

## **General terms and conditions of sales and supply of Fair Packing sp. z o.o. Sp. k.**

### **1. Scope of use, written form**

1. These General Terms and Conditions (GTC) have been established on the basis of art. 384 et seq. of the Civil Code - consolidated text: Journal of Laws of 2014, item 121 (Civil Code).
2. The GTC apply to contracts for the sale of goods concluded by **Fair Packaging Sp. z o.o. Sp. k.** (Seller) and business partners (Buyer) solely for the purpose directly related to their business activities.
3. The goods are not sold to individuals - consumers within the meaning of the Civil Code, which is why the GTC do not apply to consumers.
4. The resale of the Seller's goods by the Buyer takes place under terms individually agreed between the Buyer and a purchaser in compliance with these GTC.
5. The GTC are available on the website..... and at the Buyer's request can be sent to his address electronically or on paper.
6. It is assumed that signing a contract or placing an order by the Buyer means the adoption and acceptance of the GTC without reservation.
7. If the Buyer is in permanent trade relations with the Seller and the GTC have been adopted by the Buyer in the above mentioned mode, it is assumed that the GTC will be used while remaining in permanent trade relations by the Parties.
8. The word mark **Fair Packaging Sp. z o.o. Sp. k.** is a registered trademark of the Seller, and the Buyer is authorized to use this mark in accordance with the law. In particular, the Buyer is not authorized to modify, remove and cover this trademark placed on the goods purchased from the Seller.
9. Polyethylene foam production technology result the tolerances listed in Annex 1 to this GTC. If customer requirements deviate from the stated tolerances, the Product Technology Card supplied with the offer is valid and is the overriding document on the tolerance attachment.

## **2. Offers, concluding contracts, contract documents, content**

1. Any commercial information of advertising and marketing nature in whatever form do not constitute an offer within the meaning of the Civil Code provisions, in particular, any price lists and conditions of delivery provided to the Buyer by the Seller in PDF format to the e-mail address or included in catalogues and trade offers are of informational nature and may not be treated as the will to conclude a contract by the Seller and, as such, are not binding. They are only an invitation to negotiations.
2. Only prices and delivery conditions given in a confirmation of order conditions are binding for the Parties.
3. Contracts are concluded through signing by both Parties or by placing and accepting an order – sending order confirmation or delivering goods on the basis of a VAT invoice.
4. Conclusion of a contract by making an order requires that the Buyer has to each time make a written or e-mail request to the Seller.
5. To be valid, each order has to be immediately, within 1 working day, confirmed in writing or by e-mail by a person authorized to represent the Seller.
6. Acknowledgement of adopting all conditions indicated in an order or proposing new conditions, in particular delivery date and price, takes place by delivering a separate document within 3 working days.
7. The Seller is not liable for the consequences of errors made by the Buyer in placed orders. The Buyer is solely responsible for checking the content of an order, confirmation of order conditions or individual arrangements of the Parties.
8. Any machine or single-sided annotations made by the Buyer on an order or order conditions confirmation are non-binding for the Seller and require modification of an order placed by the Buyer and sending such order to the Seller to confirm order conditions.
9. Without the consent of the Seller, the Buyer may not cancel or change a correctly placed order, except in the cases described below.
10. If there is a need to re-submit or modify an order and if the Seller has to agree, the date of placing the order is the date of re-submitting or modifying the order.
11. The Buyer in no event may submit for changes in an order after the Seller receives an order conditions confirmation. In exceptional cases, after prior arrangement with the Seller as to the changes in the order, the Seller may agree to make changes in the order.
12. The Seller reserves the right to refuse any order placed by the Buyer without giving reasons, in particular, in the event of doubts as to the solvency of the Buyer, errors in the content of an

order, or when the implementation of an order goes beyond the technical capabilities of the Seller. The Seller is not liable for refusal to accept an order, even if the refusal occurs after obliging the Buyer in relation to the resale of the Seller's goods to a further purchaser.

13. If the Buyer cancels an order after sending an order conditions confirmation by the Buyer and after the payment of an advance by the Buyer, the Seller has the right to charge a contractual penalty in the amount of costs incurred by the Seller for the initiation of production, for the production of goods covered by the order or any storage costs incurred.

14. The date of receipt of a letter about the cancellation of an order by the Seller is authoritative for the determination of the date of cancellation.

15. If an advanced payment has to be paid by the Buyer, the Seller starts the planning process only after receiving the advance payment to the bank account.

