

General Terms and Conditions of Ludwig Zenger Industrie-Service GmbH

§ 1 Definitions / scope of application

1. Within the context of these terms and conditions, the following definitions shall apply:

'terms and conditions', 'T&Cs'	= the following General Terms and Conditions of Ludwig Zenger Industrie-Service GmbH
'we', 'our'	= Ludwig Zenger Industrie-Service GmbH
'customer'	= any entrepreneur within the meaning of sections 14, 310 of German Civil Code [Bürgerliches Gesetzbuch, BGB] for whom we carry out deliveries and/or perform services, irrespective of their legal status.
'recipient'	= any consumer or entrepreneur within the meaning of sections 13, 14 BGB who receives deliveries and/or services, irrespective of whether or not this party commissions us or is specified as recipient by the customer.
'consignment', 'good', 'goods'	= the goods to be warehoused, picked and packed or otherwise handled, constructed or transported by us or one of our vicarious agents on the basis of a verbal, written or otherwise concluded agreement or on the basis of quasi-contractual legal relationship.

2. These T&Cs apply for all services performed by us or by third parties commissioned by us on the basis of orders received.

3. Mandatory statutory provisions, in particular those of German Commercial Code [*Handelsgesetzbuch, HGB*], shall have priority over these T&Cs. If the customer is an entrepreneur within the meaning of section 14 of German Civil Code [*Bürgerlichesgesetzbuch, BGB*], the German Freight Forwarder's Standard Terms and Conditions [*Allgemeinen Deutschen Spediteurbedingungen, ADSp*], in the most recent and valid version, shall have priority over the provisions of the HGB and these T&Cs, if we perform freight forwarding, carriage or warehousing services or any other services for customers common to the forwarding trade. These include in particular the logistics services commonly provided by freight forwarders in connection with the carriage and storage of goods (section 2.1. ADSp). The ADSp are not applicable for contracts that deal exclusively with packaging. Our T&Cs apply exclusively for such contracts.

§ 2 Coming into effect of contracts

1. Our quotes are non-binding and are subject to the availability of quoted capacities and the prompt performance of services by our upstream suppliers at the prices shown. A contract comes into being upon our acceptance of your order by way of verbal, written or electronic confirmation of order. We reserve the right to reject orders at any time and without stating reasons for doing so.

2. All terms and conditions that contradict our T&Cs and/or verbal ancillary agreements shall only apply if we expressly declare our acceptance of these in writing. This shall also apply for all future orders.

3. The services that we offer are calculated on the basis of a weekly working time of 40 hours. Any overtime, nightshift work or work on Sundays or statutory bank/public holidays is to be remunerated separately and will be invoiced separately.

§ 3 Goods excluded from transport

Contracts may not be concluded with us for the transport of the goods listed below and such goods are excluded from transport, storage or the performance of other logistics services:

- goods that may not be transported or stored due to statutory or regulatory prohibitions or that contravene statutory or regulatory prohibitions due to their content or external configuration,
- perishable goods and temperature-controlled goods,
- firearms and essential components of firearms, as well as ammunition and explosives, dangerous goods of all kinds,
- valuable goods, such as money, cheque cards, credit cards, lottery tickets, valid postage stamps, valid telephone cards, currency or securities, precious metals and gemstones, jewellery, watches and clocks, pearls, art and collectors' items, antiques, unique items and other precious objects.

Exceptions from this exclusion from transport will require express written agreement.

2. In addition to the exclusions specified above, goods with a value of more than € 5,000.00 will only be accepted by us with our express agreement.

3. Size and weight limits for goods may vary from quote to quote. More information will be issued upon request.

4. The transport and storage of all classes of dangerous goods shall be subject to our express prior consent and shall only be permitted if these goods comply with the technical regulations for the safe transport and storage of dangerous goods.

