

**GENERAL TERMS AND CONDITIONS
OF CONTRACTS FOR THE SALE OR DELIVERY OF PRODUCTS MANUFACTURED BY BMB
UNDER THIRD-PARTY BRANDS**

§ 1.

GENERAL PROVISIONS

1. General Contract Terms and Conditions (*hereinafter referred to as "GCTC"*) constitute an integral part of each sale or delivery contract concluded with Customers by BMB Sp. z o.o. with its registered office in Grójec (05-600 Grójec), ul. Spółdzielcza 5 (*hereinafter referred to as BMB*), KRS number: 0000159516, Tax Identification Number (NIP): 797-000-74-43, REGON number: 67065063.
2. "Customers" shall be understood as Polish or foreign clients (natural persons, business units without legal personality, and legal persons) who purchase products from BMB based on a sale or delivery contract.
3. "Parties" shall be understood as BMB and the Customer.
4. The GCTC does not apply to Consumers.
5. This GCTC applies to sale and delivery contracts the subjects of which are products manufactured by BMB under third-party brands – Customers, ordered by the Customers from BMB, i.e. food products manufactured by BMB, which may constitute a trademark or include other labels of the Customers, and which are placed in packages produced by BMB, on which there is a logo, a trademark or a different label and data of the Customers.
6. GCTC as well as any amendment to it are available in an electronic form on the BMB's website: www.mikmaki.pl in a manner allowing the Customer to download, store and retrieve them in the ordinary course of business.
7. By placing an order the Customer confirms having read the GCTC and giving their consent for including it in the contract.
8. GCTC binds Customers to the full extent unless the Parties exclude in writing the enforcement of its provisions in full or in part. In case a sale or delivery contract is concluded in writing, the GCTC only applies to the extent not regulated by the contract.
9. The GCTC also applies when the conclusion of a sale or delivery contract is preceded with the conclusion of a framework agreement on commercial cooperation between BMB and the Customer.

§ 2.

REQUESTS FOR QUOTATION AND THE OFFER

1. Prices of products offered by BMB are determined by BMB with each Customer individually.
2. Before concluding a contract with BMB, Customers can send BMB requests for quotation concerning products manufactured by BMB via email to the address: biuro@mikmaki.pl, using the form available on the website www.mikmaki.pl, or contacting BMB by telephone

(from Monday to Friday – on working days – between 8 am and 4 pm) at the telephone numbers provided on the BMB's website.

3. A request for quotation should include:
 - a) The Customer's contact details: name/company, telephone number, and email address;
 - b) In case the Customer is interested in specific products: product parameters, i.e. product type, name, flavour/colour, appearance, and amount as well as the appearance, size, and shape of the package.
4. When BMB receives a request for quotation from a Customer, it responds by providing the Customer with a commercial offer or price calculation.
5. The Parties acknowledge that the production cost of one package and, in consequence, the unit price of the package offered by BMB, goes down respectively if BMB produces more packages than the amount required based on the Customer's order, about which the Customer is informed by BMB in the offer/price calculation referred to in sec. 4. The Customer may choose the higher of the unit prices offered by BMB, in which case BMB shall not produce any additional packages in excess of the number of packages ordered. However, in case the Customer, upon receiving from BMB the offer or price calculation referred to in the first sentence, decides to accept the offer or use the price calculation including the lower of the unit prices for a package offered by BMB, they shall be obliged to place other orders with BMB covering the packages manufactured by BMB until all the packages manufactured by BMB have been sold. In case the Customer fails to place orders covering all remaining packages manufactured by BMB within 6 months from the placement of the first order, the Customer shall be obliged to pay BMB a contractual penalty amounting to a threefold amount due for the remaining packages manufactured by BMB, i.e. a threefold unit rate determined by BMB and the Customer when the first order was placed (i.e. the lower of the rates proposed by BMB). Regardless of the possibility of requesting the payment of the contractual penalty, BMB shall have the right to sell the packages manufactured for the Customer to third parties, and for the purpose of the sale of these packages to persons in Poland or abroad selected at the discretion of BMB the Customer hereby grants BMB licenses and permissions referred to in § 6 sec. 7, including the right to grant sublicenses and permissions by BMB.
6. The prices given to the Customer by BMB are net prices exclusive of VAT and both national and foreign transport costs as well as any additional charges connected with foreign transport.
7. Unless stated otherwise, offers made by BMB are valid for 14 days from the day they are received by the Customer.
8. BMB reserves the right to raise the prices without notifying the Customer in case tariff rates or VAT rates are considerably raised.

