

TERMS & CONDITIONS

For Enrolled Avendra Customer Units Operating Under Signed Avendra-CQ Customer Unit Initial Order Form(s)

Section I – Commitment, Ordering, Shipment, Invoicing: CQ Infused Beverage System and CQ Purees.

- (a) Supplier provides (i) proprietary beverage purees and syrups (“**CQ Purees**”) and other supplies to produce and market infused beverages and (ii) proprietary equipment and patent pending infused beverage dispensers containing the CQ trademark (collectively, “**CQ Infused Beverage System**”) to mix, dispense and market infused beverages, on a reoccurring subscription bases under the condition that Customer Unit commits to a required, ongoing, minimum purchase of CQ Purees (**Order Commitment**) **every thirty (30), forty-five (45) or ninety (90) days**. The Order Commitment, pricing and flavors are defined on the Avendra-CQ Customer Unit Initial Order Form. Customer Unit operates the facility located at the address outlined in the signature block on the Avendra-CQ Customer Unit Initial Order Form. The Order Commitments start date, defined by Supplier, will be within fourteen (14) business days of receiving Customer Unit’s signed Avendra-CQ Customer Unit Initial Order Form. Customer Unit wishes to purchase CQ Purees and to obtain CQ Infused Beverage System(s) for use at its premises on the terms and conditions outlined in these Terms and Conditions.
- (b) The Avendra-CQ Customer Unit Initial Order Form defines the Order Commitment, CQ Purees pricing, quantity, flavors, and number of CQ Infused Beverage System(s) ordered by Customer Unit.
- (c) Customer Unit may cancel the Order Commitment after 61 days from the Order Commitment Start Date by visiting the CQ Subscriber Portal (www.cqbeverages.com/login) and submitting the “Cancel My Account” form given not less than two (2) days prior to the next Order Commitment. Customer Unit assumes responsibility to confirm with Supplier that the cancellation request was received. If Customer Unit elects to cancel the Order Commitment, Customer Unit must return, at Customer Unit’s expense, all of Supplier’s CQ Infused Beverage System(s) within fifteen (15) days of the cancellation notice to the location/address as then directed by Supplier.
- (d) Customer Unit will purchase CQ Purees at the sales prices set forth on the Avendra-CQ Customer Unit Initial Order Form. The purchase prices for CQ Purees do not include shipping; Supplier will bill shipping to Customer Unit as a separate line item on the invoices.
- (e) Customer Unit agrees to pay Supplier at the time of shipment for all orders. Customer Unit may provide Supplier (i) with a credit card to be charged at the time orders are shipped, or (ii) with an individual virtual card at the time of each shipment, or (iii) as otherwise mutually agreed with Supplier. If Customer Unit elects to purchase by credit card, it agrees that Supplier may keep the credit card information on file and charge the credit card for recurring orders. Overdue invoices may bear interest from the date payable at an annual percentage rate of one and one-half percent (1-½%) per calendar month (or the highest rate allowed by the law of the state where Customer Unit is located, if lower).
- (f) Upon order acceptance by Supplier, all purchases will be shipped and invoiced within (i) fourteen (14) business days for CQ Purees, and (ii) twenty-one (21) business days for CQ Infused Beverage System(s).
- (g) The CQ Puree(s) flavors and quantities chosen by Customer Unit on the Avendra-CQ Customer Unit Initial Order Form will be deemed as **Customer Unit’s Order Commitment Standing Order**. Requests for a change in Customer Unit’s Standing Order of CQ Puree flavor(s) by visiting the CQ Subscriber Portal (www.cqbeverages.com/login) and submitting the “Change My Standing Order” form at least two (2) days prior to the next Order Commitment. Customer Unit assumes responsibility to confirm with Supplier that the change request was received prior to shipment.
- (h) Customer Unit must notify the shipper and Supplier immediately upon delivery if there is any damage to an order so that a claim can be filed and replacement products can be shipped to Customer Unit. Customer Unit must keep and make accessible and available for inspection by shipper all damaged items including boxes and packing.
- (i) Customer Unit is solely responsible for the payment of any personal property taxes, license fees, and sales or use tax related to the use or sale by Customer Unit of CQ Infused Beverage System(s), CQ Purees, and mixtures of CQ Purees with water or other authorized liquids including the seven (7) standard usages – (i) CQ Spa Water, (ii) CQ Infused Water, (iii) CQ Infused Iced Teas, (iv) CQ Infused Lemonades, (v) CQ Infused Cold Brews, (vi) CQ Juice Infusions, and (vii) CQ Infused Cocktail Mixers.

