
I. General provisions

1. The terms and conditions shall apply only if the Purchaser (§ 14 BGB) is a legal person or a special fund under public law.
The scope and performance of the delivery of goods and services (hereinafter referred to as the „Deliveries“) is determined by the mutual written declaration.
However, the Purchaser's General Terms and Conditions of Business shall only apply to the extent that the Supplier (hereinafter referred to as „Supplier“) has consented to them expressly in writing.
2. The Supplier reserves the unrestricted right to exercise his rights of use to ownership and copyright in cost estimates, drawings and any other documents (hereinafter referred to as „Documents“). The Documents may only be made accessible to third parties with the prior written consent of the Supplier and, if the order is not placed with the Supplier, shall be returned to upon its request without delay.

Points 1 and 2 shall apply mutatis mutandis to the Documents of the Purchaser; these may, however, be made available to those third parties to which the Supplier is permitted to subcontract the making of Deliveries.

II. Prices

1. The M&N copper price index is calculated using the current daily values of the upper copper WM quotation of the trading company WESTMETALL with a 1% surcharge for the purchase costs. The prices do not include statutory VAT, which is shown separately in the invoice.
2. The prices in the offer are subject to change and are not binding for reorders.
3. The copper calculation according to Section IV is decisive for the order/order confirmation.

III. Price setting

1. The pricing includes the packaging on loaned drums.
2. For cable drums, the usual industry conditions apply with regard to loaned drums by KTG Köln – Kabeltrommel GmbH & Co. KG, Camp-Spich-Str. 55/59, 53842 Troisdorf, Germany – whose conditions are accepted by the purchaser.
If the Purchaser is not familiar with the conditions, he can request them free of charge from the Supplier.
3. The prices apply – unless otherwise agreed – ex works excluding freight, customs, insurance, packaging and reels, plus VAT.

4. If an extrusion tool is required to produce the line, the costs will be invoiced pro rata once, which covers the wear and tear on the tool.
The tool remains the property of Muckenhaupt & Nusselt GmbH and Co. KG, it will not be released to the customer.
5. A flat fee of 80 euros will be charged for the creation of additional documents, such as the initial sample test report and factory test certificate.

IV. Copper quotation and calculation

1. The decisive factor for determining the pricing of underlying copper values is the M&N copper price index, which is calculated using the current daily values of the upper copper WM-quotation of the trading company WESTMETALL with a 1% surcharge for the procurement costs.

$$\text{Copperbase M\&N} = \text{Upper Copper WM-Note} + 1\%$$

2. If the quotation deviates from the price basis of currently 150 euros per 100 kg of copper, the prices per 1,000 m increase or decrease by the amount resulting from multiplying the copper number per 1,000 m and the deviation amount (of 150 euros). Copper surcharges and discounts always apply purely net.

V. Under/over lengths, partial lengths

1. Under and over deliveries of the ordered amount are permitted in the +/- 10 % range.
The delivery can be done in part lengths. For custom-made products, we reserve the right to over- and underdelivery up to 15 %. Additional quantities must be accepted and paid by the customer. In case of underdelivery no claims can be asserted.
 2. Fixed lengths require an express written agreement. This requirement must be made clearly by the purchaser when requesting a quote.
 3. Delivery may be made in varying, manufacturing-related or commercially determined partial lengths.
 4. The length-related measuring tolerance is +/- 0.4 % (valid calibration law).
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VI. Payment

1. Invoices are, insofar as no other agreement is made, to be paid as follows: either net within 30 days or with a 2 % discount within 10 days calculated from the date of issue.
2. Local bills of exchange will only be accepted by the supplier as a result of previous express agreement. The acceptance of bills of exchange and checks is always on account of performance.
3. The Supplier reserves the right to, in particular instances, demand pre-payment or immediate payment.
4. The Purchaser may only offset with demands that are undisputed or legally determined.
A right to reserve is permitted for the Purchaser under the same prerequisites only with a due demand, which relates to the same contractual relationship.
5. If contractually agreed payment deadlines are exceeded, we are authorised to apply interest to the amount of 8 percent points above the relevant valid basic interest rate.
Payments are always used to settle the oldest due debt including the interest incurred on such if the Purchaser does not come to any other specific arrangement.
The credit will first be applied to the interest.

