Sales Terms and Conditions

The following are the terms and conditions ("Terms and Conditions") for the sale of products ("Products") by Moog Inc., doing business as Animatics, a New York Corporation ("Animatics") to Animatics’ customers ("Customer").

1. GENERAL.
   a. All prices are F.O.B. Factory in Murphysboro, North Carolina, USA.
   b. Payment terms are net 30 days for customers with established approved credit. Otherwise, payment must be by cash, approved check, or credit card. All Orders accepted by Animatics are subject to these Sales Terms and Conditions.
   c. All orders are subject to a minimum of $150.00 (U.S.). Any order under $150.00 (USD) will have an added $35.00 (USD) processing fee.

2. ORDERS.
   Orders are initiated by the Customer issuing a purchase order ("Purchase Order") to Animatics. Purchase Orders will identify the Products, unit quantities, part numbers, descriptions, applicable prices and requested delivery dates. Orders are subject to Animatics’ acceptance and to these Terms and Conditions. Customer may cancel an order for standard products subject to a 20% cancellation fee. Customer requests to reschedule are subject to acceptance by Animatics in its sole discretion. Orders may not be cancelled or rescheduled after delivery by Animatics to the carrier. Customer may not cancel orders for non-standard or modified products except at a fee to be determined by Animatics on a case-by-case basis. Non-standard products include, without limitation, products which are special orders, custom orders, orders for non-standard products, modified products, products which do not appear in Animatics’ current catalogs and price lists, products not customarily in stock, orders for value-added products, products to be assembled in kit form and products identified as “NCNR” or products that are otherwise non-cancelable and non-returnable.

3. PRICES.
   If Customer does not purchase the quantity upon which quantity prices are based, Customer will pay the non-discounted price for the quantity actually purchased. Prices for any rescheduled deliveries may be increased by Animatics in the event of an increase in Animatics prices, costs or causes beyond Animatics reasonable control. The amount of all Federal, State and local sales, use, excise and similar taxes or other charges now or hereafter imposed by any government authority which may be paid by Animatics or for which Animatics may be liable shall be paid to Animatics by Customer in addition to the purchase price of the Products. Prices are subject to change without notice.

4. TERMS OF PAYMENT.
   (a) Payment terms are net thirty (30) days from the date of invoice. Orders are subject to credit approval by Animatics, which may in its sole discretion at any time change the terms of Customer’s credit or require advance payment or payment by official bank check. If Animatics believes that Customer’s ability to make payments is impaired, Animatics may cancel any order or remaining balance thereof, and Customer will remain liable to pay Animatics for Products already shipped. Customer will submit such financial information as Animatics may reasonably require for determination of credit terms. (b) Checks are accepted subject to collection and the date of collection will be deemed the date of payment. Any check received from Customer may be applied by Animatics against any obligation owing by Customer to Animatics under this or any other contract, regardless of any statement appearing on or referring to such check, without discharging Customer’s liability for any additional amounts owing by Customer to Animatics. The acceptance by Animatics of such check will not constitute a waiver of Animatics right to pursue the collection of any remaining balance. (c) Customer will pay the entire net amount of each invoice from the Animatics pursuant to the terms of such invoice without offset or deduction. Invoices not paid when due will bear interest to date of payment at the annual rate of eighteen (18%) percent or such lower rate as may be the maximum permitted by law. If Customer fails to make payment when due, Animatics may pursue any legal or equitable remedies, in which event Animatics will be entitled to reimbursement for costs of collection and reasonable attorney’s fees.

5. DELIVERY AND TITLE.
   (a) Animatics will make reasonable efforts to initiate shipment and schedule delivery as close as possible to Customer’s requested delivery date(s). Customer acknowledges that delivery dates provided by Animatics are estimates only and that Animatics will not be liable for failure to deliver on such dates. Selection of the carrier and delivery route will be made by Animatics unless specifically designated by Customer. (b) All shipments by Animatics are F.O.B. point of shipment (Animatics facility) and the Customer, in addition to the purchase price of the Products, shall pay the amount of all transportation charges from Animatics facility to the customer. Subject to Animatics right to stoppage in transit, delivery to a carrier will constitute delivery to Customer, and risk of loss will thereupon pass to Customer; however, title shall remain in Animatics until payment in full for the Products by Customer. (c) Claims for shortages and damage must be made to the carrier within ten (10) days after delivery. (d) Products invoiced and held by Animatics by Customer’s request will be held at Customer’s risk and expense. (e) Delivery of any installment of Products within thirty (30) days after the date requested will constitute a timely delivery. Thereafter, delivery will be timely unless Animatics has received written notice of cancellation prior to shipment. Delivery of a quantity that does not vary by more than ten percent (10%) from the quantity specified will constitute full performance of such delivery. Delay in delivery of one installment will entitle Customer to cancel that installment only.

