



## Kuehne + Nagel General Purchasing Conditions

### 1. Definitions

- 1.1 “Kuehne + Nagel” or “KN” means Kuehne + Nagel N.V. and/or Kuehne + Nagel Logistics B.V.
- 1.2 “Supplier” means any person, firm, company or corporation which supplies products to KN, provides services to KN or has agreed with KN to do so, or a party to whom KN has given an assignment of any other nature.
- 1.3 “Agreement” means any agreement, including these purchasing conditions, between KN and Supplier related to the services to be provided and/or the purchase of products by KN from the Supplier, as well as any other order assignment given by KN to Supplier, and all (legal) acts related thereto.

### 2 General

- 2.1 These purchasing conditions apply to the contractual relationship between Supplier and KN and are also applicable to all requests, offers, proposals, assignments, purchase orders, order confirmations, agreements, supply of products, orders and services by Supplier to KN.
- 2.2 KN expressly renounces the general terms and conditions of the Supplier.
- 2.3 In the event any provision of these purchasing conditions is held to be null and void or is otherwise deemed to be unenforceable, the other provisions of these purchasing conditions shall remain in full force and effect.
- 2.4 Any modifications and/or amendments to these purchasing conditions must expressly be agreed upon in writing.
- 2.5 Without KN’s prior written approval the Supplier shall not be authorized to transfer its rights and obligations, either in whole or in part, deriving from the Agreement to a third party.
- 2.6 In case of deviation of these purchasing conditions between the Dutch language and the translation thereof in another language, the Dutch language text shall be binding.

### 3 Formation of the Agreement and amendments

- 3.1 Each and every offer of the Supplier is not without obligation and free of charge, unless described otherwise in the offer. Any Agreement between Supplier and KN shall become effective after KN explicitly has accepted an offer/proposal in writing from Supplier, duly signed by the authorized signatories.

### 4 Prices

- 4.1 All prices are in Euro and excluding VAT. Unless otherwise agreed upon in writing, all prices are included, including the costs for the account of KN and the costs of packaging and the transport and delivery at the location indicated by KN. All prices include also payable withholdings, custom duties, taxes, premiums and other government levies.
- 4.2 The agreed price is fixed and cannot be increased by Supplier, unless a price increase is explicitly agreed upon in writing in the offer.

### 5 Contract variations

- 5.1 Extra costs or contract variations never qualify nor justify for any compensation, unless this directly derives from additional preferences of KN or due to circumstances which reasonably would be at the expense and risk of KN and these extra costs have been approved and accepted in advance by KN according to article 4.2. Activities of which the Supplier could or should have known were required with regard to the delivery of a product or service according to the offer/proposal, shall not be considered as contract variations.
- 5.2 Supplier shall inform KN as soon as possible in writing should Supplier be of the opinion that contract variations are involved and qualify for compensation, and confirm such in a written offer to KN, provided with a fixed price and time schedule, indicating when the contract variations will be completed.



5.3 Without KN's prior written approval of the offer/proposal as mentioned in article 5.2, the Supplier shall not commence with the contract variations. These purchasing conditions are also applicable to the contract variations.

## **6 Delivery of products and delivery time**

- 6.1 Supplier shall deliver the products and/or provide the services at the location and time as specified in the Agreement.
- 6.2 Supplier is obliged to inform KN immediately in writing, should Supplier foresee that the deliverance of the products and/or the services to be provided will not be according to and/or within the time schedule as agreed upon, explaining the reasons of any delay, together with the new expected time schedule. This shall not affect the rights allocated to KN.
- 6.3 KN is authorized, should Supplier exceed the stipulated time limit for the delivery of the products and/or the completion of the services other than as a result of force majeure (non-attributable shortcomings), to dissolve the Agreement either in whole or in part, all without prejudice to the right of KN to claim the damages actually incurred by KN from the Supplier.
- 6.4 Supplier is not entitled to partial deliveries unless specifically agreed otherwise in writing by KN.

