

GENERAL TERM OF DELIVERY

General Terms of delivery of Public Outdoor Creations, located 3604 DB Maarssen, the Netherlands



Article 1 Appropriateness

These General Terms apply to all offers and all agreements to perform or carry out purchase and sale transactions of Public Outdoor Creations located 3604 DB Maarssen, the Netherlands. In these General Terms, the offering or selling party is referred to as "Public Outdoor Creations" and the other receiving party is referred to as "the customer". The standard General Terms of the customer do not apply to any contract between Public Outdoor Creations and the customer unless Public Outdoor Creations has agreed in writing to accept these.

Article 2 Offers

1. All offers, regardless of their form, are without obligation until an order issued from these has become binding as described in Article 3 of the agreement.
2. Public Outdoor Creations is not liable for any damage caused by inaccuracies in any advice and information provided concerning the supply of products, except in cases of proven gross negligence and intent.
3. All drawings, sketches, schemes, samples, models, created by Public Outdoor Creations in the framework of an offer or an order are the property of Public Outdoor Creations and remain so even after the agreement has been fully implemented. The drawings, sketches, schemes, models may not be copied.
4. All offers are based on the data provided by the customer at Public Outdoor Creations request. Public Outdoor Creations assumes this information to be accurate. Public Outdoor Creations is not liable for any (financial) damage resulting from any inaccuracies in this information.
5. In the case of an order ultimately not being given to Public Outdoor Creations, Public Outdoor Creations has the right to reclaim from the customer the costs necessarily incurred in order to make the offer.
6. All prices apply to the supply of products from the factory, including packing but excluding VAT, unless otherwise agreed. From the moment the goods are handed over to the customer the customer is responsible for any risk that the goods may undergo, and should insure this risk adequately.
7. If any cost due, such as transport cost, import and export duties, or station, storage, security and Customs clearance costs, taxes or other levies, as determined in the agreement, are introduced or increased after the conclusion of the agreement, these will be met by the customer, as will be the consequences of any change in currency exchange rates, unless explicitly agreed otherwise.

Article 3 Orders and other agreements

1. Public Outdoor Creations will only regard an order as binding when Public Outdoor Creations has accepted it without reservation, in writing. The foregoing applies to all ensuing agreements and to alterations to existing agreements.
2. If, after the acceptance of an order, circumstances arise which influence the cost price of products, such as changes in the price of raw materials, wages, currency rates, import duties, etc. Public Outdoor Creations reserves the right to pass on these alterations in price to the customer. The customer will be informed of such occurrences.
3. If, after the acceptance of the order, the customer specifies modifications to which Public Outdoor Creations cannot agree, or if the order is wholly or partly cancelled the customer will be liable for all the cost already incurred, along with an amount equal to the loss of earnings and further underutilisation losses incurred by Public Outdoor Creations.
4. If the customer cancels an order, the customer is liable for all the cost incurred by Public Outdoor Creations, including an amount equal to the loss of earnings and underutilisation losses. Cancellation is only possible after written permission from Public Outdoor Creations.
5. Prior to or during the delivery of articles or during work executed in compliance with the agreement, Public Outdoor Creations is always empowered to check whether or not, in Public Outdoor Creations' opinion, there is sufficient security for the fulfilment of the customer's obligation to pay. This improvement also applies in cases where credit has been agreed. Public Outdoor Creations is entitled to suspend the execution of work until the specified security has been given. Refusal by the customer to provide the specified security allows Public Outdoor Creations the right to declare, in writing, that the agreement has been annulled, without prejudicing Public Outdoor Creations' right to compensation for any costs incurred and subsequent loss of earnings.
- 3.6 Public Outdoor Creations is entitled to call in third parties in the execution of an order.