It is assumed that the Buyer has resigned from an order when the delay in the payment of advance (when required) after receiving an order conditions confirmation by the Buyer exceeds the term of 7 days.

16. Without a written consent from the Seller, the Buyer may not assign the rights deriving from a contract for the sale of goods and/or services to third parties.

17. In the case of the sale of goods to a natural person conducting business activity, the Seller may make the sale dependent on the consent of the Buyer's spouse on concluding a contract.

### **3. Ownership of goods, delay in payment, delay in acceptance**

1. In the case of own acceptance, the risk of loss or damage to the goods passes to the Buyer when the goods leave the Seller's warehouse.

2. The goods remain the property of the Seller until full payment of the price resulting from an invoice for the goods issued by the Seller.

3. The Buyer is obliged to properly handle the goods and to buy a full insurance against fire, water damage, theft, destruction or damage.

4. The Buyer may not encumber the goods with the rights of third parties.

5. The Buyer is obliged to immediately inform the Seller about enforcement proceedings against the Buyer in which the goods may be subject to seizure by an enforcement authority.

6. If the Buyer is in delay of payment of the price for the goods sold, other charges of the Buyer payable to the Seller become due immediately after receiving a relevant notice from the Seller

by the Buyer. In addition, in the case of the Buyer's delay in payment for the goods sold, the Seller:

a) may refuse to deliver other goods so far not delivered to the Buyer, even if the obligation to release such goods stems from a contract different than the one breached in terms of payment, or may withdraw from other contracts concluded with the Buyer without observing additional notice periods;

b) is not obliged to fulfil any orders placed by the Buyer, even those confirmed by the Seller, and the amount paid by the Buyer for such unfulfilled order shall be credited to any outstanding charges in the first place, despite indicating by the Buyer to which order an advance has been paid, while the remaining amount shall be returned to the bank account;

c) is entitled to charge interest for delay, in accordance with the provisions of the applicable law, in the amount not less than their maximum height on an annual basis permitted by the applicable law, plus a lump sum of a contractual penalty in the amount of forty (40) euro for the recovery costs, without prejudice to any other legal action that the Seller can take against the Buyer. The amount of maximum interest for delay charged against the Buyer shall be documented with a book note issued by the Seller.

d) may request compensation of damages.

7. The Buyer may not set-off outstanding debt payable to the Seller from the debts of the Seller payable to the Buyer arising from the Contract or related to the non-performance or improper performance of the Contract, unless the Buyer's debts have been awarded by a judgement.

8. All payments shall be made by the Buyer to the Seller's bank account indicated on a VAT invoice, with indication of payment, in particular, order number.

9. The payment date within the meaning of these GTC is the date the Seller receives the money to the bank account.

10. Special payment conditions other than those listed above may be determined by the Parties when placing an order by the Buyer. Regardless of special payment terms agreed by the Parties, the Seller may, at any time, make the delivery of goods dependent on the full payment of the price, if in the Seller's opinion there has been a deterioration of the financial situation of the Buyer (as indicated, in particular, in the delay of payment of existing monetary liabilities) or the payment of the price becomes endangered for other reasons.

11. If the Buyer does not accept or refuses to accept the goods on the delivery date, the Seller has the right to place the goods in a warehouse at the expense and risk of the Buyer, and may

require the Buyer to pay a contractual penalty for storage in the amount of 2% of the net value of an order for each day of delay in acceptance.

12. Not accepting the goods within an additional term by the Buyer means resignation from the order by the Buyer. Not accepting the goods by the Buyer shall not relieve the Buyer from the obligation to pay the price of the goods and any additional expenses, including the cost of transport/shipment/storage. The Buyer agrees for the issuance of a VAT invoice in the amount of 100% of the order value and undertakes to pay it within 14 days.

#### **4. Delivery date, partial delivery**

1. The term of the commencement of an order begins on a date specified in a contract or order confirmation.

2. Delivery dates and/or order fulfilment dates and other terms of sale are subject to change, even after the submission of an order by the Buyer, in particular due to force majeure, in particular due to unforeseen, extraordinary circumstances, which despite the required due diligence could not be promptly removed or prevented (e.g. plant failure, strike, lockout, sanctions and official interference, delay in the supply of raw materials, power shortages, war, floods, hurricanes, earthquakes, hereinafter referred to as Force Majeure) and other circumstances beyond the Seller's control, as well as due to the change of the market situation and existing commercial conditions, among others related to the relations of the Seller with entities helping with the execution of contracts, and as a result of the lack of timely delivery by the Buyer of the necessary documentation, information and clarification as to the details of an order when necessary. Non-performance or delay in delivery caused by such circumstances will be considered by the Parties to be a circumstance not causing the Seller's liability for damages and will serve as a basis to change the delivery date by adding a time corresponding to the duration of the force majeure and other circumstances beyond the control of the Seller.