VII. Retention of title

1. The objects of the Deliveries (reserved goods) remain the property of the supplier until such time as all claims against the Purchaser as a result of this business relationship have been met. Insofar as the value of all security interests that are due to the supplier exceeds the level of all assured claims by more than 20 percent, the Supplier is assigned an appropriate proportion of the security interests at the request of the Purchaser.
2. During the retention of title, the Purchaser is not permitted to forfeit or transfer by way of security and further sales are only permitted to resellers as part of usual business and only under the condition that the reseller receives payment from his customer or makes the reservation that the ownership only passes to the customer when the payment obligations have been fulfilled completely.
3.
 - a. If the Purchaser sells the reserved goods, he gives up his future claims to the Supplier as a result of the resale with all subsidiary rights including any balance claims by way of security without any need for any special declarations at a later date.
If the retained-title merchandise is re-sold or rented together with other articles without an individual price being agreed for the retained-title merchandise, the Purchaser shall assign to the Supplier, with precedence over the remaining receivables, that part of the total price claim that corresponds to the price of the retained goods as invoiced by the Supplier.

- b. If the Supplier is able to convey a vested interest, the Purchaser is to make valid his rights with regard to the customer and to pass on any information and the necessary Documents.
 - c. Until revoked, the Purchaser is authorised to collect the assigned payments arising from the resale. In the presence of an important reason, in particular delay of payment, payment stoppage, the opening of insolvency proceeding, bill of exchange protest or when comparable founded indications are present to indicate the lack of ability of the Purchaser to make payment, the supplier is authorised to revoke the authorisation to collect of the purchaser. After giving prior warning and observing a reasonable period of notice, the Supplier is entitled to disclose the purchaser's security assignment, to utilise the disclosed assigned claims and demand that the Purchaser discloses the security assignment to the Supplier's customer.
- 4.
- a. The Purchaser is permitted to process the retained goods, to rework it or to combine it with other objects. The processing, reworking or combination is carried out for the supplier. The Purchaser shall stores the new object for the Supplier with due diligence of a prudent businessman. The processed, reworked or combined objects act as retained goods.
 - b. In the processing, reworking or combination with other objects that do not belong to the Supplier, the Supplier is considered joint owner of the new object to the proportion that results from the value of the processed, reworked or combined retained goods in relation to the remaining processed goods at the point of processing, reworking or combination. Insofar as the Purchaser purchases sole ownership of the new objects, the supplier and purchaser are in agreement that the Supplier has joint ownership of the new object that results from the processing, reworking or combination to the proportion of the value of the processed, reworked or combined retained goods with regard to the remaining processed, reworked or combined goods at the point of processing, reworking or combination.
 - c. In the event of the sale of the new item, the purchaser hereby assigns to the Supplier his claim from the resale against the customer with all ancillary rights as security, without the need for any further special declarations. However, the assignment only applies to the amount that corresponds to the value of the processed, converted or combined reserved goods invoiced by the supplier. The portion of the claim assigned to the Supplier must be satisfied with priority. With regard to the collection authorization and the conditions for its revocation, number 3c applies accordingly.
 - d. If the reserved goods are combined by the Purchaser with real estate or movables, the Purchaser also gives up his claim to the Supplier that is due as payment for the combination, with all ancillary rights without the need for further declarations by way of security to the sum of the proportion of the combined retained goods to the remaining combined goods at the point of combination.
5. In the event that a third party asserts rights by attaching, seizing, encumbering or otherwise encroaching on the reserved goods, the purchaser must inform supplier immediately.
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6. The event of culpable violation by the Purchase of significant contractual obligations, in particular, default in payment, the Supplier is entitled to withdraw after due notice. The Purchaser is obliged to surrender the goods. There is no revoking of the contract In the event of the withdrawal or assertion of the retention of title or the seizure of the goods by the Supplier; this does not represent a withdrawal from contract unless the Supplier so expressly declares.
The Supplier is entitled to sell the returned retained goods after prior warning and to satisfy the open claims using the profits from their sale.

