



General Terms of Delivery

1. Area of application

These General Terms and Conditions for Supplies and Services (hereinafter referred to as GTD) shall as a matter of principle apply to all – also future – supplies, services and quotations from the company Karl Püplichhuisen GmbH & Co. KG (hereinafter referred to as Supplier), unless this is expressly amended or excluded in writing. They shall not apply if the other party to the contract is a private person and does not trade professionally or commercially. We hereby expressly protest against any deviating or supplementing general terms and conditions of the Person or Firm Placing the Order. They shall not apply even if the Person or Firm Placing the Order has based his purchase order or other statement on them.

2. Conclusion of contract, documents, technical standards, prices, packaging, transport insurance, assembly and erection

2.1. Quotations submitted by the Supplier shall be without engagement. An effective contract shall therefore come about only by means of our order acknowledgement or the dispatch of the goods. The same shall apply to verbal collateral agreements.

2.2. The documents forming part of a quotation besides illustrations, drawings, indications of weights and dimensions, descriptions of services and other descriptions of characteristics as well as any other information on contractual products and services shall be only approximately binding. Certain characteristics of the goods to be supplied shall only be deemed to be guaranteed if this has been expressly agreed upon. A reference to standards or specifications agreed upon alone merely includes a more detailed description of goods and/or services and no warranty of characteristics.

2.3 All prices shall be deemed to be ex Supplier's works plus value-added tax and packaging (cf.3.1). In the absence of special agreement, the packaging shall be carried out for a charge at the Supplier's option. The Person or Firm Placing the Order shall handle disposal of the packaging. The Supplier shall be entitled to demand back the packaging material carriage paid to place of dispatch or to the works. Plastic reels shall not belong to the scope of supply. They are loaned goods and are to be returned carriage paid without undue delay.

2.4. The shipment of goods shall be carried out for the account and at the risk of the Person or Firm Placing the Order. Transport insurance shall not be taken out by the Supplier.

2.5 Supplied devices and aids shall be assembled and erected by the Person or Firm Placing the Order. If the Supplier handles assembly/erection and or commissioning on the basis of an additional agreement, its general terms and conditions of assembly/erection shall apply.

3. Delivery, passage of risk, shipment

3.1. All deliveries shall in the absence of any written agreement otherwise be effected solely ex Supplier's works.

3.2. Part deliveries shall be admissible.

4. Delivery time, default, withdrawal

4.1. Delivery dates stated shall be without engagement and binding only if this is expressly agreed in writing. The delivery time shall begin upon the mailing of the order acknowledgement, but not before the production of the documents, drawings, approvals and other formalities to be obtained or to be completed by the Person or Firm Placing the Order and not before the making of the agreed advance payments.

4.2 In the case of a delay in delivery for which the Supplier is responsible, the Person or Firm Placing the Order may – to the extent that it proves that it has incurred damage/loss as a result – after the elapse of 2 weeks for each further whole week of the delay, excluding all further claims, demand lump-sum compensation for default of 0.5 % - but no more than 5 % - of the value of the parts of the supply which as a consequence of the default cannot be used as intended. No. 7.5 shall apply accordingly.

4.3 If the maximum amounts of the compensation in accordance with No. 4.2 have been reached, the Person or Firm Placing the Order – with reference to the statutory cases of exception and within the scope of the statutory regulations – after setting a reasonable additional time limit for performance, may declare the cancellation of the contract, if the Supplier does not perform beforehand. No. 7.5 shall apply accordingly.

4.4. If the Person or Firm Placing the Order is in default regarding an essential obligation under the contractual relationship, the Supplier shall be entitled to extend the delivery time by the period of the default. No. 5 shall apply accordingly.

5. Acceptance, call-off orders

5.1 Deliveries are, even if they show defects which are not major defects, to be accepted by the Person or Firm Placing the Order without prejudice to its rights arising from product defects. The Person or Firm Placing the Order shall bear the cost of storage, insurance, protective measures etc. that has been incurred due to delayed acceptance. Without any special proof it must pay for each week of the delay at least 0.5 %, but no more than 5 % of the order value. The Supplier may set a reasonable extra time limit in writing for acceptance by the Person or Firm Placing the Order, if the latter does not accept the delivery at the time of delivery. The Supplier's right to demand the purchase price shall not be affected. After the expiry of the time limit, the Supplier can cancel the contract wholly or partially by written declaration and demand damages.

