

Purilum LLC
Terms and Conditions of Sale

NOTICE: THIS TRANSACTION, AND ALL DOCUMENTS PERTAINING TO IT, INCLUDING ANY QUOTATION, PROPOSAL, ORDER CONFIRMATION, ORDER ACCEPTANCE OR INVOICE (COLLECTIVELY, "**SALES DOCUMENTS**"), IS SUBJECT TO AND CONDITIONED UPON BUYER'S ACCEPTANCE OF THESE TERMS AND CONDITIONS OF SALE ("**TERMS**") UNLESS OTHERWISE EXPRESSLY AGREED IN WRITING BY PURILUM LLC ("**SELLER**").

1. **Order Process; Acceptance; Additional or Conflicting Terms; Cancellation.**

(a) All sales of flavor concentrates, granulate mixtures, and e-liquid products and any other products sold by Seller (individually, "**Product**" and collectively, "**Products**") and any services Seller provides to Buyer including bottle or cartomizer filling services ("**Services**") are contracts entered into in North Carolina and then only in accordance with any documents signed by or issued by Seller in connection with a specific sale ("**Seller's Sales Documents**") and these Terms.

(b) Seller shall sell Products to Buyer in the quantities and at the times agreed to by Seller in writing. Any quotation or estimate prepared by Seller shall be valid for a period of 30 days from its date, unless withdrawn by Seller. Buyer may order Products by submitting written purchase orders (each, a "**Purchase Order**") that contain the requested Product(s) and requested delivery date. All orders submitted to Seller for Products or Services, whether via Purchase Order or otherwise, are subject to final written acceptance by Seller and no orders are binding upon Seller until so accepted. Seller's acceptance may be in writing (such as via an order confirmation), including via email, or by delivery of the Products to, or performance of the Services for, Buyer. Buyer is solely responsible for proper selection of the Products.

(c) Every contract between Buyer and Seller for the sale of Products or the provision of Services shall be governed by the terms contained in Seller's written quotation, proposal, any subsequent order confirmation and these Terms (together, the "**Contract**"). In no event shall Buyer's terms apply to, nor shall Buyer's proposed additional or different terms modify, the Contract unless Seller expressly includes the proposed terms in the Contract. **Seller hereby objects to and rejects any additional or different terms or conditions proposed by Buyer or contained in any Purchase Order, commercial document or other correspondence from Buyer, regardless of any knowledge Seller may have of such terms, and such terms shall not bind Seller.** If any of these Terms conflict with Seller's Sales Documents, the specific terms stated in those Sales Documents shall prevail over these Terms. The Contract supersedes any commercial documents issued by Seller. The applicable terms of the latest Sales Documents shall control over such terms in any prior Sales Documents. No other terms or changes, modifications, amendments or waivers of any terms in the Contract shall apply to Seller unless in writing and signed by an authorized officer of Seller.

(d) Buyer may not cancel or change the Contract except with the prior written consent of Seller (in which case a cancellation charge will apply equal to the greater of the value of the material and work performed on the cancelled order or 25% of the order value) and upon terms that will indemnify Seller against any loss. Seller may change an order at any time to correct mathematical or clerical errors.

2. **Description of Products.**

(a) The quantity and description of the Products and/or Services are set out in Seller's Sale Documents.

(b) Seller reserves the right to change any descriptions, drawings, specifications, technical data, illustrations, brochures, catalogues, advertising materials and any other materials provided regarding the Products at any time without notice.

3. **Prices.**

(a) All prices will be as specified by Seller in its Sales Documents and are firm for the quantity and schedule set forth in the Sales Documents (and are subject to change if Seller allows a change in the quantity or schedule). All prices published by Seller or quoted by Seller's representatives may be changed at any time without notice.

