

If General Sale and Delivery Conditions
Poznań Onion Sp. z o.o., Siekierki Wielkie

1. General

1.1 These General Sale and Delivery Conditions (hereinafter General Conditions) define detailed sale and delivery conditions of goods offered by Poznań Onion Sp. z o.o. in Siekierki Wielkie.

1.2 Definitions:

- a) **General Conditions** – General Sale and Delivery Conditions;
- b) **Seller** – Poznań Onion Sp. z o.o.;
- c) **Buyer** – any entity, which is not a consumer in the understanding of Art. 221 Civil Code, who placed an Order with the Seller to deliver the goods offered by Poznań Onion Sp. z o.o.;
- d) **Order** – a statement made on behalf of the Buyer and delivered to the Seller by an authorized person, with the expressed will to conclude a contract;
- e) **Delivery** – sale of the goods currently offered by the Seller.

1.3 General Conditions shall be an integral part of all sale and delivery contracts concluded with Poznań Onion Sp. z o.o. and they will apply throughout the term of the contract, unless the parties have decided otherwise. Any deviation from these General Conditions will be made in writing, otherwise being null and void.

1.4 If the Buyer has established commercial relations with Poznań Onion Sp. z o.o., then adoption of the General Conditions with the first Order shall be deemed approval of the General Conditions for all subsequent orders and sale and delivery contracts, until they are amended or revoked.

1.5 Any General Conditions of the Buyer shall be excluded from the transactions with Poznań Onion Sp. z o.o., which will only be governed by the present General Conditions.

1.6 The Seller reserves the right to unilaterally amend the present General Conditions. Information about amendment will be communicated to all buyers in a customary manner and form.

2. Order

2.1 Any transaction between the Parties shall be completed on the basis of an Order placed by the Buyer. The Order must be made in writing and should be e-mailed or faxed to the Seller. It can also be sent to the Seller in a manner, which is usually practiced in trade relations between parties.

2.2 A sale contract shall be deemed concluded when the Seller has confirmed the Order and stated that it is ready to be processed.

2.3 If the Seller does not respond to the Buyer's Order, the Order is not accepted.

2.4 Any Order shall include the following elements:

- a) company name, address, number and place of entry into the register of economic activity or number in the register of companies,
- b) VAT number;
- c) reference to an offer (if any) or arrangements made with Seller's authorized representative;
- d) specification of quantities of goods ordered;
- e) type of goods ordered with Seller's reference number or sample;
- f) time, place and terms of delivery or collection of goods;
- g) name, surname and office telephone number of the person placing the Order.

2.5 Having placed the Order the Buyer confirms knowledge and approval of the present General Conditions and agrees to be bound by them.

2.6 An Order shall bind the Parties when the Seller has confirmed the Order and agreed to process it.

2.7 It is assumed that persons who sign the Order are authorized to act on behalf of the Buyer. Any Order, even if placed by unauthorized persons or persons who act beyond the powers granted to them, shall be binding for the Buyer. The Seller will not be liable to the Buyer or any third persons for any consequences resulting from the Order placed by unauthorized persons.

2.8 If the Seller accepts the Order with reservations, the Buyer shall be bound by the reservations unless the Buyer immediately responds to the reservations. Any such immediately made response will be deemed to be a new Order and the provisions stipulated in the previous sentences will apply accordingly.

2.9 The Seller shall not be bound by the Order which the Seller has accepted in a situation when for reasons not attributable to the Seller, particularly caused by force majeure or Buyer's behaviour or the behaviour of third parties (including Seller's suppliers) delivery and sale of goods is impossible or extremely difficult.

2.10 The Seller shall not be bound by the Order which the Seller has accepted in a situation when Buyer's total liabilities towards the Seller are higher than the trade credit granted to the Buyer by the Seller or when the Buyer has delayed payment of any amounts owed to the Seller.

2.11 Under special circumstances the Seller may request the Buyer to make a down payment. The amount of the down payment will be agreed with the Seller on a case by case basis. The down payment will be credited to the Buyer's liabilities and if the Buyer does not collect the goods, it will be retained by the Seller as liquidated damages.

3. Delivery and deadlines

3.1 Delivery quantities shall be determined by the Seller in the order confirmation. Any additional arrangements and possible changes of the Order will require written notification by the Buyer and confirmation by the Seller, otherwise being null and void.

