

MANULI EKOBAL Sp. z o. o.

GENERAL PURCHASE TERMS AND CONDITIONS

("GPTC")

effective from December 1, 2019

I. DEFINITIONS OF THE TERMS USED IN THE GPTC:

- "Purchaser": MANULI EKOBAL Sp. z o. o., with its registered seat in Bielany Wrocławskie, Kobierzyce gmina, Republic of Poland, ul. Logistyczna 1, 55-040 Bielany Wrocławskie, entered into the National Court Register by the District Court for Wrocław-Fabryczna, 6th Commercial Division of the National Court Register under number KRS: 0000021830, NIP: 5272349015, BDO: 000057152, with share capital amounting to: PLN 1 550 000.00.
- "Seller": a legal or natural person conducting business activity, selling Goods to the Purchaser, on the terms and conditions specified in the GPTC.
- "Contract": each Contract for the Sale of Goods, concluded between the Seller and the Purchaser.
- "Goods": goods determined as to their quantity and type or identity in the Contract, sold to the Purchaser by the Seller on the terms and conditions specified in the GPTC.
- "Delivery Date": the term within which the Goods which are the subject of the Contract should be delivered to the place of delivery, specified by the Parties in the Contract; changing the Delivery Date after conclusion of the Contract requires prior approval of the Purchaser, and should be confirmed in writing or in a form of a document, otherwise shall be null and void.
- "Price": the value expressed in monetary units which the Purchaser is obliged to pay to the Seller for sold Goods in accordance with the definition set forth in Art. 3 section 1 section 1 point 1) of the Goods and Services Pricing Information Act of 9 May 2014 (Dz.U. 2014 point 915, as amended). The price must be determined by the Parties in the Contract, otherwise shall be null and void; changing the Price after conclusion of the Contract requires prior approval by the Purchaser, shall be made in writing or in a form of a document, otherwise shall be null and void.
- "Unit price of the Goods" value expressed in monetary units, determined by the Parties as a unit of specific Goods whose quantity or number is expressed in measurement units within the meaning of provisions on measurements, in accordance with the definition set forth in Art. 3 section 1 section 1 point 2) of the Goods and Services Pricing Information Act of 9 May 2014 (Dz.U. 2014 point 915, as amended). The Unit price of the Goods must be determined by the Parties in the Contract, otherwise shall be null and void; changing the Unit price after conclusion of the Contract requires prior approval by the Purchaser, shall be made in writing or in a form of a document, otherwise shall be null and void. The parties confirm that the Unit price of the Goods presented in the offers, invoices, during negotiations and in all actions related to the Contract shall be always a net unit price which the Value Added Tax shall be added to in accordance with applicable fiscal provisions.
- "Payment Due Date": the due date when the funds due to the Seller from the Purchaser for the Price of the purchased Goods as part of the Contract, should be credited in the Seller's bank account. The Payment Due Date should be determined by the Parties in the Contract; the Payment Due Date will be 60 (sixty) days of the Delivery date unless the Parties agree otherwise. The change of the Payment Due Date after conclusion of the Contract requires prior approval by the Purchaser, shall be made in writing or in a form of a document, otherwise shall be null and void.
- "Payment Date": a calendar date when the funds due from the Purchaser under the Contract have been paid in full or part, understood as the day when the funds have been credited in the bank account of the Seller.

