

GENERAL TERMS AND CONDITIONS OF AGREEMENTS of TELE-FONIKA KABLE S.A.

No 1/2016

OF 27th of JANUARY 2016

1. Preliminary provisions

1.1. These General Terms and Conditions of Agreements (“Terms and Conditions”) shall apply to agreements to sell or supply cables, wires and cable accessories (“Products”) as well as Product-related services, including storage services (the “Services”) provided by TELE-FONIKA KABLE S.A. of Kraków, registered office at ul. Wielicka 114, 30-663 Kraków, Poland, entered into the Register of Entrepreneurs maintained by the District Court for Kraków-Sródmieście of Kraków, 11th Commercial Division of the National Court Register, under entry No. KRS 0000491666, holding industry ID (REGON) No. 270543582 and tax ID (NIP) No. 626-000-43-86, with a share capital of PLN 923,993,350.00, paid up in full (“Supplier”) to business customers (“Customer”) (hereinafter jointly referred to as the “Parties”) on the basis set out below.

1.2. These Terms and Conditions shall form an integral part of Agreements concluded under Section 2 of these Terms and Conditions and shall be deemed to have been accepted upon placing an order.

1.3. The Customer's purchase terms and conditions shall not apply to Agreements concluded under Section 2 of these Terms and Conditions, even if they are known to the Supplier or relate to matters not regulated by these Terms and Conditions.

1.4. These Terms and Conditions may only be departed from if the Parties so agree under Section 2 of these Terms and Conditions or if mandatory laws so require.

2. Execution of an Agreement

2.1. The Supplier may from time to time in response to a request for proposal provide a quotation, in writing, by electronic mail or fax, to the Customer which may include detailed information about the particular Products, including their type, technical specifications and the unit price, the total price of the Products or the basis for determining the total price, as well as information on price currency, payment dates and terms, estimated delivery date, metal content and reference prices (which may be in the form set out in an Appendix hereto) (“Quotation”). The Quotation shall also set out the period for which the Quotation is valid and shall also include contact details, including the email address and fax number of the person submitting the Quotation who is authorised to enter into Agreements on behalf of the Supplier and handle correspondence relating to their performance. A Quotation may contain provisions regarding Product quantity, minimum logistics/production requirements, discounts and rebates, documents necessary to assess the Customer's financial standing to be delivered to the Supplier upon placing an order, and a list detailing means of securing payment, along with the date when the security is to be provided by the Customer. The Quotation may also contain reference to the applicable rule as set out in the Incoterms 2010.

2.2. Catalogues, folders, price lists, documents and other technical, advertising or marketing materials about Products which are of a general nature shall be provided for information purposes only and shall not constitute an offer or have any contractual force and shall constitute an invitation to treat only. By making such materials available to the Customer, the Supplier does not transfer any intellectual rights therein to the Customer.

2.3. Orders shall be placed by the Customer in writing, by electronic mail or fax addressed to an appropriate and authorised representative of the Supplier (“Order”). In order to be valid, the Order must comply (and not conflict with) the Quotation.

2.4. Each Order shall contain the following information: Order number, type and quantity of the Product ordered (if the Quotation does not specify quantity), place of delivery, expected delivery date, reference to the applicable rule as set out in the Incoterms 2010, and detailed information about the Customer, including a valid ID number for intra-community transactions (if required) and contact details, including the email address and fax number of the person placing the Order. It shall be presumed that this person is properly authorised by the Customer to place the Order in accordance with these Terms and Conditions, execute Agreements and handle correspondence relating to their performance. At the Supplier's request such authorization shall be proven. An Order may also include an offer for Product Storage in accordance with these Terms and Conditions.

2.5. The Supplier shall confirm the receipt of an Order (but such confirmation shall not constitute acceptance of the Order) and within five (5) business days of its receipt either accept or reject the Order in writing, by email or fax. If an Order is neither accepted nor rejected within five (5) business days of receipt, it shall be deemed to have been confirmed. The Supplier reserves the right to extend the time limit for making a decision on whether to accept or reject an Order by notifying the Customer of a new deadline for making such a decision.