Article 4 Provisions concerning customer – oriented products

- 4.1 Public Outdoor Creations is not liable for inaccuracies in data, drawings, or advice provided by or on behalf of the customer for use in the execution of the agreement. Public Outdoor Creations is not obliged to check any data or documents provided by the customer or third parties acting on behalf of the customer, and assumes that these are accurate. With respect to the foregoing, the customer indemnifies Public Outdoor Creations against any claims from third parties that may issue from the inaccuracies mentioned.
- 4.2. Any materials and/or components that have been made available to Public Outdoor Creations by the customer or by a third party acting on behalf of the customer, for the purpose of adding these to or assimilating these in the articles to be manufactured by Public Outdoor Creations, must be delivered to Public Outdoor Creations in good time, free of charge and prepaid, along with a surplus of 5% above the necessary quantity. The customer is responsible for the goods made available in this way and for the practical usability of these materials and/or components applied, assembled or assimilated without difficulty in or on the products to be fabricated by Public Outdoor Creations, unless other conditions have been clearly stated and agreed in writing. If the intended goods are delivered too late or if Public Outdoor Creations cannot apply these to its product(s), which leads to a standstill in production, the customer will be liable for all the damage incurred by Public Outdoor Creations as a result of this standstill.
- 4.3 With regards to serial production, Public Outdoor Creations will initiate the production after the prototype supplied by Public Outdoor Creations has been approved by the customer in writing or Public Outdoor Creations has confirmed the customer's approval in writing. With regard to the manufacture of articles by means of a matrix, tool, Public Outdoor Creations will initiate the production after a trial series or sample has been approved by the customer in writing or Public Outdoor Creations has confirmed the customer's approval in writing.

Article 5 Delivery

- 5.1 Delivery times are approximate. If Public Outdoor Creations fails to deliver the articles as agreed, the customer must declare in writing on the basis of a well-founded argument that Public Outdoor Creations is in default, and subsequently grant Public Outdoor Creations a term of at least three months to deliver the articles. Public Outdoor Creations will be officially declared to be in default.
- 5.2 Delivery occurs from the workplace, factory or warehouse, at the discretion of Public Outdoor Creations. The calculation of delivery time will begin when agreement has been reached on technical details (drawing) or when Public Outdoor Creations has received an undersigned order.
- 5.3 Public Outdoor Creations is deemed to have fulfilled its obligations regarding the quantity of the product to be supplied when it has delivered 5% more or less than the quantity of the product ordered.
- 5.4 Public Outdoor Creations is entitled to deliver an order either wholly at one time or successively in parts. In the latter case, Public Outdoor Creations is authorised to invoice the customer separately for each individual constituent delivery and to request payment for the constituent delivery. If the customer does not fulfil to suspend or cancel any remaining constituent delivery.

5.5 If, after the expiry of the agreed delivery time, the articles have not been collected by the customer or cannot be assimilated in work being carried out, they remain available to the customer but are stored at the customer's own cost and risk.

5.6. Public Outdoor Creations is free to choose a suitable method of packing and transport. Any reliable product packing material will remain the property of Public Outdoor Creations. The customer will ensure that this packing material will remain at Public Outdoor Creation disposal. The customer is liable for any damage to or loss of this material.

5.7 From the moment of dispatch, all articles are transported at the customer's own cost and risk. If Public Outdoor Creations transport the product Public Outdoor Creations is responsible for risk till the delivery.

Article 6 Provisions concerning ownership

6.1 Public Outdoor Creations remains the owner of the articles delivered to the customer, even after the delivery, wherever they may be. The customer is required to store and maintain the articles for Public Outdoor Creations as long as the customer has not fulfilled all financial obligations to Public Outdoor Creations which issue from any agreement whatsoever.

6.2 The customer is obliged to adequately insure the articles delivered to him as long as the ownership provisions, as specified in 6.1 apply to the articles.

6.3 If the customer does not fulfil his obligation to pay or does not comply with any obligations issuing from an agreement with Public Outdoor Creations, as well as in cases (or request for) suspension of payment or bankruptcy, attachment of property, receivership or legal restraint, or liquidation of the customer, Public Outdoor Creations has the right to annul immediately every agreement with the customer without the intervention of a juridical authority.

6.4 The customer declares in advance to comply with the above mentioned annulment, for which occurrence the customer now grants Public Outdoor Creations the right of access the customer's place of storage and the right to repossess any delivery articles that remain unpaid. This right of repossession does not prejudice Public Outdoor Creations right to compensation for any damage, costs, interest and/or loss of earnings that may arise such case, each claim that Public Outdoor Creations has upon the customer is wholly and immediately at call.

6.5 In the case of (a request for) suspension of payment or bankruptcy, attachment of property, receivership or legal restraint, or liquidation of the customer, the customer is obliged to inform Public Outdoor Creations of this fact immediately in writing and to inform the official receiver, attaching bailiff and/or administrator of the conditions of ownership agreed with Public Outdoor Creations.