II. GENERAL TERMS AND CONDITIONS:

1. The Parties agree and decide that each Contract for the sale of Goods between the Seller and the Purchaser shall be concluded on the basis of:
 - a. terms and conditions provided in the GPTC,
 - b. and provisions of the Act of the Republic of Poland of 23 April 1964 - Civil Code (Dz. U. of 1964, no. 16, item 93, as amended), "Civil Code", including in particular: provisions on sale set forth in Book Three TITLE XI of the Civil Code, from Art. 535 to Art. 602,
 - c. excluding the United Nations Convention on Contracts for the International Sale of Goods concluded in Vienna, on 11 April 1980,unless the Parties determine separate sale conditions in writing which otherwise shall be null and void.
2. The Parties, agree that if the Parties agree the terms and conditions of the Contract which stipulate that:
 - a. ordered goods must be manufactured from a specific type or origin of raw material,
 - b. and/or that the ordered goods must be manufactured in a specific manner,for a Contract concluded with the above mentioned terms and conditions the provisions on delivery set forth in Book Three, TITLE XIII, from Art. 605 to Art. 612 shall also apply.
3. The GPTC determine the rights and obligations between the Seller and the Purchaser, applicable for each Contract, in particular they determine general terms of conclusion of a Contract, payment of the Price for the Goods between the Seller and the Purchaser and liability of the Seller for the Goods and their quality.
4. Detailed description of Contract terms and conditions, including:
 - a. name or sort of the Goods, quantity of the Goods, Delivery date, delivery conditions other than INCOTERMS 2010,
 - b. properties of the Goods (qualitative requirements) agreed by the Parties or other than the properties of the Goods declared by the Seller in all offers, documents, certificates, approvals and Goods standards under which the Contract was concluded,
 - c. The Unit price of the Goods or pricing formula, price, currency of the Contract and payment currency, payment due date other than the Payment Due Date, advances, bank costs and fees,
 - d. condition and the offer or the Contract validity period, specific Contract terms and conditions (such as: title retention, sale on approval and the right to rescind),and all other terms and condition of the Contract will be agreed and confirmed between the Parties in a manner described above.
5. The Parties agree that each Contract for the Sale of Goods between the Seller and the Purchaser shall be concluded by declarations of intent of the Purchaser and the Seller:
 - a. or: as the Seller's reply to the offer of purchase of the Goods placed by the Purchaser, however:
 - i. the reply of the Seller to the Purchaser's offer may not contain changes or supplements changing the terms and conditions of the Purchaser's offer.
 - ii. The Parties shall be bound by the Contract specified in the Purchaser's offer.
 - b. or: as a reply to the offer of sale of the Goods of the Purchaser, placed by the Seller, however:
 - i. the reply of the Purchaser to the offer of the Seller subject to changes or supplements which do not change the offer significantly shall be deemed acceptance of the offer.
 - ii. The Parties shall be bound by the Contract specified in the Seller's offer, including the reservations provided in the Purchaser's reply.
6. The Parties agree that the Contract for the Sale of Goods between the Seller and the Purchaser may not be concluded by presumption, in accordance with the provisions of Art. 69 and Art. 70 of the Civil Code.

7. The Parties agree that each Contract for the Sale of Goods between the Seller and the Purchaser shall be concluded:
 - a. by written confirmation set forth in Art. 77² and Art. 77³ of the civil code, provided that the carrier of the document, collected or sent by the Purchaser, will be only an email, with the address containing the full name of the server's domain of the Purchaser: "...@manulekobal.pl", otherwise shall be null and void.
 - b. or in writing, as set forth in Art. 78. § 1 of the Civil Code if the Purchaser or the Act provides for the legal transaction to have a written form under pain of nullity.
8. Conclusion of the Contract with reference of the Seller to the standard (national, industry or factory) specifying the terms and conditions of manufacturing or quality of Goods, requires a prior:
 - a. presentation of a full standard to the Purchaser which the Seller refers to,
 - b. and approval by the Purchaser of the conditions set forth in such standard, in writing or other documented form, under pain of nullity.
9. Putting a signature by the Purchaser on the invoices for the sale of the Goods issued by the Seller shall be deemed by the Parties as compliance with the obligation of a written form required for a legal transaction, in a manner which complies with Art. 78 §1 of the Civil Code.
10. Amendments to the Contract or the GPTC may be made anytime, by mutual declarations submitted by persons authorized to submit and accept declarations on behalf of each of the Parties, in a form of a document or in writing otherwise all amendments shall be null and void. In the case of a document, notifications and declarations of the parties concerning amendments to the Contract and the GPTC should be sent by a registered mail, letters with two advice notes to collect and if not collected within a set term shall be deemed served.
11. The GPTC and the Contract between the Parties under the terms specified above are the only documents binding the Parties in terms of sale and delivery of the Goods and the Parties agree that any other general terms and conditions, regulations, etc. which are applicable in each of the Parties shall not apply unless they were adopted and approved separately by both Parties, in writing under pain of nullity.
12. The Purchaser is entitled to amend the GPTC and the Contract with immediate effect in the event the generally applicable legal regulations in the Republic of Poland are amended.
13. If any of the provisions of the GPTC is or becomes invalid or ineffective, it shall not affect validity of the other provisions of the GPTC.
14. Any disputes arising from the GPTC or the Contract shall be settled by the Parties amicably and if the Parties cannot resolve the dispute within two weeks, then by a common court having jurisdiction over the registered seat of the Purchaser.
15. The GPTC were written in Polish; the Polish text is paramount for evidentiary purposes in the event of a dispute with these GPTC or the Contract.
16. The Parties agree that the Seller is not authorized to transfer the rights arising from the Contract to any third party or to encumber the rights without a prior approval of the Purchaser submitted in writing under pain of nullity.

