

# POPAL

## GENERAL TERMS AND CONDITIONS

VERSION JUN-2020

### General Terms and Conditions POPAL - Consumers - Version 01.06.2020

These General Terms and Conditions can be read and downloaded at [www.popal.nl](http://www.popal.nl).

#### Definitions

##### General Terms and Conditions

These General Terms and Conditions Popal - Consumers version 01.06.2020

##### Identity of the Entrepreneur: Popal

PMG B.V., trading under the trade name Popal, being the party acting as seller or supplier of Products.

##### Consumer

The natural person not acting in the exercise of his profession or business and the party who purchases Popal Products or accepts an offer from Popal and/or enters into an agreement with Popal.

##### Right of withdrawal

The right of the Consumer to terminate a distance contract / outside the sales area within a period of fourteen days without giving reasons.

##### Agreement

Distance contract concluded by the Parties.

##### Parties

Popal and Consumer Joint.

##### Products

All products, including bicycles, bicycle parts, clothing and accessories offered by Popal to the Consumer.

## 1. Identity Popal

1.1. PMG B.V. trading under the trade name Popal, established and with visiting address at Huub van Doorneweg 2, 5151 DT in Drunen, the Netherlands. Popal, reachable via +31 (0)416 205 205 and [contact@popal.com](mailto:contact@popal.com). Entered in the Trade Register of the

Chamber of Commerce under number: 61194654. VAT identification number:  
NL854248584B01.

## **2. Applicability**

- 2.1. These General Terms shall apply to all enquiries, offers and agreements where Popal acts as seller or supplier of Products and the Consumer acts as the other party. One or more provisions of these General Conditions may only be deviated from if Parties agree this expressly and in writing.
- 2.2. These General Terms shall also apply to agreements with Popal whereby third parties are involved in the execution thereof.
- 2.3. Before the agreement is concluded, the text of these General Terms and Conditions shall be made available to the Consumer. If this is not reasonably possible, Popal shall indicate, before the agreement is concluded, how the General Terms can be viewed and that they will be sent to the Consumer free of charge as soon as possible at his request.
- 2.4. If an Agreement is concluded electronically, the text of the General Terms and Conditions shall be made available to the Consumer by electronic means in such a way that it can be easily stored by the Consumer on a durable data carrier. If this is not reasonably possible, before the Agreement is concluded, it shall be stated where the General Terms and Conditions can be viewed electronically and that, at the Consumer's request, they will be sent electronically or otherwise free of charge.

## **3. Offer and conclusion of Agreement**

- 3.1. If Popal's offer has a limited period of validity or is made subject to conditions, this shall be expressly stated in the offer.
- 3.2. The offer contains a complete and accurate description of the Products offered. The description is sufficiently detailed to allow the Consumer to make a proper assessment of the offer. All Popal quotations concerning numbers, sizes, weights, colours and/or other indications have been made with care. Popal does not guarantee that there will be no deviations. Obvious mistakes or obvious errors in the offer are not binding on Popal. If the product supplied deviates from the Popal specifications to such an extent that the Consumer cannot reasonably be required to take delivery, the Consumer shall be entitled to dissolve the agreement.
- 3.3. Subject to the provisions of articles 3.4 and 3.5, an Agreement shall come into effect when the Consumer, by placing the order, accepts Popal's offer and complies with the conditions thereby stipulated.
- 3.4. An offer by Popal shall lapse if the product to which the offer relates is no longer available. In such a case, no agreement can be concluded. An offer on Popal's website is therefore an offer subject to a resolutive condition.
- 3.5. Popal may, within the legal framework, investigate whether the Consumer can meet his payment obligations and of all those facts and factors that are important for a responsible conclusion of the Agreement. If, on the basis of this investigation, Popal has good grounds for not entering into the Agreement, it shall be entitled to refuse an order or application or to attach special conditions to its execution.
- 3.6. If the Agreement is concluded electronically, Popal shall take appropriate technical and organisational measures to secure the electronic transfer of data and shall ensure a

secure web environment. If the Consumer can pay electronically, Popal shall observe the appropriate safety measures.

