

## SEI Terms and Conditions of Sale

All sales by Superior Extrusion, Inc., hereinafter referred to as SEI, shall be made exclusively on the following terms and conditions. "Products" refers to the product or products being sold by SEI.

**1. CONTRACT FORMATION:** Any reasonable expression of Purchaser's acceptance of SEI's offer shall constitute acceptance of these terms and conditions. SEI objects to and will not agree to any terms that are additional to or different from these terms. Terms that are printed on or contained in a purchase order or other form prepared by Purchaser, which are additional to or in conflict with or inconsistent with those herein, shall be considered to be inapplicable and shall have no force or effect. If Purchaser has not otherwise agreed to these terms, Purchaser's acceptance of delivery of, or payment for, the Products will constitute Purchaser's acceptance of these terms. These terms are intended by the parties as a final expression of their agreement and as a complete and exclusive statement of the terms and conditions of that agreement. These terms and conditions may not be abrogated, varied, modified, supplemented, or waived except in writing signed by an authorized representative of SEI.

**2. PRICE/PRICE CHANGE:** SEI's Standard Pricing Policy is "Ship-Date-Pricing," which means that the per unit sale price invoiced will be based upon the Previous Month's Midwest Transaction Average (PMMWTA) base pricing in effect on the day of shipment from SEI plus the conversion cost per unit agreed to by the parties. Unless otherwise expressly provided by SEI in writing, the conversion cost portion of a quotation/estimate shall be effective for a maximum period of sixty (60) days, and shall automatically be deemed revoked at the end of such period and may be revoked earlier at the election of SEI. Any quotation/estimate containing value-added pricing including, but not limited to, anodizing, painting, and fabrication, shall be effective for a maximum period of thirty (30) days, and shall automatically be deemed revoked at the end of such period and may be revoked earlier at the election of SEI. The quoted price is based upon a specific product description agreed to by the parties and the PMMWTA base price in effect on the date of the quote/estimate. If an order is placed which does not strictly conform to the specific product description agreed to by the parties or the PMMWTA base price has changed subsequent to the quotation/estimate, SEI expressly reserves the right to reject the order or, in its discretion, change the price and issue a revised written quotation/estimate. The price contained in the revised quotation/estimate shall be conclusively presumed to be accepted by Purchaser unless SEI receives written notification to the contrary within seven (7) days after Purchaser's receipt thereof. Typographical and arithmetic errors are subject to correction by SEI. Purchaser shall pay (in addition to the actual sales price applicable on the date of shipment) all local, state, or federal sales, use, excise, privilege, occupational, personal property, or other similar taxes, if any, however designated, levied or based on the manufacture, sale, or shipment of the Products, now or hereafter imposed. The State of Michigan requires SEI to charge a six (6.0) percent sales tax to all Purchasers who do not have a fully completed, signed Michigan Sales and Use Tax Certificate of Exemption on file with us. In the event any such taxes are paid by SEI, Purchaser shall immediately reimburse SEI upon demand. Placement of an order shall constitute Purchaser's acceptance of the foregoing provision. The parties agree that this provision is necessary so that product can be released for manufacture promptly upon receipt of your order and SEI can rely on this provision in releasing an order for manufacture.

**3. ORDERS:** All orders are subject to final approval of SEI upon receipt of a written purchase order and acknowledgement of the same, as well as approval by SEI of the Purchaser's credit application. As disclosed in Section 2 above, pricing contained in an "Order Acknowledgement" from SEI may be subject to change based upon the PMMWTA base price at the time of shipment. Orders may not be changed or cancelled except by written agreement of both parties. Purchaser shall be responsible for all expenses and losses (including lost profits) incurred by SEI as a result of any unilateral change or cancellation by the Purchaser. SEI assumes no liability for any errors or omissions in any drawings or specifications provided by Purchaser, including any errors or omissions made by SEI in the interpretation of any drawings or specifications. Any additional work required as a result of Purchaser's error shall be charged to Purchaser at SEI's then current rates. Any items included in any specification provided by Purchaser and not listed and priced on SEI's proposal or invoice are not part of this contract.

