

BELFLOWER PRODUCE, LLC
GENERAL TERMS AND CONDITIONS OF SALE

1. **Applicable Terms.** THESE TERMS AND CONDITIONS, (THE “TERMS”) GOVERN ALL TRANSACTIONS BETWEEN BUYER AND BELFLOWER PRODUCE, LLC (“SELLER”), INCLUDING BUT NOT LIMITED TO ANY PRODUCE SOLD HEREUNDER (THE “PRODUCTS”). Unless otherwise specifically agreed in writing by an authorized representative of Seller, any different or additional terms and conditions proposed by any Buyer in a purchase order, response to a quotation, or other proposal are hereby rejected by Seller and shall not be incorporated into the agreement for sale of Seller’s Products. Buyer’s assent to these Terms shall be conclusively presumed from Buyer’s ordering products quoted by Seller, Buyer’s failure to object in writing to these Terms, and/or Buyer’s acceptance of all or part of any products ordered. If Seller is found to have acknowledged Buyer’s order or proposal, and such acknowledgement constitutes an acceptance of an offer, such acceptance is expressly made conditional on Buyer’s assent solely to these Terms, which shall form part of the acknowledgement, and acceptance by Buyer of any products shall be deemed to constitute such assent. If any quotation or other document of Seller is deemed to constitute an offer to Buyer, Buyer’s acceptance of such offer is limited to these Terms. **THE CONVENTION ON THE INTERNATIONAL SALE OF GOODS IS EXPRESSLY EXCLUDED AND SHALL NOT APPLY TO ANY SALE OF PRODUCTS HEREUNDER.**
2. **Purchase Agreement.** All orders by Buyer for Products shall be evidenced by written agreement (“Purchase Order”) which shall specify at minimum the quantity, type, and specifications for the Products, which Purchase Orders are subject to these Terms. Seller’s issuance of an Invoice or delivery of the Products shall constitute Buyer’s acceptance of these Terms. No order may be cancelled or altered by Buyer except on terms and conditions agreed to by Seller.
3. **Price and Payment.** The price for the Products shall be Seller’s List Price, or such other price as Seller sets forth in writing, which does not include shipping, unless otherwise expressly stated. Unless Buyer’s Purchase Order as duly acknowledged and accepted by Seller provides otherwise, **Prices are F.O.B. (Incoterms 2020).** Buyer shall pay Seller the full purchase price as set forth in Seller’s Invoice or Buyer’s Purchase Order as duly acknowledged and accepted by Seller. Except as otherwise provided herein and subject to credit approval by Seller, all payments are due within twenty-one (21) days after delivery. Buyer shall be charged the lower of one and one-half percent (1 ½ %) interest per month or the maximum legal rate on all amounts not received by the due date and shall pay all of Seller’s costs (including reasonable attorney’s fees) of collecting amounts due but unpaid. All orders are subject to credit approval by Seller. Notwithstanding the acceptance of any order by Seller, Seller reserves the right not to ship Products to any Buyer not paying in accordance with these Terms or who, in the sole opinion of Seller, may be unable to meet its payment obligations to Seller.
4. **Limited Warranty.** THE WARRANTIES SET FORTH IN THIS SECTION ARE SELLER’S SOLE AND EXCLUSIVE WARRANTIES AND ARE SUBJECT TO SECTION 15 BELOW. SELLER DISCLAIMS AND MAKES NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Seller warrants that the Products shall conform to the grade represented at the time and place of delivery to Buyer. Should any failure to conform to this warranty, Seller may, at its sole discretion and as Buyer’s sole remedy, repair or replace the Products or refund the purchase price therefore. Except for cost of the replacement Products, Buyer shall be responsible for all costs, including labor and materials, associated with the diagnosis, removal, shipping and delivery of any Products to be replaced. Buyer may be required to send such Products to Seller at its place of business or at a facility designated by Seller. If Seller determines that any claimed breach is not, in fact, covered by this warranty, Buyer shall not be required to replace or pay for such Products.
5. **Events not Excusing Buyer’s Requirement to Take Delivery and Pay for Products.** Buyer must take delivery of the Products and events such as pandemic, health emergency, federal, state or local government orders, failures of markets or customers, etc. shall not excuse Buyer’s obligation to take delivery of Products and to pay for same.
6. **Date of Shipments.** Delivery dates are based on conditions existing at the time of Seller’s receipt of Buyer’s firm order and full information. Seller will in good faith endeavour to deliver by the estimated shipping date but it shall not be responsible for any delay or any damage arising therefrom. **BUYER’S SOLE AND EXCLUSIVE REMEDY FOR ANY OTHER DELAY OR FAILURE TO SHIP, DELIVER, REPLACE OR REPAIR SHALL BE LIMITED TO THE RETURN OF ANY PRODUCTS SUBJECT TO SUCH UNEXCUSED DELAY OR FAILURE AND RECOVERY OF THE INVOICE PRICE OF SAID PRODUCTS THEREFORE PAID TO SELLER. IN NO EVENT SHALL SELLER BE LIABLE FOR LOSS OF BUSINESS OR PROFITS OR ANY OTHER DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ON ACCOUNT OF ANY DELAY OR FAILURE TO SHIP, DELIVER, REPAIR OR REPLACE, WHETHER OR NOT EXCUSED HEREUNDER.**
7. **LIMITATION OF LIABILITY.** **IN NO EVENT SHALL SELLER BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, STRICT LIABILITY, OR IN TORT, INCLUDING NEGLIGENCE) NOR FOR LOST PROFITS. SELLER’S LIABILITY SHALL NOT EXCEED THE PURCHASE PRICE OF THE DEFECTIVE PRODUCTS. THIS LIMITATION OF LIABILITY SHALL INCLUDE BUT IS NOT LIMITED TO ANY CLAIM, LOSS, DEMAND OR LIABILITY RELATED IN ANY WAY TO THE PRODUCTS, PARTS, OR SERVICES DELIVERED HEREUNDER WHETHER BASED ON WARRANTY, FAILURE OF OR DELAY IN DELIVERY, OR OTHERWISE.**

