

WL125 – WL PLASTICS TERMS AND CONDITIONS OF SALE

("Terms and Conditions" or "Agreement")

- 1 **EXCLUSIVE LIMITED WARRANTY:** W.L. Plastics Corporation ("Seller" or "WL Plastics") warrants to the purchaser designated on the Purchase Order received by WL Plastics and any subsequent purchaser (collectively, "Buyer") of any product manufactured by WL Plastics ("Product") for a period of one (1) year that the Product shall be free from defects in materials and workmanship ("defect"). WL Plastics further warrants to the Buyer for the period of one (1) year that the use or sale of the Product will not infringe on the claims of any United States patent covering the Product itself. **The warranty period specified in the immediately preceding sentence for each Product shall be one (1) year from the date of WL Plastics invoice to the original Buyer for such Product.** WL Plastics does not warrant against patent infringement if the Product is used in combination with any other product or material or used in the process of manufacturing any other product or material. This provision constitutes the Seller's sole and exclusive warranty ("Limited Warranty"). This Limited Warranty shall not cover any Product subjected to misuse or misapplication due to common negligence or accident, or to the use or installation of the Product in, or affixing (joining by any means) the Product to itself or other goods, or incorporating the Product into any other good or product by the Buyer or agent of the Buyer, or to misuse or misapplication including internal or external load or pressure in excess of WL Plastics recommended pressure, temperature, time, fluid and environmental limitations during installation, testing, operation or use.
- 2 **TERMS OF DELIVERY:** Unless otherwise specified on the face hereof, all prices for Products covered hereunder are on an F.O.B. shipping point basis. Delivery occurs, and title and risk of loss to the Products passes from WL Plastics to "Buyer" at the shipping point. Prices are those contained in the relevant invoice for such Products. Freight will be prepaid and allowed only upon express agreement of the parties. Where freight is not allowed, the amount will be added to the net amount of the invoice or will be charged separately. Buyer agrees to reimburse Seller for all taxes, excises or other charges that Seller may be required to pay to any government (federal, state or local) upon the sale, production or delivery of the Products. Buyer will comply with U.S. export control and economic sanctions laws and will not export, re-export or otherwise transfer the Products, or any technical information disclosed to Buyer concerning the Products, in violation of these laws.
- 3 **INVOICING / CREDIT TERMS:** All invoices for Products are payable in U.S. currency at Seller's Ft. Worth, Texas office, or at any other location designated in writing by Seller. Seller's credit terms require that payment of each invoice be received by the applicable due date or a delinquency charge may be imposed on the unpaid amount. Title to Products and risk of loss shall pass to the Buyer upon Seller's delivery of the Products to the shipping point. Without limiting the foregoing, Buyer grants Seller a security interest in Products until full payment by Buyer. As collateral security for the payment of the purchase price of the Products, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Products, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Texas Uniform Commercial Code, and similar laws of any other relevant jurisdiction. Notwithstanding anything to the contrary herein (or on the face hereof), Seller has the right to require cash in advance before making shipment. If Buyer fails to fulfill any terms of any order, purchase or payment, Seller may, at its option either (i) defer any further shipments on any order until either such default is made good, or (ii) treat such default or as a final refusal to accept any further shipments on any order and effect cancellation. If has reasonable doubt, in its sole discretion, of the ability of Buyer to make payments when due, Seller may, at its option either (i) defer any further shipments on any order until Buyer demonstrates to Seller its ability to make payments when do, or (ii) effect cancellation. In each case, however, Seller has the right, even on such cancellation, to require payment for Products manufactured pursuant to the order.
- 4 **SHIPPING TERMS:** Seller will use its reasonable best efforts to ship within thirty (30) days of the date of manufacture, and Buyer agrees that no claim will be made for delays in shipment where Buyer, upon receipt of the Products accepts them. On any rejection of the Products by reason of delay in shipment, Buyer's exclusive remedy is limited to rejection and return of the Products and a refund of purchase price.
