

# GENERAL TERMS OF PURCHASE

## 1. GENERAL PROVISIONS

1. These General Terms of Purchase set out the terms under which contracts for the purchase of products from and delivery of products by manufacturer for

### APJA FECHU Spółka z ograniczoną odpowiedzialnością

NIP (Tax Reg. No.): 547-221-56-73, REGON (Industry ID No.): 384770200,  
with its registered office in Bielsko-Biała, post code: 43-300 (Kamińskiego 19), entered in the company register [Polish: *rejestr przedsiębiorców*] by the District Court in Bielsko-Biała, 8th Commercial Division of the National Court Register, Company No.: KRS 812027,  
having a share capital of PLN 1,000,000  
hereinafter to be referred to as "APJA".

2. These General Terms of Purchase ("GTPs") are an integral part of all purchase and delivery contracts between APJA and other Manufacturers; however, if the parties have set out their rights and obligations in a separate written contract, the provisions of that contract shall take precedence over these general terms of purchase, which shall apply only to the extent not provided for by that contract.
3. The following terms shall have the meanings set out below:
  - a) "**Contract**" means a contract between APJA and a Manufacturer for the purchase and/or delivery of a product;
  - b) "**Order**" means a statement by APJA or a person authorised by APJA which is made to a Manufacturer as an expression of APJA's intention to enter into a Contract and which specifies the following essential details of the Contract, including (but not limited to) the brand (make), model, colour and VIN of the Product, the expected week of delivery of the Product, the place of collection of the Product, the price for the Product, the amount of an advance payment for the Product (such details must also be set out in the Contract for second-hand Products (as described in clause 6 of these GTPs) and include (without limitation) the brand (make), model, year of manufacturer, colour and VIN of the Products, optional features of the Product, the price for the Product (exclusive of VAT), the number of kilometres travelled by the Product, the expected delivery date and the place of delivery of the Product);
  - c) "**Manufacturer**" means a business person selling Products to APJA;
  - d) "**Business Person**" means (a) a natural person, (a) a legal person or (c) an organisation without separate legal personality but with legal capacity under special provisions of law where such a person or organisation carries on a business activity or a professional activity in his name;
  - e) "**Parties**" means APJA and the Manufacturer;
  - f) "**Product**" means items of movable property, i.e. cars and delivery vehicles, other vehicles, as well as other items of movable property connected with such vehicles;
  - g) "**Custom Order**" means an order for a Product with special properties and parameters different from those of the standard Products offered by the Manufacturer;
4. These GTPs will be communicated to the Manufacturer not later than at the time of APJA placing an Order,, and are made available on the <https://apja.eu/warunki-sprzedazy> website.

5. If the Manufacturer maintains a regular business relationship with APJA, the Manufacturer's acceptance of these GTPs in the case of an Order shall be deemed as the Manufacturer's acceptance of these GTPs in the case of all other orders and purchase and delivery contracts.
6. All of the Manufacturer's conditions are hereby excluded in transactions with APJA, and only these GTPs shall apply to such transactions. These GTPs set out all the arrangements between the parties and replace all prior and existing negotiations, obligations and arrangements between them, whether written or oral, relating to Products, as this term is defined in these GTPs.
7. These GTPs shall form an integral part of each Order, unless stated otherwise in the Order. No limitation, addition or modification to or of any terms of a Contract in relation to these GTPs shall be valid unless it has been approved by APJA in writing.
8. APJA shall prepare and provide the Manufacturer with an appropriate table (in MS Excel format) to be used by the Manufacturer to provide the details described in clause 1(3)(b) of these GTPs.
9. The Manufacturer shall inform APJA of any change to each Order immediately, but in any case within 7 (seven) days of the date of the change.

## **2. TERMS OF PAYMENT**

No payment for a Product shall be made before a written statement is provided by the Manufacturer that the Product is physically available at the place of collection and unless the Manufacturer has all such documents as may be required for the Product to be sold and used normally, including (but not limited to):

- a certificate of conformity for the Product,
- a registration document for the Product,

unless the Parties exclude this provision in the Contract [for the Product] and make different arrangements regarding payments.

