

§ 1 Scope

These General Terms and Conditions shall apply to all contracts concluded with LanguageWire GmbH (hereinafter referred to as "LW GmbH") by a contracting party with respect to localisation, globalisation and Internet services unless expressly otherwise agreed. They shall take precedence over all terms and conditions of the contracting party, even if this is expressly excluded in the General Terms and Conditions of said party. This shall be deemed as recognised by the contracting party upon contract conclusion.

§ 2 Conclusion of a contract

Orders shall be binding only if the contracting party has accepted in writing a written quotation submitted beforehand by LW GmbH. In the sense of this provision, in writing shall also be deemed to include a statement sent by fax or e-mail.

§ 3 Terms of payment

Payments shall be due immediately after performance of the work and services without deductions. The statutory regulations with respect to default shall apply. Reminders, invoices and similar correspondence may also be sent electronically, and in particular by e-mail.

§ 4 Localisation and globalisation services

a) Object

Localisation and globalisation services comprise in particular, but not exclusively

1. Translations of all kinds
2. Production of market analyses
3. Production of project plans for localisation programs (= overall concept for adaptation of a product to the cultural and linguistic conditions of the target market)
4. Management of localisation programs

Items 2 to 4 will also be referred to below as "other services".

Other services shall be subject solely to the legislation applicable to service contracts. LW GmbH shall not in any case be liable for success in the sense of the law on contracts for work but shall be responsible for proper performance of the services. In the case of all other services, the focus of the activities performed by LW GmbH shall be on providing consulting for the customer. Documents which are produced by LW GmbH in this context are auxiliary materials and not the due result of the contract.

b) Warranty and contract termination

aa) General

In cases of liability based on fault, the liability of LW GmbH shall be limited to intent and gross negligence. The maximum amount of liability shall be limited to the net order value (not including value-added tax), irrespective of the legal foundation on which liability is based. Liability for loss of profit shall be excluded. The upper liability limit shall expressly not apply to loss of life, physical injury and damage to health.

bb) Translation work

In deviation from the legal regulations, the warranty period shall be one year from delivery. In so far as not otherwise legally prescribed, warranty periods of all kinds shall commence at the latest upon delivery of the work and services to the contracting party, e.g. upon delivery of the files after completion of translation work.

The contracting party shall examine the work and services immediately for defects of all kinds, and shall notify LW GmbH immediately and in writing of any complaints. If the contracting party does not comply with this obligation, all warranty claims shall be excluded. If the contracting party does not expressly specify a defined terminology, particularly for the translation of certain terms, then it shall not be in any case deemed to be a defect if LW GmbH uses translations with the correct meaning which can be found in general dictionaries. If the contracting party does not specify the notation of proper names or other fixed designations which cannot be represented in the Roman alphabet, LW GmbH shall be entitled to use a notation which represents the sound pattern as exactly as possible without further consultation. LW GmbH shall not be obliged to carry out a separate check or observe transliteration conventions defined in international agreements.

If defects are established, the contracting party shall have the rights defined in § 634 BGB (German Civil Code). However, he shall be entitled to invoke his right of self-performance (§§ 634 Item 2 and 637 BGB) or right of rescission or reduction in price (§ 634 Item 3 BGB) only if at least three attempts at remedy by LW GmbH have failed. Further warranty rights, particularly claims for compensation, shall be excluded for the period of defect remedy.

If the contract is terminated prematurely by the contracting party in accordance with § 649 BGB during the performance of translation work, LW GmbH shall retain its entitlement to the agreed consideration, but shall be obliged to offset flat-rate saved costs amounting to 5% of the net order value as saved costs. Notwithstanding this provision, both parties shall be entitled to prove that the saved costs were higher or lower in their favour.

cc) Other services

If LW GmbH performs other services in the sense of § 4 Sub-paragraph a) Items 2 to 4 of these General Terms and Conditions, then ordinary termination of the contract shall not be possible in the cases of Items 2 and 3, and the contract shall end upon delivery of the concept. The right of extraordinary termination shall not be affected. In the case of Item 4, the period of notice shall be 4 weeks.

LW GmbH does not provide legal consultancy services, and shall be liable only for diligent consultancy services within the scope of other services. LW GmbH shall not be liable in any case for the general business risk of the contracting party.

If the contracting party terminates the contract, he shall be obliged to pay any remuneration due up to the point in time at which the termination comes into force. This shall include reimbursement for all working hours performed at the hourly rate specified in the order or, if such a rate is not specified, at the hourly rate usual for work and services of the respective kind, and shall also include reimbursement for cost of materials. LW GmbH shall be entitled at any time to assert claims for losses incurred over and beyond this as a result of termination.