III. DECLARATIONS, RIGHTS AND OBLIGATIONS OF THE PARTIES:

1. The Parties hereby declare that they are Value Added Tax payers which they confirm by providing relevant VAT registration documents.
2. Seller:
 - a. declares that as the Value Added Tax payer, the Seller does not have any tax arrears in particular VAT arrears arising from the deliveries made to the Purchaser, therefore there are no circumstances that the Purchaser is jointly liable as a VAT payer, under Art. 105a section 1 of the Value Added Tax Act of 11 March 2004 (Dz. U. of 2016, item 710, as amended).
 - b. declares that the conditions set forth in Art. 96 section 9 section 9a of the Value Added Tax Act of 11 March 2004 (Dz. U. of 2016, item 710, as amended) shall not apply to it.
 - c. shall, without delay, and strictly within the term set forth in the tax law of the Republic of Poland, pay the Value Added Tax in the part attributable to the delivery of the Goods to the Purchaser.
3. The Seller declares that the Goods:
 - a. have full and unconditional marketing authorisation for the European Union and the Republic of Poland and have all the approvals or certificates required by the provisions of the European Union and the laws of the Republic of Poland, in particular, have the CE marking.
 - b. are its exclusive property and are not encumbered with any burdens or rights of third parties, and the disposal of the Goods by the Seller is not subject to any limitations, both at the time of conclusion of the Contract and at the time of delivery of the Goods.
4. The Parties declare that:
 - a. no reparatory or bankruptcy proceedings or any bank settlement procedure have been instituted against them; there are no grounds to institute such procedure.
 - b. there are no pending administration, fiscal or court procedures the result of which could significantly threaten the standing of the enterprise or its existence.
 - c. there are no pending enforcement proceedings against the assets of their companies, in particular, none of the bank accounts and other assets of the enterprise is a security or is subject to administrative or court seizure.

IV. GUARANTEE AND WARRANTY:

1. The Seller declares that the Goods will comply with qualitative requirements declared by the Seller in all offers, documents, certificates, approvals and standards of the Goods which were the basis for conclusion of the Contract (in particular: in documents describing the Goods technical and usage conditions) and in samples presented or provided to the Purchaser prior to conclusion of the Contract; features provided only to describe the Goods are not a quality declaration.
2. The Seller shall provide the Purchaser with the Goods quality guarantee (guarantee) for the minimum period of 12 months unless due to the designation of the Goods the Parties determine another guarantee period. A change of the guarantee period for a period different than 12 months requires a prior approval of the Purchaser and such change shall be made in writing or in a form of a document otherwise shall be null and void.
3. The Seller shall:
 - a. provide the Purchaser with a guarantee declaration together with the offer in a form of a document, described in Art. II section 3 of the GPTC,
 - b. and provide the guarantee original, fixed on paper or another durable medium, together with the Goods to the Purchaser.
4. The Purchaser may exercise the rights under the warranty for physical defects of the Goods regardless of the rights under the guarantee and exercising the right under the guarantee shall not affect the liability of the Seller under the warranty.
5. The Seller shall hold the Purchaser harmless of all claims of third parties, incurred as a result of personal or environmental damages caused by the Goods or in connection with the use of the Goods, due to a defect of the Goods.

