

PITT COOKING AMERICA, LLC
TERMS AND CONDITIONS OF SALE

1. ENTIRE AGREEMENT:

These Terms and Conditions of Sale (the "Terms") establish the rights, obligations, and remedies of PITT Cooking America, LLC ("Seller") and the buyer, whether an authorized reseller or retail customer ("Buyer"), with respect to the sale by Seller of products and/or parts ("Goods") to Buyer. The Goods are for residential use only and will be installed and used in accordance with applicable law. These Terms form the entire agreement between Seller and Buyer and apply to all sales transactions between Seller and Buyer unless otherwise specifically agreed to in writing by both parties. These Terms may be updated by Seller by posting updated terms at the following: <https://pittcookingamerica.com/terms-and-conditions/>. All prior oral or written agreements, including, but not limited to, terms in Buyer's purchase order, which are different from or in addition to these Terms are not binding on Seller. If the Buyer is an authorized reseller, these Terms are in addition to any requirements imposed under the applicable Retail Resale Agreement, or similar agreement between the parties.

2. PRICE AND PAYMENT:

All taxes, transportation costs, duties and other charges are in addition to quoted prices. The amount of any sales, excise or other taxes, if any, applicable to the Goods shall be added to the purchase price and shall be paid by Buyer unless Buyer provides Seller with a valid tax exemption certificate.

Payment is to be made in US Dollars at the time of order, unless otherwise agreed in writing between the parties. If payment is not made at the time of the order (or is subsequently declined), Goods will not be shipped.

Any informational pricing provided by Seller will expire thirty (30) days from the date of the quotation.

3. SHIPMENT:

Risk of loss for the Goods transfer to Buyer upon receipt by Buyer. Buyer is obligated to pay the cost of shipping as set forth on the invoice. The cost of any special packaging or handling caused by Buyer's requirements or requests will be added to the amount of Buyer's order. If Buyer causes or requests a delay of shipment or if Seller ships or delivers an order erroneously as a result of inaccurate, incomplete, or misleading information supplied by Buyer or Buyer's agents or employees, all storage and other additional costs and risk will be borne by Buyer.

4. DELIVERY:

Seller will make a good faith effort to deliver Goods in accordance with Buyer's schedule. Seller assumes no responsibility or liability for Seller's non-performance caused by a *force majeure* event including, but not limited to, an act of God, war, labor disputes, civil unrest, accidents, pandemics, the inability to obtain materials or Goods, delays of carriers, contractors or suppliers, or any other causes beyond Seller's control.

5. CANCELLATION:

After shipment from Seller, Buyer may not cancel or modify an order.

6. INSPECTION AND ACCEPTANCE:

Buyer shall examine all Goods upon receipt and prior to installation. All claims for damage, shortage, and errors in shipment or improper delivery must be made to Seller in writing within two (2) business days of delivery, after which date Buyer will be deemed to have accepted the Goods and will have no right to reject the Goods or to revoke acceptance. Buyer must make any claims for billing errors or adjustments to Seller in writing within five (5) business days from the invoice date. Claims not received in writing within such period of time will be waived by Buyer.

7. RETURNS: Except in the event of a warranty claim (as described below), Buyer may return factory-sealed items for credit or exchange within ten (10) days of receipt subject to return shipping fees and/or

10% restocking fee. Opened items returned within ten (10) days of receipt will be subject to a 50% restocking fee. Any special order items will be subject to cancellation fees.

8. COMPLIANCE WITH EXPORT CONTROL LAWS:

Buyer acknowledges that Goods may be subject to U.S. export control laws and regulations and cannot be exported, reexported, or transferred except in compliance with such laws and regulations. Buyer warrants that it is not subject to U.S., EU, or UN sanctions, including, but not limited to, being identified on the U.S. Specially Designated Nationals (SDN) List, or more than 50 percent owned by an SDN. Buyer expressly assumes any and all duties and liability associated with subsequent export of the Goods, including but not limited to determining export licensing requirements, obtaining all required authorizations, and submitting required export information. In such case, Seller shall not be named as the Exporter of Record with respect to the Goods. Buyer also bears any responsibility with respect to the original product manufacturer with respect to the sale or export of the Goods outside of the United States.

