



## TERMS AND CONDITIONS FOR THE SALE OF PRODUCTS

PLEASE CAREFULLY READ AND UNDERSTAND THE TERMS AND CONDITIONS FOR THE SALE OF THE PRODUCTS MANUFACTURED BY MANUFACTURER SOLD BY SELLER AND PURCHASED BY THE BUYER (THE "AGREEMENT"), SPECIALLY BUT NOT LIMITED TO, ITS LIMITED WARRANTY, DISCLAIMERS AND LIMITATION OF REMEDIES THAT MAY BE UNDER A DIFFERENT TAB OF THE WEBSITE LOCATED AT **WWW.BUFALINDAUSA.COM** (THE "SITE"). BY USING THE SITE OR PURCHASING THE PRODUCTS, THE BUYER INDICATES THAT HE/SHE HAS READ, UNDERSTOOD AND ACCEPTED TO BE BOUND BY ALL OF THE PROVISIONS OF THE AGREEMENT AS OF THE PURCHASE DATE. BUYER ALSO UNDERSTANDS THAT THE PROVISIONS OF THE AGREEMENT MAY BE MODIFIED BY SELLER, FROM TIME TO TIME, WITHOUT THE PRIOR WRITTEN NOTICE PROVIDED TO BUYER.

**1. Purchase Orders.** The Buyer shall send the Seller a Purchase Order in writing for the purchase of the Products subject to the Seller's written approval. Once the Seller approves in writing the Purchase Order (the "Approved Purchase Order"), the Buyer cannot cancel the Purchase Order thereafter. Each separate Purchase Order once accepted by the Seller shall become part of the Agreement, and be governed by the provisions of the Agreement.

**2. Sale of Products; price.** The Seller shall sell to the Buyer and the Buyer shall purchase from the Seller the Products in the quantities and prices as stated in Approved Purchase Order. The price, packaging and specifications of the Products may be modified by the Seller providing sixty (60) calendar days advance written notice to the Buyer. Unless otherwise stated in the invoice of the Products (the "Invoice"), the Buyer shall pay all taxes and third-party expenses imposed on, in connection with, or measured by the transaction contemplated by the Agreement in addition to the prices set forth in the Invoice. The Buyer or any Distributor, or Sales Representative may not sell the Products through internet unless previously approved in writing by the Seller. Buyer, Distributor or Sales Representative shall refrain from selling the Products to the countries or individuals included in the U.S. List of Banned Countries and any amendment made to such list by the U.S. government.

**3. Invoices; Payment and collection charges.** Unless Buyer is given credit by the Seller which is subject to Seller's prior written approval, payment for the Products is in U.S. Dollars, to be made in full prior to the delivery of the Products. If credit is given by Seller to Buyer in writing, the payment for the Products is in U.S. Dollars and due as indicated in Seller's Invoice. The Buyer shall pay a delinquency charge of the lesser of (a) one percent (1%) per month or (b) the highest rate allowed under applicable law on all overdue amounts until the amounts are paid. When payment is obtained through an attorney or collection agency, the Buyer agrees to pay all costs and expenses incurred in the collection of the Invoice, including but not limited to court's costs, reasonable attorney's fees, collection agency's fees.



**4. Shipping Terms.** When applicable, shipments of the Products shall be made FOB Seller's warehouse (the "Warehouse") according to the Incoterms 2010, published by the International Chamber of Commerce, Paris, France, at the address indicated in the Invoice. Prior to delivery, the Distributor shall provide written communication to the Seller of the contact information of the Distributor's freight forwarder. In the event the Distributor does not designate a freight forwarder, the Seller shall select it at the Distributor's sole expense.

**5. Products Pick-up Terms.** The distributor or the Buyer's sales representative shall pick up the Products at the Warehouse in accordance with the Warehouse's terms and conditions including but not limited to: two hours advance written notice to pick up the Products at the Warehouse once the Seller has issued the pick up order.

**6. The Manufacturer's Limited Warranty.** Hato El Oso, C.A. (the "Manufacturer") warrants that all Products to be supplied by Seller to Buyer shall, on the date a Purchase Order is released for shipment, meet the Manufacturer's standard product specifications for such Product then in effect. Seller warrants title to the Products free and clear of all liens, restrictions, reservations, security interests or other encumbrances. Claims in respect of any Products at any time sold or agreed to be sold by Seller, whether in contract, tort or otherwise (including negligence or misrepresentation), including claims on account of weight, quality, loss or damage to said Products, are waived by Buyer upon acceptance of the Products at the Seller's Warehouse. In case of a timely claim concerning quality, at the delivery of the Products at the Seller's warehouse, Buyer shall promptly furnish to Seller appropriate samples of nonconforming Product for testing and analysis by the Manufacturer. Seller makes no warranty, either express or implied, as to the accuracy or completeness of, or the results to be obtained from, any technical advice furnished or recommendations made by Manufacturer or a representative of Manufacturer concerning any use or application of the Products. Manufacturer assumes full responsibility for quality control, testing and determination of suitability of the Products. The warranties set forth in this paragraph 7(a) extend only to the Buyer.

