

Terms of Delivery and Trade

– Version: 2020 –

Part I.

Terms of Delivery and Trade

§ 1 – General information

1. These General Terms and Conditions apply to all of our commercial relationships with our customers. They only apply if the buyer is an entrepreneur (§ 14 of the BGB [German Civil Code]) a legal entity under public law or a special fund under public law.
2. Unless otherwise agreed, the General Terms and Conditions in the version applicable at the time of the order, or at least in the version in which they were last communicated in text form, are considered to be a framework agreement, and for similar future contracts, without us having to refer to them again in each individual case.
3. Our General Terms and Conditions apply exclusively. Differing, contradictory or supplementary general terms and conditions of the buyer will only become part of the contract if and to the extent that we expressly consent to their validity. This requirement for our consent applies in all cases; and, for example, if we unreservedly execute delivery to the buyer when aware of its general terms and conditions.
4. Individual agreements made with the buyer in certain cases (including verbal agreements, additions and changes) have priority over these Terms of Delivery and Trade in all cases. Subject to evidence to the contrary, a written contract or our written confirmation is decisive for the content of such agreements.
5. Legally relevant declarations and notifications from the buyer in relation to the contract (e.g. the setting of deadlines, notification of defects, withdrawal or reductions) shall be submitted in writing or in text form (e.g. letters, emails, faxes). Legal formalities and other evidence, especially in the event of doubt regarding the legitimacy of somebody or some entity making declarations, remain unaffected.
6. References to the validity of statutory regulations only have clarifying significance. Even without such a clarification, statutory regulations shall of course apply, unless they are directly amended or explicitly excluded by these Terms of Delivery and Trade.

§ 2 Contract conclusion

1. Our offers are non-binding and subject to change. The presentation and promotion of articles in our "service portal" also do not constitute a binding offer for concluding a purchase contract. The prices and delivery options cited there are non-binding and subject to change.
2. The buyer can select products from our range and place them into a shopping basket by clicking the "Order" button. The buyer submits a binding contractual offer with the "Order" button. Prior to sending the order, the buyer can change and view the data at any time. However, the offer can only be submitted and transmitted if the buyer accepts these Terms of Delivery and Trade by clicking on the "Accept GTC" button, thereby accepting them in the request.
3. Once this is done, we will send the buyer an automatic confirmation of receipt via email, in which the order is listed again, and which the customer can print out with the "Print" function. The receipt confirmation only documents that the order reached us and does not constitute acceptance of the request. The contract comes into effect with the submission of the declaration of acceptance by us, which is sent with a separate email (order confirmation), or which is declared upon delivery of the goods to the buyer. In this email, or in the separate email, but at the latest upon delivery of the goods, the contract text (consisting of the order, GTCs and order confirmation) is sent by us to the buyer on a permanent data carrier (email or paper print-out) (contract confirmation). The contract text is saved in compliance with data protection.
4. If the order is not received through our "service portal" but through private communication (by email, telephone, post), the contract only comes into effect upon our express declaration of acceptance, which is sent via email, fax or post, but which will be visible in any case in the delivery of the ordered goods. In the acceptance declaration sent by email, fax, electronic data transmission or post, or in a separate email, but upon delivery of the goods at the latest, in this case the contract text (consisting of the order, GTCs and order confirmation) is sent to the buyer on a permanent data carrier (email or paper print-out) (contract confirmation). In this case, the contract text is also saved in compliance with data protection.
5. The contract is concluded in German.

§ 3 – Contractual object

1. Our products (cables) shall only be used for the purposes cited in the VDE guidelines and our product data sheets. The technical data (structure, dimensions, weights, etc.) of our products are also described in the VDE guidelines and the product data sheets.

The product data sheets of the supplier can be inspected on the Internet at the address: www.waskoenig.de or can be sent to the buyer by us upon special request.

Please bear in mind that the specifications in the product data sheets of the supplier are solely descriptive in nature. No guarantees are made.

An agreement on properties, features or purposes of use and the products that differ

from the specifications in the VDE guidelines and the product data sheets published by us require express confirmation by us.

