

AMERINIC, INC.
TERMS AND CONDITIONS

DANGER! LIQUID NICOTINE IS HAZARDOUS. HANDLE WITH EXTREME CARE. EXPOSURE TO EVEN MINIMAL AMOUNTS OF LIQUID NICOTINE MAY RESULT IN SERIOUS ADVERSE HEALTH EFFECTS INCLUDING DEATH. FATAL IF SWALLOWED. FATAL IN CONTACT WITH SKIN. FATAL IF INHALED. SUSPECTED OF DAMAGING FERTILITY OR THE UNBORN CHILD.

For additional warnings and information associated with the Product, refer to the pertinent labels, instructions, safety data sheets, safe use and handling guides, and other AmeriNic, Inc. literature about the Product. DO NOT USE, HANDLE, TRANSPORT, OR STORE THE PRODUCT WITHOUT BECOMING COMPLETELY FAMILIAR WITH THESE MATERIALS.

1. ACCEPTANCE. AMERINIC, INC. (“COMPANY”) HAS ACCEPTED THE ORDER BY “CUSTOMER” OF THE LIQUID NICOTINE PRODUCT SET FORTH ON THE FACE OF OUR INVOICE (THE “PRODUCT”) ONLY ON THE TERMS AND CONDITIONS SET FORTH HEREIN (THESE “TERMS AND CONDITIONS,” AND, COLLECTIVELY WITH THE PRICING TERMS OF OUR INVOICE, THIS “AGREEMENT”), AND ANY TERM OR CONDITION PROPOSED IN A PURCHASE ORDER OR OTHER DOCUMENT THAT IS INCONSISTENT WITH OR IN ADDITION TO THOSE CONTAINED HEREIN IS HEREBY REJECTED, UNLESS SPECIFICALLY ACCEPTED BY COMPANY AND SO ACKNOWLEDGED IN WRITING BY A SENIOR EXECUTIVE OFFICER OF COMPANY. NO OTHER OFFICERS, EMPLOYEES OR SALES REPRESENTATIVES OF COMPANY ARE AUTHORIZED TO ALTER, VARY, OR WAIVE ANY OF THESE TERMS AND CONDITIONS.

2. PRICES. Any prices quoted by Company are subject to adjustment to reflect Company’s prices in effect at the time of shipment, including, without limitation, any increases in raw material, energy, transportation, packing, storage, shipping charges, taxes, or insurance costs.

3. CHANGES OR CANCELLATIONS. Although Company shall make commercially reasonable efforts to accommodate any requested change in specifications while work is in progress, Company does not guarantee its ability to make such changes. In the event that Company makes changes per Customer’s request, Company reserves the right to charge Customer for any services, labor, or material discarded or added because of such changes. To cancel an order, Customer must notify Company in writing. Notwithstanding anything set forth in this Section 3 or otherwise in this Agreement, in no event will Customer have the right to cancel any order of Product that Company has placed on its production schedule. Shipments returned to Company without Company’s prior written authorization may be returned to Customer, at Customer’s expense plus reasonable handling charges, and are subject to Company’s then-current cancellation charges.

4. DELIVERY. Company shall make commercially reasonable efforts to keep Company’s delivery commitment. However, the stated time of delivery is an estimate only, and Company shall not be liable for any delayed delivery and shall not be liable for any non-delivery of the Product caused by a Force Majeure Event (as defined below) or otherwise. Bulk packaging is standard unless otherwise agreed upon by the parties.

5. PARTIAL DELIVERY. Company reserves the right to make partial shipments and to submit invoices for partial shipments in accordance with these Terms and Conditions.

6. RISK OF LOSS; TITLE. Delivery shall be deemed made, and title to the Product shall be deemed to pass, to Customer when Company places the Product at the disposal of Customer. All risk of loss and damage to the Product shall pass to Customer in accordance with EXW (Merry Hill, North Carolina) Incoterms © 2010.

7. INSPECTION AND SHORTAGES. Customer agrees to inspect the Product against shipping papers upon delivery. Except with respect to any partial delivery pursuant to Section 5, all objections to or claims relating to the Product, including shortage claims, must be notified in writing to Company within 5 business days of delivery of the Product and Customer’s sole remedy for such objectionable Product will be as set forth in Section 13. No such objectionable or rejected Product may be returned, scrapped, or otherwise disposed of without Company’s prior written consent. Company will instruct Customer as to the disposition of rejected Product.

