

THIS CONTRACT IS SUBJECT TO ARBITRATION PURSUANT TO
S.C. CODE § 15-48-10*

STRETCH ASSOCIATES, INC.
TERMS AND CONDITIONS OF SALE

The following terms and conditions of sale apply to all sales by Stretch Associates, Inc. ("Seller"). Seller hereby rejects any additional or different terms proposed by purchaser ("Buyer"), including those contained in Buyer's purchase order, unless Seller expressly agrees to those terms in writing.

1. **Orders.** All orders must be submitted in writing to Seller. Orders will be deemed accepted by Seller only upon shipment of the products to Buyer or written acceptance by Seller. Acceptance by Seller of all orders submitted by Buyer will be subject solely and exclusively to, and is expressly conditioned upon, these terms and conditions of sale ("Terms and Conditions of Sale"). Orders may not be cancelled or modified without Seller's written consent.

2. **Prices and Payment Terms.** Prices are in United States Dollars and are subject to change. Prices do not include any sales, use, privilege, excise, or any other tax or duty, and Buyer is responsible for paying all such taxes and duties. Unless otherwise agreed by Seller in writing, Buyer will pay insurance, freight, and delivery charges as a separate line item. Unless otherwise stated on the invoice, payment terms are net 30 days after the date of Seller's invoice, and no discounts will be taken. Buyer grants to Seller a purchase money security interest in the products and proceeds under the Uniform Commercial Code until Seller receives payment in full for the products, and Buyer authorizes Seller to file financing statements to perfect its security interest. If at any time between Seller's acceptance of Buyer's order and shipment, an increase in raw material prices causes a substantial increase in Seller's cost to fill Buyer's order, Seller may give notice to Buyer of a change in price. Such price change will be deemed effective unless Buyer cancels its order within 3 business days after receipt of Seller's notice.

3. **Late Payments.** If Buyer fails to pay any invoice when due, Seller will be entitled to collect a late payment charge of 1.5% per month of the total amount due or the maximum rate permitted by law, whichever is lower. In addition, Seller will be entitled to recover reasonable attorneys' fees and other costs incurred by it in connection with any action or proceeding to collect any payment due from Seller. If Buyer fails to pay any invoice when due or otherwise breaches these Terms and Conditions of Sale, Seller may, at its option, withhold shipment of any order for which Seller has extended credit to Buyer.

4. **Delivery.** Delivery dates and quantities will be as mutually agreed to by the parties. Unless otherwise agreed by Seller in writing, products will be shipped FOB Seller's facility to the destination agreed to by the parties. Unless otherwise agreed to by Seller in writing, Seller will arrange for shipping at Buyer's cost and expense, and title and risk of loss or damage will pass to Buyer upon Seller's delivery of the products to the carrier. Any subsequent loss or damage will not relieve Buyer from its obligations. Delivery dates are estimates and are not guaranteed. Seller will not be liable for any loss or expense incurred by Buyer if Seller fails to meet the estimated delivery date. Partial deliveries will be permitted.

* Unless the Federal Arbitration Act applies.

5. **Returns.** Buyer may not return products to Seller without obtaining Seller's prior written consent. Buyer must make any request to return products within 3 business days after its receipt of the products. If Seller gives written consent, Buyer is responsible for returning the products to Seller without damage, at Buyer's expense, and Seller may charge a restocking fee.