6.6 If the customer does not collect and pay the corresponding amount due for any articles that Public Outdoor Creations is storing for the customer, despite the fact these have been made available to the customer, Public Outdoor Creations is entitled, one month after making these articles available to the customer and after the customer has remained in default, to sell (or allow to be sold) these articles on behalf of the customer with the obligation to pay the yields of the transaction to the customer after deduction of all sums claimed by Public Outdoor Creations including storage costs.

7. Payment

7.1 Payment must be made as agreed in the order confirmation. After the expiry of this term, the customer will be regarded as being officially in default on the sole ground of the expiry of the term of payment, without any further official proof of default having to be submitted.

7.2 If the customer is in default with regard to his obligation to pay, the execution of all accepted orders from the customer will be suspended until full payment has taken place or until a date specified by Public Outdoor Creations. If any subsequent specified payment date is exceeded, Public Outdoor Creations is entitled to terminate the execution of the intended order and to claim compensation.

7.3 From the moment that payment ought to have taken place, the customer is due Public Outdoor Creations interest equal to 1.5 % of the sum stated on the invoice for each month or part of a month that exceeds the payment expiry date.

7.4 Payment must be made done by means of a bank transfer.

7.5 The customer will be regarded as being in default, without any further official proof of default having to be submitted, on the sole ground of the expiry of the term of payment or on the ground of (a request for) suspension of payment or bankruptcy, attachment of property, receivership or legal restraint, or liquidation of the customer. In such a case, every claim to a discount specified in the framework of the agreement will lapse.

7.6. In addition to the main sum and the corresponding interest, Public Outdoor Creations is also entitled to claim from the customer all extrajudicial costs that arise from the lack of (punctual) payment. Extrajudicial costs must be paid by the customer when Public Outdoor Creations has called in the assistance of a third party to recover the sum due and/or the articles in question. This sum will be calculated in accordance with the collecting rates advised by the Dutch Association of Lawyers. The obligation to pay the extrajudicial costs and the sum in question is based on the sole fact that Public Outdoor Creations has assured itself of the assistance of a third party in this matter.

7.7 Public Outdoor Creation is entitled to demand that the customer sign a deed of assignment to transfer any claim against Public Outdoor Creations, to which action the customer will commit himself if Public Outdoor Creations demands this, with the objective of guaranteeing the payment of any debt(s) due by the customer to Public Outdoor Creations.

7.8 The right of the customer to balance any possible claims against Public Outdoor Creations is explicitly excluded.

7.9 If Public Outdoor Creations requests the bankruptcy of the customer, the latter is liable for the main sum, the interest due on this sum and the extrajudicial costs, along with the costs incurred in requesting bankruptcy.

8 Guarantee

8.1 Taking into consideration the provisions stipulated elsewhere in these General Terms, Public Outdoor Creations guarantees both the soundness of the articles delivered and the quality of material used in these articles. In as much as they may differ from the foregoing, the guarantee provisions specified by the factory will apply to any materials, components and/or articles with manufacturing guarantees from suppliers or contractors.

8.2 If the customer submits a claim in writing and demonstrates that the delivered articles show material or manufacturing flaws within five months of delivery, Public Outdoor Creations is entitled, after the return of the defective articles, to decide between crediting articles the customer in full, repairing the defective articles, or delivering new articles. In such cases, Public Outdoor Creations becomes the owner of any components and/or articles that are replaced. Public Outdoor Creations is not bound to any obligations, particularly with reference to any compensation for damages. The customer is obliged at all times to allow Public Outdoor Creations the opportunity to repair any defect.

8.3 Defects that arise due to normal wear and tear, or due to improper or incorrect maintenance, or which arises after an alteration or repair by or on behalf of the customer or by a third party, are not covered by the guarantee.

8.4 The guarantee is only valid when the customer has fulfilled all his obligations to Public Outdoor Creations (both financial and otherwise) or has ensured satisfactory security with regard to these obligations.

9. Liability

9.1 Public Outdoor Creations is only liable for any damage incurred by the customer that is the direct and exclusive result of shortcomings on the part of Public Outdoor Creations, on the understanding that compensation will only relate to the damage against which Public Outdoor Creations is insured or, in all reasonableness, should have been insured in the light of the norms in this commercial sector.