8. TERMS OF PAYMENT; SUSPENSION OF PERFORMANCE. Unless otherwise specified in writing, Company’s standard payment terms are net 30 days from the date of our invoice. If shipment is delayed by request of Customer, payments become due as if shipment has been made on the original shipment date. An additional charge of 2% per month, but not to exceed the lawful maximum, may be added on any amount that is past due. If, in Company’s judgment, reasonable doubt exists as to Customer’s financial responsibility, or if Customer is past due in payment of any amount owing to Company, Company reserves the right, without liability and without prejudice to any other remedies, to suspend performance, decline to ship, or stop any Product in transit until Company receives payment of all amounts, whether or not due, owing to Company, or adequate assurance of such payment.

9. OFFSET. Customer agrees to pay the full purchase price of the Product and any other amounts due hereunder regardless of any offset or claim that may be asserted by Customer or on Customer’s behalf.

10. COLLECTIONS. Customer agrees to pay any charges that Company incurs, including reasonable attorneys’ fees, relating to the collection or enforcement of any indebtedness, liabilities, or obligations of Customer to Company.

11. TAXES. Company’s quoted prices do not include any present or future sales, use, value added, excise, or other federal, state, or local taxes, unless specifically shown. Consequently, in addition to the prices specified herein, Customer shall pay and reimburse Company for any and all taxes that may become payable with respect to Customer’s order. It is Customer’s responsibility to timely provide to Company any tax exemption certificates, if applicable.

12. LIMITED WARRANTIES AND REMEDIES. Company warrants to Customer that (at the time of shipment) the Product shall comply with Company’s sales specifications in terms of quantity and purity (in effect at the time of the purchase). This warranty shall expire the earlier of (i) sixty (60) days from the date of shipment, or (ii) the date of use of the Product. This warranty shall be voided by any alteration or modification of the Product by any person other than an employee of Company, and by any abuse, misuse or neglect of the product. THIS LIMITED WARRANTY IS GIVEN ONLY TO THE ORIGINAL CUSTOMER, IT MAY NOT BE TRANSFERRED OR ASSIGNED AND DOES NOT EXTEND TO ANY SUBSEQUENT PURCHASER OR TRANSFEREE OF THE PRODUCT. THIS WARRANTY IS A LIMITED WARRANTY AND IS THE ONLY WARRANTY MADE BY COMPANY WITH RESPECT TO THE PRODUCT, AND COMPANY HEREBY EXPRESSLY DISCLAIMS, AND CUSTOMER HEREBY EXPRESSLY WAIVES, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Customer must make all warranty claims under this warranty in writing, the earlier of (i) within thirty (30) days after the shipment date, or (ii) prior to the date of use. Company will at its option (a) replace the Product or (b) refund to Customer the price paid by Customer for the Product, and this shall be Customer’s sole and exclusive remedy with respect thereto.

13. LIMITATIONS OF LIABILITY. IN NO EVENT SHALL COMPANY, ITS AFFILIATES OR ANY OF ITS OR THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS AND REPRESENTATIVES (COLLECTIVELY, “REPRESENTATIVES”) BE LIABLE HEREUNDER OR OTHERWISE FOR ANY LOSS, DAMAGE, OR INJURY, WHETHER FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND OR IN ANY AMOUNT, ARISING OUT OF THIS AGREEMENT OR IN CONNECTION WITH THE PRODUCT, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, REVENUES, ANTICIPATED SALES, BUSINESS OPPORTUNITIES, OR INTERRUPTION OF BUSINESS. COMPANY’S TOTAL AND EXCLUSIVE LIABILITY FOR NONPERFORMANCE, EVEN IF CAUSED BY COMPANY’S GROSS OR ORDINARY NEGLIGENCE, UNDER THIS AGREEMENT SHALL BE STRICTLY LIMITED TO THE REMEDIES SET FORTH IN SECTION 13, AND IN NO EVENT SHALL DAMAGES EXCEED THE PRICE OF THE PRODUCT PAID BY CUSTOMER TO COMPANY PURSUANT TO THIS AGREEMENT.