2.6. The Supplier may reject an Order if:

2.6.1. the Order is not consistent with the Quotation; particularly if the ordered Product quantity is lower than the quantity indicated in the Quotation;

2.6.2. the Supplier is unable to provide the Services,

2.6.3. the Customer has any outstanding payments to be made to the Supplier or to any of the Tele-Fonika Kable Group companies listed on the following website: <http://www.tfkable.com>,

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- 2.6.4. no credit limit has been granted to the Customer or the Customer has not provided appropriate security for payment in respect of the given order or previous orders which are currently pending,
- 2.6.5. performance of the Order is impossible or difficult because of raw material or energy shortages or other disruptions to the Supplier's operations, its contractors or sub-contractors, or the occurrence of a Force Majeure Event as defined in these Terms and Conditions;
- 2.6.6. the Customer has become insolvent (or the Supplier reasonably believes it will become insolvent), or its liquidity or creditworthiness has deteriorated;
- 2.6.7. the Customer has failed to provide financial documents required by the Supplier in accordance with these Terms and Conditions or has failed to perform its duties under any ongoing Agreement,
- 2.6.8. the order can not be performed due to limitations/restrictions under the applicable laws, including international agreements,
- 2.6.9. any other reason that the Supplier deems reasonable in the circumstances at the time.
- 2.7. The Supplier shall confirm: the total price of the ordered Products or the basis price and the basis for determining the total price, including but not limited to discounts and rebates, if any, payment dates and terms, delivery date, and indices of the ordered Products - in the Order confirmation provided in accordance with Section 2.8 below.
- 2.8. A Quotation and the Customer's Order placed in accordance with the Quotation shall constitute an Agreement. An Agreement shall be considered executed upon receipt of the order confirmation by the Customer or upon lapse of the period specified in Section 2.5. (in case of a lack of notification) but no later than upon delivery of the ordered Products. If any later Order confirmation differs from the contents of the Order (or from the contents of the Quotation and the Order, or in the case when the Order is not consistent with the Quotation), the Agreement shall be executed based on such Order confirmation, unless the Customer raises an objection instantaneously.
- 2.9. Any amendments to an Agreement shall be agreed by the Supplier and the Customer in writing or by email.
- 2.10. The Agreement constitutes the entire agreement between the parties and the Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by the Supplier which is not set out in the Agreement.

3. Deliveries

- 3.1. The Supplier shall deliver Products to the Customer in accordance with the Terms and Conditions and as specified in the Agreement.
- 3.2. Any dates quoted for delivery of the Products or Services as specified in the Agreement are approximate only, and for the avoidance of doubt, the time of delivery is not of the essence.
- 3.3. Unless the Agreement provides otherwise, the estimated delivery time shall start from the date of the Order Confirmation but in any event no earlier than from the date when:
- 3.3.1. the Customer prepays for the ordered Products, if the prepayment is specified by the Agreement,
- 3.3.2. the Customer provides the Supplier with all documents and information required to make the delivery; and
- 3.3.3. the Customer makes any outstanding payments owed to the Supplier or to any of the Tele-Fonika Kable Group companies listed on the following website: <http://www.tfkable.com>; and
- 3.3.4. where the Customer has not been granted any trade credit or has no available credit limit – the Customer provides such security as the Supplier may determine (with respect to the form, substance and time of provision of such security) or makes a prepayment in such amount and at such time as specified by the Supplier.
- 3.4. The Supplier shall make all reasonable efforts to meet the agreed delivery deadlines, but the Supplier shall not be held liable for any delayed delivery of the Products or Services to the extent that such failure is caused by a Force Majeure Event, as defined in these Terms and Conditions, or any other unpredictable, extraordinary or similar circumstance which is not a fault of the Supplier which makes timely performance of the obligation materially difficult or impossible. If any such event or circumstance occurs, the Supplier shall be authorised to postpone delivery accordingly as notified by the Supplier to the Customer.
- 3.5. Subject to Section 3.11, delivery of the Product shall be deemed to have been completed on the date the Products are transferred to the Customer and in accordance with the agreed Incoterms particularly, but not limited to the following specific cases (the "Delivery Date"):
- 3.5.1. the date when the Products are released to the Customer or a person/entity authorised or designated by the Customer; or
- 3.5.2. the date when the Supplier delivers the ordered Products to the Supplier's premises in accordance with the Agreement.
- 3.6. For the avoidance of doubt, the Delivery Date shall be determined, depending on which Incoterms have been applied, as the date the Customer's (or an entity designated/authorised by the Customer) signature is affixed on the stock issue confirmation (CI), a CMR document, or a similar document or document serving a similar function ("Delivery Note") or in the circumstances provided for in Section 3.5.2 above by a person authorised by the Supplier.