2. We reserve the right to change the dimensions and/or weights of cables insofar as this is necessary for manufacturing or raw material supply reasons, and insofar as the changes are acceptable to the buyer. The same applies to the structure of cables. Furthermore, we reserve the right to supply up to 10% of orders in lengths that deviate from the standard (longer lengths and shorter lengths) if this is due to manufacturing techniques and is acceptable to the buyer.
3. We are also entitled to supply in partial deliveries if this is acceptable to the buyer.

§ 4 – Delivery deadlines

1. Compliance with deadlines for deliveries requires the prompt receipt of all materials, documents, permits and approvals to be supplied by the buyer, especially of schedules, as well as compliance with other contractually agreed obligations by the buyer. If these requirements are not fulfilled promptly, then the deadlines will be extended commensurately. This does not apply if we are responsible for the delay.
2. The delivery deadline is agreed on a case-by-case basis or will be stipulated by us upon acceptance of the order.
3. Serious events, such as, in particular, force majeure, industrial action, unrest, war or terrorism, which entail unforeseeable consequences for service provision shall release the contractual parties of their service obligations for the duration of the disruption and according to the scope of their impact, even if they are in arrears. Such events do not automatically result in contract termination. The contractual parties undertake to notify the other of such obstacles and to adjust their obligations to the changing circumstances in good faith.
4. If we are unable to comply with binding delivery deadlines for reasons other than those cited in § 4, No. 3 for which we are not responsible (e.g. the service is not available), we will notify the buyer of this immediately and advise a new expected delivery date at the same time. If the service is subsequently not available by the new delivery deadline, we are entitled to withdraw from the contract either wholly or in part; we will immediately reimburse any payment already made by the buyer.

An example of service non-availability in this sense is in particular the non-punctual supply of goods and services by our suppliers if we have concluded a congruent hedging transaction, neither we nor our suppliers are at fault and we have no obligation to procure in individual cases.

5. Our entering into delay in delivery is determined by the statutory regulations. In any case, a reminder from the buyer is necessary. If we get into delay in delivery, the buyer can not only demand its delivery but also lump sum compensation for damages caused by the delay. The lump sum compensation is 0.5% of the net price (delivery value), but a maximum of 5% of the delivery value of the goods delivered late for every full calendar week that lapses of the delay. We reserve the right to establish that either no loss has

been incurred to the buyer or that a significantly lower loss was incurred.

6. In accordance with § 12 of these General Terms of Delivery and Trade and our statutory rights, in particular in the event of an exclusion of the obligation to render service (e.g. due to the impossibility or unreasonableness of the service and/or supplementary performance), the rights of the buyer remain unaffected.

§ 5 – Bearing of risk

1. All deliveries take place ex works, which is also the place of fulfilment of the delivery and any supplementary performance. The item will be sent to another destination upon the demand of the buyer, and to its cost (sale by dispatch). Unless otherwise agreed, we are entitled to determine the method of shipment (especially the transport company, shipping route, packaging) ourselves.
2. The risk of accidental loss or accidental worsening of the items shall be transferred upon handover to the buyer at the latest. In the case of a sale by dispatch, however, the risk of accidental loss or accidental worsening of the items, including risk of delays, is transferred as early as delivery of the items to the carrier, the freight forwarder or any other individual or institution designated to carry out the shipment. If acceptance has been agreed, this is decisive in terms of the transfer of risk. In all other respects, the statutory regulations of German contract law for work and labour shall apply accordingly for an agreed acceptance. Transfer or acceptance is still deemed to have occurred if the buyer is late with acceptance.

§ 6 – Prices

1. The prices of an offer from the supplier are non-binding. The contractually agreed prices alone are decisive.
2. Unless agreed differently in individual cases, our prices that are valid at the time of contract conclusion shall apply.
3. All prices are ex works excluding packaging and freight, plus statutory sales tax.
4. In the event of a sale by dispatch, the buyer bears the transport costs ex warehouse and the costs of transport insurance that may be desired by the buyer. The buyer covers any customs duties, fees, taxes and other public levies.

