

General Terms and Conditions of Sale Kromberg & Schubert GmbH Cable & Wire 03/2023

1. Scope / Governing Law / Legal Venue

(1) The following terms and conditions ("T&C") shall apply to any and all legal relationships between Kromberg & Schubert GmbH Cable & Wire ("**Kroschu**") in business commerce with its suppliers/contractors/customers (uniformly referred to as "**Contractors**") as well as all resulting deliveries and services which Kroschu provides in its business dealings with its Contractors if such do not involve transactions with consumers. These T&C shall also apply if they are not mentioned in subsequent contracts.

(2) Solely these T&C shall apply. Any Terms and Conditions of the Contractor shall not become part of any agreement.

(3) To the extent allowed by law, solely the court having jurisdiction at Kroschu's registered seat shall have jurisdiction over all disputes emanating from or in connection with the agreement concluded – including the effectiveness of the agreement itself. By way of deviation from this, however, Kroschu shall alternatively also be entitled to press claims against the Contractor at the court having jurisdiction over Contractor's registered seat if Kroschu so sees fit.

(4) Solely German law shall apply to all mutual claims and rights emanating from or in connection with the agreement concluded. The UN Convention on Contracts for the International Sale of Goods (CISG) from 11 April 1980 and the Rules of Conflict of Law for German International Private Law are excluded.

2. Remuneration / Payments

(1) The prices agreed between us apply exclusively, as documented in our order confirmation. We have discussed in detail the additional surcharges, premiums and procurement costs for metals. If nothing to the contrary has been expressly agreed upon, Kroschu's prices are deemed to be ex works from Kroschu's respective production plant (EXW Incoterms 2020) not including loading. Packaging and freight costs, customs, fees and public levees on export consignments shipped are not included in the agreed upon prices unless such have been expressly agreed upon. Any additional services or changes in services subsequently ordered by the Contractor must be remunerated separately. Kroschu will specify the respective production plant when submitting the sales offer for the goods.

(2) The prices to be paid on the basis of the order confirmation will be adjusted at reasonable discretion based on the development of the costs that are decisive for the price calculation (manufacturing costs). A price adjustment can be considered if the costs for the procurement of raw materials (according to <https://www.kiweb.de>) or the purchase of energy for the production of the ordered products increase or decrease unexpectedly by more than 10% or if other changes to manufacturing costs occur which were not foreseeable at the time of conclusion of the contract. Increases in one type of cost may only be used for a price increase to the extent that there is no compensation for any falling costs in another type of cost. In the event of cost reductions, the prices are to be reduced insofar as these cost reductions are not fully or partially compensated for by increases in other areas. The manufacturing costs at the time of the order confirmation in comparison with the manufacturing costs at the time of the actual contractual production shall be decisive for a price adjustment. Insofar as a price adjustment comes into consideration, the Contractor will be informed of this before the start of production and the Contractor will be informed immediately on request of the relevant factors to be taken into account when setting the price. In the event the price increases are not merely insignificant, the Contractor shall have a special right of termination. The provision in Section 2 (3) remains unaffected.

(3) Additional or reduced costs compared to the metal bases specified in the offer are determined using the prices on the London Metal Exchange (LME) (source: <http://www.lme.com>). The metal surcharges will be made available to the client on request. The provision of metal always requires Kroschu's prior written confirmation.

(4) All prices are net prices if nothing to the contrary is expressly agreed upon. Payments shall be effected by the Contractor purely net and without any deductions in accordance with contractual terms and conditions of payment. Checks and bills of exchange are only accepted on account of performance (German: *nur erfüllungshalber*).

(5) The Contractor shall only be entitled to set off amounts if its claims are undisputed, have been recognized by law or are ready for decision. The Contractor shall only be entitled to rights of retention if they are based on the same contractual relationship.

(6) Claims of the Contractor may only be assigned to third parties with Kroschu's prior written consent. This shall not affect § 354a German Commercial Code (HGB).

3. Delivery / Delivery Dates / Self-Delivery Proviso

(1) Kroschu reserves the right to deliver up to 10% of the contract quantity in short lengths or as excess or short quantities, if this is reasonable for the Contractor. Excess and short deliveries that are customary in the industry are not considered defects and are to be accepted by the Contractor. Invoicing will be based in the quantities actually delivered. In order to ensure optimal coil filling, this shall be achieved, if necessary, by attaching line connections.

(2) If nothing to the contrary is expressly agreed upon, Kroschu shall solely effect delivery ex works (EXW Incoterms 2020) without loading; this shall also apply to the transfer of risk and the place of performance.

(3) Delivery periods shall only be deemed to be binding in the case of express individual written agreements. The agreed upon delivery periods shall be deemed to have been met when Kroschu is ready to effect delivery and has provided notification thereof or – if Kroschu has assumed the task of shipping in addition – when the goods left Kroschu's plant in due time.