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3.7. The Supplier may deliver the Products by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

3.8. If the Customer is required to collect the Products and any Products are not collected by the Customer at such time and on such terms as agreed in the Agreement, such Products shall be deemed to have been delivered upon the lapse of any deadline specified in the Agreement.

3.9. Subject to the section 5.4. of these Terms and Conditions, product transport, transport costs and the risk of accidental loss of or damage to Products shall be governed by the relevant rule in Incoterms 2010 specified in the Agreement.

3.10. The Supplier (or a person/entity designated/authorised by the Supplier) may refuse to release Products to a Customer (or person/entity designated/authorised by the Customer) if they have reasonable doubts as to the identity of such Customer (or person/entity designated/authorised by the Customer) or as to the authenticity of the authorisation presented by such Customer or person.

3.11. A Customer may include a note in an Order requesting the ordered Products to be stored in the Supplier's warehouses in accordance with the provisions of Section 5 of these Terms and Conditions. The Supplier shall have discretion to confirm whether or not it accepts such request (but should not unreasonably withhold its consent to such request). The Supplier's acceptance of such a request shall be subject to the Customer agreeing to pay for such storage at the fees charged by the Supplier from time to time. In the circumstances set out in this Section 3.11, the Products shall be deemed to have been delivered to the Customer after they are received into the Supplier's warehouse for storage. If the Customer's Order does not include any note requesting such storage, this does not prevent the Parties from entering into a separate storage agreement at a later date.

4. Prices and payment rules

4.1. Unless these Terms and Conditions provide otherwise or unless agreed otherwise by the Parties payment shall be made before delivery date (prepayment).

4.2. All prices shall be quoted on a net basis, and shall be increased by value-added tax (VAT) at the applicable statutory rate.

4.3. The Supplier shall have the right to issue a VAT invoice under an Agreement upon the preparation of a Delivery Note.

4.4. The payment date shall be the date on which the transfer amount is credited to the Supplier's bank account indicated in the respective VAT invoice.

4.5. If a Customer makes payments using a trade credit limit and within payment deadlines set for that Customer and no credit limit is available (there is no trade credit balance to be used) at the time the order is placed or upon execution of the order, the Supplier may request, at its own discretion, that the Customer should prepay in cleared funds an amount equal to the excess over the credit limit granted to the Customer by the deadline set by the Supplier or provide such security for the payment as the Supplier may determine (with respect to the form, substance and time of provision of such security).

4.6. A Customer who has not been granted any credit limit by the Supplier shall at the Supplier's request be required to prepay, in cleared funds, the entire amount due for Products covered by an Agreement by the deadline set by the Supplier, or provide such security for the payment as the Supplier may determine (with respect to the form, substance and time of provision of such security).

4.7. Any other amounts due in respect of the costs and charges of transport and delivery of the Products "and Storage" shall be payable on the same terms as stipulated above unless these Terms and Conditions provide otherwise or the Parties agree otherwise..

