

TERMS AND CONDITIONS

These terms and conditions (these “**Terms**”) govern the sale of any and all goods, services, and/or products (collectively the “**Goods**”) from United Felts, Inc. or United Wetout, LLC (collectively “**Seller**”), to the customer identified in a quotation, proposal, purchase order, invoice, or similar document (“**Customer**”). The accompanying confirmed wet out order form, sales order, purchase order, invoice, or similar document (the “**Order**” and collectively with these Terms, the “**Agreement**”) comprises the entire agreement between the parties regarding a particular sale of Goods, and supersedes all prior or contemporaneous understandings, negotiations, representations, warranties, and communications, both written and oral, regarding the sale of the Goods on the Order. Reference in any other documents from Customer to any other terms and conditions shall in no way constitute a modification of any of the terms and conditions of this Agreement and shall not be binding unless specifically accepted by Seller in writing. Any changes shall be made to this Agreement must be agreed to in writing by Seller and Customer.

In consideration of the mutual promises and covenants contained herein, the reasonableness and sufficiency of which Seller and Customer (collectively the “**Parties**”) mutually acknowledge, and in reliance upon said promises and covenants, the Parties hereby agree as follows:

1. Confirmation of Sales Orders.

(a) Upon Seller’s confirmation of a wet out order form or a request for Goods from Customer, the Order shall be binding upon Customer. Agreement to any requested changes to the type, quantity, and/or requested delivery date of the Goods by Customer shall be at the sole discretion of Seller as set forth in Section 6 below.

(b) Customer agrees to provide project and bond information to Seller, where applicable, in advance of placing an Order with Seller in a format reasonably requested by Seller.

2. Delivery.

(a) Unless otherwise agreed to by Seller in writing, all Orders are FOB at one of Seller’s facilities. If Seller agrees to deliver Goods to Customer in any manner other than FOB at one of Seller’s locations, then the Customer shall reimburse all expenses incurred by Seller to effectuate such delivery. Additionally, Customer hereby waives all claims for damages and/or delays against Seller for any mistakes or errors in the shipping arrangements made by it on behalf of the Customer.

(b) Unless otherwise agreed to by Seller in writing, Customer is responsible for obtaining, at its own cost, any and all import/export licenses and other consents in relation to the Goods as are required from time to time and, if required by Seller, the Customer shall make those licenses and consents available to Seller prior to the relevant shipment.

(c) All delivery dates(s) on the Goods are estimates and time is not of the essence with the delivery of the Goods. Customer hereby waives any claim against Seller for any losses, damages, delays, or loss of profits as a result, in whole or in part, of any delay in the delivery of the Goods, even if Customer informs Seller that such losses and/or damages will occur. A delay in the delivery of the Goods is not a breach of the Agreement and, in the event of such delays, the Agreement may not be cancelled or altered, deliveries cannot be rejected, and/or payments cannot be withheld without the written consent of Seller.

(d) Seller may, and reserves the right to, divide the delivery of Goods into separate lots.

(e) Upon availability of the Goods, Seller shall give Customer at least twenty-four (24) hours’ notice as to when Customer must take delivery of the Goods. If, for any reason, Customer fails to take delivery of the Goods on the date specified by Seller, Seller shall have the right, in its sole discretion and without prejudice to any other rights or remedies available to it in law, contract, or equity, to: (i) store the Goods until delivery is made and charge the Customer for the reasonable costs of storage including insurance; and/or (ii) cancel the Order and sell the Goods to a third party without any liability to Customer, except to return to Customer the amount pre-paid by the Customer if, and only to the extent that, the sale price to the third party, plus all costs and expenses incurred by Seller, equals or exceeds the original purchase price. Time is of the essence with regard to Customer’s taking delivery of the Goods and removing them from Seller’s location.

3. Payment.

(a) The purchase price for the Goods must be paid in United States currency.

(b) Where credit terms are established, payment shall be made pursuant to net 30 day payment terms from delivery or in accordance with the terms stated by Seller in writing. Seller reserves the right to change and/or revoke credit terms at any time for any reason or no reason.

(c) Customer shall be responsible for all sales, use and excise taxes, and any other similar taxes, tariffs, duties and charges of any kind imposed by any governmental authority on any amounts payable by Customer. Sales tax will be added to all invoices, unless Customer submits a valid tax exemption certificate with its submission of a wet out order form or sales order. Notwithstanding the foregoing, Customer shall not be responsible for any taxes imposed on, or with respect to, Seller’s income, revenues, gross receipts, personnel or real or personal property or other assets.

