

# HELU KABEL GmbH

## Standard Terms and Conditions for Delivery and Payment

Version 07/2024

### 1. Validity

- a. Our standard terms and conditions apply exclusively; we do not recognize any conflicting, deviating or supplementing terms and conditions of the Customer unless we have explicitly consented to such conditions in writing.
- b. We hereby explicitly reject any incorporation by reference to the Customer's standard terms and conditions or to any reference to the standard terms and conditions of third parties. In particular, we decline the related validity of any individual pre-formulated clauses or collections of such clauses referenced by the Customer.
- c. Our standard terms and conditions apply to all legal claims of the Customer regardless of legal grounds.
- d. Our standard terms and conditions also apply if we provide services with knowledge of any conflicting or supplemental clauses.
- e. Our standard terms and conditions apply to relationships with companies, juridical persons organized under public law and special funds organized according to public law.
- f. When we supply the Customer with Aufmaster measurement instruments, the provisions in Paragraph 18 will take precedence over the provisions of the other sections of these Terms of Business.

### 2. Contract partner

- a. The contractual partner of HELU KABEL GmbH is exclusively the Customer that has directly placed an order and to whom the confirmation of the order has been given.
- b. HELU KABEL GmbH provides its services only for the Customer named in the offer or in the order confirmation. Liability vis-à-vis a third party not named as the ordering Customer is hereby explicitly excluded.

### 3. Telephonic and oral representations

- a. Verbal communication in person, by phone or other electronic media are not legally binding.
- b. A potential Customer must specify the subject of the delivery in question (e.g. a particular cable construction) in writing and state the quantity and delivery details (desired delivery time, type of shipment, transfer of risk) since a reliable review is not possible otherwise.

### 4. Offer, reservations

- a. All offers made by HELU KABEL GmbH are non-binding.
- a. Offers made by HELU KABEL GmbH are explicitly subject to timely self-delivery. HELU KABEL GmbH agrees to promptly inform the Customer of non-availability and to promptly reimburse any consideration already received.
- b. For all its offers, HELU KABEL GmbH explicitly reserves the right of prior sale. HELU KABEL GmbH agrees to promptly inform the Customer about any resulting lack of availability and to promptly reimburse any payments already received.
- c. Offers are submitted subject to the Customer being accepted as insurable by the commercial loan insurer.
- d. HELU KABEL GmbH reserves the right to correct mistakes and clerical errors in written offers.
- e. If the offer has an expiration date, the offer becomes null and void if not accepted within the deadline.
- f. HELU KABEL GmbH is not obligated to accept any order placed after expiration of the expiration of the offer. In particular, all delivery dates in the offer are no longer valid.

- g. Catalog goods are offered only with the qualities evident in the catalog and the online spec sheets for the respective product whereby the online spec sheets reflect the technical status of qualities governing the offer. HELU KABEL GmbH reserves the right to make technical alterations. Utilization and suitability for a particular purpose are not subject of the offer.

### 5. Order confirmation

- a. A contract with HELU KABEL GmbH is reached upon the receipt of the written order confirmation and acceptance of terms and conditions as stated in the written order confirmation.
- b. If no order confirmation is received, then the contents of the contract are governed by the offer made by HELU KABEL GmbH.

### 6. Modification, cancellation of orders

- a. Modifications of an order are valid only if confirmed by HELU KABEL GmbH in writing.
- b. Modification of the order cancels the original delivery schedule.
- c. The Customer is not entitled to cancel an order. Despite cancellation by the Customer, HELU KABEL GmbH may insist on acceptance of delivery of the ordered merchandise and payment of the full purchase price.

