

**JIFFY PRODUCTS OF AMERICA, INC.**  
**TERMS AND CONDITIONS OF SALE**

1. Applicable Terms and Conditions. No contract exists between Purchaser and Seller for the sale of any product until Seller accepts Purchaser's written or oral purchase order by sending a confirmation of the order to Purchaser. Once Seller accepts Purchaser's purchase order, the terms and conditions set forth herein and in any Seller confirmation, quotation or invoice shall constitute the entire agreement and understanding between Purchaser and Seller relating to the products and merge all prior discussions, understandings, agreements and documents between them, except for any specific written contract or agreement between Seller and Purchaser which has been signed by Seller and Purchaser. Any variation to Seller's Terms and Conditions of Sale and any additional or different terms or conditions on any order form or other document submitted by Purchaser are expressly rejected unless and until accepted in writing by a duly authorized officer of Seller. No additional notice of the foregoing need be given by Seller to Purchaser. Seller reserves the right to correct stenographical or clerical errors. In the event of any conflict between these terms and conditions of sale and any provision of a written contract or agreement between Seller and Purchaser which has been signed by Seller and Purchaser, the provision contained in such signed contract or agreement shall prevail. FOR THE AVOIDANCE OF DOUBT, PURCHASER'S ACCEPTANCE OF ANY DELIVERY UNDER ANY ORDER CONFIRMATION, OR PRIOR TO DELIVERY, PURCHASER'S INSTRUCTIONS TO SELLER TO SHIP PRODUCTS OR OTHERWISE COMMENCE PERFORMANCE, WILL CONFIRM PURCHASER'S AGREEMENT TO THESE TERMS AND CONDITIONS OF SALE AND THE TERMS OF THE APPLICABLE ORDER CONFIRMATION. If notwithstanding the foregoing, Seller's quotations for products are deemed to be an offer, and Purchaser's order is deemed to be an acceptance of Seller's offer, then acceptance of Seller's offer is expressly limited to these Terms and Conditions of Sale.

2. Pricing. Prices are subject to change without notice. The price in effect at the time of shipment shall prevail. Prices are FOB, Seller's warehouse or factory, and are exclusive of freight charges, import fees, insurance, taxes, duties, tariffs and other special items, any or all of which shall be added to the sales prices as applicable in a given transaction.

3. Modifications. Seller reserves the right from time to time, (a) to change or modify any product in any manner that Seller deems appropriate, or (b) to discontinue the production or sale of any product, without any liability or responsibility for Seller.

4. Delivery and Shipment. The delivery date shall be at the discretion of Seller, based on availability. Seller shall make all deliveries hereunder FOB Seller's warehouse or factory, and title to and risk of loss of the products shall pass from Seller to Purchaser when the products are placed with the applicable carrier. Seller shall, at Purchaser's expense, arrange for the shipment of products via carriers and through freight forwarders identified by Purchaser in the applicable purchase order. If no carrier or freight forwarder is specified in the applicable purchase order, then Purchaser shall promptly reimburse Seller for all costs of a carrier or freight forwarder selected by Seller in its reasonable discretion. Seller reserves the right to make partial shipments.

5. Inspection; Acceptance. Purchaser shall promptly inspect the products upon receipt. Purchaser may not reject products for any reason other than non-conformity with the

Product Warranty set forth in these Terms and Conditions of Sale. If Purchaser has not notified Seller in writing of Purchaser's rejection of any products within 48 hours after receipt of products after delivery, such products shall be deemed accepted by Purchaser, and Seller shall have no further liability in respect thereof (except with respect to the Product Warranty set forth below and limitation of damages provisions set forth herein). Returns will not be accepted without Seller's prior written approval.

6. Cancellation. No order may be modified or cancelled without Seller's prior written consent. If Seller agrees to accept modification or cancellation of all or part of an order, such cancellation or modification shall be subject to conditions then agreed upon by Seller, which shall include protection of Seller against all loss and incurred expense, and to Seller's restocking fees.

7. Payment. Purchaser shall pay Seller for all products within 30 days from the date of the invoice for such Products unless otherwise specified on the applicable invoice. Unless otherwise specified on the applicable invoice, all payments shall be made in U.S. dollars; provided that upon Purchaser's written notice to Seller and Seller's acknowledgement thereof, Purchaser may make all payments in Canadian dollars for the twelve months following any such notice. Interest at the rate of 1-1/2% per month or 18% per annum or the maximum amount permitted by law, whichever is less, will be charged for past-due accounts. If an amount is turned over to an attorney or collection agency for collection, the Purchaser pays the attorney's or agency's fees and expenses. A fee of \$25.00 will be charged for any returned check or declined bankcard transaction.

8. Force Majeure. Neither Seller nor Purchaser shall be liable for inability to perform (other than for the payment of money) where such inability is the result of events beyond the reasonable control of such party, including (a) drought, flood, earthquake, hurricane or other act of God or nature; (b) strike, labor slow down or other labor-related difficulty; (c) shortage of materials, energy or transportation; (d) fire; (e) explosion; (f) civil commotion, war or act of the public enemy; or (g) governmental action.