## **3. CONCLUSION OF CONTRACTS**

1. APJA shall provide information in writing (by post, fax or email) or orally (by telephone) in reply to the Manufacturer's enquiries on a case-by-case basis.
2. The Manufacturer shall confirm its acceptance of Orders in writing or in documentary form (by post, fax or email).
3. Before sending its confirmation of acceptance of an Order, the Manufacturer shall inform APJA of the expected date of delivery of the Order. If a Custom Order cannot be delivered, in which case the Manufacturer shall inform APJA, the Contract shall be terminated automatically on the date when APJA is so informed, and the refundable deposit [Polish: *zaliczka*] or non-refundable deposit [Polish: *zadatek*] that APJA has already paid shall be returned within 14 (fourteen) days of the termination of the Contract.
4. If the Manufacturer's confirmation of acceptance of an Order is inconsistent with the order or with technical conditions acceptable to APJA, APJA shall immediately give the Manufacturer a written notice of the inconsistency. The Manufacturer shall, within 3 (three) days, correct the inconsistency by modifying the order to reflect the agreed terms. If, however, the Manufacturer states that it is unable to correct the inconsistency, APJA will be entitled to withdraw [Polish: *odstąpienie*] from the Contract within 21 (twenty-one) days of the date of the Manufacturer being informed of the inconsistency, in which case the Manufacturer will not be entitled to claim compensation for any loss of profits and/or other loss or damage suffered by itself and/or any third party.

5. By confirming an Order, the Manufacturer shall be deemed to have confirmed that it is familiar with these GTPs, which form an integral part of the Contract.

#### **4. DELIVERY AND TIME FOR DELIVERY**

1. Each Contract shall specify the date and place of delivery or collection of the ordered Product(s) as agreed upon by the Parties.
2. The agreed dates shall be binding upon the Manufacturer.
3. The date of collection of a Product shall be set on a case-by-case basis and only when the Product is available in accordance with clause 2(1) of these GTPs.
4. APJA agrees that the delivery date may be changed provided that it is informed by the Manufacturer of the change not later than one day before the agreed date of collection. The delivery date shall not, however, be extended by more than 7 (seven) days unless the Product cannot be transported by a freight-forwarding agent or a carrier or unless a fortuitous event occurs, including weather conditions or an accident preventing the collection of the Product.
5. APJA may postpone the collection of a Product by not more than 30 days in relation to the agreed date of collection, in which case the Manufacturer shall not make any claims to APJA as a result of the postponement.
6. If the delivery date is changed by the Manufacturer by more than 3 (three) months in relation to the planned delivery date stated in the Contract, APJA will be entitled to withdraw [Polish: *odstąpienie*] from the Contract within 21 (twenty-one) days of the date of APJA being informed of the change and of APJA's right to claim a refund of the advance payment or a non-refundable deposit. In the event of APJA's withdrawal from a Contract, the Manufacturer will not be entitled to claim any compensation from APJA for any loss or damage suffered by the Manufacturer and/or any third party.

#### **5. DELIVERY AND TRANSFER OF RISK**

1. The risk related to and liability for a Product shall pass to APJA at the time of APJA's effective collection of the Product where the delivery from the place of collection to another specified location is arranged for by APJA.
2. If such transport arrangements are made by the Manufacturer, the Manufacturer shall be strictly liable [Polish: *odpowiedzialność na zasadzie ryzyka*] for the Product until it is collected by APJA at the agreed place of delivery or collection.
3. If, at the time of collecting a Product, APJA discovers a difference between the Product actually delivered and the Product described in the shipping documents or discovers that the Product is damaged, APJA may return the Product to the Manufacturer at the Manufacturer's risk and expense, in which case the Manufacturer shall have 7 (seven) days of the date of collection within which to replace the Product with a defect-free one. APJA may, however, effectively refuse to have the Product replaced and instead withdraw [Polish: *odstąpienie*] from the Contract within 21 (twenty-one) days of the date of collection and charge the Manufacturer for a contractual penalty of 10% of the gross value of the Contract.
4. Where a Product is replaced on the grounds of its non-conformity and/or damage, the Manufacturer shall be liable to APJA for any loss or damage suffered by APJA as a result.
5. APJA shall make sure that the Product is kept protected until it is collected, given the properties of the Product.

