

## KABELMAT Wickeltechnik GmbH

### General terms and conditions of sale, delivery and payment (GT&Cs)

#### 1. Contracting

- a. Our General terms and conditions shall apply exclusively; we do not recognise any conflicting, deviating or supplementary conditions of the purchaser unless we have expressly agreed to these conditions in writing.
- b. We herewith expressly object to the further reference to clauses of the purchaser and the further reference of the purchaser to clauses of third parties. In particular, we object to the subsidiary validity of clauses and sets of clauses to which the purchaser refers.
- c. Our general terms and conditions shall apply to all legal claims of the purchaser, regardless of the legal basis.
- d. Our general terms and conditions shall also apply if we provide our services without reservation in the knowledge of conflicting or supplementary clauses.
- e. Our general terms and conditions shall apply in relation to entrepreneurs, legal entities under public law and special funds under public law.

#### 2. Contracting party

- a. The contracting party of Kabelmat Wickeltechnik GmbH shall be exclusively the purchaser who has declared the order and to whom the placing of the order has been confirmed.
- b. Kabelmat Wickeltechnik GmbH shall provide its services only to the purchaser named in the offer or in the order confirmation. Any liability towards third parties not named as purchaser in the offer or the order confirmation shall herewith be expressly excluded.

#### 3. Telephone and verbal information

Telephone and verbal information is not legally binding.

#### 4. Offer, reservations

- a. All offers of Kabelmat Wickeltechnik GmbH are subject to confirmation.

- b. The offers of Kabelmat Wickeltechnik GmbH are expressly subject to the reservation of self-supply. Kabelmat Wickeltechnik GmbH shall immediately inform the purchaser of any unavailability and shall immediately reimburse any consideration already received.
- c. Kabelmat Wickeltechnik GmbH reserves the right to make mistakes and typing errors in the written offers.
- d. If the offer is provided with a period of validity, the offer shall expire if it is not accepted within the period.
- e. If an order is placed after expiry of the offer period, Kabelmat Wickeltechnik GmbH will not be obliged to accept this order. The delivery periods stated in the expired offer in particular will no longer be valid.
- f. Catalogue goods shall only be offered with the qualities that are evident in the catalogue and from the online data sheets for the respective product, whereby the online data sheets reflect the technical status of the qualities that are decisive for the offer. Kabelmat Wickeltechnik GmbH reserves the right to make technical changes.  
The use and suitability of catalogue goods for a specific purpose are not part of the offer.

## 5. Order confirmation

- a. The contract with Kabelmat Wickeltechnik GmbH shall enter into force upon receipt of the written order confirmation under the conditions stated in the order confirmation.
- b. If no order confirmation is issued, the content of the contract shall be determined by the offer made by Kabelmat Wickeltechnik GmbH.

## 6. Amendments to the order, cancellation

- a. Any amendments to the order shall only become effective if confirmed in writing by Kabelmat Wickeltechnik GmbH.
- b. The original delivery time shall no longer apply if the purchaser amends the order.

- c. The purchaser shall not be entitled to cancel the order. In spite of cancellation by the purchaser, Kabelmat Wickeltechnik GmbH may insist on acceptance of the ordered delivery items and payment of the full purchase price.

## 7. Prices and costs

- a. Kabelmat Wickeltechnik GmbH is entitled to demand advance payment. New customers in particular will only be supplied following advance payment.
- b. In the case of international business transactions, the purchaser shall, at the option of Kabelmat Wickeltechnik GmbH, either pay in advance or provide a documentary letter of credit without a term of payment.
- c. The prices stated in the offers and order confirmations are net prices ex works, without packaging, without postage, without insurance, without customs clearance costs and without shipping costs.
- d. Packaging, shipping, loading and unloading costs as well as possible customs duties, taxes and fees shall be borne by the purchaser.
- e. Unless otherwise agreed, the purchaser shall also bear the costs of freight insurance.
- f. The respectively valid and applicable sales tax shall be borne by the purchaser.
- g. The invoice amount shall be payable immediately upon receipt of the invoice without deduction. The purchaser will be in default without further reminder upon failure to pay within the agreed period. If no separate payment deadline has been agreed with the purchaser, the purchaser shall be in default 10 calendar days after receipt of the invoice. In legal transactions in which no consumer is involved, Kabelmat Wickeltechnik GmbH shall be entitled to demand interest on arrears from the purchaser at a rate of 9 percentage points above the base rate (announced by the German Federal Bank ["Deutsche Bundesbank"]).