- 5 **BUYER DELAYED SHIPMENT:** Buyer shall accept receipt of products within thirty (30) days of the date of manufacture unless Buyer and Seller agreed to delayed shipment on or before the Date of Sales Order acceptance. After thirty (30) days, a storage charge of fifty dollars (\$50) or two-tenths percent (0.2%) of the invoice amount, whichever is greater, may be imposed for each day of Buyer imposed shipment delay.
- 6 **PRODUCT INSPECTION BY BUYER AND DEFECTIVE MATERIALS:** Buyer will inspect the Products within a 10-day period after receipt of the Products for discovery of any shortage, incorrect size, damage, deficiency or defect in the Products. Notice of any claim by Buyer must be given in writing within the 10-day period and shall state in detail all deficiencies or defects claimed to exist in the Products. Buyer shall permit Seller to promptly inspect any Products claimed to be deficient. In the absence of any such claim within 10 days, Buyer's receipt of any Products delivered hereunder shall be an unqualified acceptance and a waiver by Buyer of any and all claims of deficiency or defect in the Products. Buyer further agrees that notice thereafter is not reasonable and that, without limitation, no defense, counterclaim or offset may be asserted against Seller if Buyer has failed to give written notice within 10 days of receipt of the Products. Products will not be accepted for return without first obtaining the written authorization of Seller. All claims relating to transportation of the Products must be made directly to the carrier.
- 7 **NON-DESTRUCTIVE EXAMINATION ("NDE") INSPECTION:** For business reasons that are wholly unrelated to the technical status of the proprietary ultrasonic techniques time of flight diffraction (TOFD) and phased array (PA), and the proprietary microwave technique (Evisive) (collectively "NDE Techniques"): (1) At its sole discretion, WL Plastics may elect to allow its products to be scanned at its facilities. (2) At its sole discretion, WL Plastics may elect to accept or not accept the results of any scan. (3) If WL Plastics elects to accept a scan result that is claimed to be unacceptable, at its sole discretion, WL Plastics may elect to replace product that is the subject of the scan. These elections are solely for business reasons and do not constitute any acceptance or inference by WL Plastics of the technical validity of these NDE Techniques, and do not constitute any acceptance or inference by WL Plastics of the validity of any scan result of any WL Plastics product. WL Plastics disclaims all liability for any and all scans of

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WL Plastics products or joints made by any party using these NDE Techniques at sites other than WL Plastics facilities.

- 8 **LIMITATION ON DAMAGES FROM INSTALLATION:** Products may be subject to damage and stress arising from or out of deficiencies in installation, joining, backfill placement or compaction, other means of Product support or installation, trenchless installation, operation of construction equipment near or over Products, leak or pressure testing, disinfecting or commissioning and, without prejudice to the generality of the Limited Warranty, Seller shall not be liable for any failure of Products as a result of any such causes. Neither Seller's cooperation in investigating any failure of Products or voluntary replacement of any failed Products nor any other action taken by Seller to promote good customer relations shall be deemed a waiver by Seller of the foregoing provisions and is not an admission of any express or implied warranty with respect to the failed Products.
