



## TERMS AND CONDITIONS OF SALE

Effective January 1, 2017

**1. The Parties.** These terms and conditions for the sale of goods or services (this "Agreement") are agreed upon by UFP Technologies Inc., and/or its affiliates Stephenson and Lawyer, Inc., and Moulded Fiber Technologies, Inc. ("Seller") and the purchaser of Seller's goods or services (hereinafter the "Buyer").

**2. General.** The terms and conditions set forth herein, and any supplements incorporated by reference herein, constitute the contract and the entire understanding between the parties relating to the goods and services covered hereby. Acceptance of this contract is expressly limited to the terms and conditions contained herein, and none of Buyer's terms and conditions in acknowledging or accepting this contract or in issuing any purchase orders, releases, shipping instructions hereunder, or other documents shall apply. Seller shall not be bound by this contract or by any change in, addition to, or waiver of any provisions herein unless approved in writing by an authorized representative of Seller.

**3. Prices.** All prices quoted hereunder are for immediate acceptance by Buyer, in the quantities shown, and are subject to revision or cancellation by Seller at any time prior to written acceptance by Buyer. The prices for goods sold or services provided hereunder are for immediate acceptance only. Otherwise, Seller's standard price in effect at the time the goods are sold or services provided shall apply. Buyer grants to Seller the right, at any time during the term of this Agreement, to revise prices hereunder to reflect increased material and production costs by giving Buyer written notice thereof, and such revised prices will apply to all goods thereafter shipped. If Buyer provides written objection to Seller's price changes within 10 days following notice from Seller, Seller shall have the option of terminating the Agreement with no liability to Seller.

**4. Payment.** Payment shall be due for all goods or services sold hereunder net thirty (30) days from date of invoice. Buyer agrees to pay taxes appearing on the invoice no later than the time of payment. Payment shall be made in U.S. Dollars. Seller reserves the right to determine the suitability of the method of payment where payment is other than cash, certified check or money order. Seller reserves the right to deny credit to Buyer. Seller reserves the right to revoke credit previously extended to Buyer because of Buyer's failure to pay for goods when due or for any other reason in Seller's discretion, and in such event all subsequent shipments shall be paid for in advance or on delivery. In the event

that Buyer is late in making any payment beyond the date due, in addition to any other remedies of Seller, including terminating this Agreement, Seller may withhold shipment of unshipped goods until all amounts due and owing to Seller have been paid in full. Late payments shall include interest on the amount of the late payment, calculated at an annual rate of 18% or the highest legal rate, whichever is lower, for each day beyond the due date that such payment is late.

**5. Delivery.** The goods listed in the Agreement will be shipped from either Seller's plant, Seller's warehouse, or be shipped directly from a supplier or distributor of Seller, or any combination thereof in Seller's discretion. Delivery terms are EXW (Incoterms 2012) shipping point and BUYER IS RESPONSIBLE FOR ALL FREIGHT, HANDLING, AND INSURANCE COSTS, THE PROVIDER OF WHICH WILL BE SELECTED BY BUYER. Shipping dates are approximate only and Seller reserves the right to make delivery in installments and back order goods unless Buyer expressly states otherwise in Buyer's purchase order. All such installments and back orders shall be separately invoiced and paid for when due, without regard to subsequent deliveries. Delay in delivery of an installment or back order shall not relieve Buyer of its obligation to accept remaining deliveries. Seller shall not be liable for any loss or expense, whether by way of contract or tort (consequential or otherwise) incurred by Buyer if Seller fails to meet the specified estimated delivery schedule because of unavoidable production or other delays.

**6. Title; Security Interest**-Title and ownership of the goods sold hereunder shall remain with the Seller until time of shipment when title and risk of loss have passed to the buyer. Seller reserves, and Buyer hereby grants to Seller, a purchase money security interest in and to the goods, together with the cost of any services related thereto, as security for the performance of Buyer's obligations under this Agreement. Seller reserves the right to file a UCC-1 Financing Statement together with any attachments thereto as evidence of such a security interest.

**7. Taxes.** Seller's prices do not include federal, state, or local sales, use or excise taxes, however designated, levied or based on the price or value of the Agreement, or the purchase price or value of the goods or services specified in the Agreement. Any taxes which Seller may be required to pay or collect, under any

existing or future law, upon or with respect to the sale, purchase, delivery, storage, processing, use, or consumption of any of the material covered hereby, including taxes upon or measured by the receipts from the sale thereof, shall be paid for by Buyer. Taxes will be added to the sales price where Seller invoices the same in order to comply with law.

**8. Substitutions.** Seller may modify manufacturing processes or the specifications of goods designed by Seller and substitute goods manufactured to such modified processes or specifications for those specified herein, provided such goods substantially conform to the Agreement.

