TERMS & CONDITIONS OF SERVICE & DELIVERY (TCSDOS) - ONLINE SHOP OF KLAUS FABER AG

JUNE 2018

1. General | validity | scope of application | written form

(1) All deliveries, services and offers by us and within our online shop are based exclusively on these TCSDOS. These form part of all contracts that we conclude with our contracting partners (hereinafter referred to as "Orderers") regarding the deliveries or services offered by us online via our online shop (shop.faberkabel.de). They also apply for all future deliveries, services and offers to our Orderers within our online shop, even if they have not been agreed again separately.

(2) Terms and conditions of business of our Orderers or third parties do not apply, even if we have not separately objected to their validity on a case-by-case basis. Even if we refer to a document that contains or refers to the terms and conditions of business of our Orderers or a third party, this does not involve any agreement to the validity of these terms and conditions of business.

(3) Additions and amendments to the agreements, including these TCSDOS, must be in written form in order to be effective. For the maintenance of written form, telecommunications transmission, particularly via telefax or email, is sufficient, provided that the copy of the signed declaration is sent.

2. Offers and conclusion of contract

(1) By clicking on the corresponding button, the Orderer can place the desired item in the shopping cart and the start the order process by clicking on the shopping cart. During the order process, the Orderer must log into its customer account and complete the order by clicking on the "kostenpflichtig bestellen" (order and pay) button.

(2) Input errors, particularly items placed mistakenly in the shopping cart, can be rectified by the Orderer by entering the desired quantity in the shopping cart and pressing the corresponding buttons. During the order process, the Orderer can correct input errors in the various steps by navigating to the respective step via the "vor" (next) and "zurück" (back) buttons in the browser.

(3) Details about the delivery object or service, as portrayed in our online shop at the time of order (e.g. weights, dimensions, use values, capability, tolerances and technical details), and our representations of the same (e.g. drawings and diagrams), are only approximately relevant, unless the usability for the contractually intended purpose requires precise conformity. They are not guaranteed quality characteristics, but descriptions or names of the delivery or service. Deviations customary in the industry (particularly colour differences due to fading and differences in the external qualities of earth current cables) and deviations that are due to legal provisions or constitute technical improvements, and the replacement of components with equivalent parts, are permitted, unless they impair the usability for the contractually intended purpose.

(4) We reserve the copyrights and proprietary rights to all offers and quotes submitted by us, and drawings, diagrams, calculations, catalogues, models, and other documents and resources we provide to the Orderer. The Orderer may not make these items accessible to third parties (as such or content-wise), announce them, use them itself or via third parties, or reproduce them, without our explicit permission. Upon our request, these items must be returned to us completely and any copies made destroyed, if they are no longer required in the ordinary course of business of the Orderer. The above exempts the storage of electronically provided data for the purposes of customary data backup.

3. Prices

The prices apply for the scope of service and delivery listed in our order confirmations. Additional and special services will be charged separately. The prices are in EUR ex-works, plus metal surcharge, packaging, order-specific cutting costs, statutory value added tax, customs fees for export deliveries, and fees and other official levies.

4. Metal quotes and calculation

(1) Depending on the product, the sale prices include a copper basis of EUR 0.-/100.-/150.- for 100kg copper. The sale prices increase/decrease by the difference between the copper basis and the published raw material listing on the date of order.

(2) The raw material listings are determined based on the publication of the non-ferrous metal processors. Unless otherwise agreed, the values published in the daily press on the date on which the order is received for electrolytic copper for conducting purposes (DEL note) apply, plus purchasing costs incurred, aluminium for conducting purposes and lead in cables in accordance with DIN 17640.

5. Payment terms | offsetting | retention rights

(1) Our invoices are payable 30 days after the date of the invoice, without any deductions. Only the payment methods offered in the online shop are accepted.

(2) In the event of a failure to observe our payment terms, we are entitled to charge interest of 9% p.a. above the respective applicable base interest rate; the right to assert further damages, in particular demonstrably higher interest rates, hereby remains unaffected.

(3) Irrespective of payment arrangements made, the payments we are entitled to are due immediately if the Orderer becomes subject to personal circumstances that make it unreasonable for us to maintain the payment arrangements made; this includes, in particular, financial collapse, bankruptcy applications, negative changes in the ability to be insured by commercial credit insurers etc. In such a case, we are also entitled to make the provision of goods dependent on the provision of suitable securities and/or advance payments.

(4) The assertion of retention rights against us and/or offsetting against counterclaims is excluded, unless the claim(s) asserted by the Orderer is/are undisputed or determined to be legally valid.

6. Delivery reservation | partial deliveries

(1) All delivery commitments by us are subject to the correct and timely delivery by our suppliers, unless otherwise explicitly agreed in writing.

