

# TERMS AND CONDITIONS

BY VISITING [WWW.THEVAPEFACTOR.COM](http://WWW.THEVAPEFACTOR.COM), YOU ARE CONSENTING TO OUR TERMS AND CONDITIONS.

## OVERVIEW

The terms “we,” “us,” and “our” refer to **THE VAPE FACTOR LLC**. The term the “Site” refers to [www.TheVapeFactor.com](http://www.TheVapeFactor.com). The terms “user,” “you,” and “your” refer to site visitors, customers, and any other users of the site.

**The retail sale of products related to the vaping industry such as devices and accessories used for vaping aka mods, atomizers and/or misc tools, premium brands of vaping e-liquid used for vaping (the “Service”).**

Use of ([WWW.TheVapeFactor.COM](http://WWW.TheVapeFactor.COM)), including all materials presented herein and all online services provided by (**The Vape Factor LLC**), is subject to the following Terms and Conditions. These Terms and Conditions apply to all site visitors, customers, and all other users of the site. By using the Site or Service, you agree to these Terms and Conditions, without modification, and acknowledge reading them.

## USE OF THE SITE AND SERVICE

To access or use the Site, you must be 18 years of age or older and have the requisite power and authority to enter into these Terms and Conditions. Children under the age of 18 are prohibited from using the Site. Information provided on the Site and in the Service related to [insert subject matter] and other information are subject to change. **THE VAPE FACTOR LLC** makes no representation or warranty that the information provided, regardless of its source (the “Content”), is accurate, complete, reliable, current, or error-free. **THE VAPE FACTOR LLC** disclaims all liability for any inaccuracy, error, or incompleteness in the Content.

## ACCOUNT CREATION

In order to use the Service, you may be required to provide information about yourself including your name, email address, username and password, and other personal information. You agree that any registration information you give to **THE VAPE FACTOR LLC** will always be accurate, correct, and up to date. You must not impersonate someone else or provide account information or an email address other than your own. Your account must not be used for any illegal or unauthorized purpose. You must not, in the use of the Service, violate any laws in your jurisdiction.

## LAWFUL PURPOSES

You may use the Site and Service for lawful purposes only. You agree to be financially responsible for all purchases made by you or someone acting on your behalf through the Site. You agree to use the Site and to purchase services or products through the Site for legitimate, non-commercial purposes only. You shall not post or transmit through the Site any material which violates or infringes the rights of others, or which is threatening, abusive, defamatory, libelous, invasive of privacy or publicity rights, vulgar, obscene, profane, or otherwise objectionable, contains injurious formulas, recipes, or instructions, which encourages conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any law.

## REFUSAL OF SERVICE

The Services are offered subject to our acceptance of your order or requests. We reserve the right to refuse service to any order, person or entity, without the obligation to assign reason for doing so. No order is deemed accepted by us until payment has been processed. We may at any time change or discontinue any aspect or feature of the Site or Service, subject to us fulfilling our previous responsibilities to you based on acceptance of your payment.

#### **ORDER CONFIRMATION:**

We will email you to confirm the placement of your order and with details concerning product delivery. In the event that there is an error in this email confirmation, it is your responsibility to inform us as soon as possible.

#### **CANCELLATIONS, REFUNDS & RETURNS:**

#### **THE VAPE FACTOR LLC**

#### **PRODUCT DESCRIPTION**

We endeavor to describe and display the Service as accurately as possible. While we try to be as clear as possible in explaining the Service, please do not accept that the Site is entirely accurate, current, or error-free. From time to time we may correct errors in pricing and descriptions. We reserve the right to refuse or cancel any order with an incorrect price listing.

#### **MATERIAL YOU SUBMIT TO THE SITE**

You shall not upload, post or otherwise make available on the Site any artwork, photos, or other materials (collectively "Materials") protected by copyright, trademark, or other proprietary right without the express written permission of the owner of the copyright, trademark, or other proprietary right, and the burden of determining that any Materials are not so protected rests entirely with you. You shall be liable for any damage resulting from any infringement of copyrights, trademarks, or other proprietary rights, or any other harm resulting from such a submission. For all Materials submitted by you to the Site, you automatically represent or warrant that you have the authority to use and distribute the Materials, and that the use or display of the Materials will not violate any laws, rules, regulations, or rights of third parties.

#### **INTELLECTUAL PROPERTY RIGHTS TO YOUR MATERIALS**

We claim no intellectual property rights over the material you supply to THE VAPE FACTOR LLC. You retain copyright and any other rights you may rightfully hold in any content that you submit through the Site or Service. Content you submit to THE VAPE FACTOR LLC remains yours to the extent that you have any legal claims therein. You agree to hold THE VAPE FACTOR LLC harmless from and against all claims, liabilities, and expenses arising out of any potential or actual copyright or trademark misappropriation or infringement claimed against you. By posting material on the Site, you grant us a worldwide, nonexclusive, irrevocable license to use the material for promotional, business development, and marketing purposes.

#### **OUR INTELLECTUAL PROPERTY**

The Site and Service contain intellectual property owned by THE VAPE FACTOR LLC, including trademarks, copyrights, proprietary information, and other intellectual property. You may not modify, publish, transmit, participate in the transfer or sale of, create derivative works from, distribute, display,

reproduce or perform, or in any way exploit in any format whatsoever any of the Site or Service Content or intellectual property, in whole or in part, without our prior written consent. We reserve the right to immediately remove you from the Service, without refund, if you are caught violating this intellectual property policy.

