

General Terms and Conditions of Business of Hermes Fassadenreinigung GmbH

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Hermes Fassadenreinigung GmbH (hereinafter referred to as "Seller") sells its goods only to commercial end consumers (hereinafter referred to as "Buyers"). The following general terms and conditions become part of the purchase contract. Conflicting, deviating terms and conditions of purchase or other restrictions of the Buyer shall not be recognised unless the Seller has expressly agreed in writing in individual cases.

1. Preamble

1. The following conditions are an integral part of the offers and the resulting orders and deliveries.
2. The following conditions shall apply to all present and future offers, orders and deliveries. At the latest with the order, the general terms and conditions are considered to have been accepted. Deviations and special agreements with employees of Hermes Fassadenreinigung GmbH shall only be valid if they are legally confirmed or if the order is executed by implication in accordance with the conditions agreed.
3. These terms and conditions may be amended or revoked by the Seller at any time by notifying the Buyer accordingly.

2. Offers and documents

1. All offers (in writing, by telephone or verbally) shall be subject to confirmation unless otherwise agreed in writing. The Seller shall endeavour to comply with the prices, quantities, qualities and delivery periods offered.
2. Technical documents such as drawings, descriptions, illustrations, diagrams and the like shall only be approximate; the Seller reserves the right to make any changes it deems necessary.
3. All technical documents shall remain the intellectual property of the Seller and may not be copied, duplicated or brought to the knowledge of third parties in any way, nor used for the production of the work or components. They may only be used for operation and maintenance purposes.
4. Technical documents relating to offers that do not lead to an order shall be returned immediately and may not be used under any title, either directly or indirectly.

3. Rules at destination

1. The Buyer shall draw the Seller's attention to the statutory, official and other regulations relating to the execution of the delivery, assembly, operation and prevention of illness and accidents.

4. Calculation / Prices

1. The Seller's prices valid at the time of delivery shall be invoiced, plus statutory value added tax. If not explicitly stated, the prices do not include deductions such as discounts, expenses or fees.
2. The order or order confirmation shall be decisive for the scope and execution of the delivery. Services which are not included therein shall be charged separately.
3. Should the Seller generally increase its prices in the period between conclusion of the contract and delivery, the Buyer shall be entitled to withdraw from the contract within a period of two weeks after notification of the price increase - unless the price increase is based exclusively on an increase in delivery / shipping costs. The right of withdrawal shall not apply to long-term supply contracts (continuing obligation contracts).
4. Special promotions and offers may be changed or terminated prematurely at any time without prior notice.

5. Payment

1. Unless otherwise stated on the Seller's invoices, the Seller's invoices shall be payable within 14 days of the invoice date. They shall be deemed accepted if no objection is raised within 10 days of dispatch.
2. In the event of late payment, a processing fee will be charged to the Buyer.
3. If the invoice amount is received by the Seller after 60 days, the Seller shall charge default interest of 5% p.a. above the base interest rate from the invoice date plus the processing fee.
4. For larger amounts from 20.000 € and special designs the following conditions apply: Down payment in the amount of 50% of the purchase price after receipt of the order confirmation and 50% as final invoice, payable 14 days after delivery / installation. Other terms of payment must be agreed in writing.

Warranty retentions shall not be permitted. In the case of partial deliveries, payment shall be made in accordance with the complete order.

5. The payment deadlines shall also be met if transport, delivery, assembly/installation, commissioning or acceptance of the delivery is delayed or rendered impossible for reasons for which the Seller is not responsible. It is inadmissible to reduce or withhold payments due to complaints, claims or counterclaims of the Buyer not recognised by the Seller. Payments shall also be made if insignificant parts are missing but this does not make it impossible to use the delivery or if reworking of the delivery proves necessary.
6. If exceptionally extended payment periods have to be granted to the Buyer, it shall pay interest of 5% p.a. above the base rate for payments still outstanding after completion of the delivery by the Seller.
7. If the Buyer does not comply with agreed payment dates, it shall pay default interest at a rate of 5% p.a. above the base interest rate from the due date without special reminder. The payment of interest on arrears does not cancel the obligation to pay in accordance with the contract.
8. If there are justified doubts as to the solvency or creditworthiness of the Buyer and if the Buyer is not prepared to pay in advance or to provide suitable security for the performance incumbent upon it despite being requested to do so, the Seller shall be entitled to withdraw from the contract.
9. Payments shall only be deemed to have been effected when the amount is finally available on an account of the Seller.

