

**1. Acceptance.** The division, subsidiary or affiliate of ITW Food Equipment Group LLC, including, without limitation, Rapid Cook LLC d/b/a IBEX, that references these Terms is herein referred to as “Seller” and the customer purchasing products (“Products”) or services (“Services”) from Seller is herein referred to as “Purchaser.” These terms and conditions of sale (“Terms”), any Seller quotation, acknowledgment, invoice and other document or form prepared or delivered by Seller (collectively, “Seller Documents” and together with these Terms, the “Agreement”), constitute the complete terms governing the sale of Products and Services. Seller may update these Terms at any time without notice. For the current version of these Terms, visit IBEXoven.com. The current version of these Terms shall apply to all shipments made after such website has been updated. SELLER HEREBY REJECTS ANY ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS PROPOSED BY PURCHASER, WHETHER OR NOT CONTAINED IN ANY OF PURCHASER’S BUSINESS FORMS OR ON PURCHASER’S WEBSITE, AND SUCH ADDITIONAL OR DIFFERENT TERMS WILL BE OF NO EFFECT. These Terms are applicable to all sales of Products and/or Services, all Seller Documents, and all purchase orders (“Purchase Orders”) from Purchaser. No site usage agreement or any other click through agreement on a website will have any applicability or binding effect whether or not Seller clicks on an “ok,” “I accept,” or similar acknowledgment. Commencement of any work by Seller, or Purchaser’s acceptance of delivery of any Products or Services, will manifest Purchaser’s assent to the Agreement. Additional or different terms applicable to a particular sale may only be specified in the body of a Seller Document or expressly agreed to in writing by the parties. In the event of a conflict, the following order of precedence will apply: (a) terms expressly agreed to in writing and executed by an authorized officer of Seller; (b) Seller Document terms; (c) these Terms. Notwithstanding anything to the contrary, if a reference to these Terms is referenced in any document signed by Seller, these Terms shall take precedence over any conflicting or contrary terms.

**2. Quotations.** Quotations are only valid in writing and for 30 days from the date of the quotation unless otherwise set forth in Seller’s quote. All quotations by Seller are subject to change or withdrawal without prior notice to Purchaser. Quotations are made subject to approval by Seller of Purchaser’s credit. Seller may refuse and shall have no obligation to sell or deliver Products or Services unless and until Seller issues an order acknowledgement or upon the shipment of Products or commencement of Services by Seller.

**3. Prices and Payment Terms.** Prices are in U.S. Dollars and are subject to change without notice. All orders are accepted subject to Seller’s price in effect at time of shipment. Terms of payment are 30 days net from the date of Seller’s invoice. Overdue invoices will incur interest at the rate of 1.5% per month, or at the maximum rate allowable by governing law. Purchaser’s inspection rights herein will not affect the payment terms. Under no circumstances will Purchaser have a right of set-off. If Purchaser fails to make any payment as required, Purchaser agrees to indemnify Seller for all associated costs incurred by Seller, including reasonable attorney fees and court costs. Seller shall have the right to set off any amount owed to Purchaser against any amount owed to Seller. Purchaser shall have no set off rights against Seller.

**4. Cancellation or Modification.** Seller reserves the right to cancel any Purchase Orders or releases thereunder, or terminate any agreement relating to purchase of Seller’s Products or Services, upon 10 days’ notice to Purchaser. Once Seller has either accepted a Purchase Order or has begun taking actions with respect to such Purchase Order, such Purchase Order cannot be canceled, terminated or modified by Purchaser in whole or in part except with Seller’s consent in writing. In such event, Purchaser will be liable for cancellation or modification charges and all costs incurred and committed for the order or in connection with the cancellation or modification, as applicable, together with a reasonable allowance for prorated expenses and anticipated profits.

