

## **General Purchasing Terms of Knauf Gips KG**

### **1. Scope of application**

These General Purchasing Terms shall apply exclusively for all of our orders and requests. We do not recognize conditions issued by the supplier which differ from our General Purchasing Terms unless we have explicitly given our confirmation to comply with them in writing. Our General Purchasing Terms shall apply even if we accept the delivery or the service of the supplier unreservedly despite our knowledge of contrary or differing conditions or if we refer without contradiction to a letter or other comments of the supplier which contain contrary or different conditions.

If there is a conflict, ambiguity or inconsistency between the procurement or supply agreement, these General Purchasing Terms, the Purchase Order, specifications or any other document attached to or incorporated by reference in the Purchase Order or procurement agreement, the procurement or supply agreement shall prevail between the supplier and us.

### **2. Offers and offer documents**

- 2.1 Orders and requests may be placed by us in writing, electronically or by telephone. They must be confirmed by the supplier in writing without delay.
- 2.2 If the supplier does not accept the order or request within five working days of receipt thereof, we are entitled to cancel the order or request.
- 2.3 In case the supplier accepts the order or request with deviations, he is obliged to clearly indicate the deviations expressly in his written order confirmation. The contract is only valid if we confirm those deviations in writing.
- 2.4 Any terms, specifications, standards and other conditions added to the order or request are content of the order or request.

### **3. Prices and terms of payment**

- 3.1 The price stated in the order or request shall be binding. In absence of any written agreement to the contrary, the price shall include delivery DDP (Incoterms 2010) including packaging to the delivery address mentioned in our order or request.
- 3.2 The price shall include value-added tax. Invoices on goods shall be made out by the supplier without value-added tax and provided with a clear advice of the "tax liability of the recipient".
- 3.3 We shall not grant remuneration of any nature for the compilation of offers, estimates, drawings or similar items unless this is specifically agreed to in writing.

- 3.4 Unless anything to the contrary is agreed to in writing, we shall pay prices within 14 days of delivery or service and receipt of the invoice with 3 % cash discount or we shall pay the net invoice within 45 days after delivery or service and receipt of the invoice.
- 3.5 We are only able to deal with invoices if they name the order or request number stated in our order or request; the supplier is responsible for all consequences arising out of acting in contravention of this obligation, as far as he does not prove that he is not responsible for the contravention.
- 3.6 Payments shall be remitted at our discretion by sending a crossed check or transferring the amount to a bank or post office account. The date on which the check is mailed, or the date of the bank transfer shall be the base for the determining payment within the deadline.
- 3.7 The supplier is entitled to offset or to retain claims only if the claims are undisputed or legally valid. We are entitled to offset our claims or claims of the KNAUF-Group against claims of the supplier. We are also entitled to offset our claims against claims of the supplier which he has against other companies of the KNAUF-Group.
- 3.8 The supplier shall not be entitled to assign his claims against us to third parties or to have them collected by third parties without our prior written consent.

### **4. Delivery**

- 4.1 Deviations from our contracts and orders are only admissible if we have given our prior written approval.
- 4.2 Delivery periods and service periods as well as further dates and periods stated in the offer or request are binding
- 4.3 Punctual compliance with the delivery periods and delivery dates is determined by the date of receipt of goods at the delivery address mentioned in the order, in case of orders with the duty to install or requests for services by the acceptance of the installed goods or the work. If "ex works" (EXW or FCA Incoterms 2010) is explicitly agreed for the delivery of goods, the supplier shall make the goods available in good time, taking into account the time needed for loading and shipment to be arranged and coordinated with the forwarder.
- 4.4 The supplier is obliged to inform us in writing without delay about discernible delays of deliveries or services stating the reasons and the estimated length of the delay and, in case the information was not in writing, to confirm the information immediately in writing. The supplier is only entitled to rely on reasons he is not responsible for if he has carried out his obligation to report.
- 4.5 The supplier is only entitled to invoke the absence of documents necessary for the delivery

or the service and to be provided by us if he did not receive them within a reasonable time period after reminding us in writing.

- 4.6 In case of delivery delays, we shall be entitled to all legal rights unreservedly; particularly the claim for compensation and the right to withdrawal.
- 4.7 Partial deliveries require our explicit consent and have to be marked as such in dispatch documents and delivery notes.
- 4.8 The values for quantities, weights and measurements established by us during the incoming goods inspection shall be factual unless proven otherwise.