§ 7 – Payments

1. The invoices sent to the buyer by the supplier are due for immediate payment. However, we are also entitled as part of an ongoing commercial relationship to perform a delivery wholly or partially only once a pre-payment has been made. We will declare such a proviso upon order confirmation at the latest.
2. If, after concluding the contract, it becomes apparent that our claim for the purchase price are at risk due to the buyer experiencing financial difficulty (e.g. an application to open insolvency proceedings), we are entitled to refuse service in accordance with statutory regulations and – following the setting of a deadline where necessary – to

withdraw from the contract (§ 321 of the BGB [German Civil Code]). In the case of contracts concerning the manufacture of non-fungible items – made to specification – we can declare our withdrawal immediately. Statutory regulations concerning the dispensability of setting deadlines remain unaffected.

3. The buyer is only entitled to offsetting or retention rights insofar as its claim has been established as legally valid or is undisputed. In case of defects to the delivery, the opposing rights of the buyer, particularly according to § 11 of these terms, remain unaffected.

§ 8 – Reservation of title

1. Until full payment of all our current and future receivables from the purchase contract and ongoing commercial relationship (secured claims), we reserve title to the sold goods.
2. The goods under retention of ownership may neither be pledged to third parties nor collateralised prior to full payment of the secured receivables. The buyer shall notify us immediately in writing if an application for opening insolvency proceedings is lodged or if third parties attempt to seize (e.g. pledging) goods belonging to us.
3. If the buyer acts in violation of the contract, in particular in the event of non-payment of the due purchase price, we are entitled to withdraw from the contract in accordance with statutory regulations and/or to demand the goods based on retention of title. If the buyer fails to pay the due purchase price, we may only assert these rights if we have already unsuccessfully set the buyer an appropriate deadline for payment or such deadline setting is unnecessary according to statutory regulations.
4. Until revocation, the buyer is authorised to sell on and/or further process the goods under retention of ownership as part of normal business practice as per (c) below. In such cases, the following terms also apply.
 - a. Retention of property covers products arising from the processing, mixing or connecting of our goods to their full value, whereby we are considered the manufacturer. If the ownership rights of third parties persist in the event of processing, mixing or connecting with their goods, then we will acquire joint ownership as a ratio of the invoice values of the goods processed, mixed or connected. In all other respects, the same applies to the created products as for the goods supplied under retention of title.
 - b. The buyer will immediately assign by way of collateral to us any receivables arising vis-à-vis third parties from a subsequent sale of the goods or product, in their entirety or to the proportion of our joint ownership, in accordance with the above paragraph. We will accept this assignment. The obligations of the buyer cited in § 8, No. 2 also apply in consideration of the assigned receivables.
 - c. Both we and the buyer remain entitled to recover the receivable. We undertake not to recover the receivable if the buyer meets its payment obligations to us, there is no deficiency in its ability to perform and we do not

assert the retention of title by exercising a right as per § 8, No. 3. If this is the case, then we may demand the buyer notifies us of the assigned receivables and their debtors, provides all of the information that is needed to collect them, hands over the associated documentation and notifies the debtors (third parties) of the assignment. Furthermore, in such cases we are entitled to revoke the authorisation of the buyer for further selling or processing of the goods under reservation of title.

- d. If the achievable value of the securities of our claims exceeds 10%, we are free to choose the securities to be released upon the request of the buyer.
5. We can satisfy our claims to the recovered reserved goods by way of private sale.

§ 9 – Packaging and KTG drums

1. In the event of the delivery of cable and wire reels that have been supplied from Kabeltrommel GmbH & Co. KG based in Cologne (KTG), the delivery of the cable and wire reels (KTG reels) supplied by KTG is performed under the "Terms for the Handover of Cable and Wire Reels" of KTG.

KTG reels can be identified by the KTG emblem attached to them. The delivery of KTG reels is also shown in the order confirmation and on the delivery note.

With the delivery of KTG reels by the supplier, KTG offers the recipient of the KTG reels the conclusion of a contractual relationship under KTG's "Terms for the Handover of Cable and Wire Reels". Upon receiving the KTG reel, the recipient accepts the offer to conclude a contractual relationship with KTG described above.

