



## GENERAL TERMS AND CONDITIONS OF SALE

### **1. Application of the General Terms and Conditions of Sale ("Terms")**

These Terms constitute the frame of the commercial relationship between KEM ONE (the "Seller") and the buyer (the "Customer"). Unless otherwise agreed in writing between the Seller and the Customer (the "Party(ies)"), any sale of KEM ONE's products (the "Products") implies the Customer's full and unreserved adherence to these Terms, excluding any other document whatsoever without any contractual value. These Terms shall prevail on any Customer's general conditions of purchase, regardless of the date on which they are sent.

### **2. Formation of the contract**

The sales contract between the Seller and the Customer (the "Contract") is formed upon the express written acceptance by the Seller of the order placed by the Customer. The Seller reserves the right to postpone, reduce or refuse any order according to its availability. The prices of the Products are those agreed at the conclusion of the Contract. Unless otherwise stated in writing by the Seller, prices are exclusive of VAT. The Customer is considered as having accepted all the terms of the order unreservedly and irrevocably if it fails to object either within 24 hours of the Seller sending the order confirmation, either immediately upon the taking in charge of the Product by the Customer if this occurs before this document is sent or in the absence thereof. Any urgent order and/or late modification to an order by the Customer shall be subject to the Seller's prior and express acceptance, and the Seller reserves the right to refuse such requests without providing a specific reason. In the event of acceptance by the Seller, the latter reserves the right to charge the Customer a handling fee of:

-€500 per order for any urgent order where the requested delivery time is less than seven (7) business days within Europe, three (3) weeks for the United Kingdom, for Products shipped from French and/or Spanish warehouses, or the standard delivery time applicable in the relevant country for deliveries outside Europe and the United Kingdom. These fees apply to DAP or DDP deliveries;

- €300 per order for any late modification, if requested within two (2) days prior to the loading of the Products.

These handling fees will be converted into the currency applicable to the Contract using the exchange rate in effect on the date these fees are due. The cancellation or suspension of an order is subject to the Seller's express and prior acceptance, and the Seller reserves the right to charge the Customer for all damages and costs associated with such cancellation or suspension, the minimum amount of which—corresponding to administrative processing fees—is set at €1,000. It is specified that no modification, cancellation, or suspension of an order shall be permitted after the Products have been loaded.

### **3. Delivery and return of Products**

Unless otherwise agreed in writing by the Seller, the taking over of the Product shall take place, at the Seller's choice, from its plant or warehouse defined in the Contract. **The delivery timescales are provided solely for guidance and without guarantee, so the Seller cannot be held liable as such.** No Product returns will be accepted without the prior written agreement of the Seller. If the Products are delivered to the Customer by ship, the Customer must collect the Products within 14 days of their arrival at the port; failing this, at the end of this period, the Seller will be entitled to cancel the order due to the Customer and the provisions of the last paragraph of Article 2 above will apply.

The Customer is required to inspect the condition of the Products at the time of delivery. In the event of damage, loss, or any other apparent non-conformity of the Products, the Customer must note any

reservations on the delivery slip and confirm them in writing to the Seller within a maximum of two (2) calendar days from the delivery of the Products. After this period, no claims related to transportation will be accepted. **4. Terms of payment** Unless otherwise agreed by the Parties, any invoice must be paid, net and without discount, not later than 2 working days from its receipt, by bank transfer in accordance with the terms specified in the invoice. No discount is granted in the event of early payment.

In the event of deterioration of the Customer's financial position or of the credit insurance coverage granted to the Seller for the Customer, the Seller reserves the right to require (i) a payment in advance, (ii) further warranties and/or (iii) the application of new payment conditions.

