

General Terms and Conditions of Sale of Bircher America, Inc. ("Terms and Conditions")

1. General

1.1. These Terms and Conditions shall be deemed accepted upon (i) Purchaser's receipt of written confirmation from Bircher America, Inc. ("Bircher") that Purchaser's order of supplies or services ("Purchase Order") has been accepted; or (ii) Bircher's receipt of written confirmation from Purchaser that it accepts a quotation prepared by Bircher.

1.2. These Terms and Conditions shall apply exclusively. Any different or additional terms provided by Purchaser with a Purchase Order or in response to a Bircher quotations are expressly rejected by Bircher and shall have no force or effect. Purchaser explicitly waives the application of any terms and conditions of sale that conflict with or deviate from these Terms and Conditions and Bircher shall not recognize such other terms and conditions unless it gives explicit written consent.

1.3. Should one of the provisions of these Terms and Conditions be held by a court or arbiter to be illegal, invalid, or otherwise unenforceable in any jurisdiction, then to the fullest extent permitted by law: (a) the same shall not affect the other terms or provisions set forth herein; (b) such term or provision shall be deemed to be modified to the extent necessary in such court's or any arbiter's opinion to render such term or provision enforceable, and the rights and obligations of Bircher and Purchaser shall be construed and enforced accordingly, preserving to the fullest extent the intent and agreements set forth herein; and (c) such finding of illegality, invalidity, or unenforceability shall not affect the validity, legality, or enforceability of such term or provision in any other jurisdiction.

2. Quotations and Signature of Contracts

2.1. All Purchase Orders submitted to Bircher by Purchaser shall be deemed to be signed by Purchaser, subject to Bircher's written confirmation accepting such Purchase Order.

2.2. Written quotations submitted by Bircher shall remain effective solely for the period of acceptance stated in the quotation. Oral quotations or quotations in which no period of acceptance is stated shall not be binding.

3. Scope of Supplies and Services

3.1. The scope of supplies and services to be provided by Bircher shall be set forth in the quotation provided by Bircher or Bircher's confirmation of acceptance of a Purchase Order submitted by Purchaser. Supplies or services not included therein shall be provided by Bircher only at an additional cost to Purchaser.

3.2. Bircher reserves the right to change designs and make technical modifications to any supplies or services it provides to Purchaser.

4. Technical Documentation

4.1. Information contained in any documentation, leaflets, catalogues, or product data sheets shall not be binding unless specifically referenced in a Purchase Order or quotation accepted by Bircher or Purchaser, respectively.

4.2. Bircher reserves all worldwide rights, title, and interest in (i) all intellectual property (including technical documentation,

specifications, reports, and designs) provided, created, or developed pursuant to or in connection with these Terms and Conditions, as well as any modifications, enhancements, or derivatives thereof and (ii) any data or intellectual property that Purchaser has access to under these Terms and Conditions, as well as any modifications, enhancements, or derivatives thereof.

4.3. Purchaser shall keep in confidence and not disclose to any third party or use, for any other purposes except as provided herein, any and all Confidential Information of Bircher disclosed before or during the term of any agreement using these Terms and Conditions. "Confidential Information" shall mean confidential or proprietary information, including, without limitation, trade secrets, know-how, and other proprietary information relating to products, operations, customers, suppliers, and other business information and shall specifically include all information referenced in Section 4.2 of these Terms and Conditions and all other terms and provisions contained herein.

4.4. At the termination or expiration of any agreement using these Terms and Conditions, Purchaser shall return such Confidential Information to Bircher.

5. Compliance with Laws

5.1. Purchaser shall comply with all applicable laws, rules and regulations in connection with its use of the supplies or services provided by Bircher hereunder.

5.2. Purchaser shall notify Bircher in its Purchase Order of any legal, official, or other regulations and standards of the jurisdiction to which the supplies are to be delivered affecting the delivery of supplies or performance of services under these Terms and Conditions.

6. Prices

6.1. Unless otherwise agreed to in writing by Bircher, any price quote provided by Bircher shall be in United States Dollars ("USD"), excluding, without limitation, packaging, transport, insurance, general taxes, certification, customs fees, assembly, installation, and commissioning.

6.2. Should Bircher agree to provide a price quote in a currency other than the USD, Bircher shall be entitled to adjust prices, should the rate of exchange between any such currency and the USD increase by more than 1.5 % in favor of the other currency. The rate of exchange to be used for such price quotes of currencies other than the USD shall be agreed to by Bircher and Purchaser in writing. Should no base rate of exchange be agreed upon, the rate of exchange (of foreign currencies, buying rate) valid at the time at which Purchaser accepts Bircher's quotation or Bircher confirms its acceptance of the Purchase Order, as the case may be, shall apply.