(2) If the impossibility of delivery is due to reasons within the sphere of our pre-suppliers for which we are not responsible, we (and the Orderer) may withdraw from the contract, unless the agreed delivery date is exceeded or will be exceeded in all likelihood by a negligible amount of time. We are obliged to inform the Orderer immediately about the non-availability and immediately reimburse any performance in return (remuneration) already provided.

(3) We reserve, at all times, the right to carry out partial deliveries.

(4) In addition, we reserve the right to carry out over-deliveries and under-deliveries as usual in the industry, of up to 10% of the ordered quantity.

(5) Deliveries can only be made in Germany and in the countries stated in the online shop.

7. Delivery periods and dates

(1) Drop-dead dates must be explicitly named as such. Otherwise, the Orderer is always obliged to set us an appropriate grace period in writing if the dates and/or deadlines promised by us cannot be kept. If the grace period is not adhered to either, the Orderer is entitled to withdraw from the contract.

(2) In the case of force majeure and/or other extraordinary circumstances not foreseeable to us and/or extraordinary circumstances for which we are not responsible, even if they happen to our pre-suppliers, a delivery deadline promised by us will be extended until the rectification of the above-mentioned situation, unless an unreasonably long time passes until the rectification of the above-mentioned situation. An unreasonable time is always assumed if a time period of more than 3 weeks has passed. After this point in time, both we and the Orderer are entitled to withdraw from the contract concluded. In this case, compensation claims are excluded on both sides. In the event that we become aware of the previously mentioned circumstances, we are obliged to inform the Orderer immediately and, in the event of a withdrawal, immediately reimburse any performance in return already received.

(3) If the adherence to a deadline depends on the Orderer providing us with specific details and/or plans, approval declarations or similar, the delivery period will only begin at the point in time in which we have received the complete details from the Orderer in writing.

(4) If the delivery is postponed at the request of the Orderer beyond the contractually provided point in time, we can charge the Orderer a storage fee of 0.5% of the invoice amount for every month commenced, but maximum 5%, after demonstrating readiness for dispatch and starting with a deadline of 10 working days at the earliest.

8. Retrieval orders

If a retrieval order is issued to us and no separate written agreements are made regarding the retrieval dates, the Orderer is obliged to inform us of the individual retrieval dates in such a way that there is a gap of at least 14 days between the receipt of the retrieval notice and the handover, and the last handover takes place 90 days after our order confirmation at the latest.

9. Passing and transfer of risk

(1) The contracting parties agree to the dispatch sale within the meaning of § 447(1) BGB [German Civil Code]. In this respect, the risk is transferred to the Orderer as soon as we have handed over the ordered goods to the forwarder, the freight carrier or the person or establishment otherwise specified for the execution of the dispatch.

(2) If the ordered goods are made ready for dispatch by us and/or the dispatch and/or retrieval is delayed for reasons for which we are not at fault, the risk will be transferred to the Orderer upon receipt of the notification of readiness for dispatch.

(3) Returns to us that are not confirmed by us in writing beforehand will take place at the sole risk of the Orderer.

10. Liability for defects

(1) The risk is transferred to the Orderer at the latest upon the handover of the delivery object (whereby the beginning of the loading process is decisive) to the forwarder, freight carrier or third party otherwise specified for the execution of the dispatch. This also applies if partial deliveries take place or if we have undertaken to provide other services.

(2) The items delivered must be inspected carefully immediately after delivery to the Orderer or a third party specified by the Orderer. Regarding clear defects or other defects that would have been recognisable upon an immediate careful examination, they are deemed approved by the Orderer if we do not receive a written notice of defects within seven working days after the delivery. Regarding other defects, the items of delivery will be deemed approved by the Orderer if we do not receive the notice of defect within seven days after the point in time in which the defect becomes evident; if the defect was already recognisable to the Orderer during normal use at an earlier point in time, however, this earlier point in time is decisive of the start of the notice period.

(3) If the purchased item displays a defect that is announced in a timely manner and not only negligible, we are entitled to rectify the error or provide a replacement (subsequent performance) at our discretion.

(4) The Orderer will bear the storage costs after the passage of risk. In the event of storage by us, the storage costs are 0.25% of the invoice amount of the delivery items to be stored per full week. The assertion and proof of further or lower storage costs remains reserved.

(5) The consignment will only be insured by us against theft, breakage, and transport, fire and water damage, and other insurable risks, at the explicit request and expense of the Orderer.

(6) Of the costs of subsequent performance, we will cover the labour, material, disassembly and examination costs, if they are necessary and not disproportionate. An allocation of costs is excluded if the costs increase because the delivery object is in a location different to the location of the intended use.

(7) If we are not ready to rectify the error/provide a replacement, or not in a position to do so, or if it is delayed beyond a reasonable time frame for reasons for which we are responsible, or if it otherwise fails, the Orderer is entitled to withdraw from the contract or request a corresponding reduction of the purchase price, at its discretion.

(8) Further claims of the Orderer, particularly compensation claims, are based on the provisions in the following figure 11 and the restrictions and liability exclusions contained therein.

