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## Terms and Conditions

These Terms and Conditions apply to the sale of ExtractionTek Sales, LLC (“ETS”) machines, equipment, accompanying parts, accessories, and other items (“Goods”) and services, commissioning, training, and consultation (“Services”) to the customer (“Customer”). These Terms and Conditions are expressly incorporated by reference into ETS sales orders and invoices (which together with these Terms and Conditions are the “Agreement”). Any conflicting terms submitted by the Customer are expressly rejected, and acceptance of the Goods and Services is limited exclusively to this Agreement.

### **I. Payment**

**1. Quotes.** All purchase price quotations in sales orders are made for immediate acceptance and are valid only for thirty (30) days from the date of quotation, unless otherwise specifically stated in writing.

**2. Shipping and Delivery Costs.** The Customer shall pay, or reimburse ETS for, any applicable freight charges, all applicable taxes, import and export costs, and other reasonable and related charges.

**3. Payment Timing.** Unless otherwise agreed to in writing by both parties, the Customer shall pay ETS the full purchase price prior to the shipment of any Goods, or performance of any Services.

**4. Credit Card Payments.** The Customer represent and warrants it has all necessary authority to make any payments, expressly including payments by credit card.

**5. Prompt Payment.** Customer agrees to pay all amounts payable to ETS when due, **TIME BEING OF THE ESSENCE**. The Customer acknowledges delivery schedules, shipment dates, and Service delivery are estimated based on forecasted production availability and personnel availability at the time payment is received and may be subject to delays until payment is received.

**6. Additional Service Costs.** The Customer shall pay (a) the then-applicable extended services fee per each hour of additional work beyond the scope of the Service, and (b) for any additional costs that may arise during the Services or are outside the scope of the Services. ETS must have written pre-approval from the Customer to charge the Customer for an additional cost related to the Services that in one transaction, or series of related transactions, exceeds \$1,000. Any additional costs or charges are due on presentation of an invoice.

**7. Reschedule Fees.** The Customer acknowledges and agrees there will be no refund for payments if the Services are delayed or rescheduled due to the action or inaction of the Customer, and ETS will incur costs and expenses to reschedule any Services. The Customer shall pay the full cost for any rescheduled Services including reschedule fees. The parties acknowledge and agree the reschedule fees

reflect the cost to ETS to reschedule Services and are not a penalty. The parties agree the reschedule fees are reasonable.

**8. Late Fees.** In the event that Customer fails to pay any amounts under this Agreement when due, then ETS may charge interest on such late payments until paid at a rate equal to the lesser of (a) 1.5% per month and (b) the maximum rate of interest permitted under applicable law.

### **II. Shipping and Delivery**

**1. Production and Ordering.** Once ETS accepts payment (the “deposit”), ETS shall commence the manufacturing and ordering process for the applicable Goods. The deposit is nonrefundable. ETS materially relies on the deposit to perform its obligations in this Agreement.

**2. Shipping Terms.** ETS shall ship the Goods FOB origin to the Customer address on file at ETS. ETS may arrange shipping on behalf of the Customer, but such services by ETS do not change Customer’s liability for the cost and risk of loss, damage, or delay in shipping and handling.

**3. Inspection and Acceptance.** The Customer must open external crating to inspect the Goods at time of delivery. If damage is detected, including an indication of damage on a tip or shock sensor (or other sign of improper handling during shipping) mark the damage on the receiving documents, and contact your customer success manager immediately via email with pictures of the damage, but no less than 24 hours after receipt of the Goods. If the Customer receives Goods that do not match the ETS invoice, or the wrong quantity of Goods (together and individually, “non-conforming”), then the Customer must contact the customer success manager immediately via email with details, but no less than 24 hours after receipt of the Goods. **Failure to annotate the receiving documents when there is visible damage or contacting the customer success manager when there are non-conforming Goods may result in additional costs to the Customer.** If the Customer timely notifies ETS of damaged or non-conforming Goods, then ETS will in its sole discretion and sole expense either repair or replace the Good. At the request and expense of ETS, the Customer will ship any non-conforming or damaged Goods to ETS. The Customer accepts delivery on Customer’s inspection of



the Goods as set forth herein (excluding any damage that cannot be discovered prior to use).

