

General Terms and Conditions of Purchase of Pockauer Werkzeugbau Oertel GmbH

1 Scope of application

- 1.1 These General Terms and Conditions of Purchase apply to all our purchasing transactions (contracts in which we are the buyer) and the orders placed by us for deliveries and other services (contracts in which we are the customer). These terms and conditions do not apply to our sales transactions and contracts with consumers. Terms and conditions of the supplier which we do not recognize in writing by explicit confirmation are not binding for us, even if we do not expressly object to them. Our terms and conditions of purchase shall also apply if we accept delivery without reservation in the knowledge that the supplier's terms and conditions conflict with or deviate from our terms and conditions of purchase.
- 1.2 These Terms and Conditions in their current version shall also form the basis of all future purchasing transactions and orders in accordance with Section 1.1, even if their inclusion is not expressly agreed again.
- 1.3 Insofar as "written form" or "written form" is required in these terms and conditions, written form pursuant to Sections 127, 126 (2) BGB, or electronic form pursuant to Sections 127, 126a BGB, or text form pursuant to Sections 127, 126b BGB are permissible.

2 Orders and conclusion of contract

- 2.1 Our orders are subject to change and shall only be binding upon written submission or confirmation by us.
- 2.2 We shall not be bound by information in our order and/or order documents that is based on an obvious error, namely a spelling or calculation error. The supplier must notify us of obvious errors, namely typing or calculation errors, incompleteness in the order including any necessary order documents, before acceptance for the purpose of correcting or completing the information. Otherwise, the contract shall be deemed not to have been concluded.
- 2.3 The supplier must accept our order in writing within 14 days. If the supplier does not accept our order within 14 days by written confirmation, we shall be entitled to cancel our order. Delayed acceptance shall be deemed a new offer and requires our acceptance.
- 2.4 The supplier must expressly point out any deviations from our order in its offer.

3 Information, notification and due diligence obligations of the supplier

- 3.1 If the supplier has been informed of the intended use of the deliveries or services, or if this intended use is recognizable to the supplier even without express notification, the supplier is obliged to inform us immediately if the supplier's deliveries or services are not suitable for fulfilling this intended use.
- 3.2 The supplier must notify us immediately in writing of any changes in the type of composition of the processed material or the design compared to the similar deliveries or services provided to date. The same applies to changes in product descriptions, product data sheets, etc. as well as to changes at any upstream suppliers.
- 3.3 Upon request, the supplier shall inform us of all upstream suppliers, vicarious agents, subcontractors, suppliers and other third parties used for the provision of the contractual service who provide essential services required for the fulfillment of the contract. If the supplier intends to have essential services for the fulfillment of the contract performed by third parties or to purchase them from third parties, our prior consent is required.

4 Delivery times and delays, contractual penalty

- 4.1 The delivery time stated in the order is binding. The receipt of the goods at the delivery address specified by us is decisive for the timeliness of the delivery.
- 4.2 The supplier is obliged to inform us immediately in writing if the delivery time specified in the order or otherwise agreed - for whatever reason - cannot be met. The supplier must inform us immediately of the expected duration of the delay, stating the reasons.
- 4.3 We shall not be obliged to accept partial deliveries and/or advance deliveries or executions.
- 4.4 If the supplier fails to perform or fails to perform within the agreed delivery period or is in default, our rights - in particular to rescission and damages - shall be determined in accordance with the statutory provisions. The provisions in Section 4.5 shall remain unaffected.
- 4.5 In the event of a delay in delivery, we shall be entitled, in addition to further statutory claims, to demand lumpsum compensation for our damage caused by delay in the amount of 1% of the net price per completed calendar week, but not more than a total of 5% of the net price of the goods delivered late. Further claims and rights, in particular the assertion of further damages (damage caused by delay) shall remain unaffected. If we are entitled to compensation for damages due to improper performance, the forfeited penalty shall be deemed the minimum amount of damages.

5 Place of fulfillment, delivery, transfer of risk

- 5.1 Delivery shall be made DAP (Incoterms 2020) to the place specified in the order. If the place of destination is not specified in the order and nothing else has been agreed, delivery shall be made to our registered office. The specified or agreed destination is also the place of performance for deliveries and any subsequent performance (debt to be discharged at creditor's domicile).
- 5.2 The delivery must be accompanied by a delivery bill stating the date of issue and dispatch, article number and quantity of the delivery as well as our order identification.
- 5.3 The risk of accidental loss and accidental deterioration of the goods shall pass to us upon handover at the place of performance. If acceptance has been agreed, this shall be decisive for the transfer of risk.

