

Standard Terms and Conditions of Sales

Revision 2.0 – April 21, 2016

1. AGREEMENT. The terms and conditions as set forth herein as well as any additional terms and conditions that may appear on the Customer Order (“Order”) shall constitute the entire agreement between JAKTOOL, LLC (“Seller” or “JAKTOOL”) and Buyer. Seller will not be bound by any terms of Buyer’s Order that are inconsistent with the terms within.

2. PRICE. (a) The purchase price (“Price”) of all Products, unless otherwise specifically stated herein, is F.O.B. Carrier at the place of manufacture or warehouse, which is the address of JAKTOOL, exclusive of insurance cost. The cost of packaging for normal domestic shipment is included in the Price. Where other domestic or export packaging is specified, involving greater expense, an additional packaging charge will be added to the Price to cover the extra expense.

(b) Prices and Orders do not include Federal, State, or Local excise, sales use or other taxes now or herein after enacted, which are applicable to the Products sold hereunder or to this transaction (excluding only taxes bases on Seller’s income), which tax or taxes will be added by Seller to the Price when Seller has the legal obligation to collect the same and will be invoiced to and paid by Buyer, unless Buyer provides Seller with a proper tax exemption certificate. In the event Seller is required to pay any such tax, fee or charge at the time of sale or thereafter, the Buyer shall reimburse Seller therefore.

(c) Unless otherwise stated by Seller in writing, all Price quotations are firm for, and expire, thirty (30) days after date thereof and constitute offers.

3. PAYMENT TERMS. (a) Unless otherwise stated herein, payment terms are net thirty (30) days from date of invoice. Seller reserves the right to require alternative payment terms, including, without limitation, sight draft, letter of credit or payment in advance. All payments shall be made to Seller at its office in Cranbury, New Jersey, or such office as may be from time to time designated.

(b) All Orders are subject to, and the obligation of Seller to make deliveries is subject to, the right of the Seller as provided in paragraph 11, to require of the Buyer payment of all or any part of the Price in advance of delivery or to make shipment C.O.D. If the Buyer fails to make advance payment when requested by Seller, or if the Buyer is or becomes delinquent in the payment of any sum due Seller (whether or not arising out of this Order) or refuses to accept C.O.D. shipment, then Seller shall have the right, in addition to any other remedy to which it may be entitled in law or equity, to cancel the Order, refuse to make further deliveries, and declare immediately due and payable all unpaid amounts for Products previously delivered to the Buyer. Partial shipments made under any Order shall be treated as a separate transaction and payment thereof shall be made accordingly. However, in the event of any default by Buyer, Seller may decline to make further shipments without in any way affecting its rights under such Order.

(c) If the financial condition of the Buyer, at any time, is such as to give Seller, in its judgment, reasonable grounds for insecurity concerning Buyer’s ability to perform its obligations hereunder, Seller may: (i) by notice in writing to Buyer, cancel the Order, without judicial intervention or declaration of default of Buyer and without prejudice to any right or remedy which may have accrued or may accrue thereafter to Seller; (ii) require full or partial payment in advance and suspend any future deliveries until such payment has been received; or (iii) make shipments C.O.D.

4. TRANSPORTATION AND RISK OF LOSS. Unless otherwise agreed to in writing by Seller, all shipping shall be at the expense of the Buyer, Seller reserving the right to ship Products freight collect and to select the means of shipping and routing. Unless otherwise advised, Seller may insure to the full value of the Products or declare full value thereof to the transportation company at the time of delivery and all such freight and insurance costs shall be on Buyer’s account. Risk of loss or damage shall pass to Buyer upon delivery of the Products to the transportation company at the F.O.B. point. Seller may at its option obtain insurance for the Products covering their delivery to Buyer and Buyer agrees to reimburse Seller for the cost of providing such insurance. If Buyer has not been notified of the existence of insurance coverage and provides its own insurance for such shipment Seller will waive its insurance charge. Confiscation or destruction of, or damage to Products shall not release, reduce or in any way affect the liability of Buyer. Notwithstanding any defect or nonconformity, or any other matter, such risk or loss shall remain in Buyer until the Products are returned at Buyer’s expense to such place as Seller may designate in writing. Buyer, at its expense, shall fully insure the Products against all loss or damage until Seller has been paid in full, or the Products have been returned, for whatever reason, to Seller.

5. SHIPMENT. Seller will attempt to meet shipment schedules. However, any shipment quotation or forecast on an Order acknowledgement is only an estimate of the time required to make shipment and Seller will not assume liability, consequential or otherwise, because of any delay or failure to deliver all or any part of any Order for any reason including its active or passive negligence. Seller reserves the right to allocate inventories and current production in any way it deems desirable.

6. INSPECTION AND ACCEPTANCE. The Buyer shall have the right to inspect the Products upon tender of delivery. Failure of the Buyer to inspect the Products and give written notice to the Seller of any alleged defect or nonconformity within five (5) days after tender of delivery shall constitute an irrevocable acceptance by Buyer of the Products delivered to him. Use of any such goods by Buyer, its agents, employees or licensees, for any purpose after delivery thereof, shall also constitute acceptance of the goods by the Buyer.