**4. Non-Delivery.** If ETS is unable to deliver the Goods because of the Customer's actions (or lack of action) then (a) risk of loss passes to the Customer; (b) the Goods are deemed delivered; and (c) ETS may in its sole and absolute discretion either store the Goods or return the Goods to ETS. The Customer shall reimburse ETS for all fees and expenses ETS incurs for storage, shipment, restocking, and other costs that arise. Until Customer reimburses ETS for the aforementioned expenses, ETS shall not redeliver the Goods, accept any new order from Customer, or release the Goods to the Customer.

**5. Title.** Title transfers at the later of either (a) the Customer makes full payment for the Goods, or (b) the Customer accepts the Goods pursuant to this Agreement.

**6. Returns.** ETS may accept or reject a return request in its sole discretion. **ETS WILL NOT ACCEPT A USED GOOD. CUSTOMER WILL RECEIVE NO REFUND FOR A RETURN OR ATTEMPTED RETURN OF A USED GOOD.** ETS may require documentation before accepting a return request. A 25% restocking fee will be charged for a return. Except where provided in this Agreement, the Customer must pay for shipping and handling of any return.

### III. Limited Warranty

**1. Limited Warranty.** ETS warrants the Goods against any defects in material or workmanship (the "**Limited Warranty**"). This Limited Warranty applies only to Goods manufactured by ETS. This Limited Warranty will remain in force for **1 year** from the date the Customer takes possession of the Goods (the "**Warranty Period**"). If the Customer misuses or does not properly service, store, or maintain the Goods, then the Customer voids the Limited Warranty.

**2. Warranty Fulfillment.** During the Warranty Period, ETS, at its sole and absolute discretion, shall either repair or replace, at no charge, Goods, or parts of a Good that breach the Limited Warranty. If after inspection ETS determines the Goods do not breach the Limited Warranty, then the Customer shall pay ETS its labor and material costs for repair or replacement.

**3. Consumables.** Consumables are expressly excluded from the Limited Warranty. Consumables are expendable materials, parts, and other items which are designed or expected to be replaced periodically. Consumables are the Customer's responsibility, and the Customer shall replace them at its own cost as the need arises and as may be recommended by ETS.

### IV. Services

**1. Scheduling.** Services will take place at the Customer's facilities (or other location agreed to in-writing by the parties) when all conditions have been met, and at a time that is reasonably convenient to both parties. Services dates are scheduled subject to party and personnel availability.

**2. ETS Obligations.** ETS shall conduct and support Services in a safe, timely, and workmanlike manner. ETS will use sufficiently experienced and qualified personnel as determined solely by ETS ("**Technicians**") to perform the Services.

**3. Conditions to ETS performance.** For ETS to fulfill its obligations, The Customer must meet the conditions below. If the Customer does not meet these conditions, then the Customer is responsible for any resulting delays or damages, and payment of any applicable rescheduling fees before ETS can perform the Services. The Customer shall:

- (a) provide an authorized point of contact to ETS for scheduling and on-site coordination;
- (b) be fully prepared before a Technician arrives on-site, and (if applicable) complete the requirements in all applicable checklists;
- (c) notify ETS of any barriers, security clearance, insurance requirements, any special training, or introduction sessions (and the applicable fees);
- (d) disclose any building or location restrictions that need to be met such as scheduling requirements, or any other building facility management requirements;
- (e) provide facilities that are sufficiently safe and appropriate to prevent damage to any persons or goods used in any Services;
- (f) adhere to all guidance and documentation provided by ETS in writing for the conduct of any Services; and
- (g) **HAVE ON-SITE ALL NECESSARY GOODS, INCLUDING ALL REQUIRED EQUIPMENT AND MACHINES, FOR THE SERVICES.**

**4. Checklists.** To ensure the Customer is prepared prior to a Technician arriving on site, ETS may require the Customer to complete one or more pre-Service checklists. The parties must complete the checklists before a Technician arrives on-site. By initialing the checklist where required, each party, as applicable, represents and warrants as follows.

