

TERMS AND CONDITIONS OF SALE
LAST REVISED 05/05

These Terms and Conditions of Sale and any quote submitted with these Terms and Conditions of Sale (together, the "Contract") are between Multek Flexible Circuits - dba Sheldahl ("Sheldahl") and the customer to which these Terms and Conditions of Sale and any quote are delivered ("Buyer").

1. **AGREEMENT.** Buyer accepts this Contract by: (a) executing and returning this Contract; (b) delivering a purchase order or forecast for Products (defined below) with quantities and delivery dates acceptable to Sheldahl; (c) accepting delivery of the Products; or (d) paying the price for the Products set forth in the quote, whichever comes first. Any counteroffer or proposed addition to or supplement of, or any material variance from, the material terms and conditions of this Contract are hereby expressly objected to and rejected. If this Contract is responsive to a prior offer by Buyer, then this Contract shall be deemed an acceptance of such offer limited to the material terms and conditions stated in this Contract, and any additional or supplemental terms or any material variance from the terms and conditions of this Contract are expressly objected to and rejected. Any non-material variance from the terms of this Contract proposed by Buyer shall not operate as a rejection of this Contract, and shall be deemed a part of this Contract.

2. **PRODUCTS; TOOLS & EQUIPMENT.** Buyer agrees to buy, and Sheldahl agrees to manufacture and sell, the products ("Products") described in the quote in accordance with mutually agreed upon specifications of Buyer ("Specifications"), if applicable, pursuant to acceptable orders placed by Buyer under this Contract. Buyer grants Sheldahl the right to use the Specifications for such purpose. Products delivered to Buyer on a consignment basis pursuant to forecast(s) but prior to order(s) made by Buyer hereunder, shall be identified by Buyer as Sheldahl's property, safely stored and kept free of all liens, claims, encumbrances and interests of third parties, all at Supplier's expense. Special tools and equipment (i.e., dies, patterns, jigs, molds, etc.) used in the manufacture of Products shall be furnished, and replaced when necessary, by Sheldahl at Buyer's expense.

3. **PRICE.** Prices for the Products are described on the quote, and are effective for the period set forth on the quote. Thereafter, prices are subject to **CHANGE** with notice to Buyer. Prices for the furnishing of special tools and equipment are described on the quote or as otherwise agreed by the parties in writing. Buyer shall pay Sheldahl the price for Products ordered set forth on the quote, or as otherwise notified to Buyer in Sheldahl's invoice, and the price for the special tools and equipment, without setoff or deduction. Prices exclude all federal, state, or local taxes, and therefore such prices are subject to increase in the amount of any such tax (excluding tax on net income) that Sheldahl may be required to collect or pay upon the sale or delivery of the Products and furnishing of the special tools and equipment. Prices are, and all payments shall be made, in the currency set forth in the quote.

4. **PAYMENT TERMS.** (a) Payment. Unless otherwise stated on the quote, payment terms for sales, special tools and equipment and associated expenses are net 30 days after date of Sheldahl's invoice. Buyer shall make all payments irrespective of whether Buyer has made or may make any inspection of any Product. Sheldahl may cancel or reschedule deliveries of Products if Buyer fails to make any payment when due; (b) Charges. Past due amounts bear interest at a rate of one and one half percent (1 1/2%) per month or at the maximum rate allowed by law, whichever is less from the date on which such amounts become overdue until paid in full. Sheldahl's rights under this section shall be in addition to all other rights and remedies available to Sheldahl upon Buyer's default. Buyer shall be liable for all expenses attendant to collection of past due amounts, including attorney's fees; and (c) Purchase Money Security Interest. Each Product shall be subject to a purchase money security interest retained by Sheldahl in the Products until payment in full of the purchase price for such Product(s) and related charges to Sheldahl. Buyer agrees to execute financing statements and other documents as Sheldahl reasonably requests, and acknowledges that this document constitutes a proper security agreement to be used in connection with any such financing statement. Sheldahl is authorized to file one or more financing statements relating to all or any part of the Products without the signature of Buyer where permitted by law. A photocopy or other reproduction of this Contract or any financing statement covering the Products or any part thereof shall be sufficient as a financing statement where permitted by law.

5. **FORCE MAJEURE.** Sheldahl shall not be liable for any delays in the delivery of orders, due in whole or in part, directly or indirectly, to fire, act of God, strike, shortage of raw materials, supplies or components, retooling, upgrading of technology, delays of carriers, embargo, government order or directive, or any other circumstance beyond Sheldahl's reasonable control.