(d) If the entire amount set forth on an invoice is not received by Seller within thirty (30) days of the date set forth on the invoice, the unpaid portion of such invoice shall be subject to an interest charge equal to one and one half percent (1.5%) per month prorated on a daily basis. If Customer fails to remit payment when due and payment is more than 10 (ten) days past the invoice due date, Seller shall have the right to terminate this Agreement. In the event Seller elects to terminate this Agreement, the Customer shall pay cancellation fees as set forth in Section 6 of this Agreement in addition to any other remedies available to Seller by law or equity. Seller shall have the right to setoff against Customer’s other orders, if any, and to place such other orders on hold until any payment default is cured by Customer.

4. Limitation of Liability.

NOTWITHSTANDING ANYTHING CONTAINED IN THIS AGREEMENT, IN NO EVENT SHALL SELLER HAVE ANY

LIABILITY FOR INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OR LOSSES INCLUDING, BUT NOT LIMITED TO, DAMAGES OR LOSSES FOR LOST PRODUCTION, LOST REVENUE, LOST PRODUCT, LOST PROFITS, LOST BUSINESS, BUSINESS INTERRUPTIONS, BUSINESS AND/OR WORK INEFFICIENCIES, WITHOUT REGARD TO THE CAUSE(S) THEREOF INCLUDING, WITHOUT LIMITATION, PRE-EXISTING CONDITIONS, WHETHER SUCH CONDITIONS BE PATENT OR LATENT, IMPERFECTION OF MATERIAL, MATERIAL DEFECT, OR FAILURE OF EQUIPMENT, BREACH OF REPRESENTATION OR WARRANTY (EXPRESS OR IMPLIED), ULTRAHAZARDOUS ACTIVITY, STRICT LIABILITY, TORT, BREACH OF CONTRACT, BREACH OF STATUTORY DUTY, BREACH OF ANY SAFETY REQUIREMENT OR REGULATION, OR THE NEGLIGENCE OF ANY PERSON OR PARTY, INCLUDING, BUT NOT LIMITED TO, THE RELEASED PARTY AND ITS GROUP, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT, AND/OR CONCURRENT, ACTIVE OR PASSIVE, OR ANY OTHER THEORY OF LEGAL LIABILITY. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, THE TOTAL LIABILITY OF SELLER, ON ALL CLAIMS OF ANY KIND, WHETHER IN CONTRACT, WARRANTY, INDEMNITY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, ARISING OUT OF THE PERFORMANCE OR BREACH OF THIS AGREEMENT SHALL NOT EXCEED THE PRICE OF THE GOODS UPON WHICH SUCH LIABILITY IS BASED.

5. Warranty and Limitations Thereto.

(a) For a period of twelve (12) months from the date the Goods are available for delivery to Customer (the “*Warranty Period*”), Seller warrants that Goods manufactured by Seller will be free of manufacturing defects and that they have met Seller’s written technical performance specifications, subject in each case to Customer’s proper use, installation, and maintenance of the Goods.

(b) Products manufactured by a third party (“*Third Party Product*”) may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Goods. Third-Party Products may also be required to operate or use the Goods as intended. Third Party Products are not covered by the warranty and Customer shall be responsible for any sums (including personnel expenses) expended by Seller due to or arising from the use or misuse of a Third Party Product. For the avoidance of doubt, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCT, INCLUDING ANY (A) WARRANTY AGAINST DEFECTS; (B) WARRANTY OF MERCHANTABILITY; (C) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (D) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; (E) COMPLIANCE WITH ANY PROJECT SPECIFICATIONS; OR (F) PERFORMANCE OF THE GOODS; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

(c) In the event Customer reports an issue with the Goods, Customer is obligated to properly take two (2) samples for every liner segment, or shot, installed (one sample for lab testing purposes and the other to be used in the event of a strength or thickness discrepancy). In the event a report discrepancy exists, Seller may request, in its sole discretion, that Customer submit the second sample for Seller’s independent review. In addition, if Seller believes, in its discretion, that a discrepancy exists between the two samples, Seller may, in its sole discretion, require another sample of the installed liner in question to be sent to it for further evaluation and testing, along with pictures of the sample collection method. All samples taken by Customer must be restrained samples. It is recommended that Customer provide flat plate samples. In the event that a sample is derived from a restrained sample, at a minimum it must be in a pipe of equal size (internal diameter) with the host pipe being lined. The sample must be horizontal in the invert of the pipe at either the tail end of the liner or a middle manhole. The restrained tube should have ridges at the ends internally to prevent resin from migrating out and the sample tubes shall have a proper heat sink. In the event Customer fails to provide the appropriate samples and/or requested data to Seller, Customer automatically forfeits and waives its right to file a claim against or seek reimbursement from Seller.

