



## I. GENERAL

1. These Jokey North America Inc. Terms and Conditions of Sale (the “**Terms**”) are the commercial terms that govern all purchases of Products from Jokey by Customer. “**Jokey**” means Jokey North America Inc. and “**Customer**” means a customer who purchases Products (as defined below) from Jokey, as identified in a Purchase Order (as defined below.)
2. Notwithstanding any prior quotations, correspondence, conversations, agreements, Customer purchase orders or similar instruments relative to Products, these Terms, including for greater certainty all Accepted Purchase Orders, are the only terms and conditions applicable to the sale of Products and constitute the entire agreement between Jokey and Customer with respect to the subject matter hereof.
3. The minimum order value, if any, shall be as set out in the Accepted Purchase Order.

## II. ORDERING

1. “**Purchase Order**” means an offer to purchase Products submitted by Customer to Jokey in a form prescribed by Jokey.
2. Upon the submission of a Purchase Order, the Customer declares that

they wish to purchase the Products set out therein at the prices set out therein. Jokey shall be entitled to accept or reject the contractual offer contained in the Purchase Order at its sole discretion. All Purchase Orders may be subject to (a) creditworthiness; (b) rejection or modification due to required delivery date or raw material availability; and (c) minimum order quantities. Any Purchase Order placed by Customer shall only be binding upon Jokey to the extent that Jokey accepts the Purchase Order in writing pursuant to a written order confirmation from Jokey. Any Purchase Order that has been so accepted by Jokey shall be deemed to form part of these Terms (any such accepted Purchase Order, an “**Accepted Purchase Order**”). For greater certainty, Customer cannot cancel any Accepted Purchase Order.

3. Products shall be provided in accordance with specifications provided by Jokey.
4. Notwithstanding the forgoing, Jokey may agree to provide Products subject to custom specifications for Customer but only to the extent expressly set out in an Accepted Purchase Order (any such Products, “**Custom Products**”). In the event that Jokey should manufacture any Custom Products:



- a. Customer represents, warrants and covenants that such Custom Products shall not infringe any intellectual property rights, including any trademark, trade dress, patent, copyright, moral rights, or trade secret rights of any third parties. Jokey reserves the right (but shall have no duty) to discontinue deliveries of any Products, the manufacture, sale or use of which might: (i) infringe any intellectual property rights; or (ii) violate any Applicable Law;
- b. In the event that Customer provides any content, information or other materials subject to any intellectual property right held by Customer or its third party licensees, intellectual property right held by Customer or its third party licensees (“**Customer IP**”), Customer grants Jokey and its representatives a non-exclusive, world-wide, irrevocable, royalty-free, and fee-free license to copy, access, reproduce and otherwise use Customer IP in order to provide Products in accordance with these Terms (the “**Customer IP License**”). Customer represents, warrants and covenants that it has all applicable rights and consent in order to provide the Customer IP License; and
- c. any custom descriptions and layouts set out in an Accepted Purchase Order are, unless otherwise expressly stated therein, preliminary only and Jokey reserves the right to make modifications (after advising Customer) if Jokey determines that the modifications will result in increased efficiency of production or use. At any time that any such contemplated modification may result in any substantial change in appearance or function, Jokey will not make such change without Customer's prior written approval.
  1. Once accepted by Jokey, an order for Products cannot be canceled by Customer without written approval from Jokey. Acceptance of cancellation will be predicated upon Customer's payment of a cancellation charge to be determined by Jokey.
  2. Jokey reserves the right to modify the design of any goods sold by Jokey without obligation or prior notifications to Customer and Jokey is not obligated to so modify Products previously or subsequently sold.
  3. Jokey's agreement to sell Products to Customer shall not be construed as Jokey's agreement, representa-



tion or warranty that the Customer's or third party purchaser's use of the Products complies with Applicable Law, even if Jokey has been advised of such use. Customer covenants that at all times (i) the Customer and third party purchaser's use or sale of the Products shall be in accordance with all Applicable Law, and (ii) the specifications, if any, provided by Customer to Jokey, will be in accordance with all Applicable Law. "**Applicable Law**" means any applicable foreign, federal, provincial, or local law, ordinance, statute, rule, regulation, or judicial order or decision.

