

## Preamble

These General Terms and Conditions of Sale govern the sale of all products and services provided by the Companies of the KEP TECHNOLOGIES group ("KEP"), for the Metal Solutions Business Unit (MSBU) activity.

The term "PRODUCTS" means all or some of the range of products, processes and/or services that KEP offers. The term "SELLER" means the company of the KEP TECHNOLOGIES group which signs the CONTRACT. The term "BUYER" or "CUSTOMER" means any person or entity acting in the scope of their professional activity and placing an order to buy any one of the PRODUCTS. The term "CONTRACT" means any contract concluded between the SELLER and the CUSTOMER to provide PRODUCTS.

These General Terms and Conditions of Sale must govern the CONTRACT or any order placed in the scope of the CONTRACT. All orders from the CUSTOMER mean that the CUSTOMER accepts, in advance, without exception, nor reservation, all of these General Terms and Conditions, except for particular and/or contrary written provision(s) agreed between the parties.

These General Terms and Conditions of Sale will be applied and will prevail over all General Terms and Conditions of Purchase of the CUSTOMER and/or any document coming from them. Except for prior, formal and written acceptance from the SELLER, no particular condition can be opposed to the SELLER.

## 1- Proposal, CUSTOMER order, documents

**1.1** – Offers are valid for a period of ninety (90) days from their sending except for particular provisions stipulated on the sale offer and can be modified at any time by the SELLER, before their acceptance, by the CUSTOMER.

**1.2** – Any sale of PRODUCTS, to be valid, is subject to the prior written confirmation by the SELLER of the order placed by way of an acknowledgment receipt and, if necessary, of the payment of the deposit provided in the offer or otherwise negotiated between the two parties. Side agreements, conditions, modifications or verbal additions that they are made in person or by telephone, will only form an integral part of the CONTRACT after written confirmation from the SELLER. From this date, no CONTRACT can be cancelled or modified. CONTRACT modifications can however be accepted by the SELLER subject to an agreement on the new financial conditions resulting from said modifications.

**1.3** – In any case, the documents relating to proposals, such as illustrations, drawings/plans, weight and measurement specifications, are only approximations and must be considered as such, except for if they are expressly declared definitive by the SELLER. They cannot be used directly or indirectly by the CUSTOMER if they are not followed by a CONTRACT. The SELLER keeps the property and the copyright of estimated quotes, drawings/plans and other documents provided to the CUSTOMER. These documents are, by nature, confidential and their communication to third parties is prohibited. All the drawings/plans and other documents relating to a proposal must be returned to the SELLER on simple request, or, if the order is not placed by the CUSTOMER, must be returned as soon as possible to the SELLER and this, at the CUSTOMER's expenses.

**1.4** – For all types of provisions, except for standard exchange operations below, the equipment entrusted by the CUSTOMER to the SELLER remain the exclusive property of the CUSTOMER when the latter have been paid by the CUSTOMER. For standard exchange operations, it is expressly agreed that the equipment given by the CUSTOMER to the SELLER to be exchanged becomes the property of the SELLER.

**1.5** – The minimum order amount is €300. Below this amount, a flat fee of €300 will be invoiced on top of the order price.

## **2- Offers – Price – Payment conditions**

**2.1** – The prices indicated on the offers and the CONTRACT mean EX-WORKS, according to the Incoterms of the International Chamber of Commerce (edition applicable on the date of placing the order) and can be modified without notice. The price invoiced will be that applicable at the time of accepting the order by the SELLER.

The prices comprise the cost of standard packaging for delivery in France. An export packaging (on request) will form the subject of an additional invoicing to the CUSTOMER. The packaging is not taken back, except for any provision on the contrary.

**2.2** – Except for if credit conditions are expressly agreed in writing by the SELLER, invoices are payable after 45 days, end of month, date of invoicing to the CUSTOMER to the address stipulated in the CONTRACT.

The SELLER agrees no discount in case of early payment of the invoices by the CUSTOMER.

**2.3** – In case of modifying the financial situation of the CUSTOMER during the CONTRACT, for any reason, the SELLER will have the ability to modify the payment deadlines agreed or to require guarantees from the CUSTOMER. No CUSTOMER complaint can have the effect of delaying or suspending the payments, nor even enable any reduction or compensation of the price, without written agreement from the SELLER.

