

General Terms and Conditions of Delivery and Payment of Pockauer Werkzeugbau Oertel GmbH

1. Validity

- 1.1 These General Terms and Conditions of Delivery and Payment shall apply to all our contracts for the sale and/or delivery of movable goods and other services, including ancillary services such as developments, constructions and consultations (sales transactions). These terms and conditions shall not apply to our purchase transactions and contracts with consumers. Terms and conditions of the customer 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 General Terms and Conditions of Delivery and Payment shall also apply if we carry out the delivery without reservation in the knowledge that the customer's terms and conditions conflict with or deviate from our Terms and Conditions of Delivery and Payment.
- 1.2 These Terms and Conditions in their respective current version shall also form the basis of all future services and deliveries in accordance with Clause 1.1, even if their inclusion is not expressly agreed again.
- 1.3 Insofar as "written form" is required in these terms and conditions, written form in accordance with §§ 127, 126 BGB, or electronic form in accordance with §§ 127, 126a BGB, or text form in accordance with §§ 127, 126b BGB are permissible.

2. Offers and contracts

- 2.1 Our offers are subject to change. Conclusions of contracts and other agreements shall only become binding upon our written confirmation. We shall not be bound by statements in our offers and/or order confirmations that are based on an obvious error, namely a typing or calculation error. Rather, the obviously intended declaration shall apply.
- 2.2 The information, drawings, illustrations, technical data, weight, dimension and performance descriptions contained in brochures, catalogs, circulars, advertisements, price lists or in the documents belonging to the offer are non-binding, unless they are expressly designated as binding in the order confirmation.
- 2.3 All property rights and copyrights to the offer and the enclosed documents within the meaning of 2.2 shall remain with us. They may not be passed on, published or reproduced or used for any purpose other than the agreed purpose without our permission. In the event of non-acceptance of an order or termination of the contractual relationship, the documents must be returned immediately without retaining any copies.
- 2.4 Collateral agreements, reservations, amendments, verbal assurances or additions to this contract require our written confirmation in order to be valid.
- 2.5 The basis for our services shall be the service description in our offer or the service descriptions set out in the specifications and confirmed by us in writing.
- 2.6 The necessary infrastructure and availability of the required interfaces, suitable work equipment and lifting devices, etc., must be provided by the client. If the installation is carried out by us or by third parties commissioned by us or if services are provided on site at the client's premises, the client shall be obliged to comply with the statutory regulations, in particular the accident prevention regulations.

3. Delivery, delivery times and delays, force majeure

- 3.1 Unless otherwise stated in the order confirmation, the goods shall be delivered EXW Pockau-Lengefeld (Incoterms 2020).
- 3.2 The delivery time stated in the offer or order confirmation is generally non-binding. We endeavor to meet the stated delivery times, but cannot guarantee this. Delivery times are only binding if they are expressly designated as binding in the offer or order confirmation.
- 3.3 Delays in delivery caused by the client making changes to the original order shall be borne by the client. This shall also apply if the client does not fulfill its obligation to deliver data in the agreed form or does not do so on time, or if the delivered data is defective and must be reworked. If production comes to a standstill in these cases, we can demand that the client bears the downtime costs incurred by us due to idle times.
- 3.4 In the event of force majeure and other unforeseeable, extraordinary circumstances for which we are not responsible - e.g. material procurement difficulties, operational disruptions, strikes, lockouts, lack of transportation, official interventions, energy supply difficulties, terror, war, embargo, pandemic, etc., even if they occur at upstream suppliers - the delivery period shall be extended to a reasonable extent if we are prevented from fulfilling our obligation on time.
- 3.5 If the delivery or service becomes impossible or unreasonable due to the aforementioned circumstances, we shall be released from our delivery obligation. If the delay in delivery lasts longer than 3 months, the client is entitled to withdraw from the contract. The customer may withdraw earlier if the delay in delivery is unreasonable for him.
- 3.6 If the delivery time is extended due to force majeure or if we are released from our delivery obligation, the client cannot derive any claims for damages from this. We can only invoke the aforementioned circumstances if we inform the client immediately.

4. Prices and Terms of Payment, Cancellation and Processing Fees

- 4.1 The prices quoted by us are net prices. Value added tax at the applicable statutory rate shall be added to the prices. The prices apply ex our location and do not include the costs of freight, unloading, transportation and installation, unless this has been expressly agreed.
- 4.2 Insofar as no terms of payment have been agreed in individual cases, in particular advance payment or discount deductions, the invoices issued by us shall be due for payment upon receipt of the invoice without any deductions within the specified payment terms, but within 30 days at the latest.
- 4.3 Checks are only accepted on account of payment, without guarantee for correct presentation and protest. Checks will be credited subject to receipt of the expenses with value date of the day on which we can dispose of the equivalent value. If a check is not honored, all outstanding claims shall become due.

