Shurtape

Terms & Conditions

1. PRICES - Prices are based upon costs to Seller as of the date of this contract from Seller's customary sources of raw materials and energy.

a. Prices are subject to change without notice and orders will be billed at prevailing prices as of the time of shipment. Any unfilled portion of this contract may be subject to increase to the extent of added costs to Seller for raw materials and energy, or to the extent of added costs caused by governmental action or legislation. The amount of any such increase as computed by Seller shall be binding upon Buyer except for clerical or mathematical errors.

b. Prices are subject to all federal, state and local taxes and these charges will be billed to or assumed by the purchaser.

2. MINIMUM ORDER - The minimum order requirement is $500.00 USD. Orders are accepted for full cases only. Minimum orders may be comprised of any assortment of **Shurtape®** products shipped to the same destination.

Note: A $75 processing fee will be added to Buyer's invoice for orders accepted under the minimum.

3. PREPAID FREIGHT - Transportation charges are prepaid on all direct, into stock shipments of $2,500 or more (USD), and on all drop shipments of $1,800 or more (USD). Prepayment is offered only for qualifying orders shipped complete to a single destination in the continental United States via preferred **Shurtape®** carriers and routings. Freight costs for orders not meeting these requirements are charged to the purchaser. Special requests for accessory charges such as lift gate delivery or re-delivery are not covered by **Shurtape®** and may be charged to the ship-to (consignee) as an additional fee by the carrier. For further information on freight and delivery please refer to item 11 in this document.

4. ACCEPTANCE OF ORDERS - All orders are subject to acceptance by Shurtape Technologies, LLC. We reserve the right to overship or undership by 10% on all purchases and to adjust roll quantities to the nearest full case. Delivery or tender of a quantity which does not vary more than 10% of the contract amount shall constitute performance under this contract and payment shall be made on the actual amount invoiced. Orders for non-standard items are subject to minimum order requirements and current lead times.

5. CANCELLATION OF ORDERS - Cancellations will be honored only if notification is received prior to the processing of the order by Shurtape Technologies, LLC. Cancellations are valid only if confirmed in writing by an authorized **Shurtape®** representative.

6. NON-STANDARD AND SPECIALTY ITEMS - Specialty orders are non-cancellable and non-returnable. All sizes not on the price list are subject to an upcharge. Pricing for non-standard sizes is not proportional to standard sizes.

7. PAYMENT - Payment terms are 1% 20 days, Net 30 days. All invoices are payable in United States dollars. No discounts may be taken unless specified on the face of this contract. On any invoice not paid by its maturity date, Buyer shall pay a service charge of eighteen percent (18%) per annum from the maturity date of said invoice, but in no event shall said service charge exceed the maximum lawful interest rate applicable. Any check or remittance received from or for the account of Buyer may be accepted and applied by Seller or its factor against any indebtedness or obligation owing by Buyer, as shown by the books and records of Seller or its factor, without prejudice to or the discharge of the remainder of any such indebtedness or obligation, regardless of any condition, provision, statement, legend or notation appearing on, referring to, or accompanying such check or remittance.

Note: A $50.00 processing fee will be added to Buyer's account for any returned check.

8. CREDIT AND DEFAULT - Seller or its factor may, at any time and from time to time, in its sole discretion limit, alter or cancel the credit of Buyer and, as a consequence, may declare payment due immediately in cash before delivery on any unfilled portion of this contract. Buyer represents and warrants to Seller that it is solvent at the time this contract is made and Buyer hereby makes a continuing representation and warranty of its solvency at the time of each tender of delivery or delivery hereunder. Upon failure of Buyer to make payment to Seller or Seller's factor when due, or in the event of any default, breach or repudiation by Buyer of this or any other contract with Seller, or if Buyer shall become insolvent, call a meeting of its creditors, or make a general assignment for the benefit of its creditors, or if a bankruptcy, insolvency, reorganization or arrangement proceeding shall be commenced by or against Buyer, Seller may:

a. cancel this and/or any other contracts or any part thereof with Buyer and Buyer shall remain liable for damages;

b. defer any shipments or other tenders hereunder;

c. declare forthwith due and payable all outstanding invoices to Buyer under this or any other contract;

d. obtain damages from Buyer equal to the difference between the market price of goods covered by this or any other contract as of the date of default, breach or repudiation, and the contract price plus 10% of the contract price to cover Seller's cost of reselling and additional overhead; and
e. sell in the open market, at auction, or otherwise, any material or supplies purchased for the contract and Buyer shall be liable for any loss.

Approval of credit for one or more installments, by partial deliveries or tenders thereof, under this contract shall not be deemed a waiver of the provisions of this paragraph.

