

## TERMS AND CONDITIONS OF PURCHASE

Thank you for purchasing a Charlie Cart™ Mobile Kitchen from The Charlie Cart Project!

These Standard Terms and Conditions (the "Agreement") contain the terms and conditions which apply to all sales of the Charlie Cart Mobile Kitchen ("Product") by The Charlie Cart Project ("Seller") to any buyer ("Buyer") of such Product.

Seller does not make any representations or agreements concerning third party appliances and tools included with the Product, such items are subject to their own terms and conditions, and manuals and other documents including such information as provided by the manufacturers of such items have been provided with the Product.

Buyer agrees that any order for, acceptance of, or payment for the Seller's Product shall conclusively be deemed to constitute Buyer's acceptance of this Agreement, and no other terms, express or implied, shall apply.

### Prices

Prices are subject to change at anytime, except with respect to orders which have been accepted by Seller and outstanding quoted prices which shall be valid for the period specified with the quote. All prices are based on the quantity indicated and are F.O.B. Seller facility. Any notice or instruction from the Buyer requesting a change in the quantity specifications, scope of work, or other terms, will not be effective unless accepted in writing by Seller, including appropriate adjustments to price, specifications, delivery date and other terms. Seller reserves the right to correct errors in pricing due to inaccurate or incomplete information, clerical mistakes or other causes. Prices do not include any tax or other governmental charge or assessment on the sale, shipment, production, or use of any products or services. Where appropriate and requested by Seller, Buyer shall provide Seller a tax exemption certificate (an IRS Letter of Determination) acceptable to the appropriate taxing authorities.

### Terms of Payment

The purchase price shall be due in full by Buyer at the time of purchase.

Invoices not paid on their date due will be subject to carrying charges which shall accrue and be added to the unpaid balance in the amount of one and one-half percent (1.5 %) per month of any overdue unpaid balance, or the maximum rate permitted by law, whichever is less. Buyer shall reimburse Seller for the costs of collection, including, without limitation, reasonable attorneys' fees, of any overdue amount owed by Buyer to Seller, and such collection costs shall also be subject to the carrying charges. Buyer may not hold back or set-off any amounts owed to Seller in satisfaction of any claims asserted by Buyer against Seller.

### Deliveries

All deliveries are F.O.B. All deliveries shall be made by reasonable means chosen by Seller. All risk of loss to the Product sold shall pass to Buyer upon delivery by Seller. Buyer shall carefully inspect all deliveries of the Product upon receipt and report to Seller promptly any alleged error, shortage, defect or nonconformity of such Product. Buyer agrees that it will not accept delivery of visibly damaged product, or product with packaging that is not entirely intact. Buyer waives any claim or right to revoke acceptance if Buyer fails to so inspect and report promptly.

Title to the Product shall remain with Seller until Buyer pays the Purchase price in full to Seller. Delivery is conditional on the timely receipt by Seller of documents necessary for the completion of the order, any down payment, and Buyer's compliance with these terms and conditions. Seller will use reasonable efforts to meet delivery schedules. Seller will not be liable for any delay in the performance of orders or contracts, or in the delivery or shipment of the Product, or for any damages suffered by Buyer by reason of such delay. Delivery is subject to Buyer maintaining credit satisfactory to Seller. Seller may suspend or delay performance or delivery at any time pending receipt of assurances, including full or partial prepayment or payment of any outstanding amounts owed, adequate to Seller in its discretion, of Buyer's ability to pay. Failure to provide such assurances shall entitle Seller to cancel this contract without further liability or obligation to Buyer.

## Cancellation/Changes

Buyer may not cancel or change an order once placed with and accepted by Seller except with the prior written consent of Seller and upon terms that will indemnify Seller against any loss. Seller may correct mathematical, clerical or transcription errors.

## Limited Warranty

Seller warrants that the Product sold is free from defects in material and workmanship for the period of one (1) year after purchase when assembled and operated in accordance with the accompanying Charlie Cart Manual. This Limited Warranty is extended only to the original purchaser and is not transferable to subsequent owners.

Seller provides no warranty with respect to appliances, electrical parts, attachments, and accessories to the main equipment (cart frame and body) and any part of the Product not manufactured by Seller. Buyer's exclusive remedy with respect to such items shall be the applicable manufacturer's warranty, if any. Seller will repair, or in its sole discretion, replace, any Product found to be defective at the time of delivery. This Limited Warranty does not cover (i) normal maintenance; (ii) normal wear and tear; (iii) use under circumstances exceeding specifications; (iv) abuse; (v) unauthorized repair or alteration including repair by Buyer; (vi) accident; (vii) failure to follow installation, maintenance and operating instructions; or (viii) damage caused by natural calamities such as fire, storm, or high wind.

This Limited Warranty is Buyer's exclusive remedy. It shall not be deemed to have failed of its essential purpose so long as Seller is willing and able to repair or, in its sole discretion, replace the defective Product in the manner specified. Descriptions, representations and other information concerning the Products contained in Seller's catalogs, advertisements or other promotional materials or statements or representations made by Seller's sales representatives or distributors shall not be binding upon Seller and shall not be part of this Limited Warranty. Except as provided herein, Seller shall not be liable to Buyer in any manner with respect to the Product. In no event shall Seller's liability to Buyer ever exceed the purchase price of the allegedly defective Product. Except as provided herein, Seller shall not be liable for transportation, labor or other charges for adjustments, repairs, replacements, installation, or other work which may be done upon or in connection with the Product sold.