### 7.1. Minimum order value, surcharge

- a. We are not obliged to accept orders for which the net price is less than 100.00 euros.

- b. For orders below the minimum order value we charge a surcharge of EUR 25.00.

## 7.2. Freight and shipping costs

- a. All deliveries are - unless otherwise agreed - without unloading.
- b. The purchaser shall bear the costs for special trips.
- c. The costs for deliveries shall be borne by the purchaser.

## 8. Delivery

The delivery shall be made as stated in our order confirmation. Partial deliveries shall be expressly recognised as permissible.

## 9. Take-back, take-back costs

The purchaser shall have no right to return goods delivered free of defects.

## 10. Right to refuse performance, retention, offsetting

- a. The purchaser's right to refuse performance (defence of non-performance of the contract) shall be excluded if the purchaser has to make advance payment or provide a letter of credit.
- b. Rights of retention according to § 273 BGB (German Civil Code) shall only exist for due and fully effective claims a) either from the same order or b) if the order is to be regarded as a continuation of earlier contracts, provided that these are undisputed or have been legally established.
- c. Offsetting shall only be permissible with undisputed or legally established claims.

## 11. Retention of title, objection to resale, consumption and processing

- a. Kabelmat Wickeltechnik GmbH shall retain title to the delivery items until the invoice amount for the respective delivery item has been paid in full and unconditionally.

- b. Kabelmat Wickeltechnik GmbH herewith objects to any resale before the purchase price has been paid in full. This also applies in particular to the insolvency administrator of the purchaser.
- c. If any action on the part of the purchaser leads to the destruction of the reserved property of Kabelmat Wickeltechnik GmbH or if the return of the goods becomes impossible as a result of this action, this shall constitute a claim for damages against the purchaser. In addition to the purchaser, the legal representatives of legal entities shall also be personally liable for damages.
- d. The purchaser must inform Kabelmat Wickeltechnik GmbH immediately of any enforcement measures taken by third parties against the reserved goods. Furthermore, the purchaser must inform the third party of the retention of title.
- e. In the event that the reserved goods are resold or leased, the purchaser hereby assigns to Kabelmat Wickeltechnik GmbH by way of security the claims accruing to him from transactions with his customers until the purchase price claims have been met. Kabelmat Wickeltechnik GmbH accepts these assigned securities.
- f. If the reserved goods are processed, transformed or combined with another item, Kabelmat Wickeltechnik GmbH shall acquire direct ownership of the newly produced item. This shall now be deemed to be reserved goods.
- g. If the value of the security for the claims exceeds the outstanding purchase price claims of Kabelmat Wickeltechnik GmbH by more than 20%, Kabelmat Wickeltechnik GmbH shall, at the request of the purchaser, release securities to an appropriate extent at the discretion of Kabelmat Wickeltechnik GmbH.

## 12. Delivery period, delay in delivery

- a. All information regarding the delivery date is only an approximate indication. Shipping is understood to be outgoing in calendar week. Failure to meet an approximate date shall not result in default or delay in delivery.
- b. Kabelmat Wickeltechnik GmbH shall also be entitled to make partial deliveries. Kabelmat Wickeltechnik GmbH shall not be in default with respect to partial deliveries made in due time.
- c. The delivery period is deemed to have been met when the goods are handed over to the carrier in due time.

- d. The due date of the delivery shall only be established by setting a reasonable deadline. The deadline must be set in writing.
- e. Kabelmat Wickeltechnik GmbH shall only be in default after a reminder has been sent after the due date of delivery. The reminder must be in writing.
- f. If delivery cannot take place because Kabelmat Wickeltechnik GmbH itself has not been supplied, Kabelmat Wickeltechnik GmbH shall be entitled to withdraw from the contract in respect of the delivery goods concerned. In this case, any claims made by the purchaser shall be limited to the repayment of any payments made by the purchaser. Further claims on the part of the purchaser shall be excluded in the event of failure to deliver to us.
- g. Should Kabelmat Wickeltechnik GmbH be at fault, the purchaser's claims due to delay in delivery shall be limited to 0.5 per cent of the net delivery value of the delivery items affected by the delay per calendar week that has elapsed in full, up to a maximum of 5 per cent of the net delivery value of the delivery items affected by the delay. The purchaser shall not be entitled to any further claims for damages or financial disadvantages caused to them by the delay in delivery, in particular for loss of use, interruption of operations or loss of profit. This exclusion shall not apply if Kabelmat Wickeltechnik GmbH has caused the damage to the purchaser intentionally or through gross negligence.