9. SECURITY INTEREST; BILL AND HOLD - Buyer hereby grants Seller a continuing security interest in all goods at any time in the possession, custody or control of Seller, or of any parent, subsidiary or affiliate of Seller, held for Buyer including without limitation goods covered by bill and hold invoices, whether paid for or not. This security interest shall secure Seller for all existing or future obligations of Buyer to Seller, however arising, and may at Seller's option be set off against any and all obligations of Buyer. Buyer agrees that any act on its part, either to sell, hypothecate or otherwise dispose of any interest in any goods described in this or any other contract with Seller, which are in the possession, custody or control of Seller, or any act on Buyer's part to buy or acquire any interest in any goods in the possession, custody or control of Seller described in any contract of Seller with any third party, without, in each case, receiving Seller's written release, shall constitute a violation of and interference with Seller's security interest established by this and/or any other such contract. The provisions of this clause shall survive performance by the parties of all other terms of this contract. Buyer authorizes Seller to release to public warehouse, with all freight, storage, and other charges for account of Buyer, all billed and held goods, and Buyer agrees to indemnify and hold Seller harmless from all claims or causes of action asserted against Seller after such goods have been released. All goods billed and held for Buyer's account are held at Buyer's risk or loss or damage from theft or casualty, including sprinkler damage. Buyer should provide its own insurance coverage on goods billed and held under this contract. Buyer authorizes Seller as its attorney to execute and file on Buyer's behalf all documents Seller deems necessary to perfect such security interest.

10. SELLER'S REMEDIES - All rights and remedies of Seller under this contract shall be in addition to all other rights and remedies of Seller under any other contract under the Uniform Commercial Code and other applicable law, all of which rights and remedies shall be nonexclusive and cumulative and may be exercised or asserted as Seller shall elect.

11. FREIGHT & DELIVERY - Transportation charges are prepaid for Shurtape product purchases of $2,500 USD or greater on direct, into stock shipments, and $1,800 USD or greater on drop shipments, provided the order is shipped complete to a single destination in the continental United States. Special requests for accessory charges such as lift gate delivery or redelivery are not covered by **Shurtape®** and may be charged to the ship-to as an additional fee by the carrier.

a. Shipments will be made as nearly as possible in accordance with dates specified in seller's acceptance of order, subject to any or all causes beyond seller's control.
b. Delivery or tender of delivery of any standard item within fifteen (15) days after date specified for delivery shall be deemed timely performance by Seller. Thereafter, shipment or other tender of delivery prior to receipt of written cancellation by Buyer shall constitute timely performance by Seller.
c. The acceptance of shipment by a common carrier or delivery person, the allocation of goods to Buyer, or the mailing of an invoice by Seller to Buyer, shall constitute tender of delivery and performance by Seller. Thereupon, title shall pass to Buyer subject to (i) Seller's rights under Article 2 of the Uniform Commercial Code, including but not limited to the rights to withhold or refuse delivery, stop in transit and/or reclaim, and (ii) Seller's security interest in property in the possession, custody or control of Seller in accordance with Paragraph 4 above. With respect to goods for which payment is to be made on or before delivery or tender, title passes only upon receipt of full payment in the instance of goods held subject to Buyer's instructions, or in the case where Seller has failed to supply shipping instructions, or in the case where Seller pursuant to this contract determines that any part of the goods and Buyer agrees to make payment at the maturity of the invoice so rendered. Goods invoiced and held at any location, for whatever reason, shall be at Buyer's risk and expense and Seller may charge storage at prevailing rates.
d. Installments shall be accepted by Buyer and paid for at contract prices and terms. All samples furnished may be billed to Buyer at contract price. Delay in delivering samples or any sample requirements shall not constitute a breach of this contract. Any defect in quality or delay in performance by Seller shall not affect the balance of this contract. Any installment of goods not in dispute shall be paid for on the due date as provided in this contract, without offset, defense

or counterclaim and regardless of controversies relating to other goods. Where Buyer has declared or manifested an intention that it will not accept goods in accordance with the provisions of this contract no tender shall be necessary, but Seller may, at its option, give notice in writing to Buyer that Seller is ready and willing to perform in accordance with this contract and such notice shall constitute valid tender of delivery and performance by Seller.

e. Seller shall not be liable if any aspect of performance by Seller under this contract is delayed or prevented due to casualty, accident, labor disturbance, embargo, lack of shipping facilities, delay or inability to obtain supplies, labor, raw materials or energy through Seller's usual and regular sources, fires, floods, war, government requests, requirements or regulations or by Seller's acceptance of government contract or subcontracts, Act of God, or any cause or circumstance whatsoever, whether like or unlike the foregoing, beyond Seller's control. In such event, Seller may, in its discretion: (i) extend Seller's time for performance for a time which is reasonable under all of the circumstances (ii) cancel all or any portion of this and any other contract with Buyer; or (iii) apportion Seller's available supply among its customers in any reasonable manner if embargo or lack of shipping facilities prevents or delays shipment of any goods ready for shipment. Seller may immediately invoice the goods, at which time title to the goods shall pass to Buyer, subject to Seller's right referred to herein, and Seller shall hold the goods for the account of Buyer, who shall pay the invoices rendered when due. Buyer shall not be entitled to damages for late delivery or nonperformance unless Buyer actually purchases the same merchandise elsewhere at a higher price, which is the fair market price.