§ 3.

CONCLUSION OF A CONTRACT AND ORDER FULFILMENT

1. A sale or delivery contract is concluded in the following cases:
 - a) The Customer places an order for products using the BMB's email address: biuro@mikmaki.pl or the form available on the www.mikmaki.pl website, and BMB confirms the receipt of the order via email;

- b) The Customer places an order for products on the phone (from Monday to Friday – on working days – between 8 am and 4 pm) and BMB confirms the receipt of the order on the phone;
 - c) The Customer places an order for products using the BMB's email address: biuro@mikmaki.pl or the form available on the www.mikmaki.pl website, and BMB confirms the receipt of the order on the phone;
 - d) The Customer places an order for products on the phone (from Monday to Friday – on working days – between 8 am and 4 pm) and BMB confirms the receipt of the order via email.
2. The receipt of the order referred to in sec. 1 shall be understood as BMB's declaration of accepting the order sent to the Customer via email or communicated on the phone, provided that in the case of permanent commercial cooperation in the form of a binding framework cooperation agreement between BMB and the Customer BMB shall not be required to make the statement in question, and the order shall be deemed accepted when BMB starts to fulfil it.
3. From the moment BMB confirms the acceptance of the order, it is impossible for the Customer to withdraw from the contract without BMB's consent. If the Customer effectively withdraws from the contract upon BMB's consent, the Customer shall cover all costs incurred by BMB in connection with the acceptance and fulfilment of the order, and particularly the Customer shall cover the costs of packages and food products manufactured for them by BMB as well as the costs incurred by BMB in order to manufacture packages and food products for the Customer in case the packages or food products have already been manufactured by BMB for the Customer as of the time of the Customer's withdrawal from the contract. The settlement of the costs referred to in the previous sentence shall be based on an invoice issued by BMB, and the Customer shall be obliged to pay BMB the costs indicated on the invoice within 7 days upon they receive it.
4. An order should include at least the following information:
 - a) The Customer's data: name/company, place of business/registered office, Tax Identification Number (NIP)/KRS number (in the case of foreign Customers, their respective identification numbers assigned to them in the country of registration/business), telephone number, and email address;
 - b) The type of the products ordered;
 - c) The name of the products ordered and their appearance, flavour/colour, if applicable;
 - d) The detailed appearance (including colours, graphic designs, signs, Customer's data or other data, trademarks and other labels), size and shape of the package, and preferably a visualisation/design of the package including all its parameters;
 - e) The amount of the products ordered;
 - f) Information whether the Customer will collect the products from BMB or BMB is to deliver the products to the Customer to the address provided.

§ 4.

COLLECTION AND TRANSPORT OF THE PRODUCTS

1. Placement of an order for Products shall be treated as an obligation to collect them.
2. The date of the collection/delivery of Products shall be determined by BMB with each of the Customers individually.
3. The Products are collected from the BMB's warehouse located in Grójec (05-600) at ul. Spółdzielcza 5 from Monday to Friday (on working days) during the working hours of the warehouse, i.e. from 8 am to 4 pm, unless otherwise agreed by the Parties.
4. The Customer is obliged to determine the collection manner of the Goods in the order placed with BMB:
 - a) Personal collection;
 - b) Delivery by BMB,as referred to in § 3 sec. 4 letter f.
5. BMB shall inform the Customer via email or on the phone that the products have been prepared for collection or handed over to be delivered to the Customer.
6. Personal collection should take place immediately after the Customer has been informed by BMB via email or on the phone that the order is ready to be collected (on a date arranged earlier with the Customer). Within 7 days from receiving the above information, the Customer is obliged to collect the Products during the working hours of the warehouse.
7. In case the Customer selects the option of product delivery, BMB can use its own transport or transport services of any professional carrier at the Customer's risk.
8. The risk of losing or damaging the Products is transferred from BMB to the Customer upon handing over the Products to the Customer or the carrier in case transport services are provided by a professional carrier.
9. In case BMB delivers the Products using the services of a professional carrier, it shall not be liable for any loss or damage of the Products or for any delay in the delivery of the Products caused by any action or failure to act on the part of the professional carrier.
10. The Customer is obliged to return to BMB the pallets on which the Products have been delivered. In case the Customer fails to return the pallets within 30 days from the day they received the Products, the Customer is obliged to reimburse BMB for the value of the pallets.