### **13. Place of performance, transfer of risk, acceptance**

- a. The place of performance is the registered office of Kabelmat Wickeltechnik GmbH, 72293 Glatten, Germany.
- b. Upon notification that the goods are ready for dispatch or handover to the carrier, Kabelmat Wickeltechnik GmbH will have fulfilled its performance.
- c. Unless otherwise stated in the order confirmation, delivery shall be agreed "ex works".
- d. Unless otherwise agreed between the parties, the risk of accidental loss or accidental deterioration shall pass to the purchaser upon handover to the carrier. If acceptance is to take place, this shall be decisive for the transfer of risk. It must be carried out immediately on the acceptance date, alternatively after our notification of readiness for acceptance. The purchaser may not refuse acceptance in the event of any insignificant defects. Insofar as acceptance is to take place, the acceptance date shall be decisive - except in

the case of justified refusal of acceptance - or alternatively the notification of readiness for acceptance.

- e. If dispatch or acceptance is delayed or does not take place due to circumstances that are not attributable to Kabelmat Wickeltechnik GmbH, the risk shall pass to the purchaser on the day of notification of readiness for dispatch or acceptance. Kabelmat Wickeltechnik GmbH shall be entitled, after the fruitless elapsing of a deadline set for acceptance, to have the acceptance activity of the delivery items determined by an arbitrator's expert opinion in accordance with No. 14.3 of these GT&Cs.
- f. The purchaser must unload the goods at their own expense. If the purchaser does not carry out the unloading, they shall be in default of acceptance.

## 14. Warranty

### 14.1. Notice of defects, warranty period

- a. The delivery items shall be deemed to be free of defects if they correspond to the agreed quality or, in the absence of an individual agreement, if they have the qualities listed in the online data sheets and in the catalogue, they are subject to technical changes.
- b. Kabelmat Wickeltechnik GmbH can neither determine and verify the suitability for a specific application nor the environmental conditions nor the repercussions from an electrical system. Neither the suitability for a specific purpose nor the suitability for specific environmental conditions shall become part of the contract.
- c. If recommendations are made by Kabelmat Wickeltechnik GmbH, this recommendation shall be made subject to the proviso that the information provided by the purchaser was complete and correct in content and that no special features were to be observed.
- d. The purchaser must inspect the goods immediately after delivery and, if a defect is found, immediately notify Kabelmat Wickeltechnik GmbH in writing of the defect. The notification of defects must state the invoice number and the article number and each individual defect must be notified separately. In cases of successive or partial deliveries, inspection and notification of defects must be made after each delivery.

- e. The obligation of immediate inspection includes in particular the inspection of the delivery items for their functionality and compliance with the data as stated in the data sheet and catalogue.
- f. The obligation of immediate inspection and notification of defects applies to each individual processing step. Should the purchaser fail to give immediate notice of defects in the respective processing step, the delivery items shall be deemed approved.
- g. Kabelmat Wickeltechnik GmbH herewith refutes all clauses implying that the duty of inspection is transferred to Kabelmat Wickeltechnik GmbH. In any case, Kabelmat Wickeltechnik GmbH does not have the possibility of examining the respective processing steps, since Kabelmat Wickeltechnik GmbH does not carry out any further processing.
- h. Should the purchaser fail to notify us of a defect immediately, the delivery items shall be deemed to have been approved.
- i. Upon approval, all possible claims for subsequent performance and damages by the purchaser, regardless of their legal basis, shall be excluded.
- j. The warranty period amounts to 12 months from delivery of the respective delivery item.

#### **14.2. Clarification of the technical facts, cooperation obligations of the purchaser**

- a. The purchaser is obliged to provide Kabelmat Wickeltechnik GmbH with access to the installation situation so that Kabelmat Wickeltechnik GmbH can inspect any effects on the delivery items.
- b. The warranty shall become null and void should the purchaser violate the aforementioned obligations, unless Kabelmat Wickeltechnik GmbH acknowledges the defectiveness of the delivery items.

#### **14.3. Appointment of arbitrators**

- a. Should the parties be unable to agree on whether the delivery items are defective or not, the parties shall agree that the disputed facts are legally binding under § 317 ff. BGB by an arbitrator.
- b. The arbitrator must be a publicly appointed and sworn expert.



- c. Should the parties be unable to agree on an arbitrator, either party may instruct the IHK/AHK (German/an international of commerce) to appoint an arbitrator. The arbitrator appointed by the IHK/AHK can only be challenged if the grounds for challenge arise from the person of the arbitrator in accordance with a judge's challenge. The costs of the arbitrator's expert opinion shall be borne by the party concerned after winning or losing.