(b) The price does not include any sales, use, personal property, excise, transfer or other tax, duties or assessment related to the Products or Services or their purchase and sale which may be imposed by any governmental authority, all of which shall be the obligation of, and paid by, Buyer. In the event that Seller pays any such tax or assessment, Buyer shall reimburse Seller in accordance with the terms of **Section 4(a)**. Buyer is responsible for obtaining and providing to Seller any certificate of exemption or similar document required to exempt any sale from sales, use or similar tax liability.

(c) In addition to the price, the Buyer shall be responsible for costs associated with the following: (i) any additional work carried out by Seller, at the Buyer's request, which Seller was not originally contracted to undertake; (ii) any work required as a result of any conditions that the Seller did not know existed at the date of the order acknowledgement; (iii) any work or costs as a result of the Buyer providing inadequate or inaccurate instructions, information or drawings to Seller; and (iv) Seller's travel costs at its standard travel rate then in effect. Buyer shall reimburse Seller for such additional costs in accordance with the terms of **Section 4(a)**.

4. **Payment.**

(a) The Seller's Sales Documents for each order will set forth when payment is due. Time is of the essence with regard to payment. The date of payment will be the date Seller receives payment in full. If at any time, in its sole judgment, Seller has any doubt as to Buyer's financial responsibility, Seller may decline to make further shipments, or provide further Services, except upon receipt of a deposit or other satisfactory security or cash before shipment or provision.

(b) If Buyer fails to make any payments when due, then (i) interest shall accrue from the date the payment was due until payment is received in full at the lower of 1.5% per month or the maximum amount allowed by applicable law, (ii) Buyer shall pay Seller's reasonable attorneys' fees and other costs of collection of any past due amounts, and (iii) Seller may, at its sole discretion, take any of the following actions: suspend or cancel delivery of the Products and/or performance of the Services; terminate the Contract for default; require Buyer to pay the full Contract price; and take any other actions or pursue any other remedies under applicable law. Failure by Seller to charge interest on late payments or to exercise its right to suspend its performance shall not be construed as a waiver of any other legal or equitable remedies.

5. **No Setoff.** Buyer shall not have any right of set-off with regard to any amounts owed to Seller, regardless of any dispute that may arise between the parties.

6. **Delivery.** Unless otherwise stated in Seller's order confirmation, all deliveries of Products shall be made FOB Seller's dock in Greenville, North Carolina. Buyer shall be solely responsible for the costs and expenses of any transportation, packaging, insurance, duties, and tariffs associated with the Products. Any Services will be performed at the location set forth in the Sales Documents. Seller may make partial deliveries. Any such partial delivery shall not give the Buyer any right to reject the Products delivered or to claim damages and the Buyer shall be obliged to accept and pay for the quantity of Products delivered. Notwithstanding any requested dates by Buyer, the delivery and performance dates in Seller's order confirmation shall control. Any shipping, delivery or performance schedule, quotation, forecast or commitment is only an estimate and Seller will not be liable for any delay or failure to deliver all or any part of any order for any reason. Seller shall not be responsible for any damage to the Products caused by a carrier and Buyer's sole recourse for such damage shall be against the carrier. If, for any reason, the Buyer fails to pick up any of the Products when they are ready for delivery, or the Seller is unable to deliver the Products on time because the Buyer has not provided appropriate instructions, documents, licenses or authorizations, then Seller may store the Products until actual delivery, whereupon the Buyer will be liable for all related costs and expenses (including, without limitation, storage and insurance costs).

7. **Security Agreement.** Buyer grants Seller a continuing purchase money security interest in all Products sold or delivered to it (collectively, the "**Collateral**") to secure the full payment of the purchase price of the Products and all other obligations of Buyer. Buyer authorizes Seller to file all financing statements, continuation statements and other documents necessary or desirable to establish, perfect, maintain, preserve and enforce Seller's security interest in the Collateral.

8. **Buyer's Obligations and Warranties.**

(a) Buyer shall promptly pay the Contract price and any other amounts due under the Sale Documents.

