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## TERMS & CONDITIONS OF SERVICE AND SALE

- 1. AGREEMENT.** The provision of services and the sale of goods by Complete Phytochemical Solutions, LLC ("CPS") to its customers ("Buyer") are conditioned upon and governed by these Terms and Conditions of Service and Sale ("Terms") unless CPS agrees otherwise in writing. CPS's written quotation/proposal ("Quotation") constitutes an offer to provide services and/or sell goods on the terms and conditions set forth in the Quotation and these Terms. Buyer's purchase order, written confirmation or any other expression of acceptance shall be deemed an acceptance of CPS's Quotation and these Terms which shall, exclusive of any additional or different terms set forth in Buyer's purchase order, written confirmation, or any other expression of acceptance, constitute the complete agreement between the parties with respect to the provision of services and/or sale of goods by CPS to Buyer (the "Agreement"). Buyer's acceptance of any deliverables identified in CPS's Quotation evidences Buyer's acceptance of the terms and conditions of this Agreement. This Agreement may not be altered or modified except in writing duly executed by CPS.
- 2. DESCRIPTION OF GOODS AND SERVICES.** CPS agrees to sell, and Buyer agrees to purchase, the goods and/or services described in the Quotation.
- 3. PRICES.** The prices of the goods and/or services supplied by CPS are as stated in the Quotation or, if not stated in the Quotation, CPS's then current list price. Prices contained in CPS's published price lists, if any, are subject to change without notice. Prices contained in Quotations are firm only for a period of 30 days from the date of the Quotation and may change thereafter unless otherwise noted therein. Prices do not include shipping and handling charges, which shall be Buyer's responsibility. The purchase price is and all payments are due in US Dollars unless CPS agrees otherwise in writing.
- 4. TAXES AND FEES.** All prices are exclusive of sales, use, excise, customs, export, import, commodity, and/or any other taxes. Buyer will pay all such taxes and any license fees or other charges incidental to the sale of goods and services. Buyer will, at Seller's request, provide to Seller reasonable proof of payment by Buyer of such taxes, fees, and assessments. If Seller is required to prepay any taxes on behalf of Buyer, Buyer will promptly reimburse Seller for all such taxes paid.
- 5. DELIVERY DATES.** Delivery dates provided in the Quotation are estimates only and are not guaranteed. CPS will use commercially reasonable efforts to make delivery dates as scheduled.
- 6. PAYMENT TERMS.** Payment terms are prepayment unless CPS has, in its sole discretion, approved credit transactions for Buyer. Payment terms under credit transactions are net 30 days from delivery of goods or substantial completion of services, unless otherwise provided in the Quotation or agreed to in writing by CPS. Buyer will pay any invoice issued by CPS without discount, setoff, or reduction. CPS may revise the amount of credit or terms of payment at any time for any reason. If Buyer fails to make payment when due or defaults in any other way, CPS may, at its option, without limiting any of its other rights or remedies available under these Terms or applicable law, and until Buyer's account is current: (1) withdraw credit and suspend or cancel performance under this or any other Agreement; and/or (2) reschedule deliveries. Seller may invoice separately for each delivery and, in any case, Buyer will pay for each delivery as invoiced without regard for other deliveries. Buyer shall receive title in and to goods and other deliverables free and clear of all liens and encumbrances upon payment to CPS of the entire purchase price and all other applicable charges and expenses. Any amounts not paid when due shall bear interest from the due date until paid at the lesser of the following rates: (a) 1 1/2 % per month; or (b) the highest rate permitted by law.
- 7. TRADE TERMS - DELIVERY OF GOODS.** Unless the Quotation provides otherwise, trade terms governing the delivery of any goods sold to Buyer shall be Ex Works (Incoterms 2010) CPS's facility. Risk of damage and loss for goods shall pass to Buyer upon delivery in accordance with this paragraph. CPS shall not be liable for any delays, loss, or damage in transit. Any claims against CPS for shortages or otherwise non-conforming deliveries

that could, with due diligence, be discovered by inspection upon receipt must be made within 10 days after receipt and, if not so made, shall be deemed waived by Buyer.

