

# Terms & Conditions

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## | General Terms & Conditions (AGB)

General Purchase and Business Terms of cycleWASH, Köln. Terms governing all purchase contracts for a bicycle washing machine concluded with cycleWASH – hereinafter "Provider" – and private or commercial customers – hereinafter "Customer". As of 09/2021

### §1 Scope of Application, Definitions

(1) The following terms and conditions, in the version valid at the time of the order, apply exclusively to the contractual relationship between cycleWASH (hereinafter "Provider") and the Customer (hereinafter "Customer"). Deviating conditions of the Customer are not recognised unless the Provider expressly agrees to them in writing.

(2) A Customer is a consumer insofar as they conclude a legal transaction for purposes that are predominantly neither commercial nor self-employed. A business is any natural or legal person or partnership with legal capacity that acts in the exercise of its commercial or self-employed professional activity when concluding the contract.

### §2 Conclusion of Contract – Purchase and Maintenance

(1) The presentation of goods and services in offers does not constitute a binding offer by the Provider to conclude a contract. Our offers to businesses are non-binding. Product descriptions in offers serve solely as an invitation to submit a purchase offer. Technically necessary or appropriate changes to our products are reserved. Dimensions, illustrations, and drawings serve solely for preliminary information and are only binding upon written confirmation by the Provider.

(2) By placing an order, the Customer submits a binding offer to conclude a purchase contract. Whether the Provider accepts the order is at its sole discretion. If the Provider will not fulfil an order, it will notify the Customer without delay. Acceptance is effected by delivery of the goods or written order confirmation.

(3) The Provider reserves the right to correct errors. If its offer or order confirmation contains typographical or printing errors, or if its pricing was based on a technical transmission error, it is entitled to rescind, provided it can prove the error to the Customer. Payments already made will be refunded immediately.

(4) The Provider's offers to businesses are always non-binding. Prices are ex works including packaging. The Provider reserves the right to adjust prices to the extent that cost reductions or increases occur due to changes in material prices after the contract is concluded.

### §3 Maintenance Contract

Upon conclusion of a purchase contract for a new bicycle washing machine, the Customer also enters into a separate maintenance contract with the Provider for a minimum period of two years. The maintenance contract covers maintenance and servicing work and is to be remunerated separately. Details are set out in the maintenance contract.

The Customer is obliged to operate and maintain the bicycle washing machine exclusively in accordance with the operating and maintenance instructions provided. The Customer shall keep a maintenance and care log as well as an operations manual. These documents must be made available to the Provider at any time upon request.

Failure to maintain the log or manual accurately and completely will result in the loss of warranty and guarantee rights.

### **§3 Delivery, Product Availability**

(1) If no units of the Customer's chosen product are available at the time of ordering, the Provider will notify the Customer of this in the order confirmation without delay. If the product is permanently unavailable, the Provider will not issue an acceptance declaration and no contract will be formed.

(2) If the ordered product is only temporarily unavailable, the Provider will communicate the expected delivery time in the order confirmation. If the delay exceeds two weeks, the consumer has the right to withdraw from the contract. The Provider may also withdraw in such a case, in which case any payments already made will be refunded immediately.

(3) For businesses, additionally: (a) Delivery is subject to availability; delivery times are non-binding; partial deliveries are permitted. (b) In the event of delivery delay, the Customer may only withdraw after setting an appropriate grace period. (c) Damages for non-performance or delayed delivery are excluded. (d) In any case, damage claims are limited to the goods value of the disputed delivery.

### **§4 Retention of Title**

(1) Delivered goods remain the property of the Provider until full payment is received.

(2) Prior to transfer of title, pledging, assignment by way of security, processing, or modification without the Provider's written consent is not permitted.

(3) The Customer hereby assigns to the Provider all claims and rights against third parties arising from resale, processing, combining, or mixing of the goods, including all ancillary rights. All claims against a third party pass to the Provider immediately and in full upon their creation.

(4) If third parties seize the goods subject to retention of title, the Customer must immediately inform the third party of the Provider's rights and notify the Provider in full. The Customer shall bear the costs of any intervention by the Provider.

(5) The Customer shall inform the Provider at all times of the whereabouts of goods subject to retention of title for as long as claims remain outstanding.

(6) The Customer shall store goods subject to retention of title properly and carefully, and insure them sufficiently against loss and damage. The Customer bears the risk of loss, damage, and destruction of the reserved goods.

(7) For businesses additionally: Goods remain the Provider's property until all claims from the business relationship are settled in full. Processing, combining, or mixing extends the retention of title to the resulting items. The Provider is the manufacturer within the meaning of § 950 BGB.

### **§5 Prices, Collection, Transport and Transfer of Risk**

(1) All prices on the Provider's website are ex works (EXW delivery per Incoterms). For customers with a delivery address in Germany, prices are inclusive of applicable German VAT. For customers with a delivery address outside Germany, prices are VAT-free; any tax due in the destination country (e.g. import VAT, acquisition tax for intra-EU purchases, or an equivalent local tax) is the Customer's own responsibility to pay there. The Provider makes the goods available ready for transport. The Customer is responsible for collection and transport of the goods from the factory and bears all related costs.

