to correct arithmetical and/or clerical errors and to reflect any increase or decrease in Supplier's costs. Buyer, in addition to the price of the Products sold, shall assume and pay any and all sales, use, excise, license, property and/or other fees or taxes, together with any interest and penalties thereon, relating to the sale of any Products or services supplied by Supplier or any resulting order, and shall indemnify Supplier and hold it harmless from any claim or liability for any such tax, along with any interest, penalties or expense in connection therewith.

2 – Delivery. Any estimated delivery date shall constitute Supplier's best estimate based on scheduling requirements at the time the order is entered. Supplier shall not be liable for delivery on any specific date, or within any specified period of time. The promised delivery date is the best estimate possible, based on current and anticipated production loads, of when Products will ship. HYNES INDUSTRIES SHALL HAVE NO LIABILITY FOR LOST PROFITS OR INCIDENTAL OR CONSEQUENTIAL DAMAGES DUE TO DELIVERY DELAYS. Unless otherwise agreed in writing, Supplier reserves the right to make partial shipments. (Claims for shortage in quantity or for damage in shipment due to negligence shall be deemed waived unless presented to Supplier in writing within ten (10) days after delivery.)

3 – Payment Terms. Payment terms shall be ½% -10, net 30 days, unless otherwise agreed in writing between Supplier and Buyer. Remittances shall be as directed by Supplier, and interest at the rate of 1 1/2% percent per month or whatever lesser maximum amount is allowed by law, will be paid by Buyer on any unpaid amounts from and after their due dates unless otherwise agreed.

4 – Credit Approval. If the financial ability of the Buyer to pay is determined at the sole discretion of Supplier to be unacceptable for any reason, or if Buyer fails to make any payments in accordance with the terms hereof, Supplier may cancel this order and/or refuse to deliver any undelivered Products, and Buyer shall immediately become liable to Supplier for the unpaid price of all Products delivered, all Products in process and raw materials procured to produce the Products, all tools and dies relating to the order, and for any and all other damages, including loss of reasonable profits caused by Buyer's default. The foregoing rights are without prejudice to any other lawful remedy.

5 – Warranty. Supplier warrants that all Products sold hereunder shall be free from defects in material and workmanship for a period of thirty (30) days from the date of shipment, and will meet the agreed specifications. THIS EXPRESS WARRANTY IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES, WHETHER EXPRESSED OR IMPLIED BY OPERATION OF LAW OR OTHERWISE, INCLUDING ANY WARRANTY THAT THE PRODUCTS ARE FIT FOR ANY PARTICULAR PURPOSE. Defective Products may be returned to Supplier, after inspection by Supplier and upon receipt of written shipping instructions from Supplier; Products so returned will be repaired, replaced or refunded at Supplier's option.

6 – Limitation of Liability. Supplier's liability is expressly limited to the refund, repair or replacement of defective Products. SUPPLIER SHALL NOT BE LIABLE TO BUYER, EITHER DIRECTLY OR BY WAY OF CONTRIBUTION OR INDEMNITY, FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER, or for any loss, damage, or expense directly or indirectly arising from the purchase or use of the Products or from any other cause including, but not limited to, property damage, lost profit, damages based on loss of use of the Products, delays, or damage for cover.

7 – Specifications and Tolerances. Buyer acknowledges that any Products supplied by Supplier are furnished in accordance with specifications and/or blueprints on hand in Supplier's files, or furnished to Supplier by Buyer with Buyer's order and specifically agreed to and accepted by Supplier in writing. All manufacturing tolerances are to be in accordance with Supplier's standard tolerances. Supplier assumes no responsibility for any changes in specifications and/or blueprints, unless such changes are confirmed in writing by Buyer and agreed in writing by Supplier. Any price variation resulting from such changes shall become effective immediately upon acceptance of such changes. The approved Supplier drawings will include all tolerances, key dimensions, and material requirements. All initial inspections will include 100% inspection of the dimensions of the first parts produced per the approved Supplier drawing.

8 – Force Majeure. Supplier shall not be in default because of its delay or failure to deliver or perform resulting, in whole or in part, in Supplier's opinion, from: (i) any foreign or domestic embargoes, seizures, acts of God, insurrections, war, or the adoption or enactment of any law, tariff, ordinance, regulation, ruling or order, or (ii) the lack of usual means of transportation, fires, floods, explosions, strikes or any other accidents, contingencies, or events, at the Supplier's or its supplier's plant or elsewhere (whether or not beyond the Supplier's control) which directly or indirectly interfere with, or render substantially more burdensome, Supplier's production, delivery, or performance (collectively, a "Force Majeure"). Should a failure or delay in Supplier's performance occur because of any of the foregoing, Supplier shall have the option of either canceling this order, or delaying performance hereunder for any reasonable period of time, during which time this agreement shall remain in full force and effect. Supplier shall promptly