6. Delivery

1. The Seller shall at all times endeavour to deliver as quickly as possible. Fixed delivery periods do not exist.
2. If a fixed delivery date has been agreed which deviates from this, the Buyer shall set a reasonable period of grace in the event of a delay in delivery. This is usually four weeks.
3. If delivery on call has been agreed, the goods shall be called at the latest 3 months after the agreed date of readiness. After this period the Seller shall be entitled to demand full payment and to invoice the costs for further storage and possible repair of standstill damages.
4. The day of delivery shall be the day on which the goods leave the factory or a warehouse. If this day cannot be determined, the day on which it is made available to the Buyer shall apply.
5. The Buyer has no claim to damages or dissolution of the contract due to delay in delivery. A contractual penalty for late delivery shall require a special written agreement.

7. Dispatch

1. The Seller reserves the right to choose the dispatch route and the mode of dispatch. The costs for delivery and dispatch are to be taken from the separate dispatch / delivery cost information.
2. Additional costs caused by special shipping requests of the Buyer shall be borne by the Buyer. The same shall apply to any increase in freight rates occurring after conclusion of the contract, any additional costs for diversion, storage costs, etc., unless freight-free delivery has been agreed.
3. The risk of destruction, loss or damage of the goods shall pass to the Buyer upon dispatch of the goods or, in the case of collection by the Buyer, upon their provision.

8. Force majeure, contractual obstacles

1. Force majeure of any kind, unforeseeable operational, traffic or shipping disruptions, fire damage, floods, unforeseeable shortages of labour, energy, raw materials or supplies, strikes, lockouts, official orders or other hindrances for which the Seller is not responsible which reduce, delay, prevent or make unreasonable the production, shipment, acceptance or consumption shall release the Seller from the obligation to deliver or accept the goods for the duration and extent of the disruption. If delivery and/or acceptance is exceeded by more than eight weeks as a result of the disruption, both parties shall be entitled to withdraw from the contract. In the event of partial or complete discontinuation of the Seller's sources of supply, the Seller shall not be obliged to obtain supplies from third-party suppliers. In this case, the Seller shall be entitled to distribute the available quantities of goods taking into account its own requirements.

9. Retention of title

1. The goods shall not become the property of the Buyer until the latter has fulfilled all its obligations arising from the business relationship with the Seller, including ancillary claims, claims for damages and redemption of credit notes. The retention of title shall also remain in effect if individual claims of the Seller are included in a current invoice and the balance is struck and acknowledged.

2. The Seller shall be entitled to demand the return of the reserved goods from the Buyer without setting a grace period and without withdrawing from the contract if the Buyer is in default with the fulfilment of its obligations towards the Seller. The taking back of the reserved goods shall only constitute a withdrawal from the contract if the Seller expressly declares this in writing. If the Seller withdraws from the contract, it may demand reasonable remuneration for the duration of the transfer of the use of the goods. All costs arising from the return of the goods shall be borne by the Buyer.
3. The Buyer shall be obliged to carefully store the reserved goods for the Seller, to maintain and repair them at its own expense and to insure and protect them at its own expense against loss and damage within the scope to be demanded from a careful businessman. It thereby assigns its claims from the insurance contracts in advance to the Seller.
4. The Buyer shall be obliged to immediately notify the Seller in writing of any access by third parties to the items subject to retention of title.