### III. PRICES

1. Jokey's prices are exclusive of all taxes, including HST, GST provincial taxes and excise, value-added, sales, use, import/export tariffs, or similar taxes. ("**Taxes**"), which shall be invoiced separately as applicable.
2. Unless otherwise expressly agreed in an Agreed Purchase Order, Jokey's prices do not include (i) printing plates; (ii) art charges; (iii) freight; (iv) warehousing; (v) brokerage fees; (vi) upcharges for less than minimum orders or additional services and similar items; (xii) insurance; or (xiii) disposal; (each, and any other item expressly so identified in the Agreement, an "**Additional Charge**"), each of which shall will be billed as separate items.
3. Jokey's prices are on an ex-factory basis, unless an authorized representative from Jokey expressly agrees to the contrary in writing.
4. Price increases in the case of Additional Charges for freight or Taxes (including customs and excise duties) that occur subsequent to submission of a Purchase Order shall be borne by the Customer.
5. Any temporary surcharge imposed by Jokey's suppliers will be passed on to Customer during whatever period of time such surcharge might be in effect. Price increases for components purchased by Jokey on Customer's behalf for inclusion in finished Products shall, notwithstanding any other provision of these Terms, be passed on to Customer without advance notice and due immediately.
6. Any discounts agreed to by Jokey shall not apply to any Taxes or Additional Charges.
7. Customer acknowledges and agrees that prices for Products are effective only for orders shipped on the date that such prices appear, whether that be on Jokey's website, on a price list, or any other medium. Jokey may change prices for Products at any time without notice unless it has expressly agreed



in an Accepted Purchase Order to provide notice of same.

8. If Jokey has agreed in an Accepted Purchase Order to retain an inventory or safety stock of Products for Customer, Jokey's obligation to produce Products for same ("**Inventory Products**") shall be subject to Customer's continued compliance with the Terms, including timely payment and the responsibility to provide an accurate forecast and comply with applicable lead times. In the event any Inventory Product is no longer required by Customer prior to delivery of same, , Customer shall purchase and pay for all Inventory Products previously manufactured and raw materials previously purchased to produce same. In the event any Inventory Products are maintained in inventory for more than ninety (90) days, Customer will either purchase such Inventory Products or order same scrapped and pay the purchase price as if such Inventory Products had been purchased (and Jokey will retain the scrap) and, in such cases, payment will notwithstanding any other provision of these Terms, be due immediately at the end of the ninety (90) day period.

#### IV. DELIVERY

1. Unless otherwise specifically agreed in an Accepted Purchase Order, all shipments are EXW (Incoterms 2020) Jokey factory or shipping point. Title transfers when Products are loaded with the carrier at the point of shipment. Products are approved for export unless otherwise stated by Jokey. Notwithstanding the forgoing, for international shipments, Jokey may, upon Customer request, agree to clear goods for export and all related fees will be charged to Customer. Jokey will select the carrier unless otherwise agreed in writing. In the case of alternate shipping terms, freight costs prepaid by Jokey shall be subject to an additional administration and handling charge; Customer's resulting charges may or may not exceed the charges that Customer might incur if Products are shipped collect. Products in transit are at Customer's risk. Customer shall be fully responsible to pay or to reimburse Jokey for carrier demurrage and detention charges incurred as a result of delays caused or allowed by Customer. If prices include a freight component, prices shall be subject to adjustments effective immediately without notice in the event of a subsequent change in freight rates or the imposition of a