### 7. Prices and costs

- a. HELU KABEL GmbH may demand payment in advance. Deliveries to new customers will only be made against advance payment.
- b. In the case of international transactions, the Customer shall, at the option of HELU KABEL GmbH, either make payment in advance or post a documentary letter of credit with no payment time limitation.
- c. Prices quoted in offers and order confirmations are net prices EX WORKS without packaging, without postage, without insurance, without customs costs and without shipping costs.
- d. Packaging, shipping, loading and unloading costs as well as possible customs duties, taxes and fees shall be the responsibility of the Customer.
- e. Unless otherwise agreed upon the Customer also bears the costs of freight insurance.
- f. The Customer is responsible for all applicable taxes and duties.
- g. The invoiced amount is payable without any deductions immediately after receipt. The Customer is in default without further notice for failure to pay by the agreed deadline. If no special payment deadline is agreed upon with the Customer, the Customer is in default 10 calendar days after receipt of the invoice. In the case of legal transactions not involving consumers, HELU KABEL GmbH may charge the Customer late payment interest of nine percentage points above the basic interest rate (published by the German Central Bank Deutsche Bundesbank).
- h. If the Customer has not properly assigned a payment made, an initial check will be made to see if the Customer's intention is apparent by matching the amount of payment with an open invoice. If no allocation is apparent, the amount of payment will be applied to the most recent invoice presented and then to the immediately preceding invoices.

#### 7.1. Cable and conduit pricing

- a. Because of the high metal content HELU KABEL GmbH is entitled to separately state metal costs („metal surcharge“). In international transactions, HELU KABEL GmbH reserves the right to

- quote full material prices.
- b. Copper metal calculation:  
Unless otherwise agreed in writing, net prices for copper contain a €150.00 per 100 kg copper base price (exception for underground cables: Cu basis 0 and telephone cables: Cu base price €100.00).
  - c. The calculation basis for the sale price is our published copper (<https://shop.helukabel.com/de-en/metal-stock-price>) on the day prior the day the order is received. The sale price is increased or reduced by the difference between the copper base price and the copper metal quotation. The copper factor is multiplied by the copper difference. If not otherwise stated, the copper factor applies per 1000 m. The copper factor is an internal calculation factor that does not correspond to the specific copper weight.
  - d. Other metal surcharges (e.g. aluminum, nickel, lead) are handled equivalent to the copper calculation. The base price is the value stated in our offers. All metal surcharges are excluded from prompt payment and other discounts.

## 7.2. Accessory pricing

- a. Metal calculation for brass:  
Metal surcharges contain a brass base cost of €150.00 per 100 kg of brass. The computational basis for the sale price is the price quoted on the exchange (exchange quotation for MS 58. Processing stage 1) on the day after receipt of the order plus purchase costs. The sale price is increased or reduced by the difference between the brass base cost and brass quotation by allowing a 5% brass surcharge or discount, respectively, for every full €13 per 100 kg. Such surcharges are always quoted on a purely net basis.
- b. Metal calculation for copper: equivalent to cable and conduits (see above).
- c. Metal calculation for copper lugs: the prices contain a copper base cost of €150 per 100 kg of copper. The computational basis for the sale price is the MK price for copper on the day before the day the order is drafted. The copper factor is to be multiplied by the copper difference. If not otherwise stated the copper factor is per 1000 pieces. The copper factor is an internal calculation factor that does not correspond to the specific copper weight. All metal surcharges or discounts are always quoted on a purely net basis.
- d. Prices quoted assume acceptance of delivery of a complete packaging unit (VE). HELU KABEL GmbH reserves the right to impose a low quantity surcharge for smaller quantities or open packages.

## 7.3. Minimum order value, surcharge

- a. We are not obligated to accept orders when the net price without metal surcharge is below €100.
- b. A surcharge of €10 for orders within Germany and €35 for exported orders on orders below the minimum order value apply.

## 7.4. Cable cutting service

- a. If HELU KABEL GmbH agrees to deliver lengths that deviate from normal lengths of those held in inventory, HELU KABEL GmbH is entitled to apply a per cut surcharge. This surcharge depends on the outside diameter of the cable and is calculated as follows:  
up to 25 mm EUR 15  
up to 35 mm EUR 35  
larger than 35 mm EUR 55

## 7.5. Freight and shipping costs

- a. All deliveries exclude unloading.
- b. We deliver orders worth €1000 or more (without metal sur-

charge, without value-added tax, without shipping costs) within Germany "Freight Allowed", without unloading, excluding packaging).