- 4.4 If we receive payment from the client late, we shall be entitled to charge interest on arrears from the due date at a rate of 9 percentage points above the prime rate. If the client defaults on payment, we may alternatively charge interest at the respective bank rates for overdraft facilities, but at least default interest at a rate of 9 percentage points above the prime rate. We reserve the right to claim further financing costs and other damages caused by the client's default.
- 4.5 In the event of default in payment, we shall be entitled to withhold all deliveries. The client is not entitled to withhold or offset payments unless the counterclaims have been recognized by us or are legally binding.
- 4.6 Cancellation or termination of an order placed with us is only possible for good cause for which we are responsible. In the event of cancellation or termination for good cause, we shall be entitled to the agreed remuneration in full; however, we shall be entitled to deduct any expenses we have saved as a result of the cancellation of the contract or have acquired through other use of our labor. We are entitled to demand 10% of the agreed remuneration for the part of the services not yet provided, unless the client provides other evidence in individual cases.

5. Weights, dimensions, deviations

- 5.1 Depending on the type of goods delivered by us, excess or short deliveries of the agreed quantities and weights are permitted within the customary commercial and industry framework.
- 5.2 The DIN tolerances and customary deviations shall apply to the specified dimensions, unless we have agreed deviating quality requirements with the customer.

6. Transfer of risk and acceptance

- 6.1 The goods shall be accepted after completion of the service if this has been contractually agreed. This shall also apply to self-contained partial services.
- 6.2 If acceptance has been contractually agreed, the risk of accidental loss shall pass to the client upon acceptance.
- 6.3 If the client is in default of acceptance, the risk shall pass to the client at the time of default. The same shall apply if an agreed installation is interrupted for reasons for which the client is responsible and if we have handed over the services provided up to that point to the client by mutual agreement.
- 6.4 If no acceptance is required or agreed, the risk shall be transferred to the client at the latest when the delivery parts are dispatched, even if partial deliveries are made or we have assumed other services, e.g. the shipping costs or delivery and installation.
- 6.5 At the client's request, we shall insure the consignment against theft, breakage, transport, fire and water damage and other insurable risks at the client's expense.

7. Liability for material defects and compensation

- 7.1 We accept no responsibility for the goods being suitable for a particular purpose unless we have expressly agreed to this liability in writing.
- 7.2 The warranty period is one year from delivery or, if acceptance is required, from acceptance. This period shall not apply to claims for damages by the customer arising from injury to life, body or health, in the case of guarantees or claims under the Product Liability Act or from intentional or grossly negligent breaches of duty by us or our vicarious agents, which shall in each case become statute-barred in accordance with the statutory provisions.
- 7.3 The liability for material defects does not extend to parts listed in our parts list or to wearing parts or to damage caused to the customer by natural wear and tear, moisture, excessive heating of rooms, other temperature or weather influences, improper handling, brute force, overexertion and the use of unsuitable operating or lubricating agents or failure to observe the maintenance and care instructions.
- 7.4 Claims for subsequent performance, compensation, reduction or withdrawal within the meaning of §§ 437, 634 BGB due to obvious defects expire after acceptance, but at the latest if the client does not notify us of them immediately, i.e. within two weeks of delivery.
- 7.5 We shall bear the expenses necessary for the purpose of subsequent performance, in particular transport, travel, labor and material costs to the place to which we have delivered the goods. If the goods are located at a place other than the place of delivery, in particular in cases of resale, we shall not be obliged to bear any resulting additional costs for transport, travel, labor and material costs.
- 7.6 At our discretion, the goods shall, if possible, be returned at our expense, provided this is technically feasible. If the goods are sent in, the most cost-effective mode of transportation shall be chosen, generally by a forwarding agent and not by air, provided this is not unreasonable for the customer. Without prejudice to our rights under Section 275 (2) and (3) BGB, we may refuse subsequent performance if it is only possible at disproportionate cost.
- 7.7 Instead of rectifying the defect, we can also deliver a replacement item at our discretion. If we deliver a replacement item, we can demand the return of the defective item from the customer in accordance with §§ 346 to 348 BGB. If the rectification of defects fails, if we refuse to supply a replacement or if we fail to do so within a reasonable period of time, the client may reduce the remuneration or withdraw from the contract. Rectification shall be deemed to have failed after the third unsuccessful attempt, unless the nature of the item or the defect or other circumstances indicate otherwise.
- 7.8 Insignificant, reasonable deviations in the dimensions and designs, in particular in the case of repeat orders, shall not entitle the customer to make complaints unless compliance with dimensions and tolerances has been expressly agreed. Technical improvements and necessary technical modifications shall also be deemed to be in accordance with the contract, insofar as they do not represent a deterioration in value.
- 7.9 If the customer prescribes the use of a certain material or provides us with the material to be used, or if he demands a certain type of execution that deviates from the usual production, we shall not be liable for any defects and damage resulting therefrom that either arise in our product or lead to defects in the product to be manufactured. We shall not be liable for parts, material or other equipment manufactured by or on behalf of the customer.