**2.4** – For any CONTRACT which is active for more than one year, it is agreed by the parties that the price will be reviewed, automatically, on the anniversary date of the CONTRACT and except for contract particular provisions stipulated in the acceptance of the order or the CONTRACT, according to the current INSEE index of the cost of labour, wages and charges, in the industry, construction and tertiary:

$$\text{Reviewed Price} = \text{Initial Price} \times \frac{\text{Current INSEE index}}{\text{CONTRACT index}}$$

CONTRACT index = value of the index on the date of signing the CONTRACT.  
Current INSEE index = value of this same index on the date of reviewing the price.

In the case where the index considered would no longer be published or would be cancelled, the replacement index published by the INSEE will be rightfully taken. In case of disagreement on the new index to be considered, the SELLER reserves the right to terminate the current CONTRACT.

**2.5** – For a payment from France: during the first CONTRACT and excluding any particular case specified by the SELLER, the CUSTOMER must open an account in the accounting books of the SELLER and pay in advance for the first CONTRACT based on a pro forma invoice established by the SELLER. During the following CONTRACTS, the invoices are payable by bank cheque, by bank transfer or by accepted transaction, according to the conditions specified on the price offer, the acceptance of the CONTRACT or these General Terms and Conditions of Sale.

For a payment from abroad: invoices are payable by bank transfer or irrevocable credit letter and confirmed according to the conditions specified on the price offer, the acceptance of the CONTRACT or these General Terms and Conditions of Sale.

**2.6** – All costs, duties and taxes, of any nature at all, arising from the CONTRACT execution or imposed or received outside of the French territory under payments made to the SELLER by the CUSTOMER will be supported exclusively by the CUSTOMER. All costs, duties and taxes imposed over the French territory will however be exclusively supported by the SELLER.

The prices indicated in our offers never include VAT. VAT is invoiced on top, at the legal rate applicable on the date of invoicing.

**2.7** – Any CUSTOMER complaint cannot, in any case, have the effect of delaying or suspending payments. In case of failing to pay all or some of the invoice by the CUSTOMER, the SELLER will have, beyond the ability to cause the termination of the CONTRACT, as indicated in article 13, also the ability to:

- Suspend the CONTRACT to the payment of the unpaid invoice. The timeframes of executing the CONTRACT are, rightfully extended from the duration of payment delay of the CUSTOMER, the price of the PRODUCTS would be increased by surcharges engaged by the SELLER due to the suspension;
- Suspend or cause the termination of any other current contract(s) with the CUSTOMER;
- Request the early and immediate payment of all of the amounts remaining due by the CUSTOMER.

In no case can the payments which are due to the SELLER be suspended, nor form the subject of any reduction or compensation without written agreement from the SELLER.

### **3- Reservation of ownership**

The SELLER remains the owner of the PRODUCTS until their full payment by the CUSTOMER.

The CUSTOMER is authorised to resell the PRODUCTS bought to the SELLER in the normal scope of their business. In case of resale of the PRODUCTS by the CUSTOMER before full payment of the price of the PRODUCTS to the SELLER, the CUSTOMER must inform third parties of the existence of this reservation of ownership clause and transfer to these third parties, of all complaints from the SELLER and all the associated secondary rights resulting from the resale, that the PRODUCTS are resold to said third parties in their original form or after additional processing or finishing done by the CUSTOMER. The SELLER is authorised to assert said complaints regarding the CUSTOMERs of the CUSTOMER even after the resale of the PRODUCTS.

## 4- Delivery – Shipping

**4.1** – Except for contrary provisions agreed between the parties, the delivery timeframes are given purely for information purposes and are confirmed or disconfirmed from the date of acceptance of the order and/or receipt of the deposit.

The SELLER will inform the CUSTOMER as early as possible of any foreseeable delivery/shipping delay, as well as measures taken for overcoming this.

If for a reason separate from the SELLER's desire, the delivery is delayed or prevented by the CUSTOMER, the PRODUCTS will be stored and the date of storage will be considered as the delivery date. The storage costs will be the CUSTOMER's responsibility.

**4.2** – The SELLER is committed to shipping the PRODUCTS to the destination named by the CUSTOMER. The shipping will be routed according to the method and the transporter chosen by the SELLER, except for if the SELLER and the CUSTOMER are agreed, in the terms of the CONTRACT, of a method of transport and/or a particular transporter. In any case, the transport costs will be the CUSTOMER's responsibility.

The PRODUCTS travel at the risks of the CUSTOMER, except for contrary written provision accepted by the SELLER.

Any formality relating to the importing authorisation is the CUSTOMER's responsibility.

The SELLER cannot be held liable, nor delays caused by the late delivery of the provisions provided by the CUSTOMER, nor those resulting from cases of force majeure or "panel" suppliers imposed by the CUSTOMER.