8. **CANCELLATION.** Orders accepted by CPS may not be canceled prior to shipment except upon CPS's written consent and subject to Buyer's acceptance of CPS's cancellation and/or restocking charges. CPS reserves the right to cancel any sale hereunder without liability to Buyer (except for refund of monies already paid), if the sale of any goods or services is or becomes, at the determination of CPS, technically or economically impractical. No goods may be returned except under warranty and with the prior written approval of CPS as evidenced by a Return Materials Authorization. Either party may, without prejudice to its other rights or remedies, cancel (as that term is defined by UCC Sec. 2-106(4)) this Agreement by notice to the other party if: (1) the other party files a petition in bankruptcy or assignment generally for the benefit of creditors or initiates, or has initiated against it, any similar proceeding under any law with respect to creditor's rights, adjustment of debts, or similar law, becomes insolvent, becomes, or admits that it is, unable to pay its debts generally as they become due, or has a third-party manager or receiver appointed over any of its assets; or (2) the other party defaults under these Terms and does not remedy the default within 30 days (10 days in the case of payment defaults) following notice by the aggrieved party. In any circumstance where CPS has the right to demand adequate assurance of Buyer's performance (such as, but not limited to, under Section 2-609 of the Uniform Commercial Code, where applicable), Buyer will provide such assurance within a reasonable time not to exceed five days.
9. **TECHNICAL ASSISTANCE.** Except as expressly stated in the Quotation or a written agreement signed by CPS, CPS will not be required to provide technical advice, facilities, or service in connection with this Agreement or the goods and services supplied to Buyer.
10. **SAMPLES.** CPS may reject any samples submitted to it for any reason. Unless it agrees otherwise in writing, CPS shall have no obligation to handle, store, analyze, ship, or return any samples.
11. **LIMITED WARRANTIES.** (a) Goods. CPS warrants that each of the goods supplied under this Agreement will, for 12 months after delivery to Buyer or such shorter time as the nature of the goods (including, but not limited to, consumability) reasonably implies (the "Warranty Period"), conform to CPS's written then-current specifications during normal use and/or operation. Liability under this warranty will be reduced to the extent that: (1) the goods are not maintained according to CPS's specifications; (2) the goods fail, malfunction, or are damaged as a result of improper handling, improper storage conditions (including, but not limited to, where applicable, temperature and humidity), installation, maintenance, removal, modification, or repair; (3) the nonconformity is caused by casualty, abuse, or improper use; (4) the goods are altered other than by CPS or with CPS's express written approval; (5) the goods are installed, used, or configured other than as contemplated by the parties under this Agreement; or (6) any failure results from a design or specification supplied by Buyer. (b) Services. CPS warrants that the services provided under this Agreement: (i) at the time performed complied with applicable federal, state, and local rules, regulations and laws; and (ii) were performed in a good and workmanlike manner and in accordance with applicable industry standards. At the time of delivery to Buyer, all goods provided by CPS are warranted to be substantially free from defects in material and workmanship for a period of one (1) year from the date of delivery by CPS, subject to the terms and conditions set forth herein. CPS's liability hereunder is limited to repair or replacement of defects as determined by CPS in its discretion. CPS shall have no liability and the warranty hereunder shall be deemed void in the event the goods are (i) modified or have been subjected to improper storage, handling or use, or (ii) not repaired or replaced by CPS or otherwise pursuant to CPS's written authorization. To be valid, written notice of any warranty claims must be received by CPS at 317 South St. Cambridge, Wisconsin within the warranty period and include a detailed description of the defect. (c) Limitations. CPS's sole and exclusive obligation, and Buyer's sole remedy, for failure of any goods or services to conform to the warranties in this Section is, at the option of CPS, repair or replacement of the non-conforming goods and/or services or a refund of the money paid by Buyer for the non-conforming goods and/or services. Buyer must notify CPS in writing during the Warranty Period of any failure by a good or service to conform to the warranties in this Section or such claim shall be waived. **EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, CPS MAKES NO WARRANTIES OR REPRESENTATIONS WITH RESPECT TO ANY GOODS OR SERVICES PROVIDED BY CPS, WHETHER EXPRESS OR IMPLIED, AND EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED, STATUTORY AND OTHER REPRESENTATIONS AND WARRANTIES, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.**