### **5. Default of payment**

Any delay in paying an invoice will entail, *ipso jure* and without any prior formal notice, the application of: a) default interest at three times the French legal interest rate for the period from the day after the due date to the date when payment is actually made and b) a lump-sum compensation of forty (40) Euros as recovery costs. An additional compensation may be claimed should the recovery costs incurred exceed the amount of the lump sum compensation. Any non-payment of an invoice on the due date constitutes a serious breach by the Customer and authorizes the Seller, at its choice and without any prior formal notice, to (i) suspend or cancel, *ipso jure* at the Customer's fault, all pending orders; (ii) refuse any subsequent orders and/or (iii) make the acceptance thereof subject to payment in advance.

### **6. Reservation of Ownership – Transfer of risks**

**DELIVERED PRODUCTS REMAIN THE SELLER'S PROPERTY UNTIL RECEPTION PAYMENT OF THE PRICE IN FULL.** However, within the ordinary course of business of its company, the Customer is authorised, upon delivery, to use and/or carry out all transformation operations in relation to delivered Products, though it is explicitly agreed that in this case the Seller retains the right to claim such Products irrespective of the condition or holder thereof. **UPON DELIVERY, THE CUSTOMER SHALL BE RESPONSIBLE FOR CUSTODY OF SUCH PRODUCTS AND SHALL BEAR ALL RISKS WITH RESPECT TO THE SELLER AND THIRD PARTIES.** Consequently, Customer shall be bound by its obligations as custodians and must take out an insurance policy referring to the Seller's status as the owner and covering prejudice suffered or caused by the Products.

### **7. "REACH" Regulation**

The Seller manufactures, imports and markets Products in compliance with Regulation 1907/2006/EC ("REACH"). The uses identified in the Safety Data Sheets (SDSs) that are applicable to the Products within the meaning of the REACH Regulation will not be equivalent to agreement between the Parties on the technical and commercial specifications of the Products or on a specific application. Customer is responsible for the implementation of Products once it takes charge thereof. Within the framework of the REACH Regulation, Customer must notably ensure that the conditions in which they are to be used comply with those described in the SDS. In the event of transported isolated intermediates as defined in the REACH Regulation, Customer must, prior to the sale, certify in writing that they comply with the conditions stated in Article 18 of the Regulation. **The Seller cannot be held liable in the event of any incorrect and/or unlawful use of any of its Products or in the event of the impossibility of fulfilling its obligations or a delay therein if such an impossibility or delay results from compliance with statutory or regulatory obligations in relation to an application of the REACH Regulation.**

### **8. Liability**

The Seller guarantees that the Products comply with the technical specifications provided to Customer, to the exclusion of any other explicit or implicit warranty, notably in respect of suitability for a specific use or results based on the use of Products (non-exhaustive list). Customer bears all risks arising from the use of Products, whether they

are used on their own or in combination with other products, and will be liable for damages of any kind resulting from their use. Provided that the Customer has preserved all recourse against third parties, any complaint regarding the conformity of the Products against the Seller is valid solely if made within 8 calendar days of delivery of the Products. The Customer shall provide any and all justification of the reality of the alleged defects or faults and give the Seller all means to ascertain such defects or faults. If a Customer makes a complaint on time and, after a joint examination, the Seller's liability is established, the Seller shall solely be obliged, at its choice, to replace or reimburse the Product that is the subject of the complaint.

Any replaced or reimbursed Products must be returned to the Seller.

**THE SELLER'S LIABILITY TOWARDS THE CUSTOMER, WHATEVER THE BASIS OF SUCH LIABILITY, SHALL BE LIMITED TO AN AGGREGATE AMOUNT EQUAL TO THE PRICE OF THE PRODUCT CONCERNED, WITHOUT EXCEEDING €200,000 PER YEAR. UNDER NO CIRCUMSTANCES SHALL THE SELLER BE LIABLE TOWARDS THE CUSTOMER FOR INDIRECT LOSSES AND/OR IMMATERIAL PREJUDICE, NOTABLY LOSS OF EARNINGS, OPERATING LOSSES, LOSS OF PROFIT, LOSS OF COMMERCIAL OPPORTUNITY, INCREASE IN OVERHEADS OR REDUCTION IN EXPECTED SAVINGS,** even if those were predictable. A complaint, whether founded or not, does not relieve the Customer of any obligation to pay the price of the Products delivered. Any breach of this obligation shall be considered as constituting a default of payment.