- c. We also ship freight collect without unloading. The following flat rates are charged for freight collect shipments in Germany: €15.00 for small packages up to 31.5 kg. Shipments by freight forwarder over and above 31.5 kg: €0.60 per kg. The Customer bears the cost of special routings.
- d. The Customer bears the cost of deliveries abroad which will be set forth in the respective offer.

## 7.6. Packaging costs

- a. HELU KABEL GmbH generally charges (in addition to the cable drums) a €10.00 packaging flat rate.
- b. Packaging material will either be invoiced or made available on a loan basis. Pallet cages and Euro pallets will be delivered on an exchange basis. Disposable drums will be invoiced and cannot be returned.
- c. HELU KABEL GmbH reserves the right to decide whether to ship using KTG or HELU drums.
  - aa. KTG drums remain the property of KTG GmbH & Co KG Troisdorf and are subject exclusively to its fee system. See also: [www.kabeltrommel.de](http://www.kabeltrommel.de)
  - bb. HELU drums will be supplied on a loaned basis. Drums 1.00 m ("Size 10") and larger are free for the first 12 months. We charge a lending fee for the 13th through the 18th month. If not made available for pickup ([www.helukabel.de/kabeltrommel](http://www.helukabel.de/kabeltrommel)) by the end of the 18th month, the complete drum price will be invoiced. For further information see our information sheet entitled HELUKABEL Drum Management (Trommelmanagement) 1/2012 ([www.helukabel.de/kabeltrommelinfos](http://www.helukabel.de/kabeltrommelinfos)), that is a part of our standard terms and conditions.
  - cc. HELU KABEL GmbH will pick up HELU drums that have been made available for pickup within Germany at no charge. HELU KABEL GmbH assumes the cost for return transport. In such case, HELU KABEL GmbH will decide on the freight forwarder and the pickup date. Customer assumes responsibility for loading. The originator bears any costs incurred due to return transport not done in accordance with instructions.
  - d. HELU KABEL GmbH is entitled to invoice the drum price for deliveries outside of Germany. There will be no retrieval.

## 8. Quantities delivered

- a. Delivery will be made as set forth in our order confirmation. Partial deliveries are expressly recognized as acceptable.
- b. We generally reserve the right to deliver 10% more or less than the ordered quantity. In case of Customer specific special cables, however, this can be + / -15% of the quantity ordered. Special cables are delivered in lengths that depend upon technical production conditions. Partial deliveries are permissible.

## 9. Returns, return costs

- a. The Customer has no right to return goods that are delivered free of defects.
- b. If, in exceptional cases, HELU KABEL GmbH declares that it is prepared to accept the return of delivered items, the condition of the goods will be first determined. For this purpose, the Customer shall return the delivered goods to HELU KABEL GmbH at its own cost. After receipt, HELU KABEL GmbH will inspect the merchandise returned for quantity and condition.
- c. HELU KABEL GmbH will make an offer for accepting the return under consideration of age and condition.
- d. If the Customer accepts the return offer, HELU KABEL GmbH will

either credit the Customer's account or execute the corresponding payment.

- e. If the Customer does not accept the return offer, it shall retrieve the merchandise offered to it at its own cost. If despite demand made to do so there has been no retrieval within one month, HELU KABEL GmbH is entitled to have the corresponding merchandise scrapped and charge the Customer.

#### **10. Right to refuse performance, withhold payment, set-off**

- a. Customer's right to refuse performance (defense resulting from the failure to perform) is excluded if the Customer is required to pay in advance or present a letter of credit.
- b. Rights to withhold payment pursuant to § 273 of the German Civil Code (BGB) exist only for claims that are mature and completely valid a) either under the same order or, b) in so far as the order is deemed a continuation of contracts concluded earlier, to the extent these are undisputed or determined with legal finality.
- c. Set-off is permissible only with respect to claims that are undisputed or determined with legal finality.
- d. A claim that is in litigation ready for decision is the equivalent of an undisputed claim.