**4. SHIPMENT:** A. If Products are sold FOB destination, SEI shall deliver the Products to the destination specified and SEI shall bear the cost of transportation. (i) The method and agency of transportation and the routing thereof shall be designated by SEI. Excess packing, shipping and transportation charges resulting from compliance with Purchaser's request shall be at Purchaser's expense. In the case of Purchaser pickup, Purchaser's truck is the destination. Products may be shipped at one time or in portions from time to time. (ii) If Products are not sold FOB destination, they are sold FOB shipping point at SEI's plant and the cost of transportation thereof shall be borne by Purchaser. B. Any delivery information (including time for shipment) is approximate. SEI shall use its best efforts to make delivery as scheduled, but SEI shall not be liable for any loss or damage resulting from a failure to deliver or delays in delivery caused by a labor dispute (including a strike, slowdown, or lockout), fire, flood, or governmental act or regulation, riot, inability to obtain supplies, materials, or shipping space, plant breakdown, power failure, delay or interruption of carriers, accident, acts of God, or other causes beyond SEI's control. Furthermore, SEI shall not be liable for any incidental, special, or consequential damages resulting from SEI's failure to meet delivery schedules. C. If shipments are made by a carrier other than SEI, then all risk of loss or damage in transit shall be borne by Purchaser and all claims for loss or damage in transit or for non-delivery shall be made by Purchaser against the carrier. Purchaser shall not reject Products damaged in transit, but shall pursue as its exclusive remedy claims against the carrier for damaged or lost Products. Purchaser is responsible for inspecting the Products upon receipt and making claims for Product damage directly to the delivering carrier. SEI shall not honor claims or back charges for damages to Products in transit and shall not accept return shipments consigned to, but refused by Purchaser. D. If Purchaser causes or requests delay in the manufacture, assembly, shipment, or installation of Products, Purchaser shall pay SEI for all expenses and losses resulting therefrom.

**5. PURCHASER'S OBLIGATIONS:** Purchaser is responsible for inspecting the Products upon receipt and Purchaser agrees that (i) before using the Products, Purchaser shall determine the suitability of the Products for Purchaser's intended use and shall assume all risk and liability whatsoever in connection with that determination, (ii) Purchaser shall use the Products properly and according to any instructions included with the Products, or otherwise provided, and (iii) Purchaser shall install the Products in accordance with all applicable laws and codes. Purchaser shall indemnify and hold harmless SEI, and if so requested defend SEI, from any and all costs, claims, damages, judgments, and expenses (including reasonable attorneys' fees) suffered or incurred by SEI as a result of, or in connection with, any act, omission, or use of the Products by Purchaser, its employees, or customers, or any breach by Purchaser of this Agreement.

**6. PAYMENT:** A. Invoices submitted by SEI for any order are payable in accordance with the terms stated thereon. Whenever reasonable grounds for insecurity arise, SEI may demand different terms of payment and may demand assurance of Purchaser's due performance. Any such demand may be oral or written, and SEI may, upon making said demand, stop production and suspend shipments hereunder. If within the period stated in such demand, Purchaser fails or refuses to agree to give adequate assurance of due performance, SEI may, at its option, treat such failure or refusal as a repudiation of the portion of the order which has not been fully performed or may, in addition to all other rights provided under applicable law, make shipment under reservation of possession or may demand payment against delivery. All rights available to SEI under applicable law or these terms and conditions shall be deemed cumulative, and SEI shall not lose any right because it has not exercised it in part. SEI shall be entitled to suspend performance until all of Purchaser's accounts with SEI are current. B. Purchaser shall pay the reasonable costs and expenses (including reasonable attorney's fees) incurred by SEI in connection with all actions taken to enforce its rights under these terms and conditions, including, without limitation, to collect any amounts owing from Purchaser to SEI. In addition, Purchaser shall be liable for a service charge equal to one and one-half (1.5) percent (18.0 percent per annum) of the invoice price per month (but not in excess of the maximum rate allowed by law) on any past due account. C. Purchaser represents that Purchaser is solvent. Purchaser hereby grants SEI a security interest in the Products to secure payment of the purchase price and all other indebtedness now and hereinafter owing by Purchaser to SEI. At SEI's request, Purchaser shall execute and deliver to SEI a financing statement evidencing this security interest.

**7. WARRANTY:** SEI warrants the Products in accordance with its standard Commercial Limited Warranty, which is hereby made part of these terms and conditions.

**8. DISCLAIMER/LIMITATION OF LIABILITY:** THE WARRANTIES STATED HEREIN ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. SEI MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. No person other than an authorized Officer of SEI may modify or expand the warranty provided herein, waive any of the limitations, or make any different or additional warranties with respect to any Product, and any statements to the contrary are hereby rendered null and void. On any resale of the Products, Purchaser shall contractually limit the subsequent buyer's rights and remedies to the same extent as Purchaser's are limited under these terms and conditions. Notice of a breach of SEI's warranty must be made in writing addressed to SEI, setting forth sufficient detail to permit identification by SEI of the claimed defect. Such action must be given within thirty (30) days after discovery of the defect by Purchaser, but in no case more than two (2) years after the date of shipment of the Products to Purchaser or, if longer, more than thirty (30) days after the expiration of any specific warranty period under SEI's standard Commercial Limited Warranty. If notice is not given within such period, any claim for breach of warranty shall be conclusively deemed to have been waived by Purchaser and SEI shall not be liable to Purchaser with respect to the alleged defect.