**7. Disclaimer of Warranty.** The Seller disclaims and excludes from the Agreement any and all warranties representations or conditions, whether express or implied, including warranties, representations or conditions of merchantability or fitness for a particular purpose arising by statute, by law or from a course of dealing or usage of trade. The Limited Warranty replaces any all other warranties of the Products. The Buyer hereby acknowledges and expressly agrees that the Seller makes no other warranty of any kind whatsoever, whether written, oral, express or implied. Notwithstanding anything to the contrary contained in the Agreement or otherwise, to the maximum extent permitted under the law, in no event shall Seller be responsible or liable to Buyer or to any third party under the Agreement or under any contract or rule of law or equity, (including without limitation those relating to breach of contract, tort, negligence, gross negligence, strict liability or other legal or equitable theory) for any direct or indirect, special, compensatory, incidental, punitive, exemplary or consequential loss, claim (including without limitation



personal damage or loss of life) or for damages arising from the loss of profits or loss of business related to the Products.

**8. Limitation of Remedies.** Seller's liability, and Buyer's sole remedy, for any claim in respect of any Products at any time sold or agreed to be sold by Seller, is limited to, at Seller's option (i) replacing the particular quantity of nonconforming Products, or (ii) refunding the purchase price of the particular quantity of nonconforming Products. No claim or recovery by Buyer of any kind (whether as to Products delivered or for non-delivery of Products) shall be greater than the purchase price of the Product to which the claim relates.

**9. Return of Products.** The Buyer must check the Products delivered at the Seller's warehouse. Any claim regarding the Products must be made at the time of pick up of the Products at the Seller's warehouse. Upon acceptance of the Products by Buyer or his/her/its agent at the Seller's warehouse, Buyer bears the risk of damage and loss of the Products thereafter.

(A) The Buyer understands and agrees that the Products consist of consumer goods that are subject to perishability or freeze-ability and require temperature-controlled transportation. The Buyer is required to keep the Products refrigerated at all times in a temperature ranging between 34 to 38 degrees Fahrenheit. Buyer will be liable for the transportation of the Products from Seller's warehouse. When shipping the Products, Buyer or his/her/its agent must always make sure the truck/vehicle is clear of debris and odors before loading. The presence of any contaminate could permeate packaging and ruin the Products being shipped.

**10. Limitation of Actions.** No action arising out of or relating to the Agreement or the transactions it contemplates may be commenced against the Seller more than twelve (12) months after the basis for such claim could reasonably have been discovered.

**11. Security Interest.** The Buyer hereby grants to the Seller a security interest in the Products sold to the Buyer under the Agreement and any proceeds therefrom (including accounts receivable), until payment in full for the Products has been received by the Seller and the funds are made available to the Seller. The Buyer shall sign and deliver to the Seller any document to perfect this security interest that the Seller reasonably requests.

**12. Intellectual Property of the Seller.** (a) The Buyer acknowledges and agrees that any and all right, title and interest in and to any and all trademarks and other proprietary rights (the "Trademarks") that are related in any way to the production, manufacture, marketing, sale and distribution of the Products, are exclusively owned or licensed to the Seller, and the Seller may, in its sole discretion, seek to secure and maintain any such rights for the sole benefit and ownership of the Seller. The Buyer agrees that his/her/its use of the Trademarks shall not create in his/her/its favor any right, title or interest therein, but such use shall inure to the benefit of the Seller; (b) the Seller grants to the Buyer a royalty free, non-exclusive license to use the



Trademarks, solely for the purposes of advertising, marketing, and sale of the Products; (c) the Buyer shall promptly notify the Seller if any of the Trademarks are being infringed and shall assist the Seller to protect or obtain protection for any of the Seller's rights in the Trademarks; (d) The Buyer agrees not to contest any of the Trademarks either during or after the Term of the Agreement; (e) the Buyer shall include and shall not modify the packaging in which the Products are contained nor shall it alter, obscure or remove any of the Trademarks, or any markings, colors or other insignia contained on or in or affixed to Products.

**13. Confidentiality.** To the extent authorized by the law, the Seller from time to time, in connection with work contemplated under this Agreement, may disclose confidential information to the Buyer. The Buyer will use reasonable efforts to prevent the disclosure of any of the Seller's Confidential Information to third parties during the Term of this Agreement and for a period of five (5) years after the termination of this Agreement, provided that the Buyer's obligation shall not apply to information that: (a) is not disclosed in writing or reduced to writing and so marked with an appropriate confidentiality legend within thirty (30) days of disclosure; (b) is already in the Buyer's possession at the time of disclosure thereof; (c) is or later becomes part of the public domain through no fault of the Buyer; (d) is received from a third party having no obligations of confidentiality to the Seller; and (e) is independently developed by the recipient party; or is required by law or regulation to be disclosed.