#### **11. Reservation of title, objection to resale, use and processing**

- a. HELU KABEL GmbH retains ownership of the merchandise delivered until full and unconditional payment of the invoiced amount for the respective item has been received.
- b. HELU KABEL GmbH hereby objects to resale, use and processing before full payment of the purchase price. This also applies in particular to the Customer's insolvency administrator.
- c. Action taken by the Customer that leads to the loss of HELU KABEL GmbH's ownership is grounds for a compensatory damage claim against the Customer. Besides the Customer, in the case of juridical persons, its legal representative will be personally liable for compensatory damages.
- d. The Customer agrees to promptly inform HELU KABEL GmbH of any judgment execution measures taken by third parties in the goods subject to ownership of the goods. In addition, the Customer shall inform third parties of the ownership of the goods.
- e. In the event of resale or lease of the goods subject to ownership, the Customer now does hereby assign to HELU KABEL GmbH as collateral its receivables claims accruing against its customers until its rights to purchase price have been fulfilled. HELU KABEL GmbH accepts these assignments of collateral.
- f. Where goods subject to ownership have been processed, modified or bound to another object, HELU KABEL GmbH shall acquire an immediate property interest in the newly manufactured object which shall subsequently be regarded as goods subject to ownership.
- g. If the value of the collateral in the form of receivables claims exceeds the purchase price claims of HELU KABEL GmbH by more than 20% then at the demand of the Customer HELU KABEL GmbH shall release the collateral commensurately.

#### **12. Delivery schedule, delayed delivery**

- a. All delivery dates stated are approximate. Exceeding an approximate date shall lead neither to an immediate deadline for performance nor default of delivery.
- b. HELU KABEL GmbH may also make partial deliveries. HELU KABEL GmbH shall not be considered in default with respect to timely partial deliveries.
- c. A delivery deadline is deemed met upon timely delivery to the freight forwarder.
- d. The delivery will not be immediately due until a reasonable

deadline has been set. The deadline must be set in writing.

- e. A warning notice shall not put HELU KABEL GmbH in default until it is given after the immediate due date of the delivery. The warning notice must be given in writing.
- f. If the delivery cannot be made because HELU KABEL GmbH itself has not been supplied, HELU KABEL GmbH may declare its withdrawal from the contract with respect to the affected merchandise. The Customer's claims are limited in such cases to the repayment of any payments made by the Customer. In cases of such failed self-delivery any further rights of the Customer are excluded.
- g. Where HELU KABEL GmbH is at fault, the Customer's claims due to default of delivery are limited to 0.5% of the net delivery value of the merchandise affected by the default of delivery per full calendar week not to exceed a total of 5% of the net delivery value of the items affected by the default of delivery. Customer shall have no further claims for damages or Customer's financial disadvantage due to default of delivery, in particular to downtimes, business interruption or lost profits. This exclusion shall not apply if HELU KABEL GmbH caused the damage to the Customer intentionally or by negligence.

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

- a. The place of performance is the registered office of HELU KABEL GmbH at 71282 Hemmingen, Germany.
- b. HELU KABEL GmbH has met its performance obligation when it has reported readiness to ship or has delivered to the freight forwarder.
- c. Unless the order confirmation provides otherwise, delivery EX WORKS is agreed upon.
- d. Unless otherwise agreed upon by the parties, the risk of accidental loss or accidental deterioration in the case of sales shipments passes to the Customer upon transfer to the freight forwarder.
- e. The Customer must undertake unloading at its own cost. If the Customer does not unload, it is in default of acceptance of delivery.

