

This Quotation by Seller is expressly made conditional on Buyer's assent to all terms and conditions herein, including those which are different from or in addition to any terms and conditions contained in any form heretofore or hereafter supplied by Buyer to Seller, and Buyer's placement of an order for any of the Goods quoted herein, and/or acceptance of delivery of same, shall be conclusive evidence of such assent. Seller hereby gives notice that it objects to any terms or conditions contained in any form or document supplied by Buyer to Seller.

**1 – Prices and Taxes.** All prices contained in this Quotation are subject to change, without prior notice to Buyer, to correct arithmetical and/or clerical errors and to reflect any increase or decrease in Seller's cost resulting in fluctuations in the price of material. Buyer, in addition to the price of the Goods sold, shall assume and pay any and all sales, use, excise, license, property and/or other fees, together with any interest and penalties thereon, relating to the sale of any Goods or services pursuant to this Quotation or any resulting order, and shall indemnify Seller 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.** Delivery terms are as stated on the face of this Quotation. Any estimated delivery date shall constitute Seller's best estimate based on scheduling requirements at the time the order is entered. Seller 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 Goods will ship. HYNES INDUSTRIES SHALL HAVE NO LIABILITY FOR LOST PROFITS OR INCIDENTAL OR CONSEQUENTIAL DAMAGES DUE TO DELIVERY DELAYS. Unless stated otherwise on the face of this Quotation, the standard shipping quantity tolerance for each line item will be +/- 10%, and Buyer agrees to accept orders shipped in accordance therewith. And unless otherwise agreed in writing, Seller 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 Seller in writing within ten (10) days after delivery.)

**3 – Payment Terms.** Payment terms shall be those stated upon receipt on the front of this Quotation as 1/2 -10, net 30.

Remittances shall be as directed by Seller, and interest at the rate of ½ 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 agreed upon.

**4 – Credit Approval.** If, during the performance of any order placed as a result of this Quotation, the financial responsibility of the Buyer is determined at the sole discretion of Seller to be unacceptable for any reason, or if Buyer fails to make any payments in accordance with the terms hereof, Seller may cancel this order and/or refuse to deliver any undelivered Goods, and Buyer shall immediately become liable to Seller for the unpaid price of all Goods delivered, all Goods in process, 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.** Seller warrants that all Goods 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 specifications on the face hereof. 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 GOODS ARE FIT FOR ANY PARTICULAR PURPOSE. Defective Goods may be returned to Seller, after inspection by Seller and upon receipt of written shipping instructions from Seller; Goods so returned will be repaired, replaced or refunded at Seller's option.

**6 – Limitation of Liability.** Seller's liability is expressly limited to the refund, repair or replacement of defective Goods. SELLER 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 Goods or from any other cause including, but not limited to, property damage, lost profit, damages based on loss of use of the Goods, or damage for cover.

**7 – Specifications and Tolerances.** Buyer acknowledges that any order placed as a result of this or any Quotation by Seller is accepted with the understanding that the Goods are furnished in accordance with specifications and/or blueprints on hand in Seller's files, or furnished to Seller with Buyer's order and specifically agreed to and accepted by Seller in writing. All manufacturing tolerances are to be in accordance with Seller's standards. Seller 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 Seller. Any price variation resulting from such changes shall become effective immediately upon acceptance of such changes. The approved Hynes 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 Hynes drawing. Visit [www.hynesindustries.com](http://www.hynesindustries.com) for standard tolerance information

**8 – Force Majeure.** Seller shall not be liable for any failure or delay of performance under this order in any way from any action, order or requirement of any local, state or federal

use in producing this order or make such operation economically unfeasible in Seller's opinion, including unavailability of government owned equipment for any reason, and Seller shall not be liable for any failure or delay of performance hereunder due to causes beyond its control, including, but not restricted to, acts of God or the public enemy, floods, fires, earthquakes, hostilities, war (declared or undeclared), acts of either general or particular application of any de jure or de facto government or any of its subdivisions, bureaus or agencies, strikes or other labor troubles whether direct or indirect, riots, insurrections, civil commotions, loss or shortage of labor, transportation, raw materials or energy sources, or failure of usual means of supply. Should a failure or delay in Seller's performance occur because of any of the foregoing, Seller 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. Seller shall promptly notify Buyer as to the reason for its failure or delay in performance, and to as whether it has canceled this order or has delayed performance hereunder. If performance is delayed, Seller shall also notify Buyer as to the period of time during which the delay is likely to continue. Seller shall then have the further right to allocate its available goods between its own end uses and its customers in such a manner, as Seller may consider equitable. Seller 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. Seller's liability for failure or delay in performance for any cause whatsoever whether beyond Seller's control or not, shall not include incidental or consequential damages.

**9 – Tools/Dies.** Any equipment, including jigs, dies, tools, etcetera (herein Equipment) which Seller constructs or acquires solely for use in the production of the Goods described herein shall be and remain Seller's property. Seller shall at all times have the right to sole and exclusive possession and control of the same. Any charges made by Seller for any Equipment shall not confer on Buyer any right of any kind with respect to Equipment, except the right to have Seller use Equipment for the manufacture of the Goods described herein for Buyer. In the event, however, Seller has not used Equipment for the manufacture of the Goods described herein for Buyer for a period of two (2) years, Seller shall have 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 SELLER'S FACTORY, UNLESS SPECIFICALLY AGREED UPON IN WRITING BY BOTH PARTIES.

**10 – Patent Indemnity.** Buyer agrees to hold Seller 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 Seller to Buyer's specifications or requirements.

**11 – Remittances.** Seller 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 Seller 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 resulting from this or any other Quotation by Seller 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 Seller, and upon the terms and conditions approved by Seller in writing. Orders canceled by such consent are subject to compensation for labor, materials and overhead, plus twenty-five percent (25%). Upon payment of such cancellation charges, all such raw materials, work in process and finished Goods shall be delivered to Buyer, f.o.b. Seller's plant.

**13 – Proprietary Information.** All drawings, specifications and technical material submitted by Seller, and any process or metallurgical technology developed in the manufacturing process, are the property of Seller, 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 Seller on demand. Drawings and other descriptive matter furnished by Seller are not binding as to detail unless certified correct by Seller in acknowledging an order relating thereto.

**14 – Place of Contract.** All orders are subject to final acceptance by Seller at its designated office or manufacturing facility. The conditions of this Quotation shall apply to, and govern, any resulting order; and in the case of any inconsistency between said conditions and those of Buyer's purchase order, the former shall prevail. 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 Seller 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 Seller pursuant to this Quotation or otherwise.



## Hynes Industries & Affiliates Terms and Conditions of Sale

governmental agency which would curtail or force cessation of facilities operations intended for

**16 Over shipping and under shipping. The following percentages will be in effect for all shipments made to our customers:**

- 1). Strip and Wire Products Plus or Minus 10 %**
- 2). Roll Formed Shapes Plus or Minus 10,000 Feet = +/- 30%, 25,000 Feet = +/- 20%, 50,000 Feet = +/- 10%**

**17 Entire Agreement.** The terms and conditions of this Quotation shall constitute the sole and exclusive agreement between Buyer and Seller relating to any resulting order, and the same may not be altered, amended, modified or rescinded except by a writing signed by the Buyer and Seller. This Quotation may only be accepted on the exact terms set forth in this quotation; and no other terms or conditions shall be accepted unless specifically agreed to in writing by an Officer of Hynes Industries.

No waiver of a breach of any provision hereof shall constitute a waiver of any other breach or of such provision.