(d) Given the sensitivity of the Goods, notice of claims made by Customer with respect to any physical or chemical issues occurring during delivery, installation, or post-installation curing of the Goods must be made in writing within twenty-four (24) hours of the event or issue potentially giving rise to Customer’s claim. All other claims that the Goods fail to conform to the warranties herein must be made in writing within five (5) business days after Customer learns of the facts on which such claim is based, but in no event later than the expiration of the Warranty Period. All claims not made in writing and received by Seller within the time periods specified above shall be deemed waived. If the Goods fail to conform to any warranties, and the Customer provides proper written notice to Seller within the Warranty Period, Seller may, in its sole discretion and without any admission of liability, and as the Customer’s sole and exclusive remedy, opt to either: (i) replenish the extent of the Order to which the Goods allegedly fails to conform; or (ii) credit the full or a portion of the purchase price of the nonconforming Goods against future orders. Any replacement Goods will be subject to these warranties.

(e) The warranties set forth in this section do not include, and Seller shall not be liable for, any claims, damages, curing issues, alleged defects or any other liabilities resulting from any of the following:

- i. Goods that are improperly handled, stored, or damaged in transit or by Customer. For example, but in no way limiting the foregoing, the collection of goods by the Customer from Seller’s premises should be done in a timely fashion by a suitable vehicle capable of the caring and keeping safe the Goods.
- ii. Goods that are improperly installed. For example, but in no way limiting the foregoing, during installation, care and consideration must be given by Customer not to exceed the proper head/air pressure and for changes in grade/elevation along the line segment where there may be greater pressure at the downstream end. Failure to adhere to proper installation procedures may cause variations in the strength and/or thickness of the Goods which shall be the sole responsibility of the Customer.
- iii. Goods which are Cured in Place Pipe liners which do not use Customer’s Vericure® curing monitoring system or a comparable curing monitoring system during the entire installation of the Goods, in the following instances:
 - A. 30” or larger water Cured in Place Pipe liner installations;
 - B. All over-the-hole Cured in Place Pipe liner installations;
 - C. Cured in Place Pipe liner installations which are within 50 feet of or are under water sources such as streams, creeks, rivers, or dams;
 - D. Cured in Place Pipe liner installations in areas or pipes with visible water infiltration;
 - E. Cured in Place Pipe liner installations in pipes with sags that hold water;
 - F. Cured in Place Pipe liner installations on high-load dynamic load jobsites such as airports, railroads, under buildings, inside plants, military bases, interstate highways, large metro area.
 - G. Cured in Place Pipe liner installations where digging would be impossible or expensive; or
 - H. Cured in Place Pipe liner installations in pipes more than 20 feet below the surface.

(f) Customer's sole and exclusive remedy for any warranty claim shall be limited, at the Seller's option, to the replacement of the Goods or the amount invoiced for the Goods, even if the Customer has complied with the Seller's instructions, advice, and guidelines.

(g) SELLER HEREBY DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, COMPLIANCE WITH ANY PROJECT SPECIFICATIONS, OR PERFORMANCE OF THE GOODS. WHERE PERMITTED BY LAW, THE PROVISIONS SET FORTH IN THIS SECTION 5 ARE IN LIEU OF AND SUPERSEDE ANY AND ALL OTHER WARRANTIES AT LAW OR IN EQUITY EITHER EXPRESSED OR IMPLIED AND CUSTOMER ACKNOWLEDGES AND ACCEPTS THE EXPRESS WARRANTIES SET FORTH HEREIN AS ITS SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO THE GOODS.