#### **14. Warranties**

##### **14.1. Complaints of defect, warranty period**

- a. The merchandise delivered is free of defect if it meets the technical specifications as illustrated on the online spec sheet and in the catalog.
- b. HELU KABEL GmbH cannot determine and review suitability for a particular application or use nor the environmental conditions nor aftereffects on an electrical system. Neither suitability for particular use nor suitability for particular environmental conditions are subject of the contract.
- c. If HELU KABEL GmbH has made recommendations then such recommendations are conditioned upon the completeness and accuracy of the data supplied by the Customer and there were no special circumstances to consider.
- d. Following the delivery of the respective merchandise, the Customer must promptly inspect it and if a defect is apparent promptly submit a written complaint to HELU KABEL GmbH. The written complaint must contain the invoice number, article number, the quantity involved with every individual complaint individually listed. In case of successive or partial deliveries each delivery must be inspected and protested individually.
- e. The responsibility to make an immediate inspection extends in particular to the testing of the merchandise delivered for its functionality and conformity with the data provided on the online spec page and catalog.

- f. The responsibility to conduct an immediate inspection and complaint applies for every individual processing step. If the Customer fails to make immediate complaint at the respective processing stage, the merchandise delivered is deemed approved.
- g. HELU KABEL GmbH hereby contests all clauses according to which the responsibility to inspect falls on HELU KABEL GmbH. HELU KABEL GmbH's ability to inspect at the respective processing steps is factually impossible since HELU KABEL GmbH is not part of any further processing of the goods.
- h. If the Customer does not promptly submit a complaint of defect, the merchandise delivered is deemed accepted.
- i. Upon acceptance, all possible rights of the Customer to demand cure and compensatory damages regardless of the grounds are null and void.
- j. The warranty period is 12 months following the delivery of the respective merchandise.

#### **14.2. Clarification of technical matters, Customer's duty to cooperate**

- a. The Customer must send HELU KABEL GmbH samples of the allegedly defective merchandise so that HELU KABEL GmbH can conduct a laboratory analysis.
- b. In addition, the Customer must grant HELU KABEL GmbH access to the assembly site so that HELU KABEL GmbH can inspect the environment and exposure of the merchandise delivered (heat, voltage, amperage, rectifiers, fuses, etc.).
- c. Unless HELU KABEL GmbH acknowledges the defect of the merchandise delivered, the warranty is null and void if the Customer breaches the aforementioned duties.

#### **14.3. Expert arbitration agreement**

- a. If the parties cannot agree whether the item delivered is defective or not, the parties agree that the disputed facts will be decided with legally binding effect by an expert arbitrator pursuant to §317 et seq. of the BGB.
- b. The expert arbitrator must be a publicly appointed and certified expert.
- c. If the parties cannot agree on an expert arbitrator, each party may apply to the IHK/AHK to name an expert arbitrator. The expert arbitrator named by the IHK / AHK may be rejected only if the grounds for rejection correspond to the grounds for personal disqualification of a judge. The cost of arbitration are borne depending on who prevails.

#### **14.4. Procedure, crediting, cure**

- a. Typically the Customer will need substitute goods even before clarifying whether the merchandise delivered is defective. For this reason it is customary in the cable industry to deliver substitute goods only against an invoice and not to grant a credit to until clarification of the facts and then only to the extent of the actual receipt of disassembled goods. This procedure derives from the fact that the overwhelming majority of the price is based on metal content, e.g. copper. HELU KABEL GmbH adheres to this general industrial custom and will deliver substitute goods only against an invoice.
- b. Typically, the Customer has an interest that the substitute goods are being delivered as quickly as possible. For this reason, HELU KABEL GmbH is entitled to arrange for other manufacturers to deliver equivalent merchandise as substitute goods that, technically speaking, are structurally identical.
- c. As soon as a technical inspection of the merchandise that is subject of complaint and its environment can be concluded, HELU KABEL GmbH will inform the Customer of the result of the testing.
- d. If HELU KABEL GmbH confirms that the complaint of defect is

justified, HELU KABEL GmbH will credit the account to the extent of the return receipt of the defective merchandise.