**5. Title / Risk of Loss / Delivery.** Seller anticipates use of common carriers for transport of Products. Unless specifically otherwise provided in Seller’s invoice, the carrier, and not Seller, will bill for freight rates and other transportation charges. Such payments are solely the responsibility of the Purchaser, to be paid directly by the Purchaser to the carrier. Seller reserves the right to schedule its production and to make deliveries accordingly. In circumstances where the Purchaser specifies deliveries to be made in installments, which do not conform to such schedule and Seller elects to deliver as specified by Purchaser, Seller shall have the right to adjust the price to cover Seller’s additional costs. All Products shall be

shipped ExWorks Seller's plant (Incoterms 2020). Risk of loss for the Products shall pass to Purchaser upon delivery in accordance with the applicable shipping term, and title to the Products shall automatically pass concurrently therewith. Purchaser shall assume all risk and liability for loss, damage, or destruction, as well as the results of any use or misuse by third parties who may acquire or use the Products illicitly after the delivery to the carrier. All shipping dates are approximate and are based upon prompt receipt of all necessary information. Seller reserves the right to ship items in single or multiple shipments.

**6. Credit Approval.** All shipments to be made hereunder shall at all times be subject to the approval of Seller's credit department. Seller may invoice Purchaser and recover for each shipment made pursuant to these Terms as a separate transaction without regard to any other order or agreement with Seller. If, in Seller's sole judgment, the financial responsibility of Purchaser is or becomes unsatisfactory, then Seller may, at its option and without prejudice to any of its other remedies, (a) defer or decline to make any shipments hereunder except upon receipt of satisfactory security or cash payments in advance, and/or (b) terminate any or all Purchase Orders of Purchaser.

**7. Sales Tax Reporting.** Purchaser agrees to pay all state Sales and Use Tax as invoiced by Seller or provide Seller with a valid state exemption certificate or other satisfactory evidence of exempt status as required by the state. Additionally, prices do not include any other sales, use, value-added or other taxes, import duties, license fees or like charges ("Fees") related to the sale, importation or use of Products or Services, and Purchaser is responsible for those Fees. If Seller is subsequently required to pay any Fees, Purchaser shall fully defend and indemnify Seller therefor.

**8. Product Warranty.** All Products are subject to the manufacturer's published warranty, and each published warranty (including all limitations provided therein) is hereby incorporated herein. Unless the manufacturer publishes an export warranty (or any warranty that expressly covers Products installed outside of the United States), no warranty of any kind is given to any Product installed outside of the United States.

If no published warranty is available, then Seller warrants to the original end-user of each Product that for a period of 1 year from the date of original installation (the "Warranty Period"), under normal use and given proper installation and maintenance as determined by Seller, the Product: (a) will conform to mutually agreed upon written specifications or other descriptions; and (b) will be free from substantial defects in material and workmanship. In no event shall the Warranty Period commence later than 3 months from the date of initial delivery of the Product to the common carrier by Seller unless otherwise agreed upon by Seller in writing. In the event of a breach of the warranties set forth above (the "Warranties"), Seller will, at Seller's option, and as Seller's sole liability and Purchaser's sole remedy, repair, replace or credit Purchaser's account for, any Product that fails to conform to the Warranties, provided that (i) during the Warranty Period Seller is promptly notified in writing upon discovery of such failure with a detailed explanation of any alleged deficiencies; (ii) Seller is given a reasonable opportunity to investigate all claims; and (iii) Seller's examination of such Product confirms the alleged deficiencies and that the deficiencies were not caused by accident, misuse, neglect, normal wear and tear, improper installation, unauthorized alteration or repair or improper testing. Any warranty against defects does not apply to: (1) consumable components or ordinary wear items; or (2) use of the Products with equipment, components or parts not specified or supplied by Seller or contemplated under the Product documentation. No Products may be returned to Seller until inspection and written approval by Seller. Any warranty against defects does not apply to: (a) consumable components or ordinary wear items; or (b) use of the Products with equipment, components or parts not specified or supplied by Seller or contemplated under the Product documentation. To the extent of any conflict between this Section and any published warranty, the terms of the published warranty shall prevail. Seller does not recommend or authorize the use of any Product in a non-commercial application, including, but not limited to, residential use. The Warranties do not apply to, and shall not cover, any Product that is installed or used in any way in any residential or non-commercial application. No warranties, express or implied, are provided to any residential, consumer or non-commercial purchaser or owner of the Products.