10. Obligations to inspect, give notice of defects and check

1. The Buyer shall inspect the goods immediately after receipt and notify the Seller in writing of any existing defects immediately, at the latest within 7 days of receipt. Hidden defects shall be notified in writing within 3 working days of their discovery.
2. The timely dispatch of the notice of defects shall suffice to comply with the above deadlines.
3. If the Buyer does not fulfil its obligations to inspect the goods and give notice of defects in accordance with Clause 1 or does not do so in good time, the goods shall be deemed to have been approved. To the extent that the goods are deemed to have been approved, the Buyer may no longer assert any warranty rights for defects against the Seller.

11. Compensation

1. Claims for damages of the Buyer - also of an extra-contractual nature - shall be excluded in the event of negligent breach of duty on the part of the Seller, the executive employees and other vicarious agents of the Seller.
2. The Seller shall only be liable for indirect damages as well as for damages not foreseeable at the time of the conclusion of the contract if there is gross negligence on the part of the Seller or an executive employee of the Seller.

12. Quality of the goods

1. The quality of the goods shall in principle only be deemed to be the quality described in the Seller's product descriptions, specifications and markings. Public statements, praise or advertising do not represent any information on the quality of the purchased item.

13. Detergents

1. The Seller's technical advice, whether verbal, in writing or by way of trials, shall be given to the best of its knowledge, but shall be deemed to be non-binding advice only. All details and information on the suitability and application of the Seller's goods shall not release the Buyer from the obligation to carry out its own tests and trials on the suitability of the products for the intended processes and purposes. Application, use and processing of the products take place outside the control of the Seller and shall therefore be the sole responsibility of the Buyer.
2. The safety data sheets and technical data sheets of the respective detergents of the Seller must be read before use. Application instructions and safety precautions contained therein shall be observed and implemented.
3. The Buyer shall check by trial processing or trial run (creation of a trial area) whether the delivered goods are suitable for the intended use. This applies in particular if the materials are diluted or components are added.
4. The Seller shall not be liable for any damage caused by its detergents. Obligations and liability shall be incumbent on the respective user, as are proper storage and transport. The current valid guidelines are to be observed by the Buyer.
5. Furthermore, the Seller does not recommend cleaning facades below 5° Celsius outside temperature and accepts no liability for any damage that may occur. The same applies to the cleaning process, which is recommended with a maximum water temperature of 50° Celsius.
6. The resale of the detergents to commercial end users by the Buyer shall only be permitted with the written permission of the Seller. Sale to end customers shall be prohibited.

14. Cleaning technology

1. If the cleaning technology is installed by the Seller, the Buyer shall be obliged to ensure that all construction work and preparations have been carried out before the start of installation and that installation is possible.
2. If the installation is delayed or interrupted due to circumstances which the Seller is not responsible for, the additional expense shall be charged additionally.
3. If the Buyer uses detergents which do not originate from the Seller, the Seller does not assume any guarantee and is not liable for damages to the technical equipment and devices.
4. The Seller recommends the additional products HERMES® Wasserrein HWR and HERMES® Fassadenrein EX for the unrestricted and perfect functioning of the technical systems. Further information can be found in the Seller's technical instructions.
5. If the Seller also undertakes the installation or assembly of the technical equipment, the "Installation Conditions" valid at the time of the contract shall apply.
6. If flat-rate installations are agreed, this price shall only include the material specified in the order confirmation and the working time specified therein. Additional services shall be charged separately by the Seller according to expenditure.
7. The Seller assumes no liability for the installation. The stability, including the bolted connections of the technical equipment to the body parts, shall be checked regularly and tightened if necessary. The Buyer shall be liable for securing the load.
8. The Seller shall not be liable for damages arising from its technology. The liability shall be with the respective Buyer and/or its user.