V. DELIVERY, GOODS ACCEPTANCE, COMPLAINTS:

1. The Goods shall be delivered in accordance with DAP INCOTERMS 2010; delivery in accordance with another formula of INCOTERMS 2010 requires prior approval of the Purchaser and shall be obtained in writing or in a form of a document otherwise shall be null and void.
2. Delivery of the Goods under the Contract in parts (batches) requires prior approval of the Purchaser and shall be obtained in writing or in a form of a document otherwise shall be null and void.
3. The Seller shall be liable for delivery of the Goods strictly within the Delivery Date; the Seller is obliged to notify the Purchaser immediately about any circumstances which could result in delivery on another date than the Delivery Date; the notification must be made in a form of a document, otherwise shall be null and void, provision of this information does not release the Seller from the obligations specified in the Contract.
4. In the event of a delay in delivery of the Goods, the Seller shall pay a contractual penalty to the Purchaser, at the rate of 0.1% for each day of delay versus the Delivery Date; the Purchaser shall have the right to deduct the contractual penalty from the Price without prior acceptance of the Seller.
5. The Seller shall provide the Goods with necessary documents, certificates and approvals or excerpts from such documents, required by law for marketing of the Goods in the European Union and the Republic of Poland, to the Purchaser. Delivery of the Goods without a set of necessary documents, certificates and approvals shall be deemed as failed, and the Goods will be, at the discretion of the Purchaser, returned to the Seller at its expense and risk, or deposited; in such case the Payment Due Date shall be extended by the time the missing documents are delivered and the Seller shall pay the contractual penalty set forth in point 4.
6. For imported Goods, the Seller shall provide all documents required by law together with the Goods necessary for the final customs clearance. If it is not possible to obtain a timely customs clearance for the fault of the Seller, it will be obliged to cover the costs related to waiting for clearance and pay the contractual penalty described in point 4; the Payment Due Date shall be extended by the period of waiting for the clearance of the Goods.
7. In the event of a delay in delivery of the Goods within seven business days after the Delivery Date, the Purchaser has the right to buy Goods of the same species from a third party. The Seller is obliged to pay the Purchaser a contractual penalty described in the point 4, and to cover the costs of purchasing the Goods from a third party; the cost of the purchase is also price difference in relation to the price agreed with the Seller.
8. Failing to deliver the Goods described in the Contract, the Purchaser shall have the right to pursue claims from the Seller on general terms, apart from the contractual penalty set forth in point 4, and point 7.
9. The Goods shall be deemed accepted by the Purchaser:
 - a. the moment the Purchaser accepts the risk for the Goods determined on the basis of the formula provided in INCOTERMS 2010,
 - b. only by signing the Goods delivery documents by the Purchaser; the Parties, without a separate approval of both Parties, exclude the possibility of acceptance of delivered Goods by the Purchaser in a form of a document.
10. The moment the Goods are accepted by the Purchaser, the Purchaser acquires all the rights, benefits and burdens related to the Goods, including the risk of accidental loss or damage of the Goods.
11. If the Goods are delivered by the Seller in accordance with DAP INCOTERMS 2010, and the Purchaser stated that there was a decrease or damage of the Goods for the fault of the carrier, the Seller shall carry out all actions necessary to determine the liability of the carrier.
12. The Purchaser shall determine the identity, quantity and quality (physical defects) of the delivered Goods at the time of delivery.
13. If there are differences in quantity, the Purchaser shall immediately submit a quantitative complaint; notification on defects may be submitted in a form of a document or in writing, as per the choice of the Purchaser.
14. Qualitative acceptance of the Goods shall be carried out by comparison of delivered Goods or their samples with:
 - a. the properties of the Goods (qualitative requirements) determined by the Parties in the Contract,
 - b. and with the properties of the Goods declared by the Seller in all offers, documents, certificates, approvals standards and samples under which the Contract was concluded.
15. In the event the Goods or their samples demonstrate one of the following physical defects:
 - a. they do not comply with the properties of the Goods agreed by the Parties in the Contract and declared by the Seller in all offers, documents, certificates, approvals standards and samples under which the Contract was concluded,
 - b. or they do not demonstrate the properties which they should have due to their designation,
 - c. or they are not fit for the intended purpose which the Purchaser informed the Seller about while concluding the Contract and the Seller did not have any reservations concerning such designation of the Goods,
 - d. or incomplete Goods were handed over to the Purchaser,
 - e. or they were delivered with identified damages.