§ 4 Specification of services

1. The type and scope of the services to be performed by us is dependent on the scope of services selected by and contractually agreed with the customer.
2. Insofar as not expressly agreed, the observance of a specific delivery deadline is not part of the service. Taking into consideration the interests of the customer, we reserve the right to select type, route and means of service and to commission subcontractors for the performance of services. If specific completion and/or delivery deadlines have been agreed, these shall be binding, insofar as all information, documentation and/or materials required for the performance of services have been promptly supplied to us by the customer. If these prerequisites have not been fulfilled, the delivery deadline shall be extended accordingly. Partial deliveries are permissible and shall be considered an independent transaction.
3. Insofar as we have been contracted for the transport of consignments, we reserve the right to forward these consignments ourselves or commission a carriage, freight forwarding or express courier company to transport these consignments. We can select the type of transport and transport route at our own reasonable discretion. The risk of damage to goods is transferred to the customer upon loading of the vehicle. The customer hereby agrees that the consignments to be transported to us may also be surrendered to a recipient if it can be assumed from the circumstances that this person is entitled to receive the consignment. This includes in particular the employees of the customer or third parties at the premises of the customer declaring themselves willing to accept the consignment at the time of delivery. In the case of warehoused goods, the customer can demand the release of these goods at an agreed time. If a time has not been agreed in advance, the customer is entitled to demand the release of the goods within a reasonable period, not before 24 hours.
4. We are entitled to store warehoused goods in collective storage. In the case of packaged goods, we are only obliged to inspect the packaging for external damages upon placing into storage. We are not obliged to inspect the content or quantity/volume upon receipt of the goods.
5. We shall label the goods surrendered to us in such a way so as to ensure that clear identification is possible, in particular so that the customer and recipient are identifiable. Goods to be placed in storage are to be packaged in such a way so that they are protected against loss or damage and so that no damage can be incurred during transport or warehousing, also to third party consignments. If goods do not comply with the above regulation, we may refuse to store or transport goods or return an already accepted consignment to the customer and/or hold this for collection by the customer.
6. The customer shall provide us promptly, correctly and in full with all information required for the warehousing and/or transport of goods and/or for all other services to be performed.

§ 5 Prices / remuneration / data

1. The remuneration due to us shall be based upon the prices shown in our quote, with any additional surcharges, customs duties and VAT payable separately and shown separately on the invoice. If remuneration is dependent on weight, prices will be calculated on the basis of actual

weight or volumetric weight, whichever is the greater. The prices and remuneration shown in our quotes shall be binding for 14 days and apply ex our registered office. Amendments due to a lack of available capacities may lead to amendments to prices.

2. Payment of our remuneration by the customer shall be due 8 days after receipt of invoice.

3. We are entitled to collect, archive and process the data provided to us by the customer or by the recipient of the consignment in connection with the contract with us. We will use all personal data in compliance with the applicable data protection provisions and regulations. We use electronic means for the receipt, acceptance and confirmation of orders, as well as for verification purposes, and therefore archive all data pertaining to order acceptance, order execution and consignment in digitalised form. For the purpose of the performance of services, we are entitled to pass on this data to the extent necessary to other companies and third parties, in particular transport services providers, and permit these parties to use this data for the performance of contract.

§ 6 Reservation of ownership

1. We reserve the right of ownership to all goods manufactured or processed by us until the receipt of all payments due from contractual relations concerning the goods. In cases of breach of contract by the customer, in particular default in payment, we are entitled to withhold goods or, if goods have already been delivered, recall the goods.

2. In the event of distraint or other interventions by third parties, the customer is obliged to inform us immediately in writing.

3. The customer is entitled to sell the goods on during the regular course of business; however in this case he shall assign to us, up to the amount of the final invoice sum (incl. VAT) of our claim, all claims that he accrues against his purchaser or against third parties as a result of the selling on of the goods, irrespective of whether the goods were sold on without or after processing. The customer shall remain empowered to enforce his claims, even after assignment. Our authority to enforce the claim ourselves shall not be affected. However, we shall not enforce the claim if the customer meets his payment obligations from the income generated, does not fall into default in payment and in particular if no application is submitted for the opening of insolvency proceedings or bankruptcy. If one of the above conditions exists, we can demand that the customer notifies us of the assigned claims and their debtors, provides us with all information required for collection, issues us with all corresponding documentation and notifies the debtors (third parties) of the assignment.

4. We shall release all collateral furnished to us at the request of the customer to the extent that the realisable value of the collateral held by us exceeds the secured claims by more than 10%; we shall select the collateral to be released.

§ 7 Liability / guarantee

1. We guarantee that we shall perform services in accordance with the agreement and the latest technology. Our guarantee shall only cover errors that occur when goods are used as intended

in accordance with contract. In principle only the details contained in our confirmation of order shall be considered to be specification of quality. The customer shall be liable with regard to intended purpose of use. We shall only offer guarantees or warranties of quality and characteristics within the confines of the written contract. Insofar as products are manufactured by us, we assume no guarantee that these are usable and compatible with other products of the customer or the recipient or of other third parties without failure of impairment.

2. If products manufactured by us must be accepted pursuant to statutory or contractual provisions, acceptance shall take place after completion of the goods in our factory, unless otherwise expressly agreed in writing. All defects discovered during the acceptance procedure are to be documented. Merely insignificant defects that do not impair the fitness for use of the goods shall not lead to a refusal of acceptance. The putting into use of the goods without reservation shall be considered acceptance.

3. The services performed by us are to be accepted immediately. If defects become apparent, the purchaser shall report these immediately, at the latest however within five working days. The same shall apply to deviations to items and quantities/volumes and in cases of latent defects as of discovery of the defect within the guarantee period. If an inspection of a notification of defects reveals that there is no claim under guarantee, we may charge the customer the cost of the inspection at the standard rates.