### **9. Carriage**

#### **9.1 If the Seller bears the cost of carriage**

The Seller selects the carrier in good faith **BUT THE SELLER CANNOT BE HELD LIABLE FOR ITS SELECTION OR FOR THE PERFORMANCE OF THE CARRAGE SERVICES.** The Products are consigned in the manner agreed with the Customer, possibly on the basis of the definitions published in the latest Incoterms edition. Irrespective of the means of transport concerned, the Seller reserves the right to pass onto the Customer, automatically and *ipso jure*, even after the order is placed, any fuel surcharge and any changes in non-recoverable tax imposed by the carriage service providers.

**Specific case of road and rail tankers:** the net weight invoiced shall be the weight acknowledged by weighing on departure and shown on the scale tickets. The Seller bears the cost of hiring road vehicles and rolling stock for a round trip and parking for 2 hours (for road tankers) and 48 hours (for rail tankers) at the Customer's plant. The Seller shall charge to the Customer the cost of any additional period of unavailability.

**Specific case of ships and barges (liquid, solid and gaseous Products):** the net weight invoiced for Products shipped in bulk shall be the weight acknowledged at the port of departure for incoterms in the "F" and "C" families and entered on the bill of lading. For incoterms in the "D" family, the net weight invoiced for Products shipped in bulk will be the weight acknowledged in writing by an independent inspection company at the place of delivery.

#### **9.2 If the Customer bears the cost of carriage**

Any chartering of ships and/or barges shall be subject to vetting rules of the Seller. Consequently, the Seller reserves the right to reject, without any compensation, certain ships and/or barges and to demand the use of ships or barges that comply with its vetting rules.

### **10. Transportation packaging and equipment**

#### **10.1 Specific case of transportation packaging and equipment provided.**

. If the Products are delivered to the Customer in reusable transportation packaging and equipment, such a packaging and equipment remain the property of the Seller, unless otherwise expressly agreed, and must be exclusively intended for the storage of the delivered Products. The term "transport equipment" refers, in particular, to small containers, tanks, and transport units for packaged goods. The Customer must maintain such a packaging and equipment in good condition. Accordingly, such a packaging and equipment must

be handled, drained, discharged and prepared for return according to professional standards and/or specific recommendations provided by Seller. Their returns are processed in accordance with the agreed terms and deadlines, in compliance with applicable regulations, including those governing transportation. For the return of such a packaging and equipment, the Customer must take all necessary steps as the loader and consignor to comply with all operative regulations, notably those applicable to carriage. In case of provision for removal by the Seller, the Customer authorizes the Seller its employees or any agents of its choice, to access to its premises in respect of opening hours and security procedures in force. If such a packaging and equipment are returned by sea by the Customer, the Customer must choose shipping previously selected by the Seller.

The following provisions will apply after the above-mentioned period: (i) the Customer must pay to the Seller a compensation equal to the total expenses that the Seller has to bear as a result of the unavailability of the containers (hire, administrative costs, etc) plus 10% until the transportation packaging and/or equipment is/are returned to the agreed addressee; (ii) in the event of the loss, destruction and/or failure to return transportation packaging and/or equipment within four months of the Product being made available, the Seller reserves the right to claim the cost of its acquisition of replacement transportation packaging or equipment, plus redress for all expenses resulting directly or indirectly from such a replacement, from the Customer; (iii) any compensation paid shall be definitively retained by the Seller, *ipso jure*, in all cases; (iv) carriage, repair and replacement costs for transportation packaging or equipment shall always be borne by Customer and this latter shall be liable for any damage thereto or destruction thereof. In the event of a third party claim on transportation packaging and/or equipment belonging to the Seller, the Customer shall notify it to the Seller immediately, raise any protest, take all necessary measures to assert Seller's rights on this transportation packaging and/or equipment and do all what is necessary in order that the Seller recover it. In case of opening of insolvency proceedings against the Customer, the Customer shall notify it to the Seller immediately in writing and indicate any agent of justice or judicial officer that it is not the owner of the transportation packaging and equipment. If a seizure is made, the Customer shall exercise due diligence, at its own expense, to obtain the release.

