

1. DEFINITIONS

1. **GPC** – these General Purchasing Conditions;
2. **Order** – declaration concerning the intention to purchase the Goods, sent by the Buyer to the Seller, containing information about conditions of sale of the Goods expected by the Buyer, such as: designation and quantity of the goods, price, delivery and payment conditions;
3. **Buyer** - Foodcom S.A., address: ul. Krzysztofa Komedy 2/3, 02-517 Warsaw, entered in the Register of Entrepreneurs of the National Court Register kept by the District Court for the Capital City of Warsaw in Warsaw, XIII Commercial Division of the National Court Register, under KRS number: 0000527828, NIP: 521-368-02-86, amount of the initial capital: PLN 1,600,000.00, paid-up capital: PLN 475,000.00, BDO 000586322;
4. **Seller** - any entity, including a legal person, organizational unit without legal personality or a natural person conducting business activity, being a Party to the Sales Agreement, which sells Goods to the Buyer on the conditions specified in the Sales Agreement and in the GPC;
5. **Party/Parties** – the Buyer or the Seller/the Buyer and the Seller;
6. **Goods** - specific food products entered in the GOODS field of the Sales Agreement, being the subject of the Sales Agreement;
7. **Sales Agreement** - a contract concluded on the Buyer's form, specifying in particular the Essential Conditions, on the basis of which the Seller sells the Goods to the Buyer and the Buyer undertakes to pay the price for the Goods;
8. **Essential Conditions** - name of the Goods and their description (specification) with documentation, quantity, price, delivery date and payment date.

2. GENERAL TERMS

1. These GPC shall form an integral part of each Sales Agreement, irrespective of whether a Sales Agreement refers to these GPC.
2. The Parties are bound only by the Sales Agreement and the GPC. The provisions included in the Sales Agreement and the GPC are exhaustive. Therefore, the Parties explicitly exclude the possibility of applying to the Sales Agreement concluded between the Parties any other provisions that do not directly follow from it, in particular the provisions included in the contract templates, regardless of their name and issuing entity, including such terms and conditions of the Seller, chambers of commerce, commodity exchanges, etc., regardless of the fact that the Seller explicitly or implicitly refers to such terms and conditions. The provisions of the Sales Agreement may be amended only in documentary form under pain of nullity, upon the agreement of both Parties.
3. Subject to point 4, the provisions of the GPC may be modified or their application excluded only in the content of the specific Sales Agreement. In case of irreconcilable discrepancies between the provisions of the Sales Agreement and the GPC, the provisions of the Sales Agreement shall be binding.
4. The Buyer reserves the right to modify the GPC at any time, the modification shall not apply to the Sales Agreements already concluded. For the particular Sales Agreements shall apply those GPC, which are in force on the day of signing of the Sales Agreement by the Buyer and if this day is not specified, then those which are applicable on the day of concluding the Sales Agreement.
5. Failure by the Buyer to exercise certain rights under the GPC or generally applicable laws shall not constitute the Buyer's waiver of them in whole or in any part and shall not deprive the Buyer of the right to assert claims related thereto in the future.

3. CONCLUSION OF THE AGREEMENT

1. The condition for the effective conclusion of the Sales Agreement is its signing, at least on the part of the Buyer, by a person or persons authorized to represent the Buyer, which include only members of the Management Board acting in accordance with the principles of representation and commercial proxies acting in accordance with the manner of exercising a proxy. The Sales Agreement shall be concluded only if:
 - a. the Buyer has placed the Order on the Sales Agreement form used by the Buyer - at the moment when the Seller signs this form and sends it to the Buyer;
 - b. the Buyer has placed the Order without the use of the Sales Agreement form used by the Buyer (in particular by phone or in an e-mail message) - upon expiry of 3 days from the date of sending to the Seller

- the Sales Agreement form signed by the Buyer and compliant, as far as the Essential Conditions are concerned, with the contents of the Order, or earlier, if the Seller has signed the Sales Agreement and sent it to the Buyer before the expiry of this term;
- c. the form of the Sales Agreement signed by the Buyer is not compliant with the content of the Order (regardless of its form) as regards the Essential Conditions - upon signing of the Sales Agreement by the Seller and sending it back to the Buyer.
- For the conclusion of the Sales Agreement form by either Party in accordance with the provisions of point 1 it is sufficient to send it maintaining the documentary form, i.e. as a signed scan by e-mail to the e-mail address of a given Party being the addressee, specified in the Sales Agreement.
 - In case when the form of the Sales Agreement signed by the Buyer is not consistent, as far as the terms and conditions other than the Essential Conditions are concerned, with the Order (irrespective of its form) or arrangements made by the Parties by way of electronic or telephone correspondence, these terms and conditions shall be deemed accepted by the Seller, unless the Seller reports by e-mail within 3 days any objections or changes to the contents of the Sales Agreement sent by the Buyer. If any objections or amendments are submitted within this period, they shall be binding upon the Parties only if expressly accepted by the Buyer. Failure to accept the objections or amendments shall result in a failure to conclude the Sales Agreement.
 - If the Seller does not make any comments on the signed scan of the Sales Agreement sent by the Buyer and in response within 3 days sends to the Buyer another document of the sales agreement or the order signed by the Seller, containing the Essential Conditions previously agreed by the Parties, and then proceeds to perform the agreement, the agreement shall be considered concluded between the Parties on the terms and conditions set forth in the Sales Agreement and the GPC. The provisions included in the document sent by the Seller, pursuant to Chapter 2 point 2 of the GPC, are not binding on the Parties unless the document sent by the Seller is signed by a person authorized to represent the Buyer referred to in point 1.