7. RETURNS. The Products may not be returned to Seller without first obtaining Seller’s consent. The request for return and credit must be filed with Seller and shall include Order number, approximate date shipped and any and all other appropriate identifying information pertaining thereto. Each request for return of Products for credit should state the type and quantity of Products, the part numbers, any other appropriate information and the specific reasons for the return. If return authorization is granted, Products shall be returned in a clean, well packaged condition. All Products that Buyer considers defective shall be returned to Seller’s office as designated on the face thereof with transportation costs prepaid and borne by Buyer, unless otherwise provided. The risk of the loss of the goods shipped or delivered to Seller for repair or replacement will be borne by Buyer. No credit allowance on defective Products will be made and no replacement for defective Products will be shipped under any circumstances, unless the alleged defective Products are, among other things, established to in fact be defective to the satisfaction of Seller, after suitable testing and inspection by Seller. If it is found that any Product has been returned without cause and is still serviceable, Buyer will be notified and the Product returned at Buyer’s expense. In addition, a charge for testing and inspection may in Seller’s sole discretion, may be made, on Products so returned.

8. TERMINATION OF ORDERS. Any Order for a standard Product with a published Price accepted by Seller and terminated by Buyer at least thirty (30) days prior to shipment, shall be subject to a restocking charge of ten percent (10%) of the Order value to cover the costs of processing. Termination of any Order for a standard Product with a published Price accepted by Seller within thirty (30) days before shipment shall be subject to a written acceptance by Seller and a restocking charge of twenty percent (20%) of the Order value. Orders for nonstandard Products or for Products without a published Price may not be terminated by Buyer without the written consent of Seller. Termination by such mutual agreement shall be subject to the following conditions: (a) Buyer shall pay all applicable Prices, for all Products which are completely manufactured and allocable to Buyer at the time of Seller’s receipt of notice of termination; (b) Buyer shall pay all costs, direct and indirect, which have been incurred by Seller with regard to Products which have not been completely manufactured at the time of Seller’s receipt of notice of termination, plus a *pro-rata* portion of Seller’s standard profit on the Order; (c) Buyer shall pay a termination charge on all other

Products affected by the termination. Seller's standard accounting practices shall be used to determine such direct and indirect costs and other charges. In the event of a termination, Buyer shall have no rights in partially completed Products.

9. SUBSTITUTION AND MODIFICATIONS. Seller retains the right to make substitutions and modifications of the specifications of the Products sold by Seller, provided that such substitutions or modifications do not materially affect the overall performance of the Product.

10. LIMITED WARRANTY ON STANDARD PRODUCTS. Except as otherwise specified herein, Seller warrants its standard Products to be free from defects in material and workmanship and to perform in the manner and under the conditions as specified by Seller for a period of six (6) months from delivery. The foregoing warranty is the only warranty made by Seller with respect to its standard Products and no representative or person is authorized to bind Seller for any obligations or liabilities beyond the warranty in connection with the sale of Seller's standard Products. This warranty is made to the original Buyer only at the original location and is nontransferable, and may only be modified or amended by a written instrument signed by a duly authorized officer of Seller. Products or parts which are replaced or repaired under the warranty are warranted only for the remaining unexpired portion of the original warranty period applicable to the specific standard Product. These remedies are available only if Seller is notified by Buyer in writing promptly upon discovery of a defect, and in no event beyond the warranty period for the standard Product or upon Seller's testing and inspection of such standard Products discloses to Seller's satisfaction that such defects actually exist and the standard Products have not been: (i) repaired, worked on, or altered by persons not authorized by Seller so as, in Seller's sole judgment to insure the stability, reliability, or proper operation of such standard Products; (ii) subject to misuse, negligence or accident; or (iii) connected, installed, used or adjusted other than in accordance with the instructions furnished by Seller. **THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES (EXCEPT FOR SPECIFIC WRITTEN PRODUCT PERFORMANCE GUARANTEES) WHETHER WRITTEN, ORAL OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE FOREGOING WARRANTY SHALL BE THE BUYER'S SOLE REMEDY AND SELLER'S SOLE LIABILITY ON CONTRACT, WARRANTY OR OTHERWISE FOR THE STANDARD PRODUCTS.**

11. DISCLAIMER OF WARRANTY ON NON-STANDARD PRODUCTS. SELLER MAKES NO WARRANTIES OF ANY KIND WHATSOEVER FOR ANY OTHER PRODUCTS, INCLUDING BUT NOT LIMITED TO PRODUCTS DESIGNED AND/OR MANUFACTURED TO SPECIFICATIONS PROVIDED BY BUYER OR APPROVED BY BUYER. SELLER SPECIFICALLY AND EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES WHETHER WRITTEN, ORAL OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

12. LIMITATION OF LIABILITY. (a) Seller shall not be liable for any loss, damages or penalties resulting from any delay in connection with the Products or their delivery when such delay is due to causes beyond the reasonable control of the Seller, including without limitation, supplier delay, *force majeure*, act of God, labor unrest, fire, explosion or earthquake. In any such event, the delivery date will be deemed extended for a period equal to the delay.