4.8. Irrespective of the Customer's instructions, the Supplier shall be entitled to apply amounts paid by the Customer towards any due and payable claims the Supplier may have against the Customer, as selected by the Supplier (in particular claims with the earliest due dates). Moreover, if any additional costs arise or interest accrues on an outstanding claim, irrespective of the Customer's instructions, the Supplier may apply the amounts paid first towards such costs and interest, and finally towards the principal of the claim.

4.9. If any amounts are not paid by the due date, the Customer shall be deemed to be in default and the Supplier shall be entitled to charge statutory interest at the rates stipulated in applicable laws.

5. Storage

5.1. The Customer acknowledges that if the Products are not collected by the Customer in accordance with the terms of the Agreement, or it has been agreed in the Agreement that the Products will be placed in storage, the Supplier shall deliver the Products to the storage warehouse in order to perform the Product storage service for the Customer ("Storage"), subject to the Terms and Conditions unless the Supplier and the Customer have signed a separate Storage Agreement.

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5.2. Products shall be stored for such period as agreed by the Parties or if the Parties do not agree otherwise for three (3) months. If after three (3) months the Products remain in Storage, the Supplier may (at its own discretion) agree to further Storage. If the Customer does not collect the Products from Storage this shall be deemed the Customer's consent to further Storage.

5.3. The Supplier's warehouse shall be the Storage location.

5.4. If the ordered Products are not collected at the time specified in the Order and are placed in the storage warehouse, the risk of accidental loss of or damage to the Products shall transfer to the Customer upon their delivery to the storage warehouse.

5.5. Receipt into Storage shall take place on the basis of a Delivery Note containing a "Products in storage" annotation.

5.6. Collection of Products from a storage warehouse by the Customer (or person designated/authorised by the Customer) shall be in accordance with the terms and conditions agreed between the Parties by writing, email or fax. Storage shall terminate upon collection of the Products.

5.7. A Delivery Note issued by the Supplier to the Customer or a person authorised/designated by the Customer shall be proof of collection of the Products from the storage warehouse.

5.8. During the first three (3) months of Storage, the Storage fee shall be EUR 1,000 (one thousand Euro) per month of Storage calculated on a pro rata basis. If Product Storage continues beyond the initial three (3) months, the fee for the fourth and each subsequent month of Storage shall be EUR 10,000 (ten thousand Euro) calculated on a pro rata basis. In the event of foreign exchange limitations, the fee due for Storage shall be determined as the equivalent of the fee amount expressed in the Order price currency converted using the mid-market rate quoted by the National Bank of Poland for the date the Product was placed in Storage. The Storage fee in each case is exclusive of VAT at the applicable statutory rate.

5.9. The Storage fee shall be paid to the bank account as specified in the invoice, within fourteen (14) days of the date of the invoice and Sections 4.3, 4.4, 4.8, 4.9 of these Terms and Conditions shall apply.

5.10. The Supplier may terminate Storage at any time by serving seven (7) days' notice to the Customer in writing or by email or fax.

5.11. Storage shall terminate upon withdrawal referred to Section 13 of these Terms and Conditions.

6. Guarantee

6.1. The Supplier shall grant to the Customer a guarantee covering Products manufactured by the Supplier for a period of twenty-four months from the delivery date ("Guarantee Period") on the terms set out below.

6.2. The guarantee shall be personable to and enforceable only by the Customer and shall not extend to include any third party.

6.3. The Packaging shall not be covered by the guarantee.

6.4. The Packaging shall not be covered by the guarantee.

7. Liability

Unless mandatory laws or these Terms and Conditions provide otherwise, the Supplier's liability under Agreements, guarantees issued, or on any other basis, shall be limited to the amount of damage actually incurred by the Customer, with a proviso that such liability may not exceed the purchase price of the Products in relation to which the Customer has filed a claim, or the sum insured for the specific event covered by the Supplier's Product Liability Insurance policy which is the basis for the claim, where such amount is higher than the price of the Products in relation to which the claim has been filed. The above limitation shall not apply to liability for damage caused by wilful misconduct, or for personal injury or damage caused by a hazardous product, where the applicable laws do not permit such limitation of liability.