9. ProductWarranty.

9.1. Warranty. Seller warrants to Purchaser that all products sold to Purchaser under an accepted purchase order shall be of the type and in the quantities specified in the accepted purchase orders (the "Product Warranty"). This Product Warranty is applicable only to claims made in writing and received by Seller within five days after the defect was discovered or should have been discovered and within eight weeks after the date of shipment of the Product by Seller. All other claims are waived. If a claim is made, Purchaser must allow reasonable investigation of the product claimed to be defective and Purchaser must supply samples that adequately demonstrate the problem claimed for testing by Seller.

9.2. Limitation. **EXCEPT FOR THE PRODUCT WATRANTY, SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

10. Limitation of Damages. This remedies set forth in this Section 10 are Purchaser's sole and exclusive remedy for a breach of the Product Warranty. It is expressly understood and

agreed that the limit of Seller's liability will be, at Seller's option, repairing of the nonconforming products, resupplying of a like quantity of conforming products or crediting to Purchaser's account the original purchase price paid by Purchaser for non-conforming products. Seller shall have no liability except where the claim results solely from breach of Seller's Product Warranty. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN ANY PURCHASE ORDER OR OTHER STANDARD FORM DOCUMENT ISSUED BY PURCHASER, THE FOREGOING SHALL BE PURCHASER'S SOLE REMEDY AND SELLER'S SOLE OBLIGATION WITH REGARD TO ANY NON-CONFORMITY OF PRODUCTS DELIVERED TO PURCHASER. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, PURCHASER (FOR ITSELF, ITS AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, STOCKHOLDERS, EMPLOYEES AND AGENTS) HEREBY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO CLAIM, AND IS OTHERWISE NOT ENTITLED TO ANY, SPECIAL, CONSEQUENTIAL, INDIRECT, INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES OR ANY LOST PROFITS IN ANY CLAIM ARISING OUT OF OR IN CONNECTION WITH THE PURCHASE OF PRODUCTS FROM SELLER, EVEN IF THE REPLACEMENT REMEDY FAILS OF ITS PURPOSE OR FOR ANY OTHER REASON. SELLER SHALL NOT BE LIABLE FOR ANY DAMAGES THAT ARE BASED UPON ALLEGED NEGLIGENCE, BREACH OF WARRANTY, STRICT LIABILITY OR ANY OTHER THEORY OTHER THAN THE LIMITED REMEDY SET FORTH ABOVE. Based on the foregoing, Seller does not assume any responsibility for the use, application or integration of the products by themselves or in combination with other products or procedures. Purchaser acknowledges that it has the infrastructure, knowledge, technical and human resources to use the products and assumes all risk and liability for such use.

11. Indemnity. By accepting products from Seller, Purchaser agrees to defend, hold harmless and indemnify Seller from and against any claim or loss asserted by any or all transferees or users of such products if Purchaser makes any guaranty, warranty or representation pertaining to such products that is more extensive than the warranties, warranties limitation and limitation of damages provisions set forth in these Terms and Conditions of Sale.

12. Governing Law and Choice of Forum. THESE TERMS AND CONDITIONS OF SALE SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF OHIO OTHER THAN CONFLICT OF LAWS PRINCIPLES THEREOF DIRECTING THE APPLICATION OF ANY LAW OTHER THAN THAT OF OHIO. PURCHASER AND SELLER AGREE THAT ANY ACTION OR PROCEEDING TO ENFORCE OR ARISING OUT OF THESE TERMS AND CONDITIONS OF SALE MAY ONLY BE COMMENCED IN THE COURTS OF THE STATE OF OHIO OR THE UNITED STATES DISTRICT COURTS OF OHIO. PURCHASER AND SELLER CONSENT TO SUCH JURISDICTION, AGREE THAT VENUE WILL BE PROPER IN SUCH COURTS AND WAIVE ANY OBJECTIONS BASED UPON FORUM NON CONVENIENS. THE CHOICE OF FORUM SET FORTH IN THIS SECTION SHALL NOT BE DEEMED TO PRECLUDE THE ENFORCEMENT OF ANY JUDGMENT OBTAINED IN SUCH FORUM OR THE TAKING OF ANY ACTION UNDER THESE TERMS AND CONDITIONS OF SALE TO ENFORCE SAME IN ANY OTHER JURISDICTION. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply.

13. Assignment. Purchaser may not assign any right or duty arising under any order, in whole or in part, without Seller's prior written consent.

14. Severability. If any provision of these Terms and Conditions of Sale for any reason shall be held to be illegal, invalid or unenforceable, such illegality shall not affect any other provision of these Terms and Conditions of Sale, but these Terms and Conditions of Sale shall be construed as if such illegal, invalid or unenforceable provision had never been included herein.

15. Intellectual Property. Purchaser does not acquire any rights of any nature in the intellectual property of Seller or any of its affiliates.

16. No Third Party Benefit. The provisions stated herein are for the sole benefit of Purchaser and Seller, and confer no rights, benefits or claims upon any other person or entity.

17. No Waiver. No delay on the part of Seller in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of Seller of any such right, power or privilege, nor any single or partial exercise of any such right, power or privilege, preclude any further exercise thereof or the exercise of any other such right, power or privilege.