6. **Limited Warranty.** Seller warrants that it will deliver good title to the products and that the products, on the date of delivery, will conform to Seller's standard performance specifications set forth in Seller's quotation for the products. **EXCEPT FOR THE WARRANTIES SET FORTH IN THIS SECTION 6, SELLER MAKES NO OTHER WARRANTIES, AND SELLER HEREBY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHETHER CREATED BY CONTRACT OR BY OPERATION OF LAW, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.** The suitability of the products for the use contemplated by Buyer is the sole responsibility of Buyer to be ascertained by Buyer's sampling and testing. Seller's sole obligation to Buyer, and Buyer's exclusive remedy, if products fail to meet the warranties in this Section 6 will be, at Seller's option, to (1) repair the products; (2) replace the products; or (3) refund to Buyer the purchase price for the products. Such obligation will be conditioned upon Buyer returning the original products to Seller, freight prepaid, and Seller determining that the products do not conform to the warranties in this Section 6. In addition, every claim will be deemed waived unless made in writing and received by Seller within 30 days after the date on which the nonconformity was discovered and within one year after the date of shipment of the products. In no event will Seller be liable for any defects in the products if the products have been modified in any way or improperly stored, installed, handled, used, maintained, or repaired.

7. **Limitation of Liability.** **THE DAMAGES RECOVERABLE BY BUYER BASED ON ANY CLAIM WHATSOEVER ARISING FROM OR IN ANY WAY CONNECTED TO THESE TERMS AND CONDITIONS OF SALE OR THE USE OF THE PRODUCTS WILL NOT BE GREATER THAN THE ACTUAL PRICE PAID BY BUYER FOR THE PRODUCTS WITH RESPECT TO WHICH SUCH CLAIM IS MADE, IRRESPECTIVE OF THE NATURE OF THE CLAIM (WHETHER THE CLAIM IS IN CONTRACT, WARRANTY, TORT, INCLUDING NEGLIGENCE, STRICT LIABILITY, EQUITY, QUASI-CONTRACT, OR OTHERWISE). IN NO EVENT WILL SELLER BE LIABLE FOR BUYER'S OR ANY THIRD PARTY'S SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING DAMAGES DUE TO LOST REVENUES, LOST PROFITS, LOSS OF GOODWILL, LOSS OF BUSINESS, OR COST OF SUBSTITUTE GOODS.**

8. **Force Majeure.** Seller will not be liable to Buyer or in breach of these Terms and Conditions of Sale for any failure to perform its obligations if such failure is due to any acts beyond Seller's reasonable control, including, without limitation, strike, labor dispute, embargo, fire, vandalism, accident, explosion, earthquake, flood, or other natural disaster, unusually severe weather, civil disturbance, riot, armed conflict, act of God, terrorist act, epidemic, act or failure to act of any government, embargo, industry disturbance, shortage in machinery, raw materials, parts, labor, energy, or transportation, interruption of utility service, or any other similar cause. In the event of a shortage of products, Seller may allocate products among its customers in its sole discretion.

9. **Disclaimer for Technical Advice.** Any technical advice given by Seller with respect to the products is given free of charge and only as an accommodation to Buyer. Seller will have no

liability for Buyer's use of the advice given, and such advice is accepted by Buyer at Buyer's risk.

10. **Confidentiality.** Buyer will hold in strict confidence and not disclose to any third party the terms and existence of all transactions between Seller and Buyer and all confidential information of Seller relating to the products, except to the extent that disclosure is required by applicable law.

11. **Mediation and Arbitration.** If a legal claim (except for matters relating to a claim that a party has breached Section 10 (Confidentiality) or unless Seller is seeking specific performance or injunctive relief) arises out of or in any way relates to Buyer's purchase order or these Terms and Conditions of Sale, and if the dispute cannot be settled through negotiation, the parties will first try in good faith to settle the dispute by mediation before resorting to arbitration, litigation, or some other formal dispute resolution procedure. Any such dispute will be submitted to a mediator selected by mutual agreement of the parties. Unless the parties agree to an alternative arrangement, the mediator's fee and expenses will be equally divided between the parties.