#### **14.4. Processing, credit note, supplementary performance**

- a. As soon as the technical inspection of the delivery items that are the subject of the complaint and the ambient conditions have been completed, Kabelmat Wickeltechnik GmbH will inform the purchaser of the results of the inspections.
- b. Insofar as Kabelmat Wickeltechnik GmbH considers the complaint to be justified, Kabelmat Wickeltechnik GmbH will issue a credit note after receipt of the delivery items that are available as an option, to the extent of the receipt.
- e. No credit note can be issued for defective goods that are not returned. In the event of failure to return the goods, there is a rebuttable presumption that the delivery items will continue to be used.

#### **14.5. Failure of supplementary performance, reduction, withdrawal from the contract**

- a. The purchaser shall only be entitled to reduce the purchase price or to withdraw from the contract insofar as the supplementary performance has failed.
- b. Kabelmat Wickeltechnik GmbH shall be granted at least two attempts at supplementary performance.
- c. If the purchaser reduces the purchase price, they must explain to what extent the serviceability of the delivery items is impaired by the alleged defect. If the usability of the delivery items is not impaired from a technical point of view, no reduction amount shall be applied.

#### **14.6 Exclusion of no-fault claims for damages**

- a. Kabelmat Kabelmat Wickeltechnik GmbH shall not be liable to pay any no-fault damages due to a defective delivery or service, in particular no loss of profit, loss of use or damages due to interruption of operations.

#### 14.7. Reimbursement of expenses

- a. The purchaser shall only be entitled to claim reimbursement of expenses if supplementary performance has failed and Kabelmat Wickeltechnik GmbH is at fault for the defectiveness of the delivery items or for the failure of supplementary performance.
- b. If a supplementary performance free of defects has taken place, any claims for reimbursement of expenses shall be excluded.
- c. Reimbursement of expenses can only be demanded instead of compensation for damages instead of performance.
- d. Futile expenditure shall only be understood to mean expenditure which has become useless due to the defectiveness of the delivery items. This includes in particular only expenses which were incurred as a result of trusting the delivery of a defect-free item.
- e. Reimbursement of expenses shall only include costs which have been incurred after receipt of the order confirmation and which have finally been spent in vain.
- f. Any claim for reimbursement of expenses shall not exist insofar as the purchaser anticipated or had to anticipate that the service would not be received.
- g. In particular, the claim does not apply to delivery items which were subject to the reservation of self-supply.
- h. Furthermore, no claims for reimbursement of expenses shall exist if the expenses are clearly disproportionate to the performance not rendered. This shall apply in particular if the purchaser could have easily obtained comparable delivery items from competitors.
- i. Claims for loss of profit, loss of use, business interruption and own work services are not covered by the reimbursement of expenses.
- j. If the purchaser has benefitted or could have benefitted from their expenses, any potential claim for reimbursement of expenses shall be reduced accordingly.

#### 14.8. Damages in lieu of performance

- a. The purchaser must expressly set Kabelmat Wickeltechnik GmbH in writing a reasonable period of grace for supplementary performance. Setting a grace period shall only be effective if the performance owed was due at the time the grace period was set.
- b. The setting of a period of grace must clearly specify the performance required and clearly indicate the end of the period. The reasonable grace period must take into consideration that the delivery items usually still have to be manufactured first.
- c. The purchaser shall not be entitled to claim damages in lieu of performance for partial deliveries that are available as an option.
- d. If the purchaser has validly asserted a claim for damages instead of performance, the purchaser's claims for damages instead of performance shall be limited to the difference between a possibly higher purchase price of a replacement product of the same type and quality from the same country of origin and the purchase price agreed in the order confirmation.
- e. The purchaser shall not be entitled to any further claims for any financial disadvantages suffered by the purchaser as a result of the non-delivery, in particular for loss of use, interruption of operations or loss of profit. This exclusion shall not apply if Kabelmat Wickeltechnik GmbH has caused the damage to the purchaser intentionally or through gross negligence.
- f. The aforementioned limitations of liability shall not apply to claims for damages by natural persons due to injury or impairment of body, life or health, nor to indispensable claims (German Liability Act, Product Liability Act).