EXCEPT AS SET FORTH IN THIS SECTION AND THE REFERENCED PUBLISHED WARRANTY, SELLER MAKES NO WARRANTY OR REPRESENTATION OF ANY KIND, EXPRESS OR

IMPLIED (INCLUDING NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE).

**9. Service Warranty.** Any service and installation performed by Seller is subject to the terms and conditions as set forth at <https://www.hobartservice.com/service-plans/hobart-extended-warranty/terms-and-conditions>. Such terms are incorporated herein by reference. Additionally, the following terms and conditions apply to any on-site Services provided by Seller: (i) Services will be provided at Seller's then current service rates; (ii) Purchaser shall prepare the site for the Services – if the site is not prepared for the Services upon Seller service personnel's arrival at the agreed upon time and date for Services, Seller may charge Purchaser for any delay and/or travel time at Seller's regular service rates; (iii) Purchaser shall provide Seller with advance notice of any rules, regulations, statutes and requirements applicable to the Services, including any required permits and licenses that are applicable to Purchaser's local jurisdiction; (iv) Seller may refuse, without any liability, to provide Services and to allow Seller service personnel to suspend Services or vacate any site where, in Seller's opinion, performance of Services would pose a risk to the safety of any person. In such event, Purchaser is responsible for payment of any delay and/or travel time at Seller's regular service rates; (v) Purchaser is solely liable for all damages or injuries caused or contributed to by Purchaser that may occur on the site, except to the extent damages or injuries are directly caused by the gross negligence or willful misconduct of Seller service personnel; (vi) Purchaser must provide at least 24 hours' notice of cancellation of any Service order – if Purchaser cancels with less than 24 hours' notice, Purchaser is responsible for any costs incurred by Seller caused by such cancellation.

**10. Returned Goods Policy.** Products may not be returned without written authorization from Seller. Seller may accept or reject return for credit any products returned to Seller as originally ordered, within six months from the date of original invoice. All returned products must be new, unopened, and in saleable condition. Any accepted requests will be subject to the restocking, reconditioning, and shipping charges as determined by Seller.

**11. Reconsignment.** Each re-consigned shipment is subject to a flat \$250 fee. A "shipment" is defined as each unique Bill Of Lading/Carrier PRO. If a portion of a shipment is re-consigned/ rerouted, each portion will be considered a separate shipment, subject to the applicable reconsignment fee.

**12. Damages/Shortages.** All damages or shortages must be reported immediately to Seller's Customer Care team. Additionally:

- a. Note damage or shortage on carrier's delivery receipt.
- b. Verify shipment to be sure all items were received.
- c. Document all correspondence with delivering carrier.
- d. Take pictures of all damaged shipping items, including packaging, and any relevant details.
- e. Save all associated packaging and shipping materials.

**13. Concealed Damages.** – Any concealed damages must be reported to Seller's Customer Care team and the delivering carrier within five (5) business days from the date of receipt. Additionally:

- a. Contact the carrier's local terminal to schedule an inspection.
- b. Document all correspondence with delivering carrier.
- c. Take pictures of all damaged shipping items, including packaging, and any relevant detail.
- d. Save all associated packaging and shipping materials.
- e. Do not move, modify or install the equipment.

Unless shipped via Seller's designated carrier, all claims for damage must be filed directly with the carrier, and Seller is not responsible for the outcome of any such claims.

**14. Quantities.** Unless otherwise agreed in writing, any variation in quantities shipped over or under the quantities ordered (not to exceed 10%) shall constitute compliance with Purchaser's Order and the stated price per item will continue to apply. If a Purchase Order does not specify quantities, or specifies the quantities as "blanket order", "as released", "as scheduled", "as directed", "subject to Purchaser's production releases" or another similar reference, or if a Purchase Order purports to be a "Requirements Contract" (or something similar) but Seller has not expressly agreed in writing to such requirements obligations, Seller is not obligated to ship any Products beyond the quantity contained in any firm release

that has been accepted by Seller, and Seller is not obligated to accept any future orders, Purchase Orders, releases or offers.