4. In the event that we are responsible for the organising or carrying out of transport of the goods, goods are to be inspected immediately upon receipt for transport damage and the result of this inspection is to be documented in detail on the carriage note or other delivery documentation and reported to us.

5. Our liability with respect to the transportation and/or storage of goods is based on section 23-27 of the German Freight Forwarder's Standard Terms and Conditions 2016 [*Allgemeinen Deutschen Spediteurbedingungen, ADSp*]. Liability for damage to goods is limited to 8.33 special drawing rights per kilogram of gross weight or to two per kilogram if a transportation contract has been concluded for multi-modal carriage, including sea transport.

If our liability exceeds €1 million per case of damages, liability is further limited, per case of damages, to a maximum of €1 million or two special drawing rights per kilogram, depending on which amount is higher.

For damage other than to goods, with the exception of damage to warehoused goods, personal injury and material damage to third-party goods, we are liable for up to three times the amount that would be due in the case of loss of the goods pursuant to section 23.3.1. or 23.3.2. ADSp 2016, up to a maximum of €100,000.00 per case of damages. In addition, the maximum liability stipulated in section 23.5 ADSp 2016 applies.

In the case of storage of goods, we are liable for damage to goods in accordance with section 431 para. 1, para. 2 and 4 of the German Commercial Code [*Handelsgesetzbuch, HGB*] for 8.33 special drawing rights per kilogram, up to a maximum of € 25,000.00 per case of damages. If the claim is based on the difference between nominal and actual inventory, our liability is limited to €50,000.00 per year, irrespective of the number and type of inventories carried out and the number of cases of damages causing the inventory discrepancy.

Liability for damage other than to goods, with the exception of personal injury and material damage to third-party goods, is limited for warehoused goods to a sum of €25,000.00 per case of damages. Furthermore, our liability—with the exception of personal injury and material damage to third-party goods—is limited for warehoused goods to a sum of €2 million per damage event in accordance with section 24.4 ADSp 2016.

The liability regulations in sections 25 to 27 ADSp 2016 apply in all other respects.

6. In the case of goods manufactured by us for customers, we shall initially provide services under guarantee in the form of either subsequent improvement or replacement delivery, at our own discretion. If subsequent fulfilment is unsuccessful, the customer may demand either a reduction in price or withdrawal from the contract. However, the customer shall not be entitled to withdraw from the contract if there are merely insignificant defects. If, after a failed attempt at subsequent fulfilment, the customer enforces claims to compensation for damages, the customer shall retain the goods, insofar as this is reasonable for the customer. Compensation shall be limited to the difference between the purchase price and the value of the defective goods. Compensation for consequential damages resulting from defects is excluded. This shall not apply if the breach of contract was fraudulent or wilful.

7. The exclusion or limitation of liability pursuant to the above provisions shall not apply to damages resulting from loss of life, personal injury or injury to health caused by a breach of duty by us, by our legal representatives or by our vicarious agents.

§ 8 Insurance

We hereby assure that goods surrendered to us for treatment or processing will be handled and treated with care, however we require that the party placing the order puts in place an insurance policy against breakages, transport to and from, theft, storm damage, water damage and damage by fire.

§ 9 Limitation of action / rights of lien

1. Claims of the customer to compensation for damages and on grounds of material damage caused by goods manufactured by us for the customer shall be subject to a limitation period of one year, starting at the time of delivery of the goods/acceptance of services to/by the customer.
2. We shall have a right of lien over all goods surrendered to us in respect of all contractually-based claims and all undisputed claims from other warehousing, freight and/or logistics contracts concluded with the customer. Sections 440 and 475 b HGB shall apply.

§ 10 Miscellaneous / place of jurisdiction / place of performance

1. With the exception of monetary claims, the customer shall not be permitted to assign or pledge claims he may have against us. Claims of the customer may only be offset against our claims if such claims are res judicata or not in dispute.

2. Insofar as the customer is a businessman, a legal entity under public law or a special fund under public law, the exclusive place of jurisdiction shall be Kerpen.
3. The place of performance for deliveries and payments shall be Kerpen.
4. The law of the Federal Republic of Germany shall apply to all future legal relations between the customer and us under exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
5. In the event of force majeure, such as natural catastrophes, civil unrest, strikes, lockouts, delays to deliveries by third parties and other unforeseeable, unavoidable or adverse events, we shall be released from our contractual obligations for the duration of such disruptions and to the extent of their effects, insofar as the disruption to performance is attributable to such events.
6. In the event that an individual provision of these T&Cs is or should become ineffective, this shall not affect the validity of the other provisions contained herein. The ineffective provision shall be replaced by the provision that comes closest to fulfilling its purpose.
7. Contractual provisions are only valid in written form. Amendments and supplements to contractual agreements and to these T&Cs shall only be valid if documented in writing. The same shall apply for deviations to this requirement for written form.