**9. Changes.** Any notice or instruction from the Buyer received subsequent to Seller's purchase order acknowledgment, including supplementary information contained in a confirming purchase order, which has the effect of changing the specifications, scope of work, or other terms, will be effective only upon an appropriate adjustment in the price and/or delivery date, and acceptance of any change by Seller in writing.

**10. Warranty, Remedies, and Disclaimer.**

**A. Warranty:**

(1) **For Goods.** Seller warrants that on the date of delivery, the goods shall conform to the latest samples, drawings, or specifications as agreed to by Buyer and Seller in connection with the sale of such goods. Seller's warranty shall extend for a period of thirty (30) days from the date of shipment. Continued use or possession of goods thereafter shall be conclusive evidence that the warranty is fulfilled to the satisfaction of the Buyer.

(2) **For Services.** Seller warrants that all services performed under the Agreement will be performed in a reasonable and workmanlike manner.

**B. Remedies:** THE LIABILITY AND OBLIGATIONS OF SELLER, IF NOTIFIED BY BUYER IN WRITING OF A BREACH OF ANY OF THE FOREGOING WARRANTIES, SELLER'S OBLIGATION SHALL BE LIMITED SOLELY TO: (1) REPAIR OR REPLACEMENT AT SELLER'S OPTION OF ANY DEFECTIVE GOODS (DETERMINED IN SELLER'S SOLE DISCRETION TO BE DEFECTIVE) OR (2) REPERFORMING THE NON-CONFORMING SERVICES PROVIDED BUYER HAS PROVIDED WRITTEN NOTICE TO SELLER OF SUCH NONCONFORMING SERVICES WITHIN FIVE (5) DAYS OF THE COMPLETION OF THE SERVICES. SUBJECT TO THE PRECEDING, AND EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, SELLER MAKES NO OTHER

REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESSED OR IMPLIED, AS TO THE MERCHANTABILITY OF THE GOODS OR SERVICES, THEIR FITNESS FOR A PARTICULAR PURPOSE OR USE AS TO ANY OTHER MATTER, WHETHER THE GOODS OR SERVICES ARE USED ALONE OR IN COMBINATION WITH OTHER SUBSTANCES.

**C. Disclaimer:** Except and expressly set forth hereinabove, Seller makes no representation or warranty with respect to the goods or services performed hereunder.

SELLER'S ENTIRE LIABILITY FOR ANY AND ALL LOSSES OR DAMAGES RESULTING FROM ANY CAUSE WHATSOEVER, INCLUDING NEGLIGENCE SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE GOODS OR SERVICES IN RESPECT FOR WHICH THE CLAIM IS MADE. IN NO EVENT SHALL SELLER BE RESPONSIBLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, OR SPECIAL DAMAGES (INCLUDING LOSS PROFITS OR REVENUE) PUNATIVE OR EXEMPLARY DAMAGES WHETHER THE BUYER'S CLAIM IS IN TORT, CONTRACT OR OTHERWISE.

**11. Acceptance of Goods.** Buyer shall inspect the goods immediately upon its receipt of the goods in its facility. All claims for alleged defects in goods are waived unless Seller is notified of the claim within thirty (30) days after receipt of shipment. No claim shall be effective if made after the goods have been altered or used. Buyer shall afford Seller prompt and reasonable opportunity to inspect all goods to which any claim is made. No material shall be returned to Seller without Seller's express consent, a return authorization, and return instructions. Buyer's acceptance shall be conclusively presumed to have occurred thirty (30) days following delivery to Buyer, unless Buyer has accepted the goods prior to that date.

**12. Patents.** In the event that any of the goods covered by this order shall be manufactured by Seller according to the Buyer's designs or specification, it is specifically understood that the Buyer will indemnify the Seller for any liability, damages, loss or expense resulting from any alleged defect in the design or specification of such goods or resulting from any actual or claimed infringement or misappropriation of patent, trade secret or other proprietary rights relating to such goods.

**13. Non-Disclosure of Confidential Information.** Buyer shall not use (except as permitted by and in furtherance of this Agreement) or disclose to others any of Seller's Confidential Information, either during the performance of this Agreement, or any time thereafter.

"Confidential Information" as used herein shall mean all information, data and experience of Seller relating to Seller's business, whether of a technical, engineering, operational, or economic nature, which is designated or treated as confidential by Seller; including, but not limited to all price and technical information, information relating to its goods, services, customers, supplies, formulation, composition, analysis, design, installation, materials, instructions, erection, operation, repair, maintenance, use, process or otherwise.