The Purchaser shall file a complaint with the Seller for physical defects (qualitative) and shall put the Goods at the disposal of the Seller as a whole or in part; the notification about defects may be submitted in a form of a document or in writing as per the choice of the Purchaser.

16. The complaint for physical defects of the Goods shall be submitted without undue delay:
 - a. after delivery of the Goods,
 - b. or, after identification of the defect if the defects became apparent later or after application of the Goods,
 - c. or, at any other time, during the warranty and guarantee period, if the defects were concealed by the Seller.
17. If there is a physical defect in the Goods, the Purchaser, as per its choice, may:
 - a. submit a declaration on decreasing the Price or withdrawal from the Contract unless the Seller immediately and without any excessive inconvenience to the Purchaser replaces the defective Goods to Goods free from any defects or repairs the defect,
 - b. or, demand that the Goods are replaced with the Goods free from defects or are repaired.
18. In the event of withdrawal from the Contract, the Purchaser is obliged to hand over the Goods at the expense of the Seller in the place in which the Goods were provided to the Purchaser.
19. In the event the complaint for physical defects and the demands to reduce the Price by the Purchaser are accepted, the Goods Price will be reduced to the degree corresponding to the defects or damages.
20. If the Purchaser granted a separate quality guarantee for the Goods (guarantee) to the Purchaser, the Purchaser may exercise the rights under the warranty for physical defects regardless of the rights arising from the guarantee.

VI. PAYMENTS:

1. The Price, Unit price of the Goods and all information about means of payment specified in the Contract shall be expressed in monetary units (currency) approved by the Purchaser in the Contract otherwise shall be null and void, subject to conditions provided in point 2, 3 and 4 of the Article.
2. Monetary units which the Purchaser shall pay to the Seller for sold Goods shall be Polish zloty (PLN), without possibility to pay in another currency without prior written consent of the Seller to make payments in another currency, unless the Parties agree otherwise.