- e. No credit can be given for defective merchandise that is not returned. This provision derives from the high value of the metal content (e.g. copper). In addition, failure to return the merchandise raises a rebuttable presumption that the merchandise delivered will still be used.

#### **14.5. Failure to cure, price reduction, withdrawal from the contract**

- a. The Customer is not entitled to a reduction in price or to withdraw from the contract until there has been a failure to cure.
- b. HELU KABEL GmbH will be granted at least two attempts to cure.
- c. If the Customer seeks a reduction in the purchase price it must demonstrate to what extent the utility of the merchandise delivered is impaired by the defect. If from a technical point of view the utility of the delivered merchandise is not impaired, there will be no reduction in price granted.
- d. Any failure to label the merchandise with the name of the Customer or the „HELUKABEL“ name will not justify a price reduction since it does not impair the technical performance capability of the merchandise.
- e. Typically, the metal component of the merchandise delivered is not defective, hence the value of the metal remains the same. Any price reduction can therefore apply only to the price of the item without the metal surcharge.

#### **14.6. Exclusion of no-fault liability**

- a. HELU KABEL GmbH is not liable to pay compensatory damages for any defective delivery or performance that is not based upon fault, in particular for any lost profits, downtime or compensation for business interruption.

#### **14.7. Reimbursement of expenses**

- a. The Customer is only eligible to submit a claim for reimbursement of expenses if attempts to cure have failed and HELU KABEL GmbH is at fault for the defect of the delivered merchandise or for the failure to cure.
- b. If there has been a defect-free cure, claims for reimbursement of expenses are null and void.
- c. Reimbursement of expenses may be requested only as a substitute for compensatory damages in lieu of performance.
- d. Futile expenses are only those that were rendered useless due to the defect in the delivered merchandise. These include, in particular, only those expenses incurred in reliance upon the delivered goods being free of defect.
- e. Reimbursed expenses include only costs incurred after receipt of the order confirmation and that ultimately proved useless.
- f. There shall be no claim for reimbursement of expenses to the extent the Customer anticipated or should have anticipated failure to perform.
- g. In particular, the right to reimbursement shall not apply where it has arisen for merchandise subject to the reservation of self-delivery.
- h. There shall also be no right for reimbursement of expenses when the expenditure is significantly disproportionate to the performance not provided. This applies in particular if the Customer could have readily obtained comparable merchandise from a competitor.
- i. Claims for lost profits, downtime, business interruption and own labor costs do not fall within the scope of reimbursable expenses.
- j. If the Customer has or could have obtained some use from his expenditures, then the right to reimbursement of expenses shall be reduced accordingly.

#### **14.8. Compensatory damage in lieu of performance**

- a. The Customer shall expressly set HELU KABEL GmbH in writing a reasonable deadline to cure. The deadline to cure is valid only if at the time the deadline is set the performance owed was due.
- b. The deadline set must clearly and unequivocally specify the performance demanded and clearly designate the end of the deadline. The rationality of the time to cure must consider that the merchandise must normally be remanufactured.
- c. The Customer is not entitled to demand compensatory damages in lieu of performance for defect-free partial deliveries received.
- d. If the Customer has made a legally effective claim for compensatory damages in lieu of performance, the right of the Customer to compensatory damages in lieu of performance shall be limited to the difference between a possible higher purchase price for replacement goods of the same type and quality from the same country of origin and the purchase price agreed in the order confirmation.
- e. The Customer shall have no further claims for financial harm incurred due to failure to deliver; in particular, for downtime, business interruption or lost profits. Such exclusion shall not apply if the Customer's damages were caused by HELU KABEL GmbH intentionally or by gross negligence.
- f. The aforementioned limitations of liability do not apply to compensatory damage claims of natural persons for personal injury, impairment to health or death as well as for inalienable rights (Liability Act, Product Liability Act).