**(A)** For purposes of this Agreement "Confidential Information" shall include but not be limited to any trade secret, proprietary or confidential information concerning the organization, business or finances of the parties, with respect to existing and future products and services, designs, methods, formulas, drafts of publications, research, know-how, techniques, systems, databases, processes, software programs or code, developments or experimental work, works of authorship, customer lists and/or customer information, business plans, marketing plans, financial information, sales techniques, projects, salaries and/or pay rates, or personnel information, and all other plans and proposals placed in any type of medium whether written, tangible, or digital.

**(B)** The Buyer acknowledges that all Confidential Information, together with all notes, reports, graphics, and records relating thereto, and all copies, in written, digital or in any medium, including but not limited to reproductions or other medium containing such Confidential Information, electronic versions and facsimiles thereof, are the Seller's exclusive property. The Buyer shall return to Seller all such Confidential Information, without retaining any copies, notes or extracts, promptly upon Seller's request or upon the termination of the business relationship between them, regardless of the reason for the termination.

**(C)** The Buyer may disclose the Confidential Information to its employees, agents in a limited manner and as necessary in carrying out their duties consistent with this Agreement provided that such individuals or third parties sign a confidentiality agreement in the same terms as set forth in this Agreement. The Buyer may not use the Confidential Information of



the Seller for its own benefit or the benefit of anyone other than the Seller and without the Seller's express written authorization.

(D) In the event that Confidential Information is required to be disclosed pursuant to subsection 13(C) and to the extent authorized by the law, the Buyer shall notify the Seller to allow the Seller to assert whatever exclusions or exemptions may be available to it under such law or regulation.

**14. Independent Contractors.** This Agreement is not an employment contract nor joint venture or partnership agreement between the Seller and the Buyer. The relationship between the parties is that of seller and buyer and not principal and agent and, accordingly, any purchase of or the Products by the Buyer or any agreement or commitment made by the Buyer to any person, firm or corporation with respect hereto is made by the Buyer for his/her/its own account as principal. The Buyer is an independent contractor purchasing the Products for its own account and is not obliged to account to the Seller for any profits earned by he/she/it on sales. The Buyer shall have no right or authority to execute any agreement or give any warranty or statement in the name of or on behalf of the Seller.

**15. Governing Law and Designation of Forum.**

(A) The laws of the State of Florida (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to the Agreement and the transactions it contemplates, including, without limitation, its interpretation, construction, validity, performance including the details of performance), and enforcement. The law of the State of Florida is the governing law and the Convention for the International Sales of Products shall not apply.

(B) A party bringing a legal action or proceeding against the other party arising out of or relating to the Agreement or the transactions it contemplates must bring the legal action or proceeding in any state court of the State of Florida sitting in Miami-Dade County. Each party to the Agreement consents to the exclusive jurisdiction of the state courts of the State of Florida sitting in Miami-Dade County and its appellate courts, for the purpose of all legal actions and proceedings arising out of or relating to this agreement or the transactions it contemplates.

**16. Notices.** Any notices required or authorized to be given hereunder shall be in writing and shall be delivered by UPS, Federal Express or by any courier to the addresses of the Buyer and the Seller as indicated in the Purchase Order or Invoice, or to such other addresses as the parties may hereinafter communicate to each other in writing. Such notice shall be deemed given three (3) days from the day delivered by UPS, Federal Express or by any courier.

**17. Force Majeure.** The Seller will not be liable for delays in performance or for non-performance due to unforeseen circumstances or causes beyond the Seller's reasonable control, which reasons shall include but not be limited to fire, strikes, epidemics, or governmental measures. Upon prompt notice from the Seller to the Buyer, the Seller shall be excused from



such performance to the extent of such prevention, restriction or interference, provided that the Seller shall use its best efforts to avoid or remove such cause(s) of nonperformance and shall continue performance hereunder with the utmost dispatch whenever such cause(s) is/are removed. In the event that the Seller is prevented from performing its obligations hereunder by reason of force majeure for a continuous period of more than thirty (30) days, then the Seller may terminate the Agreement.

**18. Assignment; Delegation.** The Buyer may not assign any of its rights under the Agreement or delegate any performance under the Agreement, except with the prior written consent of the Seller. Any purported assignment of rights or delegation of performance in violation of this section is void. The Seller may assign any of its rights under the Agreement or delegate any performance under the Agreement to any Affiliated company.

**19. Entire Agreement.** The Agreement constitutes the entire agreement between the parties with respect to the subject matter of the Agreement and supersedes all other agreements, whether written or oral, between the parties.

**20. Amendments.** The Seller is hereby authorized to amend the provisions of this Agreement, from time to time, with no advance notice to the Buyer whether in writing or otherwise.