6. Cancellation/Amendment/Termination.

(a) Upon confirmation of an Orders by Seller, Orders cannot be cancelled and/or amended by Customer except with Seller's written consent. In the event of such a cancellation and/or amendment, Customer shall be responsible for all restocking fees, costs and expenses incurred, or which may be incurred, by Seller as a result of the cancellation and/or amendment.

(b) If Customer threatens to withhold payment from Seller, fails to make prompt or proper payment to Seller, fails to provide adequate assurances of its performance and economic viability within three (3) days of written demand from Seller, and/or commits a material breach of a provision of the Agreement, then Seller, without prejudice to any other rights or remedies and without further notice to Customer, shall have the right to cancel the Order, and seek all costs and damages, including reasonable overhead, profit, and attorneys' fees. Customer shall be liable for the payment of any amount by which such expenses may exceed the unpaid balance of the price of the Goods.

(c) Seller shall have the right to cancel an Order for its convenience for any reason whatsoever, or for no reason, by sending two (2) days written notice of such termination to the Customer. In the event of a termination for convenience, and provided that the Customer is not in default, Customer shall be entitled to receive the return of any deposit monies paid to Seller for undelivered Goods.

(d) Termination of a Order, however arising, shall not affect any of the Parties' rights and remedies that have accrued as of the date of termination. Clauses which expressly or by implication survive termination of the Order shall continue in full force and effect.

(e) If the Customer files for bankruptcy or becomes insolvent or makes any arrangements with its creditors or is placed in liquidation or has a receiver and/or administrator appointed, Seller may, without liability or notice and without prejudice to any other rights available to it in contract, law or equity, deem and render all or any contract(s) with the Customer void.

7. Inspection/Acceptance.

(a) Customer has the right to inspect the Goods delivered by Seller. Failure to inspect Goods upon receipt shall constitute acceptance and acknowledgment that the Goods are correct, free from any material defects, and in satisfaction of all warranties provided herein.

(b) If Customer determines non-compliance or otherwise wishes to reject the Goods, in whole or in part, Customer shall notify Seller immediately upon receipt, the reasons for the rejection/non-compliance in writing with supporting data. Where Seller accepts the timely rejection of any Goods, the Customer, to the extent possible, must return to Seller the rejected Goods in the packing provided or its equivalent including the application of protective coating in order to complete its rejection of the Goods. The Customer's sole and exclusive remedy for non-compliance or rejection of the Goods shall be limited to those set forth in the Agreement.

8. Title to Property.

(a) Notwithstanding the payment of any deposit money, title of the Goods or any portion of them shall remain with the Seller until the payment of all amounts by Customer for the Goods. while the goods are in the possession and control of Seller, its agents, and subcontractors or any person, firm, or company employed by Seller, up to the designated pick-up date.

(b) Notwithstanding a failure by Customer to pick-up the Goods by the agreed upon pick-up date, title in the Goods, including full legal and beneficial ownership, shall immediately pass to the Customer after that date, and Seller shall have no further obligations or liability related thereto.

(c) The Customer hereby grants Seller, its agents and/or employees an irrevocable license to enter any premises where the Goods are stored in order to repossess them or to inspect them at any time.

(d) Where goods are to be delivered by installment, each delivery shall be treated as a separate contract provided always that Seller may withhold deliveries or further installments until payment terms are up to date.

(e) Customer authorizes Seller to file precautionary Uniform Commercial Code ("*UCC*") financing statements and other similar filings and recordings with respect to the Goods until the price is fully paid. Customer agrees not to file any corrective or termination statements or partial releases with respect to any UCCs or other similar filings or recordings filed by Seller in connection with the Goods except (i) if Seller fails to file a corrective or termination statement or release on request from Customer after the expiration or earlier termination of the Agreement or (ii) with Seller's consent.

9. Risk of Loss.

The risk of loss with respect to the Goods shall pass to Customer upon the earlier of: (i) loading of the Goods on transport belonging to Customer or some other third party; or (ii) arrival of the Goods to the designated delivery location, regardless of whether the delivery vehicles and equipment continue to store or maintain the Goods at certain ambient conditions. Thereafter, Customer's responsibilities include, without limitation, maintaining the appropriate temperature of the Goods through whatever means-and-methods necessary in order to ensure that they do not prematurely cure and/or exotherm.