- 3.2** The Seller shall be authorized to make a partial Delivery. If the Delivery is made in parts, each part will be a separate transaction and the Seller has the right to invoice it separately.
- 3.3** The Parties shall agree the time and place of goods delivery in the Order and Order confirmation. The Buyer will be obliged to provide the Seller with all the information necessary for proper execution of the Order.
- 3.4** If a down payment has been stipulated in the terms of payment, the delivery term may be extended by the time by which the Buyer has delayed the down payment.
- 3.5** Failure to meet the delivery term by the Seller shall give the Buyer the right to pursue the statutory rights only when the Seller, despite an additional delivery term agreed with the Buyer, and despite a written note requesting delivery, the Seller has not delivered, save for 3.6.
- 3.6** The delivery term shall be extended accordingly if delivery is prevented for reasons not attributable to the Seller, including in the case of untimely delivery of goods by Seller's suppliers, events of force majeure, unexpected interruptions of Seller's operations, e.g. power failure, transport and customs delays, transport damages, including road blocks, time restrictions imposed on trucks, insufficient supply of electrical energy, insufficient materials and raw materials, strikes of Seller's employees, provided that the obstacles impact on production or dispatch of the goods.
- 3.7** If the delivery term is delayed at the Buyer's request, the Seller shall set a new term and when it has expired ineffectively, the Seller may make any other decisions regarding the goods and/or deliver to the Buyer by the deadline extended accordingly.
- 3.8** Save for the provisions stipulated hereinafter, if delay in the delivery or collection results in significant damage to the party which is not guilty of the delay, that party shall have the right to withdraw from the contract by a written instrument. If only part of the delivery has been delayed, the Buyer may withdraw from the delayed part of the contract.
- 3.9** If the delivery term is postponed for reasons which are not attributable to the Seller, in particular circumstances stipulated in these General Conditions, the Seller may move any subsequent delivery proportionally and will not be liable for any consequences of such movement.
- 3.10** Any compensation for delayed delivery attributable to the Seller may be paid only when the Buyer has withdrawn from the contract for that reasons and when a special written agreement has been concluded between the parties. Any claims for compensation should be presented by the Buyer in writing latest within one month from the agreed delivery term. Failure to make claims within this time will be deemed an unconditional waiver of the same.
- 3.11** If the goods are collected by the Buyer, the Seller shall notify the Buyer that the goods are ready for pick up from the Seller's warehouse and the Buyer must immediately collect them. In the Buyer delays collection of goods, the Seller may charge any storage costs to the Buyer, save for any other rights which the Seller may have.

4. Price and payment terms

- 4.1** Prices of individual goods shall be individually agreed with each Buyer.
- 4.2** Prices of individual goods are quoted in the Seller's offer and are binding at the time indicated by the Seller. The prices quoted in the offer are exclusive of transport costs, insurance, customs duties, import and export fees, unless the Parties have decided otherwise.
- 4.3** Prices quoted by the Seller in the offer are net prices and are exclusive of VAT, unless the Parties have agreed otherwise. VAT will be automatically added to the net price at the rate applicable on the order placement day.
- 4.4** All prices of goods quoted by the Seller shall be exclusive of transport costs. If the Seller is asked to deliver the goods to the Buyer's premises or to another place indicated by the Buyer, the Parties shall agree separate delivery costs and costs of other related services when they negotiate the terms of the Order.
- 4.5** Unexpected additional costs connected with proper execution of the Order shall be charged to the Buyer, unless the Parties have agreed otherwise.
- 4.6** If in the period between the conclusion of the contract and the day of its execution any import fee or any fee connected with intracommunity purchase of goods, any tax or any public law tax is introduced or if there are any changes in the amounts of such fees, taxes or charges or the prices of raw materials go up by more than 5% (five percent) or if the exchange rate is changed, the Seller may change the price accordingly, even if the change has not been stipulated in the contract concluded between the Parties.
- 4.7** If the prices are quoted in a currency other than Polish zloty (PLN), the price in the invoice shall be the equivalent in Polish zloty of a given currency at the average exchange rate announced by the National Bank of Poland (NBP) on the day preceding the invoice day.
- 4.8** The Seller shall have the right to give the Buyer discounts, rebates, etc. provided that the terms and conditions of the same have been agreed with the Buyer beforehand.
- 4.9** Payment shall be made in the form and at the time indicated in the invoice – and as agreed between the Parties.
- 4.10** Invoices raised and issued by the Seller shall be paid without any deductions and withholdings by the deadline indicated in the invoice. Without Seller's written consent it is not allowed to withhold payment or offset deliveries against Seller's claims towards the Seller.
- 4.11** Payment shall be deemed made when the Seller's bank account has been credited.
- 4.12** If the Buyer delays payment, the Seller shall have the right to add interest for delay in the statutory amount, starting from the payment term stipulated in the invoice.
- 4.13** When the Seller has learned about the Buyer's bad financial situation and if there are reasons to expect that the Buyer will not make the payment, the Seller may demand that the Buyer make payment for the goods forthwith, irrespective of the payment term agreed earlier and/or demand that the Buyer present a guarantee of payment in the form approved by the Seller. Bills of exchange and cheques will be accepted only to secure claims and only after prior agreement with the Seller.
- 4.14** In case the Buyer delays payments or acts to the detriment of the Seller, the Seller reserves the right to stop deliveries until any hindrance affecting execution of the