Should any legal claim (except for matters relating to a claim that a party has breached Section 10 (Confidentiality) or unless Seller is seeking specific performance or injunctive relief) arising out of or in any way relating to Buyer's purchase order or these Terms and Conditions of Sale not be resolved by negotiation or mediation, it will be subject to binding and final arbitration in Greenville County, South Carolina, pursuant to the Commercial Arbitration Rules of the American Arbitration Association, the cost of which will be equally shared between the parties. The arbitrator will be selected by mutual agreement of the parties. If the parties cannot agree on an arbitrator within 30 days after written request for arbitration is made by one party to the controversy, a neutral arbitrator will be appointed according to the procedures set forth by the American Arbitration Association. In rendering the award, the arbitrator will have the authority to resolve only the legal dispute between the parties, will not have the authority to abridge or enlarge substantive rights or remedies available under existing law, and will determine the rights and obligations of the parties according to the substantive and procedural laws of South Carolina. In addition, the arbitrator's decision and award will be in writing and signed by the arbitrator and accompanied by a written concise explanation of the basis of the award. The award rendered by the arbitrator will be final and binding, and judgment on the award may be entered in any court having jurisdiction thereof. The arbitrator is authorized to award any party a sum deemed proper for the time, expense, and trouble of arbitration, including arbitration fees and attorneys' fees.

Claims that a party has breached Section 10 (Confidentiality) or claims in which Seller is seeking specific performance or injunctive relief will not be subject to this dispute procedure.

12. **Governing Law.** These Terms and Conditions of Sale will be construed in accordance with, and governed by the laws of, the State of South Carolina, without regard to conflicts of law principles. The parties agree that all claims not governed by the arbitration provisions contained in Section 11 must be brought exclusively in courts of competent jurisdiction in Greenville, South Carolina, and the parties irrevocably consent to the exclusive jurisdiction of the state and federal courts located in Greenville, South Carolina.

13. **Miscellaneous.** If any provision of these Terms and Conditions of Sale is held by a court of competent jurisdiction to be contrary to law or public policy or otherwise illegal or unenforceable, the remaining provisions of these Terms and Conditions of Sale will remain in full force and effect. If Seller brings an action or other proceeding to enforce these Terms and Conditions of Sale and prevails, in addition to any other remedies to which Seller may be entitled

at law or in equity, Seller will be entitled to recover reasonable attorneys' fees and other costs incurred by it in connection with such action or proceeding. These Terms and Conditions of Sale constitute the entire agreement between the parties concerning the subject matter hereof and supersede all prior oral or written understandings between the parties concerning the subject matter hereof. Any representations or warranties made by any person, including any employee or agent of Seller, that are inconsistent with these Terms and Conditions of Sale, are not binding upon Seller. These Terms and Conditions of Sale will not be amended, nor any provision waived, except by a writing signed by Seller. These Terms and Conditions of Sale will not be affected by course of performance, course of dealing, or usage of trade. These Terms and Conditions of Sale inure to the benefit of Seller and its successors and assigns. Buyer will not assign or otherwise transfer any of its rights to any party without Seller's prior written consent, and any assignment or transfer without Seller's prior written consent will be void. Section headings are for convenience only.

THIS CONTRACT IS SUBJECT TO ARBITRATION PURSUANT TO
S.C. CODE § 15-48-10*

STRETCH ASSOCIATES, INC.
TERMS AND CONDITIONS OF PURCHASE

The following terms and conditions of purchase apply to all purchases by Stretch Associates, Inc. ("Buyer"). Buyer hereby rejects any additional or different terms proposed by seller ("Seller"), including those contained in Seller's quote, order acceptance, or acknowledgment, unless Buyer expressly agrees to those terms in a signed writing.

1. **Acceptance of Terms and Conditions.** Buyer's offer to purchase goods, products, equipment, or merchandise from Seller will be subject solely and exclusively to, and is expressly conditioned upon, these terms and conditions of purchase ("Terms and Conditions of Purchase"). Seller will be deemed to have accepted Buyer's purchase order (the "Purchase Order") and these Terms and Conditions of Purchase when (1) Seller retains the Purchase Order for 10 days without making written objection to it; (2) Seller begins performance; or (3) Seller transmits acknowledgement of Buyer's Purchase Order by written or electronic means or otherwise indicates assent to performance of the Purchase Order, whichever occurs first. Upon acceptance, Seller will sell and deliver the products to Buyer in accordance with the Purchase Order and these Terms and Conditions of Purchase. Buyer may revoke the Purchase Order at any time prior to acceptance.