- fuel or other surcharge. In the case of international sales, unless otherwise agreed, Customer shall be fully responsible: (i) to provide Jokey prior to shipment and in writing, the ultimate destination and identity of the recipient; (ii) to pay all duties, taxes and other charges imposed by any government on Products or on the purchase, exportation or importation of Products; and (iii) for compliance with applicable legal requirements for exportation and importation of Products.
2. Jokey may exceed or undershoot delivery quantities by up to ten percent (10%).
  3. Customer shall give written notice to Jokey of any claim for shortage, error in shipment, or error in charges within thirty (30) days after receipt of the Products, or such claim shall be deemed waived.
  4. In the event Customer fails or refuses to accept any delivery of the Products, in whole or in part, Jokey shall have the right to dispose of such Products in a commercially reasonable manner, at a commercially reasonable price. Customer agrees to pay to Jokey the difference, if any, between the price of the Products set forth on the face hereof and the price obtained by Jokey less any and all incidental damages.
  5. Jokey is entitled to cease supply or to reject further orders, if a significant deterioration in the financial situation of the Customer occurs, including in situations where Jokey's credit insurer downgrades the creditworthiness of Customer.
  6. Customer acknowledges and agrees that (a) as Jokey does not manufacture the raw materials for Products Jokey cannot guarantee the chemical, physical or other properties of Products, and (b) it shall be incumbent upon the Customer to examine and inspect Jokey's Products with regard to their intended utilization.
  7. Jokey is not liable for failure to perform a contract in the event of an Event of Force Majeure. "**Event of Force Majeure**" means an event that is beyond Jokey's or its subcontractors' control including acts of God, acts of government, riots, strikes, stoppages, epidemics, pandemics, health emergencies, transport delays or interruptions, raw material or energy shortage, sudden severe increases in materials prices or other costs, terrorist acts and acts of war, the failure of manufacturing equipment and tools that have been regularly maintained, accident, fire, water damage, flood, earthquake, windstorm, other natural disasters



and catastrophes, and governmental orders, actions, directions or requests. An Event of Force Majeure shall entitle Jokey to postpone delivery accordingly or, for anything other than a short-term failure, withdraw from the sales contract or any unfulfilled part of it without Customer being entitled to any claims to compensation.

8. Any delivery date stated in an Accepted Purchase Order is dependent on Customer's timely compliance with Jokey's requirements, including creditworthiness, the payment of agreed advance payments and provision of materials timely receipt of a purchase order with complete specifications, as well as any necessary export documents and authorizations. Any delay on the part of the Customer in connection with same shall result in delays in shipment for which Jokey is not liable. No lead times are guaranteed unless agreed to in writing by the parties.

## V. Specifications

1. The product description for all Products are as set out in Jokey's applicable published product descriptions for Products (the "**Specifications**"). For greater certainty, public statements and advertising do not constitute Specifications. Customer acknowledges and agrees

that Products may be subject to non-material deviations in measurement, weight and performance from the Specifications.

2. To the extent Jokey provides Customer with any information pertaining to the use of Products, technical advice or any other similar advice (collectively, "**Advice**"), Customer acknowledges and agrees Jokey assumes no liability for any Advice it provides and that Customer accepts such advice at its own risk and assumes sole responsibility for the consequences of reliance on any such Advice.
3. Any samples that Customer provides to Jokey shall merely constitute representative samples. With regard to quality and colour, such samples shall only prevail if expressly agreed in an Accepted Purchase Order or otherwise in writing by an authorised representative from Jokey.

## VI. WARRANTY

1. Subject to Customer's compliance with this Section VI (Warranty), Jokey warrants that the Products shall comply with the Specifications, within stated tolerances, for a period of one (1) year from the date of delivery (the "**Warranty Period**"),



subject to this Section VI (Warranty). Such warranty does not apply to:

- a. Products repaired or modified without Jokey's prior written consent or contrary to Jokey's instructions;
- b. Products subjected to improper handling, storage, installation, sanitation, operation or maintenance, including, without limitation, installation, use or application of Products or any part thereof contrary to Jokey's instructions;
- c. any item which is purchased by Jokey as a component part of the Products;
- d. any damage or deterioration to Products alleged to be in breach of a specific warranty contained in these Terms which can reasonably be prevented or minimized by Customer pending repair or replacement of the Product in accordance with any applicable warranty;
- e. any component part of the Products furnished by Customer;
- f. the design of any Products or part thereof prepared from designs or instruction furnished by Customer or its agents or representatives;

g. any defect in Products or parts thereof sold in a used or re-worked condition; or

h. any normal wear and tear to Products.