5.2 Supply contracts without any definite delivery dates ("on call") can only be made on the basis of express contractual agreement and as an exception. The Supplier must confirm the date on which delivery is to be made. Unless expressly agreed

otherwise, the goods shall be available for delivery on call for a maximum period of 26 weeks and are also to be completely accepted during this period. Call-offs are to be announced giving a period of notice of at least two weeks.

6. Payment

6.1 In the absence of agreement otherwise, all payments are to be made within 30 days from the date of invoice net without deduction. All payments are to be made in euros "free Supplier's payment office". Bills of exchange or cheques shall be accepted only on account of performance.

6.2 In the event of payment not being made within the time limit, the Supplier shall be entitled to charge, starting from the due date for payment, 8 % p.a. above the base interest rate and/or the interest at the reference interest rate of the European Central Bank replacing it. The Supplier shall to that extent suspend execution of the contract. If the Person or Firm Placing the Order has not made the agreed payment within a reasonable additional period of time, but at the latest within one month after the due date for payment, the Supplier may by written notification demand the cancellation of the contract and demand damages.

6.3 If special circumstances give rise to considerable doubt concerning the creditworthiness of the Person or Firm Placing the Order, all of the accounts receivable under the business relationship shall become due for payment immediately and the Supplier shall be entitled to demand delivery against cash in advance as well as cash in advance before manufacturing approval. If payment in instalments has been agreed upon and if the Person or Firm Placing the Order defaults on an amount of more than 10 % of the still outstanding purchase price in default, the whole of the remaining amount still outstanding shall become due for payment immediately.

6.4 In the case of products for specific customers (made according to customers' specifications) or variants of same, the Supplier shall as a matter of principle be entitled to a down-payment in the amount of two thirds of the purchase price agreed upon, payable at the latest 3 weeks before the start of production.

7. Responsibility for conformity of the goods with the contract (material defects and defects of title)

7.1 The Person or Firm Placing the Order must examine the goods without delay after receipt. He/It must proceed according to the accepted rules of technology. The Person or Firm Placing the Order shall be obliged to inform the Supplier in writing without undue delay, at the latest within a cut-off period of 8 days after discovery. The Supplier shall not be obliged to satisfy claims under the warranty, if the Person or Firm Placing the Order has not complained about an obvious defect in good time in writing. The Person or Firm Placing the Order must after agreement with the Supplier take care to ensure that all items of evidence are secured.

7.2. The Person or Firm Placing the Order shall be responsible for providing evidence of handling of the goods with care and also of correct and proper storage of such.

7.3 If the goods are not in conformity with the contract, the Supplier may also in the case of major defects remedy the lack of conformity with the contract initially at its option by rectification of defects or delivery of a replacement within a reasonable period of time, but at the latest within 2 weeks of being requested to do so by the Person or Firm Placing the Order. The rectification of defects can be carried out after coordination with the Supplier also by the Person or Firm Placing the Order and shall be carried out at the consignee's contractually defined location. If the consignee's location differs from the principal place of business of the Person or Firm Placing the Order, this must be made known to the Supplier. Otherwise the higher cost thus incurred shall not be taken over. The Person or Firm Placing the Order shall, within the scope of what is reasonable, be obliged to cooperate with the rectification of defects against refund of costs and in accordance with the Supplier's instructions. Only in urgent cases (danger of disproportionately great damage/loss/injury, endangering of operational safety) may the Person or Firm Placing the Order eliminate defects itself or have them eliminated by third parties. He/It shall have to inform the Supplier immediately and to obtain its consent. In the event of failure to rectify the defects, the Person or Firm Placing the Order shall be entitled within the scope of the statutory regulations – if necessary after previously setting of a time limit – to cancel the contract. In the case of only insignificant defects, the Person or Firm Placing the Order shall only be entitled to reduce the purchase price (Art. 440 of the German Civil Code (BGB)).

7.4 If the Supplier does not remedy the lack of conformity with the contract in accordance with No. 7.3 by rectification of defects or by delivery of a replacement, the Person or Firm Placing the Order can reduce the purchase price by a reasonable amount.

7.5 Unless subject to a ruling in numbers 4.2, 4.3 and 7.1 to 7.4 and 9 and 10, the Supplier shall not be responsible for any lack of conformity with the contract and damage/loss/injury – no matter on what legal grounds. This applies to all damage/loss/injury including loss of production, loss of profit or other indirect damage/loss/injury (i.e. damage/loss/injury which has not arisen on the item delivered itself). Damages for non-performance and consequential damage/loss/injury shall be excluded unless gross negligence or intent is imputable to the Supplier. Any such claim shall be limited, as regards the amount, to the respective total order amount.