§ 5.

WARRANTY AND BMB'S LIABILITY

1. Immediately upon receiving the Products, the Customer is obliged to verify whether the Products are in accordance with the order placed, and in particular they are obliged to check:
 - a) The condition and quality of the Products;
 - b) The amount;
 - c) The product range;

- d) The condition and all parameters of the packages, including their conformity with the design/visualisation provided;
 - e) The protection of Products against transport damage;
 - f) Necessary documents connected with the Products.
2. Products in the case of which the Customer failed to verify conformity with the order placed and Products that had visible physical defects upon receipt by the Customer, but were accepted by the Customer without reservations, shall not be subject to warranty claims.
 3. BMB shall not be liable for any physical defects of the Products the Customer knew about when concluding the contract.
 4. In case any physical defects, and particularly any shortages or damage, of the Products are discovered upon their collection, the Customer is obliged to draw up a report on the day of the collection of the Products including details about the physical defect of the Products. The report needs to be signed by the Customer and, if possible, the carrier or the driver in the case of BMB's own transport on the day of the collection of the Products. Then, the Customer is obliged to immediately, and not later than on the day following the day of receiving the Products, send BMB the report referred to in the previous sentence via email to the BMB's address.
 5. In case the Customer discovers any concealed defects of the Products, the Customer is obliged to immediately inform BMB about this via email, sending BMB a report including a description of the physical defects not later than within 3 days upon discovery, and in no case later than 14 days from the day the Products were collected, otherwise any claims against BMB shall become null and void.
 6. BMB shall not be liable for any damage or destruction of the Products occurring after they were collected by the Customer, particularly as a result of improper storage of the Products by the Customer, i.e. in an inappropriate temperature range, in a place with an inappropriate humidity level or too exposed to the sun.
 7. With regard to the physical defects of the Products, the Customer only has the right to – at their own discretion – demand the lowering of the price or demand the replacement of the products for products free of any defects, and thus the Parties to the contract exclude in the remaining scope the application of the provisions of law concerning warranty for physical defects of Products. BMB shall be liable for the physical defects only in accordance with the provisions of the GCTC.
 8. In case it is discovered that the Products do not conform with the order (i.e. the Customer receives other products than ordered), the Customer should immediately, and not later than within 3 days from the receipt of the Products, inform BMB about this via email and deliver BMB the Products in question at the BMB's expense. In such a case, BMB shall be obliged, at its own expense, to provide the Customer with Products conforming with the order.
 9. Any warranty claims filed by the Customer after the period indicated and not in accordance with the principles determined in the GCTC shall not be allowed by BMB.
 10. BMB is liable towards the Customer for failure to perform or improper performance of the contract as long as such failure to perform or improper performance of the contract occurred through BMB's fault.

11. Except for cases clearly indicated in the GCTC, the Customer shall have no right to withdraw from the contract concluded with BMB.

§ 6.