9. WARRANTIES RELATED TO THE GOODS:

The warranty for the Goods can be located at <https://pittcookingamerica.com/warranty>. Contact Seller promptly at the following email address to inquire about warranty and/or initiate a warranty claim: service@pittcookingamerica.com.

10. DISPLAY UNITS:

In its discretion, Seller may sell certain Goods to Buyer designated as and to be used by Buyer solely as units to be displayed ("Display Units"). The Display Units are intended solely for the Buyer's business purpose of promoting sales and are not intended for resale. The Buyer may not sell any such Display Units to any third party without the prior written consent of the Seller. Even to the extent Seller consents to any such sale by Buyer of such Display Units, notwithstanding anything else herein to the contrary, (i) the warranty referenced in Section 9 above is not transferable by Buyer to the third party purchaser, and (ii) Buyer shall be required to advise the third party purchaser that the product warranty may not be assigned or transferred.

11. INDEMNIFICATION:

Each party ("Indemnitor") shall indemnify, defend and hold harmless the other party and its employees, officers, directors, affiliates, and agents (each an "Indemnitee") from any suit, cause of action, arbitration/mediation proceeding, judgment, or claim ("Claim") for damages to property or bodily injury, loss of life, infringement, liability of any nature, costs, fines, penalties, and expenses, including reasonable attorney fees and any other cost of litigation ("Damages") to the extent caused by the negligent or intentional act or omission of the Indemnitor, its subcontractors or agents. Indemnification shall not apply to Damages proximately caused by the negligence of Indemnitee.

12. LIMITATION OF LIABILITY:

IN NO EVENT SHALL SELLER BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, STATUTORY, LIQUIDATED, OR INDIRECT DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT, REVENUES, CAPITAL, BUSINESS OPPORTUNITY OR DOWNTIME/LOSS OF USE COSTS, ARISING OUT OF THE SALE OF GOODS TO BUYER. This limitation shall apply regardless if the claimed damages arise from breach of contract, breach of warranty, tort, strict liability, or any other legal theory.

13. SEVERABILITY AND NON-WAIVER; ELECTRONIC SIGNATURES:

These Terms will be construed as if prepared jointly by the parties hereto and any uncertainty or ambiguity will not be interpreted against any one party. If any provision contained in these Terms is held to be unenforceable then such provision will be given effect in such reduced form as may be decided by a court of competent jurisdiction, provided that, if any provision should be declared unenforceable or invalid for any reason, such unenforceable or invalid provision will be severed from the remainder of these Terms without affecting the enforceability or validity of the remaining provisions.

The failure of Seller to insist upon the strict performance of any of these Terms will not be deemed to be a waiver of any of the rights or remedies of Seller, nor of its right to insist upon strict performance of such

term or of any other term in the future. No waiver of any of these Terms will be valid unless in writing signed by a duly authorized representative of Seller.

Electronic signatures are the equivalent of handwritten signatures.

14. U.S. GOVERNMENT CONTRACTS:

Buyer is not a contractor, or subcontractor at any tier, for the direct or indirect sale to any agency of the U.S. Government, and/or is funded in whole or in part by any agency of the U.S. Government.

15. DISPUTE RESOLUTION:

The parties shall attempt in good faith to resolve promptly any dispute arising out of or relating to these Terms by negotiation between executives who have authority to settle the dispute. The executives must be at a higher level of management than the persons with direct responsibility for administration of these Terms. If a dispute cannot be resolved by negotiation, then either party may bring a legal action in accordance with these Terms.

16. GOVERNING LAW:

For Goods delivered within the United States, all disputes related to or arising out of a Buyer's order shall be governed by the laws of New York, excluding the rules on the conflict of laws. Any legal action related to or arising out of Buyer's order shall be brought in the state and federal courts of New York County. The United Nations Convention on Contracts for the International Sale of Goods, and any successor thereto, shall not apply.

January 27, 2023