

# GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY FOR EXPORT PRODUCTS

Rockwool A/S

## 1. In general

1.1 These general terms and conditions of sale and delivery for export products (the "General Terms") shall apply to any and all sales of products made by Rockwool A/S ("Rockwool") as of 1 May 2008, unless otherwise specifically derogated from or modified by other written agreements.

1.2 Any reference by the buyer to any special or general terms in orders, acceptances, terms of purchase etc. shall not be deemed a deviation from these General Terms, unless accepted in writing by Rockwool.

1.3 Rockwool may amend these General Terms without notifying the buyer thereof. An amendment to the General Terms will not affect the terms and conditions in force at the time when the buyer received the written order confirmation from Rockwool.

1.4 Any provision of these General Terms that is held to be invalid or unenforceable (in whole or in part) shall, to the extent of such invalidity or unenforceability, be deemed severable and the other provisions of the General Terms shall not be affected by such invalidity or unenforceability.

## 2. Quotations and orders

2.1 Quotations and orders shall be binding upon Rockwool only if the buyer has received a written order confirmation from Rockwool and only on the conditions contained therein and in these General Terms.

2.2 The buyer is obliged to verify that the information set forth in Rockwool's order confirmation is in accordance with the order submitted to Rockwool by the buyer.

2.3 Rockwool may, at its absolute discretion and for any reason, accept or reject orders without incurring any liability.

2.4 Rockwool shall not be liable for any claims, losses or damages of any nature whatsoever, including consequential losses, loss of production, loss of profits or other indirect losses which the buyer may incur as a result of any failure, delay or partial or imperfect performance in connection with the buyer's quotations and any other messages to Rockwool.

## 3. Licences, authorisations and formalities

3.1 Rockwool shall not be responsible or liable for obtaining import licences, paying taxes or other official charges necessary for import or official approval of Rockwool's products.

3.2 In the absence of any written agreement to the contrary, the buyer shall:

3.2.1 obtain such import licences, etc., at its own expense and risk, as are required for the import or approval of the products in the recipient country; and

3.2.2 bear and defray all costs payable in connection with the entry of the products into the recipient country and transit, where applicable, through other countries.

## 4. Price lists and prices

4.1 Prices shall be quoted for delivery EXW in accordance with the INCOTERMS in force at the date of the order confirmation and are published in Rockwool's price lists. Price lists shall be subject to revision at any time and without notice.

4.2 Notwithstanding the provisions set out in Clause 2.1 above, new price lists distributed by Rockwool shall be valid from the date stated in the price list.

4.3 Rockwool reserves the right to adjust the prices commensurate with the rise or fall in Rockwool's purchase prices, taxes, duties, transport charges, wages and currency fluctuations occurring from the time of quotation until the time of delivery of the products. Except in the case of any written agreement to the contrary, prices are quoted exclusive of VAT, custom duty or any other taxes or levies imposed on the products and insurance costs.

## 5. Terms of payment

5.1 In the absence of any written agreement to the contrary, the buyer shall make prepayments in cash against any invoice from Rockwool or by an irrevocable and confirmed letter of credit opened in a first-class bank and payable through Danske Bank, Copenhagen.

5.2 If any payment is not made to Rockwool in the agreed currency, Rockwool reserves its right to claim compensation from the buyer (in addition to the amount to be paid) for any depreciation of the currency in which payment is made compared to the agreed currency in

the period from the date of Rockwool's written order confirmation until the day when the payment has been received by Rockwool.

5.3 Notwithstanding Clause 5.2 above, Rockwool reserves its right to claim compensation from the buyer (in addition to the amount to be paid) for any depreciation of the currency in which payment is made (irrespective of whether payment is made in the agreed currency) compared to the value of the payment in Danish kroner (DKK) in the period from the date of Rockwool's written order confirmation until the day when the payment has been received by Rockwool.

5.4 In the event that the buyer fails to effect payment within the due date set forth in any invoice, notice etc. from Rockwool, interest shall accrue at a rate of 1% per month commenced after such due date.

5.5 The buyer is not entitled to set off any claim relating to the delivery in question or other legal matters against payment for the products to Rockwool and shall have no right of retention or non-payment as a result of any delay, complaint or alleged counterclaim against Rockwool.

5.6 Title to the products shall not pass to the buyer until full payment for the products with the addition of any interest and costs incurred in connection with the delivery has been received by Rockwool.

## 6. Terms of delivery

6.1 Except in case of any written agreement to the contrary, delivery shall be considered to be CPT in accordance with the INCOTERMS in force at the time of the order confirmation.

6.2 If the buyer has not informed Rockwool in writing of any specific means of transportation, Rockwool may, at its sole discretion and at the risk of the buyer, choose the means of transportation of the products.