- 9 **DISCLAIMER OF OTHER EXPRESS WARRANTIES AND IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS:** Seller warrants that the Products will meet Seller's Limited Warranty for a period of one (1) year from the date of the invoice from Seller with respect to such Product. Without prejudice to the generality of the Limited Warranty, Seller does not warrant that Products conform to Buyer's plans and specifications. Buyer shall make its own investigation for this purpose. Buyer waives the benefit of any rule that disclaimers shall be construed against the Seller. The Limited Warranty stated herein is expressly in lieu of any other express or implied warranty, condition, representation or guarantee given by Seller, or any other person on behalf of Seller, with respect to any Product. Seller undertakes no responsibility for the quality of the Products except as otherwise provided in these Terms and Conditions. The Seller assumes no responsibility that the Products will be fit for any particular purpose for which Buyer may be buying such Products. There are no warranties which extend beyond the description on the face hereof. **THE SELLER'S LIMITED WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY OF SELLER, AND SELLER DOES NOT MAKE, AND EXPRESSLY DISCLAIMS, AND BUYER EXPRESSLY WAIVES, ANY OTHER WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, REGARDLESS OF WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, OR ALLEGEDLY ARISING FROM ANY USAGE OR FROM ANY COURSE OF DEALING.**
- 10 **LIMITATIONS OF LIABILITY (LIABILITY CAP) AND INDEMNITY:** SELLER'S TOTAL LIABILITY ARISING FROM THIS AGREEMENT FOR ANY CLAIMS OF ANY NATURE, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), INDEMNITY, CONTRIBUTION, STRICT LIABILITY OR OTHERWISE, WILL NOT EXCEED THE PURCHASE PRICE OF THE SPECIFIC PRODUCT OR SHIPMENT WHICH GIVES RISE TO THE CLAIM. THIS CONSTITUTES SELLER'S MAXIMUM LIABILITY, EVEN IF THE PRODUCTS HAVE BEEN PLACED BY AN END-USER OR USED IN OTHER PROJECTS. IN NO EVENT WILL SELLER BE LIABLE TO BUYER OR ANY OTHER PERSON FOR ANY LOST PROFITS OR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, CONTINGENT, EXEMPLARY OR PUNITIVE DAMAGES INCURRED BY BUYER, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR REVENUES, LOSS OF USE OF OR DAMAGE TO ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE PRODUCTS, FACILITIES OR SERVICES, DOWN-TIME COSTS, OR CLAIMS OF BUYER'S CUSTOMERS.
- 11 **BUYER'S INDEMNITY OBLIGATIONS TO SELLER:** BUYER AGREES TO INDEMNIFY, DEFEND (AT SELLER'S OPTION), HOLD HARMLESS, RELEASE AND FOREVER DISCHARGE SELLER, ITS AGENTS, SERVANTS, OFFICERS, DIRECTORS, SHAREHOLDERS, PARENT COMPANIES, AND/OR EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DEMANDS, DAMAGES, LIABILITIES, SUITS, ATTACHMENTS, JUDGMENTS, LOSSES, PENALTIES, FINES, SETTLEMENTS AND/OR EXPENSES, INCLUDING ATTORNEYS' FEES INCIDENT THERETO, FOR PERSONAL INJURY (INCLUDING ILLNESS OR DISEASE) OR DEATH OF ANY PERSON (INCLUDING EMPLOYEES OF BUYER) OR FOR DAMAGE TO OR DESTRUCTION OF ANY PROPERTY, RESULTING DIRECTLY OR INDIRECTLY FROM ANY AND ALL WRONGFUL OR NEGLIGENT ACTS OR OMISSIONS OF BUYER, INCLUDING THE TRANSPORTATION OF ANY AND ALL PRODUCTS (BY RAIL CARS, TRUCKS OR OTHERWISE) UNDER THIS AGREEMENT. ON BEHALF OF SELLER, AND ITS AGENTS, SERVANTS AND/OR EMPLOYEES, AND IN THEIR NAME, BUYER WILL (AT SELLER'S OPTION) HANDLE AND/OR DEFEND, AT BUYER'S SOLE EXPENSE, ANY CLAIM OR LITIGATION ARISING FROM ANY ACTS OR OMISSIONS AS DESCRIBED HEREIN AND/OR ARISING UNDER THIS AGREEMENT. SELLER SHALL HAVE THE RIGHT, BUT NOT THE OBLIGATION, TO BE REPRESENTED BY ITS OWN COUNSEL AND CONTROL THE DEFENSE OR SETTLEMENT OF ANY CLAIM OR LAWSUIT COVERED BY BUYER'S INDEMNITY HEREUNDER AND, AT SELLER'S OPTION, BUYER SHALL, AT BUYER'S EXPENSE, PAY SELLER ALL ATTORNEYS' AND CONSULTANTS' FEES AND ALL COSTS AND OTHER EXPENSES ARISING FROM THE DEFENSE AND SETTLEMENT OF SUCH CLAIMS AND LAWSUITS AGAINST THE SELLER INDEMNIFIED PARTIES.