VIII. Delivery, delivery time

1. Partial deliveries are permitted, if the partial delivery can be used by the Purchaser under the contract's intended purpose, the delivery of the remaining ordered goods is ensured and incurs no major additional effort or cost to the Purchaser.
2. The delivery time specified by us is non-binding, unless we have agreed with the customer expressly the adherence to the stated delivery time in the sense of an absolute fixed transaction. The calendar week specified in the order confirmation refers to the time of shipment of the goods ex works.
3. The observance of such a deadline presupposes the prompt receipt of all the documents, requisite licences and releases to be furnished by the purchaser, the prompt clarification and approval of the plans and the observance of the agreed terms and conditions of Payment and other obligations by the Purchaser.
Should these requirements not be fulfilled on time, the delivery deadline shall be extended by an adequate period of time; this shall not apply if the Supplier is responsible for the delay.
4. Should the non-observance of deadlines be attributable to force majeure, such as mobilisation, war, civil commotion or similar occurrences, e.g. strike or lockout, delivery deadlines shall be extended by adequate periods of time.
5. If the Supplier is late, the Purchaser, insofar as he is able to prove damages, may demand compensation for each complete week of the delay in the amount of 0.5 %, but a maximum of 5 % of the prices for that part of the delivery which could not be put into useful service due to the delay.
6. Both compensation claims on the part of the purchaser for delivery default and compensation claims in lieu of performance, which exceed the limits stipulated in No. 5, shall be excluded in all instances of delayed delivery, including after the expiry of any delivery deadline, which the Supplier may have set. This shall not apply in cases of wilful intent, gross negligence or injury to life, body or health, where compulsory liability applies.
The Purchaser may withdraw from the contract within the framework of the prevailing statutory provisions only insofar as the Supplier is responsible for a delay in delivery.
The above stipulations shall not entail a change in the burden of proof to the detriment of the Purchaser.

7. The Purchaser shall, at the Supplier's request undertake to declare within a reasonable period of time whether it is withdrawing from the contract due to a delay in delivery or is insisting upon delivery.
8. If dispatch or delivery is delayed at the Purchaser's request by more than one month after notification of readiness for dispatch, the Purchaser may, for every month commenced, be invoiced storage costs to the amount of 0.5 % of the price of the delivery items, though no more than a total of 5 %.
The contracting parties shall be at liberty to prove that lower or higher storage costs have accrued.
9. Fixed business deals are not arranged on principle, deviations from this norm must be agreed in writing by the contractual parties.

IX. Transfer of risk

1. The risk passes to the Purchaser when the dispatch (goods and packaging) leaves the factory or notification is issued that it is ready for dispatch or collection even when the place of dispatch is not the place of fulfilment.
2. If the dispatch, delivery, commencement, execution of installation/assembly, acceptance into the purchaser's own operations, or trial operation is delayed for reasons attributable to the purchaser, or if the Purchaser falls into arrears for other reasons, the risk is transferred to the Purchaser.

X. Receipt of delivery

1. The Purchaser may not refuse receipt of a delivery for reasons of a minor defect.

XI. Defects, Warranty

The Supplier shall be liable for material defects as follows:

1. All those parts or services which are shown to be faulty during the period of limitation – irrespective of how long they have been used – are to be repaired, redelivered or rendered anew free of charge, in accordance with the choice of the Supplier insofar as the cause for this was present at the time of the risk transfer.
2. Material defects claims shall lapse after twenty-four months.
This shall not apply when legislation as per articles §§ 438 Para. 1, No. 2 (Structures and items for structures), 479 Para. 1 (Claim under a right of recourse) and 643a Para. 1 No. 2 (Construction defects) of the German Civil Code makes provision for longer periods of time, in instances of injury to life, body or health, in the event of a wilful or grossly negligent breach of duty on our part and in the event of the malicious non-disclosure of a defect.
The statutory provisions on the suspension, interruption and recommencement of the running of time shall remain unaffected.

