FERRARA CANDY COMPANY PURCHASE ORDER TERMS & CONDITIONS OF PURCHASE (DOMESTIC)

These Terms and Conditions and any terms and documents referred to on the face or back hereof constitute the entire agreement (the “Agreement”) between FERRARA CANDY COMPANY ("Buyer") and Company ("Seller") that provides the products and/or services ("Products" or "Services" respectively).

1. SHIPPING AND BILLING. Title to the Products and all risk of loss during shipment, and if shipped F.O.B. point, in all cases to the extent not inconsistent with the terms and conditions of this Agreement, shall pass to Buyer at the point where the Products are shipped by Seller or specified by Buyer; (i) to Buyer's order; (ii) be fit for the purposes intended; (iii) comply with all applicable quality standards set forth herein, or (c) are in excess of quantities specified in the delivery schedules. Buyer may from time to time make changes to this Order including, but not limited to, changes in prices, payment terms, and other terms and conditions accorded to Seller by Buyer under this Order. Any such changes, together with the written change order evidencing Same shall be in accordance with the terms and conditions of this Order. In the event of such nonconformance, Buyer may, at its option: (a) reject the nonconforming Products; (b) return any portion of the nonconforming Products to Seller and (c) receive a full refund of the purchase price for all nonconforming Products and any other reasonable, direct expenses respectively incurred by Buyer to inspect, test, repair, replace or rework such Products. Buyer agrees that any liability arising therefrom shall be borne by Seller. In the case which Products are for, food, drugs, devices, or cosmetics, or are to be used in or as packaging for such Products, including, without limitation, in connection with filling, processing, packaging, display, branding, labeling, or marketing of any such Products, such Products must meet all applicable legal and regulatory requirements.

2. ACCORDANCE OF ORDER: The Buyer shall have the right to make changes to this Order including, but not limited to, changes in prices, payment terms, and other terms and conditions accorded to Seller by Buyer under this Order. Any such changes, together with the written change order evidencing Same shall be in accordance with the terms and conditions of this Order. In the event of such nonconformance, Buyer may, at its option: (a) reject the nonconforming Products; (b) return any portion of the nonconforming Products to Seller and (c) receive a full refund of the purchase price for all nonconforming Products and any other reasonable, direct expenses respectively incurred by Buyer to inspect, test, repair, replace or rework such Products. Buyer agrees that any liability arising therefrom shall be borne by Seller. In the case which Products are for, food, drugs, devices, or cosmetics, or are to be used in or as packaging for such Products, including, without limitation, in connection with filling, processing, packaging, display, branding, labeling, or marketing of any such Products, such Products must meet all applicable legal and regulatory requirements.
12. TITLE AND RISK OF LOSS: Notwithstanding Section 1, title to Products purchased under this Order shall pass to the Buyer upon delivery of the Products to the F.O.B. point, unless otherwise specified herein. If the Products ordered call for additional Services such as installation and the like, or if the Products must meet operating specifications, then the risk of loss shall not pass to Buyer until the Services are performed or the Products achieve the operating specifications. Notwithstanding anything herein to the contrary, all raw, in-process, and finished materials will be clearly marked as the property of FCC, with the applicable Purchase Order or Contract number as soon as they come into existence. In addition, Seller will assure that all molds, tooling, equipment, or the like loaned to it by FCC are similarly marked.

13. BUYER INFORMATION; INVENTIONS: Unless expressly agreed to in writing, all Buyer information disclosed by Buyer to Seller or to which Seller may otherwise obtain access in contemplation of or in the course of performance of this Order, including without limitation this Order itself, shall be maintained in confidence by Seller and shall remain Buyer's property. Such information shall not be disclosed to third persons without prior written consent of Buyer and shall not be used for any purposes other than the performance of this Order. When Seller is required by Buyer to execute a Non Disclosure Agreement, Seller shall assure that all Seller employees and authorized third parties that receive information pursuant to such agreement shall execute a Non Disclosure Agreement no less restrictive than the Non Disclosure Agreement executed by Seller. All copies of such information shall be promptly returned to Buyer at Buyer's request. If this order relates to procurement of, or work on, machinery or equipment differing in structure or mode of operation from any item previously made by Seller, Seller agrees that every invention, improvement, or discovery (whether or not patentable) conceived or first actually reduced to practice in filling this Order, or in the performance of any research, design, or development work relating to the subject matter of this Order and which was done at the request of Buyer, shall be the sole property of Buyer. Seller shall keep such inventions, improvements or discoveries in strictest confidence and shall neither use nor divulge any information relative thereto to anyone without Buyer's written consent. Seller shall not in any advertising, sales promotion materials, press releases, or any publicity matters use the name of Buyer, any affiliate, or subsidiary of Buyer, or any variation or language from which the connection of said names may be implied without Buyer's prior written approval.

