

TERMS AND CONDITIONS

Formtech Enterprises, Inc., herein referred to as "Company," hereby offers to sell to the Buyer the products described on the face hereof, subject, however, to the following terms and conditions:

- ACCEPTANCE:** Delivery of an order with reference and in response to this Quotation and offer at the offices of the Company shall constitute the acceptance of all of the terms and conditions set forth herein and any inconsistent or additional terms contained in the Buyer's order are hereby rejected unless expressly accepted in writing by the Company within ten (10) days after its receipt of such order. The terms, conditions, specifications and quantities as stated herein shall not be modified other than in a writing executed on behalf of the Buyer and the Company.
- PRICES AND TAXES:** The prices quoted herein will remain firm for a period of thirty (30) days, after which period the Company may change the same without notice. Therefore, if the placing of an order with respect to this offer has been delayed beyond such time, Buyer should obtain confirmation of prices prior to submitting an order. Payment terms for extruded parts are 1% 10 days/Net 30 days unless otherwise stated on the face hereof. Payment terms for engineering and/or development fees are net 30 days after invoice date, unless otherwise stated on the face hereof, with no discount for earlier payment. If so indicated on the face hereof, Buyer may be required to make an advance payment and/or progress payments based upon the degree of completion of the work involved. Unless otherwise stated herein, prices quoted are F.O.B., the plant of origin. Unless otherwise agreed by the Company in writing, the amount of any local, State or Federal tax levied after the date hereof on the products referred to herein shall be added to the amount paid by and remain the sole responsibility of the Buyer. A convenience fee may be charged for any purchase paid via credit card. Any portion of the price, which is not paid in accordance with the terms of payment herein stated, shall bear interest from the due date at the rate of 1/20 of 1% per day until paid.
- DELIVERY:** Any dates or schedules which may be specified for the delivery of the products covered hereby have been stated only approximately and are estimated from the date of receipt of Buyer's order, with complete drawings, specifications, designs, samples and other information reasonably requested by the Company in order to proceed with the manufacture of the products and the Company shall not incur any liability, either direct or indirect, nor shall any order be canceled, because or as a result of any delays in meeting such dates or schedules.
- FORCE MAJEURE:** The Company shall in no event be responsible or liable for any delays or failures in manufacture or delivery due to any cause or condition beyond the control of the Company, including, without limiting the generality of the foregoing, strikes or other labor difficulties, fire, floods, inability to secure transportation facilities, actions of the elements, shortage of materials or equipment, riots or other civil commotion, and war.
- ENGINEERING FEES:** Are charged to defray the costs of producing the necessary tooling required to manufacture extruded parts. In no way should this be interpreted to infer that tooling manufactured by Formtech Enterprises, Inc., is being sold to a customer. In no event shall the Company be responsible or liable to Buyer for any damage to or loss of any such tooling, except for such damage or loss occurring as a direct result of an act or omission of the Company, it being understood and agreed that Buyer shall bear any such loss, to the extent the same may not be covered by insurance procured and paid for by Buyer.
- WARRANTY:** Provided Buyer notifies the Company in writing within sixty (60) days of the invoice date that any product or part fabricated and furnished hereunder is claimed to be defective, the Company will, at its sole option, either repair, replace or issue credit for such part or product which is found by the Company to be defective due to defective materials supplied by the Company or defective workmanship of its employees, subject, however, to the following conditions:
 - No part of product shall be returned to the Company without its prior written authorization, provided any such authorization for return shall not be construed as an admission by the Company that any claim for defects is valid;
 - The foregoing warranty shall not apply to any part or product which has been assembled, machined, altered or finished in any respect;
 - The Company shall not be responsible for, nor shall the foregoing warranty apply to defects attributable to Buyer's design or specifications for a product or part; and
 - The Company shall in no event be responsible or liable for the cost of labor or other charges incurred by Buyer in returning any product or part to the Company for repair, replacement or credit.
- EXCLUSION OF OTHER WARRANTIES:** EXCEPT FOR THE EXPRESS WARRANTY AS DESCRIBED ABOVE, THERE ARE NO WARRANTIES INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, WHICH EXTEND BEYOND THE DESCRIPTION OF THE PRODUCTS ON THE FACE HEREOF. NO WARRANTIES OR REPRESENTATIONS AT ANY TIME MADE BY ANY REPRESENTATIVE OF THE COMPANY SHALL BE EFFECTIVE TO VARY OR EXPAND THE ABOVE-REFERENCED EXPRESS WARRANTY OR ANY OTHER TERMS HEREOF.
- LIABILITY LIMITATION:** In no event shall the Company be liable to Buyer or to any third party for CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES resulting from or in any manner related to the products, their delivery, non-delivery, design, use, or any inability to use the same whether such damages be claimed under contract, tort, or any other legal theory, it being understood that the sole and exclusive remedy of the Buyer or any third party shall be the repair, correction or replacement of defective products pursuant to the "WARRANTY" provisions herein-above contained. Should the products prove so defective, however, as to preclude the remedying of warranted defects by repair or replacement, the Buyer's sole and exclusive remedy shall be the refund of the purchase price upon its return of the products to the Company.
- CANCELLATION OR CHANGES ON ORDERS:** No order may be withdrawn or canceled by the Buyer, nor may they be deferred when ready, unless the Company shall first be paid a cancellation or deferral charge of a reasonable amount acceptable to the Company. In the event Buyer shall request changes to its order after receipt thereof by the Company; it shall be responsible for all charges reasonably assessed by the Company with respect to such changes.
- INFRINGEMENT CLAIMS:** In the event any product or part covered hereby encompasses any design characteristic or specification of Buyer, Buyer agrees to hold the Company harmless against any claim of infringement of any patent or copyright relating thereto which may be asserted against the company by any third person.
- APPLICABLE LAW:** The terms and conditions applicable to the transaction provided for herein shall be determined and construed in accordance with, and shall be governed by, the laws of the State of Ohio and Buyer and the Company agree to submit to the jurisdiction of the appropriate State or Federal Court within Ohio for purposes of resolving any dispute or claim arising in connection with said transaction.
- FORMTECH ENTERPRISES, INC.:** Assumes no responsibility for the design of a customer's product, the design of the extruded part as a component of that product, or for parts produced to the customer's design and specification. The customer assumes the responsibility for any infringements on any letters, patents, or copyrights.
- TECHNICAL INFORMATION:** Any technical advice or assistance furnished by the Company to the Buyer with respect to the use of the goods shall be given and accepted by Buyer's risk and the Company shall have no liability whatsoever for the use of or results obtained by such advice or assistance whether or not based on negligence.