- 7.10 All claims for material defects shall lapse if the customer himself or a third party carries out modifications or interventions on the product without our written consent. A guarantee shall also lapse if the client uses spare parts that have not been approved by us, unless the client can prove that the defect would also have occurred if an original spare part or a spare part approved by us had been used.
- 7.11 All claims for damages by the customer arising from breach of duty, delay, impossibility of performance, positive breach of contract, culpa in contrahendo, tort and other legal grounds are excluded, unless the damage or consequential damage that has not occurred to the delivery item itself has been caused by intentional or grossly negligent action on our part. The limitation of liability shall apply to the same extent to our vicarious agents and assistants.
- 7.12 The exclusion of liability in accordance with Clause 7.11 shall not apply if material contractual obligations are breached or if the customer asserts claims for damages due to the absence of a warranted characteristic. In these cases, however, our liability shall be limited to the damage foreseeable at the time the contract was concluded.
- 7.13 In the event of defects in components from other manufacturers which we are unable to rectify for licensing or factual reasons, we shall, at our discretion, assert warranty claims against the manufacturers and suppliers for the account of the client or assign them to the client. Warranty claims against us for such defects shall only exist under the other conditions and in accordance with these General Terms and Conditions of Delivery and Payment if the legal enforcement of the aforementioned claims against the manufacturer and supplier was unsuccessful or is futile, e.g. due to insolvency. For the duration of the legal dispute, the limitation period for the relevant warranty claims of the client against us shall be suspended.
- 7.14 We cannot invoke the above limitations of liability and the one-year warranty period in Section 7.2 if we have fraudulently concealed the defect or have assumed a guarantee for the quality of the item. The limitations of liability and the one-year warranty period in Section 7.2 also do not apply to damages resulting from injury to life, limb and health, in the case of guarantees or claims under the Product Liability Act.

8. Provision of material by the client

- 8.1 If the material to be processed by us is provided by the client, the material residues (waste) resulting from the processing of the material shall become our property without replacement, unless we agree otherwise with the client.
- 8.2 If material is provided by the client, we shall not be liable for defects attributable to material faults. If material defects are discovered by us, we shall inform the client immediately and jointly agree on how to proceed. We shall be entitled to suspend our services until a decision has been reached on the further course of action, without this causing us to be in default with the provision of our services. If no agreement is reached with the client, we are entitled to withdraw from the contract and demand compensation.

9. Retention of title

- 9.1 All delivered products shall remain our property (reserved goods) until full payment - in the case of payment by check until redemption and freedom from recourse claims - of all claims to which we are entitled from the business relationship with the customer. This shall also apply to future and conditional claims and also if payments are made on specially designated claims. This reservation of balance shall finally expire upon settlement of all claims still outstanding at the time of payment and covered by this reservation of balance.
- 9.2 The handling and processing of the reserved goods shall be carried out for us as manufacturer within the meaning of § 950 BGB, without any obligation on our part. The treated and processed goods shall be deemed to be reserved goods within the meaning of Clause 5.1. In the event of processing, combining and mixing of the reserved goods with other goods by the customer, we shall be entitled to co-ownership of the new item in the ratio of the invoice value of the reserved goods to the invoice value of the other goods used. If the ownership expires due to combination or mixing, the client hereby transfers to us the ownership rights to which he is entitled to the new stock or item to the extent of the invoice value of the goods subject to retention of title and shall store them for us free of charge. Our co-ownership rights shall be deemed to be reserved goods within the meaning of Clause 5.1.
- 9.3 The client is entitled to resell the products in the ordinary course of business and to collect the assigned claims as long as he is not in arrears with payment of the purchase price. He is not authorized to make extraordinary dispositions such as pledges and transfers by way of security to third parties. In the event of resale, the customer hereby assigns to us by way of security all claims and other claims against his customers arising from the resale, including all current account balance claims, together with all ancillary rights. The client is entitled to collect the assigned claims. The authorization to collect shall expire if the client suspends payments, files for or is declared insolvent, in the event of out-of-court composition or restructuring proceedings, in the event of restructuring proceedings pursuant to the StaRUG or in the event of other financial collapse. In this case, we can demand that the client informs us of the assigned claims and their debtors, provides all information necessary for the collection of the claims, hands over the associated documents and informs the debtor of the assignment.
- 9.4 The customer is prohibited from disposing of the resale claim without our written consent by way of security or assignment of the claim, including by way of purchase of the claim, unless it is an assignment by way of genuine factoring which is notified to us and in which the factoring proceeds exceed the value of our secured claim.
- 9.5 The client must inform us immediately of any seizure or other impairment of our reserved goods by third parties. The client shall bear all costs that have to be incurred to cancel the seizure or to return the reserved goods, insofar as they are not reimbursed by third parties.
- 9.6 We undertake to retransfer or release the securities at the request of the customer if the value of the security provided to us exceeds the amount of our claim by more than 20% in total.