**15. Limitation of Liability and Remedies.** SELLER SHALL NOT BE LIABLE, AND PURCHASER WAIVES ALL CLAIMS AGAINST SELLER, FOR INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, DOWN TIME, LOST PROFITS OR COMMERCIAL LOSSES, WHETHER OR NOT BASED UPON SELLER'S NEGLIGENCE OR BREACH OF WARRANTY OR STRICT LIABILITY IN TORT OR ANY OTHER CAUSE OF ACTION. SELLER WILL NOT BE LIABLE TO PURCHASER FOR ANY LOSS, DAMAGE, OR INJURY TO PERSONS OR PROPERTY RESULTING FROM THE HANDLING, STORAGE, TRANSPORTATION, RESALE, OR USE OF ITS PRODUCTS IN MANUFACTURING PROCESSES, OR IN COMBINATION WITH OTHER SUBSTANCES, OR OTHERWISE. IN NO EVENT WILL SELLER'S LIABILITY UNDER THESE TERMS OR IN CONNECTION WITH THE SALE OF PRODUCTS OR SERVICES EXCEED THE PURCHASE PRICE OF THE SPECIFIC PRODUCTS OR SERVICES AS TO WHICH THE CLAIM IS MADE.

**16. Compliance.** –Purchaser agrees to comply with all federal, state, local and foreign rules, regulations, ordinances and laws applicable to Purchaser's obligations hereunder and Purchaser's use of the Products and Services, including import/export laws, labor laws and anti-corruption laws.

**17. Technical Data.** All physical properties, statements and recommendations are either based on the tests or experience that Seller believes to be reliable, but they are not guaranteed.

**18. Product Use.** Purchaser is solely responsible for determining whether any Product is fit for a particular purpose and suitable for Purchaser's method of application. Accordingly, and due to the nature and manner of use of Seller's Products, Seller is not responsible for the results or consequences of use, misuse or application of its Products by anyone.

**19. Tooling / Molds / Dies.** All material, equipment, facilities and special tooling (including tools, jigs, dies, fixtures, molds, patterns, special taps, special gauges, special test equipment and manufacturing aids and replacements thereof) used in the manufacture of the Products will remain the property of Seller. Any material, tooling or equipment furnished to Seller by Purchaser will remain the property of Purchaser with title to and right of possession remaining in Purchaser.

**20. Ownership of Intellectual Property.** All drawings, know-how, designs, specifications, inventions, devices, developments, processes, copyrights and other information or intellectual property disclosed or otherwise provided to Purchaser by Seller and all rights therein (collectively, "Intellectual Property") will remain the property of Seller and will be kept confidential by Purchaser in accordance with these Terms. Purchaser has no claim to, nor ownership interest in, any Intellectual Property, and such information, in whatever form and any copies thereof, shall be promptly returned to Seller upon request from Seller. Purchaser acknowledges that no license or rights of any sort are granted to Purchaser hereunder in respect of any Intellectual Property, other than the limited right to use Seller's Products or receive the Services purchased from Seller.

**21. Use of Trademarks and Trade Names.** Purchaser shall not use, directly or indirectly, in whole or in part, Seller's name, or any other trademark or trade name that is now or may hereafter be owned by Seller (collectively the "Trademarks"), as part of Purchaser's corporate or business name, or in any way in connection with Purchaser's business, except in a manner and to the extent authorized herein or otherwise approved by Seller in writing. Purchaser hereby acknowledges Seller's ownership of the Trademarks and the goodwill associated therewith. Purchaser shall not infringe upon, harm or contest the validity of any Trademarks. Purchaser shall be entitled to use the Trademarks only in connection with the promotion or sale of the Authorized Products pursuant to the terms of the Agreement. Purchaser shall reproduce the Trademarks exactly as specified by Seller. Purchaser shall not use the Trademarks in combination with any other trademarks or names. Purchaser agrees that it will not register or attempt to register any Trademark or any colorable imitation thereof (including any non-English language variation thereof), or use such Trademarks for any products or for any purposes other than those set forth in the Agreement. Purchaser shall not at any time during or after termination of the Agreement use in its business any other trademark that is similar to or in any way resembles the Trademarks so as to be likely to cause deception or confusion