Section II – Use of CQ Infused Beverage System.

- (a) Customer Unit agrees to participate in Supplier’s Initial Onboard Training, defined on Supplier’s website www.cqbeverages.com/standard-use-recipes. Customer Unit agrees to use CQ Infused Beverage System(s) in compliance with Supplier’s required specifications and instructions for use, including the quality control provisions of subsection II(b) below. Additional provisions of Supplier’s quality control requirements are set forth on Supplier’s website www.cqbeverages.com/standard-use-recipes.
- (b) All CQ Infused Beverage System(s) shall remain the property of Supplier at all times, and are loaned to Customer Unit to be used solely in conjunction with these Terms and Conditions. All CQ Infused Beverage System(s), until returned to Supplier, shall be held at all times at the sole risk of Customer Unit for theft, damage, loss or destruction, except for normal wear and tear and except for any defects in the CQ Infused Beverage System(s). If any CQ Infused Beverage System(s) is stolen, damaged or destroyed for any reason, Customer Unit will promptly notify Supplier by visiting the CQ Subscriber Portal (www.cqbeverages.com/login) and submitting the “Replace Equipment” form. **If damaged, Customer Unit shall return the CQ Infused Beverage System(s) to Supplier, at Customer Unit’s expense and Customer Unit agrees that it will pay the CQ Infused Beverage System Exchange Fees listed in Table Two.** The CQ Infused Beverage System Exchange Fees do not include shipping; Supplier will bill shipping to Customer Unit as a separate line item on the

invoices. **If Lost or Stolen, Customer Unit agrees that it will pay the CQ Infused Beverage System Fees listed in Table One.** The CQ Infused Beverage System Fees do not include shipping; Supplier will bill shipping to Customer Unit as a separate line item on the invoices. If Customer Unit's account is in good standing, Supplier, in their sole discretion, may offer discount Fees.

- (c) **Customer Unit agrees to dispense only beverages that contain CQ Purees from CQ Infused Beverage System(s) and to properly train and supervise its employees to ensure the CQ Infused Beverage System(s) always contains the proper mixtures of CQ Purees and water or other authorized liquids, set forth on Supplier's website www.cqbeverages.com/standard-use-recipes. The CQ Infused Beverage System(s) are marked for proper viscosity based on seven (7) standard usages – (i) CQ Spa Water, (ii) CQ Infused Water, (iii) CQ Infused Iced Teas, (iv) CQ Infused Lemonades, (v) CQ Infused Cold Brews, (vi) CQ Juice Infusions, and (vii) CQ Infused Cocktail Mixers. Customer Unit understands and agrees that alcohol is not an authorized liquid and may not be used inside the CQ Infused Beverage System(s).** When used by Customer Unit, CQ Infused Beverage Dispensers must be displayed in a prominent place with Supplier's trademark visible. All CQ Infused Beverage System(s) must be kept clean and used in adherence to all local, county, state and federal laws.