- 12 **FORCE MAJEURE:** Seller will not be in breach of its obligations hereunder to the extent that performance is prevented or delayed as a result of any "force majeure" contingencies. The term "force majeure" shall include without limitation by the following enumeration: (i) any cause beyond the reasonable control of the Seller; (ii) labor disturbance, whether or not involving the employees of the Seller or otherwise, and whether or not the disturbance could be settled by acceding to the demands of a labor group; (iii) compliance with a request or order of a person purporting to act on behalf of any government or governmental department or agency, civil or military (including but not limited to EPA and OSHA); (iv) shortage in or inability to obtain raw material, transportation, power, manufacturing capacity from Seller's then-contemplated source of supply; (v) acts of God; (vi) acts of the public enemy or any other individual, civil, or public disturbance; or (vii) fire accidents, breakdowns, shutdowns, failure, loss or damage to facilities, machinery, equipment, or transportation means. Performance by Seller will be excused as provided above even though the occurrence of the contingency in question may have been foreseen or foreseeable at the time of contracting or may subsequently become foreseeable. Notwithstanding anything contained in these Terms and Conditions to the contrary, whenever (in the sole but reasonable judgment of Seller) (i) Seller's performance is made substantially more expensive by a "force majeure" contingency or (ii) as a result of a "force majeure" contingency, Seller is unable to acquire from its then contemplated source of supply, on terms it deems reasonable, any material necessary for the manufacture of Products, Seller may (i) reduce or stop deliveries of the Products and apportion any Products as Seller deems necessary and/or (ii) continue deliveries and immediately increase prices. If Seller increases the price of the Products under this Section, Buyer need not purchase the Products at the increased price. Quantities not purchased or sold due to the provisions of this Section need not be made up later. If any law, regulation, or other governmental action requires Seller to reduce any price in effect under this Agreement or prevents Seller from increasing any price to the extent it wishes pursuant to its

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rights under this Agreement, Seller may cancel the affected quantities of Products. Nothing in this Section will excuse Buyer from its obligations to make payments when due.

- 13 **FORUM SELECTION / CHOICE OF LAW / TIME LIMITATION FOR LEGAL ACTION:** This Agreement is governed as to all matters whatsoever, whether of validity, interpretation, obligation, or otherwise, exclusively by the laws of the state of Texas without regard to conflicts of law. Any action commenced regarding this Agreement or the Products must be brought in the state or federal courts of Tarrant County, Texas. **Any action against WL Plastics under this Agreement or related to its subject matter must be brought within 1 year after the cause of action accrues. The Buyer hereby waives the right to file any action arising directly or indirectly under these Terms and Conditions under any longer statute of limitations.**
- 14 **OFFER AND ACCEPTANCE:** Seller's acceptance of Buyer's order is expressly made conditional on Buyer's unconditional assent, notwithstanding the provisions contained in any purchase order, acknowledgment, acceptance, any other document of Buyer. In the event the Terms and Conditions conflict with terms in any competitive writing of Buyer, the terms and conditions in this Agreement govern and Seller objects to any different or additional terms other than those in this Agreement. In the event that Seller's writing is somehow construed as Seller's acceptance of an offer from Buyer, then Seller's acceptance is expressly conditional on Buyer's written assent to all terms and conditions contained herein that are additional to or different from Buyer's offer. Notwithstanding any terms and conditions that may be contained in any purchase order, acknowledgment, acceptance, or other form of Buyer, and notwithstanding Seller's manufacture and delivery of the Products, each delivery of Products is deemed to be only on the terms and conditions contained in this Agreement except as they may be amended or otherwise altered in accordance with paragraph 18, below.