14. PROPRIETARY RIGHTS; INTELLECTUAL PROPERTY; CONFIDENTIALITY. All information, items and materials, including, but not limited to, information developed or provided by or on behalf of Company (or any of its affiliates) and any know-how, methodologies, products or processes, including, but not limited to, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto, used by Company to produce and provide the Product or otherwise relating to the business, operations, affairs, technologies, plans and strategies of the Company (collectively, the “Company Materials”) shall remain the sole and exclusive property of Company. Notwithstanding Customer’s ownership of the Product, Customer shall acquire no interest in the Company Materials by virtue of this Agreement. Customer may not reproduce, modify, or distribute the Company Materials, or use them for its own benefit or for the benefit of any third party. All rights in the Company Materials not expressly granted to Customer are reserved to Company. Customer agrees to maintain in strict confidence, and not to disclose to third parties or use the Company Materials and any other information and materials provided by or on behalf of Company in connection with this Agreement.

15. INDEMNIFICATION. Customer hereby agrees to indemnify, defend, and hold harmless Company, its affiliates and its and their respective Representatives (each, an “Indemnified Party”) from and against all losses and damages, including, but not

limited to, punitive damages and all fines penalties, liabilities and obligations (whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, matured or unmatured, determined or determinable, disputed or undisputed, liquidated or unliquidated or due or to become due), including all reasonable fees, costs and expenses (including, without limitation, reasonable expenses of investigation and litigation and reasonable attorneys', accountants' and other professional fees) relating thereto (collectively, "**Damages**"), which any Indemnified Party may incur or be liable for as a result of any claim, suit or proceeding (collectively, "**Claims**") or threatened Claims, directly or indirectly, arising out of or in any way related to (a) any breach of this Agreement by Customer, (b) any allegation of product defects, personal injury, illness, disease, death or other adverse health effects or any increased risk thereof, injury to property, negligence, or any other claim arising from or relating to the design, manufacture, sale, delivery, installation, transportation, handling, maintenance, possession or use of any Product furnished hereunder or any products that utilize the Product or (c) any allegation that any product that utilizes the Product infringes any patents applied for or issued or violate any other proprietary right.

16. HAZARDOUS MATERIALS OR SUBSTANCES. Customer represents that it has reviewed and understands the contents of Company's safety data sheet for the Product (SDS). Customer understands that the Product is a hazardous substance under various laws and regulations when handled or processed. Customer agrees to familiarize itself (without further reliance on Company) with all hazards associated with the Product, its processing and applications, and the containers in which the Product is shipped. Customer agrees to provide the SDSs to all those required by law to receive same and to inform and train its employees, and properly warn and instruct its customers, as to hazards identified in the SDSs or discovered or known by Customer. Customer agrees to properly handle, store, manage, dispense, and dispose of the Product in accordance with all applicable laws, rules, regulations, and guidelines, including those with respect to all wastes and residues resulting from use of the Product, including any packaging, in accordance with applicable disposal or recycling laws. Ignorance of product toxicity, of product safety hazards associated with transportation, handling or storage, or of product incompatibility with intended application by Customer, its Representatives, its successors or assignees, its customers or any other persons that come into contact with any Product that has been obtained through Company is entirely the Customer's responsibility. Customer shall indemnify any Indemnified Party against any Damages suffered or incurred thereby arising out of or in any way related to (a) Customer's use of (or disposal of) the Product or (b) Customer's failure to so inform, warn, and familiarize its Representatives, customers, and contractors about the risks and dangers associated with the Product.

17. WARNINGS. Customer agrees to pass on all warnings received from Company to purchasers of Customer's goods incorporating the Product; to inform its purchasers about all knowable risks associated with Customer's use of the Product, including those risks associated with Customer's use of the Product as a component of its own product(s); and to ensure that such information is communicated to any foreseeable end users of the Product.

18. REMEDIES OF COMPANY. Customer agrees that should Customer breach this Agreement, Company may, in its sole discretion, do any one or more of the following: (a) recover from Customer the full purchase price and other amounts then due and as they shall thereafter become due under this Agreement; (b) recover from Customer all costs and expenses incurred by Company because of Customer's breach (including reasonable attorneys' fees), and/or (c) exercise any other right or remedy that may be available to Company by law or in equity. No remedy referred to in this [Section 18](#) is intended to be exclusive, but each shall be cumulative and in addition to all other remedies available to Company. No failure by Company to require strict compliance by Customer with any provision hereof shall be deemed a waiver by Company of such provision or non-compliance.

