



## ELMNT SUBSCRIPTION AND EQUIPMENT AGREEMENT Terms & Conditions

This **ELMNT SUPPLY AND EQUIPMENT ORDER AGREEMENT** (this "Agreement") is effective as of the date you place your order (the "Order Date"). You (the "Purchaser") agree to lease or purchase the equipment (the "Equipment") from Terra Vera Corp, a Delaware corporation ("Vendor"), pursuant to the terms and conditions of this Agreement.

### **EQUIPMENT LEASE**

**1. LEASE TERM.** This Agreement will commence on the Order Date and continue for three years (the "Lease Term"). The parties may renew this Agreement on mutual written agreement.

**2. EQUIPMENT LEASE.** During the Lease Term, Vendor shall lease to Purchaser the equipment (the "Equipment") at the prices set forth on [terravera.com](http://terravera.com) ("Vendor Website") in accordance with Purchaser's Orders. Vendor shall provide delivery, training, and installation of the Equipment ("Onboarding") at the rates set forth on the Vendor Website. Vendor shall retain title to the Equipment during the lease period. Purchaser agrees it shall not move the Equipment to a different facility without the consent of Vendor and that it shall cooperate with Vendor to execute any legal filings required to evidence Vendor's ownership of the Equipment.

- a. **90-Day Trial:** The Purchaser may elect to a 90-Day Trial ("Initial Lease Term") in which the Purchaser agrees to pay the listed upfront payment for the Equipment Lease and Onboarding. The lease may be terminated for any reason at the end of the Initial Lease Term with written notice to [info@terravera.com](mailto:info@terravera.com). In the event the lease is not terminated within five (5) business days following the conclusion of the Initial Lease Term, the lease shall revert to a month-to-month lease (pricing on Vendor Website) subject to a cancellation with 90 days' notice.

**3. TERMINATION.** This Agreement may be terminated by either party if: (a) upon 90 days' notice for any reason; (b) the other party breaches any material provision of this Agreement, and such default is not cured within thirty days after notice; (c) the other party becomes the subject of any voluntary or involuntary insolvency proceeding.

**4. EFFECT OF TERMINATION.** Upon expiration of the Lease Term, or the termination of this Agreement, Purchaser shall promptly make any Equipment in its possession available for Vendor to retrieve and pay any balances owed. Purchaser shall return such Equipment in good condition excepting ordinary wear and tear. Purchaser is responsible for all shipping and handling costs.

**5. OPTION TO PURCHASE.** During the Lease Term, Purchaser may purchase the Equipment at the prices set forth on the Vendor's website ("Purchase Price"). Purchaser shall notify Vendor in writing the Purchaser's intent to exercise the option to purchase ("Option"). Vendor shall deduct 75% of any lease payments made during the Lease Term from the Purchase Price. Payment of the remaining Purchase Price is due within 30 days of exercising the Option. If payment is not received within 30 days of exercising the Option, Vendor shall retain title to the Equipment and Purchaser's obligations under the Lease Term shall continue as written within this agreement. If prior Purchaser lease payments exceed the Purchase Price, no additional payment is due.

### **EQUIPMENT PURCHASE**

**6. AGREEMENT TO PURCHASE.** Purchaser may elect to purchase rather than lease the Equipment at the Purchase Price set forth on the Vendor's website. Your Equipment is priced and configured based on features and options available at the time of order and you can confirm availability with a Terra Vera representative. Options, features, or hardware released or changed after you place your order may not be included in or available for your Equipment.



## **ELMNT SUBSCRIPTION**

**7. ELMNT SUBSCRIPTION.** Purchaser may elect to receive ELMNTs on a monthly basis ("ELMNT Subscription"). The purchase price and applicable subscription and volume discounts are set forth on Schedule A and the Vendor's website. Purchaser may cancel or suspend the ELMNT Subscription, in whole or in part, with 30 days of written notice. All prices listed exclude applicable state and local taxes.