- 15 **BUYER'S INDEMNITY REGARDING INTELLECTUAL PROPERTY: NOTWITHSTANDING ANY OF THE OTHER INDEMNITIES OR RELEASES CONTAINED IN THESE TERMS AND CONDITIONS, BUYER WILL INDEMNIFY, DEFEND AND HOLD SELLER, ITS PARENTS, SUBSIDIARIES, AFFILIATES, PARTNERS, CO-VENTURERS, AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS, HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, COSTS AND EXPENSES (INCLUDING WITHOUT LIMITATION COURT COSTS, LITIGATION EXPENSES, AND ATTORNEYS' FEES) FOR INFRINGEMENT OF ANY PATENT, COPYRIGHT, OR TRADEMARKS AS A RESULT OF BUYER'S, ITS SUBCONTRACTORS' OR AGENTS' USE OF ANY PATENTED PRODUCTS OR COPYRIGHTED PROCESSES, COMPOSITIONS, MACHINES OR ARTICLES OF MANUFACTURE; PROVIDED, THAT ANY INDEMNIFIED PERSON HAS THE RIGHT (BUT NOT THE OBLIGATION) TO BE REPRESENTED BY ITS OWN COUNSEL AND TO PARTICIPATE IN THE DEFENSE AND/OR SETTLEMENT (AT BUYER'S SOLE EXPENSE) OF ANY ACTION RELATING TO THE INFRINGEMENT IN WHICH THE INDEMNIFIED PERSON MAY BE A DEFENDANT AND BUYER WILL, AT ITS SOLE EXPENSE, BEAR ALL ATTORNEYS' FEES AND EXPENSES INCURRED BY SELLER IN CONNECTION WITH DEFENDING AND/OR SETTLING SUCH ACTIONS.**
- 16 **PROPER PROCEDURES & SAFE HANDLING:** Buyer acknowledges that it is familiar with proper procedures for the safe handling and use of the Products, and that it will take all steps necessary to warn and/or inform its employees, contractors, agents and customers of the proper procedures. Buyer agrees to indemnify Seller from any claim or liability whatsoever stemming from, or related to, Buyer's failure to employ proper procedures, or otherwise to comply with this Section.
- 17 **SPECIALLY MANUFACTURED PRODUCTS:** Specially Manufactured Products are any Products that are not specifically listed in WL Plastics' sales literature. If the Buyer's Purchase Order for Specially Manufactured Products is suspended or terminated for any reason, the Buyer shall take delivery of and make payment for any Specially Manufactured Products that are completed or are in the process of manufacture on the date that the Buyer's Purchase Order is terminated. If, however, the Buyer does not accept delivery, such Specially Manufactured Products shall be stored at the Buyer's expense and the Buyer shall make payment as though delivery had been made to the Buyer.
- 18 **SEVERABILITY:** In the event that one or more of the provisions contained in these Terms and Conditions should be held by a court of law to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not be affected nor impaired and the rights and obligations of the parties shall be construed and enforced as if the Terms and Conditions did not contain the particular part, term or provision held to be invalid.
- 19 **ENTIRE AGREEMENT:** These Terms and Conditions constitute the entire agreement between the parties concerning the subject matter hereof and supersede any prior or contemporaneous agreements and understandings, whether oral or written. These Terms and Conditions will govern and prevail over any purchase orders, shipping orders, delivery orders, e-commerce or electronic terms and conditions or other writing between the parties ("documents") and such documents will be null and void. These Terms and Conditions may not be amended or modified except by written instrument executed by the Buyer and Seller. Buyer expressly warrants and represents and does hereby state and represent that (i) no promise or agreement which is not herein expressed has been made in connection with Buyer's decision to purchase Seller's Product(s), (ii) Buyer is not relying upon any statement or representation of WL Plastics in making such purchase(s), and (iii) Buyer disclaims any such reliance.
- 20 **TECHNICAL INFORMATION:** Any technical advice or assistance furnished by Seller to Buyer with respect to the selection or use of the Products delivered to Buyer will be given and accepted at Buyer's sole risk. Seller will have no liability whatsoever for claims of any nature arising out of the furnishing of advice by Seller's agents or employees or consultants in connection with the use, installation or design of Products furnished by Seller or results obtained from such advice or assistance. Buyer acknowledges that statements made in brochures, advertisements, test reports, magazine articles or other sources of information or writings relating to the Products are furnished solely for the information of Buyer. Buyer shall make its own evaluation of all information provided. No statement relating to the Products sold whether or not made or furnished by Seller, shall be deemed a warranty or representation that shall be effective to modify the disclaimer of warranties or the limitations of Seller's representation relating to the Products except as set forth in a writing executed by an officer of Seller.