- 3.7. At the latest upon delivery of the Product, Popal shall send the Consumer the following information, in writing or in such a way that the Consumer can store it in an accessible manner on a durable data carrier:
  - Contact details of Popal to which the Consumer can address any complaints;
  - the information on guarantees and existing after-sales services;
  - the price including all taxes of the Product, if applicable the costs of delivery, the method of payment, delivery and performance of the Agreement;

#### **4. Prices and payment**

- 4.1. The prices mentioned in an offer include VAT and apply if the Product is delivered within the European Union. VAT is not payable if the Product is delivered outside the European Union. In that case, local taxes or import duties may be payable.
- 4.2. The prices mentioned in the offer include transport costs, unless stated otherwise.
- 4.3. Payment must be made in the currency: Euro. The exchange rate shall be determined by the credit card company or the bank of the Consumer (depending on the choice of payment instrument).
- 4.4. The Consumer can make the payment by means of electronic payment with iDEAL. The Consumer can settle the payment with his own bank directly during the ordering process. Payment by credit card of MasterCard or Visa is also possible. In the case of credit card payment, the Consumer must provide all the necessary information so that Popal's bank can collect the amount due. If the Consumer provides incorrect and/or incomplete information, Popal shall be entitled to refuse the payment and to demand payment in another way. Popal shall also be entitled, in the event of late payment, to suspend delivery of the item in question.

Product for which payment has not been made on time or to suspend the (partially) dissolve the Agreement.

- 4.5. Unless otherwise stipulated in the Agreement, the amounts owed by the Consumer must be paid within 30 days after the Agreement is concluded. Payments must be made in one go.

#### **5. Delivery and transfer of risk**

- 5.1. The delivery of the Product shall take place at the option of the Consumer at a (home) address chosen by the Consumer. Popal shall be entitled to subcontract the delivery to a third party.
- 5.2. The risk of loss, damage and/or depreciation shall be borne by Popal and shall pass to the Consumer if delivery has taken place to the Consumer's (home) address or if the Product has come into the control of the Consumer.
- 5.3. If an order from the Consumer consists of several Products, Popal reserves the right to deliver the Products to the Consumer in partial deliveries and thus to invoice the executed part separately.
- 5.4. If a term is indicated for the delivery of a Product, this term is a target term and not a deadline. Nevertheless, Popal shall execute orders with due speed but at the latest within

30 days after the order was placed by the Consumer, unless a different delivery period has been agreed and unless the delivery is delayed. If the delivery is delayed, or if an order cannot be executed at all or only partially, the Consumer shall receive a written confirmation of the order.

Consumer shall be informed of this by Popal at the latest within 30 days after the order was placed.

## **6. Retention of title**

- 6.1. Popal reserves the right of ownership of all Products delivered or to be delivered by Popal until the moment of full payment of all existing claims under the Agreement between Popal and the Consumer, as well as the claims which Popal may obtain against the Consumer due to shortcomings in the fulfilment of the Agreement.
- 6.2. As long as the ownership of the delivered Products has not been transferred to the Consumer, the Consumer may not pledge the Products or establish any other security rights on the Products.

## **7. Right of withdrawal**

- 7.1. The Consumer can dissolve an Agreement concerning the purchase of a Product during a cooling-off period of 14 days without giving reasons. Popal is entitled to ask the Consumer about the reason for the termination, but is not obliged to state the reason(s).
- 7.2. The above-mentioned cooling-off period commences on the day after the Consumer, or a third party designated by the Consumer in advance and who is not the carrier, has received the Product, or:
  - if the Consumer has ordered several Products in one order: the day on which the Consumer or a third party designated by him has received the last Product; or
  - if the delivery of a Product consists of several shipments or parts, the day on which the Consumer or a third party designated by him has received the last shipment or the last part.

## **8. Obligations of the Consumer during the Reflection Period**

- 8.1. During the cooling-off period as described in Article 7.1, the Consumer shall handle the Product and its packaging with care. The Consumer shall only unpack or use the Product to the extent necessary to establish the nature, characteristics and working of the Product. The starting point here is that the Consumer may only handle and inspect the Product as he would be allowed to do in a physical shop.
- 8.2. The Consumer shall only be liable for any reduction in value of the Product that is the result of a manner of handling the Product that goes beyond what is permitted in the previous paragraph of this Article.

## **9. Exercise of the right of withdrawal by the Consumer and the costs thereof**

- 9.1. If the Consumer exercises his right of withdrawal as stated in article 7, he shall notify Popal within the cooling-off period by means of the model withdrawal form attached to these General Terms and Conditions or in any other unambiguous manner. This form can be found in the Popal.com FAQ under returns.
- 9.2. The Consumer shall return the Product to Popal's address as soon as possible but within 14 days of the day following the notification referred to in paragraph 1. This is not necessary if Popal has offered to collect the Product itself from the Consumer. The Consumer has in any case complied with the return period if he returns the Product before the cooling-off period has expired.
- 9.3. The Consumer shall return the Product with all delivered accessories, if reasonably possible in the original condition and packaging, and in accordance with the reasonable and clear instructions provided by Popal. The risk and burden of proof for the correct and timely exercise of the right of withdrawal shall lie with the Consumer.
- 9.4. The Consumer shall bear the direct costs (€ 30) for the return of the Product. If Popal has not indicated that the Consumer must bear these costs or if Popal indicates to bear these costs itself, the Consumer does not have to bear the return costs.
- 9.5. If the Consumer makes use of his Right of Cancellation, all additional Agreements will be dissolved by operation of law.