## **5. Delivery documents and packaging**

- 5.1 The supplier is obliged to quote our order or delivery number accurately on all dispatch documents and delivery notes; we shall not be responsible for any delays caused by omission of these details.
- 5.2 At our request, the supplier shall be obliged to take back and duly recycle packaging free of charge. Instead of taking back the packaging, the supplier may also be requested to bear the costs of recycling the packaging in the statutory manner.

## **6. Place of fulfilment and transfer of risk**

- 6.1 Place of fulfilment for deliveries and services of the supplier shall be the delivery address stated in our order or request, place of fulfilment for payments the location of our registered office. In case a destination has not been specified in the order or request, the place of fulfilment is our registered office.
- 6.2 In case of deliveries without the duty to install the supplier bears all risks of loss and damage to the goods until the goods are received by us at the delivery address stated in our order. This shall also apply to sales by delivery to a place other than the place of performance. In case of deliveries with the duty to install and in case of work and services the supplier shall bear all risks of loss and damage until acceptance.

## **7. Checking of defects and warranty**

- 7.1 Acceptance is dependent on a satisfactory examination for faultiness, particularly with regard to accuracy and completeness, as far as and as soon as this is pertinent in the ordinary course of business.
- 7.2 Our obligation to provide notification of defects in accordance with applicable statutory laws shall be considered fulfilled if we send notice of deviations in quality or quantity within seven working days of the de

livery of goods to the supplier, in case of hidden defects, a notice within seven working days of the day on which the defects were discovered shall sufficient.

## **7.3 NOT USED**

- 7.4 In principle we have the right to select the type of supplementary performance. The supplier may refuse the selected type of supplementary performance if it is only possible at disproportionate expense.
- 7.5 In the event the supplier does not start with rectifying the defect immediately after our request to do so, in urgent cases, especially to avoid acute danger or greater damage, we are entitled to undertake such rectifications ourselves or to have it undertaken by a third party at the expense of the supplier.
- 7.6 In case of defects of title, the supplier shall hold us harmless from any potentially existing third-party claims, unless the supplier is not accountable for the defect of title.
- 7.7 Should we incur expenses as a result of unsatisfactory delivery or service, in particular related to transport carriage, labour costs, costs of material or costs of incoming goods control beyond the normal scope of the control, then such costs shall be borne by the supplier.

## **8. Limitation period**

- 8.1 The limitation of claims arising out of defects and the expiry of rights arising out of defects shall comply with the local applicable statutory provisions. The limitation period and the expiry period commence with passing of risk.
- 8.2 If the supplier fulfils his obligation to supplementary performance by supplying a substitute product, the statute of limitations for the substitute goods delivered shall begin after delivery thereof, unless the supplier explicitly and appropriately performed the supplementary performance in good will to avoid disputes or in the interest of continuation of the supplier-customer-relationship.

## **9. Subcontractor**

- 9.1 The supplier is only entitled to assign a job he is obliged to third parties with our prior written consent. The right of substitution shall be excluded.
- 9.2 In case the supplier assigns a job he is obliged to a third party, the third party shall be vicarious agent of the supplier.

## **10. Quality management**

- 10.1 The supplier is obliged to constantly supervise the quality of his goods and services

and to document these measures. Before any delivery of goods or services, the supplier shall make certain that the goods or services are free of defects and correspond with the technical requests agreed to; the supplier shall document these measures.

- 10.2 In advance, the supplier shall inform us in writing in due time about any modifications to the goods delivered by him including raw material and supplies, about changes to production methods and relocations of production sites as well as about other incidents arising out of the supplier's sphere of influence which can have influence on the quality of goods. Upon request, the supplier shall guarantee to provide us free of charge and at short notice with product samples of such products that we can check the effects of the changes to our formulas. Such products have to be released by us in writing before any further delivery.

#### **11. Product liability, exemption, liability insurance protection**

- 11.1 Should the supplier be responsible for product damages, he hereby indemnifies us from compensation claims by third parties upon initial requests, insofar as the cause of the loss is located within his sphere of control and organization and insofar as he is liable in the external relationship.
- 11.2 Insofar as the cause of damages falls within the area of responsibility of the supplier, the supplier shall have the burden of proof to that extent. In case of fault-based liability, the obligation to indemnification shall only apply if the damage is caused by the fault of the supplier.
- 11.3 In case of section 11.1, the supplier assumes all costs and expenses, including the cost of any legal action and any cost ensuing in connection with a recall campaign. If possible and reasonable, we shall notify the supplier in advance about content and extent of a recall campaign and offer him the opportunity to cooperate with us and discuss the efficient execution of the recall campaign. The necessary information shall be delivered by us to the competent authority according to the provisions of the local statutory safety laws after consulting the supplier.
- 11.4 The supplier hereby undertakes to hold product liability insurance for an insured sum of at least EURO 5.000.000,-- (five million) each for personal injury damages as well as material damages.