- (a) The authorized representative who completes the checklists has the full power, right, and authority to enter into, execute and complete the checklist requirements on behalf of the Customer.
- (b) Customer signifies that the facility is ready for a Technician to be sent to Customer's facility.
- (c) If the Customer changes the Services dates, the Customer agrees to pay any applicable reschedule fees and agrees to reschedule the Services at full price.
- (d) The ETS authorized representative confirms the



Customer has completed this Agreement, and the checklists, in full with all required information necessary for Services to take place at the Customer's facility, on the Service date(s).

**5. Safety.** If the Customer, their personnel, or any other third party violates applicable safety standards or engages in unsafe conduct as part of the Services, then the Technician will not participate in such acts and the Customer will indemnify and hold ETS harmless from any resulting liability, cost, delay, or damage. By way of example and without limitation, the Technician may in their sole reasonable discretion leave the facility without fault, and the Customer will be responsible for all rescheduling fees and costs, in the following circumstances.

- (a) The facility is unsafe due to improper or hazardous electrical wiring, misuse of potentially dangerous tools and or equipment, inadequate exhaust system, fire hazards, chemical hazards, or biological safety hazards.
- (b) The Customer facility is a hostile work environment, or the Technician faces discrimination for any reason.
- (c) The Customer does not adhere to all appropriate health and safety precautions in its jurisdiction, or the Customer exhibits potential highly infectious symptoms, such as symptoms of COVID-19.

**6. COVID-19.** Each party recognizes that determining the source of a case of COVID-19 is extremely difficult, thus each party waives any claims it may have against the other arising from or caused by an outbreak of COVID-19 among such party's personnel.

**V. Disclaimers**

**1. THE GOODS HAVE INHERENT RISKS THAT INCLUDE, BUT ARE NOT LIMITED TO, INJURY AND DEATH. IF THE CUSTOMER (a) MISUSES THE GOODS, (b) MODIFIES THE GOODS WITHOUT PERMISSION, (c) USES THE GOODS NEGLIGENCE, GROSSLY NEGLIGENCE, OR ENGAGES IN WILLFUL MISCONDUCT, OR (d) DOES NOT OPERATE OR MAINTAIN THE GOODS ACCORDING TO THE ETS PROVIDED MANUALS, THEN THE CUSTOMER ASSUMES ALL RISKS, ETS MAKES NO GUARANTIES, AND NO GUARANTIES ARE GIVEN OR IMPLIED BY ETS TO THE EFFECTIVENESS OR SAFETY OF THE GOODS.**

**2. PARTICIPATION IN ANY SERVICES HAS CERTAIN INHERENT DANGERS. THE RISKS POSED BY THE SERVICES INCLUDE, BUT ARE NOT LIMITED TO, INJURY OR DEATH. EACH PARTICIPANT ASSUMES ALL RISKS OF PARTICIPATION IN ANY SERVICE.**

**3. EXCEPT FOR THE REPRESENTATIONS, WARRANTIES, AND CONDITIONS IN THIS AGREEMENT, THE GOODS AND SERVICES ARE PROVIDED WITHOUT WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WARRANTY OF NONINFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY, ANY WARRANTY ARISING FROM CUSTOM OR USAGE IN TRADE, ANY WARRANTY RELATING TO THIRD PARTY GOODS OR SERVICES, ANY WARRANTY THAT THE GOODS ARE OF GOOD QUALITY, OR ANY WARRANTY THAT THE GOODS ARE IN GOOD WORKING ORDER.**

**4. IN NO EVENT WILL ETS BE LIABLE FOR ANY INCIDENTAL, DIRECT, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES TO PROPERTY OR LIFE, INCLUDING CONSEQUENTIAL DAMAGES FOR PRODUCT LIABILITY, NEGLIGENCE, INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS, STRICT LIABILITY, OR OTHER THEORY OF LIABILITY, WHATSOEVER ARISING OUT OF OR CONNECTED WITH THE GOODS OR SERVICES.**