6 Prices and terms of payment

- 6.1 The prices stated by us in the order are fixed prices and are binding. They include statutory value added tax if this is not shown separately.
- 6.2 Unless otherwise agreed in individual cases, the price quoted shall include all services and ancillary services required for the complete manufacture and delivery of the services to be provided, such as costs for auxiliary materials, freight, customs duties, packaging material and its removal, transportation to the place of use specified by us as well as all expenses for carrying out the operational assembly and installation work. Costs for deviations, such as special difficulties or delivery/performance on Sundays and public holidays, must be agreed separately before acceptance of the order.
- 6.3 Invoices must be issued and sent to us, stating the order data. (rechnung@pw-oertel.de)
- 6.4 The agreed price shall be due for payment within 30 calendar days starting from complete delivery and performance including any agreed acceptance and receipt of a proper invoice. If we make payments within 14 calendar days, we shall be entitled to deduct a 3% discount on the net amount of the invoice.
- 6.5 In the event of defective or incomplete delivery, we shall be entitled, without prejudice to our other rights, to withhold payment pro rata until proper fulfillment. Payments do not imply recognition of the delivery or service as being in accordance with the contract.
- 6.6 In the event of any default in payment, the statutory provisions shall apply. The default interest rate owed shall be 5 percentage points above the respective base interest rate.

7 Confidentiality and retention of title

- 7.1 We reserve title and copyright to illustrations, plans, drawings, calculations, instructions for execution, product descriptions and other documents, raw materials, tools, devices and other items that we provide to the supplier. Such documents and objects are to be used exclusively for the contractual performance and are to be returned to us after fulfillment of the contract. The documents and objects may not be used, reproduced or made accessible to third parties for purposes other than the contractual purposes.
- 7.2 The Supplier shall treat all information of a technical and commercial nature in connection with the contract as business secrets within the meaning of the GeschGehG.
- 7.3 Insofar as items provided by us are processed or transformed by the supplier into a new movable item, we shall be deemed to be the manufacturer under property law. In the event of combination or inseparable mixing with other items, we shall acquire co-ownership of the new item in proportion to the value that the items had at the time of combination or mixing. If the combination or mixing is carried out in such a way that the supplier's items are to be regarded as the main item, it is agreed that the supplier shall transfer co-ownership to us on a pro rata basis.
- 7.4 The transfer of ownership of the goods to us must take place unconditionally and regardless of the payment of the agreed price. If, however, in individual cases we accept an offer of the supplier for transfer of ownership conditional upon payment of the purchase price, the supplier's reservation of title shall expire at the latest upon payment of the purchase price for the delivered goods. We shall remain authorized to resell the goods in the ordinary course of business even before payment of the purchase price, assigning the resulting claim in advance. All other forms of retention of title by the supplier are excluded, in particular the extended retention of title, the forwarded retention of title and the retention of title extended to further processing.
- 7.5 The items and components provided must be treated with the necessary care. Damage, destruction or loss must be reported to us immediately. The supplier shall be liable for any depreciation in value or loss, which occur at the supplier or its vicarious agents, the supplier shall be liable.

8 Liability for material defects

- 8.1 In the event of material defects and defects of title of the goods, including incorrect and short delivery as well as improper assembly/installation or defective instructions, and in the event of other breaches of duty by the supplier, the statutory provisions shall apply, unless otherwise specified below.
- 8.2 The supplier shall be liable in accordance with the statutory provisions in particular for ensuring that the goods have the agreed quality upon transfer of risk. If product descriptions, drawings, design instructions or other documents are attached to our order or reference is made to them, these shall be deemed to be included in the contract and to constitute an agreement on quality.
- 8.3 The statutory provisions (§§ 377, 381 HGB) shall apply to the commercial obligation to inspect and give notice of defects with the following proviso: Our obligation to inspect shall be limited to defects which become apparent during our incoming goods inspection under external examination including the delivery documents, e.g. transport damage, obvious incorrect or short deliveries or which are recognizable during our quality control in the random sampling procedure. If acceptance has been agreed, there is no obligation to inspect. Notwithstanding our duty to inspect, our complaint (notification of defects) shall in any case be deemed to be immediate and timely if it is communicated within 30 working days of receipt of the delivery. In the case of hidden defects, the statutory obligations to give notice of defects shall apply with the proviso that these must be notified to the supplier within 30 days of discovery.
- 8.4 If the supplier does not fulfill its obligation to provide subsequent performance within a reasonable period of time set by us, we may remedy the defect ourselves and demand reimbursement of the necessary expenses or a corresponding advance payment from the supplier. If subsequent performance by the supplier has failed or is unreasonable for us, no deadline need be set. Unreasonableness shall be deemed to exist in particular in the event of particular urgency, endangerment of operational safety or imminent occurrence of disproportionate damage.
- 8.5 If we have installed the defective item in another item or attached it to another item in accordance with its type and

intended use before the defect became apparent, the supplier shall be obliged to reimburse us for the necessary expenses for the removal of the defective item and the installation or attachment of the repaired or delivered defect-free item within the scope of subsequent performance. In this respect, frustrated expenses such as finishing work shall be reimbursed.

- 8.6 The supplier is also obliged to reimburse us or our customers for the necessary expenses incurred in the runup to the defect liability event for the early prevention, defense or mitigation of damage (e.g. recall action). The supplier shall also reimburse the expenses which we have to bear vis-à-vis our customers and which are attributable to defects in the delivery purchased from him.
- 8.7 Otherwise, in the event of a material defect or defect of title, we shall be entitled in accordance with the statutory provisions to demand subsequent performance, to reduce the purchase price or remuneration for work or to withdraw from the contract. Otherwise, we are entitled to the statutory claims for damages and reimbursement of expenses.