## **GENERAL**

**8. PAYMENT TERMS.** Payment for Products purchased and/or Equipment leased shall be delivered to Purchaser on the first of the subsequent month, unless otherwise agreed to in writing by the parties (the "Payment Date"). Vendor shall debit the preferred payment method on file. It is the Purchaser's sole responsibility to update payment methods prior to monthly charges. If payment is not received or is declined, Purchaser agrees to pay a five percent (5%) late fee for any payments made more than fourteen (14) days late from the Payment Date and five percent (5%) additional fees for each additional fourteen (14) days of subsequent delay.

**9. ORDER PROCESS; CANCELLATION; CHANGES.** After you submit your completed order, we will begin the process of preparing and coordinating your Equipment delivery and installation. At this point, you agree that any paid fees, including the Onboarding Fee, has been earned. If you cancel your order or breach this Agreement and we cancel your order, you agree that we may retain as liquidated damages the Onboarding Fee, to the extent not otherwise prohibited by law. You acknowledge that the Onboarding Fee is a fair and reasonable estimate of the actual damages we have incurred or may incur in transporting, remarketing, and reselling the Equipment, costs which are otherwise impracticable or extremely difficult to determine. If you make changes to your order, you may be subject to potential price increases for any pricing adjustments made from your original Order Date, including changes to the delivery location or estimated Onboarding date.

All ELMNT Product Sales and Equipment Purchases once shipped and/or installed are final and no refund will be issued.

**10. DELIVERY.** Delivery terms for the Products and Equipment are as set forth on each Order unless otherwise agreed upon by the parties. Title and risk of loss will pass upon delivery in accordance with the applicable shipping term. Purchaser shall bear all costs of expedited shipment necessary to comply with Purchaser's required delivery date outside of standard shipment and lead terms.

Vendor shall be responsible for the safe transportation, delivery, uncrating, and commissioning of the Equipment, provided that Purchaser shall provide adequate space and utilities to allow Vendor to commission the Equipment. Vendor shall follow all reasonable instructions from Purchaser while at Purchaser's facility.

## **11. WARRANTY.**

- a. Vendor warrants that all Products and Equipment will: (i) conform to the specifications and quality requirements provided to Purchaser by Vendor; and (iii) be free from defects in design, workmanship, and materials.
- b. Vendor further warrants that Products and Equipment will (i) be free from any encumbrances created by or through Vendor.
- c. Vendor shall be responsible for repairs to the Equipment during the Lease Term, except in such cases that damage to the Equipment is caused by the Purchaser's failure to follow Vendor's instructions with respect to the operation of the Equipment of arising from Purchaser's gross negligence or willful misconduct.
- d. If any Product fails to comply with the foregoing warranties, Vendor shall promptly repair or replace any non-conforming Products and/or Equipment free of charge or grant Purchaser a credit or refund equal to the purchase price of such Products and/or rental price of such Equipment. The foregoing warranties will survive delivery, inspection, acceptance, or use of Products and/or Equipment.
- e. If Purchaser exercises the option to purchase the Equipment, the Equipment will be warranted for one (1) year from the date of shipment or installation from the Vendor. After one (1) year, Purchaser shall be



responsible for the cost of any parts and servicing required to repair the Equipment at the service rates set forth in Schedule C. Vendor reserves the right to deny any claims that could be considered under warranty if the Equipment is performing below specification due to contamination or damage caused by gross negligence or willful misconduct.

i. The warranty does not cover:

1. "Acts of God" or unavoidable natural disasters including but not limited to floods, storms, lightning, etc.
2. Theft, vandalism, or other damaging acts.
3. Intentional or accidental abuse, misuse, or neglect.
4. Failures or repairs resulting from negligence to perform preventative maintenance in accordance with Vendor requirements.
5. Damages or defects in the product, which were caused by initial start-up, repairs or attempted repairs performed by anyone other than a Vendor-authorized service provider.
6. Equipment parts that have been repaired or modified by anyone other than Vendor approved personnel.
7. Normal wear and tear.
8. Purchaser in default of any payment obligations to Vendor.
9. Abuse by abnormal system conditions including but not limited to temperature, chemical, or debris, or have been operated using ELMNTs or water that does not meet the specifications recommended by Vendor.
10. Goods that have been improperly stored by Purchaser or its representatives prior to installation and start-up.
11. Equipment/programming which has been revised or altered by others.

