

BEAVER STREET FISHERIES, INC.
STANDARD TERMS AND CONDITIONS OF SALE

The following standard terms and conditions of sale (“T&C”) apply to the sale of any and all products and services (“Products”) sold by Beaver Street Fisheries, Inc. (“Seller”), unless otherwise modified or excepted in a written document or documents, signed or approved, in writing, by an authorized officer or authorized manager of Seller.

1. Contract. These T&C, together with the purchase order and written acceptance and/or written confirmation of the purchase order by Seller govern the offer, acceptance, and delivery of any and all Products by Seller to each buyer (“Buyer”) and collectively constitute the contract (“Contract”) for the sale and purchase of said Products. For purposes of these T&C, the term “written” includes any document(s) sent electronically by Seller and/or Buyer to each other.
2. Specifications. Any Products sold may vary from specifications in quality and/or quantity to the extent permitted by trade usage and/or industry standards.
3. Delivery Terms.
 - (a) Seller reserves the right to deliver an entire order at one time or to deliver portions thereof, from time to time, on or before the applicable shipment date. With respect to multiple installment shipments of Products sold: (i) each installment shipment is to be regarded as sold under a separate Contract; (ii) Seller may, as a condition precedent to further performance, obtain payment for all delivered Products; and (iii) Seller’s unexcused default (subject to, without limitation, the provisions of Section 9 below) in the delivery of any one or more installments will subject Seller only to potential liability for damages for failure to perform with regard to that installment; and Buyer will not be excused from further performance.
 - (b) If a letter of credit, bank guaranty or other form of credit enhancement (“Credit Security”) is required to be provided by Buyer and is not received by Seller at least one day prior to the applicable shipping date, Seller may at Seller’s sole option (i) terminate the Contract, or (ii) withhold all shipments until such Credit Security is received by Seller.
4. Shipping Terms. The delivery location (“Delivery Location”) is Seller’s facility in Jacksonville, Florida unless otherwise specified in a purchase order and written acceptance and/or written confirmation of the purchase order from Seller. If Buyer requests the Delivery Location to be Buyer’s facility or another location other than Seller’s facility, and Seller agrees and confirms in the written acceptance and/or written confirmation of the purchase order to deliver to such location, then the costs of such delivery will be added to the price or shown as a separate line item on the invoice.
5. Title and Risk of Loss. Title and the risk of loss to Products shall transfer from Seller to Buyer at the Delivery Location when possession of the Products is taken by Buyer directly, or through a freight carrier, cold storage facility or any other party acting on behalf of Buyer.
6. Payments. All payments shall be made timely to Seller’s office or post office box in Jacksonville, Florida. Buyer shall not be entitled to any setoff or to deduct any amounts owed by Seller or anyone else, with respect to amounts due for the purchase of Products from Seller, without Seller’s prior written authorization.
7. Late Payments. Buyer agrees to pay interest on all past due amounts due to Seller equal to the lesser of (i) one percent (1%) per month or (ii) the highest interest rate permitted by law.
8. Costs of Collection. Buyer agrees to reimburse Seller for all costs of collection incurred by Seller with respect to past due amounts, including without limitation, reasonable attorneys’ fees, to the fullest extent permitted by law.

9. Force Majeure. Seller shall not be liable for any failure or delay in delivery occasioned by labor disputes, wars, riots, insurrection, terrorism, product shortages, severe weather, diseases, governmental regulation, force majeure and/or any other causes beyond Seller's control. Many of Seller's Products are commodities that are subject to naturally occurring conditions that are beyond the control of Seller, and all purchase orders, acceptances and/or confirmations of purchase orders and Contracts are subject to the reasonable availability of the Products and/or raw materials to Seller.
10. Rejections. Unless Seller receives from Buyer, within two (2) business days from the date of delivery of a shipment, written notice to the contrary, Buyer shall be deemed to have accepted a shipment as conforming to the Contract. Seller shall have five (5) business days from receipt of Buyer's notice of rejection in which to cure any default(s) by tendering a conforming delivery to Seller.
11. Cancellations. No purchase order that has been accepted and/or confirmed by Seller (the Contract) may be cancelled by Buyer without Seller's prior written consent. Any such purchase order(s) cancelled by Buyer without Seller's prior written consent will be subject to Seller's damages and losses, including without limitation, Seller's lost profits, freight charges, reasonable attorneys' fees and costs. Any such purchase order(s) that is/are cancelled at least five (5) days prior to the agreed upon delivery date may assist Seller in mitigating Seller's damages and losses to be paid by Buyer. Seller will use commercially reasonable efforts to mitigate any damages and losses caused by any such unauthorized purchase order cancellations by Buyer; however there are no guarantees that Seller will be able to mitigate all or a portion of said damages and losses. Seller may waive any such damages and losses to be paid Buyer, in its sole discretion, on a case-by-case basis.
12. Warranties. The Products are warranted by Seller to Buyer to be merchantable and fit for their intended purpose. No other warranties are given, either express or implied, to Buyer or to anyone else, including but not limited to, any warranty for any use for any particular purpose. The sole liability of Seller to Buyer for breach of said warranty of merchantability, shall be, for the replacement of the non-conforming Products or for a refund of the purchase price of the Products, at Seller's sole option.
13. Damages. Seller shall not be liable to Buyer for any indirect, incidental, consequential, exemplary or punitive damages whatsoever, of any kind, for any reason.
14. Severability. If any of these T&C or any other provision or provisions of the Contract are determined to be legally unenforceable, in whole or in part for any reason, said provision or provisions and all remaining provisions shall be enforced to the fullest extent permitted by law.
15. Conflicts. If there are any conflicts among the provisions of these T&C, the purchase order, the acceptance of the purchase order and/or the confirmation of the purchase order, they shall prevail in the following order: the confirmation of the purchase order, the acceptance of the purchase order, these T&C, the purchase order.
16. Applicable Law & Venue. The Contract shall be governed for all purposes under the laws of the State of Florida, without regard to its conflicts of laws provisions. Any legal proceeding brought, pertaining to this Contract, may be brought in any court or courts of competent jurisdiction located in Duval County, Florida and Buyer agrees to submit to the personal and other jurisdiction of any such court or courts. The prevailing party in any such legal proceeding shall be entitled to reimbursement from the non-prevailing party of all reasonable legal costs, including without limitation, reasonable attorneys' fees.
17. WAIVER OF JURY TRIAL. SELLER AND BUYER AGREE TO WAIVE ANY AND ALL RIGHTS THAT THEY HAVE OR MAY HAVE TO A JURY TRIAL, IN ANY AND ALL LEGAL PROCEEDINGS BROUGHT, PERTAINING TO ANY AND ALL CONTRACT(S) AND/OR SALE(S) BETWEEN THEM, TO THE FULLEST EXTENT PERMITTED BY LAW.
18. WAIVER OF CLASS ACTION LAWSUITS. BUYER AGREES TO WAIVE ANY AND ALL RIGHTS BUYER HAS OR MAY HAVE TO A CLASS ACTION LAWSUIT OR LAWSUITS AGAINST SELLER, PERTAINING TO ANY AND ALL CONTRACT(S) AND/OR SALE(S) BETWEEN THEM, FOR ANY REASON OR REASONS, TO THE FULLEST EXTENT PERMITTED BY LAW.