The above shall not affect further compensation claims on our part.

- 11.5 Regarding any further means, the legal statutes shall apply.

#### **12. Property rights**

- 12.1 The supplier shall be liable for ensuring that the property rights of third parties are not violated or detrimentally affected in connection with his delivery.
- 12.2 Should claims of third parties be made on us regarding a violation of property rights, upon our initial request, the supplier shall be obliged to release us from such claims unless the supplier is not accountable for the violation. The obligation of the supplier to release us from claims shall also include all expenses to us in connection with the demands of third parties.

#### **13. Reservation of title, provision of items, tolls**

- 13.1 We hereby reserve title of ownership to all parts, materials, containers, special packing, tools, measuring equipment or similar objects provided by us (free issue equipment). Processing or remodeling of such free issue equipment by the supplier shall be done solely for us. Should such free issue equipment be processed, combined or mixed with objects not belonging to us, we shall acquire co-ownership of the newly created item in the proportion to the value of our parts (purchase price plus VAT) to that of the other part at the date of processing, combination or mixture. In case the mixture takes place in such a manner that the object of the supplier is deemed to be the main item, it shall be agreed to that the supplier transfers the title of co-ownership to us proportionately.
- 13.2 The supplier shall store the items of which we have sole ownership or co-ownership for us.
- 13.3 The supplier may only use tools provided by us for the manufacturing of goods or for the service ordered by us and shall mark them as our property if such a marking has not been made by us already. At its own expense, it shall insure the tools at replacement value against damages caused by fire, water or theft. Also, the supplier assigns all claims for compensation arising out of this insurance to us by now; we hereby accept this assignment. He shall perform the required maintenance and inspection work in good time and at its own expense.
- Supplier

shall inform us of any disturbance immediately. Compensation claims on our part shall not be affected.

- 13.4 The terms stipulated in clause 13.1 up to clause 13.3 shall apply accordingly to tools produced by the supplier but which are subject to the remuneration of pro rata tool costs. On tools we have acquired co-ownership because of prorated remuneration we have the right of first refusal for the title of co-ownership.
- 13.5 In case the security interests we are entitled to according to clause 13 are more than 10 % beyond the purchase price of all of our goods not yet paid and upon request of the supplier, we are obligated to release security interests at our own choice.

#### **14. Documentation and confidentiality**

- 14.1 The supplier shall keep strictly confidential with respect to any third party all information (including features which may be derived from objects, documents and software) provided by us such as drawings, calculations, samples, production devices, models, data) and other knowledge and experience and shall use this information only for manufacturing based on our offer or request, as long and to the extent that it is not proven to be public knowledge or to be determined by us explicitly in writing for publication. They may only be available to those persons in the business facility of the supplier who necessarily need to be involved in the use thereof for the purpose of delivery or service to us and who are also committed to confidentiality.
- 14.2 We hereby reserve the title of ownership and all rights to information in the meaning of clause 14.1 (including copyrights, trademarks and other intellectual property rights etc.). In the event such information is provided to us by third parties, the reservation of rights also applies for the benefit of such parties.
- 14.3 Without our prior written consent, information in the meaning of clause 4.1 shall not be duplicated or exploited whether directly nor indirectly except for using for the delivery or service to us. Copies shall directly become property of us with its creation. The supplier shall keep them save for us.
- 14.4 Upon our request, but at the latest upon the completion of the order, all provided information shall be automatically returned to us completely and without delay including all objects provided on loan basis. All copies and transcriptions shall be destroyed. The

return or destruction must be assured unsolicitedly in writing.

- 14.5 The supplier is not entitled to use products manufactured on basis of our documents such as drawings, models etc. or with our tools or tools created on basis of our information or to sell or deliver them to any third party. This shall apply correspondingly to print jobs.
- 14.6 The obligation to maintain secrecy and the prohibition of exploitation shall continue to apply subsequent to the transaction of the contract until the information contained in the documents in question becomes public.