14. INDEPENDENT CONTRACTOR/COMPLIANCE WITH LAWS: All Products, work or Services provided by Seller or Seller's subcontractors pursuant to this Order shall be as an independent contractor and not as an agent of Buyer. All persons furnished by Seller are so furnished as Seller's employees or agents, and in the performance of the requirements of this Order Seller shall give all stipulations, representations, and certificates required by and be responsible for compliance with all executive orders, laws, rules, and regulations Federal, State, and local. Seller agrees to indemnify and hold harmless and defend Buyer against any claims or lawsuits arising out of Seller's failure to comply with any such laws, rules, or regulations.

15. INDEMNIFICATION AND INSURANCE: Seller agrees to defend, hold harmless, and indemnify (including reasonable attorneys' fees and costs) Buyer, its customers, affiliates, divisions, or wholly owned subsidiaries, and any employee or agent thereof (hereinafter collectively referred to as "Indemnitees"), against all liabilities, claims, losses, expenses (including reasonable attorneys' fees), or demands arising out of or in connection with (i) injuries to Seller's or Buyer's agents, servants, employees, or representatives (collectively, "Representatives") of every nature and description except those arising out of Buyer's negligence; (ii) Seller's breach of its representations or warranties hereunder; (iii) damage to the property of any person caused by Seller or its Representatives; or (iv) infringement of copyrights, patents, trade secret, trademark or other intellectual property rights based upon the use of Products furnished by Seller under this Order or Seller's performance of this Order. Seller shall, prior to commencement of performance, transmit to Buyer a certificate of insurance affirming that Seller has the following types of insurance and minimum coverage amounts: (1) Worker's Compensation and related insurance and/or bonds required by the law of the State in which the work is to be performed; (2) Employer's liability insurance with limits of $1,000,000 per occurrence; (3) Commercial General Liability Insurance including contractual liability, product liability, and blanket contractual liability for both personal and property damage in the amount of $2,000,000; (4) If the use of vehicles is required, Automobile liability, including non-owned automobile liability for both bodily injury and property damage in the amount of $2,000,000 combined single occurrence. The certificate of insurance shall name Indemnitees as an additional insured and contain a clause that the policy cannot be changed or materially altered without at least thirty (30) days advance notice to Buyer. At Buyer's request, Seller shall maintain greater coverage amounts and other types of insurance. In case of failure to furnish said policies and/or certificates of insurance, or cancellation of any required insurance, Buyer may terminate this order.

16. MISCELLANEOUS: Buyer reserves the right to cancel or to suspend shipment of articles or performance of work covered by this Order in the event of fire, strike, riot, government restrictions, or any other cause beyond its control. In the event that Seller's performance is delayed for a period of ten (10) or more days, the Buyer may elect to cancel this Order at no cost to the Buyer other than for Products accepted and for which payment has not yet been received by Seller. If Buyer delays delivery or acceptance pursuant to any of the reasons set forth in this Section, Seller shall hold such Products at the direction of Buyer and shall deliver them when the cause affecting the delay has been removed. Buyer shall only be responsible for Seller's direct additional costs in holding the Products or delaying performance of this Order at Buyer's request. The failure of Buyer to claim a breach of any term, privilege, or condition of this Order or failure to enforce any of the provisions on one or more occasions, or any course of dealings of the parties, shall not be construed as a waiver by Buyer of any subsequent breach of such terms, rights, privileges, or conditions hereunder. All claims for money due or to become due from Buyer shall be subject to deduction or set off by Buyer by reason of any counterclaim arising out of this or any other transaction with Seller. In the event that this Order is issued under a blanket contract, the terms and conditions of the blanket contract shall supersede those contained herein. Paragraph headings are provided for convenience and shall not be used to interpret this Order. In the event that one or more of the provisions contained in this Order shall for any reason be held to be unenforceable in any respect under the laws of the jurisdiction governing this Order, such unenforceability shall not affect any other provision of this Order, but this Order shall then be construed as if the unenforceable provision or provisions shall have never been present in this Order. This Order and any instructions, schedules, exhibits, specifications or other documents provided by Buyer to Seller in connection with this Order constitute the entire agreement of the parties, and supersedes any prior agreements or understandings (oral or written) regarding this Order and shall not be modified or rescinded except by a writing signed by duly authorized representatives of the parties. None of the terms and conditions contained in this Order may be added to, modified, superseded or otherwise altered; nor shall any agreement or other understanding purporting to modify the terms and conditions hereof be binding upon Buyer unless otherwise agreed to by Buyer in writing or on or subsequent to the date of this Order. Seller shall not subcontract or assign any right or interest under this Order (except monies due or to become due) nor delegate any obligations under this Order without the express written consent of Buyer. Any such attempted assignment or delegation by Seller shall be void and ineffective. Each shipment received by Buyer from Seller shall be deemed to be accepted only upon the terms and conditions contained herein, and no terms or conditions in any quotation, confirmation or acknowledgment hereof, or hereafter sent by Seller, additional to or different from those set forth in this Order shall apply notwithstanding Buyer's act of accepting or paying for any shipment or similar act of Buyer.