**4.3** – For bespoke PRODUCTS, for an intervention or installation on the site of the CUSTOMER such as provided in article 9, the CUSTOMER will provide to the SELLER and this, from placing the order, all plans, documents, specifications or any other information necessary for the execution of the order. In any case, any error can be reproached to the SELLER, in particular design or manufacturing error, which would be the consequence of a defect existing in the data provided by the CUSTOMER.

**4.4** – It is the CUSTOMER's responsibility to make all checks, make all reservations upon the arrival of the PRODUCTS and exercise, if necessary, any recourse against the transporter within the five (5) days following the delivery. Any complaint relating to the PRODUCTS or those missing must be notified to the SELLER in the same timeframe. Failing this, the delivery will be considered accepted without reservation and losses or damage attributable to transport cannot be compensated for.

**4.5** – Any return of PRODUCTS must form the subject of a reasoned request to the SELLER, and can only occur after express agreement from them. The return and packaging costs are the CUSTOMER's responsibility.

**4.6** – If under the CONTRACT, a final step of stipulation between the SELLER and the CUSTOMER is provided, and, except for explicit and written agreement of the SELLER, if the PRODUCT delivered by the SELLER is found to be used by the CUSTOMER before full and total execution of this stipulation, then the PRODUCT will be considered as approved by the CUSTOMER.

## 5- Design or construction modifications

**5.1** – The SELLER can, after authorisation of the CUSTOMER, apply the modification that they deem desirable to the design and/or the manufacturing of the PRODUCTS, on the condition, however, that the PRODUCTS thus modified satisfy the performance specifications initially stated.

**5.2** – The SELLER will not, in any case, be obligated to apply a modification requested by the CUSTOMER, except for if this modification request has been accepted by the SELLER and has formed the subject of a document signed by the CUSTOMER and the SELLER.

## 6- Warranty

**6.1** – The PRODUCTS, as well as the dedicated equipment designed and manufactured by the SELLER are sold with a one (1) year warranty from their date of delivery or signing the Report of Receipt, except for contrary stipulations duly accepted in writing by the SELLER.

If a defect is revealed for the period of warranty, the CUSTOMER will inform the SELLER about this in writing within a timeframe of five (5) days from the discovery of the defect by communicating with them, all the information necessary for characterising the nature of the defect observed thus enabling the validation of the latter of the latter by the SELLER.

The following are excluded from the abovementioned warranty:

- The defects coming from, either a design imposed by the CUSTOMER, or materials, documents, elements provided or imposed by the CUSTOMER;
- The consequences of the assembly or mounting by the CUSTOMER or a third party;
- The damaging of the PRODUCTS due to a wrong operation or respecting mounting conditions, attributable to other third parties that the SELLER, or is a use that does not comply with the specifications;
- The consequences in case of unsuitable storage or storage which does not comply with the specifications, or if the PRODUCT has, in the meantime, undergone a distribution/revision by a company other than the SELLER;
- Incidents resulting from force majeure events.

In addition, the SELLER will not be bound to provide the warranty:

If these are made necessary because of an accident, an incident, or of any other fortuitous event (such as a storm), an act of negligence, an incorrect use, an incident linked to a packaging which does not comply or which is unsuitable, it all due to the CUSTOMER or any other cause not falling into the scope of normal use of the PRODUCT,

- Or if the equipment has been maintained or repaired, or if a maintenance or repair attempt has been made without the intervention of the SELLER or without their prior authorisation,
- Or if the breakdown of the equipment is due to the use of provisions which do not comply with the specifications of the equipment manufacturer,
- Or of the PRODUCT is not or is no longer at a level of sufficient updating to enable the SELLER to carry out the service provisions.

**6.2** – The warranty only covers operation defects or result defects with respect to the specifications approved by the SELLER.

**6.3** – During the warranty period, the SELLER modifies, repairs or replaces, at their choice, the PRODUCTS acknowledged as faulty. The works resulting from the warranty obligation are carried out, at the choice of the SELLER, either on the CUSTOMER's site, or in the SELLER's factories.

Any provision provided by the SELLER on the request and/or after agreement of the CUSTOMER, while the SELLER was not bound to provide it, will be invoiced to the CUSTOMER based on an offer from the SELLER.

**6.4** – No CUSTOMER complaint will be permitted for repairs and/or modifications made unilaterally by the CUSTOMER without the written and prior permission of the SELLER. In such a case, the CUSTOMER will be deprived from the right to obtain any warranty from the SELLER. The CUSTOMER will subsequently be responsible and will pay for defects attributable to him and for damage caused to the PRODUCTS by him after delivery to the CUSTOMER.