8. Retention of ownership rights

8.1. Delivered Products shall remain the Supplier's property until the Customer pays all amounts due for the Products, including any incidental dues and compensation claims ("Retained Products").

8.2. The retention of ownership rights shall also cover any objects created as a result of the Retained Products being processed, or combined or mixed with other objects.

8.3. By way of security, the Customer hereby transfers onto the Supplier all of the Customer's future receivables under resale of Retained Products, including after such Retained Products are processed, combined or mixed with objects which are not owned by the Supplier, together with any incidental rights, up to the value of the Retained Products, and the Supplier hereby accepts the transfer. The Supplier shall have the right to directly inform the Customer's debtors of the transfer and request that they repay their debt directly to the Supplier.

8.4. In each case of Product retention, the Customer shall carefully store the Retained Products at its own expense and shall insure them against customary risks up to their purchase price. The Customer shall transfer onto the Supplier the Customer's claims against the insurer in respect of any damage or loss covered by such insurance, in the amount

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corresponding to the value of Retained Products. At the Supplier's request, the Customer shall deliver the insurance policies to the Supplier for the purposes of claiming insurance benefits.

8.5. If the Customer is found to be in default under an Agreement, which shall in particular include the Customer's failure to pay the price, the Supplier shall have the right to demand that Retained Products be promptly returned, and the Customer shall deliver such Products to the Supplier or transfer onto the Supplier the Customer's claims against third parties for delivery of such Products. For the purposes of collecting Retained Products located on the Customer's premises, the Customer shall irrevocably authorise the Supplier to enter the Customer's plant or the Customer's commercial and storage facilities, and to collect such Products. The Customer shall bear all costs relating to the return of Retained Products. A request for return of Retained Products shall have no effect on the validity of the Agreement.

9. Security:

The manner of securing the claim for payment of the price and the deadline for providing such security shall be specified in a Quotation or later in the Supplier's request according to these Terms and Conditions.

10. Force majeure

10.1. The Parties shall not be liable for non-performance, in whole or in part, of their obligations under an Agreement if such non-performance has been caused by an event of force majeure. Force majeure shall be understood as any circumstance which occurs after the date of an Agreement, is beyond a Party's control, prevents performance of the Party's contractual obligations, and whose effects cannot be avoided, including natural disasters, administrative restrictions, import bans, actions of state authorities, legislative changes, wars and strikes ("Force Majeure Event").

10.2. The Party claiming a Force Majeure Event shall notify the other party thereof within five (5) days of the occurrence or termination of the Force Majeure Event. If required, the occurrence of such event shall be confirmed with suitable evidence.

11. Financial documents

The Customer shall provide the Supplier with:

11.1. any documents necessary to assess the Customer's financial standing, as defined in the Quotation - upon placement of an Order; and

11.2. any documents necessary to assess the Customer's financial standing that the Supplier may request during performance of the Agreement - within the timeframe and in the form defined in the request.

12. Suspension of performance

12.1. The Supplier may suspend performance of an Agreement:

12.1.1. in the circumstances provided for in Section 4.5 of these Terms and Conditions – until the required prepayments are made or the required security is provided;

12.1.2. in the circumstances provided for in Section 4.6 of these Terms and Conditions – until the required prepayments are made or the required security is provided;

12.1.3. in the circumstances provided for in Section 11.2 of these Terms and Conditions – until the required documents are submitted.