§ 5 Internet services

a) Object

Internet services are all services offered in conjunction with presentation and communication on the Internet, and comprise in particular, but not exclusively:

1. Development and maintenance of web sites and Internet presences
2. Web hosting (leasing of memory space on Web servers)
3. Audio, video and image processing with the full or partial intent of use on the Internet
4. Editorial activities (creation, revision and maintenance of content)
5. Technical support services (data format conversion, creation of data processing programs)

b) Warranty and contract termination

The warranty provisions for localisation and globalisation services in § 4 Sub-paragraph b Section aa) shall apply analogously to all Internet services. The following shall apply in addition:

The contractual subject matter of Web hosting is not the uninterrupted availability of a server. For this reason, all claims for compensation relating to temporary unavailability of the server shall be excluded, unless there is intent or gross negligence on the part of LW GmbH. The other legal warranty rights shall be unaffected.

The client shall release LW GmbH from all claims and other losses, without proof of fault on the part of the client, which are asserted against LW GmbH as a result of the fact that the content presented by the client is illegal or, in particular, violates criminal, copyright or trademark regulations or commercial property rights of third parties. Compensation shall include all the legal action costs of LW GmbH. In cases of this kind, LW GmbH shall be entitled in its own name to provide acknowledgements, sign cease-and-desist declarations with the threat of prosecution or to deal with claims quickly in another way, without the possibility of an objection being raised against LW GmbH that there was in reality no claim to restraint. This shall apply only if LW GmbH informed the client immediately of claim assertion, and if the absence of entitlement on the part of the party asserting the demand for restraint was not generally apparent.

In so far as not otherwise agreed, both parties shall have the right to terminate a contract for all Internet services with a period of notice of 4 weeks.

§ 6 Copyrights

LW GmbH shall transfer to the customer all transferable copyrights and other rights with respect to the work and services performed for publication, duplication, utilisation, exploitation, dissemination, processing, conversion and modification of the work and services supplied by LW GmbH, including all conceivable legal positions relating to drafts and designs in any medium and of any kind. Said transfer shall be unrestricted in time, place, purpose or any other way. It shall be subject to the condition precedent of complete payment of the agreed remuneration.

LW GmbH shall be entitled to a contractual claim of restraint against the client during default of payment which is independent of copyright claims. This shall apply to the use of work results produced by LW GmbH in products of the client until the contractually agreed remuneration has been paid in full.

§ 7 Written form

Contractual agreements, ancillary agreements, additions and changes to the contract with LW GmbH shall be made in writing, as shall all statements within the scope of the contractual relationships such as, in particular, notice of termination and other unilateral legal transactions. This shall also apply to a change in the requirement for written form. Written form shall also include sending by fax or e-mail if adequate identification of sender and transmission time is ensured.

§ 8 Separability clause

If an invalid provision should be agreed between the parties or one of the contractual provisions become invalid, then this shall not affect the validity of the rest of the contract. The parties shall be obliged in such a case to replace the invalid provision by a valid provision which is as close as possible to the economic purpose of the omitted provision. Each party shall have the right to propose such a provision in writing; this provision shall then be deemed as agreed if the other party does not object in writing within 14 days after receiving the proposal.

§ 9 Applicable law and place of jurisdiction

All contracts concluded on the basis of these General Terms and Conditions shall be assessed exclusively in accordance with German law. The place of jurisdiction for all disputes arising from this contract shall be Munich.

§ 10 Data storage

All data of the contracting party relevant to the order will be stored by LW GmbH, whereby the data will be stored so that it is inaccessible to third parties. LW GmbH shall be entitled to delete the data after a period of two years.

These General Terms and Conditions shall apply to all legal transactions with LW GmbH after the date stated in the header.

The following provisions shall apply additionally if you are a consumer in the sense of § 13 BGB (German Civil Code):

Supplementary provisions for consumers

§ 1 Warranty

The reduction in the warranty period in § 4 b Sections aa to cc shall not apply. The statutory warranty periods shall apply.

§ 2 Special provisions for distance contracts

1. In the case of distance contracts (§§ 312 b ff. BGB), the consumer is hereby expressly informed that he has a statutory right of cancellation for such contracts. There are no preconditions attached to exercise of this right of cancellation. Cancellation shall be declared towards LW GmbH within a period of two weeks after receiving the goods or performance of the respective service.
2. A right of cancellation does not apply to supply of goods which have been manufactured in accordance with the consumer's specifications (so-called individual or custom production).
3. In the event of the right of cancellation being exercised, the client is obliged to return the goods at the cost of LW GmbH. If the costs of return are 40 Euros or less, these costs shall be borne solely by the client in deviation from the above in so far as the supplied goods correspond to the contractually due object.
4. The return address is LanguageWire GmbH, Bernhard-Wicki-Str. 5, 80636 Munich, Germany.