(2) Risk passes to the Customer as soon as the consignment has been handed over to the carrier or has left the Provider's warehouse for handover. The Provider assumes no warranty arising from shipping instructions. Packaging is not taken back; the Customer must dispose of packaging at their own expense in accordance with applicable regulations.

### **§6 Payment Terms, Advance Payment**

(1) Unless otherwise agreed in a written contract between the Provider and the Customer, after order confirmation the Customer shall pay the Provider 100% of the total purchase price (plus statutory VAT for deliveries within Germany; VAT-free for deliveries outside Germany per § 5(1)) as an advance payment before delivery of the goods. The Provider has a right of retention and withdrawal until full payment is received. If the advance payment is not received within one month of the order confirmation, the contract becomes void unless otherwise agreed.

(2) Set-off against counterclaims is excluded unless they have been legally established or are undisputed between the parties.

(3) Bills of exchange and cheques are not accepted as means of payment.

(4) The Provider will notify the Customer when goods are ready for collection. The Customer must collect the goods within 14 days of receipt of the readiness notice. If collection does not occur within this period, the Provider may charge storage fees of 0.1% of the net value of the delivery per day commenced, up to a maximum of 5%.

(5) In the event of payment default, all claims from the business relationship become due immediately, even if deferred.

### **§7 Material Defect Warranty, Notice of Defects, Guarantee**

(1) The Provider is liable to consumers for material defects in accordance with applicable statutory provisions, in particular §§ 434 et seq. BGB.

(2) An additional guarantee exists for goods delivered by the Provider only if this has been explicitly stated in the order confirmation for the respective item.

(3) For businesses additionally:

- (a) The Provider warrants defect-free quality of goods ex works. The Customer must inspect delivered goods immediately upon receipt for any defects, including accessories and spare parts.
- (b) The goods must be stored properly at a suitable location, protected against frost, weather, loss, and damage. Defect notices must be raised immediately, at the latest within 7 days of receipt. The Customer bears full burden of proof that the defect existed at the time of transfer of risk.
- (c) If a defect notice is timely and valid, the Provider will take back the defective parts and replace them free of charge, subject to availability. The Provider may alternatively refund the purchase price.
- (e) Further claims such as reimbursement of transport, travel, labour, material, or other costs incurred without the Provider's express consent are excluded.
- (f) Warranty claims become statute-barred at the latest 6 months after delivery of the goods.
- (g) The Customer bears the risk for as long as they are in possession of the goods.
- (h) Inspections and maintenance of the bicycle washing machine must be carried out by the Customer at regular intervals in accordance with item 4 of the operating and maintenance instructions provided.

Important: Failure to observe the prescribed inspection and maintenance intervals will result in the loss of warranty and guarantee rights. Warranty and guarantee do not cover normal wear of consumable parts and consumable assemblies of the bicycle washing machine.

### **§8 Liability**

(1) Claims by the Customer for damages are excluded. Excepted from this are claims for damages arising from injury to life, body, or health, or from the breach of essential contractual obligations (cardinal duties), as well as liability for other damages caused by intentional or grossly negligent breach of duty by the Provider, its legal representatives or agents. Essential contractual obligations are those whose fulfilment is necessary to achieve the purpose of the contract.

(2) In the event of breach of essential contractual obligations, the Provider is only liable for the contractually typical, foreseeable damage if caused by simple negligence, except in cases of injury to life, body, or health.

(3) The limitations in paragraphs 1 and 2 also apply in favour of the Provider's legal representatives and agents if claims are brought directly against them.

(4) The provisions of the Product Liability Act remain unaffected.

### **§9 Cancellation Terms**

For businesses additionally:

If the Customer withdraws from the contract after conclusion but before manufacture commences, the Provider is entitled to demand 15% of the purchase price as a cancellation fee, while reserving the right to claim higher actual damages.

If the Customer withdraws from the contract after conclusion and during manufacture, the Provider is entitled to demand 20% of the purchase price as a cancellation fee, while reserving the right to claim higher actual damages.

The Customer may demonstrate that the breach attributable to them caused no damage, or a lesser damage, or that the loss to the Provider is substantially lower than the above flat rate.

### **§10 Data Processing**

(1) The Provider collects Customer data in the course of processing contracts, complying with the provisions of the Federal Data Protection Act and the Telemedia Act. Without the Customer's consent, the Provider will only collect, process, or use the Customer's data to the extent necessary for processing the contractual relationship and for the use and billing of telemedia.

(2) Without the Customer's consent, the Provider will not use the Customer's data for advertising, market research, or opinion polling purposes. Further legal information is available in our Privacy Policy.

### **§11 Final Provisions, Jurisdiction, Severability Clause**

(1) Contracts between the Provider and Customers are governed by the law of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).

(2) If the Customer is a merchant, a legal entity under public law, or a special fund under public law, the place of jurisdiction for all disputes arising from contractual relationships between the Customer and the Provider is the Provider's registered office.

(3) The contract remains binding in its remaining parts even if individual provisions are legally invalid or individual parts of the contract are contradictory. Instead of the invalid provisions, regulations shall apply that come closest to the intent of the parties and the purpose of these terms. Otherwise, statutory provisions apply.