#### **10. Obligations of the entrepreneur when exercising the right of withdrawal by the consumer**

- 10.1. If Popal makes the notification of dissolution by the Consumer possible electronically, it shall send an acknowledgement of receipt of this notification without delay.
- 10.2. Popal shall reimburse all payments made by the Consumer, including any delivery costs charged by the entrepreneur for the returned Product, without delay but within 14 days following the day on which the Consumer gives notice of termination. Unless Popal offers to collect the Product itself, it may wait with the reimbursement until it has received the Product or until the Consumer demonstrates that he has returned the Product, whichever time is earlier.
- 10.3. Popal shall use the same means of payment as the Consumer has used for repayment, unless the Consumer agrees to a different method. The refund is free of charge for the Consumer.
- 10.4. If the Consumer has chosen a more expensive method of delivery than the cheapest standard delivery, Popal does not have to refund the additional costs for the more expensive method.

#### **11. Exclusion of the right of rescission**

- 11.1. Popal may exclude the following Products from the right of withdrawal, but only if Popal has clearly stated this in the offer or at least in good time before the conclusion of the Agreement:
  - Custom-made, being Products manufactured according to Consumer specifications that are not prefabricated and that are manufactured on the basis of an individual choice or decision by the Consumer or that are clearly intended for a specific person.

## **12. Warranty**

- 12.1. Without prejudice to any other rights that the law grants to the Consumer, Popal provides the manufacturer's warranty on its Products as stated in the warranty documents that are enclosed with the delivery of the Products or (if not enclosed) on the website of the manufacturer of the Product concerned.
- 12.2. The warranty period shall commence at the time of delivery of the Product (Article 5 of these General Terms and Conditions).

## **13. Liability**

- 13.1. Popal guarantees that the Products comply with the Agreement, with the specifications stated in the offer, with the reasonable requirements of soundness and/or usability and with the existing statutory provisions and/or government regulations on the date of the conclusion of the Agreement.
- 13.2. Popal's liability shall be limited to the fulfilment of the obligations described in paragraph 1, unless and insofar as anything else arises from mandatory statutory provisions.
- 13.3. Products delivered must be installed exclusively by a Popal authorised dealer. Popal is not liable for any damage caused by incorrect assembly by Consumer or a third party appointed by him.
- 13.4. Popal shall not be liable for damage of any kind whatsoever caused by Popal's use of incorrect and/or incomplete data supplied by or on behalf of the Consumer.
- 13.5. Popal shall not be liable for consequential loss, loss of profit, or any other form of purely pecuniary loss, unless and to the extent that otherwise arising from mandatory legal provisions.

## **14. Force majeure**

- 14.1. The parties are not bound to comply with the obligations from the Agreement vis-à-vis the other Party in the event that one of the Parties is prevented from performing due to force majeure. Force majeure is defined as any external cause not attributable to the fault of the party claiming force majeure and which is not attributable to that party by virtue of law, legal act or generally accepted practice. A strike by Popal's staff and/or supplier(s) shall in any case, but not exclusively, be considered as force majeure.
- 14.2. The Parties may suspend their obligations under the Agreement during the period of force majeure. If this period lasts longer than two (2) months, each of the Parties shall be entitled to dissolve the Agreement without any obligation to pay damages to the other Party.

## **15. Complaints procedure**

- 15.1. Popal shall have a sufficiently publicised complaints procedure and shall deal with the complaint in accordance with this complaints procedure.
- 15.2. Complaints about the performance of the Agreement must be submitted to Popal fully and clearly described within a reasonable time after the Consumer has noticed the defects.
- 15.3. Complaints submitted to Popal shall be answered within a period of 14 days, calculated from the date of receipt. If a complaint requires a foreseeably longer processing time, Popal shall reply within the period of 14 days with a notice of receipt and an indication of the period within which the Consumer may receive a substantive reply to the complaint.

**16. Applicable law and disputes**

- 16.1. All legal relationships to which PMG is a party are governed by Dutch law. This also applies if all or part of an obligation is performed outside the Netherlands or if the party involved in the legal relationship is domiciled there. The applicability of the Vienna Sales Convention is excluded.

**END**