(b) Buyer warrants that it has the necessary authority to enter into the Sale Documents. Buyer warrants that all the information provided to Seller is true and accurate and acknowledges that Seller is relying upon such information in relation to the provision of the Products and/or Services.

(c) Buyer warrants that any manufacturing or packaging supplies or containers, such as bottles and cartomizers, provided to Seller by Buyer from any source, shall be of good quality and free of any materials or chemicals which would alter or contaminate in any way Seller's product and shall not infringe upon, violate or misappropriate the intellectual property rights of any person. Buyer further agrees to defend, indemnify and hold Seller harmless of and from any and all liability, claims, damages of any nature, law suits or other causes of action which may result from Buyer's violation of this Warranty. Buyer hereby acknowledges Seller's reliance on Buyer's representations

as to the safety and quality of any supplies provided by Buyer for Seller's use in fulfilling any contract for the sale of goods or the provision of services to Buyer.

9. **Limited Warranty; Limited Remedy.**

(a) Subject to these Terms, Seller warrants that Products purchased pursuant to this Agreement will at the time they are produced meet the standards set forth in the Certificate of Quality provided upon request to Buyer with each purchase and that any Services it provides will be performed in a workmanlike manner. SELLER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS OR SERVICES PURCHASED UNDER THIS AGREEMENT, AND SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, OR ANY OTHER EXPRESS OR IMPLIED WARRANTY WHATSOEVER. The Parties agree that Seller's liability to Buyer (whether under breach of warranty, breach of contract, negligence, strict liability or any other legal theory or theories, whether now existing or hereafter recognized) shall be limited to the replacement of the allegedly defective Product or repeating or correcting any non-conforming Service, which shall be Buyer's exclusive remedy. Under no circumstances shall Seller be liable to Buyer, or parties claiming by, through or under Buyer, for any special, punitive, incidental and/or consequential damages (including specifically but without limitation lost profits), or any other pecuniary loss, regardless of whether Seller has been advised that such damages may be incurred, arising out of any element or aspect of the sale, use or inability to use the Product or service provided, including without limitation damages or expenses of whatsoever kind or nature arising out of any product liability or any other legal action. Any cause of action or claim arising out of or relating to this Agreement or the Product or Service purchased under this Agreement shall be brought within one year from the date of delivery of the Product for pick up or provision of the Service.

(b) Any Product or Service descriptions, diagrams, illustrations and similar depictions, whether included in catalogs, prospectuses, or otherwise, are descriptions, illustrations or approximations only, and do not constitute any specifications, representations, warranties, or guarantees, implicitly or explicitly.

(c) No sales representative, employee or any other person or entity is authorized to offer any different or additional warranties or remedies, or to change the Limited Product Warranty or Limited Service Warranty, without the signature of an authorized officer of Seller.

(d) Buyer shall timely give Seller written notice of any Products or Services which Buyer alleges do not conform to the Limited Warranty, specifying the alleged non-conformities (each notice, a "**Warranty Claim**"). Buyer agrees to follow Seller's Warranty Claims process then in effect. Buyer must make any Warranty Claim in a timely fashion, and failure to do so shall void the Limited Warranty. Seller shall have a reasonable opportunity to inspect the Product or part thereof to determine whether the Warranty Claim is covered by the Limited Warranty.

10. **Limited Warranty Exclusions.** The Limited Warranty does not apply if the Product is (1) used with containers that leach impurities or other contaminants into the Product including without limitation Bottles and Cartomizers provided by or on behalf of Buyer for Seller to fill, (2) used under any circumstances exceeding Seller's specifications or limitations or contrary to any instructions or information provided by Seller concerning the use of the Products, or (3) impurities are introduced into the Products by any other means after they are delivered by the Seller.