#### **14.9. Compensatory damages for breach of duty**

- a. If HELU KABEL GmbH is at fault for the nonfulfillment or poor fulfillment of its duty to deliver, claims based upon downtime, business interruption or lost profits are excluded. Such exclusion shall not apply if the Customer's damages were caused by HELU KABEL GmbH intentionally or by gross negligence.
- b. If HELU KABEL GmbH is not the manufacturer of the merchandise delivered, the fault of the manufacturer shall not be applied to HELU KABEL GmbH.

#### **15. Damage to any item of property other than the merchandise delivered**

- a. Compensatory damage claims against HELU KABEL GmbH for damage to, or the destruction of, any items of property other than the delivered merchandise itself shall exist only if HELU KABEL GmbH can be shown to have acted intentionally or with gross negligence.
- b. The Customer has no claim to compensatory damages if at the time of ordering it has not informed HELU KABEL GmbH that major financial loss might ensue in the case of a defective delivery. Major financial loss is an amount in excess of €50,000.
- c. Customer's claims based on financial damages, in particular for lost profits, production down times or business interruption are hereby expressly excluded.
- d. HELU KABEL GmbH is not liable for financial damages attributable to claims asserted against the Customer by third parties. HELU KABEL GmbH is not liable in particular for damages whose cause is attributable to the Customer's waiver vis-à-vis its own customer of the latter's duty to immediately inspect or object or has assumed such duty on behalf of its own customer.
- e. The possible financial damage claims of the Customer are limited to €100,000.
- f. If the liability of HELU KABEL GmbH has been excluded or limited, the exclusion or limitation of liabilities shall also inure to the benefit of internal governing bodies of HELU KABEL GmbH, its managers, employees, or vicarious agents.
- g. The aforementioned limitations of liability shall not apply to the

extent claims are asserted based upon death, bodily injury, impairment to health or inalienable rights (e.g. Product Liability Act, Liability Act).

- h. The aforementioned liability limitations and exclusions shall also not apply if HELU KABEL GmbH is shown to have acted intentionally or with gross negligence.
- i. Otherwise than as provided by § 195 of the BGB, the limitations period for asserting compensatory damages claims for damage to, or the destruction of, any items of property other than the delivered merchandise itself shall be for one year beginning as provided by law (§ 199 of the BGB). The one-year period for limitations of actions shall not apply to the extent claims are asserted based upon death, personal injury, impairments to health, or inalienable rights (e.g. Product Liability Act, Liability Act).

#### **16. Force Majeure**

- a. If the nonfulfillment of delivery or performance by HELU KABEL GmbH is attributable to force majeure such as, e.g. natural catastrophe, epidemic, war, armed conflict, civil war, revolution, terrorism, sabotage, nuclear reactor accidents, labor strike or other events beyond the influence of HELU KABEL GmbH, then for the duration of such event, HELU KABEL GmbH shall be released from its duty to perform and the time of delivery shall be extended accordingly.
- b. HELU KABEL GmbH shall inform the Customer of the beginning and the end of such circumstances as soon as possible. If the event lasts longer than six months, HELU KABEL GmbH shall also be entitled to terminate the contract.

#### **17. Conclusion of contract via the online shop**

- a. The GTC also apply to contracts that were concluded online via the HELU KABEL GmbH online shop. Subject to the condition precedent that the purchaser selects payment by an electronic money transfer (e.g. PayPal), the presentation of the goods in the online shop constitutes a legally binding offer. If the customer selects payment by electronic money transfer (e.g. PayPal), they accept the offer by completing the order by clicking the button "Buy Now". If the purchaser selects another means of payment (e.g. purchase on account), he does not accept the offer of HELU KABEL GmbH and instead submits a new offer for the conclusion of a contract for the goods in the shopping cart. The contract is then concluded with a separate order confirmation from HELU KABEL GmbH. Here, HELU KABEL GmbH is free to decline orders; the decision is at the discretion of HELU KABEL GmbH. Before completing the order, the purchaser can check his order once again and make corrections if necessary by removing goods from the shopping cart or replacing them with others.
- b. HELU KABEL GmbH will confirm receipt of the electronic order by sending an acknowledgement of receipt by e-mail to the purchaser. This confirmation of receipt does not represent a binding acceptance of the purchaser's offer. Its purpose is only to inform the purchaser that their order has been received.
- c. After an electronic order via the online shop, the individual contract data of the purchaser are stored by HELU KABEL GmbH. If the purchaser has a customer account, they can retrieve the contract data via their account after completing the ordering process. Each purchaser can also print out their contract data during the execution of their order and will receive them in their confirmation of receipt (together with the General Terms and Conditions included in the contract). Furthermore, the current version of the GTC can be pulled up and printed out at any time via the HELU KABEL GmbH website. Contracts via the online shop are concluded in German.