Section III – Term and Termination

- (a) If Customer Unit elects to cancel its Order Commitment by visiting the CQ Subscriber Portal (www.cqbeverages.com/login) and submitting the "Cancel My Account" form, given not less than two (2) days prior to the next Order Commitment, Customer Unit must return, at Customer Unit's expense, all of Supplier's CQ Infused Beverage System(s) within fifteen (15) days after the cancellation notice to the location/address as then directed by Supplier. Customer Unit agrees that it will pay the CQ Infused Beverage System Exchange Fees listed in Table Two for any damaged CQ Infused Beverage System(s) including, but not limited to Base Unit(s), Beverage Container(s), Insert(s), Lid(s), Mixing Bucket(s), and Sorcerer's Wand(s), returned within the fifteen (15) day time period. Customer Unit agrees that any CQ Infused Beverage System(s) not returned within the fifteen (15) day time period will be considered lost, stolen or operating outside of these Terms & Conditions. Customer Unit will be charged, and the Customer Unit agrees to pay, the CQ Infused Beverage System Fees listed in Table One for any CQ Infused Beverage System(s) including, but not limited to Base Unit(s), Beverage Container(s), Insert(s), Lid(s), Mixing Bucket(s), and Sorcerer's Wand(s) not returned within the fifteen (15) day time period.
- (b) If Customer Unit is de-enrolled as an Avendra customer, Customer Unit shall have the choice (i) to convert to Supplier's then-current Initial Order Form Pricing and Terms and Conditions (carrying forward and applying the product usage to Customer Units existing Order Commitment, start date, as defined in their Avendra-CQ Customer Unit Initial Order Form), or (ii) to cancel its ongoing Order Commitment (see Sections III(a) above).
- (c) Notwithstanding the foregoing, if the Avendra Supplier Agreement is terminated or expires, then the Supplier and Customer Unit agree that Avendra shall have the right to terminate all Avendra-CQ Customer Unit Initial Order Forms upon sixty (60) days' prior notice. If Avendra exercises its right to terminate all Avendra-CQ Customer Unit Initial Order Forms, then Customer Unit shall have the choice (i) to convert to Supplier's then-current Initial Order Form Pricing and Terms and Conditions (carrying forward and applying the product usage to Customer Units existing Order Commitment, start date, as defined in their Avendra-CQ Customer Unit Initial Order Form), or (ii) to cancel its ongoing Order Commitment (see Sections III(a) above).
- (d) If either party breaches any of these Terms and Conditions, the non-defaulting party may terminate the Order Commitment hereunder upon ten (10) days prior written notice (email is acceptable). Supplier's right to terminate Order Commitment and these Terms and Conditions for breach shall include, without limitation, the following: (i) Customer Unit notifies Supplier (email acceptable) intends to stop ordering CQ Purees, (ii) Customer Unit has refused delivery of their Order Commitment. Customer Unit agrees to pay the Order Commitment invoice, whether the Order Commitment was received or refused by Customer Unit, (iii) Customer Unit dispenses beverages from the CQ Infused Beverage System(s) that do not contain CQ Purees (see Sections II(a), II(b) and II(c) above), or (iv) Customer Unit modifies, removes, or fails to prominently display the CQ trademarks affixed to the CQ Infused Beverage System(s). In the event of a breach by Customer Unit, Supplier shall have the right to recover, and Customer Unit shall be obligated to return within fifteen (15) days after receipt of notice (email acceptable), all of Supplier's CQ Infused Beverage System(s) including, but not limited to Base Unit(s), Beverage Container(s), Insert(s), Lid(s), Mixing Bucket(s), and Sorcerer's Wand(s) from Customer Unit, at Customer Unit's expense and at no cost to Supplier. Customer Unit agrees that it will pay the CQ Infused Beverage System Exchange Fees listed in Table Two for any damaged CQ Infused Beverage System(s), returned within the fifteen (15) day time period. Customer Unit agrees that any CQ Infused Beverage System(s) including, but not limited to Base Unit(s), Beverage Container(s), Insert(s), Lid(s), Mixing Bucket(s), and Sorcerer's Wand(s) not returned within the fifteen (15) day time period will be considered lost, stolen or operating outside of these Terms & Conditions. Customer Unit will be charged, and the Customer Unit agrees to pay, the CQ Infused Beverage System Fees listed in Table One for any CQ Infused Beverage System(s) including, but not limited to Base Unit(s), Beverage Container(s), Insert(s), Lid(s), Mixing Bucket(s), and Sorcerer's Wand(s) not returned within the fifteen (15) day time period.