7. Terms of Payment

7.1. Purchaser shall pay Bircher for supplies or services provided by Bircher under these Terms and Conditions (the "Purchase Price") within thirty (30) days of its receipt of a written invoice (the "Invoice") from Bircher. If any supplies or services provided to Purchaser under these Terms and Conditions require exportation outside of the United States, subject to Section 10.4, Bircher shall be entitled to demand payment by irrevocable letter of credit, confirmed by a bank to be designated by Bircher. Purchaser shall, at its sole expense, pay any bank charges incurred in connection with such letters of credit. Bircher expressly reserves the right to terminate any

accepted Purchase Order or Quotation under these Terms and Conditions in the event Purchaser's credit is not approved by a credit rating agency of Bircher's choice.

7.2. The mode by which Purchaser shall pay Bircher shall be stated by Bircher in the quotation it submits to Purchaser or in its confirmation of the Purchase Order submitted by Purchaser, as the case may be.

7.3. Unless otherwise agreed to in writing signed by Bircher, Purchaser shall pay Bircher by delivering the Purchase Price to Bircher America Inc. 870 Pratt Ave. N Schaumburg, IL 60193 without deduction of cash discounts, fees, taxes, or any other charges. All taxes incurred by Bircher in connection with its delivery of supplies or services hereunder shall be separately invoiced and paid by Purchaser.

7.4. In the event Purchaser does not deliver the Purchase Price to Bircher within thirty (30) days of its receipt of the Invoice, Bircher reserves the right to suspend delivery of scheduled supplies or services without delay and shall be entitled to charge interest at a rate the lesser of: (i) the maximum amount permitted by applicable law, or (ii) twelve percent (12 %) per annum.

8. Retention of Title

8.1. Bircher reserves title to all supplies due under the Purchase Order until its receipt of full payment of the Purchase Price from Purchaser.

8.2. Purchaser shall cooperate in taking action for the protection of property of Bircher as required. Purchaser hereby authorizes Bircher to register or enter title or security interest to any property delivered pursuant to the Purchase Order in public registers or books at Purchaser's sole expense in order to comply with applicable local laws and to fulfill all formalities in this respect.

8.3. Purchaser shall maintain any items supplied by Bircher at its sole cost for the period of retention of title and/or security interest and shall insure such supplies in favor of Bircher against any and all risks, including, without limitation, theft, damage, fire, and floods. Purchaser shall neither affect nor cancel the Bircher's title or security interest in any way.

9. Delivery

9.1. Bircher shall deliver supplies in accordance with a Purchase Order submitted by Purchaser and acceptance by Bircher and after it resolves any technical matters related to such Purchase Order.

9.2. Bircher shall have the right to delay delivery of supplies:

(i) if Purchaser does not provide Bircher with details required for completing delivery of the supplies or Purchaser, after acceptance of a Purchase Order by Bircher, subsequently modifies such Purchase Order;

(ii) if Purchaser does not adhere to the terms of payment of the Purchase Price, does not timely cause letters of credit to be opened, or does not properly obtain any import or export licenses required under the quotation or acceptance of the Purchase Order received from Bircher, as the case may be; or

(iii) upon the occurrence of a Force Majeure Event. A "Force Majeure Event" means any act or event beyond the reasonable control of Bircher, including, without limitation, acts of God, fires,

explosions, storms, earthquakes, floods, droughts, accidents, sabotage, blockades, embargoes, wars, riots, labor disputes or shortages, strikes, governmental actions, shortages of or inability to obtain raw materials, supplies, utilities and equipment, or failures or delays in transportation.

10. Supply, Transport and Insurance

10.1. Bircher shall use reasonable care when packing any supplies to be delivered to Purchaser. The cost of any such packaging used by Bircher shall be included in the Invoice.

10.2. Purchaser shall promptly notify Bircher of any special requests for delivery of supplies or insurance of supplies. Purchaser shall designate the carrier for all supplies delivered and shall be responsible for all export formalities for supplies to be delivered outside the United States. If Purchaser does not designate a carrier, Bircher shall be entitled to do so at its discretion and any costs of such additional efforts shall be paid for by Purchaser.

10.3. Bircher's delivery of supplies shall be Ex Works (Incoterms 2000) Bircher's facilities. All deliveries of supplies shall be borne at Purchaser's sole cost and risk of loss. Purchaser shall promptly notify any carrier of any complaints associated with such carrier's delivery of supplies.

