

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 made to a Manufacturer as an expression of APJA's intention to enter into a Contract and which specifies details such as the brand (make), model and colour of the Product, the expected date of delivery or collection of the Product, the price for the Product and, optionally, the place of collection of the Product, the amount of an advance payment for the Product and/or other information (such details must also be set out in the Contract for second-hand Products (as described in clause 6 of these GTPs) and include additionally the year of manufacture of the Product, the number of kilometres travelled by 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 an item of movable property that is offered by APJA and which is a car, a delivery vehicle and/or any other motor vehicle and/or any other item of movable property offered by APJA;
 - 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 and the location where they are available to the Manufacturer will be communicated to the Manufacturer not later than at the time of entering into a Contract. APJA reserves the right to amend these GTPs at any time by publishing the amended GTPs on its website (<https://apja.eu/warunki-sprzedazy-i-zakupu/>) or sending a copy of these GTPs to the other party to the Contract. The amended GTPs will become effective on the date specified by APJA.
5. If the Manufacturer maintains a regular business relationship with APJA, the Manufacturer's acceptance of these GTPs when the first Contract between the Manufacturer and APJA is entered into shall be deemed as the Manufacturer's acceptance of these GTPs in the case of all other Contracts.

6. These GTPs are mandatory and shall apply to any contract entered into in any form between the Manufacturer and APJA and shall not be excluded, limited or revoked, particularly by the Manufacturer making a unilateral statement to APJA or by any of the Manufacturer's general terms of contracts.

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. A Contract between APJA and a Manufacturer is made when the Manufacturer accepts an Order sent by APJA.
2. By accepting the Order, the Manufacturer shall be deemed to have accepted these GTPs.
3. Each Order (offer) shall remain valid for 7 (seven) days of the date of its presentation to the Manufacturer. Each Order shall only be valid if it is placed in writing or in documentary form (e-mail). Each Order may be cancelled at any time before it is accepted by the Manufacturer.
4. No representation, warranty, promise or amendment to a Contract which is made or given orally by APJA's employee or a person acting on behalf of APJA shall be binding upon APJA unless it is confirmed in writing or in documentary form (e-mail) by a person authorised by APJA to make such statements for APJA.
5. APJA shall be liable for failure to perform or defective performance of a Contract, except that such liability shall be limited to actual loss or damage, excluding lost profits.
6. APJA's liability for any loss or damage shall in each case be limited to 5% (five percent) of the agreed net price or the amount of the advance payments made (if made by APJA), except that this limitation shall not apply to loss or damage caused by wilful misconduct [Polish: *wina umyślne*].
7. The Manufacturer shall compensate APJA for any costs, expenses, damage and/or financial or economic burden that APJA may suffer as a result of the Manufacturer's failure to perform or defective performance of a Contract, including lost profits from the resale of Products by APJA.
8. If a Manufacturer other than an authorised vehicle dealer has entered into a Contract with APJA and intends to order or purchase the Products(s) to be supplied under the Contract with or from an unauthorised vehicle dealer, that Manufacturer shall notify APJA of that fact before placing such an order or making such a purchase and must obtain APJA's consent to the transaction with that unauthorised vehicle dealer. That consent must be communicated at least as a scanned copy of APJA's statement sent by email or of APJA's statement sent in writing. An authorised vehicle dealer means a natural person or a legal person officially appointed by the actual vehicle manufacturer, such as BMW or MERCEDES-BENZ, to sell its products and/or services.
9. In the event of the Manufacturer's breach of the obligation described in clause 3(8) of these GTPs, APJA may withdraw from the Contract within 30 days of it becoming aware of the grounds for the withdrawal. If APJA withdraws from the Contract, the Manufacturer shall return all the advance payments, non-refundable deposits or prices made or paid to the Manufacturer by APJA and shall

compensate APJA for any loss or damage resulting from such withdrawal, including lost profits from the resale by APJA of the Product(s) to be or have been supplied under the Contract.

