

## STANDARD TERMS AND CONDITIONS OF SALE

These terms and conditions of sale (“Agreement”) are applicable to any order placed with and accepted by Holiday Manufacturing Inc., d/b/a Specialty Wraps (referred to herein as “Supplier”):

1. **SCOPE OF AGREEMENT.** Supplier, upon acceptance of an order placed by Buyer, will supply the products and services specified in the order (the “Work”) to Buyer, pursuant to the terms and conditions of this Agreement and Supplier’s acceptance of such order submitted by Buyer is expressly limited to the terms and conditions of this Agreement notwithstanding any contrary provision contained in Buyer’s purchase orders, invoices, acknowledgements or other documents. The details of the Work (e.g. quantity, price, and product specifications) and Supplier’s acceptance shall be set forth in an “Order Confirmation.”
2. **PRICE AND TERMS.** (a) The prices payable by Buyer for goods and services to be supplied by Supplier under this Agreement will be specified in the applicable Order Confirmation. Unless otherwise expressly stated in an Order Confirmation, all prices exclude shipping and taxes. (b) Payment terms are net thirty (30) calendar days from the date of the invoice unless specified differently on the Order Confirmation. If Buyer does not pay an invoiced amount within terms, Buyer will in addition pay finance charges of one and one-half percent (1.5%) per month on the late balance and Supplier reserves the right to (1) withhold shipment of other orders until full payment is made; and/or (2) revoke any credit extended to Buyer. In the event that Buyer’s account is more than ninety (90) days in arrears, Buyer shall also reimburse Supplier for the reasonable costs, including attorneys’ fees, of collecting such amounts from Buyer. In the event of any dispute regarding an invoice, no finance charges will apply, provided that Buyer provides written notice of the dispute prior to the due date for such payment. (c) Upon reasonable request by the Supplier, Buyer shall provide copies of its most recent audited financial statements or other reasonable evidence of its financial capacity and such other information as Supplier reasonable requests to determine credit status or credits limits. (d) Buyer shall provide notice within five (5) business days of the occurrence of any event which materially affects Buyer’s ability to perform its obligations under this Agreement including but not limited to: (i) the material default of any supplier or sub-contractor; (ii) labor strike or dispute; or (iii) material uncured default with respect to any debt obligations of Buyer. (e) Pricing is subject to change without notice (as reflected on our web site) for subsequent orders. (f) Unless otherwise specified in the Order Confirmation, Work will be delivered FOB Supplier’s manufacturing facility and will be shipped to Buyer via carriers selected by Supplier.
3. **CUSTOM PRODUCTS AND LARGE VOLUMES.** The Buyer understands that some Work is not stocked and is made specifically for Buyer, whether or not notice is specifically provided to Buyer. Buyer shall have the power to terminate an order for its own convenience, in whole or in part, by written notice to Supplier at any time. Upon notice of termination, Supplier will immediately cease production and delivery of all goods and all services set forth in the notice of termination. Buyer will pay Supplier on a pro rata basis for all goods delivered, produced, and purchased on behalf of Buyer as of the date of termination, and for actual, reasonable expenses incurred by the Seller for work-in-process up to the date of termination. All work-in-process for which the Buyer has paid will, at Buyer’s option, become the property of the Buyer and will be released by the Seller for Buyer’s removal on demand within 15 days of notice of termination.
4. **INDEMNIFICATION.** The indemnifying party, as Indemnitor, shall indemnify, defend and hold harmless the indemnified party, as Indemnitee, its officers, directors, employees, agents, subsidiaries, and other affiliates from and against any and all claims, damages, liabilities, and expenses (including attorney fees) arising from any third-party claim based on Indemnitor’s (or its agent’s) breach of any representation, warranty, covenant, agreement, or obligation under the Order Confirmation or this Agreement , or Indemnitor’s (or its agent’s) grossly negligent and/or willful acts in carrying out its obligations under the Order Confirmation or the Agreement, provided that in no event shall Supplier be responsible for any claims arising out of its compliance with instructions, requirements, or specifications provided by or required by Buyer (including the use of information, artwork, logos, and/or trademarks provided by Buyer). Neither party will be responsible for indemnifying another party hereto where the basis of the indemnity claim arises out of such other party’s own negligence or willful misconduct. In order to avail itself of this indemnity provision, Indemnitee shall promptly provide notice to Indemnitor of any such claim, tender the defense of the claim to Indemnitor, and cooperate with Indemnitor in the defense of the claim. Indemnitor shall not be liable for any cost, expense, or compromise incurred or made by Indemnitee in any legal action without the Indemnitor’s prior written consent.
5. **BREACH.** In addition to all other rights to which a party is entitled under this Agreement, if either party breaches any term of the Order Confirmation or the Agreement, the non-breaching party shall have the right to: (a) terminate the Order Confirmation immediately upon written notice to the other party; and (b) seek to obtain injunctive relief to prevent such breach or to otherwise enforce the terms of this Agreement. Failure to properly demand compliance or performance of any term of the Order Confirmation or this Agreement shall not constitute a waiver of Supplier’s rights hereunder and prior to any claim for damages being made for non-conformance or breach, Buyer shall provide Supplier with reasonable notice of any alleged deficiencies in the Work or performance under the Order or this Agreement and Supplier shall have a reasonable opportunity to cure any such alleged non-conformance or breach.