Section IV – Intellectual Property and Publicity

- (a) Customer Unit acknowledges that except as otherwise expressly set forth in these Terms and Conditions, Customer Unit shall have no right to use (i) the names, marks, logos, insignias, trademarks, trade names, trade secrets, and/or service marks of Supplier or (ii) the patented and/or patent pending designs and concepts of Supplier without the prior written consent of Supplier. In particular, Customer Unit acknowledges that all CQ Infused Beverage System(s) is the sole property of Supplier and that the patent pending construction and design of the CQ Infused Beverage System(s) is proprietary to Supplier. Customer Unit may not remove or alter in any way the CQ trademarks that are affixed to the CQ Infused Beverage System(s). The use and display of the CQ trademarks by the Customer Unit are understood to occur on a royalty-free basis.
- (b) Supplier acknowledges that it has no rights, title or interest in and to any names, marks, logos, insignias, trademarks, trade names, trade secrets, and/or service marks of Customer Unit except as permitted under these Terms and Conditions.

- (c) All notices to third parties and all other publicity concerning the relationship between Supplier and Customer Unit, these Terms and Conditions and the transactions contemplated hereby will be jointly planned and coordinated by the Customer Unit and Supplier; and in this regard, Customer Unit may not act unilaterally without the prior approval of Supplier, and Supplier may not act unilaterally without the prior approval of Customer Unit. Customer Unit agrees that Supplier may use, without any prior approval, Customer Unit's name and photos of CQ Infused Beverage System(s) in or at Customer Unit's location for sales and marketing purposes.
- (d) All notices to third parties and all other publicity concerning all Avendra-CQ Customer Unit Initial Order Form(s) and the transactions contemplated hereby will be jointly planned and coordinated by the Customer Unit and Supplier; and in this regard, Customer Unit may not act unilaterally without the prior approval of Supplier, and Supplier may not act unilaterally without the prior approval of Customer Unit. Supplier agrees that it will not make any use of the name, brand or logo of the Customer Unit except with Customer Unit's prior written consent for each use.

Section V – Indemnity.

- (a) Customer Unit shall indemnify, defend and hold harmless Supplier, our affiliates, and all respective officers, directors, partners, agents and employees from and against and accepts responsibility for, any claim, demand, cause of action, liability, loss, damage, cost or expense, including but not limited to reasonable attorneys' fees (all of the foregoing, collectively, "Claim"), which arises out of the improper use of the CQ Infused Beverage System(s) and/or CQ Purees and mixtures of CQ Purees with water or other authorized liquids, by Customer Unit, its employees and agents, affiliates, successors and assigns.
- (b) The Indemnity Agreement signed by Supplier pursuant to the Avendra Supplier Agreement shall be incorporated by this reference into all Avendra-CQ Customer Unit Initial Order Form(s) and Supplier agrees that Customer Unit shall be considered an "Indemnified Party" under, and covered by, the terms and conditions of the Indemnity Agreement. A copy of the Indemnity Agreement is available to Customer Unit upon request.
- (c) In the event of a Claim, Customer Unit agrees that Supplier, by its designated representatives, attorneys, and auditors or agents, has the right to examine the CQ Infused Beverage System(s) and/or CQ Purees and its use at any time hereafter, during business hours, and Customer Unit agrees further to cooperate with such persons in conducting such examination.

Section VI – Successors and Assigns.

These Terms and Conditions are binding upon and will inure to the benefit of the parties and their respective successors and assigns. Customer Unit may assign their Avendra-CQ Customer Unit Initial Order Form(s) without the prior written consent of Supplier to the owner of the Customer Unit, a purchaser of the Customer Unit, a subsequent operator of the Customer Unit, or to a lender or mortgagee of the Customer Unit.

Section VII – Amendments: Waivers.

Any amendment to these Terms and Conditions must be in writing. Any provision hereof may be waived in writing by the party entitled to the benefit of such provision. No waiver of the breach of any provision will be deemed or construed to be a waiver of other or subsequent breaches. Nothing herein is intended to confer any rights or remedies upon any person not a party hereto, except as expressly provided to the contrary herein.

Section VIII – Notices.

Any notices hereunder must be in writing and delivered or tendered either in person, transmitted by email, or on the next business day after deposit with a reliable overnight delivery service marked for next business day delivery, and addressed to the address indicated in the Avendra-CQ Customer Unit Initial Order Form above, or to such other address as the party addressed has previously designated by written notice (email acceptable) to the surviving party, given in accordance with this Section VIII.

Section IX – Severability: Partial Invalidity.