Adherence to delivery and performance deadlines requires that all technical issues be resolved in advance. These include in particular receipt of all documents to be produced by the Contractor in due time, any releases and approvals required and adherence to the agreed upon terms and conditions of payment and any other obligations on the part of the Contractor. If the aforementioned conditions have not been met, periods and deadlines shall be extended commensurately; this shall not apply if Kroschu is responsible for the delay.

(4) The scheduling agreement arrangements, which are usually transmitted weekly, contain the following fixing horizons: fixing horizon 1 (35 days) = production release, fixed quantities and dates, changes only possible after mutual agreement; fixing horizon 2 (63 days) = material release. All further information beyond the fixing horizon 2 is to be understood as a non-binding planning forecast.

(5) Kroschu shall be entitled to effect partial deliveries and partial service if such is reasonable for the Contractor to accept in the respective specific case.

(6) If Kroschu does not receive delivery itself from its suppliers although Kroschu has placed commensurate orders to perform the contract with such suppliers, Kroschu shall be freed from its performance obligation and may withdraw from the agreement. Kroschu shall be obligated to notify the Contractor that a service is not available and shall reimburse the Contractor for any counter-performance it has already rendered.

(7) If nothing to the contrary has been expressly agreed upon, any shipping shall be at the risk of the Contractor. Risk shall be transferred to the Contractor in accordance with EXW Incoterms 2020. If the Contractor is in delay with acceptance, Kroschu shall be entitled to demand compensation for any expenses Kroschu incurs as a result thereof. Moreover the risk of accidental destruction/loss and accidental deterioration of the goods shall be transferred to the Contractor upon Contractor's default of acceptance.

(8) Contractual penalty arrangements in the event of late deliveries of Kroschu's goods or Kroschu's services shall in no event become part of the agreement.

(9) If Kroschu is in delay with its delivery, the Contractor shall have a claim to compensation for the damage that it demonstrates it has incurred. However, Kroschu's liability shall be limited in terms of the amount to damage which was foreseeable upon the conclusion of the agreement and is typical of such contracts unless there has been a wilful or grossly negligent violation of obligation or damage associated with a fatality, personal injury or impairment of health and Kroschu or parties hired by Kroschu to carry out the agreement are responsible for the violation of obligation that caused such. Kroschu shall also only be liable for forgone profit on the part of the Contractor in the event of wilful or grossly negligent violation of an obligation.

(10) If the Contractor causes a delay in delivery or dispatch, Kroschu shall be entitled to charge the Contractor for the additional costs incurred as a result. Notwithstanding proof of higher or lower storage costs, Kroschu shall in any case be entitled to charge the Contractor a demurrage of 0.5 per cent of the net price of the items of the delivery in question per expired week, but not more than a total of 5 per cent of the net price of the items of the delivery in question. This demurrage will be deducted from the calculation of the additional costs incurred.

4. Force Majeure

(1) In cases of force majeure, Kroschu shall be released from the obligation to perform for the duration and to the extent of the effect of the respective force majeure. Force majeure shall mean any event beyond Kroschu's control which prevents Kroschu from fulfilling its obligations in whole or in part, including fire damage, floods, and other natural disasters, strikes and lawful lockouts and other industrial action, riots, acts of war, pandemic, governmental or judicial measures as well as operational disruptions not caused by Kroschu. Supply difficulties and other service interruptions on the part of Kroschu's sub-suppliers shall only be considered as force majeure if the respective sub-supplier is prevented from rendering the service incumbent upon him due to an event in accordance with sentence 1.

(2) Kroschu shall immediately notify the Contractor of the occurrence and cessation of the force majeure and shall use its best efforts to remedy the force majeure and limit its effects as far as possible.

(3) Kroschu shall be entitled to cancel the affected contracts if the force majeure lasts more than 8 (eight) weeks.

(4) The right of each contracting party to terminate the contract for good cause shall remain unaffected.

5. Packaging Instructions, Taking-Back of Packaging

(1) Undamaged spools, drums and barrels shall be taken back by Kroschu at Kroschu's plant provided that the Contractor bears the actual costs of disposal. The costs for the return transport shall be borne by the Contractor.

(2) Cartons, cardboards and foils are to be disposed of by the Contractor at its own expense. The Contractor shall also dispose of recyclable disposable pallets used by Kroschu at Contractor's own expense.

(3) If used by Kroschu, formwork, supports and other loading equipment shall be invoiced at cost price and shall not be taken back.

(4) Cable drums owned by Kabeltrommel GmbH & Co. KG (KTG) shall be returned to KTG after emptying. The takeover is carried out by forwarding agents / carriers on behalf of KTG free of charge. The decision for the use / application is left to the KTG. The conditions for the provision of cable and rope spools by KTG are known to the Contractor and the Contractor accepts and acknowledges these as binding for him.

6. Reservation of Title

(1) Kroschu reserves title to the goods delivered by Kroschu until complete satisfaction of all claims emanating from the legal relationship upon which the delivery is based (goods subject to reservation). Until such point the Contractor shall not be entitled to pledge the goods or transfer such as collateral.