## **7 Transportation and packaging of products**

- 7.1 The transport of the products will be at the expense and risk of the Supplier, including the import taxes and other levies, if any.
- 7.2 All products must be packaged properly and be secured in such a way that during normal transport the products will be delivered in a good condition. Should the products be damaged, as a result of bad or unsecure packaging, this damage shall obviously be at the expense of the Supplier.
- 7.3 Each and every transport/sending/delivery must include a packing list which at least specifies, i.e.: the consignor/shipper, the delivery address, the contact person, the order number, the quantity, any numbers and further specification of the products.

## **8 Ownership and risk**

- 8.1 Ownership and risk of products will be transferred to KN at the moment of delivery of the products, or at the moment of acceptance by KN or when the products have been paid for (depending on the event which will occur first).
- 8.2 The Supplier bears the risk of damage to or the loss of the products until the moment of acceptance by KN, or, should this occur at a later moment in time, until the moment of the factual delivery of the products at the stipulated place of delivery as agreed upon. The risk will not transfer to KN if Supplier does not (completely) comply with its delivery obligations.

## **9 Supply of information**

- 9.1 Supplier shall, at the request of KN, provide KN with all information in the form and frequency prescribed by KN, relevant to the (execution) of the Agreement.
- 9.2 KN is always authorized to request a declaration of an external auditor of the Supplier relating to the correctness of the amounts invoiced to KN or other information supplied to KN by the Supplier.

## **10 Inspection and acceptance**

- 10.1 KN is always entitled to, subject to the products to be delivered, or the delivered products, to an inspection, or to investigate the delivered products in conformity with the Agreement and these general purchasing conditions. The Supplier is obliged to give its full cooperation to this inspection and/or this investigation. KN is entitled to check or inspect all products on quality during the processing, manufacturing or storage or to be present at the time of tests or checks to be carried out by or on behalf of the Supplier in order to inspect the products in conformity with



the Agreement and these purchasing conditions. The Supplier is obliged to give its full cooperation to the inspection or the investigation.

- 10.2 KN shall inform the Supplier in writing, should the delivered products and/or the provided services not be in accordance with the requirements according to in the Agreement.
- 10.3 Supplier shall proceed with replacement and/or improvement of the rejected products and/or services and offer these for re-inspection, within the time limit indicated by KN. The Supplier will be responsible for the disposal of the rejected products. KN is entitled, without the prior approval of Supplier, to return the rejected products to the Supplier at the Supplier's risk and expense, or to destroy the rejected products, should Supplier not collect the rejected products from KN within the period set out by KN.

## 11 Payment, e/invoicing and compensation

- 11.1 Supplier shall not be entitled to e-invoice before KN has accepted and/or approved of the delivered products or the provided services.  
Supplier shall not be entitled to e-invoice for services to be rendered on project basis, before the project has been completed and approved of by KN.
- 11.2 Supplier is obliged to e-invoice to KN with reference to the KN PO (purchase order) number or job file number, quantity per product number and description of the product, unless agreed otherwise in the Agreement.
- 11.3 Supplier is obliged to only submit e-invoices through Tradeshift. KN will not accept any paper invoices and will not pay any paper invoices other than e-invoices through Tradeshift.
- 11.4 Invoices not according to the Agreement or other as agreed upon, or, invoices with insufficient information according to KN, shall be returned to Supplier for completion and will give KN the right to suspend KN's obligation to pay the Supplier.
- 11.5 KN is entitled to set claims from Supplier vis-à-vis KN off against KN's claims vis-à-vis Supplier. KN shall at all times be authorized to suspend the obligations by virtue of the Agreement, including the payment obligations, should KN be of the reasoned opinion that the Agreement has not been executed in a satisfactory manner by Supplier. Supplier shall only be entitled to settlement after the prior written approval of KN.
- 11.6 Payment or (interim) inspection by KN does not imply a renunciation of any right allocated to KN.
- 11.7 Supplier will send to KN a financial statement relating to the outstanding invoices before expiry date of the invoices.
- 11.8 KN shall pay the delivered products or the provided services within 60 days after the invoice date and under the condition that the delivered products or the provided services have been approved of by KN and after receipt of all relating documentation including the correct addressed and completed invoice.