10.4. Purchaser shall be responsible for all import and export arrangements for importation and exportation of all supplies to be delivered outside the United States.

10.5. Purchaser shall be responsible for insuring supplies against damage. In the event Bircher obtains insurance for supplies, Purchaser shall reimburse Bircher for all such costs.

11. Inspection and Acceptance of Consignments

Purchaser shall inspect all deliveries of supplies within eight (8) days after receipt thereof and promptly notify Bircher in writing of any non-conforming supplies. In the event Purchaser fails to notify Bircher of any non-conformity within such eight (8) day period, all supplies provided by Bircher shall be deemed to have been accepted by Purchaser.

12. Warranties

12.1. Bircher warrants to Purchaser that (i) supplies delivered by Bircher shall conform to the applicable specifications for a period of twelve (12) months following delivery thereof and (ii) services shall be performed in a workmanlike manner.

12.2. Purchaser's sole and exclusive remedy and Bircher's sole and exclusive responsibility for a breach of any of the warranties set forth in Section 12.1 is that Bircher shall promptly, at Bircher's election and at no additional cost to Purchaser, either (i) refund the Purchase Price for any non-conforming supplies or services; (ii) replace any non-conforming supplies; or (iii) re-perform any non-conforming services. Any such replaced supplies shall have the warranties set forth in Section 12.1. In the event Bircher elects to replace non-conforming supplies under this Section, Purchaser shall return the non-conforming supplies, upon request, to Bircher within ten (10) days after receipt of such request by Bircher. Any costs incurred from any such returns shall be paid by Bircher.

12.3. All warranties made hereunder by Bircher shall expire immediately (i) if Purchaser or any third party modifies, repairs, or in any way alters supplies delivered by Bircher prior to notifying

Bircher of any non-conforming supplies; or (ii) if Purchaser, upon detecting any non-conforming supplies or services, does not promptly notify Bircher of such non-conformance and take all reasonable action to curtail any losses or damage resulting therefrom.

12.4. EXCEPT FOR THE LIMITED EXPRESS WARRANTIES CONTAINED IN THESE TERMS AND CONDITIONS, BIRCHER DOES NOT MAKE ANY WARRANTY, EXPRESS OR IMPLIED, IN FACT OR IN LAW, WITH RESPECT TO ANY SUPPLIES OR SERVICES PROVIDED HEREUNDER, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, OR NON-INFRINGEMENT. ALL SUCH OTHER WARRANTIES ARE HEREBY DISCLAIMED.

13. Limitations of Liability

13.1. IN NO EVENT SHALL BIRCHER, OR ANY DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, OR AFFILIATES OF BIRCHER BE LIABLE TO PURCHASER FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES, COSTS OR EXPENSES (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOST REVENUES, AND/OR LOST SAVINGS), WHETHER BASED UPON A CLAIM OR ACTION OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE, ARISING FROM A BREACH OR ALLEGED BREACH OF THESE TERMS AND CONDITIONS, OR THE USE OF ANY SUPPLIES OR SERVICES PROVIDED TO PURCHASER HEREUNDER EVEN IF PURCHASER HAS BEEN ADVISED OF THE POSSIBILITY OF ANY OF THE FOREGOING DAMAGES.

13.2. IN NO EVENT SHALL BIRCHER, OR ANY DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, OR AFFILIATES OF BIRCHER BE LIABLE TO PURCHASER FOR AN AMOUNT IN EXCESS OF THE PURCHASE PRICE FOR SUPPLIES OR SERVICES SUBJECT TO THE CLAIM OR ACTION GIVING RISE TO SUCH LIABILITY.

13.3. THE FOREGOING DISCLAIMERS AND LIMITATIONS OF LIABILITY SHALL APPLY EVEN IF THE PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ANY ESSENTIAL PURPOSE THEREOF.

14. Applicable Law and Jurisdiction

These Terms and Conditions shall be interpreted and performed in accordance with the internal laws of the State of Illinois, United States, as applied to contracts to be performed entirely in the State of Illinois, exclusive of its conflict and choice of laws provisions. All disputes arising out of these Terms and Conditions shall be exclusively resolved in a court of competent jurisdiction in Cook County in the State of Illinois. Purchaser expressly consents to the jurisdiction of the state or federal courts Cook County in the State of Illinois and waives any objections or right as to forum non conveniens, lack of personal jurisdiction, or similar grounds.

Last amended: 11/18/2010