3. The prescribed notice of defects in accordance with §§ 377, 378, 381 Para. 2 HGB (obligation for inspection and reporting of complaints) is to be communicated immediately in writing within 10 days of the arrival of the goods at their destination by specifying the delivery note and invoice number.
 4. In the event of defects, payments made by the Purchaser may be withheld in an amount that is proportionate to the defect occurred. The Purchaser shall only be entitled to retain payment if there is no doubt or if it is undisputed that the notification of material defects is justified. If the complaint is unjustified, the supplier shall be entitled to demand compensation from the Purchaser for expenses incurred by it.
 5. First, the Supplier shall be granted the opportunity to effect subsequent fulfilment within a reasonable period of time.
 6. If subsequent performance fails, the Purchaser may – without prejudice to any claims for damages under Section XIV – withdraw from the contract or reduce the remuneration.
 7. Claims arising from defects shall not prevail in respect of a minor deviation from an agreed quality level, a minor impairment to usability, natural wear and tear or incidences of prejudice which arise subsequent to the risk transfer due to faulty or negligent handling, excessive strain, unsuitable operating facilities, faulty construction operations, unsuitable sub soil and, in particular, any external influences which are not presupposed by the contract. In the event that modifications or maintenance operations should be improperly performed by the Purchaser or any third parties, it shall likewise be the case that no claims arising from defects shall prevail for such modifications and maintenance operations or any resulting consequences.
 8. Technical data confirmed in writing by the Supplier in the conclusion of the contract are only then assured properties which the Supplier has guaranteed that these will be maintained.
 9. Any claims on the part of the purchaser for expenditure which it is necessary to incur for subsequent fulfilment purposes, particularly transport, travelling, labour and material costs, shall be excluded insofar as such expenditure increases due to the fact that a delivery item has been subsequently transported to a location other than the purchaser's business premises unless such transportation is in line with the normal use of such an item.
 10. Claims under the right of recourse on the part of the purchaser against the supplier pursuant to § 478 BGB (contractor's recourse) shall only persist insofar as the purchaser has not agreed any arrangements with its own customer exceeding the scope of the statutory claims arising from defects.
No. 9 shall apply accordingly in relationship to the scope of the purchaser's right of redress against the supplier pursuant to § 478 Para. 2 of the German Civil Code.
 11. Section XIV shall otherwise apply to claims for damages (other claims for damages). Any further claims for a material defect by the Purchaser against the Supplier or its vicarious agents due to a defect other than those regulated in Section XI are excluded.
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XII. Measuring and weight specifications/structural deviations

1. All specifications with regard to the diameter and weight of cables are not binding and are considered approximated as long as nothing else is agreed upon.
2. The Supplier reserves the right to make manufacturing and raw material related minor deviations to the structure of the cables.

XIII. Impossibility, contractual adaptations

1. If delivery becomes impossible, the purchaser shall be entitled to demand damages unless the Supplier is not responsible for the impossibility.
However, the purchaser's claim for damages shall be limited to 10 % of the value of the part of the delivery, which due to impossibility could not be put into operation in the intended manner. The above limitation shall not apply in cases of intentional harm, gross negligence or injury to life, body or health where liability is mandatory; this shall not entail a change in the burden of proof to the detriment of the purchaser. The right of the Purchaser to withdraw from the contract shall remain unaffected.
2. Insofar as any unforeseeable occurrences within the purport of Section VIII, No. 4 considerably alter the economic importance of the content of delivery or exercise a major influence on our operations, the contract shall be suitably revised in compliance with the principle of good faith. Insofar as this is not economically justifiable, the Supplier shall have the right to withdraw from the contract. In the event that he exercises this right, he shall immediately notify the Purchaser upon becoming aware of the implications of this occurrence, also in the event that an extension of the delivery period should initially have been agreed with the Purchaser.

XIV. Other claims for damages

1. Claims for damages and claims for the compensation of expenses by the purchaser (hereinafter: compensation claims) irrespective of the legal grounds, particularly for a breach of the duties arising from the contractual obligation and for tortious acts, shall be excluded.
2. This shall not apply insofar as compulsory liability prevails, e.g. pursuant to the German Product Liability Act, in cases of wilful intent, gross negligence, injury to life, body or health and a breach of major contractual obligations. However, a claim for compensation with regard to a breach of major contractual obligations shall be restricted to contractually typical, foreseeable prejudice insofar as wilful intent or gross negligence does not exist or liability exists due to injury to life, body or health.
The above stipulations shall not entail a change in the burden of proof to the detriment of the Purchaser.
3. Insofar as the Purchaser is entitled to compensation claims pursuant to Section XIV, such claims shall lapse upon the expiry of the limitation period pursuant to Section XI No. 2 applying to claims for material defects. In the case of compensation claims pursuant to the Product Liability Act, the prevailing statutory limitation provisions shall apply.

XV. Returns

Items may only be returned after prior express arrangements are made.

XVI. Place of jurisdiction and applicable law

1. Place of performance and jurisdiction is Wuppertal.
2. Legal relationships arising in connection with this contract shall be governed by German substantive law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

XVII. . Obligations of the contract

Regardless of whether any of its individual provisions are invalid, the remainder of this contract shall remain binding.

This shall, however, not apply if adherence to the contract would constitute unreasonable hardship for one the parties.