12. **INTELLECTUAL PROPERTY.** Except as expressly and particularly set forth in a separate written agreement signed by CPS, Buyer will obtain no right whatsoever in any copyright, patent, trademark, trade secret, or other intellectual property right of CPS or that CPS creates, originates, discovers, or reduces to practice, or in which CPS acquires author or other rights, whether in consequence of these Terms, this Agreement, any transaction or dealing between CPS and Buyer, or otherwise. CPS reserves all such rights to itself. The parties acknowledge that, absent a specific and separate written and signed agreement between the parties expressly granting rights to Buyer, this Agreement is not intended to require that CPS perform any development work for Buyer or create for Buyer any work of authorship, invention, or other matter in which proprietary rights exist.
13. **CONFIDENTIALITY.** Buyer will, notwithstanding that this Agreement may have expired or been terminated or cancelled, keep in confidence and prevent the disclosure to any person all information and data disclosed to it by

CPS that is marked confidential or by its nature ought to be considered confidential, including, but not limited to, quotes, business plans, processes, equipment, technologies, techniques, specifications, prints, inventions, and research and development. Notwithstanding the foregoing, Buyer will not be liable for disclosure of any confidential information if the same: (i) is or becomes readily ascertainable by the public by proper means without breach by Buyer of any obligation to CPS of confidentiality; (ii) is disclosed with the prior written approval of CPS; or (iii) becomes known to Buyer from a source other than CPS without breach of these Terms by Buyer or breach by the source of any obligation of confidentiality. CPS will have no obligation of confidentiality or non-use with respect to information that CPS receives from buyer unless such obligations are established in a separate written confidentiality agreement signed by CPS.

- 14. INDEMNIFICATION.** Buyer will defend, indemnify, and hold harmless CPS and its employees, officers, directors, agents, affiliates, successors and assigns (each an "Indemnitee") from and against any and all claims, suits, actions, demands, damages, losses, liabilities, penalties, fines, costs and expenses (including, without limitation, attorneys' fees) whatsoever that are incurred by or made against any Indemnitee that arise out of or result from (i) the acts, omissions, negligence or misconduct of Buyer, (ii) any claim by any successor holder (including, but not limited to, any end user) of any of the goods or other deliverables, or any other person or entity, related to the goods and/or services sold by Seller, or the purchase, installation, or use of such goods or other deliverables, or any undertakings, acts or omissions relating to such goods and/or services, to the extent such claim is not based upon a breach of an express warranty of CPS.
- 15. FORCE MAJEURE.** CPS shall not be liable to Buyer for its failure to comply with the terms and conditions of this Agreement, including but not limited to any delay in performance, to the extent such failure arises out of or is related to causes beyond its reasonable control, including without limitation acts of God, or of the public enemy, acts of any governmental authority, fires, floods, other casualties, severe weather, epidemics, pandemics, quarantine restrictions, strikes, labor disputes or shortages of labor, embargoes, wars, terrorism, riots, civil commotion, shortage of or delays in transit or inability to secure necessary equipment, parts or materials (whether at all or at commercially reasonable prices). In no event will CPS be liable for any loss or damage, including in particular, direct, incidental, indirect, special, punitive or consequential damages (including loss of profits) due to any failure to deliver or delay in delivery. If CPS is wholly or partially unable to perform because of any cause beyond its reasonable control, CPS may allocate production and or capabilities and deliveries among its customers or may terminate this Agreement without liability to Buyer.
