

General Sales and Delivery Conditions

General Sales and Delivery Conditions of
LPW Reinigungssysteme GmbH

1. Applicability

1.1 These General Terms and Conditions of Business apply only with respect to businesses within the meaning of § 14 of the German BGB (Civil Law Code), legal persons under public law and funds under public law.

1.2 We provide our deliveries and services solely subject to these general delivery conditions. We do not recognize any conflicting or deviating terms and conditions issued by the customer unless we have expressly agreed in writing to their applicability.

1.3 Our General Terms and Conditions of Business also apply if we supply the customer or provide other services in awareness of the existence of conditions issued by him which contradict or deviate from our own.

1.4 Our General Terms and Conditions of Business also apply for all future deliveries and services to the customer until inclusion of our new General Terms and Conditions of Business.

2. Offer and conclusion of contract, general provisions

2.1 Our offers are subject to alteration and non-binding unless they are marked expressly as a binding offer.

2.2 Documents enclosed with the order confirmation, such as illustrations, descriptions and drawings, details of dimensions and weights are only approximate unless they are expressly marked as binding.

2.3 Orders only become binding for us when we confirm them in writing or carry them out. Our written order confirmation is decisive for the content of the agreement. An order can also be confirmed by sending an invoice with the delivery. The customer must object immediately in the event that he disagrees with the contents of the order confirmation. Otherwise, the contract comes into being as specified in the order confirmation.

2.4 Additional verbal agreements apply only if we have stated or confirmed them in writing.

2.5 The customer only has the right to offset if the counter claim is undisputed or legally binding.

2.6 A right of retention only exists if it is based on the same contractual relationship.

2.7 We are entitled to render partial services.

2.8 Claims against us may not be passed on. This does not apply to assignments by way of security for ensuring business loans or for an extended period of retention of title.

3. Prices and terms of payment

3.1 Our prices do not include VAT. This is calculated additionally according to the currently applicable tax laws.

3.2 Prices are ex works or warehouse, excluding packaging and other shipping and transport costs. Packaging is charged to the customer separately. Packaging will only be taken back if we are obliged to do so by virtue of binding legal regulations.

3.3 We are entitled to increase prices between conclusion of the agreement and rendering the service if the cost factors that are significant for the price (prime costs) i.e. the prices for raw materials, materials or energy rise by more than 2%. We will then calculate based on the prices applying on the day of rendering the service. The same applies for orders without a price agreement.

3.4 We only take out transport insurance when expressly requested by the customer and at his cost.

4. Retention of title, right of lien, ownership by way of security

4.1 Retention of title: Items delivered by us remain our property until the customer has paid all amounts due as a result of the business relationship. This also applies for receivables that only arise after delivery of the retained goods.

4.2 Right of lien: We have a legal contractor's right of lien on the items handed over to us by the customer for processing or repair. In addition, the customer also grants us a contractual right of lien. This serves to secure our claim arising from the order and claims arising from previous orders insofar as they are connected with the pledged goods.

4.3 Ownership by way of security: If the processed or repaired item is delivered to the customer before receiving payment in full, it is hereby agreed with the customer that ownership of these items at the value of our claim shall be transferred to us in order to secure our rights. The customer keeps the items on our behalf instead of handing over the property. The same applies to the customer's expectant rights to any objects handed over to us for processing, which were supplied to the customer by a third party subject to reservation of title. We have the right to cause the reservation of title to lapse. The customer herewith assigns to us any claims against a third party to which he had previously assigned as a security the objects handed over to us for processing.

4.4 For the case that third parties assert claims to the secured property (irrespective of whether retained ownership, ownership by way of security or contractually pledged goods), the customer undertakes herewith to hand over to us all necessary documents and to reimburse any costs arising for us in connection with such claims.

5. Common provisions for retention of title and ownership by way of security

The following applies for deliveries and retention of title:

5.1 We are entitled to take immediate possession of the retained goods if the customer defaults in payment. The request for return of the retained goods does not constitute withdrawal from the contract unless we expressly declare this. We are entitled to sell the retrieved goods; we will set off the earnings from the sale, after deducting the costs of the sale, against the outstanding claims against the customer.

5.2 The customer is obliged to insure the retained goods adequately against fire and water damage and theft and to assign his claims against the insurer and the party liable for the damage to us in the event that we request him to do so.

5.3 The customer may only sell the retained items within the scope of a proper business transaction. As a precaution however, until payment of all of our claims against him, he herewith assigns to us any future claims against his buyer for receivables arising from the sale. The claims are assigned irrespective of whether the customer has processed the goods or not. The customer remains entitled to collect these receivables even after assignment. Our right to collect the receivables ourselves remains unaffected. However, we will not collect the receivables as long as the customer does not default on his payments. If the customer defaults on his payments or is insolvent (§§ 17, 19 InsO [German Insolvency Act]), we can demand that he provides us with information about the assigned claims and their respective debtors, informs us about all details necessary for collection, gives us the associated documents and informs the debtors of the assignment.