Confidential Information does not include:

- A. any information which is now part of the public domain or which hereafter becomes part of the public domain through no fault of Buyer,
- B. any information which was in Buyer's possession prior to the time of receipt from Seller, was not previously disclosed to Seller by Buyer under any other obligation of confidentiality, and the existence of which may be provable by Seller's prior written record,
- C. any information which subsequently comes into Buyer's possession and was not acquired by Buyer directly or indirectly from (i) Seller, (ii) sources under obligation of secrecy to Seller, or (iii) sources which require Buyer to hold in confidence,
- D. any information which was independently developed by Buyer without the knowledge of Seller's Confidential Information, and which may be proven by Buyer's prior written record, or
- E. any disclosure of Confidential Information made in response to a valid order of a court or other governmental body or any political subdivision thereof; provided, however, before making such disclosure pursuant to such order Buyer shall have made a reasonable effort to obtain a protective order requiring that the Confidential Information so disclosed be used only for the purpose for which the order was issued.

Buyer shall return to Seller all documents, materials, writings, and other tangible embodiments of the Confidential Information, including any summaries, abstracts, and copies thereof, within ten days receipt of such written request, or immediately upon termination of this Agreement.

**14. Non-Solicitation.** During the term of this Agreement and for a period of three (3) years after its expiration or termination, Buyer (and its owners and employees) shall not either directly or indirectly solicit

any suppliers or employees of Seller, at any time prior to or subsequent to the date of this Agreement, either to purchase goods, or goods which compete with Seller's goods, or to become employed by a company other than Seller. Buyer acknowledges that a breach of its obligations under this Section and Section 13, would cause irreparable harm to Seller for which monetary damages alone would not be an adequate remedy, and full compliance with the provisions of this Agreement is necessary to protect the business and goodwill of the Seller. Buyer acknowledges and agrees that it enters into this Agreement of its free will and understanding. Accordingly, in the event of a breach or a threatened breach of this Agreement, Seller shall be entitled to the extent permissible under applicable law to obtain preliminary or permanent injunctive relief without the necessity of proving actual damages by reason of such breach or threatened breach, and a temporary restraining order shall be granted immediately without prior written notice of any other action. If Seller prevails in any suit or other proceeding to enforce this action or remedy or breach thereof, Buyer will pay Seller's reasonable attorneys fees and costs incurred in any such suit or proceeding.

**15. Default.** Failure of Buyer to perform its obligations hereunder including, without limitation, payment in full of the purchase price for the goods, or the insolvency, bankruptcy, assignment for the benefit of directors, or dissolution, liquidation, or winding up of the business of Buyer, shall constitute a default under the Agreement. In such event, Seller may decline to make further shipments and terminate this Agreement, however, Seller's continuing to make shipments shall not constitute a waiver of such default, and Seller shall have all the rights and remedies of a secured party under the Uniform Commercial Code. If Seller resorts to a third party or to litigation in order to collect amounts owed hereunder, Buyer agrees to pay costs of collection, including attorney's fees, plus interest at the applicable statutory rate.

**16. Force Majeure.** Seller shall not be required to perform its obligations under the Agreement, or be liable for its failure to perform if nonperformance is caused by and Act of God, war, civil disturbance, strike, work stoppage, transportation contingencies, shortages of labor, fuel, raw materials or machinery, power failures, laws, regulations, ordinances, acts or orders of any governmental agency or official thereof or any cause not within the control of Seller where Seller has exercised ordinary care, in the prevention thereof. Seller further reserves the right, in its full discretion, to allocate inventories and current production and to substitute suitable materials when, in its sole discretion, circumstances warrant such allocation or substitution.

**17. Tooling.** Unless otherwise provided herein, all tools and dies, including without limitation, fixtures, gauges and assembly equipment manufactured for this Agreement, including the designs thereof; are Seller's property. If any tools and dies manufactured by Seller are to become Buyer's property, it must be specifically so provided in Seller's quotation or a separate Agreement agreed to by Seller. Any tools and dies, or any materials, tools, dies and other equipment furnished by Buyer to Seller, shall be at Buyer's sole risk and expense, and Seller shall not be liable for loss, damage, maintenance, repair or renewal, regardless of cause.

**18. Assignment.** This Agreement is not assignable without prior written consent from Seller; any attempt to assign any rights, duties, or obligations which arise under the Agreement without such written consent shall be void.

**19. Amendment.** This Agreement may only be changed or amended by writing, executed by an authorized representative of Seller and Buyer.

**20. Export Compliance.** Buyer agrees that the terms and provisions of this Agreement are subject to strict compliance with the applicable laws, rules, and regulations of the United States, including, without limitation, the Export Administration Act, the Export Administration Regulation, the Arms Control Act, the ITAR, the Trading with the Enemy Act, the National Economic Powers Act, and the Foreign Asset Control Regulations as they may be amended and supplemented from time-to-time.

**21. Governing Law.** This Agreement shall be governed and enforced in accordance with the laws of the Commonwealth of Massachusetts. Any action for the breach of any term of the Agreement must be commenced by Buyer within one (1) year of the date of any cause of action arising from said breach. Any action brought on the Agreement or any addendum shall be brought only within the Commonwealth of Massachusetts.