KTG's "Terms for the Handover of Cable and Wire Reels" can be viewed on the Internet at the address "www.kabeltrommel.de" and will be dispatched upon request.

Please be aware that the KTG reels are the property of KTG, and the supplier delivers these KTG reels on behalf and on account of KTG. KTG will invoice a rental charge (reel rent), which the buyer has to pay, for these KTG reels if they are not returned on time.

The buyer makes a commitment to the supplier and – by means of a contract for the benefit of third parties – to KTG, to hand over KTG reels to third parties exclusively under KTG's "Terms for the Handover of Cable and Wire Reels".

For this purpose, the buyer undertakes to include a legally binding and effective reference to KTG's "Terms for the Handover of Cable and Wire Reels" in its general terms and conditions and in its offers and order confirmations. The buyer shall explicitly and separately refer the third party who is handed over a KTG reel to the rule in KTG's "Terms for the Handover of Cable and Wire Reels", according to which the recipient is obligated to pay a rental charge to KTG following the expiry of the rent-free time period. The buyer also undertakes to refer to the property rights of KTG explicitly and separately.

2. Other outer packaging (e.g. boards and square timber) and disposable packaging (e.g. boxes, pallets, non-returnable drums) is charged to the buyer separately and becomes its property.

If the supplier delivers products to the buyer on Euro pallets, the buyer undertakes to return to the carrier or freight forwarder an equivalent, standard-compliant Euro pallet by way of exchange.

§ 10 – Notice of defects obligation

Claims for defects of the buyer require that the buyer has complied with its statutory obligations for inspection and notification of defects (§ 377 and § 381 of the HGB [the German Commercial Code]). In the case of building materials and other goods designated for installation or other further processing, an inspection shall always be performed immediately prior to processing. If a defect becomes apparent during delivery, the inspection or at any later point in time, this shall be brought to our attention immediately. In any event, obvious defects shall be reported in writing within 7 working days of delivery and, in case of defects not identifiable during the inspection, within the same time period following their discovery.

§ 11 – Material defects / reduced quantities

We are liable for material defects as follows:

1. If the buyer supplies metals or if we have to deliver according to the drawings, specifications, samples, etc. of the buyer, the buyer will bear the risk for the supplied metals or the drawings, specifications, samples, etc. that are provided being suitable for the designated purpose.
2. For the rights of the buyer in the event of material defects and defects of title – including incorrect and short deliveries, as well as improper assembly or poor assembly instructions – statutory regulations apply, unless otherwise specified below. In all cases, the special statutory regulations for the final delivery of unprocessed goods to a consumer remain unaffected, even if the consumer has further processed those goods (recourse against suppliers as per § 478 ff. of the BGB).
3. If the delivered item is defective, we can first choose whether we will provide supplementary performance by eliminating the defect (rectification) or by supplying a defect-free item (replacement delivery). Our right to refuse supplementary performance under statutory regulations remains unaffected.
4. The buyer shall provide us with the time and opportunity required for the owed supplementary performance, especially to hand over the goods that are the subject of complaint for the purpose of inspection. In the case of a replacement delivery, the buyer shall return the defective item to us as per statutory regulations.
5. If supplementary performance has failed, a deadline set by the buyer for supplementary performance has expired or is unnecessary according to statutory regulations, the buyer may withdraw from the contract or lower the purchase price. In the event of a minor

defect, however, there is no right of withdrawal.

6. Claims for compensation of the buyer or remuneration of wasted expenses also exist in the case of defects only to the extent specified in § 12 of these terms and are otherwise ruled out.