FAILURE TO PERFORM OR IMPROPER PERFORMANCE OF THE CONTRACT

1. In case the Customer fails to collect all or some of the Products on the date determined in the contract, expiration of the term shall not lead to the expiration of the contract.
2. In case the Customer collects the Products after the date determined in the contract, BMB shall charge the Customer with a contractual penalty of 2% of the net value of the Products ordered for each day of the delay in the collection of the Products ordered, but not exceeding 50% of the net value of the Products ordered.
3. In case the Customer fails to collect the Products ordered on the date determined in the contract, BMB shall have the right to withdraw from the contract without determining any additional date. In case the Customer collects only some of the Products, the BMB's right to withdraw from the contract shall be limited to those Products that were not collected, and the contract shall remain binding in the remaining scope.
4. In case BMB withdraws from the contract due to the Customer's failure to collect all or some of the Products on the date determined in the contract, the Customer shall be obliged to pay BMB a contractual penalty of 100% of the net value of the Products that were ordered but not collected.
5. If the loss suffered as a result of the Customer's failure to perform or improper performance of the contract from which BMB has withdrawn, or as a result of a delay in the collection of the Products, exceeds the contractual penalty due to BMB, then BMB shall have the right to claim supplemental damages in line with general principles.
6. Instead of the withdrawal from the contract referred to in sec. 3 and the demand for payment of the contractual penalty referred to in sec. 4, BMB has the right to sell the Products ordered by the Customer to third parties in case the Customer does not collect them despite the expiration of term. In case BMB sells the Products to third parties, the Customer shall be released from the obligation to pay for the Products, unless BMB sells the Products to a third party for a price lower than the one determined with the Customer. Then, regardless of the sale of the Products, BMB shall have the right to claim from the Customer the payment of the remaining amount.
7. In a situation referred to in sec. 6 above and in § 2 sec. 5:
 - a) The Customer shall grant BMB a non-exclusive licence to use the trademark being the subject of the Customer's protection right to the trademark placed on the packages or food products manufactured by BMB and the trademark identified with the food product (the so-called three-dimensional trademark) to the extent necessary to sell food products manufactured for the Customer by BMB that were not collected, placed in packages manufactured for the Customer by BMB and including the Customer's trademark, to any person in Poland or abroad. The granting of the licence is free of charge, and its duration shall expire on the day BMB sells the last product bearing the Customer's trademark. *(Letter a concerns a situation in which the Customer has the protection rights to a trademark registered in Poland, abroad, or with the EUIPO);*

- b) The Customer shall grant BMB a non-exclusive licence to use the utility model, industrial design, or Community design in the form of the package of goods or goods manufactured for the Customer by BMB to the extent necessary to sell food products manufactured for the Customer by BMB that were not collected, placed in packages manufactured for the Customer by BMB and constituting a utility model, an industrial design, or a Community design, to any person in Poland or abroad. The granting of the licence is free of charge, and its duration shall expire on the day BMB sells the last product constituting the utility model, industrial design, or Community design registered by the Customer. *(Letter b concerns a situation in which the Customer has the protection right to a utility model or a right in an industrial design registration – registered in Poland or abroad, or a right in a Community design registration – registered with the EUIPO);*
 - c) The Customer shall grant BMB a non-exclusive licence to use the invention in the form of the package of goods or goods manufactured for the Customer by BMB to the extent necessary to sell food products manufactured for the Customer by BMB that were not collected, placed in packages manufactured by BMB for the Customer and constituting an invention, to any person in Poland or abroad. The granting of the licence is free of charge, and its duration shall expire on the day BMB sells the last product constituting the subject of the Customer's patent right. *(Letter c concerns a situation in which the Customer has a patent right to an invention, registered in Poland, abroad, or with the European Patent Office);*
 - d) The Customer shall grant BMB a non-exclusive licence to use the proprietary rights to a work they hold to the extent necessary to sell food products manufactured for the Customer by BMB that were not collected, placed in packages manufactured by BMB for the Customer and constituting a work, to any person in Poland or abroad. The granting of the licence is free of charge, and its duration shall expire on the day BMB sells the last product in the package constituting a work. *(Letter d concerns a situation in which the package or its part constitutes a work within the meaning of the Act on Copyright and Related Rights of 4 February 1994, Journal of Laws of 1994 no. 24, item 83, as amended);*
 - e) Regardless of the preceding points, the Customer also consents to the BMB's use of all labels, logos, and data of the Customer (including the data concerning the Customer's company and registered office/place of business) to the extent necessary to sell food products manufactured for the Customer by BMB that were not collected, placed in packages manufactured for the Customer by BMB, on which the Customer's labels, logos and data are placed, to any person in Poland or abroad. The Customer hereby declares that the use of their labels, logos and data for this purpose does not violate any of their rights.
8. To the extent provided for in sec. 7, BMB has the right to grant sublicences and other consents to purchasers of the products originally manufactured for the Customer and sold to purchasers by BMB.

§ 7.

