

GENERAL TERMS AND CONDITIONS OF SALE - PROFESSIONALS (GTCS)

These general terms and conditions of sale apply to the following Companies:

- **SAS BERKEM DEVELOPPEMENT:** Company registered with the Bordeaux Trade and Companies Register under number 481 604 197, having its registered office at 20 rue Jean Duvert (33290) Blanquefort, France,
- **SAS BERKEM:** Company registered with the Bergerac Trade and Companies Register under number 393 274 824, having its office at 20 rue Jean Duvert (33290) Blanquefort, France,
- **SAS ADKALIS:** Company registered with the Bordeaux Trade and Companies Register under number 790 216 030, having its registered office at 20 rue Jean Duvert (33290) Blanquefort, France,
- **SAS LIXOL:** Company registered with the Bordeaux Trade and Companies Register under number 646 380 089, having its registered office at 525 Boulevard de l'industrie 33260 La Teste de Buch, France,
- **SAS EUROLYO:** Company registered with the Chartres Trade and Companies Register under number 402 423 404, having its registered office at 53 Avenue d'Orléans (28000) Chartres, France.

Each of the above companies is hereinafter referred to as the Seller.

1. GENERAL PROVISIONS :

These general terms and conditions of sale (GTCS) shall automatically apply to any sale of the Seller's products to a PROFESSIONAL Buyer, hereinafter referred to as the Buyer.

These GTCS are appended to the quotations, order confirmations and invoices issued by the Seller (via a QR-Code appearing on the documents) and will, in all cases, be communicated to the Buyer on request.

They are also available on the websites of GROUPE BERKEM and its subsidiaries at the following addresses: groupeberkem.com, berkem.com, adkalis.com, lixol.fr, eurolyo.fr.

The Buyer hereby represents that it shall have read these GTCS before placing an order and accepted them in full and without reservation.

The sale shall be deemed to be completed on the date of the Seller's written acceptance of the order.

The Seller reserves the right to suspend, delay, cancel or not fulfill an order in the cases of force majeure specified in particular in Article 3 of these GTCS, or for legitimate reasons, in particular in cases where the quantities ordered are abnormally high or abnormally low, or in the event of insufficient inventories. In such cases, the Seller shall notify the Buyer as soon as possible and reimburse the Buyer if a payment has already been made, without the customer being able to claim any compensation in this regard.

Placing an order implies unconditional acceptance of these general terms and conditions of sale, which shall take precedence over all other terms and conditions, including the general terms and conditions of purchase, except those expressly accepted by the Seller.

Any sale made by the Seller shall be governed by these GTCS to the exclusion of any other document such as prospectuses, catalogs, documents or websites produced by the Seller, which are provided for information purposes only, are not binding, and which may be modified by the Seller.

Delivery shall comprise the product specified in the sales proposal only.

2. DOCUMENTATION, TECHNICAL STUDIES - INTELLECTUAL PROPERTY :

All technical documents, studies, computer files, or other materials of any kind provided to the Buyers by the Seller shall remain the exclusive property of the Seller, as the sole owner of the intellectual property rights thereto, and shall be returned upon request, or immediately in the event that the offer is not followed by an order. They may not be disclosed or used without the written authorization of the Seller.

All drawings, photographs, designs, sizes, weights, dimensions and other items included in quotations or contracts are provided for information purposes only and are not binding.

3. RECEIPT OF PRODUCTS :

Unless otherwise agreed, all the Seller's proposals are provided Ex-Works, regardless of the destination of the product and the conditions of sale.

Receipt of the ordered products will take place:

- by direct delivery to the Buyer, or
- by sending the Buyer a notice of availability at the place of sale, or
- by delivery to a shipper or carrier at the premises of the Seller, designated by the Buyer or, failing that, as chosen by the Seller.

The Buyer must collect the product ordered within a maximum period of thirty (30) days from the notice of availability.

If the product is not collected within this period, the Seller may automatically cancel the order under the conditions referred to in Article 7 of the GTCS.

The delivery time indicated during the order processing is provided as an estimate only and is not guaranteed.

Any reasonable delay in the delivery of the products shall not entitle the Buyer to any damages or to the cancellation of the order.

Delivery delays for which the Seller is not responsible shall not, under any circumstances, give rise to cancellation of the order by the Buyer.