11. **Limitations; Exclusions.**

(a) SELLER'S MAXIMUM AGGREGATE LIABILITY UNDER THE CONTRACT OR WITH RESPECT TO THE PRODUCTS OR THEIR USE OR THE SERVICES, WHETHER IN WARRANTY, CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, SHALL NOT EXCEED THE AMOUNT BUYER PAID TO SELLER FOR THE PARTICULAR PRODUCTS OR SERVICES AT ISSUE.

(b) Seller's sole obligation and Buyer's sole remedy for any breach of warranty shall be as set forth in Section 9(a).

(c) IN NO EVENT SHALL SELLER BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS, REGARDLESS OF THE THEORY OF RECOVERY, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12. **Termination.** Without limiting Seller's other rights and remedies available under applicable law, Seller may suspend or terminate performance and delivery, if: (a) there is a change in the control or management of Buyer; (b) Buyer ceases to conduct its operation in the normal course of business; (c) Buyer becomes insolvent or files for bankruptcy or has a bankruptcy proceeding filed against it; (d) Buyer makes an assignment for the benefit of

credits, or a receiver, trustee in bankruptcy or similar officer is appointed to take charge of all or part of Buyer's property; or (e) Buyer fails to perform or observe any of its obligations to Seller under the Sales Documents issued by Seller or under other existing or future contracts between Seller and Buyer or otherwise, including payment of any purchase price, fees or charges as and when due.

13. **Buyer Representation and Indemnity.** Buyer will comply with all applicable laws and regulations regarding the transfer, handling, packaging, sale, use or other disposition of the containers filled under this Agreement or containing Products sold under this Agreement. Buyer agrees that any product intended for human use made with Products or Services sold under this Agreement shall be packaged for end use with all required warning labels. Further, to the fullest extent permitted or not prohibited by law, Buyer agrees to indemnify, defend and hold Seller, its members, affiliated and subsidiary companies, and such entities' respective officers, directors, shareholders, agents and employees, and such individuals' and entities' successors and assigns (individually or collectively, the "**Seller Parties**"), harmless from and against any and all losses, costs, damages, fines, fees, claims, liabilities, lawsuits, arbitrations, penalties, expenses, settlement costs, and obligations of every kind and description (including without limitation reasonable attorneys' fees), contingent or otherwise (individually or collectively, the "**Claims**"), which are paid, incurred, suffered by or asserted against the Seller Parties, which arise out of or relate, directly or indirectly, to (a) this Agreement, and/or (b) any allegation or claim of violation by Buyer or by any subsequent purchaser of Products or Services sold under this Agreement, or any purchaser and/or user (or anyone claiming on behalf of any purchaser and/or user) of any product incorporating Products or Services sold under this Agreement, of any applicable law or regulation (including without limitation in connection with the sale, use or other disposition of the Products sold under this Agreement), and/or (c) the negligence, intentional act or strict liability of Buyer, its agents and employees (including without limitation claims alleging economic loss, bodily injury or death, or injury to or destruction of tangible property, including the loss of use resulting there from), and/or (d) any and all claims of every kind and description arising out of or relating to the use and/or sale of the Products or Services sold under this Agreement, including specifically but without limitation product liability claims. At Seller's request, Buyer shall defend Seller, at Buyer's expense, against any such claim made against Seller.
14. **Force Majeure.** With the exception of payment requirements, neither party shall be liable, and performance shall be deemed extended, for delays or failure to perform directly or indirectly resulting from events and causes beyond its reasonable control, including but not limited to accidents, acts of God, acts and omissions of any governmental authority, declared or undeclared wars, terrorism, explosions, strikes or other labor disputes, fires and natural calamities (including floods, earthquakes, storms and epidemics), changes in the law, and delays in obtaining (or the inability to obtain) labor, materials or services through usual sources at normal prices. If Products, or labor, materials or services for producing Products, are not available through Seller's usual sources at normal prices, then (a) Seller may allocate its supplies among its customers, including those not under contract, in any reasonable manner without liability, and (b) Seller will not be held to the price set forth in the Sales Documents and Seller and Buyer agree to re-negotiate the price based on those actual cost increases to Seller. Seller shall have no obligation to purchase supplies to enable it to fulfill any order.
15. **Notices.** Any notice permitted or required under these Terms will be deemed given if in writing and delivered personally, deposited in the United States mail, certified mail, return receipt requested, or with Fed Ex or another reputable overnight carrier, or sent by facsimile, to the respective address of Seller and Buyer.
16. **Confidential Information.** All confidential or proprietary information ("**Confidential Information**") provided by Seller to Buyer shall not be disclosed by Buyer to any person unless the disclosure is agreed to in writing by Seller or the Confidential Information is otherwise generally available to the public.
17. **No License.** Buyer agrees and confirms that it has no, and Seller's sale of the Products shall not be construed as granting to Buyer any, license or intellectual property or similar right applicable to or in the Products, or any estimates, drawings, illustrations, calculations, installation instructions or other document Seller provides to Buyer even if developed jointly by Buyer and Seller. Seller retains ownership and control over all intellectual property including patents, trademarks, and copyrights applicable to or arising out of the Products or Services, whether developed by Seller or jointly, as well as the exclusive right to manufacture the Products. Buyer shall not name or designate any Seller product information or Products in any process patent application. Buyer may not alter or remove, and shall abide by, any patent, trademark, copyright, trade secrets, proprietary or other notices contained on or in the Products.
18. **Insurance.** Buyer shall maintain commercial general liability, personal injury and property damage insurance policies, including wrongful death coverage, with per-claim coverage limits as required in Seller's Sales Documents with a nationally recognized insurance company or, if no such limits are included in the Sales Documents, in amounts that are commercially reasonable for similar firms in Buyer's industry.
19. **Relationship.** Seller is an independent contractor. Nothing in this Agreement shall be construed as creating a partnership, association or joint venture between the parties. Buyer shall have no power or authority to enter into