1. THE WARRANTIES SET FORTH IN SECTION I ABOVE ARE COMPLETE AND ARE IN LIEU OF AND CUSTOMER HEREBY WAIVES, ALL OTHER CONDITIONS, REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED BY STATUTE, USAGE, CUSTOM OF THE TRADE OR OTHERWISE, INCLUDING WITHOUT LIMITATION THE IMPLIED CONDITIONS, REPRESENTATIONS AND WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
2. The liability of Jokey under its above warranty in Section 6(a) and in all respects is expressly limited to the repair or replacement, at Jokey's sole option, of Products which breach the above warranty within the Warranty Period.
3. It shall be the Customer's responsibility to assure such specifications and tolerances will meet Customer's and any third party purchaser's use and compatibility requirements.
4. Customer shall inspect all Products immediately upon delivery, including by examining a sufficient number of samples.



5. The Customer shall notify Jokey in writing of any Defects in the delivered Products within fourteen (14) days from the delivery date (the “Acceptance Period”). Where there are Defects to only part of a delivery, the Customer is not entitled to reject the entire delivery and may only reject the Products that are Defective, provided that Jokey may, at its sole discretion, permit Customer to reject a defective lot of Products. “Defect” or “Defective” means a failure of a Product to comply with the applicable Specifications, as determined by Jokey in its reasonable discretion.
6. Jokey should be made aware in writing of any Defects, which were not possible to identify during the Acceptance Period, though no later than the end of the Warranty Period.
7. If Jokey chooses to deliver a replacement Product, Customer must, if required by Jokey, return the Defective Products to Jokey in such manner as required by Jokey.
8. Customer shall destroy Defective Products if so instructed by Jokey.
9. Customer shall provide all information in respect of a Defect as requested by Jokey.
10. In the event that Jokey determines that there is no Defect for a Product that Customer has alleged to be Defective, Customer shall be obliged to accept the Products.
11. If Customer’s request to rectify an alleged Defect proves to be unjustified, Jokey can request Customer to reimburse the resultant costs to Jokey.
12. No warranty shall be created or deemed to be created based on the use of the words “tamper evident”, “tamper resistant”, “child resistant”, or words of similar meaning used in any written or oral communication. Jokey’s limited warranty as set out herein is conditioned upon the Customer’s acknowledgement and agreement that the Customer has examined and tested samples, or has intentionally and knowingly declined to examine and test samples, prior to the initial purchase of the Product and the Customer has independently determined that the Products (i) meet Customer’s and any third party purchaser’s use and compatibility requirements, regardless of Jokey’s knowledge of such requirements; (ii) are appropriate for and comply with laws relating to the Customer’s and any third party purchaser’s intended or actual use (including any laws applicable to children’s products, controlled substances, and export); and (iii) conform to compatibility and use requirements.





13. To obtain the expected benefits and service from thermoplastics (including the Products) and minimize potential complications, and prior to submitting a purchase order, Customer must: (i) be familiar with and allow for the working characteristics of thermoplastics and print on thermoplastics; (ii) determine and allow for the impact of environmental conditions and chemical substances on the appearance, durability, stiffness, and other attributes and uses of the Products, as well as the effects of permeability, transmission rates and other compatibility factors and the possibility of chemical reactions, including the effects of contact or use with hydrocarbons, oxidizing acids and essential oils; (iii) determine and implement proper handling and storage techniques; and (iv) establish and implement suitable environmental and time parameters for (a) exposure to sunlight in particular and weather in general; (b) exposure to artificial light; and (c) temperature, pressure, vacuum, and other ambient factors as they may vary during or as the result of transportation, storage, stacking, handling and filling. It is recommended that double-faced pallets be used. It is the Customer's responsibility to: (1) determine maximum load capability

with filled product before stacking; and (2) consider the effect of real world use and environmental factors.