4. DELIVERY AND TIME FOR DELIVERY

1. The date by which a Product shall be collected or delivered shall be specified in the Order for that Product and the date so specified shall be binding when a Contract is made.
2. The exact date of the collection or delivery of the Product shall be agreed upon between APJA and the Manufacturer on a case-by-case basis after the Manufacturer has confirmed that the Product is physically available within the meaning of clause 2 of these GTPs. If APJA notifies the Manufacturer of the date of collection or delivery of the Product and if the Manufacturer does not object to that date by 3 pm on the following day, the Manufacturer shall be deemed to have accepted that date. Such notification, acceptance or objection shall be in writing or in documentary form (e-mail) and shall be deemed sent on the date of its delivery by post or the date of sending it by email.
3. The exact date of the collection or delivery of the Product as agreed shall be binding upon the Manufacturer.
4. APJA has the right to change the accepted exact date of collection or delivery. This change must be made by APJA delivering a unilateral statement to the Manufacturer, specifying the new date. However, the new date shall not be more than 30 business days after the previously accepted exact date of collection or delivery. The Manufacturer shall not make any claims against APJA on the grounds of such a change of the accepted exact date of collection or delivery.
5. The Manufacturer may change the accepted exact date of collection or delivery of a Product after obtaining APJA's consent given at least in documentary form (e-mail).
6. If the Manufacturer makes the statement to APJA that it wishes to change the date described in clause 4(1) of these APJA (the final date) by more than 30 calendar days, APJA will be entitled to withdraw from the Contract within 60 (sixty) days of being informed of the proposed change of the final date, and such withdrawal shall be interpreted as withdrawal through the Manufacturer's fault. In the event of APJA's withdrawal on the grounds described in this provision, the Manufacturer shall not make any claims against APJA.

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 withdrawn [Polish: *odstąpienie*] from the Contract for reasons it is responsible for or has terminated the Contract or has otherwise ceased to perform the Contract or, for reasons

for which the Manufacturer is responsible, APJA withdraws from the Contract, particularly under s.491 of the Polish Civil Code, APJA will be entitled to charge the Manufacturer for a contractual penalty of 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 to the Contract whose performance of the Contract is hindered by an event of Force Majeure shall notify the other party of the occurrence or cessation of that event immediately, but not later than by the date on which a supply or sale was to be made (the date specified in the Contract). If either party fails to notify the other party of the occurrence of an event of Force Majeure or such notification is delayed [Polish: *zwłoka*], that party shall not invoke the event of Force Majeure as the basis for its non-liability for its failure to perform or non-perfect performance of the Contract. The party to the Contract whose performance of the Contract is hindered by an event of Force Majeure shall take all the available and lawful measures to mitigate the impact of the Force Majeure on the performance of the Contract.
4. If APJA is notified by the Manufacturer of the occurrence of an event of Force Majeure, APJA may withdraw [Polish: *odstąpienie*] from its Contract with the Manufacturer within 14 (fourteen) calendar days of the date of its receipt of such notification. No such withdrawal shall be interpreted as made through APJA's fault or be the basis for the payment of any compensation (damages) or for any claims against APJA on the basis of non-performance and/or defective performance of the Contract. All refundable and non-refundable advance payments made by APJA shall be returned within 7 (seven) days of the date of such notification. Such notification may be given in documentary form and/or by email and/or as a hard copy document sent by post or courier to the Manufacturer's address specified in 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. All disputes arising out of or in connection with the Contract shall be settled by the Court of Arbitration at the Regional Chamber of Commerce in Katowice in accordance with the rules of this court effective on the date of filing the claim. If the rules of the Court of Arbitration require the arbitration panel to be a panel of three (3) arbitrators, each of the claimant and the defendant will be entitled to appoint one arbitrator (two arbitrators in total) from among the arbitrators named in the List of Arbitrators. The third arbitrator shall be appointed by the parties jointly or, if no agreement is reached between them in this regard, the rules of the Court of Arbitration shall apply.
 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.