6. **DELIVERY TERMS.** Unless otherwise stated on the quote (a) all domestic deliveries shall be made F.O.B. Sheldahl's factory and risk of loss of such Products shall transfer to Buyer upon delivery to the freight carrier; and (b) all international deliveries shall be made Ex works Sheldahl's factory (Incoterms 2000), and, unless otherwise stated in the quote, Sheldahl shall present the Products to the carrier, and risk of loss of such Products shall transfer to Buyer upon presentation. Sheldahl will attempt to meet the requirements of Buyer's delivery schedule and Sheldahl shall not be in default of performance due to a delay of reasonable duration resulting from any cause. Buyer shall pay, or reimburse Sheldahl for, all amounts due for import and export licenses and permits, custom charges and duties, penalties, freight, insurance and other shipping expenses. If Buyer desires freight prepaid and billed, Sheldahl shall add, and Buyer shall pay, a 25% surcharge to the regular freight charge, including but not limited to custom charges and duties, taxes, VAT, penalties, freight, insurance and other shipping expenses. Unless otherwise instructed, selection of carrier and routing of all shipments shall be at Sheldahl's discretion. All prototypes of Products will be shipped standard express overnight or equivalent method for international shipments unless otherwise requested. Shipment dates for export sales are approximate and are subject to receipt of all necessary Buyer information, and all necessary licenses, permits and other documents. A variation in quantity of Products delivered not to exceed plus or minus ten percent of the amount agreed upon will be considered to be in compliance with the agreement of the parties.

7. **INSPECTION AND ACCEPTANCE.** Buyer must inspect delivered Products and report claims for any damages or shortages in writing within five days of delivery or the Products shall be deemed irrevocably accepted and such claims shall be deemed waived, except as provided in Section 9. In the event of source inspection by Buyer, Sheldahl reserves the right to designate the place within the plant where inspection may be performed and to deny access to areas and processes considered proprietary to Sheldahl.

8. **TITLE.** Title to the Products shall stay with Sheldahl until Sheldahl receives payment in full for such Products. Buyer hereby recognizes that Sheldahl retains all right, title and interest in (a) all intellectual property rights in and to the Products; (b) all processes, methods, formula, ingredients, designs, procedures and other practices used by Sheldahl or relating to the manufacture and sale of the Products, including all intellectual property rights therein; and (c) all of Sheldahl's equipment and tooling used in the manufacture and sale of the Products, including all intellectual property rights therein, (collectively "Sheldahl Technology"). Buyer hereby assigns to Sheldahl all right (including intellectual property rights), title and interest it may now or hereafter possess in and to the Sheldahl Technology and in any derivative works of and improvements to the Products and agrees to execute all documents, and take all actions, that may be necessary to effect such assignment. Sheldahl is under no obligation to disclose any of the Sheldahl Technology to Buyer for any reason.

9. **LIMITED WARRANTY AND REMEDIES.** Sheldahl warrants to Buyer that the Products shall be free from defects in materials and workmanship upon delivery. Any claims for breach of the foregoing warranty shall only be valid if Buyer makes such claim within 60 days of the date of shipment of the Product to which the claim relates, or such shorter period specified on the Quote, by notifying Sheldahl's Sales Department in writing and obtaining a Return Authorization Number for the return of the Products (which is to be referenced on all return shipping documents). Buyer's exclusive remedy and Sheldahl's sole liability for any breach of the foregoing warranty shall be for Sheldahl, at Sheldahl's sole option, to repair, replace or modify the defective Product, or refund to Buyer the purchase price paid by Buyer for the defective Product. The warranty service shall be performed at Sheldahl's factory. In order to receive the warranty service, Buyer must return the defective Product within 30 days of notification from Buyer hereunder. All warranty claims will be handled pursuant to Sheldahl's standard RMA procedures. If Sheldahl determines that the original Products were not defective, Buyer shall reimburse Sheldahl all costs of handling, transportation and repairs at Sheldahl's prevailing rates. All defective Products returned under this warranty which are replaced or for which a refund is given to Buyer shall become Sheldahl's property. **THE WARRANTY SET FORTH IN THIS SECTION 9 IS IN LIEU OF ALL OTHER WARRANTIES AND SHELDAHL HEREBY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, INFRINGEMENT AND FITNESS FOR PARTICULAR USE.** Any repair or attempt to repair Products by anyone other than an authorized representative of Sheldahl automatically voids any warranty on those Products.

10. **WARRANTY AND INDEMNIFICATION.** Buyer warrants to Sheldahl that the Specifications do not infringe the rights of any third party, including without limitation, any intellectual property rights. Buyer shall indemnify and hold harmless Sheldahl from all losses, claims, damages, expenses or liabilities of any kind (including attorney's fees and court costs) resulting from or arising out of (a) breach of the foregoing warranty; or (b) any use of the Products.

11. **LIMITATIONS ON LIABILITY.** Sheldahl shall not be liable for any loss or damage caused by delay in furnishing the Products. UNDER NO CIRCUMSTANCES SHALL SHELDAHL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, COLLATERAL, SPECIAL, PUNITIVE, TREBLE, EXEMPLARY OR INCIDENTAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR GOODWILL) WHETHER SUCH CLAIM IS BASED ON CONTRACT, NEGLIGENCE, TORT, WARRANTY OR ANY OTHER BASIS UNDER OR AS A RESULT OF THIS CONTRACT OR THE PRODUCTS, IRRESPECTIVE OF WHETHER SHELDAHL HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE. IN NO EVENT SHALL SHELDAHL'S AGGREGATE LIABILITY UNDER OR AS A RESULT OF THIS CONTRACT EXCEED THE TOTAL AMOUNTS ACTUALLY PAID BY BUYER FOR THE PRODUCTS PURCHASED UNDER THIS CONTRACT. The parties agree that the limitations on liability set forth in this Contract are independent of any exclusive or limited remedies, and shall survive and apply even if such remedies are found to have failed of their essential purpose. No action, regardless of form, arising out of the transactions under this Contract may be brought by Buyer more than 1 year after the events which gave rise to the cause of action occurred.