In the event of negligent breach of major contractual obligations, the Supplier shall be liable only for the reasonable foreseeable damage/loss/injury typical of the contract.



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7.6 Deviations in quantities, dimensions, quality, weights and similar shall be admissible within the scope of what is usual action. Equivalent design changes shall be reserved.

7.7 Instructions from the Supplier regarding the conditions or applications of the contractual products shall be complied with by the Person or Firm Placing the Order, otherwise claims based on defects shall not be recognized.

8. Plans, sales documents, secrecy

8.1 The Supplier shall at its discretion be entitled to dispose of jigs and fixtures produced for special (customer specific) parts within one year after the execution of the last order.

8.2 The Supplier shall be exclusively entitled to all rights to patterns, jigs and fixtures, tools, drawings, designs and plans produced by the Supplier, in particular patent rights, copyright and rights of inventors. All sales documents, such as catalogues, pattern books, price lists etc., which are made available to the Person or Firm Placing the Order, shall remain the property of the Supplier and are to be returned on request.

8.3 The parties to the contract shall agree to keep secret all of the economic and technical details of their mutual business relationship, as long as they have not become public knowledge and the public knowledge is not attributable to a breach of the secrecy obligations of the parties to the contract. The secrecy obligation shall also apply to the things mentioned in No. 8.2, which must not be copied or disclosed to or otherwise made accessible to third parties. All of the property titles and copyright originating from the Supplier – also in electronic form – shall be retained by the latter.

8.4 The Supplier's secrecy obligation, designated in No. 8.3, towards the companies affiliated to it shall be cancelled to the extent that these companies have been obliged to secrecy by it in a comparable manner.

9. Responsibility for collateral duties

The Supplier shall vouch for the discharge of the contractual or preliminary contract collateral duties only in accordance with provisions Nos. 4, 7.5 and No. 11.

10. Failure to deliver, impossibility, inability

For cases of general impossibility of the performance of the service as well as the Supplier's inability, the statutory regulations (in particular Articles 275, 323 and 326 of the German Civil Code (BGB)) shall apply to the rights of withdrawal and rights to damages of the Person or Firm Placing the Order. Nos. 7.5, 9 and 11 shall apply accordingly.

11. Force majeure

11.1 Neither party must answer for the non-performance of one of its duties, if the non-performance is based on an impediment beyond its control, or in particular on one of the following reasons: fire, natural disasters, war, seizure or other official measures, general shortage of raw materials, restriction of energy consumption, industrial disputes or if non-compliance with the contract on the part of sub-contractors is based on one of these reasons.

11.2 Either party may terminate the contract by means of written notice of termination, if the performance of the contract is prevented for more than 6 months in accordance with No. 11.1.

12. Supplier's other responsibility

Unless expressly defined in these General Terms of Delivery, all other contractual or statutory claims against the Supplier, in particular cancellation of contract, reduction of the price or compensation for damage/loss/injury of whatever kind, and in fact also for damage/loss/injury of the type which has not occurred to the item supplied itself, shall be excluded. No. 7.5, sentences 3 and 4, shall apply accordingly.

13. Statute of limitations

Claims for defects shall be subject to the statute of limitations 12 months after the completion of delivery to the Person or Firm Placing the Order of the goods supplied by the Supplier: in the case of the sale of used goods, the warranty period shall be excluded completely. The above provisions shall not apply if the law according to Art. 438, para. 1, No. 2 of the German Civil Code (BGB) (Building structures and things for building structures), Art. 479 para. 1 BGB (Right of recourse) and Art. 634a para. 1 of the German Civil Code (BGB) (Construction defects) mandatorily prescribes longer periods.

14. Reservation of title

14.1 All of the goods supplied shall remain the Supplier's property up to complete payment of all accounts receivable resulting from the business relationship. This shall also apply if individual or all accounts receivable by the Supplier are included in a current account and the balance has been struck and acknowledged.

