

Initials of Authorized Person (Buyer) \_\_\_\_\_

**GENERAL SALES TERMS AND CONDITIONS  
FOR SUPPLY OF GOODS – SHARK PVB PROCESSING LLC**

THE SALES TERMS AND CONDITIONS IN THIS DOCUMENT SHALL BE A CONFIRMATION OF CONTRACT AND APPLY TO ANY AND ALL GOODS PROVIDED BY SELLER TO BUYER.

**Preamble**

1. In consideration of the mutual promises evidenced by the invoice to which these general terms and conditions ("Terms & Conditions") are attached, these Terms & Conditions shall apply to the parties and transaction to which the attached invoice is addressed, unless expressly superseded by a separate, signed, written agreement between the parties that is not a form. These Terms & Conditions shall supplement any such agreement to the extent that any provision hereof is not otherwise addressed in the parties' separate agreement. As used in this contract, "Seller" shall mean Shark PVB Processing LLC, a Georgia Limited Liability Company, and "Buyer" shall mean the entity or individual charged with paying this invoice. Together, Seller and Buyer are the parties to these General Sales Terms and Conditions for Supply of Goods and the attached invoice. Deviations from any terms or conditions set forth in this contract shall not apply to the subject transaction unless agreed to in writing and signed by both parties' authorized representatives.

**Packaging**

2. Prices quoted in offers and agreements shall, unless otherwise specified, be deemed to include the Seller's standard packaging.

**Quantity and Weight**

3. Reservation regarding deviations from the agreed weight or quantity shall not be valid unless expressly agreed in a signed writing between parties.

**Product Information**

4. Data contained in product information and pricelists are binding only to the extent that they are, by reference, expressly included in the order.

**Delivery**

5. Where a trade term has been agreed upon, it shall be interpreted in accordance with the INCOTERMS 2010, or such subsequent INCOTERMS as are in force at formation of the contract. If no trade term is specifically agreed, the delivery shall be *Ex-works*.

**Time of Delivery. Delay**

6. If delay in delivery is caused by circumstances which under clause 18 shall be considered a case of relief or by an act or omission on the part of the Buyer, the time for delivery shall be extended even if the reason for delay occurs after the original agreed time for delivery.

7. If the Seller fails to deliver the goods on time, the Buyer may by written notice to Seller fix a final reasonable time for delivery and inform the Seller of their intention to terminate the order unless delivery takes place within such final time. If delivery has not taken place by such a final time, the Buyer shall be entitled to terminate the order by written notice to Seller. If the delay is such as to significantly deprive the Buyer of the benefit of the order, or if it is clear from circumstances that such a delay will occur, the Buyer may forthwith terminate the order by written notice to the Seller.

8. If the Buyer terminates the order in accordance with clause 7 they shall be entitled to compensation from the Seller for the actual increased cost that they incur in procuring like-type corresponding goods from another source. Any other claim from the Buyer in respect of Seller's failure to deliver in time is hereby expressly excluded. If Buyer does not terminate the order, it shall not, unless otherwise specifically agreed, be entitled to any compensation.

**Payment**

9. Unless otherwise agreed, payment shall be made 30 days after delivery. If the Buyer fails to take delivery on the agreed date, payment shall nevertheless be made as if delivery had taken place according to order.

10. If the Buyer fails to pay by the due date, the Seller shall be entitled to interest from the day on which payment became due at ten percent (10%) per year or, the highest rate of interest permitted at law in the state of California, whichever is greater.

11. If the Buyer has not paid the amount due within three (3) months of the payment due date, the Seller shall be entitled to terminate the order by written notice to the Buyer and, in addition to interest, claim compensation for the loss the Seller has suffered. The compensation shall not exceed the agreed contract price.

**Retention of Title**

12. The goods shall remain property of the Seller until paid for in full, to the extent that such retention of the title is valid under the applicable law; provided that title to the goods and all risks therefor shall transfer to Buyer at the point of delivery, and thereupon Seller shall have the right to file a UCC-1 or other lien on the goods until Buyer pays Seller in full for them. All intellectual property rights in the goods manufactured by Seller, including without limitation, patents, trademarks, utility models, copyrights and know-how used or subsisting in connection with Seller's goods, are and shall remain Seller's exclusive property.

**Liability for Defects; Warranty**

13. For a period of twelve (12) months after delivery of the subject goods, the Seller shall deliver new goods in replacement of any goods which are defective as a result of faulty design, materials or workmanship.

14. The Buyer shall, without undue delay, notify the Seller in writing of any defects in the goods. If the Buyer fails to do so, they shall forfeit the right to delivery of replacement goods under clause 13.

15. If the Seller, after having received the Buyer's notice under clause 14, fails to deliver replacement goods within a reasonable time, the Buyer may, by written notice delivered within 14 days thereafter, terminate the order in respect of the defective goods.