with the Trademarks. Purchaser shall provide reasonable cooperation to Seller with respect to any efforts of Seller to protect, defend or enforce its rights to the Trademarks. Should Purchaser cease being an authorized customer of Seller for any reason, Purchaser shall immediately discontinue any formerly permitted use of Seller's name or the Trademarks.

**22. Confidential Information.** All information furnished or made available by Seller to Purchaser in connection with the subject matter of these Terms or a Purchase Order shall be held in confidence by the Purchaser. Purchaser agrees not to use such information or disclose such information to others (directly or indirectly) without Seller's prior written consent. The obligations in this paragraph will not apply to any information which (a) at the time of disclosure was or thereafter becomes, generally available to the public by publication or otherwise through no breach by the Purchaser of any obligation herein, (b) the Purchaser can show by written records was in the Purchaser's possession prior to disclosure by Seller, or (c) is legally made available to the Purchaser by or through a third party having no direct or indirect confidentiality obligation to Seller with respect to such information.

**23. Infringement and Indemnification.** Except as set forth below, Seller agrees to defend and indemnify Purchaser against any claims, costs, damages, liability and expenses resulting from actual patent, trademark or copyright infringement, misappropriation of confidential information, or violation of any other Intellectual Property right, domestic or foreign that may arise from the sale of Seller's proprietary Product to Purchaser as such pertains to the subject matter of the Agreement (each, a "Claim"); provided, however, (a) Purchaser supplies Seller written notice of such Claim immediately after the Purchaser has notice of such Claim, (b) Purchaser cooperates with Seller in the defense and settlement of such Claim; and (c) Purchaser allows Seller the right to defend and settle such Claim at Seller's expense. If a suit or claim results in any injunction or order that would prevent Seller from supplying any part or Product falling under the Agreement, or if the result of such a suit or claim would, in the reasonable opinion of Seller, otherwise cause Seller to be unable to supply such parts or Products, Seller may do one or more of the following: (i) secure an appropriate license to permit Seller to continue supplying those parts or Products; (ii) modify the appropriate part or Product so that it becomes non-infringing; (iii) replace the appropriate part or Product with a non-infringing but practically equivalent part or Product; or (iv) if Seller cannot reasonably accomplish the actions specified in subsections (i) – (iii), then in Seller's sole discretion, Seller may discontinue selling the part or Product without any further liability to Purchaser. Notwithstanding the foregoing, Seller shall have no liability or duty to defend and indemnify Purchaser against any Claim relating to: (1) the use of any part or Product, (2) the combination of any part or Product with any other part or product not supplied by Seller, or (3) any part or Product or process that is designed or specified by Purchaser. Purchaser hereby releases and agrees to indemnify Seller and its affiliates from all infringement claims (including any related damages, liabilities and attorneys' fees, court costs, and associated expenses) relating to or arising from any part, Product or process (or any portion thereof) that is designed or specified by Purchaser, including all "build-to-print" (or similar designations) Products.

**24. Force Majeure.** Seller will not be responsible for failure to perform in a timely manner when its failure results from events beyond its reasonable control (an event of "Force Majeure"), including acts of God, epidemics, pandemics, acts of war whether declared or undeclared, actions by any governmental agency or authority (whether valid or invalid), blockades, labor disputes (whether of Seller's employees or the employees of others), raw material shortages and material increases in costs of raw materials. In the event of Force Majeure, the time for performance will extend for such time as reasonably necessary to enable Seller to perform. Seller may, during any period of shortage due to any of the above circumstances, allocate its available supply of Products or Services among itself and its purchasers in such manner as Seller, in its judgment, deems fair and equitable.