Nothing contained in the Avendra-CQ Customer Unit Initial Order Form or these Terms and Conditions will be construed as requiring the commission of any act contrary to law. Whenever there is any conflict between any provisions of these Terms and Conditions and any present or future statute, law, ordinance, regulation or judicial decision, contrary to which the parties have no legal right under these Terms and Conditions, the latter will prevail, but in such an event, the provision of these Terms and Conditions thus affected will be curtailed and limited only to the extent necessary to bring it within the requirements of the law. In the event that any part, article, section, sentence or clause of these Terms and Conditions is held to be indefinite, invalid or otherwise unenforceable, the indefinite, invalid or unenforceable provision will be deemed deleted, and the remaining parts hereof will continue in full force and effect.

Section X – Dispute Resolution: Governing Law.

- (a) Customer Unit and Supplier pledge and agree that they will first attempt to resolve any dispute, claim or controversy ("Dispute") arising out of or relating to the Avendra-CQ Customer Unit Initial Order Form or these Terms and Conditions by first having their respective executive officers meet at Supplier's principal executive office and conduct a good faith discussion and negotiation of the issues with an intent to arrive at a fair and agreeable settlement.
- (b) Any Dispute between Customer Unit and Supplier that is not resolved at the initial meeting and negotiation in Section X(a) above will

be resolved through binding arbitration by one arbitrator from the list of retired judges referred by Judicial Arbitration and Mediation Services ("JAMS") and selected by the parties in accordance with (i) JAMS' Streamlined Arbitration Rules and Procedures (if the amount in controversy is less than \$250,000.00 or (ii) JAMS' Comprehensive Arbitration Rules and Procedures (if the amount in controversy is \$250,000.00 or more), or by any other mutually agreeable arbitration organization. All hearings and other proceedings will take place in San Diego County, California, or other county where Supplier's headquarters is then located, or if Supplier so elects, in the county where Customer Unit's principal place of business is then located. Either party may present briefs and affidavits of witnesses who are unable to attend hearings. Otherwise, no affidavits, interrogatories, depositions or other discovery is permitted. The arbitration award will be final and binding on the parties, and judgment on the award may be entered in any federal or state court having jurisdiction. This arbitration provision is deemed to be self-executing and will remain in full force and effect after the expiration or termination of the business relationship between Customer Unit and Supplier. If either party fails to appear at any properly noticed arbitration proceeding, an award may be entered against such party by default or otherwise notwithstanding said failure to appear.

- (c) The Avendra-CQ Customer Unit Initial Order Form and these Terms and Conditions shall be governed by the laws of the jurisdiction where the Customer Unit is located (without regard to such jurisdiction's principals of conflicts of law), and Supplier consents to be subject to the personal jurisdiction of the courts of such jurisdiction for all purposes.

Section XI – No Third Party Rights: Enforcement of Terms.

These terms control the relationship between Supplier and Customer Unit. They do not create any third party beneficiary rights. If Customer Unit does not comply with these terms, and Supplier doesn't take action right away, this doesn't mean that Supplier is giving up any rights that Supplier may have (such as taking action in the future). If it turns out that a particular term is not enforceable, this will not affect any other terms.

CQ Infused Beverage System Fees

<u>Table One</u>	
Equipment Description	Prices (USD \$)
CQ Infusion Jar Base	\$840.00
CQ Plastic Patent Pending Infusion Beverage Container	\$1,500.00
CQ Plastic Patent Pending Infusion Jar Insert	\$540.00
CQ Plastic Infusion Jar Lid	\$50.00
CQ Plastic Sorcerer's Wand	\$40.00
CQ Plastic Portion Control Mixing Bucket & Lid	\$30.00

CQ Infused Beverage System Exchange Fees

<u>Table Two</u>	
Equipment Description	Prices (USD \$)
CQ Infusion Jar Base	\$140.00
CQ Plastic Patent Pending Infusion Beverage Container	\$250.00
CQ Plastic Patent Pending Infusion Jar Insert	\$90.00
CQ Plastic Infusion Jar Lid	\$20.00
CQ Plastic Sorcerer's Wand	\$15.00
CQ Plastic Portion Control Mixing Bucket & Lid	\$20.00