#### 14.9. Damages due to breach of duty

- a. Insofar as Kabelmat Wickeltechnik GmbH is responsible for the non-fulfilment of the delivery obligation or the poor fulfilment of the delivery obligation, any claims for loss of use, interruption of operations or loss of profit shall be excluded. This exclusion shall not apply if Kabelmat Wickeltechnik GmbH has caused the damage to the purchaser intentionally or through gross negligence.
- b. If Kabelmat Wickeltechnik GmbH is not the manufacturer of the delivery items, it shall not be held responsible for any manufacturer's default.

## 15. Liability for damages that do not affect the delivery item itself

- a. Any compensation claims against Kabelmat Wickeltechnik GmbH for damage that does not occur to the delivery item itself will only be considered if Kabelmat Wickeltechnik GmbH can be accused of gross negligence or intent.
- b. The purchaser shall not be entitled to claim damages if it did not point out to Kabelmat Wickeltechnik GmbH at the time of ordering that a defective delivery could result in a high financial loss. A high financial loss is defined as an amount exceeding EUR 50,000.
- c. Any claims made by the purchaser on the grounds of financial loss, in particular on the grounds of loss of profit, loss of production or interruption of operations, are hereby expressly excluded.
- d. Kabelmat Wickeltechnik GmbH shall not be liable for financial losses incurred by the purchaser as a result of claims by third parties. In particular, Kabelmat Wickeltechnik GmbH shall not be liable for damage caused by the fact that the purchaser has waived the immediate obligation to inspect and give notice of defects to its customer or has assumed this obligation for its customer.
- e. The amount of any potential claims for damages by the purchaser shall be limited to EUR 100,000.00.
- f. Insofar as the liability of Kabelmat Wickeltechnik GmbH is excluded or limited, the exclusions and limitations of liability shall also apply in favour of the authorised representatives of Kabelmat Wickeltechnik GmbH, the executive staff, employees, vicarious agents and assistants.
- g. The aforementioned limitations of liability shall not apply in the event that claims for death, personal injury, impairment of health or indispensable claims (e.g. product liability law, liability law) are asserted.
- h. Furthermore, the aforementioned limitations and exclusions of liability shall not apply if Kabelmat Wickeltechnik GmbH can be accused of gross negligence or intent in connection with the occurrence of the damage.
- i. The limitation period for claims for damages, which do not relate to a defect or damage to the delivery item itself, shall commence in accordance with the statutory provisions (§199 BGB) and, in deviation from §195 BGB, shall be one year. The limitation period of one year shall not apply if claims for death,

personal injury, impairment of health or claims under indispensable regulations (e.g. product liability law, liability law) are asserted.

## 16. Software usage

- a. If software is included in the scope of delivery, the purchaser shall be granted a non-exclusive right to use the delivered software including its documentation together with the delivery item. It is provided for use on the delivery item intended for this purpose. Use of the software on more than one system is prohibited.
- b. The purchaser may only copy, revise, translate or convert the software from the object code to the source code to the extent permitted by law (§§ 69 a ff. UrhG [German Copyright Act]). The purchaser shall commit to not removing manufacturer's data - in particular copyright notices - or changing them without the prior express consent of the supplier.
- c. All other rights to the software and the documentation, including copies, shall remain with the supplier or the software supplier. The granting of sublicenses is not permitted.

## 17. Force majeure

- a. Should non-compliance with the deliveries or services of Kabelmat Wickeltechnik GmbH be due to force majeure, such as natural disasters, epidemics, war, armed conflicts, civil war, revolution, terrorism, sabotage, nuclear/reactor accidents, industrial disputes or other events beyond the control of Kabelmat Wickeltechnik GmbH, Kabelmat Wickeltechnik GmbH shall be released from its performance obligations for the duration of the event and the delivery time shall be extended accordingly.
- b. Kabelmat Wickeltechnik GmbH will inform the purchaser of the beginning and end of such circumstances as soon as possible.
- c. Insofar as the duration of the event exceeds a period of 6 months, Kabelmat Wickeltechnik GmbH shall also be entitled to terminate the contract.

## 18. Contract language, applicable law, place of jurisdiction

- a. The contract language shall be German, unless otherwise agreed.
- b. All claims arising from or in connection with deliveries and services provided by Kabelmat Wickeltechnik GmbH, regardless of their legal basis, shall be

governed by the legal provisions of Germany, with the exception of the conflict of law provisions and the UN Convention on Contracts for the International Sale of Goods (CISG).

- b. The place of jurisdiction for all disputes arising from or in connection with deliveries or services provided by Kabelmat Wickeltechnik GmbH shall be the registered office of Kabelmat Wickeltechnik GmbH in 72293 Glatten, Germany.

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