15. Return of goods

1. No goods will be taken back by the Seller due to non-use.
2. If, as a gesture of goodwill, the detergents are taken back, the Seller will only take them back unopened and undamaged, i.e. in a reusable condition, in their original packaging with the original closure. The Seller shall always expressly agree to the return and the material shall not be older than 2 weeks (from the time of delivery).
3. The costs of taking back/redelivering the detergents shall always be borne by the Buyer. A credit note for returned material can only be issued after the material has been inspected by the Seller. For all returns, a deduction of 15 % of the net value of the goods, but at least € 25.00, will be made for expenditure / re-storage.

16. Warranty terms

1. Benefit and risk shall pass to the Buyer at the latest upon handover of the delivery or installation from the Seller. If dispatch or installation is delayed or rendered impossible for reasons for which the Seller is not responsible, the goods shall be stored at the expense and risk of the Buyer.
2. The Buyer shall expressly assert warranty claims as such. The Seller undertakes to repair or replace as quickly as possible in its workshops the systems and equipment or all parts and components that become defective or unusable during the warranty period as a result of bad material, faulty design or defective workmanship.
3. An exchange against a new device or the return with refund of the purchase amount shall not be possible.
4. Transportable equipment shall be sent to the Seller carriage paid.
5. Parts temporarily made available shall be the property of the Seller and shall be returned upon request, at the latest, however, after repair and dispatch of the original parts.
6. Any liability for claims for damages, in particular as a result of direct or indirect damage as well as for expenses and assembly costs, shall be excluded.
7. Packaging, dismantling and installation costs, travel or transport costs shall be charged to the Buyer from the third month after commissioning. There shall be no entitlement to conversion or reduction. Any further claim of the Buyer due to defective delivery, in particular for damages and dissolution of the contract, shall be excluded.
8. The warranty period for the technical equipment shall be 24 months. For all other devices 12 months. It shall begin with the dispatch of the delivery ex works. The warranty period for spare parts shall be 6 months after installation / replacement by the Seller. Special systems and constructions as well as high-pressure hoses shall be excluded from the warranty.

9. Wear parts (e.g. impellers, nozzles, etc.) as well as damage due to natural wear and tear, inadequate maintenance, improper use, non-compliance with operating instructions, incorrect handling, excessive strain, unsuitable operating materials, chemical or electrolytic influences, improper installation and assembly work not carried out by the Seller, external influences such as vandalism, natural disasters, environmental influences, fire, atmospheric influences, use of accessories not previously manufactured or authorised by the Seller and/or spare parts not previously manufactured or authorised by the Seller, performance of installations, repairs or conversions and extensions to equipment by an unauthorised third party, as well as other reasons for which the Seller is not responsible shall also be excluded from the warranty.
10. The warranty shall expire if the Buyer or third parties carry out modifications or repairs to the delivery without the Seller's written consent; furthermore, if the Buyer does not immediately take suitable measures so that the damage does not increase, and the Seller can remedy the defect.
11. In the case of third-party deliveries, the Seller shall only assume warranty within the framework of the guarantee obligations of the subcontractor.

17. Data protection

1. The Seller shall be entitled to process the data about the Buyer received with regard to the business relationship or in connection therewith, regardless of whether this data originates from the Buyer itself or from third parties, within the meaning of the Federal Data Protection Act.

18. Effectiveness, place of performance and jurisdiction

1. The general terms and conditions shall be binding. Any other terms and conditions of the Buyer shall only be valid if expressly confirmed by the Seller in writing.
2. Should individual clauses of these general terms and conditions be invalid in whole or in part, this shall not affect the validity of the remaining clauses or the remaining parts of such clauses. The parties shall replace an ineffective provision by a provision that comes closest to the economic purpose of the ineffective provision and is effective.
3. German law shall apply, other provisions of the law of the European Community or the UN Convention on Contracts for the International Sale of Goods shall be excluded.
4. The place of performance and for all disputes arising from the contractual relationship between the Seller and the Buyer shall be the place of jurisdiction of the Seller's headquarters.