any commitment on behalf of or otherwise bind Buyer on any matter including making any representation or warranty on behalf of Buyer. No employee of either party shall be deemed to be an employee of the other party.

20. **No Waiver; Severability.** Any failure by Seller to exercise any of its rights under these Terms or any Sales Documents shall not be construed as a waiver of such rights. In the event any of the provisions of these Terms of any Sales Documents are held to be invalid by any court of competent jurisdiction, such provision(s) shall be deemed to be severable and these Terms and any Sales Documents shall then be construed and enforced in accordance with the remaining provisions.
21. **WAIVER OF JURY TRIAL.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH OF THE BUYER AND SELLER, BY ACCEPTANCE HEREOF, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT EACH MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED ON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THE TRANSACTIONS GOVERNED BY THESE TERMS, THE PRODUCTS OR THE SERVICES.
22. **Choice of Law; Venue.** This transaction and any controversy arising from or relating to the transaction, or the Products or the Services shall be governed by the laws of the State of North Carolina, excluding its conflicts of law principles and this Contract shall not be governed by the provisions of the 1980 United Nations Convention on the International Sale of Goods which is expressly excluded. The parties agree that the General Court of Justice for the State of North Carolina and the United States District Court for the Eastern District of North Carolina, shall constitute the sole and exclusive judicial forum(s) and venue and, therefore, shall have sole and exclusive jurisdiction over the adjudication and resolution of any and all disputes or controversies arising out of or relating to this Contract or the purchase and sale of Products or Services. Buyer and Seller hereby consent and submit to the exercise of personal jurisdiction over them by the General Court of Justice for the State of North Carolina and United States District Court for the Eastern District of North Carolina.
23. **Non-Assignment; Entire Agreement.** Buyer may not assign all or any portion of its rights or obligations under the Contract without Seller's prior written consent, and any attempted assignment without that consent shall be void. The Contract contains the entire agreement of the parties relating to the subject matter and supersedes all previous and contemporaneous agreements, understandings, usages of trade and courses of dealing, whether written or oral.