If the Buyer terminates the order for a valid defect of the goods, they shall be entitled to compensation from the Seller for the increased cost that Buyer incurs in procuring like-kind, corresponding goods from another source.

16. Except as stipulated in clauses 13 and 15, the Seller shall have no liability for defects or failure to deliver replacement goods. This requirement applies to any loss the defect may cause, including but not limited to, loss of production cost, loss of profit and any other consequential damages, including economic loss. This limitation of the Seller's liability shall, however, not apply if it has been guilty of gross negligence.

**Liability for Damage to Property Caused by the Goods**

17. The Buyer shall indemnify and hold harmless the Seller to the extent that the Seller incurs liability to any third party for damage related to Buyer's use of the goods, whether arising from Buyer's sole, comparable or contributory negligence or intentional conduct.

The Seller shall not be liable for direct, indirect, incidental, special or consequential loss or damage to Buyer, its successors or assigns, that is caused by the goods and due to Buyer's or its successor's or assign's misuse of the goods, negligence or intentional misconduct, including loss or damage:

- a) To any (movable or immovable) property while the goods are in the Buyer's possession, or
- b) To products manufactured by the Buyer or to products from which the Buyer's products form a part, or for loss or damage to any property.

The above limitations on Seller's liability shall not apply where it has been guilty of gross negligence.

If a claim for loss or damage related to the goods purchased by Buyer is raised by a third party against either party to the order, the notified party shall forthwith notify the other party thereof.

**Warranty Exclusions.** THE WARRANTIES IN THIS AGREEMENT REPLACE ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, AND ALL OTHER OBLIGATIONS OR LIABILITIES OF SELLER, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ALL OTHER WARRANTIES ARE DISCLAIMED AND EXCLUDED BY SELLER. THE REMEDIES CONTAINED IN THIS AGREEMENT WILL BE THE SOLE AND EXCLUSIVE REMEDIES OF BUYER, ITS SUCCESSORS AND ASSIGNS, WHETHER IN CONTRACT, TORT, OR OTHERWISE. THIS LIMITATION APPLIES TO ALL GOODS, SERVICES, AND INTELLECTUAL PROPERTY DURING AND AFTER ANY APPLICABLE WARRANTY PERIOD. SELLER SHALL NOT BE RESPONSIBLE FOR ANY DEFECT CAUSED BY MISUSE OF THE GOODS. IN NO EVENT WILL SELLER BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR REVENUE, LOSS OF USE OF THE GOODS, OR COST OF SUBSTITUTED GOODS, PARTS OR SERVICES (EXCEPT AS PROVIDED TO THE CONTRARY HEREIN) WHICH ARISE OUT OF PERFORMANCE OR FAILURE TO PERFORM ANY OBLIGATION CONTAINED WITHIN THIS AGREEMENT, OR OUT OF NEGLIGENCE IN THE COURSE OF SUCH PERFORMANCE, WHETHER THE CLAIM FOR DAMAGES IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE. ANY ACTION FOR AN ALLEGED BREACH OF ANY CONTRACT OF SALE OR OF THE ABOVE-STATED WARRANTY WITH RESPECT TO GOODS SOLD BY SELLER TO BUYER MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES.

The provisions of Sections 13-17 of these Terms & Conditions shall survive the delivery of and payment for the subject goods.

**Grounds for Relief (force majeure)**

18. A party shall not be held liable for failure of or delay in performing its obligations under this contract if such failure or delay is the result of an act of God, such as earthquake, hurricane, tornado, flooding, or other natural disaster, or in the case of war, action of foreign enemies, terrorist activities, labor dispute or strike, government sanction, blockage, embargo, or failure of electrical service, or any other cause beyond the reasonable control of the parties. The non-performing party must make every reasonable attempt to minimize delay of performance. In the event *force majeure* continues longer than 120 days, either party may terminate the transaction, repaying the full amount of any deposit within 10 days after delivering the termination notice.

The above-described circumstances shall constitute grounds for relief only if their effect on the performance of the contract could not be foreseen at the time of formation of the contract.

**Disputes, Applicable Law**

19. This contract shall be governed by and construed in accordance with California law, including its Uniform Commercial Code, and excluding its conflicts of law provisions and the provisions of the United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980).

20. Disputes arising out of or in connection with this contract shall not be brought before court, but shall be finally settled by arbitration in Sacramento, California, conducted in English, and in accordance with the American Arbitration Association Rules, by one arbitrator if the dispute does not exceed \$300,000, and by a panel of three arbitrators if the dispute exceeds \$300,000. Notwithstanding the foregoing, Seller may seek injunctive relief in any court of competent jurisdiction to enjoin the improper use of the goods of which it becomes aware or of Seller's intellectual property.

21. If any provision of these Terms & Conditions shall be invalid, the remaining provisions shall remain in full force and effect.