Seller shall not in any event be liable for incidental or consequential damages of any nature whatsoever,

including lost profits, whether arising from any defect in the product, from any use of the product, from any inability to use the product, or otherwise.

No other express warranties and no implied warranties of any type, whether of merchantability, fitness for a particular use, title or otherwise, other than those expressly set forth herein (which are made expressly in lieu of all other warranties) shall apply to the product. The application of the Product and the output or performance capabilities and operational costs of the Product are not warranted. These will vary depending on maintenance, amount, method of operation and other factors not within Seller's control.

Buyer assumes the risk and liability for loss, damage, or injury to buyer and its property and/or to others and their property arising out of the misuse or abuse of the product or failure to follow instructions provided in the accompanying manual. Buyer expressly waives the provisions of California Civil Code section 1542, which states as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

This Limited Warranty gives you specific legal rights, and you may also have other rights that vary in different jurisdictions.

Parts replaced under this Limited Warranty are warranted only for the balance of the original warranty period(s).

Seller may from time to time change the design of its products. Nothing contained in this Limited Warranty shall be construed as obligating seller to incorporate such design changes into previously manufactured products, nor shall such changes be construed as an admission that the previous designs were defective.

## How to Make a Warranty Claim

If Buyer believes it has a part that is covered by this Limited Warranty, please contact Seller's Customer Service at [customerservice@charliecart.org](mailto:customerservice@charliecart.org). Seller will, upon investigation, repair or replace (at its option) a defective part covered by this Limited Warranty. In the event that repair or replacement is not possible, Seller may choose (at its option) to replace the Product in question with a new product of equal or greater value. Seller may ask Buyer to return parts for inspection, shipping charges to be paid by Buyer.

All repair work to be covered by this Limited Warranty must be authorized by Seller. Any repair/replacement

or other work performed by Buyer or any third party hired by Buyer without Seller's knowledge and approval will be at Buyer's expense. To avoid any possible confusion, Buyer should not schedule any repair/replacement work to be done if Buyer intends to assert a claim or action under this Limited Warranty. Buyer must allow Seller an opportunity to inspect the reported deficiency and to repair or replace the deficiency if Seller agrees it is covered by this Limited Warranty. Seller cannot guarantee a perfect match to original materials, colors or finish, but will use best efforts to match repairs to original materials, colors or finishes as close as reasonably possible.

## Legal Compliance

Buyer represents and warrants that it has complied and agrees that it will comply with all safety, maintenance and handling guidelines as specified in the Charlie Cart Manual and Curriculum Guide and all applicable laws, regulations and safety procedures pertaining to the Product, and to cooking in the classroom and on school grounds, including, without limitation, laws and regulations pertaining to transportation, storage, use, and installation of the Product.

Buyer shall have sole responsibility to obtain any transportation, storage, use, or other licenses or permits required under applicable laws and regulations. Buyer acknowledges that it has received and is familiar with the Charlie Cart Project safe handling procedures, as specified in the Cart Manual and Curriculum Guide and literature concerning the Product (including but not limited to appliance instructions, information, and warnings) and agrees to familiarize itself with all information and precautions and, in a timely manner, forward such information to its employees, agents, contractors, customers and others who will handle, use, process, install, or be exposed to the Product. Buyer agrees that it will not knowingly sell or transfer the Product to persons using or proposing to use the Product for purposes which are unsafe or prohibited by law. Buyer hereby assumes complete responsibility for: (a) having qualified personnel with requisite skills, training and experience to install, use, and handle the Product, (b) the suitability of the Product for the use intended by Buyer; (c) identifying, issuing and following all required instructions, labeling requirements and warnings concerning the use, transportation, processing, installing, and/or disposal the Product. Nothing contained in this Agreement shall be construed to void or diminish any warnings,

notices, instructions, or other information provided by Seller or its representatives or agents pertaining to product characteristics or the safe or appropriate use, handling, storage, installation, transport or disposal of products.

## Limitations

In no event whatsoever shall seller or any of its employees, agents or suppliers have any liability, whether based on breach of contract, warranty, breach of statutory duty, negligence, tort, strict liability or otherwise, in an amount in excess of the amount actually received by seller from buyer as purchase price for the products or services which are the subject of a claim. In no event whatsoever shall seller or any of its employees, agents or suppliers have any liability for any indirect, incidental, consequential, special, punitive or exemplary damages, even if seller has been advised of the possibility of such damages, including but not limited to any damages arising from or relating to any injury to persons; loss of value or use (including without limitation, diminution in value or stigma damages); loss of anticipated revenue or profit; cost of capital; damage to or loss of other property or equipment; claims made by end-users; or cost of substitute supplies, facilities or services. Any claim against Seller permitted under this Agreement and not brought within 6 months after the cause of action accrues shall be deemed waived by Buyer. Buyer agrees never to institute, file, initiate, prosecute or maintain any claim, demand, cause of action, action, suit, administrative or other proceeding (at law, in equity or otherwise), alleging any warranty or representation, or seeking any remedy, except for those warranties expressly provided in, or remedies permitted by, this Agreement.

## Entire Agreement

Seller and Buyer acknowledge that these Terms and Conditions of Sale, Buyer with regard to the sale or transfer of the Product sold and supersede all prior oral or written statements of any kind made by the parties or their representatives. These Terms and Conditions of Sale and Delivery may not be amended, modified, or supplemented except by written agreement executed by Seller and Buyer. The provisions of the Agreement are hereby deemed by the parties to be severable and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.