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- 6. **WARRANTY.** Supplier warrants that the Work shall reasonably conform to specifications as setforth on the Order Confirmation. Other than the warranties set forth in this section, Supplier makes no warranty of any kind, expressed or implied or otherwise whatsoever, that the product supplied, services performed or any items produced will be merchantable or fit for any particular purpose or use. In the event of any breach of any warranty specified in this provision, Buyer’s exclusive remedy shall be that Supplier shall, at its option, repair or replace any defective goods at no cost to Buyer or refund any purchase price paid for such Work.
- 7. **LIMITATION OF LIABILITY.** IN NO EVENT SHALL EITHER PARTY BE LIABLE HEREUNDER FOR INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES EVEN IF ADVISED IN ADVANCE OF THE POSSIBILITY FOR SUCH DAMAGES AND SUPPLIERS’S TOTAL LIABILITY FOR DAMAGES UNDER THIS AGREEMENT AND THE ORDER CONFIRMATION SHALL BE LIMITED TO THE TOTAL FEES DUE HEREUNDER FOR THE INVOICE UPON WHICH A CLAIM IS BASED.
- 8. **NOTICE.** Any notice sent pursuant to the Order Confirmation or this Agreement shall be sent by certified mail, return receipt requested, or by overnight mail to the addresses on the Order or to such address as either party may in the future designate. Notices shall be effective upon receipt.
- 9. **ASSIGNMENT.** Except as otherwise provided, the Order Confirmation and this Agreement shall be binding upon and inure to the benefit of the parties’ successors and lawful assigns.
- 10. **STATUS.** Buyer and Supplier are separate entities. Nothing in the Order Confirmation or this Agreement shall be construed as creating an employer-employee or joint venture relationship.
- 11. **COMPLIANCE WITH LAW.** Each party shall comply with all state, federal and local laws and regulations applicable to its performance hereunder.
- 12. **GOVERNING LAW.** The Order Confirmation and this Agreement shall be governed by the laws of the Commonwealth of Massachusetts, without reference to conflicts of law principles. Any legal suit, action or proceeding arising out of or relating to the Order Confirmation or these this Agreement shall be commenced in a federal court in Massachusetts or in state court in the County of Middlesex, Massachusetts, and the appellate courts thereof, and each party hereto irrevocably submits to the exclusive jurisdiction and venue of any such court in any such suit, action or proceeding.

With respect to any litigation arising out of the Order Confirmation or this Agreement, the parties expressly waive any right they may have to a jury trial and agree that any such litigation shall be tried by a judge without a jury and the prevailing party shall be entitled to recover its expenses, including reasonable attorney’s fees, from the other party.

- 13. **FORCE MAJEURE.** Neither party shall be liable for any failure to perform or delay in performance of this Agreement to the extent that any such failure arises from acts of God, war, civil insurrection or disruption, riots, government act or regulation, strikes, lockouts, labor disruption, cyber or hostile network attacks, inability to obtain raw or finished materials, inability to secure transport, or any cause beyond such party’s commercially reasonable control.
- 14. **SURVIVAL.** In the event any provision of this Agreement is held by a tribunal of competent jurisdiction to be contrary to the law, the remaining provisions of this Agreement will remain in full force and effect. All sections herein relating to payment, ownership, confidentiality, indemnification and duties of defense, representations and warranties, waiver, waiver of jury trial and provisions which by their terms extend beyond the Term shall survive the termination of this Agreement.
- 15. **ENTIRE AGREEMENT.** The Order Confirmation and this Agreement sets forth the entire agreement and understanding among the parties as to the subject matter hereof, and merges and supersedes all prior discussions, agreements, and understandings of every and any nature among them. No proposal, purchase order, acceptance, or any other document provided by either Party to the other, nor any electronic click-wrap, terms of use or similar online consent or acceptance language accompanying or set forth as a prerequisite to any electronic interface or utility associated with any Work, shall be deemed to amend the terms hereof and any such contradictory or additional terms shall be ineffective. No party shall be bound by any condition, definition, warranty, or representations, other than as expressly set forth or provided for in the Order Confirmation or this Agreement, or as may be, on or subsequent to the date hereof set forth in writing and signed by the party to be bound thereby. In the event of any ambiguity or conflict between any of the terms and conditions contained in this Agreement and the terms and conditions contained in an Order Confirmation, the terms and conditions of this Agreement shall control, unless the Parties have expressly provided in such Order Confirmation that a specific provision in this Agreement is amended, in which case this Agreement shall be so amended, but only with respect to such Order Confirmation. The Order Confirmation or this Agreement may not be amended, supplemented, changed, or modified, except by agreement in writing signed by the parties to be bound thereby.

I have read, understand and agree to the terms and conditions listed above:

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date