Order has been removed. The Seller is also entitled to demand that the Buyer immediately settles all payments, both outstanding payments and payments which are not overdue.

- 4.15** If the Buyer has ordered goods but decided not to collect them, has withdrawn from the Order or in any other way has stopped to perform the contract, the Seller shall have the right to add liquidated damages in the amount of 50% of the gross value of the unprocessed Order. Any down payments made by the Buyer towards this Order will be retained as liquidated damages.
- 4.16** The payment term shall not be extended if the Buyer makes any reservations, comments or claims.
- 4.17** Irrespective of the provisions in the preceding clauses, the Seller shall have the right to seek compensation to the extent to which the damage incurred by the Seller is higher than the value of the liquidated damages.

5. Passing of risk

- 5.1.** In the case when the goods are sent to the Buyer's address via a carrier, any benefits and burdens connected with the Order and the risk of accidental loss or damage of the goods shall pass to the Buyer when the goods have been handed over to the Buyer or when the Buyer has informed the Seller that he is ready to collect the goods. If at the time of goods collection from the carrier the Buyer has found any difference between the goods which have been delivered and the goods described in the shipping documents or has found any damage in the goods, the Buyer shall immediately write any reservations on a copy of the carrier's shipping document or on goods specification and immediately seek confirmation (signature) of the carrier's representative. These actions are intended to determine the principles and extent of any possible liability of the carrier. Buyer's failure to perform the obligations described above will mean that
- a) the Buyer has waived his rights under warranty for physical faults in the goods – in the case of any damage to the goods;
 - b) the Buyer has agreed to change the contract in the part related to the description of its subject and price – in the case of differences between the goods actually delivered or the quantities of the goods actually delivered and the goods which were specified in the shipping list or specification.
- 5.2.** In the case when the Buyer collects the goods by his own transport, the benefits and burdens connected with the goods and the risk of accidental loss or damage to the goods shall pass to the Buyer when the goods have been handed over to the Buyer in the Seller's warehouse(s). A person who collects the goods on the Buyer's behalf should have written authorization issued by a person authorized to represent the Buyer.
- 5.3.** In the case when the Parties have not made any specific arrangements about the quality and packaging of the goods, it is deemed that the Seller will deliver goods

which meet average requirements specified for a given grade and kind of goods and that they will be packed (or will be without packing) into a packaging, which meets the regulations in force and standards applicable in the Seller's enterprise. The costs of a packaging other than stipulated above, which the Buyer requested, will be charged to the Buyer at the Seller's buying costs. The Buyer may also be charged with the costs of protection or insurance of the goods during transport, which the Buyer has requested.

- 5.4. The Buyer shall be obliged to inspect and confirm with his signature in the driver's presence that the goods meet the Order specifications with respect to quantity and quality. Any differences and deviations will be noted on the shipping note or another document, which has the features of a complaint letter.
- 5.5. At the Buyer's request, the Seller shall insure the goods at the Buyer's cost against theft, losses related to damage, arising during transport and all other insurable risks. The extent of the insurance will be defined by the Buyer.
- 5.6. If collection of the goods is delayed due to reasons attributable to the Buyer, the risk shall pass to the Buyer when the goods are ready for shipment. At the Buyer's request and cost, the Seller may conclude an insurance contract on behalf of the Buyer and the said insurance contract will cover the extent requested by the Buyer.
- 5.7. The goods delivered under the contract, even if they have insignificant faults, shall be accepted by the Buyer, irrespective of the rights stipulated in clause 6 of these General Conditions.
- 5.8. In the case of unjustified withdrawal from the Order by the Buyer, costs of shipment or return of the goods shall be charged to the Buyer.