## 7. Product changes, samples and technical advice/services

7.1 Rockwool reserves the right to make reasonable and/or necessary product changes from the time of quotation until the

time of delivery of the products. Consequently, technical specifications shall at any time be subject to change until the time of delivery.

7.2 All samples supplied or shown to the buyer prior to the buyer's receipt of Rockwool's written order confirmation are to be regarded as samples and Rockwool does not guarantee that the products are identical with the samples supplied, unless such conformity has been expressly guaranteed in writing by Rockwool.

7.3 Even though Rockwool has assisted the buyer by rendering technical advice and/or services, Rockwool shall not be held liable vis-à-vis the buyer for such advice or services, unless Rockwool has expressly agreed in writing to be liable for the advice or services rendered.

## **8. Time of delivery**

8.1 Any time of delivery stated by Rockwool shall be estimated and non-binding on Rockwool, unless a fixed time of delivery has been expressly agreed upon in writing for the entire product or any part thereof.

8.2 A delay in delivery shall not entitle the buyer to terminate the order, unless delivery has not taken place within thirty (30) days from the fixed time agreed upon in accordance with Clause 8.1 above and, in other cases, within sixty (60) days from the time when the buyer could reasonably expect delivery of the products.

8.3 In any event where a delay in the delivery is caused by circumstances, which under Clause 12 below shall be deemed a case of relief, the time of delivery shall be postponed accordingly by the same number of days.

8.4 Where the products delivered by Rockwool are delayed due to circumstances attributable to the buyer, the products shall be kept at Rockwool's storage facility at the buyer's expense and risk. Rockwool is entitled to demand storage rent, reimbursement of costs, etc.

8.5 If Rockwool fails to deliver the products in accordance with Clause 8.2 above, the buyer is entitled to terminate the order in question provided that the products have not yet been shipped and/or delivered. The buyer shall have no other remedies for breach as a result of delay or non-delivery of products and is not entitled to raise any

claim for damages whatsoever in this respect, including compensation for any operating loss, consequential loss or other indirect loss due to a delay in the delivery or non-delivery.

## **9. Complaints and non-conformities**

9.1 The buyer is obliged to sign for the receipt of the products.

9.2 Immediately upon delivery, the buyer is obliged to carry out a thorough examination of the products delivered.

9.3 Complaints about any noticeable lack of conformity shall be made to Rockwool in writing immediately after the buyer discovering such lacks of conformity and no later than seven (7) days after delivery, and such complaints shall include a specification of the nature of such non-conformity.

9.4 The buyer loses the right to raise any claim in respect of defects or shortages in the products delivered if the buyer fails to give written notice to Rockwool immediately after the buyer has or should have discovered such defects or shortages. Defects or shortages, which could or should reasonably have been detected during an examination of the products, shall not entitle the buyer to raise any claim against Rockwool.

9.5 If the products delivered suffer from defects or shortages which were not ascertainable at the time of the examination referred to in Clause 9.2 above, the buyer must, in order to invoke such non-conformity, give Rockwool written notice thereof specifying the nature of the non-conformity in question immediately after it has or should have discovered such non-conformity and no later than three (3) months from the date of delivery.

## **10. Liability for defects**

10.1 Defects in products shall not entitle the buyer to cancel the order in whole or in part, provided that Rockwool, at its own discretion, replaces the defective products, remedies the defect or refunds an amount corresponding to the decreased value of the products within a reasonable period of time.

10.2 In the event that Rockwool is liable for a defect, Rockwool's liability is limited to one of the following actions, at Rockwool's discretion:

10.2.1 correction of the defect through rectification to the extent necessary to return the products to a useable condition, or

10.2.2 replacement with products in comparable condition to the products delivered, or

10.2.3 a refund of an amount corresponding to the decreased value of the products as a result of the defect.

10.2.4 The actions described in Clauses 10.2.1, 10.2.2 and 10.2.3 above represent the maximum liability which may be incurred by Rockwool who shall consequently not be liable for consequential losses, loss of production, loss of profits, or any other indirect losses incurred by the buyer or a third party in application or processing of the products delivered.

10.3 In any event, Rockwool shall only be liable for defects which appear under proper use and storage, stacking and/or handling, of the products, cf. Clause 13 below (including sub-clauses). The liability shall not extend to defects caused by e.g. improper storage, stacking, handling, faulty maintenance, incorrect installation or alterations undertaken without Rockwool's prior written consent, or by faulty repair. Rockwool's liability shall not include normal wear and tear or deterioration.

10.4 Except as explicitly stipulated in Clauses 10.1, 10.2, and 10.3 above, Rockwool shall not incur liability for defects.

10.5 Notwithstanding the other provisions of these General Terms, Rockwool's liability for defects shall in no circumstances exceed the amount invoiced for the defective products in question.

10.6 The exemptions from liability of Rockwool under Clauses 10.1, 10.2, 10.3, 10.4 and 10.5 above shall apply irrespective of whether Rockwool has acted negligently.