notify Buyer as to the reason for its failure or delay in performance, and as to whether it has canceled this order or has delayed performance hereunder. If performance is delayed, Supplier shall also notify Buyer as to the period of time during which the delay is likely to continue. Supplier shall then have the further right to allocate its available goods between its own end uses and its customers in such a manner, as Supplier may consider equitable. Supplier shall not have any liability to Buyer for any damages caused to Buyer as a result of a Force Majeure as identified in this paragraph or otherwise by law. Supplier's liability for failure or delay in performance for any cause whatsoever whether beyond Supplier control or not, shall not include incidental or consequential damages.

9 – Tools/Dies. Any equipment, including jigs, dies, tools, etcetera (herein Equipment) which Supplier constructs or acquires for use in the production of Products shall be and remain Supplier's property. Supplier shall at all times have the right to sole and exclusive possession and control of the same. Any charges made by Supplier for any Equipment shall not confer on Buyer any right of any kind with respect to Equipment, except the right to have Supplier use Equipment for the manufacture of the Products. In the event, however, Supplier has not used Equipment for the manufacture of Products for Buyer for a period of two (2) years, Supplier has the right to make such disposition or use of Equipment as it, in its sole and exclusive judgment, considers to be appropriate, including scrapping same. CHARGES FOR EQUIPMENT, FIXTURES, DIES, TOOLS, OR GAGES DO NOT CONVEY OWNERSHIP OR THE RIGHT TO REMOVE THEM FROM SUPPLIER'S FACILITIES, UNLESS SPECIFICALLY AGREED UPON IN WRITING BY BOTH PARTIES.

10 – Patent Indemnity. Buyer agrees to hold Supplier harmless from liability, including any costs and expenses, in the event of any claims of patent infringement arising out of the manufacture and/or sale of any article manufactured by Supplier to Buyer's specifications or requirements.

11 – Remittances. Supplier may instruct that remittances shall be sent to the bank or other receiving agency or depository. No receiving agency or depository has authority to settle claims for Supplier or to accept payment tendered as payment in full. Therefore, Buyer agrees that, notwithstanding any endorsements or other legend appearing on Buyer's checks, drafts or other orders for payment of money, they do not constitute payment in full or settlement of account by virtue of such endorsement or legend, or otherwise.

12 – Cancellation. No order accepted by Supplier shall be countermanded, canceled or altered by Buyer, nor shall Buyer otherwise cause the work or shipment to be delayed, except with the prior written consent of Supplier, and upon the terms and conditions approved by Supplier in writing.

13 – Proprietary Information. All drawings, specifications and technical material submitted by Supplier, and any process or metallurgical technology developed in the manufacturing process, are the property of Supplier, are confidential, and shall not be disclosed to or discussed with others. All such drawings, specifications and technical material, and all models or samples submitted with this order or in carrying out any transaction based thereon shall be returned to Supplier on demand. Drawings and other descriptive matter furnished by Supplier are not binding as to detail unless certified correct by Supplier in acknowledging an order.

14 – Place of Contract. All orders are subject to final acceptance by Supplier at its designated office or manufacturing facility. Any contract arising out of the placing of any such purchase order and the acceptance thereof as herein provided shall be construed in accordance with the laws of the State of Ohio.

15. Indemnification. Buyer shall indemnify the Supplier from any and all third party claims, damages, and expenses (including reasonable attorney fees) under theories of tort, product liability, negligence (ordinary or gross), warranty, contract, statute, or otherwise arising out of the use, storage, sale, processing or other disposition of the goods, products, supplies or materials used in connection with the goods or products, or parts manufactured by Supplier.

16 Shipping Tolerances. Unless otherwise expressly agreed by Supplier, the following tolerances will be in effect for all shipments made to Buyer:

1). **Strip and Wire Products** =+/- 10 %

2). **Roll Formed Shapes** may be: **minimum of 5,000 feet; 5,000-10,000 Feet = +/- 40%, 10,001-25,000 Feet = +/- 30%, 25,001-50,000 Feet = +/- 20%, over 50,001 +/- 10%.**

17 Entire Agreement. These terms and conditions and Supplier's Supply Agreement shall constitute the sole and exclusive agreement between Buyer and Supplier relating to any order, and the same may not be altered, amended, modified or rescinded except by a writing signed by the Buyer and Supplier. The supply of Products by Supplier shall be provided only on the exact terms set forth in the Supply Agreement (if any) and these terms and condition; and no other terms or conditions shall be accepted unless specifically agreed to in writing by an Officer of Supplier. No waiver of a breach of any provision hereof shall constitute a waiver of any other breach or of such provision.