The Seller may not be held liable if the non-performance or delay in performing any of its obligations as described in these GTCS results from:

- the Buyer's failure to comply with the payment terms,
- the Buyer's failure to provide the required information in a timely manner,
- events of force majeure or events including but not limited to: tooling and process accidents, major material rejects during the manufacturing process, interruption or delay in maritime, air or land transport, or any other cause resulting in the total or partial unemployment of the company's employees or its suppliers, natural phenomena such as tornadoes, floods, hurricanes, earthquakes, volcanic eruptions, the spread of a virus, terrorist acts disrupting the continuity of commercial relations, fire, war, terrorism, strikes, riots, unavailability of raw materials, etc.

The above events may occur in any territory in which this agreement is performed.

Each party undertakes to inform the other as soon as possible in the event of the occurrence of circumstances of force majeure.

4. PRICE :

Unless special terms and conditions of sale are expressly stated, the prices of the products sold are those listed in the price list on the day of the order.

The Seller's prices are established in euros at the rate in force on the day the order is placed.

In the case of contract work or a specific service, the prices in euros are established on the basis of the exchange rate, supplier rates, production costs and, where applicable, research and development costs, customs duties, transportation and insurance rates, and taxes in force on the date of the proposal or the order acceptance.

The prices and rates in force may be revised at any time, provided that the Buyer is notified in advance. Any change in pricing will automatically take effect on the date specified in the new price schedule.

In all cases, prices are always exclusive of taxes and Ex Works unless expressly agreed beforehand with the Buyer.

Consequently, the Buyer shall be solely responsible for the costs of collection, transportation, any customs duties and insurance costs.

In the event of a specific request by the customer concerning packaging requirements or transportation of the ordered products duly accepted by the Seller, the costs generated by these services shall be invoiced separately in accordance with special terms and conditions.

The price is calculated net and without discount.

For prices specified by quantity, any order for a smaller quantity shall result in a change in the price indicated.

The Buyer may be entitled to price reductions depending on the quantities purchased or delivered by the Seller in one shipment or in one place, or on the frequency of its orders.

5. PAYMENT TERMS :

-For the first order the payment shall be made in cash via bank transfer, on the day the Buyer submits the pro-forma order.

-For subsequent orders, payment shall be made in cash within a maximum period of thirty (30) days from the date the invoice is issued, preferably by bank transfer, and exceptionally by any other means of payment, received by the Seller at the address indicated on the invoice, unless special terms and conditions are expressly specified on the purchase order or quotation, and accepted by the Seller.

The Seller may make acceptance of the order or its subsequent fulfillment conditional upon cash payment or, in the event of a risk of insolvency, upon the Buyer's provision of guarantees in favor of the Seller.

Should the Buyer refuse cash payment, without sufficient guarantees being offered by the Buyer, the Seller may refuse to fulfill the order(s) placed and to deliver the corresponding goods, without the Buyer being entitled to claim an unjustified refusal to sell or to claim any compensation.

6. LATE PAYMENT OR NON-PAYMENT:

Any total or partial payment delay shall automatically, without any formal requirement or prior notice, result in the application of a penalty corresponding to three (3) times the statutory interest rate to be applied to the amounts due, including VAT, from the day following the contractually agreed payment date until the day of full payment of the amounts due.

Furthermore, failure to pay by the contractual payment date shall automatically result in the payment of compensation equal to 15% of the unpaid amount by way of penalty clause.

In addition to the late payment penalties, any amount not paid on its due date shall automatically give rise to the payment of fixed compensation of 40 (forty) euros by way of recovery expenses.

If the recovery expenses actually incurred are higher than the amount of this fixed compensation, the Seller may request additional compensation from the Buyer upon presentation of proof.

7. TERMINATION :

Should the Buyer fail to perform any of its obligations, in particular non-payment by the due date, failure to collect the goods within the time limit, bankruptcy, receivership or judicial liquidation, the sale will automatically be canceled within 8 days following formal notice sent by registered letter with acknowledgment of receipt having remained without effect, even if the product is integrated in whole or in part into the customer's products, whether these belong to the Buyer or to a third party.

Any advance payments already made by the Buyer on the day of termination shall be retained by the Seller, without prejudice to any damages. All fees and expenses shall be borne by the Buyer.

If the Buyer's account shows a debit balance, the amount shall immediately fall due and payable, without prejudice to any damages that may be awarded to the Seller.

Regardless of the agreements previously entered into, the outstanding amounts shall immediately fall due and payable in the event that any payment or the acceptance of any bank draft is not completed by the date specified.