#### **15. Import / Export control and customs**

- 15.1 The supplier is obliged to observe all relevant export and/or import provisions and to obtain all required documents and approvals, in particular export approvals, customs documents and declarations of origin, at its own expense and with sole responsibility and to pay all customs duties and taxes charged. The supplier shall exempt us from any demands as a result of non-compliance with export and/or import provisions.
- 15.2 The supplier shall be obliged to inform us in its documents about any applicable licence requirements and reporting obligations necessary for the import, the use and the reexport of its products under US export control law and customs regulations as well under export control law and customs regulations of the products' country of origin.
- 15.3 Upon our request the supplier shall provide any other foreign trade data pertaining to the products and their components in written form and shall inform us about all changes to such data without undue delay and prior to delivery to us.

#### **16. Conditions of execution of orders**

- 16.1 If for the execution of orders or requests further drawings or data than the ones provided by us become necessary, the supplier shall undertake the preparation and compilation of such drawings or data without special compensation. After completion, those drawings shall be provided to us for dimensional inspection and release.
- 16.2 For deliveries and services all relevant laws, regulations and administrative as well as technical provisions such as EN- and DIN- Standards, measure and weight acts, TIF-provisions and provisions against occupational accidents have to be obeyed.

Goods or raw materials purchased pursuant to the procurement or supply agreement shall be free of asbestos content. The supplier acknowledges that we have the right to test (including 3rd party testing) for asbestos or other contaminants such as trace metals, silica, free sulfur, radioactivity and hazardous organic substances prior to the supply and at predetermined intervals. Supplier warrants to work with us to take necessary steps including returning the Goods/raw materials to the supplier which contain asbestos or other contaminants.

In case of a breach of duty, the supplier shall exempt us from any third-party claim arising out of the breach of duty such as claims for damages

- 16.3 For delivery items that require technical inspection and approval by the TÜV of the country of the product origin or any other relevant authority, the supplier shall duly take care of all requirements at its own expense and provide to us the certificate of inspection.
- 16.4 We reserve the right to inspect the delivery items already during the production process and/or before delivery. Such an inspection will not be regarded as acceptance of the goods and will not affect the implied or explicit warranty of the supplier according to clause 7 of these General Purchasing Terms.

#### **17. Plant regulations**

Persons who carry out work on our factory premises in fulfillment of the contract must observe the respective plant regulations and have to follow orders of the plant security without fail. Our liability for accidents suffered by these persons on our factory premises is excluded except when caused by willful or gross negligent breach of duty by our legal representatives or persons employed in the performance of our obligation.

#### **18. Force majeure**

We shall be released from our contractual obligations should we experience labour disputes and governmental measures as well as natural disasters, riots or other unforeseeable and inevitable events, for which we cannot be held responsible and which render it con-

siderably more difficult or impossible for us to meet our obligations (force majeure); in case of temporary hindrance, however, we shall only be released from such obligations for the duration of the impediment plus a reasonable period.

#### **11. Data protection**

We are entitled to save and use personal data of the supplier which has been acquired by us during the business relationship for trade procedure.

#### **12. Final terms**

- 20.1 The supplier may only use the joint business relationship in its advertising with our explicit prior written consent.
- 20.2 The supplier certifies that it understands the Supplier Code of Conduct and ensures that it performs its obligations in compliance with the Supplier Code of Conduct.
- 20.3 The place of jurisdiction for any disputes between the supplier and us arising out or in connection with any order or request is our registered office. We are also entitled to sue the supplier at the court competent at its registered office.
- 20.4 Notwithstanding clause 20.4, any dispute between the supplier and us shall first be resolved by dispute resolution by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC") for the time being in force, which rules are deemed to be incorporated by reference in this clause. The number of arbitrators shall be three (3). The language of the proceedings shall be in English.
- 20.5 The legal relationship between the supplier and us shall be governed by the laws of the State of the Delivery Point (as stated in the purchase order) of the Goods or performance of the Services, and the parties submit to the jurisdiction of the courts of that State.
- 20.6 Should individual terms of these General Purchasing Terms be or become completely or partially void, invalid or unenforceable, the validity and enforceability of the other terms shall remain unaffected. The void, invalid or unenforceable term shall be replaced, if legally permitted, by the valid and enforceable term that best approximates the intended purpose of the void, invalid or unenforceable term relating to item, extent, time, place and scope. The same shall apply correspondingly for filling any gap in these General Purchasing Terms.