8. **Miscellaneous.** If these terms are issued in connection with a government contract, they shall be deemed to include those acquisition regulations that are required by law to be included. These terms, together with any Purchase Agreement, Invoice or acknowledgement issued or signed by the Seller, comprise the complete final expressions and exclusive statement of the agreement between the parties (the "Agreement"). No part of the Agreement may be changed or cancelled except by a written document signed by Seller and Buyer. No course of dealing or performance, usage of trade or failure to enforce any term shall be used to modify the Agreement. If any of these terms is enforceable, such term shall be limited only to the extent necessary to make it enforceable, and all other terms shall remain in full force and effect. Buyer may not assign or permit any other transfer of the Agreement without Seller's prior written consent.
9. **Assignment.** Buyer shall not assign, transfer, delegate or subcontract any of its rights or obligations under a Purchase Agreement or invoice without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the Buyer of any of its obligations hereunder. Seller may at any time assign, transfer or subcontract any or all of its rights or obligations under a Purchase Agreement or invoice without Buyer's prior written consent.
10. **Notices.** All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the Invoice or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), email (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in the Invoice, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.
11. **Choice of Law, Exclusive Jurisdiction and Venue.** The construction, interpretation, and performance under this Agreement shall be determined in accordance with the laws of the State of Texas and the United States of America (but not including any of their conflicts-of-law principles or rules which would direct or refer to the laws of another jurisdiction). The state courts situated in Hidalgo County, Texas shall have exclusive jurisdiction of any disputes arising under or in relation in any way to this Agreement or any Purchase Agreement or Invoice and the Parties consent to jurisdiction and venue in a court of competent jurisdiction in Hidalgo County, Texas, provided, however that Seller may also file suit in Bexar County, Texas or Dallas County, Texas to collect any amounts alleged to be due and owing for Products sold to Buyer, including seeking recovery of its reasonable attorney's fees and costs which Buyer agrees to be pay if it fails to timely pay for the Products. **THE PARTIES FURTHER WAIVE TRIAL BY JURY.**
12. **Entire Agreement.** These terms constitute our sole and entire agreement and supersede any prior agreements, understandings, correspondence, business practices or course of dealing. Irrespective of whether these terms are included in an offer or an acceptance by seller, and notwithstanding seller's acceptance of any purchase order, the provisions of any order acknowledgement, release request, confirmation, acceptance, invoice or other document or instrument of seller, or of Buyer, or any statement by any agent or employee of seller, or of Buyer, now or hereafter executed or stated, all sales of product by seller to Buyer will be subject to and in accordance with the terms of (i) these terms and (ii) to the extent not inconsistent with these terms, the terms of the applicable purchase order for products as acknowledged and accepted by seller. Accordingly, no provision of any purchase order may alter the provisions of these terms, and except for the quantity, desired shipment date, delivery location of the products, the type of products, and specifications for the products, if applicable, no terms or conditions set forth in any purchase orders shall be enforceable against either party. Any different, inconsistent or additional terms, conditions, instructions or language in Buyer's inquiry, order, purchase order or other communication are hereby rejected and shall not apply to any transactions between the parties.
13. **Waiver of Reliance.** Buyer acknowledges that because it is not relying on any statements made by Seller to Buyer, other than in this agreement, regarding the subject matter of this agreement, Buyer will have no basis for bringing any claim for fraud or misrepresentation in connection with any such statements.