**7. IN NO EVENT WILL ETS BE LIABLE FOR ANY THIRD-PARTY GOODS OR SERVICES. ETS IS NOT RESPONSIBLE FOR THE ACTS OR OMISSIONS OF ANY OTHER PERSON RETAINED BY CUSTOMER OR FOR WORKS OR ANY EQUIPMENT SUPPLIED BY SUCH OTHER PERSONS, OR FOR THEIR PAYMENT, WELFARE, PROVISION OF SAFETY EQUIPMENT OR SAFE MEANS OF WORKING, OR FOR THEIR WORK, PRODUCTIVITY, OR WORKMANSHIP. ETS DOES NOT PROVIDE ANY WARRANTIES, EXPRESS OR IMPLIED, FOR ANY THIRD-PARTY MANUFACTURED GOODS. THE ONLY WARRANTIES FOR THIRD-PARTY GOODS ARE PROVIDED BY THE MANUFACTURER.**

**5. THIS ARTICLE IS INDEPENDENT OF, SEVERABLE FROM, AND TO BE ENFORCED INDEPENDENTLY OF ANY OTHER ENFORCEABLE OR UNENFORCEABLE PART OF THIS AGREEMENT.**

**VI. Miscellaneous**

**1. Confidentiality.** All non-public, confidential, or proprietary information of ETS, whether or not marked as "confidential," in connection with this Agreement is confidential, solely for the use of performing this



Agreement and may not be disclosed or copied unless authorized by ETS in writing (“**Confidential Information**”). ETS is entitled to injunctive relief for any breach of this section without any requirement to (y) post a bond or other security, or (z) prove actual damages or that monetary damages will not afford an adequate remedy.

**2. Ownership of IP.** This sale of Goods and performance of Services does not include a transfer of any intellectual property rights. ETS and each other respective owner of the intellectual property rights embodied in the Goods, manuals, their packaging, and the Services retains its rights in the intellectual property. This includes all trademarks, branding, copyrightable content, and patentable inventions. The Customer may not reverse engineer the Goods. ETS grants the Customer a limited, non-transferable, non-sublicensable, royalty-free license sufficient to use the intellectual property embodied in the Goods.

**3. Indemnity and Waivers.** The Customer will indemnify, defend, hold harmless ETS from any claim, whether or not a lawsuit is filed, by any third-party against ETS related to (a) Goods and Services purchased by Customer; (b) Customer’s negligence, willful misconduct or breach of any of the warranties or other term or condition of this Agreement, or any related document; (c) relating to a purchase of a Good by any person or entity purchasing directly or indirectly through Customer; (d) relating to any failure by Customer or its personnel to comply with any applicable local, state, or federal law provided however this does not include federal laws restricting the possession, sale, cultivation, manufacture or distribution of cannabis or cannabis-related products; or (e) alleging that the Customer breached its agreement with a third party as a result of or in connection with entering into, performing under or terminating this Agreement. Customer shall not enter into any settlement without ETS’s prior written consent.

**4. Force Majeure.** No party will be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other party under this Agreement), when and to the extent the failure or delay is caused by or results from acts beyond the impacted party’s control (“**Force Majeure Events**”). Any pandemic public health orders existing at the time this Agreement is executed, a party’s economic hardship, or changes in market conditions are not considered Force Majeure Events. The impacted party shall give notice to the other party, stating the period of time the occurrence is expected to continue. The impacted party shall use diligent efforts to end the failure or delay and ensure the effects of the Force Majeure Event are minimized. The impacted party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. Either

party may terminate this Agreement, and retain all amounts paid, if the Force Majeure Event continues for more than 90 days.

**5. Goods Not for Resale or Export.** The Customer agrees to comply with all applicable laws and regulations of the various states and of the United States including all export regulations and anti-corruption laws such as the Foreign Corrupt Practices Act. The Customer represents and warrants that the Customer is buying the Goods for use in the Customer’s internal business operations, and not for resale or export. The Goods may be controlled for export purposes by export regulations, including but not limited to, the Export Control Reform Act of 2018 (ECRA) (Title XVII, Subtitle B of Pub. L. No. 115-232), and the Export Administration Regulations (15 C.F.R. 768-799) for which ECRA is permanent statutory authority and their successor and supplemental regulations.

**6. Compliance with Law.** Customer is in compliance with and shall comply with all applicable laws, regulations and ordinances provided that, that the requirements under this provision do not include federal laws restricting the possession, sale, cultivation, manufacture or distribution of cannabis or cannabis-related products. Customer has and shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement. For the avoidance of doubt, the Customer is responsible for ensuring the Goods are compliant with all laws and regulations in the jurisdiction where the Goods will be used.