6. In the event that the documents related to the Product and required for the Product to be used normally and/or resold are not delivered within a period agreed upon by the Parties in the Contract, APJA shall request the Manufacturer to deliver such documents within a period of at least 7 (seven) days and, if this request is not complied with, APJA may withdraw [Polish: *odstąpienie*] from the Contract within 21 (twenty-one) days of the expiry of the time for the delivery of such documents, in which case APJA shall return the Product at the Manufacturer's risk and expense and charge the Manufacturer for all the costs that APJA has incurred in connection with the failed delivery of the documents.

## 6. SPECIAL TERMS OF PURCHASE OF SECOND-HAND VEHICLES

1. The provisions of this clause shall apply only to the purchase of second-hand Products, and the other provisions of these GTPs shall apply accordingly, unless this clause provides otherwise. A Product shall be deemed to be a second-hand Product if the number of kilometres travelled by the Product is at least 6,000 and if at least 6 (six) months have passed since the date of its registration.
2. No Product delivered by the Manufacturer according to an Order shall show no wear and tear other than as determined in accordance with guidelines issued by the Polish Vehicle Rental and Leasing Association (standard wear and tear).
3. If a Product shows wear and tear against the standard referred to in subclause 2 above (non-standard wear and tear), the Manufacturer shall repair the Product at its own risk and expense within 7 (seven) days of being informed of the non-standard wear and tear of the Product. This provision shall not apply if APJA is informed of such non-standard wear and tear and accepts such non-standard wear and tear in writing.
4. If the non-standard wear and tear of the Product is not corrected, APJA may withdraw [Polish: *odstąpienie*] from the Contract within 21 (twenty-one) days of the expiry of the 7-day time limit for repairing the Product, unless the Parties agree on a different time limit for the repair, in which case the time limit for such withdrawal shall begin upon the expiry of the agreed time limit for the repair. In the event of APJA's withdrawal from a Contract, the Manufacturer will not be entitled to claim any compensation from APJA for any loss or damage suffered by the Manufacturer and/or any third party.
5. The Manufacturer shall, within the time limits set out in these GTPs, deliver the documents required for the Product to be used normally and resold, including (but not limited to) the registration document and a complete set of keys for the Product.
6. In the event that APJA withdraws from a Contract in accordance with these GTPs, the Manufacturer shall, when requested by APJA in writing, compensate APJA for any loss, damage and costs it has suffered or incurred.

## 7. TERMS OF PAYMENT

1. In the event of late payment [by APJA], the Manufacturer will be entitled to charge statutory interest for late payment at the rate set out in the Civil Code.
2. Each payment shall be deemed to have been made on the date when it is debited from APJA's bank account.
3. If the Manufacturer has confirmed its acceptance of an Order for a Product and subsequently withdraws [Polish: *odstąpienie*] from the Contract for any reasons for which it is responsible, terminates the Order or ceases its performance under the Contract otherwise, APJA may charge the Customer for a contractual penalty equal to 10% of the gross value of the Contract.

4. APJA may claim damages from the Manufacturer in excess of the amount of the contractual penalties provided for in these GTPs.

## **8. FORCE MAJEURE**

1. Neither Party shall be liable for its failure to perform or defective performance of a Contract if such failure or defective performance is a result of force majeure. In such a case, the terms of sale and delivery shall be modified if necessary because of the consequences of such force majeure.
2. "Force Majeure" means a natural event, an act of government or anything done by a person which cannot be predicted and/or controlled to any degree, such as (for example) hurricanes, floods, fires, laws, regulations, acts of war, riots, acts of sabotage, acts of terrorism, invasions, sanitary restrictions, embargoes, epidemics, lockouts or lockdowns.
3. The Party prevented by force majeure from performing its obligations under a Contract should notify the other Party in writing that is unable to comply with the Contract.