Until payment of the goods has been made in full, no sale, assignment, pledge, contribution of business assets or equipment, merger of companies, and generally any transfer of ownership of any of the Buyer's assets may take place without the Seller's consent and acceptance by the transferee of the clauses entered into by its transferor and the Seller. In such case, the outstanding amounts shall automatically fall due without the need for prior judicial authorization.

In the event of the opening of insolvency proceedings or the liquidation of assets, outstanding orders shall automatically be canceled, and the Seller reserves the right to reclaim the goods in stock.

8. WARRANTIES :

8.1 Visible defects and non-compliance of products at the time of receipt:

Upon receipt, the Buyer shall verify the compliance of the products delivered with the products ordered and the absence of any visible defects and shall, if necessary, record precise reservations on the transport document, and shall notify the Seller in writing, within three (3) working days from the date of receipt, specifying the date and number of the delivery note as well as the number of the corresponding batch(es).

If no written complaint or reservation is submitted by the Buyer within this period regarding either visible defects or the compliance of the products with the order, said products may no longer be returned or exchanged, in accordance with the provisions of Article 1657 of the French Civil Code.

The Buyer shall be responsible for providing any supporting information as to the existence of the defects or anomalies reported. It shall grant the Seller every opportunity to establish the existence of such defects and to remedy them. It shall refrain from doing so itself or arranging for a third party to do so.

In the event of a complaint or reservation, the Buyer is liable to pay the full price of the product.

8.2 The defects and degradation of the delivered products resulting from the regular wear of the equipment or from irregular conditions of use, storage and/or conservation by the acquirer, or from an accident, negligence or a lack of supervision or maintenance, of any nature whatsoever, shall not be eligible for the Seller's warranty.

Any warranty is also excluded in case of incidents caused by unforeseen events or force majeure. Similarly, under no circumstances shall defects resulting from any deficiency in the materials supplied by the Buyer or from the design prescribed by the Buyer be covered by the Seller's warranty.

8.3 Under the warranty for hidden defects, the Seller shall only be liable for the replacement, free of charge, of the defective goods, without the Buyer being able to claim damages on any grounds whatsoever.

8.4 Hidden defects in products not visible on the day of receipt:

In the event of hidden defects in the products that are not visible on the day of receipt, making them unsuitable for the use for which they are intended, the Seller's warranty is limited to three (3) months from the date of receipt of the products, and is subject to the Buyer sending a complaint by registered letter with acknowledgment of receipt addressed to the Seller, within a maximum of three (3) working days from the date of discovery of the defects, indicating the date and number of the delivery note, as well as the number of the corresponding batch(es).

In the event of acceptance by the Seller, the Buyer shall be entitled to the replacement or refund of the products, at the discretion of the Seller, to the exclusion of any compensation or damages.

The Buyer expressly acknowledges that the warranty is not applicable if the product expires before the end of the three (3) month warranty period. In such event, the warranty period shall only run until the expiration date of the product.

8.5 The return of products under warranty must be approved in advance by Seller. The returned products must reach the Seller in their original state, without having been incorporated into any work.

The Buyer shall be solely responsible for the transportation costs, customs fees and risks of the return.

8.6 Contract work does not give rise to any warranty, unless expressly agreed by the parties.

Furthermore, as the Seller does not make any REACH declarations in respect of the products used on behalf of the Buyer in the course of contract work, unless otherwise expressly agreed by the parties, the Seller's warranty or liability may not be invoked in the event of failure to make a REACH declaration or to comply with any other obligation under the REACH regulations.

9. INSURANCE :

The Seller declares that it has taken out an insurance policy covering the financial consequences of its liability in tort or contract that may be incurred in connection with the sale of the Products.

10. USE OF PRODUCTS AND LIMITATION OF LIABILITY:

By express agreement between the parties, the Seller shall not be liable for any consequential or incidental damages, or damages related to non-compliance with the Buyer's requirements.

As an essential condition of the sale, please note that the Buyer is solely responsible for the use of the products made available by the Seller and their suitability for the use that is made of them.

It is solely responsible for ensuring that adequate safety conditions are met.

In this regard, the Buyer expressly acknowledges that it has reviewed, upon placing the order for the products sold, the technical and safety data sheets relating to the products sold, as provided by the Seller.

The Seller may not be held liable for damages of any kind that may result from improper use of the marketed products.