In this context, the following restrictions must be taken into account:

1. Loss of profits, whatever their cause, will not be compensated. If desired, the customer ought to insure himself against such damages.
2. Public Outdoor Creations is not liable for any damage (of any kind what ever) that is inflicted, as a result of or during the execution of work, on items on which or with which work is being performed, or on items in the proximity of the working site, except in cases where and in as much as Public Outdoor Creations is insured against such occurrences.
3. Public Outdoor Creations is not liable for damage caused by any gross negligence or intent on the part of auxiliary personnel.
4. Any damage that Public Outdoor Creations may be liable to compensate will be mitigated if the price the customer has to pay for the articles is meagre in relation to the size of the damage incurred by the customer.

9.2 Public Outdoor Creations accepts no liability for the suitability of the delivered articles for purposes that deviate from the intended objectives of the customer or for any applications whatever that deviate from the original specifications.

9.3 Any further processing or elaboration of the delivered articles leads irrevocably to the termination of all liability on the part of Public Outdoor Creation with regard to claimed defects in the delivered products, unless the customer has offered Public Outdoor Creations a reasonable opportunity to study the complaints.

Article 10 Claims or complaints

10.1 The customer is obliged to check immediately the delivered articles and/or services with regard to the quantity, the proper execution of the order, and any perceptible defects. Unless there is proof to the contrary, the signing of the delivery note without any notification of protest services as evidence that the articles have been delivered in the correct quantity, design, and without defects. Without prejudicing the foregoing, any complaints concerning perceptible defects in the delivered articles must be received by Public Outdoor Creations, by means of registered mail, within 7 working days of receiving the articles, in the absence of this, the customer will lose the right to demand proper fulfilment of the agreement and/or compensation.

10.2 If the customer submits a claim with regard to the quality of the delivered articles, he must allow Public Outdoor Creations the opportunity to inspect the original packages, bundles or loose material to which the complaints refer. In the absence of this, the customer will lose the right to demand proper fulfilment of the agreement and/or compensation.

10.3 Claims will not be dealt with in cases in which the customer has not, up that point, fulfilled all his obligations to Public Outdoor Creations, originating from any agreement whatever.

Article 11 Force Majur

11.1 Public Outdoor Creations reserves the right to annul an agreement, either partly or wholly, definitively or temporarily, or to complete the agreement at a later date, if it cannot fulfil the agreement as a result of circumstances beyond its control. In such a case, Public Outdoor Creations will incur no liability for damages. For major covers all external circumstances that impede the execution of the agreement, even if such circumstances could have been foreseen at the time of the conclusion of the agreement.

11.2 If, as the result of the force majeure, the prolongation of the delivery time exceeds three months, Public Outdoor Creations is entitled to annul, either wholly or partly, the agreement covering the part of the order that has not yet been executed, without incurring any liability for damages. If a partial execution of the order takes place, the customer will pay Public Outdoor Creations the relevance sum and/or proportional part of the total price when Public Outdoor Creations delivers the articles in question. Public Outdoor Creations is not liable for any direct or indirect damages, of any kind whatever, that the customer or a third party may incur as a result of a postponement or annulment issuing from the above-mentioned force majeure.

Article 12 Industrial ownership rights

12.1 All documents, drawings, samples, models, products or other items created by Public Outdoor Creations remain the intellectual property of Public Outdoor Creations even after delivery to the customer.

12.2 The customer is obliged to inform Public Outdoor Creations as soon as he is aware of any breach of Public Outdoor Creations right of ownership.

12.3 In the case of the manufacture of articles by Public Outdoor Creations in accordance with drawings, samples, models or other indications, in the widest sense of the term, which the customer or a third party acting on behalf of the customer has supplied to Public Outdoor Creations, the customer guarantees that the manufacture and / or delivery of such articles does not infringe any patents or user rights, merchant designs or any rights belonging to third parties. The customer indemnifies Public Outdoor Creations against any claims that may issue from such manufacture. If a third party objects to the manufacture or delivery of such articles on the grounds of any alleged right as described, Public Outdoor Creations is entitled, on this sole ground, to terminate the manufacture and/or delivery of such articles and to demand compensation from the customer for the cost incurred, without prejudicing any claims Public Outdoor Creations may have to any other damages, and without any obligation to pay compensation to the customer. Public Outdoor Creations is obliged to pay compensation to the customer. Public Outdoor Creations is obliged to inform the customer immediately if third parties object to the manufacture and/or delivery of articles intended for the customer.

13. Applicable law

13.1 Dutch law is applicable to all Public Outdoor Creations contracts in which these General Terms are specified.

13.2 All conflicts issuing from offers and agreements, in any form whatever, will be referred to the court of civil law in Utrecht, unless legal regulations determine otherwise.