#### **CHANGED TERMS**

We may at any time amend these Terms and Conditions. Such amendments are effective immediately upon notice to you by us posting the new Terms and Conditions on this Site. Any use of the Site or Service by you after being notified means you accept these amendments. We reserve the right to update any portion of our Site and Service, including these Terms and Conditions, at any time. We will post the most recent versions to the Site and list the effective dates on the pages of our Terms and Conditions.

#### **LIMITATION OF LIABILITY**

YOU AGREE THAT UNDER NO CIRCUMSTANCES SHALL WE BE LIABLE FOR DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY, OR ANY OTHER DAMAGES ARISING OUT OF YOUR USE OF THE SITE OR SERVICE. ADDITIONALLY, THE VAPE FACTOR LLC IS NOT LIABLE FOR DAMAGES IN CONNECTION WITH (I) ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, DENIAL OF SERVICE, ATTACK, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMPUTER VIRUS, OR LINE OR SYSTEM FAILURE; (II) LOSS OF REVENUE, ANTICIPATED PROFITS, BUSINESS, SAVINGS, GOODWILL OR DATA; AND (III) THIRD PARTY THEFT OF, DESTRUCTION OF, UNAUTHORIZED ACCESS TO, ALTERATION OF, OR USE OF YOUR INFORMATION OR PROPERTY, REGARDLESS OF OUR NEGLIGENCE, GROSS NEGLIGENCE, FAILURE OF AN ESSENTIAL PURPOSE AND WHETHER SUCH LIABILITY ARISES IN NEGLIGENCE, CONTRACT, TORT, OR ANY OTHER THEORY OF LEGAL LIABILITY. THE FOREGOING APPLIES EVEN IF THE VAPE FACTOR LLC HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN THE DAMAGES. IN THOSE STATES THAT DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR THE DAMAGES, OUR LIABILITY IS LIMITED TO THE FULLEST POSSIBLE EXTENT PERMITTED BY LAW. IN NO EVENT SHALL THE VAPE FACTOR LLC'S CUMULATIVE LIABILITY TO YOU EXCEED THE TOTAL PURCHASE PRICE OF THE SERVICE YOU HAVE PURCHASED FROM THE VAPE FACTOR LLC, AND IF NO PURCHASE HAS BEEN MADE BY YOU THE VAPE FACTOR LLC'S CUMULATIVE LIABILITY TO YOU SHALL NOT EXCEED \$100.

#### **THIRD PARTY RESOURCES**

The Site and the Service contain links to third party websites and resources. You acknowledge and agree that we are not responsible or liable for the availability, accuracy, content, or policies of third party websites or resources. Links to such websites or resources do not imply any endorsement by or affiliation with THE VAPE FACTOR LLC. You acknowledge sole responsibility for and assume all risk arising from your use of any such websites or resources.

#### **INDEMNIFICATION**

You shall indemnify and hold us harmless from and against any and all losses, damages, settlements, liabilities, costs, charges, assessments, and expenses, as well as third party claims and causes of action, including, without limitation, attorney's fees, arising out of any breach by you of any of these Terms

and Conditions, or any use by you of the Site or Service. You shall provide us with such assistance, without charge, as we may request in connection with any such defense, including, without limitation, providing us with such information, documents, records, and reasonable access to you, as we deem necessary. You shall not settle any third party claim or waive any defense without our prior written consent.

#### **EFFECT OF HEADINGS**

The subject headings of the paragraphs and subparagraphs of this Agreement are included for convenience only and shall not affect the construction or interpretation of any of its provisions.

#### **ENTIRE AGREEMENT; WAIVER**

This Agreement constitutes the entire agreement between you and THE VAPE FACTOR LLC pertaining to the Site and Service and supersedes all prior and contemporaneous agreements, representations, and understandings between us. No waiver of any of the provisions of this Agreement by THE VAPE FACTOR LLC shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by THE VAPE FACTOR LLC.

#### **NOTICES**

All notices, requests, demands, and other communications under this Agreement shall be in writing and properly addressed as follows:

**The Vape Factor**  
**4901 Volunteer Rd.**  
**Unit #29**  
**Southwest Ranches, FL 33331**  
**Email: Derek@TheVapeFactor.com**

#### **GOVERNING LAW; VENUE; MEDIATION**

This Agreement shall be construed in accordance with, and governed by, the laws of the State of FLORIDA as applied to contracts that are executed and performed entirely in FLORIDA. The exclusive venue for any arbitration or court proceeding based on or arising out of this Agreement shall be THE UNITED STATES OF AMERICA BROWARD COUNTY, FLORIDA. The parties agree to attempt to resolve any dispute, claim, or controversy arising out of or relating to this Agreement by mediation, which shall be conducted under the then current mediation procedures of The CPR Institute for Conflict Prevention & Resolution<sup>3</sup> or any other procedure upon which the parties may agree. The parties further agree that their respective good faith participation in mediation is a condition precedent to pursuing any other available legal or equitable remedy, including litigation, arbitration, or other dispute resolution procedures.

#### **RECOVERY OF LITIGATION EXPENSES**

If any legal action or any arbitration or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

#### **SEVERABILITY**

If any term, provision, covenant, or condition of this Agreement is held by an arbitrator or court of competent jurisdiction to be invalid, void, or unenforceable, the rest of the Agreement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

#### **ASSIGNMENT**

These Terms and Conditions bind and inure to the benefit of the parties' successors and assigns. These Terms and Conditions are not assignable, delegable, sublicenseable, or otherwise transferable by you. Any transfer, assignment, delegation, or sublicense by you is invalid.

Updated: **February 5, 2015**