(9) The guarantee period is one year from the delivery or, if approval is necessary, from the approval. This period does not apply for compensation claims of the Orderer resulting from loss of life, physical injury or harm to health, or from intentional or grossly negligent breaches of duty by us or our vicarious agents, each of which are time-barred in accordance with the statutory provisions.

11. Compensation | joint and several liability

(1) We are liable unrestrictedly only for intent and gross negligence, and for damage resulting from loss of life, physical injury or harm to health based on an at least negligent breach of duty by us, our legal representatives or our vicarious agents; we are also liable unrestrictedly in the event of guarantees undertaken or provided by us for the condition or the presence of service success, or the acceptance of a procurement risk, and in the case of liability in accordance with product liability law and/or any other mandatory statutory liability facts.

(2) In the case of negligently caused material and financial damage, we are only liable in the event of a breach of an essential contractual duty, with the amount being limited to the foreseeable damage typical of the contract when the contract was concluded; essential contractual duties are duties of which the fulfilment shapes the contract and on which the Orderer can rely.

(3) Liability is otherwise excluded – regardless of the legal basis (including tortious liability)

12. Cable drums

For the supply of cable and cord reels, our Faber terms and conditions for cable reels apply, and in addition – for the cable and cord reels provided by KTG ("KTG reels"), the "Bedingungen für die Überlassung von Kabel- und Seilspulen" (Terms and Conditions for the Transfer of Cable and Cord Reels) of KTG apply. Reference is made to the corresponding policies.

13. Retention of title

(1) We reserve the ownership of the goods supplied by us (hereinafter referred to as "Conditional Goods") until the complete settlement of all our claims resulting from the business relationships with the Orderer. The retention of title will also continue to apply if individual payments are included in a running account (current account reservation).

(2) The Orderer is entitled to resell Conditional Goods in the ordinary course of business. The remuneration claims against its customers resulting from such a sale are already assigned by the Orderer to us as a precaution, to the amount of the value allotted to the Conditional Goods. As long as the Orderer fulfils its obligations towards us properly, it is authorised to collect the payments assigned to us. Should legitimate reasons exist, particularly if the Orderer culpably no longer fulfils its contractual obligations towards us, however, we are entitled to withdraw the above collection authorisation and disclose the assignment carried out in our favour; in such a case, the Orderer must immediately provide us with the documents necessary for the disclosure.

(3) A sale in the ordinary course of business is not constituted if the Orderer pledges Conditional Goods to a third party, assigns them as security and/or makes them the object of factoring or sale-and-leaseback processes, and/or the assignment of remuneration claims is excluded in the contractual terms and conditions of the customers of the Orderer. In any such case, the Orderer is always obliged to obtain our written permission to do so before the execution of the intended transaction.

(4) In the case of the amendment and/or processing of Conditional Goods, this will be on our behalf and for us as the manufacturer within the meaning of § 950 et seqq. BGB [German Commercial Code]. In such a case, we are entitled to the ownership of the new item(s) that arise due to the amendment/processing of the Conditional Goods in relation to the Conditional Goods to the value of the new item(s), at the time of the amendment/processing. If other goods not belonging to the Orderer are also processed at the same time, we are entitled to the co-ownership of the respective new item in the proportion of the invoice value of the individual processed parts to the overall value deduced. If the Orderer resells the new item it creates, the payment to which the Orderer is resultingly entitled will be assigned to us to the value of the Conditional Goods as a precaution.

(5) If the Conditional Goods are damaged, if they perish, or if claims of the Orderer arise against third parties due to an impairment of the value of the Conditional Goods, particularly against insurers, these claims must also be assigned to us within the framework of the above-mentioned and hereunder provisions for the safeguarding of our claim(s). If such claims occur, we must be informed immediately in writing.

(6) If the value of the securities assigned to us (respective sale value minus statutory value added tax and preloads of third parties) sustainably exceeds the claim(s) to which we are entitled by more than 50%, we are obliged to release securities no longer required, at our prudent discretion, upon the request of the Orderer.

(7) If a cheque/exchange process is carried out, a repayment of the payments to which we are entitled will only occur upon the final and unconditional fulfilment of all obligations associated with the named payment method, and only after the complete cashing of the bill provided in particular.

14. Other

(1) The law of the Federal Republic of Germany applies exclusively, with the exclusion of the CISG.

(2) The place of jurisdiction is, at our discretion, Saarbrücken or the competent court at the seat of the Orderer, if the Orderer is a merchant, legal person under public law or special fund under public law, or has no general place of jurisdiction in Germany.

(3) For the purpose of clarity, we declare again that upon the publication of these TCSDOS, they relate to all transactions within our online shop, but not for legal transactions carried out outside our online shop: For legal transactions carried out outside of this online shop, our Terms and Conditions of Service and Delivery (TCSD) as of June 2018 apply.