12. EXCLUSION OF WARRANTIES:

a. BUYER AGREES THAT THERE IS NO WARRANTY BY SELLER IN FACT OR IN LAW THAT GOODS WHICH ARE THE SUBJECT OF THIS SALE ARE SUITABLE FOR ANY PARTICULAR USE OR PURPOSE. BUYER FURTHER AGREES THAT THE DETERMINATION OF THE SUITABILITY OF THE GOODS FOR ANY PARTICULAR USE IS THE SOLE RESPONSIBILITY OF BUYER.

b. WARRANTY OF MERCHANTABILITY IS LIMITED TO GOODS SOLD AS FIRST QUALITY. FIRST QUALITY IS DEFINED AS GOODS MEETING THE SPECIFICATIONS OF THE TECHNICAL DATA SHEET FOR THE PRODUCT AS PROVIDED BY SELLER.

13. CLAIMS:

a. All claims of any kind, nature or description are barred and waived unless made in writing, and Buyer shall be deemed to have accepted the goods and its right to cancel, reject or claim damages shall expire unless Buyer's written and particularized claim is received by Seller within forty-five (45) days from date of delivery of the goods.

b. The limit of Seller's liability for defective goods shall be the difference, if any, in value on the contract date for performance between the goods specified and the goods actually tendered or delivered. The limit of liability of Seller for late or nonperformance shall be the difference, if any, between the contract price and the fair market price on the contract date for delivery of the goods in question. In no event shall Buyer be entitled to claim or receive any consequential, indirect and/or special damages of any nature for defective goods or late or nonperformance or otherwise, and in no instance may damages include loss of profit on contemplated use or profit of any description.

c. Notwithstanding any contrary provision in any contract, purchase order, invoice or other document of Buyer, Seller, including its agents, representative or otherwise shall not and does not accept, assume or undertake any responsibility or liability to indemnify, defend, save or hold harmless any other person, firm or party from or against any loss, damage or injury, regardless of any language by which such acceptance, assumption or undertaking purports to be expressed or implied. Buyer agrees to save Seller harmless and indemnify it against any claims of third persons for injuries or damages resulting in whole or in part from fault of Buyer in the manufacture or sale of the product made from the goods covered by this contract.

14. RETURN POLICY - No merchandise is to be returned without proper authorization from Shurtape Technologies, LLC. **Shurtape®** must assign a return authorization number and the authorization number must be clearly marked on the merchandise to be returned. Shurtape Technologies, LLC. is under no obligation to accept returns of non-defective merchandise, but may do so at its discretion. Returns accepted for tape that is non-defective will be charged a 15% restocking fee. Returns made without an authorization number may be refused or charged a restocking fee of up to 30%.

15. PATENTS - Seller, at its option, may cancel this or other contracts with Buyer for the sale of any goods, the manufacture, sale or use of which, in Seller's opinion, infringes any patent under which Seller is not licensed. Buyer agrees to hold Seller harmless against all damages and expenses arising from claims for infringement of patent rights on goods specifically produced at Buyer's request and against all damages or expenses arising from any infringement or from any misuse of any trade name, trademark, symbol, identification of material content or other labeling used by Seller at Buyer's instructions.

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16. TECHNICAL ADVICE - Seller may, upon Buyer's request, furnish technical advice, without charge, with respect to the goods sold hereunder to the extent that Seller has such advice conveniently available. However, it is expressly understood by Buyer that Seller is under no obligation to furnish technical advice and it is further understood by Buyer that such advice is given by Seller and accepted by Buyer at Buyer's sole risk. Under no circumstances shall Seller be responsible to Buyer or liable for the advice or assistance given or the results thereof.

17. NOTICES - All communications provided for hereunder shall be in writing and if to Seller, mailed or delivered to Seller at the address stated on the face hereof, or to such other address as Seller may designate, or if to Buyer, mailed or delivered to Buyer at its address designated on the face of this contract or at such other address as Buyer may hereafter designate.

18. CHANGES - This contract contains all of the terms and conditions of the contract between Buyer and Seller. It may not be altered or modified by Buyer except in writing, signed by Seller. No waiver by either party of any default shall be deemed a waiver of any subsequent default. There are no options, warranties or conditions, express or implied, statutory or otherwise except those herein specifically contained.

19. ASSIGNMENT - No rights of Buyer under or arising out of this contract may be assigned without the express written consent of Seller.

20. LIMITATION OF ACTIONS - Any action for any loss or damage with respect to the goods covered under this contract must be commenced by buyer within one year after Buyer's cause of action has accrued.

21. GOVERNING LAW - This contract shall be governed by, construed, and enforced in accordance with the laws of the State of North Carolina.

22. ARBITRATION - Any dispute arising hereunder with be resolved by arbitration in Charlotte, North Carolina, pursuant to the rules of the American Arbitration Association. Buyer agrees that this is the sole method and venue for resolving disputes under this agreement.