## **11. Product liability**

11.1 In no event shall Rockwool be liable for personal injury or any property damage occurring whilst the products are in the buyer's possession, nor shall Rockwool be liable for damage to products manufactured or repaired by the buyer or to the products of which Rockwool's products form a part.

11.2 Rockwool shall be liable for personal injury and damage to consumer goods only where it is established that such injury or damage was caused by defective products delivered by Rockwool and that the defect

was a result of errors or omissions attributable to Rockwool.

11.3 In all other cases, i.e. in case of property damage to non-consumer goods, Rockwool shall not be liable unless it is established by the buyer that the damage was caused by a defective product delivered by Rockwool (product liability) and that the defect was a result of an act or omission attributable to Rockwool and caused deliberately or recklessly and with knowledge that such damage would probably result therefrom.

11.4 Notwithstanding Clauses 11.1, 11.2 and 11.3 above, Rockwool's liability for personal injury and property damage, including damage to consumer goods, shall, irrespective of the legal basis for any such liability, be limited to one (1) million Danish kroner (DKK).

11.5 In no event shall Rockwool be liable for any consequential losses, operating loss, loss of time, loss of production, loss of profits, or other indirect losses.

11.6 To the extent that product liability towards any third party shall be imposed on Rockwool, the buyer shall hold Rockwool harmless and indemnified to the same extent that Rockwool's liability is limited according to Clauses 11.1-11.6 hereof and shall accept to be included as a party to any legal proceedings before any court or tribunal where proceedings against Rockwool are brought by a third party.

11.7 In the event that a third party raises a claim for damages under Clauses 11 against one of the parties hereto, the relevant party shall immediately notify the other party.

## **12. Grounds for relief (force majeure)**

12.1 None of the parties shall be liable for any failure to fulfil its obligations under the contract if it is proved that the non-fulfilment of the obligations is due to an impediment beyond such party's control which could not reasonably have been taken into account, avoided or overcome, neither at the time when the contract was entered into between the parties, nor subsequently.

12.2 A non-exhaustive list of such circumstances is: Lockouts and strikes, fire, war, riot, mobilization or military call-up of a comparable scope, cyber attacks, public restrictions, requisition, seizure, ban of

imports or exports or other public interventions, natural disasters, vandalism, theft, significantly more expensive supplies from sub-suppliers, trade disputes, insurrection and civil commotion, shortage of transport, general shortage of materials, defects or delays in deliveries by sub-suppliers and service providers or other similar, extraordinary events beyond the party's reasonable control.

12.3 The party wishing to claim relief shall without delay notify the other party in writing of the intervention and of the cessation of such circumstance. If grounds for relief prevent the buyer from fulfilling its obligations, the buyer shall compensate Rockwool for the expenses incurred in storing, securing and protecting the products.

12.4 Notwithstanding other provisions of these General Terms, either party is entitled to terminate the contract by notice in writing to the other party if performance of the contract is delayed more than six (6) months by reason of any grounds for relief as described in Clauses 12.1 and 12.2 above.

## **13. Storage, stacking and handling of Rockwool Marine and Offshore Products**

13.1 Rockwool Marine and Offshore Products:

13.1.1 must at all times be stored dry indoor in closed warehouse facilities;

13.1.2 must not be stacked in more than two (2) layers when delivered on pallets;

13.1.3 must only be stored on the flat side when delivered in packages and must not be stacked in heights of more than three (3) metres;

13.1.4 must at all times during storage remain untouched and must not be affected by any kind of treading, sitting or any other similar kind of exposure; and

13.1.5 must be transported in closed compartments, i.e. trailers, containers and other cargo holds in order to avoid exposure to weather elements and/or condensation etc.

13.2 In addition, all Rockwool HC Firebatts 150 products must be installed within three (3) months upon delivery and must be carried from Rockwool to the building site without reloading.

## **14. Escalation clause, jurisdiction and governing law**

14.1 A dispute shall be deemed to exist if either party declares such in writing.

14.2 It is the spirit of the contract to resolve problems quickly and where they occur.

14.3 All disputes, controversies, disagreements or claims arising out of, in connection with or under the contract or the termination, breach or invalidity thereof, shall be resolved in the following manner:

14.3.1 If the two companies are not able to resolve the dispute, the parties shall engage in mediation with a professional mediator in Denmark by reference to Mediationsinstituttet, Tuborg Boulevard 12, 2900 Hellerup, Denmark.

14.3.2 If the mediation does not resolve the dispute within thirty (30) calendar days, the dispute shall be settled by the Copenhagen Maritime and Commercial Court with appeal to the Danish Supreme Court. Notwithstanding the aforesaid, Rockwool is entitled to pursue any claim in connection herewith against the buyer at any competent court of law in Denmark, the country of destination or elsewhere.

14.4 The contract shall be governed and construed in accordance with the laws of Denmark.