With regard to contract work, the Buyer bears sole responsibility and must in particular ensure that the products purchased are compatible with any other products or materials with which they are to be in direct or indirect contact, that they are used in accordance with best practices, that they are modified or processed, that they are used in accordance with the technical specifications and applicable regulations, and that they are properly maintained and stored.

The Seller disclaims all liability for any use of its products that contravenes the legal and regulatory provisions in force.

11. RETENTION OF TITLE :

11.1 The products are sold under retention of title.

The Seller shall retain ownership of the products until the complete and effective payment of the full price including principal and interest, even when payment extensions have been granted to the Buyer. Any conflicting provision, in particular in the general terms and conditions of purchase, shall be deemed invalid.

Checks and bills of exchange are not considered to be payments until they are effectively cashed.

Until such time, the retention of title clause shall remain in full effect.

11.2 By express agreement, the Seller shall be entitled to enforce its rights under this retention of title clause, with regard to any of its receivables, over all of its products in the Buyer's possession, such products being deemed to be those for which payment has not been made, and the Seller shall be entitled to take them back or claim them as compensation for all its unpaid invoices, without prejudice to its right to terminate the sales in progress.

In the event that the products for which payment has not been made in full by the Buyer have been incorporated into other goods and such goods cannot be separated without incurring damage, the Seller's right of ownership over these products may be exercised, up to the amount of the outstanding receivables, over products of the same type and quality held by the Buyer.

11.3 The Buyer may only resell or process unpaid products in the normal course of its business and under no circumstances may it pledge or grant security over its unpaid inventories. In the event of non-payment, the Buyer undertakes not to resell its inventories up to the quantity of the unpaid products or process such products, unless expressly agreed by the Seller.

Where applicable, upon completion of the resale or processing, the Buyer undertakes to pay the Seller the outstanding portion of the price immediately.

Resale authorization is automatically withdrawn in the event of receivership or liquidation.

11.4 In case of non-payment of an invoice by the due date, the Seller may also unilaterally demand, eight days after sending a registered letter requesting payment, which has remained ineffective, to draw up or have drawn up an inventory of its products in the customer's possession, who immediately undertakes to allow free access to its warehouses, stores or other premises for this purpose, ensuring that the identification of the company's products is always possible.

11.5 This clause does not exclude that the risk of loss and deterioration of the goods shall pass to the customer upon delivery to same.

11.6 Upon delivery, the Buyer shall be considered the holder and custodian of said goods.

12. TRANSFER OF RISKS :

Notwithstanding the provisions of Article 11 (retention of title clause) of these GTCS, the Buyer shall bear the risks of transportation, insurance, customs, excise duties, handling and bringing on site from shipment from the Seller's premises or warehouse to their final destination.

The products are shipped at the Buyer's risk.

As such, the Seller shall not be liable for any damage caused by a delivery delay, a shortage or a breakdown, of any kind whatsoever, or loss occurring during collection or transportation, and it shall be incumbent on the Buyer in this case to check the shipments upon arrival and to express any reservations in accordance with the provisions of Article 8 of these GTCS, and to seek recourse from the carriers responsible, even if the shipment has been made carriage paid.

In the event of shipment by the Seller, shipment shall be made CARRIAGE FORWARD, unless expressly requested by the Buyer and accepted by the Seller, and in any event under the Seller's express responsibility.

Accordingly, the Buyer undertakes to take out an insurance policy covering the risks of loss, theft or destruction of the products.

13. FORCE MAJEURE :

The Parties shall not be held liable if the non-performance or delay in performance of any of their obligations, as described herein, results from a case of force majeure, as defined in Article 1218 of the French Civil Code.

It is expressly agreed that the following shall constitute an event of force majeure discharging the Seller from its obligation to deliver: an epidemic or pandemic resulting in administrative closures of either the manufacturers or the Seller, difficulties in the supply of parts or raw materials that do not allow delivery within the contractual time limits, war, riot, fire, strikes in its establishments or those of its suppliers, accidents, paralysis of the transport sector, impossibility to secure supply, a terrorist act.

The Party reporting the event shall immediately inform the other Party of its inability to perform its service and provide evidence thereof to the other Party.

The suspension of obligations shall in no event invoke liability for non-performance of the obligation in question, nor shall it result in the payment of damages or penalties for delay.