(b) SELLER'S LIABILITY UNDER FOR BREACH OF, OR ARISING OUT OF THIS ORDER IS LIMITED TO REPAIR OR REPLACEMENT OF ANY DEFECTIVE PRODUCTS OR A REFUND OF THE PRICE OF THE PRODUCTS, AT SELLER'S SOLE OPTION. IN NO EVENT SHALL SELLER BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTED PRODUCTS BY BUYER, NOR SHALL SELLER BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR OTHER DAMAGES INCLUDING WITHOUT LIMITATION, LOSS OF PROFIT, WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, HOWEVER CAUSED, WHETHER FOR BREACH OR REPUDIATION OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE OR OTHERWISE. THIS EXCLUSION INCLUDES ANY LIABILITY THAT MAY ARISE OUT OF THIRD PARTY CLAIMS AGAINST BUYER.

13. INDEMNIFICATION. Buyer shall defend, indemnify and hold JAKTOOL, its subsidiaries, their affiliates, their officers, directors, employees, and agents harmless from and against any claims, actions, or demand, liabilities and settlements, including and without limitation, reasonable attorney and accounting fees, resulting from, or alleged to result from Buyer's use of the Product

14. PATENT PROTECTION. (a) Seller will defend Buyer at its own expense, as set forth herein, against any claim that the design or manufacture of any standard Product furnished hereunder constitutes an infringement of any United States patents or other industrial property rights. Buyer shall notify Seller promptly in writing of any infringement and shall give Seller full authority, information and assistance in settling or defending such claim. Seller shall have no liability whatsoever with respect to any claims settled by Buyer without Seller's prior written consent. Seller shall not have any liability to the Buyer under any provision of this clause if any patent infringement or claim thereof, is based upon the use of Products modified by any other person other than the Seller or in combination with equipment or devices not made by Seller, or in a manner for which the Products were not designed.

(b) In case the Products furnished by Seller are held in and of themselves to constitute infringement and their use is enjoined, Seller, within a reasonable time, shall at its option either: (i) secure for Buyer the right to continue using the Products by suspension of the injunction, by procuring for the Buyer a license or by some other means; or (ii) at Seller's own expense, replace the Products with non-infringing goods; or (iii) remove the enjoined Products and refund any sums actually paid to Seller. The foregoing states the entire liability of Seller with respect to infringement of intellectual property rights by the Products or any part thereof or by their operation. **THE FOREGOING STATES SELLER'S ENTIRE LIABILITY AND OBLIGATION (EXPRESS, STATUTORY, IMPLIED OR OTHERWISE) WITH RESPECT TO INTELLECTUAL PROPERTY INFRINGEMENT OR CLAIMS THEREFORE.**

15. PROPRIETARY RIGHTS. The sales of the Products herein to Buyer shall in no way be deemed to confer upon Buyer any right, interest or license in any patents or patent applications or design copyrights the Seller may have covering the Products. Seller retains for itself all proprietary rights in and to all designs, engineering details and other data and materials pertaining to any Products supplied by Seller and to all discoveries, inventions, patents and other proprietary rights arising out of the work done by Seller in connection with the Products or with all Products developed by Seller as a result hereof, including the sole right to manufacture any and all such Products. Buyer warrants that it will not divulge, disclose, or in any way distribute or make use of such information, and that it will not manufacture or engage to have manufactured such Products.

16. MISCELLANEOUS PROVISIONS. (a) Stenographic and clerical errors are subject to correction.

(b) This Order shall be governed by the Laws of the State of New Jersey. The New Jersey state courts of Middlesex County, New Jersey, (or if there is exclusive federal jurisdiction, the United States District Court of New Jersey) will have exclusive jurisdiction and venue over any dispute arising out of these terms and conditions, and Buyer hereby consents to the jurisdiction of such courts.

(c) Reasonable attorney's fees and costs will be awarded to the prevailing party in the event of litigation involving the enforcement or interpretation if these terms and conditions.

(d) Any concession or indulgence made by the Seller or Seller's failure to insist on performance of any of the terms and conditions hereto shall not be considered a waiver of any other term, whether the same or similar. No waiver by Seller of any default or provision shall be deemed a waiver of any subsequent default or provision.

(e) This Order may not be modified or amended except by a written instrument signed by both parties.

(f) All notices required or permitted hereunder shall be in writing and shall be considered as having been given if faxed with follow-up original mailed by U.S. first class mail, sent to the addresses as may be designated in advance by a party giving written notice to the other party.

(g) If any of the provisions herein is or becomes illegal, unenforceable, or invalid (in whole or in part for any reason), the remainder of these terms and conditions shall remain in full force and effect without being impaired or invalidated in any way.

(h) This Order contains the entire understanding of the parties with respect to the matters herein contained and supersedes all previous agreements and undertakings with respect thereto.