**25. Audit.** Neither Purchaser nor any Purchaser representative may examine or audit Seller's cost accounts, books or records of any kind or any matter, or any other data that Seller, in its sole discretion, considers confidential or proprietary.

**26. Seller Employees.** Seller sales and service employees do not have the training or authority to make legal representations or enter into any agreements or execute any Purchaser documents affecting legal responsibilities or waiving legal rights, including those regarding the transfer of intellectual property rights

or related to privacy laws. Any such representations, agreements or documents will not be binding on Seller or such Seller employees.

**27. Compliance.** Purchaser agrees to comply with all federal, state, local and foreign rules, regulations, ordinances and laws applicable to Purchaser's obligations hereunder and Purchaser's use of the Products and Services, including import/export laws, labor laws and anti-corruption laws.

**28. Relationship of the Parties.** Nothing in these Terms or the course of dealing of the parties may be construed to constitute the parties hereto as partners, joint venturers or as agents for one another or as authorizing either party to obligate the other in any manner.

**29. Bankruptcy.** If either party becomes insolvent, is unable to pay its debts when due, files for or is the subject of involuntary bankruptcy, has a receiver appointed or has its assets assigned, the other party may cancel any unfulfilled obligations hereunder.

**30. Assignment; Binding Effect.** **No assignment of any rights or interest or delegation of any obligation of Purchaser under the Agreement or any Purchase Order may be made without Seller's prior written consent. Any attempted assignment will be void. Seller may assign the Agreement or otherwise transfer its rights and/or obligations under the Agreement. The Agreement will inure to the benefit of and be binding upon the parties and their respective permitted successors and assigns.**

**31. Integration and Modification.** The Agreement constitutes the entire agreement between Seller and Purchaser with respect to the Products and Services covered by the Agreement, and supersedes any prior agreements, understandings, representations and quotations with respect thereto. No modification hereof will be of any effect unless in writing and signed by the party to be bound thereby.

**32. Waiver.** In the event of any default by Purchaser, Seller may decline to ship Products or provide Services. No failure of Seller to insist upon strict compliance by Purchaser with these Terms or to exercise any right accruing from any default of Purchaser shall impair Seller's rights in case Purchaser's default continues or in case of any subsequent default by Purchaser. Waiver by Seller of any breach by Purchaser of these Terms shall not be construed as a waiver of any other existing or future breach.

**33. Limitation of Actions.** Notwithstanding any contrary statute of limitations, any cause of action for any alleged breach of these Terms by Seller shall be barred unless commenced by Purchaser within one (1) year from the accrual of such cause or action.

**34. Litigation Costs.** If any litigation or arbitration is commenced between Seller and Purchaser concerning any provision of these Terms, the party prevailing in the litigation or arbitration is entitled, in addition to such other relief that is granted, to a reasonable sum as and for their attorney's fees in such litigation or arbitration, provided that if each party prevails in part, such fees shall be allocated in such manner as the court or arbitrator shall determine to be equitable in view of the relative merits and amounts of the parties' claims.

**35. Choice of Laws.** Any dispute arising out of or related to the Agreement or the sale of any Products or Services will be governed by and construed according to the laws of the state of Illinois (excepting its conflict of laws provisions and the United Nations Convention for International Sale of Goods) and litigated exclusively in a state or federal court located in Cook County, Illinois. Each of Purchaser and Seller expressly release and waive any and all rights to a jury trial and consent to have any dispute heard solely by a court of competent jurisdiction.

**36. Survival.** Any provisions in the Agreement which, by their nature, extend beyond the termination or expiration of any sale of Products or Services, will remain in effect until fulfilled.

**37. Severability.** If any provision herein shall be held to be unlawful or unenforceable, the remaining provisions herein shall remain in full force and effect.