4. PRICE AND PAYMENT CONDITIONS

- The price for the Goods is each time determined per unit of measure or weight or in total for all the Goods in the Sales Agreement.
- The price stated in the Sales Agreement shall be net price, exclusive of any public and legal charges, in particular taxes and other fees and charges which the Seller is separately obliged to pay in accordance with the law of the Seller's registered office.
- In the absence of other arrangements as to the form and date of payment in the Sales Agreement, the Parties accept that the payment of the price shall be made within 30 days from the date of acceptance of the Goods by the Buyer, but not earlier than within 14 days from the date of delivery of correctly issued VAT invoice sent in PDF format to the Buyer's e-mail address specified in the Sales Agreement. The payment shall be made by transfer to the Seller's bank account indicated in the invoice, provided that the given bank account has been indicated in the list of entities registered as VAT taxpayers (the so-called white list of VAT taxpayers), referred to in point 5 – in case of the entities registered as Polish VAT tax payers.
- The Buyer shall have the right to make payments under the split payment mechanism (split payment) in accordance with the Act of 11 March 2004 on tax on goods and services (Journal of Laws of 2020, point 106, as amended) - hereinafter referred to as the "VAT Act" and the obligation to use split payment, where the Goods are indicated in Appendix 15 to the VAT Act.
- The Seller declares that the bank account indicated in the invoice is the account enabling payment under the split payment mechanism referred to in point 4 and that it is the account included in the electronic list of entities referred to in Article 96 b), paragraph 1 of the VAT Act (if applicable).
- Payment of the price is considered to be made at the moment of charging the Buyer's bank account with the transfer amount.
- In the event of a delay in delivery of the Goods or part thereof by the Seller, the Buyer, while retaining the right to any other remedies provided by applicable law and to seek damages on general terms, may take some or all of the following actions:
 - suspend the execution of all its obligations in relation to the Seller, including withholding the payment of the whole price or fulfilment of other obligations arising from any sales contract or other contract concluded between the Parties, until the delivery of all the Goods by the Seller;

- b. charge a contractual penalty of 0.5% of the net price for the amount of Goods not yet delivered for each day of delay, not more than 15% of such net price;
 - c. to purchase the Goods from a third party at a price as obtainable in the market, notifying the Seller of this fact and retaining the right to claim damages from the Seller.
8. In the event of a delay referred to in point 7 exceeding 5 days, the Buyer is also entitled to rescind the Sales Agreement in full or in not performed part without setting an additional date, retaining the right to claim liquidated damages for the entire period of delay up to the date of rescinding the Sales Agreement and cumulatively, liquidated damages in the amount of 10% of the net price for all the Goods or the part not delivered yet, for non-performance of the Sales Agreement by the Seller, resulting in rescinding the Sales Agreement by the Buyer. Payment of liquidated damages does not deprive the Buyer of the right to seek for payment by the Seller on general terms any compensation exceeding the amount of the reserved liquidated damages. This right may be exercised by the Buyer within 180 days of the delay.
9. Lodging a complaint relieves the Buyer from the obligation to pay the price for the part of the Goods subject to the complaint until the Parties determine the final quantity of non-defective Goods subject to sale and its value.
10. The Buyer shall have the right to deduct any of its due and/or undue receivables towards the Seller with the Seller's receivables towards the Buyer resulting from the Sales Agreement concluded. For the submission of a statement of deduction it is sufficient to keep a documentary form and send it by e-mail to the Seller's e-mail address given in the Sales Agreement.
11. The Seller shall not have the right to deduct any of its receivables with the receivables of the Buyer to the Seller, without the prior written consent of the Buyer.

5. DELIVERY AND TRANSPORT OF GOODS

1. When determining the conditions of delivery and transport of the Goods in international trade, the Parties shall apply the rules of International Chamber of Commerce - Incoterms 2020, and in domestic trade they shall apply these principles respectively, subject to contrary provisions of the GPC or the Sales Agreement.
2. If the Parties have not specified in the Sales Agreement which Incoterms 2020 rule will apply, the Parties agree that the FCA (Free Carrier) rule will apply.
3. At the latest at the time of release of the Goods the Seller shall hand over to the Buyer or to the carrier authorized by the Buyer or a third party indicated by the Buyer the originals of the documents specified in the Sales Agreement and other documents not directly specified in the Sales Agreement - referred to in sec. 4 below, which the Buyer requested him to deliver.
4. The Buyer is entitled to demand delivery of additional documents, not mentioned in the Sales Agreement, in particular when they are required by administrative authorities of a given country in connection with transportation of the Goods or their introduction to a given market. In such case the Seller is obliged to deliver the documents required by the Buyer in form and content specified by the Buyer, promptly, however, no later than upon release of the Goods or within 3 days from submitting the request for delivery of documents by the Buyer, if such a request has been made after the release of Goods.
5. To avoid any doubts, the Parties agree that the application of the FCA (Incoterms 2020) rule to the given Sales Agreement in order to determine the conditions of delivery and transport of the Goods does not release the Seller from the obligation to provide documents, in accordance with the provisions of points 3 and 4 of this Chapter.
6. At the time of delivery, shelf life of the delivered Goods should be at least 80% of the total shelf life.