## VII. LIMITATION OF LIABILITY AND INDEMNITY

1. Jokey shall not be liable to Customer in contract, tort (including, without limitation, negligence), any other theory of liability and/or under any warranty or otherwise for: (a) the quality, life, handling or other required specifications of the products that are packaged using Products; (b) damages or accidents resulting from the Customer's, the Customer's employees' and/or any contractors', independent contractors', agents' or other persons on the premises': (i) failure to observe the operating and safety instructions for the Products or (ii) any act or omission concerning the improper handling, storage, installation, sanitation, operation and/or maintenance of the Products; or (c) for any direct, indirect, incidental, punitive, special, exemplary or consequential damages (including, without limitation, any damages resulting from loss of use, loss of product, cost of capital, loss of goodwill, loss of business opportunity, business interruption, loss of revenue, overhead and/or profits, loss of savings, cost of procurement of



substituted goods, loss of any contract that may be suffered by the Customer or for any matter arising out of or in connection with the use or inability to use the Products) regardless of whether such damages were foreseeable and whether or not Jokey was advised of the possibility thereof.

2. Customer shall defend, indemnify and hold harmless Jokey and its affiliates, related companies, and their respective directors, officers, shareholders, employees and agents from and against any actual and potential legal, equitable, statutory or administrative claims, losses, liens, fines, penalties, investigations, recalls and other costs and expenses (including reasonable fees and expenses of a legal representative of Jokey's choosing); and direct, indirect or consequential losses (all three of which terms include pure economic loss, loss of profits, loss of business, loss of goodwill and similar losses); as well as death, bodily injury, personal injury, property damage or other injury or damage (all of the foregoing in this sentence, collectively, "**Claims and Losses**") arising from or in connection with (i) the Customer's or any third party purchaser's marketing, advertising, sale, distribution, handling, use or recall of Products (including any

Claims and Losses based on items for which or with which the Products are used); (ii) the Customer's or any third party purchaser's violation of any Applicable Law or standards governing the marketing, advertising, labeling (or improper or inadequate labeling), sale, distribution, handling, or use of the Products or the items with which or for which the Products are used; (iii) any alleged direct or indirect intellectual property infringement of any kind based on the Customer's samples, mock-ups or specifications; (iv) any illegal, false, misleading or deceptive information that the Customer instructs Jokey to print on or otherwise apply to or use with the Products; (v) any environmental pollution, contamination or damage (including, in addition to the above, fines and penalties to the extent allowed by law, clean-up and other remedial or containment costs and legal, technical or similar fees and expenses) arising out of such pollution, contamination or damage to the environment or natural resources occurring in connection with the Customer's use of any Products regardless of cause, including Customer's negligence, strict liability, or other act or omission; (vi) any amounts owing to



pursuant to a governmental authority (including any taxes or duties); and (vii) any breach of Section 3.

3. All claims for loss or damage during transit must be made against the applicable carrier.

## VIII. TERMS AND CONDITIONS OF PAYMENT

1. Customer shall pay Jokey for all Products on the earlier of (i) fourteen (14) days from the date of delivery, and (ii) fourteen (14) days from the invoice date, or as otherwise set out in an Accepted Purchase Order.
2. If any payment is past due, Jokey may (i) charge interest of the lesser of the maximum amount allowed by Applicable Law or one and a half percent (1½%) per month, and (ii) hold or cease shipments of Products. Customer agrees to pay Jokey's legal fees and expenses and other collection costs in the event collection or other enforcement efforts become necessary or appropriate in Jokey's discretion.
3. Payments shall be made via electronic funds transfer or automated clearing house (ACH), unless an alternate payment method is expressly set out in the Accepted Purchase Order. In the event that credit card payments

are permitted pursuant to the Accepted Purchase Order, any amounts charged to a credit card are subject to a convenience fee of three percent (3%).