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5.4 If the customer processes or alters the retained goods, he does this on our behalf. The items resulting from the processing or alteration shall be deemed retained goods. When processing or altering with other items not belonging to us, we are entitled to co-ownership of the new object at the value of the share of the retained goods that were processed or altered in proportion to the value of the new item. The customer keeps the resulting ownership or co-ownership on our behalf.

5.5 If the retained items are inseparably mixed or combined with objects not belonging to us, we acquire the co-ownership of the new object in proportion to the value of the retained items to the other mixed or combined items at the time of mixing or combining. If the items are mixed or combined in such a fashion that the item belonging to the customer is viewed as the main item, then it is deemed agreed that the customer transfers a proportionate share of the ownership to us. The customer keeps the resulting sole ownership or co-ownership on our behalf.

5.6 If the retained goods are combined with a piece of land, the customer assigns to us the claims to which he is entitled as owner of the piece of land.

5.7 If the realizable value of the security to which we are entitled exceeds the value the secured claims by more than 10%, we undertake to release securities to the customer at our discretion.

5.8 The provisions in items 5.1 to 5.7 apply respectively for our ownership by way of security.

6. Delivery time

6.1 Particular performance deadlines and dates only apply if they have been expressly agreed in writing with the customer.

6.2 The delivery period starts on the date of our order confirmation, however not before all details relating to the execution have been clarified. Dates and deadlines can only be met if all documents to be supplied by the customer are received in good time. This applies especially to necessary permits, approvals and clarifications as well as the prompt fulfilment of the customer's obligation to cooperate.

6.3 Force majeure, strikes, circumstances beyond our control or beyond the control of our suppliers as well as unfavorable weather conditions which delay our performance extend the delivery or performance period by the duration of the impediment.

6.4 We are only liable for delays according to the provisions in item 11 (entitled compensation, reimbursement of expenses) of these General Sales, Delivery and Payment Conditions.

6.5 If delivery by a fixed date has been agreed, we shall be liable for damage according to the legal provisions.

6.6 If we default on our service, withdrawal on the part of the customer is only permitted if the customer had given us an appropriate respite period and declared after expiry of this period that he does not accept the delivery.

6.7 If the customer defaults on acceptance or violates other obligations to cooperate, we are entitled to demand compensation for damages caused to us including any additional expenses. In this case, the risk of accidental loss or deterioration will also pass to the customer.

7. Shipping, transfer of risk

7.1 We deliver ex works according to Incoterms. We make the delivery available for collection by the customer.

7.2 If we ship the goods, the risk passes to the customer at the latest when the goods are shipped. This applies irrespective of who bears the shipping costs. This also applies if members of our

staff carry out the transport.

7.3 If shipping is delayed due to circumstances for which we are not responsible, the risk passes to the customer on the day on which the goods are ready for shipping.

7.4 The customer shall bear the risks in the event that we follow shipping instructions given by him.

7.5 Goods that are ready for shipping must be collected without delay, at the latest on expiry of a period of ten days after the customer is notified of this. If they are not collected, we are entitled to choose between concluding a storage agreement with a storage company of our choice in the name of the customer and at his expense, or demanding storage fees according to § 354 HGB (German Commercial Code).

7.6 If we process the customer's own parts, the customer shall deliver the parts to us free of charge. The customer shall bear the risk of transport if the parts to be processed are collected by us on his request.

8. Defects

8.1 The customer must check the delivered goods immediately after receiving them and report any identifiable defects within a period of one week. Unidentifiable defects are to be reported within one week after becoming known. Notifications of defects must be made in writing. If the customer fails to report defects, the delivery is deemed accepted unless the defects were unable to be identified during the examination. In other cases §§ 377 et seq. HGB (German Commercial Code) apply.

8.2 Any further processing performed by the customer precludes any liability for defects in the goods processed by us that may be identifiable during reasonable checks and examinations carried out on delivery to the customer or to a third party commissioned by him unless we are found guilty of intent or gross negligence.

8.3 The customer is obliged to secure proof of the defects and give us the opportunity of checking it. If the customer fails to do so, the delivery is deemed accepted.

8.4 An insignificant difference to the agreed qualities or only minor impairment of usability does not constitute a defect.

8.5 We are not liable for provided parts and products from third parties. We are not liable for defects arising from the behavior of the material when processing supplied or provided parts.

8.6 If special requirements for quality are made (e.g. in terms of heat resistance, bending processes etc.), this is to be stated in writing in the order. Any warranty for these quality requirements is precluded if the specifications are missing. In particular, the dimensional accuracy of threads or similarly complex constructions is only guaranteed if there are exact specifications.