10. Customer's Property.

(a) To the fullest extent permitted by law, all property belonging to the Customer (including any materials) received by Seller, whether for incorporation in the Goods or otherwise, will be held by Seller at Customer's risk with respect to loss, damage, or incorrect usage. Customer will indemnify and hold Seller harmless against any claim for loss, injury, damage, costs or otherwise caused by said Customer's property to any person, vehicle or property including but without limitation machinery used by Seller in the course of its business save where any loss injury or damage shall arise directly and exclusively from negligence by Seller, its servants, agents or licensees.

(b) All property belonging to the Customer which is received by Seller shall be insured by Customer to protect against loss while in Seller's possession.

(c) When supplying materials to be incorporated into the Goods, Customer is responsible to supply prime material to Seller and to certify that the material meets specifications as outlined in Orders, if any.

11. Packing Materials.

(a) Customer will be charged for packing cases and all packing materials used by Seller. Seller will not accept the return of packing cases unless agreed in writing by an authorized representative of Seller.

(b) Seller will supply material in appropriately sized pallets, suitably strapped for shipping by truck, sea, or air as agreed with the Customer. Standard pallets and packing cases are not waterproof.

(c) Specific packing requirements must be notified in advance; compliance therewith is subject to the Seller's sole discretion and may be charged at additional rates.

12. Force Majeure.

Seller shall not be liable or responsible to Customer, nor be deemed to have defaulted or breached the Agreement, for any failure or delay in fulfilling or performing any term of the Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Seller including, without limitation, acts of God, flood, fire, earthquake, named windstorm, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, pandemic, lock-outs, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

13. Promotional Information & Materials.

All data, images, drawings, descriptions, and other information furnished by Seller including verbal information and in or on its website, catalogues, brochures, CD's, pamphlets, price lists, or other documents or other promotional media are intended to be as accurate as possible but are given for general information purposes only and are not binding on Seller in respect to any representations, warranties, or other information on a particular order. All information, unless stated otherwise, is subject to reasonable variations. Seller does not accept responsibility for errors or for information which is found to be misleading. Before using the Goods, Customer must satisfy itself of their suitability for any required application, installation, purpose, location, and/or environment.

14. Technical Advice.

Seller assume no liability, and Customer hereby waives any claims against Seller, for any technical advice given to Customer, all such advice being provided and accepted at Customer's sole risk.

15. Choice of Law, Jurisdiction, Waiver of Jury Trial, and Attorney's Fees.

Any and all disputes arising out of and/or related to this Agreement and the performance thereunder shall be governed and construed in accordance with the laws of the state of Texas, without regard to its conflict of laws rules. Any dispute arising under or related to this Agreement shall be resolved by a court of competent jurisdiction in Harris County, Texas, and each party hereby irrevocably and unconditionally submits to such exclusive jurisdiction and venue. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, including but not limited to actions to obtain an injunction and/or to defend against claims made by the other party, the prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to any other relief to which the party may be entitled. THE PARTIES HEREBY WAIVE, RELINQUISH AND FOREVER FOREGO THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO A SALES ORDER OR THESE TERMS.

16. No Transfer or Assignment.

Customer shall not assign any of its rights or delegate any of its obligations under the Agreement without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Customer of any of its obligations under the Agreement. Seller may at any time assign, transfer or subcontract any or all of its rights or obligations under the Agreement without Customer's prior written consent. The Agreement is binding on and inures to the benefit of the Parties to the Agreement and their respective permitted successors and permitted assigns.

17. Confidentiality.

All non-public, confidential or proprietary information of Seller, including, but not limited to, technology, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Seller to Customer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with the Agreement is confidential, solely for the use of performing the Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Customer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Customer at the time of disclosure; or (c) rightfully obtained by Seller on a non-confidential basis from a third party.

18. Severability.

(a) In the event that one or more provisions of the Agreement shall be declared to be invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in the sales order or these Terms shall not in any way be affected or impaired thereby.

(b) Failure to enforce any or all of the provisions of the Agreement in a particular instance or instances shall not constitute a waiver or preclude subsequent enforcement thereof.

19. Survival.

Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of the Agreement.

20. Headings.

All headings used in these Terms are solely for the purpose of convenience and shall in no manner be deemed to be a part of these Terms or used in interpreting its terms.

21. Electronic Acceptance.

The parties consent to the use of electronic signatures, whether digital, scanned, typed, or otherwise affixed, as valid and binding execution of this Agreement and any related documents. Such electronic signatures shall have the same force and effect as an original handwritten signature.