- 16. LIMITATIONS OF LIABILITY. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL CPS BE LIABLE IN CONTRACT, TORT, STRICT LIABILITY, OR UNDER ANY OTHER LEGAL THEORY, FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING, BUT NOT LIMITED TO LOSS OF REVENUE OR PROFITS), ARISING FROM OR CAUSED, DIRECTLY OR INDIRECTLY, (I) BY THE PURCHASE, SALE, POSSESSION, USE, OR TRANSFER OF ANY GOOD, SERVICE OR OTHER DELIVERABLE BY BUYER OR ANY CUSTOMER OR SUCCESSOR HOLDER (INCLUDING, BUT NOT LIMITED TO, ANY END USER) OF ANY GOOD, SERVICE OR OTHER DELIVERABLE; (II) BY THE PERFORMANCE OR FAILURE OF CPS TO PERFORM UNDER THESE TERMS OR THIS AGREEMENT; (III) BY ANY OTHER ACT OR OMISSION OF CPS; OR (IV) BY ANY OTHER CAUSE. IN NO EVENT WILL CPS'S TOTAL LIABILITY TO BUYER FOR ANY CLAIM EXCEED THE SUM PAID TO CPS BY BUYER FOR THE GOODS, SERVICES, AND/OR OTHER DELIVERABLES IN CONNECTION WITH WHICH THE CLAIM ARISES. NO ACTION MAY BE BROUGHT BY BUYER FOR ANY BREACH OF THESE TERMS MORE THAN ONE YEAR AFTER THE ACCRUAL OF SUCH CAUSE OF ACTION.**
- 17. ERRORS.** Any and all typographical or clerical errors made by CPS in the Quotation or any deliverables are subject to correction by CPS.
- 18. REMEDIES CUMULATIVE.** All rights and remedies of CPS under these Terms and the Agreement are cumulative. No pursuit or receipt by CPS of any particular remedy will constitute an exclusive election of remedies and CPS will have the benefit of all remedies available at law, in equity, or otherwise.
- 19. THIRD PARTIES.** Except for the Indemnitees under the indemnification obligations contained in these Terms (each of whom is an express third-party beneficiary of such indemnification obligations), there are no third-party beneficiaries of any right or obligation under these Terms or the Agreement.
- 20. ASSIGNMENT.** CPS may subcontract the performance of any obligation of CPS under this Agreement, provided only that CPS remains primarily liable for the performance of the obligation. Buyer may not assign any right or obligation under this Agreement. CPS may assign any right or obligation under this Agreement and, provided only that CPS's assignee has assumed the obligation(s) of CPS, CPS will, upon such assignment, have no further liability as to the assigned obligations.
- 21. WAIVER.** No waiver of any terms of this Agreement shall be deemed a continuing waiver or a waiver of any other term.
- 22. ATTORNEYS' FEES AND COSTS.** Buyer will pay CPS's reasonable attorneys' fees and other costs and expenses for any legal or equitable action undertaken by CPS to enforce these Terms or the provisions of this Agreement.

**23. GOVERNING LAW; JURISDICTION; VENUE; SEVERABILITY.** These Terms and the Agreement will be governed by and construed in accordance with the laws of the State of Wisconsin without regard for their conflict of law rules. The United Nations Convention on Contracts for the International Sale of Goods will not apply to these Terms or any Agreement. Any action or claim arising out of or related to these Terms and the Agreement may be brought only in the courts of the State of Wisconsin sitting in Dane County, Wisconsin or the United States District Court for the Western District of Wisconsin and Seller and Buyer each irrevocably consent to the jurisdiction of, and venue in, such courts. If any provision of these Terms is illegal or unenforceable such provision will be reformed to, insofar as is possible, permit it to confirm with applicable law and, in any case, the remaining provisions will continue in full force and effect.