CONTRACT SUSPENSION

1. BMB has the right to suspend the contract, i.e. to suspend the manufacturing of the Products or their handing over/delivery to the Customer in full or in part if the Customer defaults on any of the payments for the Products delivered.
2. In the situation referred to in sec. 1, BMB shall demand that the Customer pay the amount due within the period determined in the request communicated on the phone, via email, or

in writing. BMB shall resume the performance of the contract as soon as the Customer pays all the amounts due. In case the amounts due are not paid, BMB may, within 30 days after the payment date determined in the request for payment, withdraw from the contract and charge the Customer with a contractual penalty amounting to 100% of the net value of the remaining Products covered by the order but not delivered to the Customer, provided that they had already been manufactured for the Customer by BMB when the contract performance was suspended.

3. BMB shall not be liable for any delay in the performance of the contract caused by the contract suspension for reasons referred to in sec. 1.

§ 8.

PAYMENT TERMS

1. Detailed payment terms are determined by BMB with each of the Customers individually via email or in writing.
2. The Customer is obliged to pay BMB the agreed price within the period determined in the contract or indicated on the invoice. The Customer authorises BMB to issue invoices without the Customer's signature.
3. In case the payment of the sale price is delayed, BMB has the right to charge statutory interest for the delay in accordance with the provisions of the Civil Code.
4. The order placed by the Customer, a delivery or collection protocol, and an invoice constitute proofs of the Customer's debt towards BMB.

§ 9.

FORCE MAJEURE

1. BMB shall not be liable for the failure to perform or improper performance of the contract if such failure to perform or improper performance results from force majeure.
2. Force majeure shall be understood as all circumstances beyond BMB's reasonable control including fires, floods, and other natural disasters as well as weather phenomena, catastrophes, wars, strikes, riots, demonstrations, epidemics, embargoes, power, water, gas, or fuel outages, administrative limitations and other similar circumstances rendering production or transport of Products considerably harder or impossible.

§ 10.

GOVERNING LAW AND DISPUTE RESOLUTION

1. The law governing the obligations arising out of the contract concluded by the Parties shall be the Polish law.
2. In the event that a dispute arises out of or in connection with the contract concluded by the Parties, the Parties hereby undertake to collaborate with the aim to resolve it amicably by way of a settlement.

3. In case it is impossible to resolve the dispute amicably, all disputes arising out of or in connection with the contract concluded by the Parties shall be settled by a competent court of law in Poland having jurisdiction over the BMB's registered office.

§ 11.

FINAL PROVISIONS

1. The GCTC comes into force on 2018.
2. The Parties hereby agree that in no event will it be effective for the Customer to invoke unfamiliarity with the GCTC.
3. BMB has the right to change the GCTC.
4. The contracts concluded by the Parties are subject to the provisions of the GCTC valid at the time the Customer places an order.
5. The Parties are obliged to inform each other about any change of their registered office/place of residence/place of business or any change of their email address, otherwise the correspondence sent to the initially provided address shall be deemed to have been duly delivered.
6. The Parties hereby agree that in case any of the provisions of the GCTC becomes by virtue of law ineffective or invalid, this will have no effect on the validity of other provisions of the GCTC, unless the circumstances clearly indicate that without the invalid provisions the contract would not have been concluded.
7. In case any of the provisions of the GCTC becomes by virtue of law ineffective or invalid, the Parties hereby undertake to immediately amend the contract concluded by introducing replacement provisions the purpose of which is the same or as similar as possible to the purpose of the invalid provisions.
8. In case any of the provisions of the GCTC becomes by virtue of law ineffective or invalid and the circumstances clearly indicate that without the invalid provisions the contract would not have been concluded, the Parties hereby undertake to immediately enter into negotiations with the aim to conclude a new contract the purpose of which is the same or as similar as possible to the purpose of the contract. Until the end of the negotiations referred to in the previous sentence, the Parties hereby undertake to perform the obligations provided for in the contract to the extent this is not contrary with the mandatory provisions of law and the legitimate interests of the Parties. If some part of the provisions of the GCTC becomes invalid and the circumstances clearly indicate that without the invalid provisions the contract would not have been concluded, the Parties hereby undertake to immediately enter into negotiations with the aim to determine the new wording of the contract, the purpose of which is as similar as possible to the purpose of the contract.
9. This GCTC has been drawn up in two language versions: Polish and English. In the case of interpretation differences arising out of the translation of the original (Polish) language version into a secondary language (English), the Polish version shall prevail.