## 12 Guarantee

- 12.1 Supplier guarantees KN that the delivered products and/or the provided services and/or the used material during the provided services:
  - a) comply with the specifications, conditions, drawings, samples, models and/or other data as agreed upon in the Agreement;
  - b) comply with the adequate quality and environmental requirements and are free from faults of design, manufacture, material and other defects;
  - c) comply with the relevant environment and safety regulations;
  - d) are new and have no defects and are free of any third party rights and are fit for the purpose for which the order was given;
  - e) accompanied by all data and instructions required for correct and safe usage; and
  - f) the services are executed expertly and without interruption.
- 12.2 Supplier shall at own expense repair or replace the delivered products, or supply what is missing, all at the discretion of KN and without prejudice to the other rights allocated to KN



(i.e. right to damages, terminate the Agreement) should any faults or material and/or manufacturing defects occur in any of the delivered products and/or provided services.

- 12.3 KN is entitled, either through intervention of a third party, all at the expense of Supplier and within a reasonable time limit, to proceed with replacement or repair of the delivered products and/or provided services, should Supplier fail to meet its guarantee obligations. Any costs related to this (including costs of repair and disassembly) shall be borne by Supplier. The Supplier will not be discharged from its obligations under the Agreement.

## **13 Liability and insurance**

- 13.1 Supplier shall indemnify KN against any and all claims of third parties concerning any damages or costs resulting from or connected with the delivery of the products or the provided services by Supplier with respect to the Agreement concluded between Supplier and KN.
- 13.2 Without prejudice to the foregoing, the Supplier must maintain, during the term of the Agreement, an adequate liability insurance which provides a minimum cover of EUR three million per event.

## **14 Intellectual property rights**

- 14.1 All intellectual property rights associated with or connected with the products to be delivered or the services to be provided to KN or activities (including designs, images, drawings, sketches, models and offers) will become the property of KN at the moment of conclusion, unless expressly otherwise agreed upon in writing. To the extent legally required the Supplier shall transfer these rights to KN, which transfer is hereby accepted by KN. To the extent that the transfer of these rights requires an additional deed the Supplier hereby irrevocably authorizes KN to draw up this deed and to sign the deed on behalf of the Supplier. The transfer of intellectual property rights, as referred to in this article, also includes renunciation of personality rights to the extent permitted by law.
- 14.2 The Supplier indemnifies KN against any and all claims of third parties arising from any infringement on the rights set out in this article of these purchasing conditions and the Supplier shall compensate KN for any ensuing losses thereof, provided Supplier is forthwith informed in writing and/or electronically of those claims.

## **15 Confidentiality**

- 15.1 The Supplier shall keep confidential at all times, any and all confidential information, drawings and any other documents received from KN, which are confidential by nature. This confidential information shall remain the exclusive property of KN and must not be disclosed to any third party or be used in any other way for any other purpose than the execution of the Agreement without prior written consent of KN. Supplier is not allowed to make this information, these drawings and documents public to a third party, in any way whatsoever. The Supplier is also not entitled to use this information, drawings and documents other than for the execution of the Agreement. Supplier shall also impose this obligation on its staff and other persons hired.
- 15.2 The Supplier is explicitly not allowed, without the prior written approval of KN, to give publicity, to advertise or to publish that Supplier entered into an agreement with KN relating to the products and/or services to be provided, and/or to use trademarks and/or trade names or marks of KN in adds or promotion material.
- 15.3 Supplier is not entitled to use KN as a reference, without the explicit written approval of KN.