12. **RESCHEDULING.** Buyer rescheduling of deliveries of Products (push-outs) cannot be greater than 30 days beyond the original requested ship date for Products, unless mutually agreed in writing.

13. **TERMINATION/CANCELLATION.** Sheldahl may terminate this Contract or orders placed hereunder with notice to Buyer if (a) Buyer fails to pay when due any sums payable hereunder and such failure continues for 10 days after the due date; (b) Buyer materially breaches its obligations hereunder, other than the payment of money, and such breach continues for a period of 20 days after receipt by Buyer of written notice from Sheldahl specifying such breach; or (c) any development work required hereunder is determined by Sheldahl to be financially or technically inadvisable to proceed with. Buyer may not cancel all or any portion of an order for which Products have been shipped. If Sheldahl terminates this Contract in accordance with this section, Buyer cancels all or any part of any order for Products prior to shipment, or Buyer fails to comply with any material obligation hereunder, including failure or refusal to make timely payments or breach of Section 12, causing Sheldahl to cancel any order for Products or portion thereof, then Buyer shall pay Sheldahl (i) all amounts due for Products ordered and shipped and special tooling and equipment furnished prior to the effective date of termination or cancellation; and (ii) a cancellation charge calculated by totaling the price set forth in the quote for four week's worth of inventory of finished Products and work in process (prorated based on the developed stage of the applicable Products) and the actual cost of four week's worth (or such other lead time as set forth in the quote) of raw materials and components, all based on the most recent forecast for the Products submitted by Buyer. Recognizing that Sheldahl's damages arising from any cancellation of any order or termination hereunder will be difficult to estimate, the parties agree that the cancellation charge is reasonable and is not a penalty. Sheldahl shall deliver all such inventory, work in process, raw materials and components to Buyer upon request, after receipt of payment as set forth in this section and all costs of transportation for such items. Sections 1, 3, 4, 8, 9 (disclaimer only), 10, 11, 13, 14, 16, 17, and 18 shall survive any termination.

14. **CONFIDENTIAL INFORMATION.** Buyer agrees that the Sheldahl Technology and all information furnished hereunder to Buyer by Sheldahl is proprietary to Sheldahl and such information shall be held in confidence and shall not be used or disclosed by Buyer without Sheldahl's prior written consent, except for the fulfillment of this Contract. Buyer shall enforce against its employees and agents these obligations of confidentiality. Buyer shall return all such information and any copies thereof to Sheldahl upon termination or cancellation of this Contract.

15. **INSTALLMENT.** Sheldahl's failure to deliver, or nonconformity of, any installment of this Contract shall not be a breach of this entire Contract.

16. **EXPORT REGULATIONS; PERMITS.** Buyer will comply with the provisions of the United States Government's Export Administration regulations and related documentation requirements and internal control procedures. Buyer shall be responsible for obtaining any necessary export or import licenses and permits.

17. **APPLICABLE LAW; VENUE.** This Contract shall be governed by and construed in accordance with the

internal laws (and not the laws of conflicts) of the State of Minnesota. The parties expressly waive the application of the United Nations Convention on Contracts for the International Sale of Goods to this Contract. Any action at law, suit in equity, or judicial proceeding of any kind arising directly, indirectly, or otherwise in connection with, out of, related to or from this Contract or the relationship between the parties shall be litigated only in the state or federal courts located in Hennepin County, Minnesota and the parties waive any right they may have to challenge the jurisdiction of this court or seek to bring any action in any other forum, whether originally or by transfer, removal, or change of venue. The losing party in a lawsuit shall pay its own and the prevailing party's attorney's fees and expenses.

18. **MISCELLANEOUS.** This Contract and any non-disclosure agreement entered into by the parties, constitute the final, complete, exclusive and entire agreement between the parties and supercede all prior or contemporaneous agreements, written or oral, regarding the subject matter of this Contract. The failure of Sheldahl to enforce at any time any of the provisions of this Contract shall not be construed to be a waiver of such provisions nor the right of Sheldahl to enforce such provisions in the future. Buyer may not assign any rights under this Contract or this Contract in whole or in part without the prior written consent of Sheldahl. Any prohibited assignment shall be null and void. This Contract shall inure to the benefit of successors in interest and permitted assigns. Sheldahl may subcontract any of its obligations hereunder. If any provision of this Contract is found to be invalid or unenforceable in any respect, the validity and enforceability of the remaining provisions shall not be affected. The parties may only modify this Contract in a writing signed by both parties.