The performance of the obligation shall be suspended for the duration of the force majeure event if it is temporary and does not exceed a period of (2) two months.

Consequently, as soon as the cause of the suspension of their mutual obligations disappears, the Parties shall make every effort to resume normal performance of their contractual obligations as soon as possible.

To this end, the Party prevented from performing its obligations shall notify the other of the resumption of its obligation by registered letter with acknowledgment of receipt or any extrajudicial document.

If the impediment is permanent or exceeds a period of two (2) months, these terms and conditions shall be terminated in accordance with the provisions of article "Termination due to force majeure".

14. NON-DISCLOSURE :

The Buyer undertakes to ensure compliance, both on its own behalf and by its employees, with this non-disclosure obligation, under the terms of which, throughout the duration of its relationship with the Seller and after the expiry thereof, any person having access to any information concerning the Seller undertakes not to directly or indirectly disclose such information to any person when it is not in the public domain, for a period of five years. If the recipient of any information is not the person for whom it is intended, the recipient shall return such information to the sender without delay and without retaining a copy thereof.

15. NON-WAIVER :

The non-enforcement of any provision of these GTCS or of the special terms and conditions by the Seller shall not constitute a waiver of its right to invoke such provision at a later date.

16. DISPUTES – JURISDICTION :

16.1 Each of the above companies elects their respective registered office as their address for service.

16.2 Any dispute relating to the interpretation, performance, validity or termination of these general terms and conditions of sale, the termination of commercial relations and, more generally, the consequences of these terms and conditions of sale, shall be brought before the Commercial Court of BORDEAUX, including those involving third-party claims or multiple defendants.

Bills of exchange do not introduce any novation or derogation from this designation of jurisdiction.

16.3 The designation of jurisdiction is general and applies in the event of a principal claim, ancillary claim, full hearing or summary proceedings.

16.4 Furthermore, in the event of legal action or any other action for the collection of receivables by the Seller, the costs of summons, court expenses, as well as lawyer's and bailiff's fees, and all ancillary costs shall be borne by the Buyer at fault, as well as the costs related to or arising from the Buyer's failure to comply with the payment or delivery conditions of the order in question.

17. GOVERNING LAW :

These GTCS and the purchase and sale operations resulting herefrom are subject to French law, to the exclusion of any other law, and on a supplementary basis, to the Vienna Convention on the International Sale of Goods.

18. BUYER'S ACCEPTANCE :

These general terms and conditions of sale are expressly agreed to and accepted by the Buyer, who represents and acknowledges that it has full knowledge hereof, and thus waives the right to avail itself of any conflicting document and, in particular, its own general terms and conditions of purchase.

19. PERSONAL DATA PROTECTION :

The information collected on the Buyer is subject to data processing carried out by the Seller and is essential to the processing of its order.

This personal data and information is also kept for security purposes, in order to comply with statutory and regulatory obligations.

Access to personal data shall be strictly limited to employees of the Seller authorized to process it as part of their duties.

The information collected may be shared with third parties contractually bound to the Seller for the performance of outsourced tasks, without the Buyer's authorization being necessary.

The recipient of the data is Eric Dupuy 20 Rue Jean Duvert 33290 Blanquefort eric.dupuy@berkem.com, 0564310660.

In accordance with the provisions of Articles 13 and 14 of the Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016 and Article 32 of the French Data Protection Act of January 6, 1978, as amended in 2004, the Buyer is hereby informed that:

- The file manager is Eric Dupuy, whose contact details are provided above. The purpose of this data processing is the management of customer accounts.
- The recipient is KENERCY.
- This data will be stored for as long as is necessary for the performance of the work ordered and any warranties that may be applicable following the sale.
- The Buyer has a right to access, correct and erase its personal data, which it may exercise by emailing [**rgpd@berkem.com**](mailto:rgpd@berkem.com) or by post.
- The Buyer has the right to request a limitation of the processing of its personal data.
- The Buyer has the right to object to the processing of its personal data and the right to data portability.
- The Buyer may withdraw its consent to the processing of its personal data at any time by writing to [**rgpd@berkem.com**](mailto:rgpd@berkem.com) or by post.
- The Buyer may file a complaint with CNIL (French Data Protection Authority) (CNIL website: [**www.cnil.fr**](http://www.cnil.fr)) if it believes that its personal data has not been protected in the processing of its order.

In

On

Buyer's signature to be preceded by the handwritten note "*Read and approved, agreed as signed*"