2. **Prices and Payment Terms.** Prices are as set forth in Buyer's Purchase Order. Unless otherwise stated in the Purchase Order, prices are exclusive of any applicable sales tax but inclusive of all other charges, including, but not limited to, costs of transportation, packing, packaging, and insurance. No increase in price or extra charges will be accepted by Buyer without its prior written consent. Payment terms are as set forth in Buyer's Purchase Order, and payment will be due within the time specified in the Purchase Order, beginning from the date of receipt of the products or receipt of a correct invoice, whichever occurs later.

3. **Delivery.** Delivery dates and quantities are as set forth in the Purchase Order. Unless otherwise set forth in the Purchase Order, products will be delivered FOB Buyer's facility. Time is of the essence. Seller will strictly adhere to the Purchase Order's delivery dates and Buyer's written shipping instructions. Seller will package all products in suitable containers to permit safe transportation and handling. Seller will not deliver products more than five calendar days prior to the scheduled delivery date unless authorized in writing by Buyer. Title and risk of loss will pass to Buyer when the products are delivered to the "ship to" address in the Purchase Order.

4. **Changes and Cancellation.** Buyer will have the right to make changes to the Purchase Order at any time for its convenience upon written notice to Seller. Such changes will be subject to an equitable adjustment in the performance schedule or purchase price, based on reasonable and unavoidable costs actually incurred by Seller prior to notice of the change, but will not include loss of anticipated profits or any consequential loss. Any claim of Seller for an adjustment must be submitted in writing to Buyer within 30 days after receipt of Buyer's change notice. Buyer will have the right to cancel the Purchase Order no later than 10 days prior to the delivery date. In the event of cancellation of the Purchase Order, Buyer will pay to Seller, as Seller's sole remedy, fair and reasonable compensation for work-in-progress at the time of

* Unless the Federal Arbitration Act applies.

cancellation, but such compensation will not include the loss of anticipated profits or any consequential loss and will not exceed the total Purchase Order price.

5. **Inspection.** Buyer will have the right, but not the obligation, to inspect and test the products before their processing, use, or resale. Any such inspection or testing will not diminish or otherwise affect Seller's obligations under the Purchase Order and these Terms and Conditions of Purchase.

6. **Warranty.** Seller warrants that it will deliver to Buyer good title to all products, free and clear of encumbrances. Seller warrants that all products (1) will be of merchantable quality; (2) will be free from defects in materials, workmanship, and design, whether latent or otherwise, (3) will strictly conform to all designs and performance specifications in the Purchase Order or in Seller's product materials, samples, and models, whichever is higher, (4) will be fit for Buyer's intended purpose, and (5) will be manufactured and furnished in compliance with all applicable law, including applicable environmental laws. Seller further warrants that the products will not infringe the intellectual property rights of any person or entity. The foregoing warranties are in addition to all other warranties, either express or implied, and any rights and remedies that Buyer may have at law or in equity, and will survive inspection, testing, acceptance of, and payment for the products. The warranties will run to Buyer and its successors, assigns, and customers. The warranties will extend for a period of five (5) years after delivery of products to Buyer, except that with respect to latent defects, the warranties will extend until one year after Buyer discovers the defect.

If any products do not meet the foregoing warranties, Buyer may, at its election: (1) require Seller to correct, at no cost to Buyer, any defective or nonconforming products by repair or replacement; (2) accept the products with an equitable adjustment in price or other consideration; or (3) return the defective or nonconforming products and recover from Seller a refund of the price of the products, plus transportation charges. In addition, Seller agrees to indemnify and hold harmless Buyer for all damages and costs and expenses (including reasonable attorneys' fees) arising from late, defective, or non-conforming products, including, without limitation, any consequential loss or damage and loss of profits. The foregoing remedies are in addition to all other remedies at law or in equity and will not be deemed to be exclusive.