9 Product liability, insurance

- 9.1 The supplier is obliged to indemnify us on first demand from any liability towards third parties or claims of third parties arising from the manufacture, delivery, storage or use of the delivered goods. The above indemnification obligation shall not apply if the claim is based on grossly negligent or intentional breach of duty on our part.
- 9.2 The supplier undertakes to take out product liability insurance with sufficient minimum cover per personal injury or property damage and to maintain it during the contractual relationship. Any further claims for damages shall remain unaffected.

10 Statute of limitations

- 10.1 The mutual claims of the parties shall become time-barred in accordance with the statutory provisions, unless otherwise stipulated below.
- 10.2 Notwithstanding § 438 Para. 1 No. 3 BGB and § 634a Para. 1 No. 1 BGB, the limitation period for claims for defects is three years from the transfer of risk. If acceptance has been agreed, the limitation period shall commence upon acceptance. Claims arising from defects of title shall become time-barred in accordance with the above provision.

11 Cancellation and termination of orders

- 11.1 If we commission the Supplier to provide work or services, we may terminate the contract at any time until completion of the commissioned services.
- 11.2 In the event of termination, we shall reimburse the Supplier for the expenses incurred up to the date of termination for the proper provision of the service in return for the return of the service provided up to the date of termination.
- 11.3 There is no entitlement to payment of the full remuneration.
- 11.4 If the supplier is responsible for the termination, it shall not be entitled to reimbursement of the remuneration.

12 Offsetting, rights of retention, assignment

- 12.1 We shall be entitled to rights of set-off and retention as well as the defense of non-performance of the contract to the extent permitted by law. In particular, we are entitled to withhold due payments as long as we are still entitled to claims against the supplier arising from incomplete or defective services.
- 12.2 The Supplier shall only have a right of set-off or retention on the basis of legally established or undisputed counter-claims.
- 12.3 To the extent permitted by law, the supplier requires our prior written consent for the assignment of claims against us. § Section 354a HGB remains unaffected. We are in any case entitled to make payment to the supplier with debt-discharging effect even after notification of an assignment or to offset against counter-claims.

13 Occupational safety and environmental protection

- 13.1 The packaging and other waste (consumables and auxiliary materials) must be reusable or recyclable for us free of charge in accordance with the applicable provisions of the German Packaging Ordinance and other regulations.
- 13.2 All deliveries must comply with the laws, regulations and other provisions applicable to us. The supplier is obliged to carry out the order in such a way that the environmental protection, accident prevention and occupational health and safety regulations (including trade association regulations) as well as the generally recognized safety and occupational health rules are observed. At our request, the supplier shall provide evidence of compliance with the regulations at its own expense.
- 13.3 The supplier undertakes, at our request, to provide us or a third party designated by us with samples of the materials/means used by him for testing free of charge. The supplier shall bear the costs of this inspection if it is found that the materials/means used by him do not comply with the terms of the contract. We reserve the right to assert further claims for damages.

14 Compliance with legal requirements

- 14.1 The supplier undertakes to ensure and document that all processes, products, goods and services provided/delivered comply with the applicable statutory and regulatory requirements of the exporting country, the importing country and the country of destination. Any existing product safety requirements must also be fulfilled.
- 14.2 The Supplier undertakes to comply with the statutory data protection provisions in accordance with the GDPR and the BDSG.

15 Compliance with the minimum wage law

- 15.1 The Supplier undertakes and shall ensure in the execution of its orders that it complies with all obligations incumbent on it under the German Minimum Wage Act (MiLoG) and pays the minimum wage in the respective statutory amount. Furthermore, the supplier shall ensure that any subcontractors and rental companies used by it also comply with the statutory provisions on the minimum wage.
- 15.2 At our written request, the supplier shall provide us with suitable evidence of compliance with the provisions applicable to it, taking into account confidentiality obligations and trade secrets.
- 15.3 The supplier shall indemnify us on first demand against any claims asserted against us by third parties in connection with violations of the MiLoG by the supplier.
- 15.4 In the event of a grossly negligent or willful breach of the aforementioned obligations by the Supplier, we shall be entitled to terminate the relevant order or the relevant contractual relationship without notice.

16 Severability clause

- 16.1 Should one or more of the provisions of this contract be or become invalid outside the main performance obligations, this shall not affect the validity of the remaining provisions of this contract. In such a case, the parties undertake to enter into negotiations on a new provision which comes as close as possible to the economic purpose of the invalid provision and which they would have agreed if they had been aware of the invalidity.

17 Place of jurisdiction, choice of law

- 17.1 The place of performance and place of jurisdiction for all disputes arising from the contractual relationship shall be our registered office if the client is a registered trader, a legal entity under public law or a special fund under public law.
- 17.2 The contractual relationship between the parties shall be governed exclusively by the law of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods and the conflict of laws rules of private international law.

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