## **18. Particular conditions for supply of Aufmaster measurement instruments**

- a. These Terms of Business also apply to the supply of Aufmaster measurement instruments by HELU KABEL GmbH. Aufmaster measurement instruments enable the calculation of cable lengths, together with automatic logging and documentation of sections of cable. Given the above, the following provisions of this Paragraph 18 apply on a supplementary basis and will take priority – within their scope of application – over the other provisions of these Terms of Business.
- b. The purchaser is hereby informed that the Aufmaster measuring devices are exclusively usable in conjunction with the (free) Aufmaster app; additionally, optional office software with enhanced functionality can be utilized over the internet. HELU KABEL GmbH solely undertakes the delivery of Aufmaster measuring devices. The purchaser is to separately obtain the Aufmaster app and, if applicable, office software through Ticket to Mars GmbH; in this regard, only the contractual and licensing terms of Ticket to Mars GmbH apply. Services for the installation and commissioning of Aufmaster measuring devices or the provision of other consulting services are not the subject of this contract.
- c. The characteristics, functions, and nature of the Aufmaster measuring devices, as well as the technical minimum requirements and operating conditions to be observed by the purchaser, are derived from the respective product description (e.g., on the Aufmaster website at [www.aufmaster.de](http://www.aufmaster.de)) and additionally from the user manual provided to the purchaser in German and English, or, if applicable, in the language of the country in which the Aufmaster measuring devices are distributed. Public statements are only relevant for the warranted quality to the extent that they concern specific characteristics of the Aufmaster measuring devices.
- d. Statements made by HELU KABEL concerning Aufmaster measurement instruments (e.g. practical figures, loading capacity, performance, tolerances and technical data) as well as representations of the Aufmaster measurement instruments (e. g. in drawings, models and illustrations) are applicable only on an approximate basis unless the instruments' usability for the contractually intended purpose is based on a specific agreement.

In particular, such statements do not constitute any guaranteed features of condition or any assured characteristics. Typical commercial deviations or adaptations as to size, colour, shape and quality or as to any other characteristics – where they arise under legal regulations or in the course of further technical development – and the replacement of components with equivalent components are permissible provided that they do not affect the usability of Aufmaster measurement instruments for their contractually intended purpose.

- e. It is the responsibility of the Customer to investigate the correctness and the accuracy of the results of processing which are obtained using the Aufmaster measurement instruments. Because the quality of the measurement results is also dependent, for example, on data quality and on the Customer's specific type of application of the Aufmaster measurement instruments (e.g. a correctly calibrated cable dataset) and on external influences (e.g. the environmental conditions affecting the operating site), HELU KABEL makes no specific claims and does not accept any responsibility for the correctness and accuracy of the achieved measurement and processing results.

## **19. Contract language, applicable law, jurisdiction and venue**

- a. Unless otherwise agreed the contract language is German.
- b. The laws of Germany with the exception of its conflict of laws provisions and the UN Convention on the International Sale of Goods (CISG) shall apply to all claims in connection with deliveries and performance of HELU KABEL GmbH irrespective of legal grounds.
- c. Jurisdiction and venue for all disputes in connection with or arising from deliveries or the performance of HELU KABEL GmbH is at the registered office of HELU KABEL GmbH in 71282 Hemmingen, Germany.