§ 12 – Other liability

1. Unless otherwise specified in these General Terms of Delivery and Trade, including the following provisions, we shall be liable for infringements of contractual and extra-contractual obligations in accordance with statutory regulations.
2. We are liable for compensation claims – regardless of the legal basis – as part of fault-based liability in the event of intent and gross negligence. In the event of ordinary negligence, we are liable – subject to statutory liability limitations (e.g. the exercising of care in our own affairs) – only
 - a. for damage resulting from physical injury, harm to health and the loss of life,
 - b. for damage due to breaching an essential contractual obligation (an obligation whose fulfilment fundamentally enables the orderly performance of the contract, and whose observance the contractual partner normally relies on and is entitled to expect). In such a case, however, our liability is limited to compensation of the foreseeable, typically occurring damage.
3. The liability limitations resulting from § 12, No. 2 also apply to obligation violations by or in favour of persons for whose faults we must take responsibility in line with statutory regulations. They do not apply if we have maliciously concealed a defect or have made a guarantee for the condition of the goods and for the claims of the buyer in accordance with the German Product Liability Act.
4. In the case of an obligation violation which does not involve a defect, the buyer may only withdraw from or terminate the contract if we are responsible for this obligation violation. A free right of termination for the buyer (especially in accordance with § 650 and § 648 of the BGB [German Civil Code]) is excluded.

Statutory requirements and legal consequences shall apply in all other respects.

§ 13 Statute of limitations

1. In deviation of § 438, Para. 1, No. 3 of the BGB, the general period of limitation for claims for material defects and defects of title is one year from the time of delivery. If acceptance is agreed, the time period starts upon acceptance.
2. However, if the good is a structure or an item which has been used for a structure according to its customary application and has caused its defectiveness (building material), the period of limitation is 5 years from the time of delivery as per the statutory provision (§ 438, Para. 1, No. 2 of the BGB). Additional, special statutory provisions

concerning the period of limitation remain unaffected (especially § 438, Para. 1, No. 1, Para. 3, § 444 and § 445b of the BGB).

3. These periods of limitation of the law governing the sale of goods also apply to contractual and non-contractual claims of the buyer for compensation based on a defect of the goods, unless the application of the regular statutory period of limitation (§ 195 and § 199 of the BGB) would lead to a shorter period of limitation in certain cases. However, the buyer's claims for compensation for damages under § 12. No. 2 and under the German Product Liability Act are time-barred after the statutory limitation periods.

§ 14 – Choice of law, place of fulfilment and place of jurisdiction

1. The place of fulfilment for all services is where the supplier is based.
2. The law of the Federal Republic of Germany applies to these General Terms of Delivery and Trade and the contractual relationship between us and the buyer under exclusion of international uniform law, especially the UN Convention on Contracts for the International Sale of Goods.
3. If the buyer is a merchant in the sense of the German Commercial Code, a legal entity under public law or a special fund under public law, the sole court responsible, even internationally, for all disputes arising directly or indirectly from this contractual relationship is our registered office in Ramsloh. The same applies if the buyer is an entrepreneur within the meaning of § 14 of the BGB. In any event, we are also entitled to file suits at the place of fulfilment of the delivery obligations – as defined in this Terms of Delivery and Trade or in accordance with an overriding individual agreement – or at the buyer's general place of jurisdiction. Overriding statutory regulations, especially regarding exclusive competence, remain unaffected.

§ 15 – Final provisions

These Terms of Delivery and Trade remain binding in their remaining parts even in the event of the legal ineffectiveness of individual points.

Part II. Customer information

1. Identity of the buyer

2. Information on the contract coming into effect

The technical steps for contract conclusion, contract conclusion itself and the correction options occur according to § 2 of our General Terms of Delivery and Trade (Part I.).

3. Contract language and the saving of the contract text

3.1 The language of the contract is German.

3.2 The entire contract text is not saved by us. Prior to submitting the order, the contract data can be printed out using the print function of the browser and saved electronically. Once we receive the order, the order data, the legally prescribed information for distance selling contracts and the General Terms and Conditions are sent to you once more via email.

4. Terms of delivery

The terms of delivery can be found under the correspondingly named button on our website.

5. Statutory liability for defects

Liability for defects of our goods is based on the provision "Warranty" in our General Terms and Conditions (Part I.).

Privacy policy of Waskönig + Walter (accessible on our website "www.waskoenig.de" under Homepage > Privacy Policy)