#### 10.2. Transferred transportation packaging and/or equipment

If transportation packaging and/or equipment becomes the property of Customer, this latter undertakes to eliminate it via approved processing channels and, in the event of reuse, to remove all references thereon to the previous owner. The Customer is fully liable for the consequences of eliminating or reusing such a transportation packaging and/or equipment.

#### 10.3 Transportation packaging and/or equipment supplied by the Customer

The Customer is fully liable for the choice and quality of the transportation packaging and/or equipment to be used for the Products and undertakes to supply transportation packaging and/or equipment that complies with the operative regulations, the vendor's requirements and/or Seller's requirements. The Customer shall solely be held liable for any damages, of any nature whatsoever, caused to the Seller, its employees, any agents of its choice or any third party, by the transportation packaging and/or equipment supplied by it.

#### 11. Intellectual Property

Unless otherwise agreed in writing, the Seller retains in all cases all intellectual property rights relating to all Products, sketches, drawings, tools, profiles and anything else, whatever their nature, their form or their support, made by the Seller within the framework of the Contract.

#### 12. Force Majeure

The occurrence of a case of *force majeure* shall exempt the Seller from all contractual liability within

the limits of the effects thereof. The following shall notably contractually considered as events of *force majeure* without any right of recourse for the Customer: incidents and/or accidents affecting the production or storage of Seller's Products, total or partial interruption of supplies of raw materials or energy, carrier defaulting, fire, natural phenomena, machinery breakdown, decisions by the authorities, changes of regulations, act of third parties, war, labour disputes (including Parties' internal disputes), notably strikes, transportation disturbance and government action. The Seller shall have no obligation to procure products from alternative sources. If such events last more than three months, the Seller shall be entitled to cancel all pending orders and/or terminate the Contract, with no compensation being due to the Customer.

#### 13. Hardship

The Parties expressly agree to exclude the application of article 1195 of the French civil code. If exceptional circumstances render the performance of a material obligation under this Contract unreasonably onerous for one Party and/or if the price of the raw material used by KEM ONE in the Products' manufacturing process undergoes a significant increase, the affected Party may request to the other Party a renegotiation of this Contract. The Parties shall endeavor to continue the performance of this Contract while negotiating in good faith alternative contractual terms, which restore, to the extent possible, the economic risks and rewards expected by the Parties on the date of its signature. Should the Parties be unable to reach an agreement within the three (3) months following the beginning of the negotiations, either Party may terminate the Contract on thirty (30) days written notice.

#### 14. Confidentiality - Protection of personal data

**14.1.** All documents and information exchanged between the Parties or the Customer may have learned within the framework of the Contract, particularly Products prices, are deemed confidential.

The confidentiality requirement will not apply to information supplied by one Party that can be freely accessed in the public domain without the other Party breaching the requirement stipulated in this article and/or which one Party obtained legally from a third party entitled to disclose said information. The Customer also undertakes not to use any information or document which have to be communicated to it within the framework of the Contract for purposes other than for the execution of the Contract, especially for compete the Seller unfairly, directly or indirectly. The Customer shall respect and impose on its personal this confidentiality obligation during all the period of execution of the Contract and during the three (3) years following.

**14.2.** The Seller may collect and process personal data concerning the Customer's staff involved in the performance of the Contract for the following purposes: (i) the management and performance of the Contract and orders, (ii) the management of the commercial relationship with the Customer (iii) to meet, where applicable, the legal and regulatory obligations of the Seller. The Customer undertakes to inform its staff members concerning such a processing. Any employee of Customer may, at any time, object for legitimate reason to the processing of his data, access to these data, have them rectified or erased by sending a postal mail at the following address: KEM ONE, DSI – Department RGPD, Immeuble Le Quadrille, 19 rue Jacqueline Auriol 69008 Lyon.