**12. PURCHASER'S OBLIGATIONS.** Purchaser shall use the Equipment in a careful and proper manner in accordance with applicable law and the instructions set forth on Schedule B. In the event that the leased Equipment is damaged beyond repair through the gross negligence or willful misconduct of Purchaser, Purchaser shall pay the applicable replacement cost.

**13. MATERIAL CHANGES.** Vendor recognizes the importance of continuity of supply and must obtain Purchaser's written consent prior to (a) making any changes to the Product, including design, materials, and manufacturing location or processes; (b) subcontracting any work under this Agreement; and/or (c) refusing to supply any Product.

**14. MUTUAL INDEMNITY.** Vendor and Purchaser, including any affiliates, employees, shareholders, directors and agents, will mutually indemnify from and against any and all damages, losses and claims (including attorneys' fees) arising out of or relating to: (a) any breach or non-fulfillment of obligations; (b) any negligent act or omission; (c) any claim of infringement or misappropriation of any third party Intellectual Property (defined below); and (d) death, bodily injury or property damages resulting or claimed to result in whole or in part from Products.

**15. COMPLIANCE.** The parties shall comply with all applicable state and local laws, rules, regulations, and ordinances ("Laws") in the performance of this Agreement. Further, Vendor agrees to comply with any reasonable instructions from Purchaser while at Purchaser's site. Vendor shall be responsible for obtaining any approval, notice, license, or registration required by Law, including export licenses and approvals (if applicable).

**16. NOTICES.** All notices given hereunder must be in writing and delivered: (a) in person, (b) by a nationally recognized courier service or via certified mail, postage prepaid, to the address of the other party, or such other address [or email address] as either party may specify in writing. Notice is effective upon: (i) receipt by the other party to which notice is given, or (ii) two business days following posting, whichever occurs first.



Address for notice: [info@terravera.com](mailto:info@terravera.com)

**17. REMEDIES.** All rights and remedies under this Agreement are cumulative. The exercise of any right or remedy herein does not prejudice the exercise of any other right or remedy at law or in equity. The failure to enforce any provision of this Agreement is not a waiver of any rights. In the event of a breach of this Agreement, Purchaser may withhold from any payments due Vendor an amount sufficient to protect Purchaser from all claims, losses, damages, and expenses.

**18. ASSIGNMENT.** Vendor may not assign this Agreement or otherwise transfer its rights or obligations without the prior written consent of Purchaser. A merger, sale, or change of control of Vendor or its assets is an assignment. This Agreement inures to the benefit of and will bind the parties hereto and their respective permitted successors and assigns.

**19. GOVERNING LAW AND DISPUTES.** This Agreement is to be construed and interpreted in accordance with the laws of the State of Delaware, without regard to its conflict of laws provisions and the United Nations Convention for International Sale of Goods (1980). The parties hereby submit to the jurisdiction of the Delaware courts, both state and federal. Vendor agrees to continue performing its obligations under this Agreement while any dispute is being resolved. NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES RESULTING FROM THIS AGREEMENT.

**20. SEVERABILITY.** In the event that any provision of this Agreement is deemed illegal or unenforceable under applicable law, the remaining provisions of this Agreement will not be affected, and each provision will remain enforceable to the maximum extent permissible.

**21. ENTIRE AGREEMENT; MODIFICATION.** This Agreement (and all documents referenced herein) constitutes the entire agreement between the parties relating to its subject matter and supersedes all prior agreements, representations, and understandings. This Agreement may only be amended in writing by both parties.

**22. TAXES AND CERTIFICATE OF EXEMPTION.** Purchaser is responsible for any applicable Federal, State, or local sales tax, use, or other taxes ("Taxes"). Proof of exemption must be provided to Vendor no later than seven (7) days of the Order Date. If an exemption certificate is provided after seven (7) days, Purchaser shall be responsible for any applicable taxes for the current billing cycle. Vendor will not credit any taxes collected during previous billing cycles in which an exemption certificate was not provided to Vendor.

**23. CONTACT US.** If you have any questions about these Terms and Conditions, you can contact us by email: [info@terravera.com](mailto:info@terravera.com).