3. In the event the Seller determines a currency in its invoice other than the one specified in the Contract, the Parties shall agree that the Price will be paid only in the currency accepted by the Purchaser in the Contract.
4. Provisions included in point 1, 2 and 3, do not apply:
 - a. with the statutory obligation to make payment of the Price with use "Split payment mechanism", set forth in Art. 108a. et seq. of the Value Added Tax Act of 11 March 2004 (Dz. U. 2004 no. 54, item 535, as amended),
 - b. when the Purchaser chooses a payment of the Price using the "Split payment mechanism",
5. In the case of payment Prices in the manner described in point 4, with use "Split payment mechanism":
 - a. the Price shall be paid in a manner compliant with legal regulations,
 - b. monetary units which the Purchaser is obliged to pay to the Seller for the Price for sold Goods shall be only Polish zloty (PLN) without the need to obtain a consent of the Seller to make payment in a different currency than the one specified in the Contract.
 - c. conversion of a currency different than Polish zloty (PLN) to monetary units which the Purchaser pays the Price to the Seller for sold Goods shall be made on the basis of the average conversion rate of currencies published by the National Bank of Poland (Table A) on the day preceding the date of payment.
6. The Payment Due Date shall be **60 (sixty) days** past the Delivery Date unless the Parties agree otherwise. A change of the Payment Due Date after conclusion of the Contract requires a prior approval of the Purchaser and such change shall be made in writing or in a form of a document otherwise shall be null and void.
7. The bank costs and fees shall be determined by the Parties in the Contract. The Purchaser shall incur the bank costs and fees in Poland and the Seller shall incur the bank costs and fees in its own country and bank costs and fees of intermediary banks unless the Parties agree otherwise. A change of the rules governing payment of the bank costs and fees after conclusion of the Contract requires a prior approval of the Purchaser and such change shall be made in writing or in a form of a document otherwise shall be null and void.
8. The Seller shall issue and send invoices issued in accordance with fiscal regulations to the Purchaser.
9. The Price shall be paid by the Purchaser via a bank transfer to the account of the Seller indicated in the invoice or exclusively at the risk of the Seller, to an account indicated to the Purchaser by the Seller in a form of a document.
10. Failure to provide the invoice before the Payment Due Date or a factual or formal error in the invoice which causes that the Purchaser is unable to comply with the obligations of the fiscal law is a condition preceding payment of the Price.
11. The Purchaser shall pay the Price on the Payment Due Date at the latest; payment by the Purchaser of the total or part of the Price past the Payment Due Date shall entitle the Seller to calculate statutory interest for delay, calculated in accordance with the provisions of the civil code.
12. The Purchaser may suspend payment of the total or part of the Price by the time the missing quantity of the Goods is delivered or by the time the complaint proceedings for defects of the Goods are completed; payment of a disputed part of the Price shall be made by the Payment Due Date, without the right to retain a higher amount than the value of missing or rejected Goods under complaint procedure.

VII. TRANSFER OF OWNERSHIP TITLE:

1. The Contract if it concerns the sale of identified Goods, transfers the ownership title to the Goods to the Purchaser at the time of its conclusion.
2. If the Contract concerns a sale of Goods identified only as to their sort or Goods which are to be manufactured in the future on commission of the Purchaser, the ownership title shall be transferred at the time the possession of the Goods was transferred without reservation of the ownership right.

VIII. FORCE MAJEURE:

1. None of the Parties of the Contract shall be liable for partial or lack of fulfilment of the obligations under the Contract caused by "force majeure" understood as circumstance which could not be predicted at the time of conclusion of the Contract, caused by events of special nature, such as war, internal riots, fire, flood, earthquake, legal limitations introduced by governments.
2. A Party experiencing "force majeure" shall immediately inform the other Party, in writing or documentary, within 7 days of occurrence of the above mentioned circumstance. In the event the Party fails to inform the other Party about occurrence of "force majeure", the Party will not be able to refer to its occurrence.

IX. PROTECTION OF CONFIDENTIAL INFORMATION AND PERSONAL DATA:

1. The Parties agree that they shall protect each other's confidential information obtained from the other Party, and:
 - a. Confidential Information means all information provided to the Receiving Party by the Disclosing Party in any form (written, electronic, verbal or by presentation),
 - b. which the Disclosing Party at the time of provision to the Receiving Party determined as secret or confidential.
2. Each of the parties shall use the Confidential Information only for the purposes related to the business activity between the Parties.
3. The Receiving Party shall keep secret of the obtained Confidential Information and if the Information is lost or disclosed in an unauthorized manner then the Receiving Party shall immediately notify the Disclosing Party about the fact.
4. The Receiving Party may disclose the Confidential Information only to members of its governing bodies or employees, subcontractors or authorised representatives who need the Confidential Information to ensure commercial cooperation between the Parties.
5. The Receiving party shall keep the Confidential Information for a period of one year of the date of provision to the Receiving Party unless the Disclosing Party sets a longer term. Setting a longer term must be made in writing or in a document, otherwise shall be null and void.
6. Purchaser is the Administrator of personal data provided by the Seller in connection with the implementation of this GPTC or the Contract. Information on the processing of personal data by the administrator can be found on the website www.manulikobal.pl or at the email address rodo@manulikobal.pl.