**7. Choice of Law.** This Agreement, all documents reference hereing, and all matters arising out of or relating to this Agreement, are governed by, and construed in accordance with, the laws of the State of Colorado, without regard to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Colorado. For the avoidance of doubt, the United Nations Convention on Contracts for the International Sale of Goods is expressly and entirely excluded.

**8. Arbitration.** The parties agree any dispute arising from, or related to, this Agreement or the Goods will be resolved by submission to arbitration. The parties agree to arbitrate a dispute at a location that is mutually convenient to both parties, which may include online/virtual arbitration, or arbitration by document submission. All decisions and awards rendered by the arbitrator will be final and binding on the parties for all questions submitted to such arbitrator and the costs associated with such submission will be shared equally by the parties unless the arbitrator decides otherwise. The parties agree all awards are in United States dollars (USD) and the language of arbitration will be English. The parties waive all rights of appeal therefore to any court or





tribunal and agree that the only recourse by any party to any court will be for the purpose of enforcing an arbitration award. The parties submit to the venue and jurisdiction of any court solely for the purpose of enforcement of any arbitration award. To the extent not addressed in this Agreement, the American Arbitration Association (AAA) commercial arbitration rules govern arbitration. The prevailing party in any dispute arising from, or related to, this Agreement or the Goods is entitled to recover reasonable attorneys' fees, costs, and disbursements (in addition to any other relief to which the prevailing party may be entitled).

**9. Entire Agreement.** This Agreement, and the related documents referenced herein, constitutes the entire agreement between the parties concerning the subject matter hereof. No prior or contemporaneous representations, inducements, promises, or agreements, oral or otherwise, between the parties will be of any force or effect. Each party represents and warrants that, in entering and performing its obligations under this Agreement, it does not and will not rely on any prior promise, inducement, or representation allegedly made by or on behalf of the other party with respect to the subject matter hereof, nor on any course of dealing or custom and usage in the trade, except as such promise, inducement, or representation may be expressly set forth herein.

**10. Amendments, Waiver, Assignment, Counterparts, and Survival.** This Agreement may not be amended except in a writing signed by the authorized representatives of both parties. No waiver of any provision of this Agreement will be effective unless made in writing and signed by the party waiving the provision. The failure of either party to enforce any provision of this Agreement will not constitute or be construed as a waiver of the right to enforce it later. The Customer may only assign this Agreement with ETS's written consent. ETS may assign this Agreement without Customer consent, including as part of any change of control, merger, consolidation, or sale of all or substantially all the assets of ETS. This Agreement is binding upon, and inures to the benefit of, the parties hereto and their respective heirs, successors, and permitted assigns. Nothing in this Agreement, express or implied, confers on any other person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement. This Agreement may be executed in separate counterparts, each of which so executed and delivered will constitute an original, but all such counterparts constitute the same instrument. Signatures may be executed and delivered electronically. Articles III, IV, and V survive termination of this Agreement.

**11. Severability.** If any provision of this Agreement is found invalid, illegal, or unenforceable in any jurisdiction, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most

closely matches the intent of the original provision and the remainder of this Agreement will remain in full force and effect.

**12. Notice.** Any notice under this Agreement will be in writing (which may include email) and may be served by leaving it or sending it to the address of the other party. Mail is deemed delivered three days after being sent certified or registered, return receipt requested, or one day if sent via email during business hours. For purposes of this Agreement, ETS's address is the address set forth in the footer of this Agreement, and the Customer's address is the address on file at ETS. Either party may change the address for notice according to the terms of this section.

**13. Applicability.** Unless agreed to in writing by an authorized representative of ETS, any change by Customer to this Agreement or related documents, including any sales order or invoice is null and void. This Agreement prevails over any of Customer's general terms and conditions regardless of whether or when Customer has submitted such terms. This Agreement expressly limits Customer's acceptance to the terms of this Agreement and the related documents referenced herein.

**14. Modification of Terms and Conditions.** ETS reserves the right to change the terms, conditions and notices under which the goods are offered.