#### 15. Respect of applicable laws - Ethics - Compliance

**15.1.** The Customer shall perform the Contract in strict compliance with all local, national, international laws and regulations applicable.

**15.2.** The Customer shall refrain from committing or encouraging any act of corruption or influence peddling. The Customer warrants that, within the framework of the negotiation, the conclusion and/or the performance of the Contract, it has not solicited, received, made or offered, and will not solicit, receive, make or offer any payment, gift or other advantage, whatever its form (such as good,

service, invitation to entertainment ...), whether directly or through any intermediary, whether for itself or for others, from or to any person, whether in the private or public sector, where such a payment, gift or advantage (i) would help obtaining or keeping a business or any other unjustified advantage in the sight of usual business practices and/or (ii) would violate the applicable laws against corruption and influence peddling.

**15.3.** The Customer represents and warrants that neither it nor any of its subsidiaries, nor any of their respective beneficial owners, directors, officers, or employees, nor, to Customer's knowledge, any agents, representatives, or affiliates thereof: (i) is nor has been a Sanctioned Person; (ii) otherwise violate the Sanctions; (iii) on behalf of the Seller or otherwise in furtherance of this Contract, conduct any business directly or knowingly indirectly with any Sanctioned Person; nor (iv) sell, re-sell, distribute, transfer, or otherwise provide any Sanctioned Person, directly or knowingly indirectly, with any goods, money, or information obtained from the Seller or any of Seller's subsidiaries, representatives, agents, or affiliates.

For the purposes hereof:

- "Person" means a natural person or legal entity.  
- "Sanctioned Person" means at any time any vessel, aircraft, or a Person: (a) listed on any Sanctions-related list of designated or blocked Persons; (b) that is the government of or acting on behalf of the government of, resident in, or is organized under the laws of a country or territory that is the subject of comprehensive restrictive Sanctions; or (c) 50%-owned or controlled by any of the foregoing.

- "Sanctions" means those trade, economic, and financial sanctions laws, regulations, embargoes, and restrictive measures (in each case having the force of law) administered, enacted, or enforced from time to time by (a) the United States (including without limitation the Department of Treasury, Office of Foreign Assets Control), (b) the European Union and its member states, (c) the United Nations or (d) other similar governmental authority having jurisdiction over any party of the Contract.

**15.4.** The Customer undertakes to immediately report to the Seller any event that would contravene this Article. The Customer shall immediately take all actions requested by the Seller and/or necessary to remedy or prevent any violation of the obligations set out in this article, without prejudice to the Seller's right to terminate the Contract *ipso jure* for fault of the Customer. The Customer shall defend, indemnify and hold the Seller harmless from and against any and all claims, damages, losses, penalties, costs and expenses arising from or related to any breach of the foregoing obligation. Such an indemnity obligation shall survive termination or expiration of the Contract.

#### 16. Power of Jurisdiction and Governing Law

**FRENCH LAW WILL BE THE SOLE GOVERNING LAW. THE PARTIES EXPLICITLY DECLINE TO APPLY THE UNITED NATIONS VIENNA CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS OF 11<sup>TH</sup> APRIL 1980.**

Any dispute arising between the Parties under the Contract shall be the object of an attempt to reach an amicable settlement. Failing to reach an amicable solution within thirty (30) days following the meeting's request, **THE DISPUTE SHALL COME WITHIN THE EXCLUSIVE JURISDICTION OF THE COURTS OF LYON (FRANCE). SHOULD CUSTOMER BE SUMMONSED BY ANY THIRD PARTY BEFORE ANOTHER COURT, IT HEREBY UNDERTAKES NOT TO BRING ANY GUARANTEE CLAIM AGAINST THE SELLER BEFORE THE CONCERNED COURT.**

#### 17. Language of General Terms and Conditions of Sales

These Terms are written in French and English. In case of contradiction, the French version will prevail.