12.2. If any payment due from the Customer to the Supplier is delayed or if the Supplier becomes aware of any circumstances which may indicate the Customer's deteriorating credit standing or solvency, the Supplier may suspend the execution of a given Agreement as well as all or any Agreements until:

12.2.1. the overdue payments are settled within the time limit specified by the Supplier;

12.2.2. a prepayment is made by the Customer in the amount and within the timeframe defined by the Supplier; or

12.2.3. security is provided as determined by the Supplier (with respect to the form, content and deadline for the provision of such security).

12.3. Any costs related to the suspension of an Agreement performance shall be borne by the Customer.

13. Withdrawal

13.1. The Supplier may withdraw from an Agreement without setting any additional time limit for the Customer if:

13.1.1. performance of the Agreement is impossible or difficult because of raw material or energy shortages or other disruptions to the operation of the Supplier, its contractors or sub-contractors,

13.1.2. the Customer has failed to provide financial documents required by the Supplier in accordance with these Terms and Conditions,

13.1.3. if the Customer has failed to make prepayments, provide security or pay outstanding amounts under Section 4.5, 4.6 of these Terms and Conditions,

13.1.4. if the Customer has failed to make prepayments, provide security or pay outstanding amounts under Section 12.2 of these Terms and Conditions within the defined time limit,

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13.1.5. if the Customer has failed to pay for the Products within the defined time limit or has failed to make a prepayment under the Agreement,

13.1.6. if a given delivery can not be performed due to limitations/restrictions under the applicable laws, including international agreements.

13.2. The right to withdraw from an Agreement may be exercised within one (1) month of the occurrence of the event providing grounds for the withdrawal, with the proviso that the withdrawal may also apply to a part of an Agreement.

13.3. In the event of withdrawal from an Agreement, the Customer shall not be entitled to pursue any claims against the Supplier.

14. Assignment

14.1. The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Agreement and may subcontract or delegate in any manner any or all of its obligations under the Agreement to any third party.

14.2. The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Agreement.

15. No Partnership or agency

Nothing in these Terms and Conditions or any Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, nor constitute either party the agent of another party for any purpose. Neither party shall have authority to act as an agent for, or to bind, the other party in any way.

16. Third Parties

A person who is not a party to the Agreement shall not have any rights to enforce its terms.

17. Miscellaneous

17.1. The Customer and the Supplier agree to keep confidential and not to disclose or provide any confidential information obtained from each other (including without limitation technical and commercial know how, trade secrets and any other confidential information) to any third parties, or use any such information in violation of an Agreement. This Section shall survive termination or expiry of any Agreement.

17.2. Payment of amounts due to the Supplier by way of a set-off shall require express prior written consent of the Supplier under pain of nullity.

17.3. Unless these Terms and Conditions provide otherwise, any representations made by the Supplier or the Customer in the course of negotiating and performing an Agreement and Storage, as well as any withdrawal or termination notices referred to in these Terms and Conditions, may be made in a written form, by email or fax to an email address or fax number notified to the other party.

17.4. These Terms and Conditions, Agreements and Storage shall be governed by German law. The Parties hereby exclude the application of the United Nations Convention on Contracts for the International Sale of Goods of April 11th 1980.

17.5. Any disputes arising in connection with Agreements or Storage, executed on the basis of on these Terms and Conditions, shall be submitted for resolution by a court of general jurisdiction competent for the Supplier's registered office and the subject matter of the dispute.

17.6. In the event that any of the provisions of these Terms and Conditions, Agreements or Storage are found to be ineffective or invalid, all other provisions shall remain in full force and effect. Any ineffective provisions shall be replaced with effective ones, which shall reflect, as closely as possible, the economic purpose of the provisions being replaced.

17.7. These Terms and Conditions shall be effective as of 27th of January 2016 and shall apply to all Orders placed after this date.

17.8. These Terms and Conditions as well as any amendments hereto shall also be published in an electronic form on the Supplier's website <http://www.tfkable.com/de/downloads/allgemeine-vertragsbedingungen.html> in a manner enabling the Customer to download, store and view the documents in the ordinary course of business.

The Management Board of Tele-Fonika Kable S.A.