7. **Indemnification.** Seller agrees to indemnify and hold Buyer and its directors, officers, shareholders, employees, agents, and representatives harmless from any and all claims, liabilities, losses, damages, costs, and expenses (including reasonable attorneys' fees) arising from (1) Seller's or its subcontractors' performance or nonperformance of the Purchase Order; (2) personal injury (including death), property damage, or economic loss occurring as a direct or indirect result of the products supplied by Seller pursuant to the Purchase Order or resulting from any act or omission of Seller in performing the Purchase Order, unless such personal injury, property damage, or economic loss is caused solely by the negligence of Buyer; and (3) any actual or alleged patent, copyright, trademark, trade secret, or other intellectual property infringement by reason of the manufacture, use, or sale of products delivered by Seller. Seller further agrees to indemnify and hold Buyer and its directors, officers, shareholders, employees, agents, and representatives harmless from any and all claims by Seller's employees or subcontractors.

8. **Limitation of Liability.** **BUYER WILL NOT, AND DOES NOT, ACCEPT, ASSUME, OR UNDERTAKE ANY RESPONSIBILITY OR LIABILITY TO INDEMNIFY, DEFEND, OR HOLD HARMLESS ANY OTHER PERSON OR ENTITY FROM OR AGAINST ANY LOSS, DAMAGE, OR INJURY RELATING TO SELLER'S PERFORMANCE OF THE PURCHASE ORDER. IN NO EVENT WILL BUYER BE**

LIABLE FOR SELLER'S OR ANY THIRD PARTY'S SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING DAMAGES DUE TO LOST REVENUES, LOST PROFITS, LOSS OF GOODWILL, LOSS OF BUSINESS, OR COST OF SUBSTITUTE GOODS.

9. **Force Majeure.** Buyer will not be liable to Seller for any delay in performance of its obligations if such delay is due to any acts beyond Buyer's reasonable control, including, without limitation, strike, labor dispute, embargo, fire, vandalism, explosion, earthquake, flood, or other natural disaster, civil disturbance, riot, armed conflict, act of God, terrorist act, epidemic, or embargo; provided, however, that Buyer will notify Seller of a force majeure event and if any delay lasts longer than 30 days, Buyer may cancel the Purchase Order, in whole or in part, without liability to Buyer.

10. **Termination.** Buyer will have the right to terminate the Purchase Order or any part of the Purchase Order if Seller (1) fails to make any delivery in accordance with the delivery date stated in the Purchase Order; (2) fails to observe or comply with any other provision of the Purchase Order or these Terms and Conditions of Purchase; (3) fails to make progress so as to endanger performance of the Purchase Order; (4) files or has filed against it any proceedings in bankruptcy or insolvency, for appointment of a receiver, or for an assignment for the benefit of its creditors. If Buyer terminates a Purchase Order in whole or in part pursuant to this Section 10, Buyer will have no liability to Seller for the canceled portion of the Purchase Order. If Buyer terminates a Purchase Order in part, Seller will continue the work not terminated in accordance with the Purchase Order. Seller's obligations under these Terms and Conditions of Purchase that by their nature are intended to survive termination of a Purchase Order, including, but not limited to, Seller's warranty and indemnification obligations, will survive termination of the Purchase Order.

11. **Confidentiality.** Seller will hold in strict confidence and not disclose to any third party the terms and existence of all transactions between Buyer and Seller and all information furnished to Seller by Buyer, except to the extent that disclosure is required by applicable law.

12. **Insurance.** Seller, at its expense, will obtain and maintain in effect during the term of performance of the Purchase Order, casualty, liability, and other insurance coverage that is reasonable and customary in the industry. Upon Buyer's request, Buyer will be named as a loss payee and/or additional insured in such policies, and Seller will provide Buyer with certificates of insurance evidencing such coverage.