19. FORCE MAJEURE. Failure of Company to perform hereunder shall not be considered a breach of this Agreement if such failure is caused by a Force Majeure Event. For the purposes of this Agreement, a "**Force Majeure Event**" shall mean any fire; strike; lockout; flood; accident; delay in transportation; shortage of or inability to obtain material, supplies, fuel, or labor; war; riot; acts of terrorism; acts of God; action taken on account of any acts, demands, orders, or regulations of any local, state, or federal government or any department or agency thereof, whether or not legally binding on Company; or any other contingency or event beyond Company's control.

20. ATTORNEYS' FEES. Should any dispute or litigation arise out of or in connection with this Agreement resulting from its acceptance in any form, including, but not limited to, suits filed in an attempt to collect payment, then, in the event that Company is successful, Customer shall reimburse Company for all costs and expenses incurred in connection therewith, including, but not limited to, reasonable attorneys' fees.

21. NOTICES. Any and all notices provided for herein shall be given in writing by personal delivery or registered or certified U.S. mail, postage prepaid, email, facsimile, or by overnight air courier service, in each case sent to the respective addresses set forth below. If to Customer, the notice should be sent to the address set forth on our invoice, and if to Company, to AmeriNic, Inc., P.O. Box 123, Merry Hill, North Carolina 27957. Such notice shall be deemed given (i) at the time it is delivered personally or sent by overnight air courier services, (ii) three business days after it is mailed if mailed by registered or certified U.S. mail, postage prepaid deposited in any Post Office or branch

Post Office regularly maintained by the United States Government, or (iii) one business day after transmission by facsimile or email. Each party shall be entitled to change its address for notices by a notice given in accordance with this [Section 21](#).

22. ASSIGNMENT. This Agreement shall not be assigned by Customer without the prior written consent of Company. Customer warrants that it is purchasing the Product for its own account and not as an agent or broker.

23. LAW AND JURISDICTION. The rights and obligations of the parties under this Agreement shall not be governed by the provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods or the United Nations Convention on the Limitation Period in the International Sale of Goods, as amended. Rather, the validity, construction, and performance of this Agreement as well as the sale of Product under this Agreement shall be governed by and construed in accordance with the Uniform Commercial Code and the internal laws of the Commonwealth of Virginia without giving effect to any choice or conflict of law provision or rule (whether of the Commonwealth of Virginia or any other jurisdiction). Any and all actions concerning any dispute arising hereunder shall be filed and maintained only in the (a) the General District Court and Circuit Court of the Commonwealth of Virginia, Henrico County or (b) the United States District Court for the Eastern District of Virginia, Richmond Division. The parties specifically consent and submit to the jurisdiction and venue of such state or federal court, and waive any objections either may have based on improper venue or forum non conveniens to the conducting of any proceeding in any such court.

24. ASSUMPTION OF RISK. Customer acknowledges and agrees that the Product has not been approved by the United States Food and Drug Administration and carries with it certain health risks which Customer alone assumes by purchasing the Product. Customer assumes all risks and liabilities resulting from the use of the Product.

25. COMPLIANCE WITH LAWS. Customer shall be responsible for processing all registrations and permits to transport the Product and shall comply, prior to transporting the Product, with all applicable laws and other requirements including but not limited to those regarding labeling, safety and usage, handling and disposal of hazardous materials, import and export of materials, and with all other applicable laws and regulations.

26. RELATIONSHIP OF THE PARTIES. Nothing herein may be construed so as to create an employer-employee, franchisor-franchisee, agency partnership, or joint venture relationship between the parties.

27. SEVERABILITY. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable. The parties agree to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purpose of such void or unenforceable provision.

28. ENTIRE AGREEMENT. The terms set forth herein constitute the sole terms and conditions of the agreement between Customer and Company. No other terms, conditions, understanding, promises, covenants, representations, warranties, or agreements, or changes, cancellations, or suspensions of Customer's order, whether oral or written, shall be binding upon Company, unless hereafter made in writing and signed by a senior executive officer of Company.