**9. REMEDIES FOR DEFECTS:** Whether the Products are delivered directly to Purchaser or to an Agent of the Purchaser (e.g., a painting or anodizing facility) the Purchaser is responsible for ensuring prompt and thorough inspection of the Products upon receipt. SEI may, at its option, repair or replace any defect constituting a breach of the warranty provided herein, or pay the reasonable cost of repair or replacement for any such defect, notice of which is given to SEI by Purchaser within thirty (30) days after Product delivery. Repair or replacement does not include any costs of removal or reinstallation of the defective Product or part thereof. SEI will have the option of requiring the return of the defective Product or part thereof, transportation prepaid, and proof that the Product has been properly installed, maintained, and operated to establish the claim. In the event of a defect in any Product constituting a breach of the warranty provided herein, SEI shall furnish instructions for the disposition of the defective Product or part thereof. No Product shall be returned to SEI without its prior written consent. The acceptance of any Products returned to SEI shall not be deemed an admission that the Products are defective or in breach of any warranty, and if SEI determines that the Products are not defective they may be returned to Purchaser at Purchaser's expense. SEI shall not accept back charges for labor or repair costs incurred by Purchaser without the prior written consent of SEI. SEI's liability for any defect in the Products constituting a breach of the warranty provided herein or for any other breach of these terms and conditions shall not exceed the net purchase price of the Products. SEI SHALL HAVE NO LIABILITY TO PURCHASER FOR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER INCLUDING, BUT NOT LIMITED TO, PERSONAL INJURY, PROPERTY DAMAGE, LOST PROFITS, OR OTHER ECONOMIC INJURY DUE TO ANY DEFECT IN ANY PRODUCT OR ANY OTHER BREACH OF THESE TERMS AND CONDITIONS BY SEI. SEI SHALL NOT BE LIABLE TO PURCHASER IN TORT FOR ANY NEGLIGENT DESIGN OR MANUFACTURE OF ANY PRODUCT, OR FOR THE OMISSION OF ANY WARNING WITH RESPECT THERETO. The remedies provided herein shall be Purchaser's sole and exclusive remedy. If SEI is unable to repair or replace the defective Products, SEI shall issue a credit to Purchaser for all or part of the purchase price, as SEI shall determine.

**10. PERIOD OF LIMITATIONS:** No claim, suit, or other proceeding may be brought by Purchaser for any breach of warranty by SEI after two (2) years from the date of shipment of the Products or for any other breach of these terms and conditions by SEI or relating to the Products after one (1) year from the date on which the claim accrues. In the interpretation of this limitation on action for a breach by SEI, it is agreed that there are no warranties of future performance of the Products, except as expressly granted by SEI in writing that would extend the period of limitation herein contained for bringing an action.

**11. PATENTS AND SIMILAR RIGHTS:** Purchaser shall indemnify and hold harmless SEI, and if so requested, defend SEI from any and all costs, claims, damages, judgements, and expenses (including reasonable attorney fees) suffered or incurred by SEI as a result of, or in connection with any infringement or alleged infringement of any United States Letters, Patent, Trademark, Trade Name, Copyright, or other similar right to the extent that such infringement or alleged infringement arises from designs, specifications, or instructions furnished or expressly or implicitly required by Purchaser. The sale of Products to Purchaser hereunder shall not grant Purchaser any right or license of any patent owned or controlled by SEI or under which SEI is licensed.

**12. DIE SERVICE CHARGES / TOOLING / EQUIPMENT:** All jigs, dies, support tooling, and related equipment constructed or acquired by SEI for exclusive use in the production of Goods for the Purchaser shall be SEI's property and shall remain within SEI's possession and control. Any "Die Service Charge" (DSC) invoiced to the Purchaser by SEI represents a one-time service charge for the Purchaser's use of the dies, tooling, and equipment. The DSC does not convey any title or ownership of the tooling/equipment to the Purchaser whatsoever. SEI retains ownership of the tooling/equipment and SEI will maintain and replace said tooling/equipment at its sole discretion. When for (24) consecutive months no Orders acceptable to SEI are received from Purchaser for Goods to be produced with any such tooling/equipment, SEI may make such use or disposition thereof as SEI desires without any liability or obligation to Purchaser whatsoever.

**13. APPLICABLE LAW:** These terms and conditions, and the Agreement evidenced hereby, shall be governed by and interpreted according to the laws of the State of Michigan. Any lawsuit arising out of these terms and conditions, or the Agreement evidenced hereby, or relating to the Products may be maintained in any federal or state court located within such state, and Purchaser irrevocably consents to the personal jurisdiction of any such court and the laying of venue therein.

**14. MISCELLANEOUS:** If any provision of these terms and conditions is found to be invalid or unenforceable under any law, the provision shall be ineffective to that extent and for the duration of the illegality, but the remaining provisions shall be unaffected. Purchaser shall not assign any of its rights nor delegate any of its obligations hereunder without the prior written consent of SEI. These terms and conditions shall be binding upon and enforceable by and against Purchaser and SEI, and their respective legal representatives, successors, and assigns.