## **9. PERSONAL DATA PROTECTION**

1. In accordance with the provisions of Articles 13(1) and 13(2) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the "GDPR"), notice is hereby given by APJA that
  - 1) the controller in respect of personal data is APJA FECHU Spółka z ograniczoną odpowiedzialnością, with its registered office being Franciszka Kamińskiego 19, 43-300 Bielsko-Biała, NIP (Tax Reg. No.): PL5472215673, REGON (Industry ID No.): 384770200, Company No.: KRS 812027, having a share capital of PLN 1,000,000;
  - 2) All personal data shall be processed for the purpose of the controller's compliance with an order/contract and on the basis of the controller's legitimate interest (which includes the need to ensure communication between the parties to an order/contract, to determine, pursue or defend claims, as well as accounting and direct marketing), i.e. under Article 6(1)(b), Article 6(1)(c) and 6(1)(f) of the GDPR.
  - 3) Recipients of personal data will include:
    - entities supplying the controller with technical and organisational solutions that allow the controller to manage its organisation (particularly courier companies, postal service operators, suppliers of IT services);
    - suppliers of legal and advisory services and suppliers of services to assist the controller with pursuing claims;
    - other entities providing services to the controller and/or other entities processing personal data on behalf of the controller under data processing agreements;
  - 4) All personal data shall be retained as long as it is necessary for the performance of an order/contract and, when a Contract has expired or been terminated, until claims under the Contract expire, in accordance with the applicable law.
  - 5) The Manufacturer has the right to access his data, as well as the right to have it remedied or deleted, the right of portability of his data, the right to restriction of the processing of his data and right to object to the processing of his data;
  - 6) If the Manufacturer has given its consent to the processing of its personal data, it has the right to withdraw the consent at any time without affecting the lawfulness of the processing which was made on the basis of the consent before its withdrawal.

- 7) The Manufacturer also has the right to lodge a complaint to the President of the Office for Personal Data Protection if it considers the processing of its personal data to be against the provisions of the GDPR;
- 8) The provision of personal data is a contractual term. The provision of personal data is necessary for the intended purpose.
- 9) The sources of personal data shall be purchase order and direct activities undertaken by the Manufacturer.
- 10) In order to exercise its rights or discuss the protection of its personal data, the Manufacturer may contact the controller by post to the address of the controller's registered office: ul. Franciszka Kamińskiego 19, 43-300 Bielsko-Biała, by telephone (+48 668 919 015) or by email (info@apja.eu).
2. In respect of any contract made with the Manufacturer being a Business Person other than a sole trader (a self-employed natural person), APJA requires the Manufacturer – in order to comply with Articles 14(1) and 14(2) of the GDPR – and the Manufacturer accepts and agrees to comply with the requirement not later than at the time when the Manufacturer provides APJA with the personal data of the Manufacturer's employees, suppliers, contractors and other individuals cooperating with the Manufacturer and acting on behalf of the Manufacturer, to inform such persons of the processing of their personal data by APJA in accordance with the data privacy notice referred to in subclause 1 above.
3. Further details about the processing of personal data are available in the privacy policy published on the <http://apja.eu> website.

## **10. FINAL PROVISIONS**

1. All legal relations between the Manufacturer and APJA shall be governed by Polish law only. The place of performance of all obligations under these General Terms of Purchase shall be the registered office of APJA. The following shall not apply to these GTPs or any Contract:
  - a) the United Nations Convention on Contracts for the International Sale of Goods (Vienna, 11 April 1980);
  - b) the Convention on the Limitation Period in the International Sale of Goods (New York, 14 June 1974).
2. Any dispute that may arise directly or indirectly from these General Terms of Purchase shall be settled by a Polish court of law with territorial jurisdiction over the area where APJA's registered office is situated.
3. No rights under any contract made with APJA and/or any order placed with APJA may be assigned to a third party without APJA's written consent.
4. If any provision of a Contract or these GTPs, or any part of such a provision, is found invalid or ineffective, this shall not affect the validity or effectiveness of any other provisions or of the remaining part of the invalid or ineffective provision.
5. The invalid or ineffective provision shall be deemed to have been replaced by a provision that reflects, as far as possible, the original purpose of the invalid or ineffective provision as intended by the Parties.