4. Customer shall not have the right to set off any amounts owing to Jokey.

## IX. PACKAGING

1. Jokey's standard sales packaging shall be included in the purchase price. Should the Customer request a special type of packaging or environmental packaging, this shall be negotiated separately and expressly set out in the Accepted Purchase Order and Jokey shall be entitled to invoice for such packaging separately as an Additional Charge.
2. In the event that a statutory obligation requires Jokey to take back packaging or if Jokey agrees to take the packaging back voluntarily, Jokey shall be entitled to invoice the expenditure that is incurred as an Additional Charge

## X. CREDITWORTHINESS

1. Jokey is to be promptly notified in writing of any changes in ownership, company form or any other circumstances affecting the creditworthiness of Customer.



#### XI. RETENTION OF TITLE

1. Jokey shall retain the title to the delivered Products until such time as all amounts owing to which Jokey is or will be entitled from Customer have been received by Jokey.
2. Customer shall apprise Jokey without delay and in writing of any pledges or other third party encumbrances on the ordered Products. Insofar as any applicable costs in connection with same are not borne by any third parties, they shall be borne by Customer.
3. Jokey shall, at the request of the Customer, undertake to release the collateral to which it is entitled hereunder to the extent that the value of Jokey's collateral exceeds the amounts owing by more than twenty percent (20%).

#### XII. GOVERNING LAW

1. These Terms shall be governed by the laws of the Province of Ontario and the laws of Canada applicable therein without regard to conflict of laws provisions. For purposes of any action brought as a result of or related to this Agreement, the Customer hereby consents to, and waives any objections to the exclusive jurisdiction of the courts of Ontario at the Jokey's election. The Customer further consents and waives any objection that venue of any action brought as a result of or

- related to this Agreement shall be proper in the above-named courts.
2. Customer irrevocably and unconditionally waives with respect to these terms and all Products, to the fullest extent permitted by law, all of the rights, benefits, conditions, warranties and protections, express, implied or statutory, given by the *Sale of Goods Act* (Ontario), the *United Nations Convention on Contracts for the International Sale of Goods* or, in each case, equivalent legislation, if any.

#### XIII. TECHNICAL GUIDELINES

1. Products shall be used only in accordance with the Technical Guidelines. Our Technical Guidelines can be found under the following link:  
<https://www.jokey.com/en/downloads/>
2. "**Technical Guidelines**" means the technical guidelines for Products that are set out at jokey.com or otherwise provided by Jokey to Customer.

#### XIV. TERMINATION

1. Either party may immediately terminate the contractual relationship upon the occurrence of any of the following: (a) if the other party commits a material breach of any of the Terms and does not cure such breach within thirty (30) days



after receipt of written notice thereof; (b) if the other party is unable to obtain or renew any permit, license or other governmental approval necessary to carry on the transactions contemplated under the Terms; (c) in the event that proceedings in bankruptcy or insolvency are instituted by or against the other party, or a receiver is appointed, or if any substantial part of the assets of the other party is the object of attachment, sequestration or other type of comparable proceeding, and such proceeding is not vacated or terminated within thirty (30) days after its commencement or institution.

2. All provisions hereof that by their nature or wording contemplate the taking of action or refraining from certain actions after the termination of this Agreement shall survive its termination.