14.2 If the goods are combined by the Person or Firm Placing the Order with other items to form a uniform item and if the other item is to be considered a main item, the Person or Firm Placing the Order shall be obliged to transfer co-ownership on a percentage basis to the Supplier to the extent that the main item belongs to the Supplier. The Person or Firm Placing the Order shall be entitled to resell the goods in the ordinary course of business on condition that the Person or Firm Placing the Order receives payment from his/its customer or agrees upon the reservation that

the customer shall obtain ownership only upon fulfilment of all payment obligations. If the Person or Firm Placing the Order resells the goods supplied or the newly produced item in accordance with the regulations, he/it shall hereby already assign the accounts receivable from his/its customers resulting from the sale with all of the ancillary rights to the Supplier until complete payment of all of the latter's accounts receivable has been made. For a justified reason, the Person or Firm Placing the Order shall be obliged, at the Supplier's request, to make known the assignment to third-party buyers and to hand over documents to and to provide the Supplier with the information necessary for the enforcement of its rights. The Person or Firm Placing the Order must compensate the Supplier for all damage/loss/injury and expense incurred as a result of a breach of this obligation and as a result of necessary measures for protection from third-party access.

14.3 The Person or Firm Placing the Order shall support the Supplier in all measures necessary for the protection of the latter's property. The Person or Firm Placing the Order shall inform the Supplier without undue delay if any dangers for the latter's property arise. This shall apply in particular to dispositions by third parties or official measures (attachments, seizure etc.)

14.4 The Supplier shall, in the event of failure of the Person or Firm Placing the Order to comply with its duty, especially in the case of delay in payment, after fruitless expiry of a reasonable period of time for payment set for the Person or Firm Placing the Order, be entitled to withdraw from the contract and to take back the goods delivered with reservation of title. The setting of the extra period of time can be omitted in the event of statutory exceptions. The Person or Firm Placing the Order shall be obliged to hand out the goods.

14.5 The Person or Firm Placing the Order shall at his/its expense take out insurance for the goods supplied against theft, fire and water damage as well as other risks for the period up to the payment of the purchase price in full.

14.6 If the value of the security exceeds the accounts receivable to be secured by more than 10 %, the Supplier shall release parts of the security at its option.

15. Miscellaneous

15.1 Amendments, additions and other collateral agreements concerning these General Terms of Delivery or contracts concluded shall be required to be made in writing.

15.2 A contract concluded on the basis of these General Terms of Delivery shall otherwise remain binding even if individual terms and conditions are ineffective.

15.3 The Person or Firm Placing the Order shall have rights of offsetting or retention only with regard to undisputed accounts receivable or accounts receivable which have been the subject of a claim which has been recognized by declaratory judgment.

15.4 The Person or Firm Placing the Order may use or apply for registration of brands, trademarks, trade names and other marks and industrial property rights of the manufacturer only after prior approval in writing and only in the Supplier's interest.

15.5 The Person or Firm Placing the Order shall be responsible for ensuring that on the basis of his/its instructions regarding shapes, dimensions, colours, weights etc. there is no interference with third-party industrial property rights. The Person or Firm Placing the Order shall indemnify the Supplier and hold it harmless from and against all third-party claims for the violation of above-mentioned industrial property rights including all in-court and out-of-court expenses and shall, on request, support it in any possible legal dispute.

16. Place of performance, place of jurisdiction, applicable law

16.1 The place of performance shall be – unless something else arises from the nature of the contractual relationship – the Supplier's registered head office.

16.2 The place of jurisdiction shall be Duisburg, Germany. For the contractual relationship between the Person or Firm Placing the Order and the Supplier the law of the Federal Republic of Germany shall apply exclusively even if the Person or Firm Placing the Order has his/its residence or domicile abroad. The application of the Uniform Law on the International Sale of Goods as well as the Uniform Law on the Formation of Contracts for the International Sale of Goods shall be excluded.

16.3 The Supplier shall in any case also be entitled to have recourse to the courts competent for the registered head office of the Person or Firm Placing the Order.

17. Data processing, earlier terms and conditions for suppliers and services

17.1 The Supplier and the companies affiliated to it shall be entitled to store and to process, in compliance with German statutory provisions, any data relating to business transactions.

17.2 Earlier general terms of delivery are hereby cancelled.

18. Severability

Should individual provisions be or become ineffective or if a gap should be found, this shall not affect the effectiveness of the other provisions. Ineffective provisions shall rather be deemed to have been replaced and the gaps to have been filled by such provisions as best match the contractual contents expressed in the contract.

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Karl Püplichhuisen GmbH & Co. KG
Keniastraße 20
47269 Duisburg, Germany