6. LIMITED WARRANTY AND LIMITATION OF LIABILITIES.
   Animatics will repair product failures caused by defects in material or workmanship for a period of 2 years from Animatics’ ship date for Smart Motors and a period of 1 year from Animatics’ ship date for OEM Dynamics actuators. This warranty is extended only to the purchaser of a product from an authorized Animatics distributor. Animatics’ reserves the right to refuse warranty repairs for unregistered products. Animatics makes no other warranty, express or implied, with respect to the Products. Animatics does not make any warranty or representation regarding merchantability or fitness for any purpose. With respect to products purchased by Animatics from its vendors and suppliers, Animatics will transfer to Customer whatever transferable warranties and indemnities Animatics receives from the manufacturer of any Products.
With respect to value-added work by Animatics which does not meet applicable Customer’s specifications, Animatics liability is limited (at Animatics election) to (1) refund of Customer’s purchase price for such Products (without interest), (2) repair of such Products, or (3) replacement of such Products. Animatics standard warranty repair policy in effect shall apply to all charges made by Animatics as well as the latest policy regarding freight charges. A defective product must be returned to Animatics, along with acceptable evidence of purchase, within twenty (20) days from date of delivery, transportation charges prepaid. CUSTOMER SHALL NOT BE ENTITLED TO, AND ANIMATICS SHALL NOT BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE INCLUDING, WITHOUT BEING LIMITED TO, LOSS OF PROFIT, PROMOTIONAL OR MANUFACTURING EXPENSES, OVERHEAD, INJURY TO REPUTATION OR LOSS OF CUSTOMERS. CUSTOMER’S RECOVERY FROM ANIMATICS FOR ANY CLAIM SHALL NOT EXCEED CUSTOMER’S PURCHASE PRICE FOR THE PRODUCTS IRRESPECTIVE OF THE NATURE OF THE CLAIM WHETHER IN CONTRACT, TORT, WARRANTY, OR OTHERWISE.

7. PRODUCT RETURNS.
Customer is deemed to have accepted the Products unless written notice of rejection is received by Animatics within ten (10) days after delivery. Customer waives any right to reject or revoke acceptance thereafter. No return of Products will be accepted by Animatics without a return material authorization number (RMA No.); which will be issued by Animatics sole discretion. Returned Products must be in original shipping cartons and must be complete with all packaging materials. If returned Products are claimed to be defective, a complete written description of the nature of the defect must accompany all returned Products. All items not eligible for return will be returned to Customer, transportation collect.

8. CONFIDENTIALLY.
If either party hereto receives from the other party written information which is marked “Confidential” and/or “Proprietary” the receiving party agrees not to use such information except in the performance hereof, and to treat such information in the same manner as it treats its own confidential information. Confidential information that is disclosed orally or visually will be confirmed as confidential or proprietary in writing within ten (10) days after such disclosure. The obligation to keep information confidential shall not apply to any such information that has been disclosed in publicly available sources; is in the rightful possession of the party receiving the confidential information without an obligation of confidentiality; or is required to be disclosed by operation of law. Except as otherwise provided herein, the obligation not to disclose shall be for a period of one (1) year after the termination hereof.

9. USE OF PRODUCTS IN LIFE SUPPORT AND NUCLEAR APPLICATIONS.
Products sold by Animatics are not designed for use in life support or nuclear applications. Animatics’ customers using or selling Products for use in life support or nuclear applications do so at their own risk, agree that Animatics and the manufacturer of the Products are not liable, in whole or in part, for any claim or damage arising from such use, and agree to fully indemnify, defend and hold harmless Animatics and the manufacturer of the Products from and against any and all claims, damages, loss, cost, expense or liability arising out of or in connection with the use or performance of Products in life support or nuclear applications.

10. STATEMENTS AND ADVICE.
If statements or advice, technical or otherwise, is offered or given to Customer, such statements or advice will be deemed to be given as an accommodation to Customer and without charge and Animatics will have no responsibilities or liabilities whatsoever for the content or use of such statements or advice.

11. SOFTWARE.
If an order includes computer software, such computer software is transferred by Animatics to Customer pursuant to a single user license, the royalty, terms and conditions of which are set forth on or in the packaging accompanying such software.

12. FORCE MAJEURE.
Animatics will not be liable for delays in delivery or for failure to perform its obligations due to causes beyond its reasonable control, including, but not limited to, product allocations, material shortages, labor disputes, transportation delays, unforeseen circumstances, acts of God, acts or omissions of other parties, acts or omissions of civil or military authorities, Government priorities, fire, strikes, floods, epidemics, quarantine restrictions, riots, or war. Animatics time for delivery or performance will be extended by the period of such delay or Animatics may, at its option, cancel any order or remaining part thereof without liability by giving notice to Customer.

13. GENERAL.
(a) These Terms and Conditions may not be modified or cancelled without Animatics’ written agreement. The sale of Products hereunder will be governed by the Terms and Conditions, not withstanding contrary or additional terms and conditions in any purchase order, planning schedule, acknowledgment, confirmation or any other form or document issued by either party effecting the purchase and/or sale of the Products. (b) No rights, duties, agreements or obligations hereunder may be assigned or transferred by either party without the prior written consent of the other. The obligations, rights, terms and conditions hereof will be binding upon and inure to the benefit of the parties hereto and their successors and assigns. (c) The waiver of any breach of any term, condition or covenant hereof or default of any kind or nature. (d) Any provision hereof which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof in that jurisdiction or affecting the validity or enforceability of such provision in any other jurisdiction. (e) The Terms and Conditions will be governed by and construed in accordance with the laws of the state of California and the applicable laws of the United States. Customer will not directly or indirectly export, reexport, sell or transfer any Product to any country for which an export license or other governmental approval is required without first obtaining all licenses and other approvals.