13. **Mediation and Arbitration.** If a legal claim (except for matters relating to a claim that a party has breached Section 11 (Confidentiality) or unless Buyer is seeking specific performance or injunctive relief) arises out of or in any way relates to the Purchase Order or these Terms and Conditions of Purchase, and if the dispute cannot be settled through negotiation, the parties will first try in good faith to settle the dispute by mediation before resorting to arbitration, litigation, or some other formal dispute resolution procedure. Any such dispute will be submitted to a mediator selected by mutual agreement of the parties. Unless the parties agree to an alternative arrangement, the mediator's fee and expenses will be equally divided between the parties. Notwithstanding the dispute, and pending final resolution, Seller agrees to proceed with the performance of the Purchase Order to the extent directed by Buyer.

Should any legal claim (except for matters relating to a claim that a party has breached Section 11 (Confidentiality) or unless Buyer is seeking specific performance or injunctive relief) arising out of or in any way relating to the Purchase Order or these Terms and Conditions of Purchase not be

resolved by negotiation or mediation, it will be subject to binding and final arbitration in Greenville County, South Carolina, pursuant to the Commercial Arbitration Rules of the American Arbitration Association, the cost of which will be equally shared between the parties. The arbitrator will be selected by mutual agreement of the parties. If the parties cannot agree on an arbitrator within 30 days after written request for arbitration is made by one party to the controversy, a neutral arbitrator will be appointed according to the procedures set forth by the American Arbitration Association. In rendering the award, the arbitrator will have the authority to resolve only the legal dispute between the parties, will not have the authority to abridge or enlarge substantive rights or remedies available under existing law, and will determine the rights and obligations of the parties according to the substantive and procedural laws of South Carolina. In addition, the arbitrator's decision and award will be in writing and signed by the arbitrator and accompanied by a written concise explanation of the basis of the award. The award rendered by the arbitrator will be final and binding, and judgment on the award may be entered in any court having jurisdiction thereof. The arbitrator is authorized to award any party a sum deemed proper for the time, expense, and trouble of arbitration, including arbitration fees and attorneys' fees.

Claims that a party has breached Section 11 (Confidentiality) or claims in which Buyer is seeking specific performance or injunctive relief will not be subject to this dispute procedure.

14. **No Assignment or Subcontracting.** Seller will not assign the Purchase Order or these Terms and Conditions of Purchase to any person or entity without the prior written consent of Buyer, and any assignment without such consent will be null and void. Seller will not engage any subcontractors or other third parties that are not employees of Seller to perform any of the work under the Purchase Order, unless consented to by Buyer in writing prior to performance of the work, which consent is in Buyer's sole discretion.

15. **Governing Law.** These Terms and Conditions of Purchase will be construed in accordance with, and governed by the laws of, the State of South Carolina, without regard to conflicts of law principles. The parties agree that all claims not governed by the arbitration provisions contained in Section 13 must be brought exclusively in courts of competent jurisdiction in Greenville, South Carolina, and the parties irrevocably consent to the exclusive jurisdiction of the state and federal courts located in Greenville, South Carolina.

16. **Miscellaneous.** If any provision of these Terms and Conditions of Purchase is held by a court of competent jurisdiction to be contrary to law or public policy or otherwise illegal or unenforceable, the remaining provisions of these Terms and Conditions of Purchase will remain in full force and effect. If Buyer brings an action or other proceeding to enforce these Terms and Conditions of Purchase and prevails, in addition to any other remedies to which Buyer may be entitled at law or in equity, Buyer will be entitled to recover reasonable attorneys' fees and other costs incurred by it in connection with such action or proceeding. These Terms and Conditions of Purchase constitute the entire agreement between the parties concerning the subject matter hereof and supersede all prior oral or written understandings between the parties concerning the subject matter hereof. These Terms and Conditions of Purchase will not be amended, nor any provision waived, except by a writing signed by Buyer. These Terms and Conditions of Purchase will not be affected by course of performance, course of dealing, or usage of trade. These Terms and Conditions of Purchase inure to the benefit of Buyer and its successors and assigns. Section headings are for convenience only.