## **16 Force majeure**

- 16.1 In the event of (temporary) force majeure, Supplier will be temporarily discharged from its obligations by virtue of the Agreement. In the event that the force majeure is not ended within three weeks, KN shall be entitled to dissolve the Agreement and furthermore Supplier shall not be entitled to compensation for damages.



16.2 Force majeure refers to the meaning in the Dutch Civil Code. Force majeure shall in no event include non or untimely performance by a third party of its obligations vis a vis the Supplier, illness, unsuitability or lack of staff or of hired third parties nor strikes.

## 17 Termination

17.1 KN shall be entitled, if Supplier is in default, to suspend partially or fully the execution of all agreements between the parties, including the Agreement, or to terminate these agreements, including the Agreement partially or fully by giving notice in writing, without court intervention (and with immediate effect) (without KN being liable to pay any damages). Any claims KN may have or come to in both aforementioned situations will be paid by Supplier.

17.2 Furthermore, KN is also entitled to terminate in writing the Agreement "termination for convenience" by the end of the month with a notice period of one month. In that case, the Supplier shall only be entitled to compensation and/or payment for services or activities carried out prior to the date of termination of the Agreement. Payment of such compensation shall be the only entitlement by Supplier with regard to the aforementioned termination of the Agreement. The Supplier shall not be entitled to any other compensation as a result of aforementioned termination and furthermore waives hereby any claims for lost of profit and other damages and costs.

17.3 KN is always entitled to dissolve the Agreement, partially or fully, with immediate effect and without judicial intervention and without being liable to pay any damages in the event of:

- If Supplier files for suspension of payments to its creditors;
- If Supplier files for bankruptcy or the Supplier is declared bankrupt;
- If Supplier discontinues its business operations or a substantial part thereof;
- If property of the Supplier has been seized and which seizure will last for at least one month;
- cancellation of any licenses of the Supplier, which are required for the execution of the Agreement;
- If Supplier is no longer able to perform one or more of its obligations under the Agreement.

## 18 Compliance clause

18.1 Supplier represents and warrants that it is and shall remain during the term of this Agreement in compliance with the KN Supplier Code of Conduct (most recent version) and all applicable laws, regulations and codes, including but not limited to all anti-bribery laws and regulations. In connection with any aspects of this Agreement or any other transaction involving KN, Supplier has not and will not, directly or indirectly, in connection with the performance of services under this Agreement or otherwise on behalf of KN, engage in prohibited conduct. Prohibited conduct includes to promise, offer or grant to a person any undue advantage or to request or accept any undue benefit or advantage to improperly influence actions.

18.2 KN or its designated representatives shall have the right to access, audit and review the books and records of the Supplier, and to keep copies thereof, to the extent relevant to this Agreement. Such access, audit and review shall be reasonable as to scope, place, date and time. Supplier shall fully and in a timely manner cooperate in any review or audit conducted by or on behalf of KN, including responding accurately and completely to all inquiries and providing any requested documents.

18.3 KN may terminate this Agreement immediately upon written notice in the event Supplier has failed to meet its obligation under this Agreement, whereupon KN shall have no further obligation or liability under this Agreement. If KN reasonably believes that the event given rise to such a termination also constitutes a violation of the U.S. Foreign Corrupt Practices Act or any other applicable Anti-Bribery Laws, any claims for payment by Supplier with regard to this Agreement shall be automatically terminated. Supplier shall indemnify and hold harmless against any and all claims, losses or damages arising from or related to termination, or a determination to withhold payments under this section.



## **19 Applicable law and disputes**

- 19.1 Dutch law is applicable to all agreements for the delivery of products and/or the services to be rendered, as well as to offers relating thereto.
- 19.2 Each and every dispute concerning the execution, the interpretation, execution of the Agreement or any further agreements arising thereof, together with any other dispute relating to the Agreement, either judicial or factual, shall be settled by the competent Court in Rotterdam.