(2) The Contractor shall only be entitled to process the goods supplied in regular business operations or to combine such with other objects or mix or sell such. Regular business operations in the meaning of this provision shall not be deemed to be fulfilled

if the Contractor is excluded from assigning its claims to third parties in the case of sales by the Contractor or any other disposals by it in favour of third parties.

(3) In the event of sales as well as processing, linking or mixing, the Contractor here and now assigns any claims attained against third parties as a result to Kroschu in the amount of the purchase price of the goods subject to reservation without such requiring any separate agreement in each individual case. Kroschu accepts said assignment here and now.

(4) If the realisable value of the collateral provided to Kroschu exceeds the secured claims by a total of more than 10 per cent not only temporarily, or if the estimated value of the securities given to Kroschu exceeds 150 per cent of the value of the secured claims, Kroschu shall be obliged to release the securities at Kroschu's option insofar as the Contractor requests this. When selecting the securities to be released, Kroschu will take into account the legitimate interests of the Contractor.

7. Limitation on Liability

(1) Kroschu shall be liable in accordance with statutory provisions for any defects to the goods supplied by Kroschu within the agreed upon warranty periods if nothing to the contrary is stipulated in the following. Unless otherwise expressly agreed in writing, the following shall apply: (i) Kroschu's specifications only represent service descriptions in the sense of § 434 (1) 1 BGB (agreed quality), and not guarantees of the seller (neither independent guarantees in the sense of § 311 BGB nor quality guarantees in the sense of § 443 BGB); (ii) a certain suitability or a certain intended use is not owed, the Contractor bears risk for any suitability and any specific use. If the Contractor has installed a defective item delivered by Kroschu in another item or attached it to another item in accordance with its type and intended use, the Contractor can only demand any expenses for removing the defective item and installing or attaching the repaired or delivered defect-free item if Kroschu is responsible for the defectiveness of the delivered item.

(2) Any defect claims on the part of the Contractor shall be subject to the Contractor having inspected the goods supplied by Kroschu without undue delay after delivery and, if a defect is found, having notified Kroschu hereof without undue delay. If the Contractor fails to notify Kroschu hereof, Kroschu's goods shall be deemed to have been approved unless there is a defect that was not recognizable upon the inspection. If such a defect appears later, notification hereof must be provided without undue delay after it is discovered. Otherwise the good shall be deemed to have been approved in awareness of such defect.

(3) If nothing to the contrary is stipulated in the foregoing or hereafter, Kroschu shall bear liability in accordance with statutory provisions for all damage Kroschu is responsible for that occurs in rendering Kroschu's contractual obligations by itself or by parties Kroschu hires to carry out the agreement. Kroschu's liability shall always be limited in terms of the amount to the damage foreseeable upon the conclusion of the agreement and typical of such agreements, however, unless there has been a fraudulent behaviour or wilful or grossly negligent violation of obligation or damage which has caused a fatality, personal injury or impairment of health and for which violation of the obligation underlying such Kroschu or parties hired by Kroschu to perform the contract are responsible. This shall not affect any claims under the German Product Liability Act, nor shall the preceding stipulation affect the right of the Contractor to subsequent performance, reduction of price or withdrawal.

(4) The statute of limitations for defects to the goods supplied by Kroschu which are not properly mounted in a building structure shall be 12 months unless there has been a wilful or grossly negligent violation of obligation or fatality, personal injury or health impairment resulting from defects for which Kroschu or parties hired by Kroschu to carry out the agreement are responsible. This shall not affect §§ 438 (1) Nr. 2, 634a (1) Nr. 2 German Civil Code.

(5) Kroschu shall acquire title to any parts exchanged within the framework of subsequent performance. The Contractor shall thus be obligated to transfer title back to Kroschu.

8. Defects Based on Contractor's Details/Requirements/Specifications etc. or improper handling by the Contractor

(1) If a defect is based on Contractor's details/requirements/specifications or on materials, products or components supplied by third party suppliers at Contractor's request or prescribed by the Contractor, Kroschu shall not be liable for this defect, not even proportionately, if Kroschu informed the Contractor of the problem before production or if the problem was not recognisable for Kroschu as a specialist company.

(2) Kroschu expressly refers to the instructions "Instructions for Use Cables Kroschu FB-QM-11-XX" for the proper handling, transport, storage and further processing of spools and cables, which can be viewed at <https://www.kroschu-cable.de/de/>. These instructions form part of all quotations and order confirmations from Kroschu and must be observed by all Contractors. Any warranty or liability for defects or damage resulting from improper handling of the products is excluded, unless Kroschu is responsible for it.

9. Business Secrets

The Contractor shall be obligated to treat all business and technical details relating to the contractual relationship as business secrets. Kroschu shall retain exclusive title to any concepts, prototypes, designs, software, drawings, tools, samples, models, marks or similar provided by Kroschu to the Contractor and may only be passed on to third parties with Kroschu's express written consent.

10. Certificates

Kroschu's currently valid certificates can be viewed on its homepage at <https://www.kroschu-cable.de/de/>.