6. Liability for defects in the delivery

- 6.1 The Buyer shall inspect the shipment condition and the quality, quantity and range of the goods immediately after their delivery (dispatch) and make a relevant note in the shipping list or another dispatch document and also immediately report any reservations to the carrier (in accordance with the relevant shipping regulations) and to the Seller, in writing, and allow the Seller to immediately inspect the unopened goods. Any claimed goods should be available to the Seller in an unprocessed condition during the entire period in which the complaint is addressed until the Seller has responded to it and notified his response to the Buyer. If the Buyer collects the goods without inspection or if the Buyer does not make any reservations immediately after the inspection of the goods, the Buyer confirms that the goods have been properly delivered, in the right quantity and that they have the right features and properties.
- 6.2 If because of the type of packaging or for another reason it is not possible to immediately inspect the goods, acceptance inspection should comprise at least the shipping list, quantity and condition of packaging, information about goods designation on the packaging and visible external damages. As soon as it is possible, however not later than when the goods are unpacked, before the goods have been used, a detailed and complete inspection of the goods should be made.

- 6.3** In cases when during goods acceptance or in the course of their inspection made as stipulated above, it was not possible even while observing the highest standards of professional diligence and care to detect the fault, then the time for lodging complaints will be seven days from the day on which it was not possible to detect the fault, even while observing the highest standards of professional diligence and care.
- 6.4** The Buyer shall complete all the formalities stipulated in the preceding sentences and in particular will notify all irregularities to the Seller immediately after their detection but not later than when in accordance with the above provisions detection of irregularities was possible, failing which the Buyer will forfeit his right to make any claims for defects in the goods or for non-conformance of the delivery with the Order or its confirmation.
- 6.5** The Seller shall be liable for any defects in the raw materials delivered by the Buyer only when, having exercised proper care, it was not possible to detect the fault.
- 6.6** Application of Article 556ff Civil Code is excluded, except for the following provisions.
- 6.7** The Seller shall be exempted from any liability under warranty, if the Buyer knew about the fault when the contract was concluded, the order was placed, an offer was made to him, and a delivery document was delivered to him and in other cases stipulated in the applicable regulations of the law.
- 6.8** When the faults stipulated in 6.1 have been detected, the Seller shall exchange the goods for fault-free goods. In such case the exchange of the goods will be made immediately, provided that fault-free goods are available in the Seller's warehouse(s). Otherwise the exchange will be made within 1 month from the notification of the fault. If fault-free goods are not delivered within the time stipulated above, the Buyer shall have the right to withdraw from the contract.
- 6.9** Any goods which have been claimed by the Buyer and admitted by the Seller shall be returned only if they are undamaged and unprocessed in the production processes of the Buyer and whose parameters stipulated in the specification can be identified.
- 6.10** If the Buyer accepts the goods despite the faults detected in them, the Buyer may demand that the price for the faulty goods be lowered.
- 6.11** In the case when the Buyer has used or processed the goods in an improper manner, the Seller has the right to refuse to admit the Buyer's complaint.
- 6.12** If out of the delivered and sold goods only some are faulty and they can be separated from fault-free goods, the Buyer's right to cancel the Order or withdraw from the contract will be restricted to faulty goods only.
- 6.13** The Buyer, who having found physical faults in the goods, withdraws from the contract or demands delivery of fault-free goods instead of faulty goods, may not return the goods to the Seller without the Seller's prior consent expressed in writing.
- 6.14** Filing a complaint shall not give the Buyer any right to stop payments for the delivery.
- 6.15** In the case of complaints, the burden of proof shall rest with the Buyer.
- 6.16** The Seller shall not be liable in the case when the goods were stored in an inappropriate way or have been used contrary to their purpose and properties, in which defects arose due to errors of third persons or when the Seller's recommendations have not been followed.

6.17 If the rights under warranty have been exercised, the Seller's liability for damage arising from faults shall be excluded pursuant to Article 558 Civil Code. The Seller will not be liable for any lost benefits, indirect damage and costs due to stopping production.