10. Copyright

- 10.1 The copyright and ownership of design drawings, 3D tool data, CAM data, electrodes, technology data and all copyrightable services that we provide for the client shall remain with us. The client is not entitled to make this data and copyrightable services accessible to third parties or to examine, reverse engineer, test, dismantle or decompile them without our written consent. The client shall receive electronic design data as 3D data for a separate fee.
- 10.2 Licenses and rights of use can be acquired by the client by means of a separate contract.

11. Indemnification obligation of the client

- 11.1 If the client requests a certain type of design or a certain specification of the goods, he must check in advance whether this could lead to copyright or patent infringements or other infringements of third-party rights. The customer must inform us of the result of the examination before the contract is concluded. We are not obliged to check without sufficient cause whether the aforementioned instructions of the client infringe the rights of third parties.
- 11.2 If we determine after conclusion of the contract that the type of execution or specification requested (may) infringe the rights of third parties, we shall be entitled to demand that the client remove this obstacle within a reasonable period of time and to suspend our work until then. If the client does not comply with our request despite the setting of a grace period, we are entitled to withdraw from the contract and demand compensation.
- 11.3 If claims are asserted against us by third parties in the cases of Clause 11.1 sentence 1 due to infringement of their rights, the client shall indemnify us immediately upon first request against all claims of third parties in this respect. We may demand a reasonable advance payment from the client for court, legal defense and expert costs as well as other costs necessary for the defense against the claims of third parties.
- 11.4 The obligation to indemnify and make an advance payment shall also apply if it later transpires in a legal dispute that there has been no infringement of third-party rights. The client may demand that we assign our claims against third parties for costs and damages to him after complete indemnification and fulfillment of our claims.

12. Prohibition of offsetting, contractual penalty

- 12.1 The client may only offset against our claims for payment of the agreed remuneration if the client's counterclaim has either been recognized by us or has been legally established. The client's rights of retention are also excluded.
- 12.2 Contractual penalties shall only be accepted by us if they have been contractually negotiated, set out in writing and signed by us. Contractual penalties in the client's general terms and conditions shall not bind us under any circumstances.
- 12.3 All contractual penalties include for us the rights according to §§ 339 ff. BGB with the proviso that the party wishing to derive rights from a contractual penalty promise must set out and prove all the requirements for this. Any contractual penalty shall be offset against other claims for damages. We reserve the right to prove that no damage or only a lesser damage has been incurred than the contractual penalty and to reduce the contractual penalty accordingly.
- 12.4 If a forfeited contractual penalty is disproportionately high, it can be reduced by judgment in accordance with § 343 BGB. § Section 348 HGB is not applicable.

13. Out-of-court dispute resolution

- 13.1 We are not prepared to participate in dispute resolution proceedings before a consumer arbitration board. We are also not legally obliged to participate in dispute resolution proceedings before a consumer arbitration board
- 13.2 EU platform for out-of-court online dispute resolution: <http://ec.europa.eu/consumers/odr/>

14. Severability clause

- 14.1 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.

15. Place of jurisdiction, choice of law

- 15.1 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.
- 15.2 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.

Pockau-Lengefeld in March 2025

Pockauer Werkzeugbau Oertel GmbH

Gewerbering 14
09514 Pockau-Lengefeld

<https://www.pw-oertel.de>