3. In the case of force majeure, the Seller is obliged to immediately inform the Buyer of this fact. If the force majeure prevents the delivery for a period longer than 6 months, the Buyer has the right to resign from an order to the extent not yet completed, without effect on the past activities and without incurring any additional financial costs. Resignation from an order by the Buyer as a result of Force Majeure may not take place before the passing of an additional delivery term set out in writing by a registered letter with acknowledgement of receipt by the Seller, with the threat that after its expiry the Buyer is entitled to cancel the order.

4. If the Buyer cancels an order due to the reasons stated above, the Buyer has no right to claim for compensation for non-performance or improper performance of a delivery contract or order by the Seller.

5. Any Seller's liability for damages is limited to cases of violation of the relevant provisions of the GTC, delivery terms or order conditions confirmation, and covers only actions/omission bearing signs of wilful misconduct and/or gross negligence.

6. Strict liability is excluded. Liability for damages covers only the usual, typical, foreseeable damages at the time of confirmation of an order by the Seller and direct consequences of culpable actions/omission, and does not cover the so-called consequential losses and lost profits.

7. Partial deliveries are acceptable as long as they are justified, technically possible and do not expose any of the parties to any damages or inconveniences.

## **5. Claims for defects**

1. The Buyer shall submit guarantee claims on the Seller's complaint letter (RMA). The Seller reserves the right to not examine warranty claims submitted in a different way. The RMA is available on the Seller's website.

2. The Seller within 7 days of receipt of the RMA shall inform the Buyer of the result of the settlement.

3. The Seller may decline to honour the completion date of guarantee claims if there are disruptions in the activities of his company due to the limitations of export/import and/or other laws or unforeseeable circumstances.

4. The guarantee does not cover:

a) damages caused without the fault of the Seller, in particular caused by weather conditions or other external factors;

b) defects resulting from improper transport, storage and use, in particular the use other than for intended purpose;

c) wear resulting from normal use.

5. The Seller's liability under the guarantee is limited to the value of goods determined by the price on the purchase date and does not include the right to claim reimbursement of lost profits

due to defective goods, in particular it does not include compensation for the lack of ability to use the product and costs or inconveniences associated with the occurrence of guarantee claims. The Seller is not liable for damages caused by defective or faulty goods.

6. Warranty is excluded.

## **6. Special and complementary regulations related to international trade**

1. If the Buyer's head office or branch is located outside the Republic of Poland, the Seller:

a) is not liable for the admissibility of use of the goods in accordance with the law of a given country, as well as for the taxes in force.

b) is not liable for obstacles in delivery caused by the actions of state power, in particular for import and export restrictions.

## **7. Governing law, place of performance, place of jurisdiction**

1. Only the law of the Republic of Poland is applicable to the Contract or order, even if one of the parties has its head office in another country and/or goods are to be delivered fully or partially to another country. Any disputes concerning the validity, interpretation or implementation of the Contract or Order shall be settled by courts having jurisdiction over the Seller's head office. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG), signed in Vienna on 11.04.1980, is excluded. However, the Seller reserves the right to bring disputes to courts competent for a given establishment to which the goods are delivered or for courts having jurisdiction over the Buyer's head office.

2. The head office of the Seller is the place of performance of all benefits under this Contract. If due to the place of performance of the Contract it is necessary to apply regulations regarding export from the territory of the Republic of Poland, the Terms and conditions shall be applied to the extent not excluded by such regulations, and the Contract shall define the method of performance of related obligations.

## **8. Other provisions**

1. In the event that individual provisions of the Contract proved to be ineffective, invalid or unenforceable, the remaining provisions shall remain in force. In the above case, the Parties oblige to replace ineffective or unenforceable provisions with other provisions that will fully realize the economic purpose of the replaced provisions, as well as intentions of the Parties.

2. These Terms and conditions have been drawn up in Polish, English, German and Italian. In case of interpretation doubts, the Polish language version is binding.



ANNEX no 1

Foam tolerances:

Width	+/- 2% (not less than 2 cm)
Length	+/- 4%
Thickness	
PE foam 0,6mm	0,3-0,7mm
PE foam 0,8mm	0,6-0,9mm
PE foam 1,0mm and over	+/- 10%