8.7 We are not liable for the consequences arising from any improper alterations or maintenance carried out by the customer or third parties. Furthermore, the customer has the burden of proving that the defects reported by him already existed at the time of transfer of risk.

8.8 We only guarantee the quality or the durability of the item in individual cases when agreed in writing. A contractually stipulated use is only considered if a written agreement was made about this.

9. Liability for defects (warranty)

9.1 Claims due to defects are initially limited to elimination of the defects or new delivery, as we see fit. In the case of contracts for work, we can choose to correct the defect or manufacture a new part. The customer is only entitled to claim further rights, especially a price reduction, if we are not willing or unable to remedy or supply a replacement or if this is unreasonable for the customer.

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9.2 The right to withdraw from the agreement because of defects is excluded if the fault is only insignificant. The right of withdrawal is also excluded if the performance rendered is usable in spite of the defect. The customer is not entitled to additional compensation in the event of withdrawal due to defects.

9.3 If the customer wishes to withdraw from the agreement, he must first give us a reasonable period of time in which to render performance and declare that he will reject the performance on expiry of the deadline.

9.4 If higher costs are incurred for the supplementary performance due to the fact that delivery is made to a place other than the residential address or the commercial registered office of the customer, we shall not bear the costs, especially transport costs and expenses, labour and material costs, unless such a delivery corresponds to the intended use.

9.5 The customer has statutory rights of recourse against us only in so far as the customer has not reached any agreements with his customer which go beyond the statutory claims for defects.

9.6 If the customer wishes to demand compensation due to defects, he must first give us a reasonable period of time in which to render performance and declare that he will reject the performance on expiry of the deadline.

9.7 For claims for compensation and reimbursement of expense, item 11 (entitled compensation, reimbursement of expenses) applies in all other respects. Any further-reaching claims due to defects, or claims other than those regulated in items 9 and 11, which the customer may make against us or our agents are excluded.

9.8 Claims due to defects lapse in twelve months. The period begins with the transfer of risk according to § 438 section 2 BGB. The above provisions do not apply if the law according to § 438 section 1 no. 2 BGB (items for buildings), § 479 section 1 BGB (recourse claim) and § 634 a BGB (building defects) defines longer periods. A shorter limitation period is also excluded if the defect has caused loss of life, bodily injury or damage to the health.

10. Liability and defects when carrying out work on or repairing parts or machines belonging to the customer

10.1 The following applies when carrying out work on or repairing parts or machines belonging to customer: If the parts being worked on cannot be rectified for technical reasons, we are only obliged to make a subsequent delivery (process the part again) if the customer supplies us with a respective replacement part for processing. We are not liable for the costs of this part due to the comparatively low value of our processing.

10.2 If the customer supplies us with parts for processing, he is obliged to insure these parts at their respective value, especially against theft, fire, water damage etc.

10.3 If parts delivered for processing are unusable due to faults in the material or other defects, the costs incurred for processing the parts are to be reimbursed to us.

11. Compensation, reimbursement of expenses

11.1 We are liable without limitation for intent and gross negligence in the case of a violation of contractual obligations or unlawful actions. For minor negligence, we are only liable if substantial obligations which result from the nature of the agreement are violated or if their violation jeopardizes the purpose of the agreement. In other respects, in the case of minor negligence, damage compensation claims by the customer, regardless of their legal ground, are excluded.

11.2 Compensation is limited to foreseeable damage typical of the contract; this does not apply in the case of intent.

11.3 In the case of gross negligence, our liability does not cover indirect consequential damage, especially financial loss due to interruption of business or lost profits. However, also in this respect, we are only liable to the extent to which we are insured (e.g. third party liability, product liability). We will provide the customer on request with a copy of the insurance certificate stating the extent of the insurance cover.

11.4 The limitation of liability in the preceding clauses does not apply for claims under the product liability laws as well as for loss of life, bodily injury or damage to health.

11.5 In the case of compensation claims due to defects, limitation of liability also does not apply if we have fraudulently concealed a defect or undertaken a quality guarantee. For compensation claims due to defects, the limitation periods for defects given in item 9.9 apply in all other respects.

11.6 All limitations of liability in this agreement also apply for our employees, bodies and agents. They also apply for compensation claims and reimbursement of expenses.

12. Applicable law, place of fulfilment, place of jurisdiction

12.1 German law applies. Excluding the principles on conflicts of law. German courts have exclusive international jurisdiction.

12.2 Place of jurisdiction is our registered office. We may also choose to bring charges against the contractual partner at his general place of jurisdiction.

12.3. Place of fulfilment for performance and consideration is our registered office.

13. Severability clause

If individual clauses of these terms and conditions are or become invalid, this does not affect validity of the remaining clauses.

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