## XV. Confidential Information

1. The parties anticipate disclosing confidential information conveyed by a party ("**Discloser**") to the other party ("**Receiver**") including all forms and types of financial, business, scientific, technical, economic, or engineering information, methods or know-how, prices, costs, discounts, inventions, planned and existing products (including the Products), packaging,

customers, distributors, devices, formulas, designs, samples, prototypes, methods, techniques, processes, procedures, and programs, whether tangible or intangible, and whether or how stored, compiled, or memorialized ("**CI**"). Receiver agrees not to use CI except for the purposes set forth herein or to disclose any CI except to those directors, legal and tax advisors and affiliates with a need to know such CI, each of whom who shall agree to be bound by this confidentiality obligation, and to take reasonable commercial steps to protect the CI. Receiver shall not copy, reverse compile, reverse engineer, or otherwise duplicate the CI. CI shall not include information that is: (i) or becomes publicly available for reasons other than a breach of the Terms; (ii) or becomes available to Receiver from a source not known by Receiver to have a duty of confidentiality; (iii) developed by Receiver without the use of Discloser's CI; and (iv) information not under a duty of confidentiality and known by Receiver prior to the date of the agreement between the parties.

## XVI. Miscellaneous

1. For the purpose of these Terms, "include" and "including" means "including without limitation" and is



not to be construed to limit any general statement which it follows to the specific or similar items or matters immediately following it.

2. These Terms shall be binding upon and inure to the benefit of the parties and their successors and assigns, but is non-assignable by Customer in the absence of Jokey's express written consent.
3. The parties agree that their relationship is that of independent contractors; nothing contained in these Terms shall be construed to make the parties partners or joint venturers.
4. Customer shall do such acts and shall execute such further documents, and shall cause the doing of such acts and shall cause the execution of such further documents as are within its power, as Jokey may in writing at any time and from time to time reasonably request be done and or executed, in order to give full effect to the provisions of these Terms, such acts and executions of documents not to be unreasonably delayed or withheld.
5. All artwork, product design, production and packaging methods and other materials, information and intellectual property rights, including any patent, trademark, trade dress, copyright, trade secret or any other intellectual property,

developed in whole or in part by Jokey, including in or in connection to Products, shall remain Jokey's property and subject to all relevant intellectual property protections, including obligations regarding confidential information as set out herein.

6. All rights and remedies of Jokey set out in these Terms shall, whether expressly so stated or otherwise, be deemed to be in addition to any other rights or remedies hereunder and shall not waive, remove, limit or in any way restrict any legal or equitable right or remedy that is otherwise available to Jokey.
7. No waiver of or consent to depart from the requirements of any provision of these Terms shall be binding against either party unless it is in writing and is signed by the party giving it. Such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it has been given and shall not be deemed or constitute a waiver of any other provisions (whether or not similar) nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. No failure on the part of either party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right



shall preclude any other or further exercise of such right or the exercise of any other right.

8. If any of the provisions or part thereof contained in these Terms is found by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions or parts thereof contained herein shall not be in any way affected or impaired thereby
9. Jokey may display the Customer's samples (including decorated samples), name, and/or logo to identify the Customer as a purchaser of Jokey's products, including on Jokey's public website and Customer lists.
10. There shall be no third party beneficiaries of the Terms.
11. Section headings are inserted for convenience and shall not add to or detract from the Terms. The Terms may be amended or altered only in a written document executed by authorised representatives of each of Customer and Jokey.
12. In the event that Jokey has possession of a mold or other equipment owned by the Customer, Jokey's maintenance and repair obligations shall be limited to those to which it has agreed in writing.
13. Notwithstanding anything to the contrary in the Terms, Jokey shall

be entitled to disclose the terms herein to its auditors, financial institutions, accountants, lawyers and consultants. Jokey shall be entitled to recover its reasonable legal fees and expenses in the event it is the prevailing party in any litigation to enforce the Terms.

14. The parties acknowledge that they have required this Agreement to be written in English. Les parties aux présentes reconnaissent qu'elles ont exigé que la présente entente soit rédigée en anglais.
15. These Terms may be executed in any number of counterparts, each of which is deemed to be an original, and such counterparts together constitute one and the same instrument. Transmission of an executed signature page by facsimile, email or other electronic means is as effective as a manually executed counterpart of these Terms.