## ELMNT PRODUCTS AND DISCOUNTS

### **ELMNT Products**

All ELMNTs, dilutions, and current prices are available on the Vendor website. Pricing and availability of certain products are subject to change without notice.

### **Volume Discounts**

A 5% discount will be applied to each ELMNT if 5-9 units are purchased. A 10% discount will be applied to each ELMNT if 10 or more units are purchased.

### **Subscribe and Save**

An additional 10% discount will be applied to each ELMNT order if Purchaser opts into a monthly subscription. Purchaser may pause subscriptions once per 12-month period. A subscription is not required to purchase ELMNTs.

### **Combining Discounts**

A combination of subscription and volume discounts may be applied to an order.

### **Equipment Requirements**

ELMNTs may only be used with Vendor approved systems.



## SCHEDULE B

### EQUIPMENT

When using Equipment, Purchaser agrees to adhere to the following requirements.

#### **Infrastructure**

- Purchaser must provide adequate and secure indoor space for equipment.
- The environment must be maintained at > 45 °F, < 100 °F.
- The space must meet certain dimensions: Width – 5.5', Depth – 3.0', Height – 6.5' for the Brawndo TL. Smaller space requirements are needed for the Brawndo TM and TS. Please confirm on Vendor's website the applicable requirements.
- Purchaser must provide onsite water, a drain, as well as a dedicated standard 110V AC outlet.

#### **Equipment and ELMNT Usage**

- Purchaser must follow all written and verbal instructions regarding the operation of the equipment.
- Purchaser is responsible for adding water to ELMNT containers, as well as attaching them to the brine source when they need to be switched out.
- Purchaser will not use the chemistry generated by the equipment anywhere except on the Purchaser property unless authorized in writing by Vendor personnel.
- Purchaser must only use ELMNTs approved by Vendor.
- Purchaser will promptly return the equipment in the event the rental agreement expires or terminates.

#### **Other**

- Purchaser will provide Vendor personnel, upon twenty-four (24) hours' notice, access to the facility as reasonably necessary to inspect, maintain, and upgrade the equipment. In the event Purchaser has personnel changes, Purchaser will introduce the new point of contact to Vendor to ensure proper training and usage of the Equipment.
- Purchaser will review with Vendor on a regular basis; compliance and microbial data, dosing, and consumption data as well as pictures of any treatment or issues.
- Purchaser agrees to not copy, photograph, modify, create any derivative work of, reverse assemble, decompile, reverse engineer, or otherwise attempt to derive proprietary information (or the underlying ideas, algorithms, structure, and/or composition) relating to the Equipment, the ELMNTs, or the chemistry the equipment produces.
- Purchaser will not disclose percentage discounts or other pricing information or any contractual information to other parties.



**SCHEDULE C**

**SERVICE RATE SCHEDULE FOR EQUIPMENT REPAIR**

<b>Service</b>	<b>Rate</b>	<b>Unit</b>	<b>Comments</b>
Weekday (Monday-Friday)	\$1,600 plus expenses	Day	Up to 8 hours, including travel time.
Overtime/Weekend/Holiday	\$300 plus expenses	Hour	After 8 hours and all weekend time, including travel time.  Total time not to exceed 12 hours per day, including total travel time

**Notes:**

- These charges apply to all Products and Equipment manufactured by Vendor.
- A purchase order must be issued to Vendor prior to dispatching a field service technician.

Address Purchase Order (P.O.) to:

**Terra Vera Corp**  
4 Anasazi Trails Loop  
Placitas, NM 87043

- All rates are net unless prior arrangements have been negotiated beforehand.
- Travel time is defined as roundtrip travel from home base to jobsite and is considered service time and rendered at prevailing service day rates.
- A field service technician is an authorized representative dispatched by Vendor to provide the service required.
- Parts and materials supplied in connection with field service work will be provided in accordance with the aforementioned Warranty section of this Agreement.
- Travel time and expenses will be charged regardless of warranty/non-warranty decision.
- Vendor reserves the right to determine the qualifications of the field service engineer to fulfill the service obligations.
- Expenses including but not limited to, airfare, meals, lodging and local transportation will be billed at cost plus up to 15% (max).