7. The Buyer's right to withdraw from the contract

7.1. The Buyer may withdraw from the contract if the Seller is unable to perform the entire contract prior to the passing of risk.

7.2. The Buyer may withdraw from the contract also when it is not possible to execute a part of the contract or the Buyer has sound reasons to refuse partial delivery. The Buyer may, however, accept partial delivery and reduce the mutual performance accordingly.

7.3. If there is the default in the performance and the Buyer has granted the defaulting Seller additional time and has clearly stated that he will refuse the acceptance of the performance after the lapse of the additional time and when the additional time has not been met, the Buyer shall be entitled to withdraw from the contract.

7.4. If the Seller's performance is impossible for reasons attributable to the Buyer or when the Buyer has delayed acceptance of goods, the Buyer is obliged to mutual performance.

7.5. The Buyer shall have the right to withdraw from the contract if the Seller is guilty of the lapse of the additional time given to him to make a replacement delivery instead of the delivery of goods with faults for which he is liable in the understanding of these General Conditions.

8. Seller's right to withdraw from the contract

8.1. If unexpected circumstances arise and they importantly change the economic significance or content of the performance or significantly affect the Seller's activity and also in case of subsequent disclosure of the impossibility of performance of the obligation, the Parties shall adapt the provisions of the contract accordingly. If, from the economic point of view this is not reasonable, the Seller will have the right to completely or partially withdraw from the contract.

8.2. The withdrawal stipulated in 8.1 shall not give the Buyer any reasons to make claims for compensation. If the Seller waives the right to withdraw from the contract, the Seller will immediately notify the Buyer of the same even when extension of the delivery term has been agreed with the Buyer.

8.3. The Seller shall have the right to withdraw from the contract if the Buyer has defaulted payment of the invoice for more than 21 working days.

9. Applicable law, place of jurisdiction

9.1. Legal relations with the Buyer shall be governed by the Polish law only, and the United Nations Convention on Contracts for the International Sale of Goods of 11

April 1980 (Dz.U. 45/1997, item 286) is excluded. All the obligations under this law shall be performed in Siekierki Wielkie.

- 9.2.** The Parties have agreed to settle all controversies and disputes arising out of or in connection with these General Conditions amicably in bilateral negotiations.
- 9.3.** If no amicable settlement of all the disputes arising out of or in connection with these General Conditions, satisfactory to both parties, is possible, the disputes will be settled by a competent court with jurisdiction in the Seller's registered office.

10. Final provisions

- 10.1.** Any and all information contained in these General Conditions and obtained in connection with their performance is confidential information of the Seller and the Buyer in the understanding of the Act on Combating Unfair Competition (Dz.U. 153/2003, item 1503 as amended). The Parties and persons performing work for them in any form and persons with the help of whom the Parties will perform their respective obligations are obliged not to disseminate any technical, technological, organizational and commercial information. Failure to comply will result in civil and criminal liability.
- 10.2.** If any provision of the General Conditions is legally ineffective, the other provisions and the orders processed under them remain valid. The Parties have agreed to replace the ineffective provision with an effective provision which most closely reflects the intentions of the Parties.
- 10.3.** These General Conditions shall apply to any sale contract under which the Seller will sell any goods to the Buyer (provided that the Buyer has been informed about them or could have access to them in any form and at any time and provided that the Parties have not excluded application of all or some of the conditions by way of a written instrument).
- 10.4.** Irrespective of these General Conditions, a contract concluded between the Parties can be amended accordingly if absolutely binding legal acts have been enacted and they stipulate additional obligations for the Parties. In particular, the Seller may refer to any and all amendments of regulations and circumstances which could lead to changes in operating costs or public law taxes and, consequently, changes of the terms stipulated in the Seller's offer or in the contract concluded between the Parties, which has not been performed yet.
- 10.5.** Save for other provisions of these General Conditions which require the Parties to use the written form in case of any statements made in connection with their performance, any other communications and statements made by the Parties may be sent by electronic mail or hand delivered, faxed, sent by a courier mail or by registered mail (postage paid and recorded delivery and in the case of a facsimile – with confirmation of the fax transmission).
- 10.6.** Any matters, which have not been stipulated in these General Conditions, shall be governed by relevant provisions of the Civil Code and the Act of 8 March 2013 on payment terms in trade transactions (Dz.U. 2016, item 684).