6. COMPLAINTS

1. In the case of complaint of the Goods:
 - a. in the scope of physical defects related to the quality of the Goods, which shall be revealed after acceptance of the Goods by the Buyer; the Buyer is entitled to order, at the Seller's expense, testing of the Goods, at its own discretion, in one of the renowned laboratories (for example: Eurofins, J.S. Hamilton, SGS) or in laboratories which are their legal successors, provided that testing of the Goods falls within the scope of accreditation of a given laboratory. The provision of Article 563 § 1 and § 2 of the Civil Code shall not apply.

- b. with regard to physical defects of the Goods other than specified in the item a. above, in particular defects relating to packaging or quantity of the Goods, it shall be sufficient for the Buyer to notify the Seller of their occurrence in order to file a complaint. The provision of Article 563 § 1 and § 2 of the Civil Code shall not apply.
2. In the case described in point. 1 item a. the Parties shall consider the results of tests performed at the request of the Buyer as final and binding, provided that a laboratory sample is taken by an employee/co-worker of the laboratory in accordance with the sampling rules applied by the laboratory in question. The defect or its cause shall be presumed to be present in the Goods at the time of their delivery to the Buyer, the person designated by the Buyer or the carrier. If in a given test there is a certain margin of uncertainty (error) of the laboratory test result, it shall not be taken into account for the purpose of acknowledging the validity of a complaint.
3. Subject to point 4, the Seller shall be obliged to consider the complaint and inform the Buyer of his position by e-mail to the e-mail address specified in the Sales Agreement within 3 working days from the date of delivery to it of the test results referred to in point 2., otherwise the complaint shall be deemed accepted in full.
4. In the event that the results of tests referred to in point 2 indicate irregularities of results in the scope concerning at least 10% of quantity of the Goods, the Buyer shall be entitled to rescind the Sales Agreement in full. Otherwise, the Buyer shall have the right to rescind the Sales Agreement with respect to the defective part of the Goods. In the event of rescission of the Sales Agreement in full or in part, the Seller shall be obliged to collect the Goods at its own cost from the place indicated by the Buyer within 5 days from submitting the notice of rescission. A declaration of rescission of the Sales Agreement requires a documentary form and may be submitted within 180 days from the expiry of the term referred to in point 3. In the event of breach of deadline to collect the Goods by the Seller, the Buyer shall be entitled to sell the Goods covered by the declaration of rescission of the Sales Agreement outright at the price which can be obtained for defective Goods in the market or to utilize them at their own discretion, subsequently informing the Seller about the performed action. In such a case, the Buyer shall be entitled to claim compensation taking into account the actually obtained price for the Goods.

7. CONFIDENTIALITY

The Seller undertakes to treat any and all information made available to it by the Buyer and related to negotiations and cooperation of the Parties, concerning the Buyer, the course of negotiations and the Sales Agreement concluded by the Parties (in particular, information concerning prices) and the course of its performance, as confidential information of the Buyer. The scope of confidential information shall not include information generally available or generally known before it was made available to the Seller

8. FINAL PROVISIONS

1. The GPC and their interpretation as well as the interpretation of any and all obligations arising from the GPC, the Sales Agreement and any other documents related to the performance of the Sales Agreement, shall be interpreted in accordance with the law in force in the Republic of Poland, regardless of any conflict of laws rules. At the same time the Parties expressly exclude the application of the United Nations Convention on Contracts for the International Sale of Goods done at Vienna on 11 April 1980.
2. In case of a dispute between the Parties regarding conclusion, performance or termination of the Sales Agreement, including the interpretation of GPC, the Sales Agreement and any other documents, related to the Sales Agreement, the Parties shall in the first place undertake to attempt to amicably resolve the dispute and to find a solution satisfactory to both Parties. The Party initiating a dispute shall be obliged to send to the other Party by e-mail, to the e-mail address provided by such Party for contact in the Sales Agreement, information about the exact subject and value of the dispute subject. The Parties shall then proceed to attempt to resolve the dispute amicably.
3. If no agreement is reached within 30 days of the attempt to resolve the dispute amicably, each Party may pursue its claims through the courts, with the exclusive jurisdiction of the state court having jurisdiction over the Buyer's registered office.
4. In case any of the provisions of the GPC is found to be invalid, ineffective or unenforceable, the Parties shall mutually agree on another equivalent provision acceptable to both Parties. However, this shall in no way affect the validity of the remaining provisions of the GPC between the Parties.