**6.5** The warranty given by the SELLER on the PRODUCTS is provided in a limiting manner in this Article 6 and are substituted for any other warranties, such as the quality of goods warranty, for adaptation for a particular use, whether these warranties are express or tacit, in fact or in law. This substitution does not apply to the legal warranty falling to the SELLER as regards their obligation of duty to provide the PRODUCTS, free of any law or other security. The replacement or the repair of faulty PRODUCTS or faulty parts of the PRODUCTS will be the sole remedy provided to the CUSTOMER under the warranty. The SELLER will then have the ability to remove and to recover the PRODUCTS at his cost, to reimburse to the CUSTOMER all the amounts received under the CONTRACT and the obligation of compliance of the SELLER will be satisfied.

**6.6** The works resulting from the obligation of warranty will be carried out, at the choice of the SELLER, either on the CUSTOMER's site, or in the SELLER's factories. The costs below are the CUSTOMER's responsibility in the absence of breakdowns observed:

- The costs of analysis, of disassembly made necessary by the conditions of use of the PRODUCTS,
- The return, packaging and shipping costs,
- The travel and accommodation costs of employees of the SELLER in case of intervention on the CUSTOMER's site.

Any provision provided by the SELLER on the request of the CUSTOMER, while the SELLER was not bound to provide, will be invoiced to the CUSTOMER based on a specific offer of the SELLER.

The repairs, modifications or replacements of the parts during the period of warranty cannot have the effect of extending the duration of such warranty.

## **7- Liability**

The SELLER intervenes in the scope of a simple obligation of means.

Except for physical damage, the SELLER will not be liable to the CUSTOMER, their agents, employees, successors or legal successions, no particular damage, indirect or consecutive, any material or

immaterial, and the SELLER will not be liable for losses of use, data, profit, revenue, business, savings provided, reputation and more generally any loss of an economic or financial nature likely to be considered as consecutive or arising directly and naturally from the incident leading to the complaint.

Notwithstanding any contrary provision of the CONTRACT, the total and cumulated liability of the SELLER under the CONTRACT, that it falls under or not a breaking of the CONTRACT, a regulatory or other warranty, cannot, in any case, exceed, in addition to the distribution or to the replacement of the faulty product, an amount corresponding to ten percent (10%) of the amount of the CONTRACT.

## **8- Insurance**

The SELLER has taken out Property Damage and Civil Professional Liability insurance policies. Further to the limitation of liability provided for in Article 7, the SELLER could not be liable beyond the limits of cover of said policies. Subsequently, it is the CUSTOMER's responsibility to take out, themselves, an insurance corresponding to the property that they entrust to the SELLER. For any complaint relating to the entrusted property, it is the CUSTOMER's responsibility, owner of this property, to indicate expressly in writing to the SELLER, the insurance values of said property before entrusting them to the SELLER, otherwise, in case of incident, compensation could not be greater than the appraisal value within the limits of the insurance policy in question, without being able moreover to exceed the limits of cover of the insurance and the limitation of liability provided for in Article 7.

## **9- Installation**

When the CUSTOMER wants the PRODUCTS to be installed by the SELLER, a price will be communicated to the CUSTOMER which will include the labour hours and the movement costs. In case of delay in installation for reasons separate from the SELLER's desire, the CUSTOMER will support all the costs linked to this delay (possible future movements, necessary spare parts, etc.).

The CUSTOMER must, in any case, respect the installation and operation instructions indicated in the user manuals of the SELLER.

The installation cannot be carried out before the installation lay-out sheet has been filled in and returned by the CUSTOMER to the field service of the SELLER.

Any repair accepted and carried out by the SELLER is under a six (6) months warranty. This warranty only covers the parts concerned by the repair.

The diagnostics will be invoiced on a flat-fee basis, and their amount will be deducted from the total amount of the repair if this is ordered by the CUSTOMER.

## **10- Electric and electronic equipment waste**

The SELLER ensures and takes responsibility on behalf of the end user for collecting and removing electric and electronic equipment waste (EEEW) under the conditions provided for in the Code of Environment.

## 11- Patents

The CUSTOMER is committed, at their cost and within the limits stated below, to guarantee and to exempt the SELLER of any liability in case of court action or proceedings of a third party relating to a complaint according to which the PRODUCTS constitute a breach of an existing patent.

## 12- Force Majeure

The SELLER will not be considered in default in executing their obligations, nor will they be punishable for damage or other matters, in case of defect or delay in execution causes by strikes, lock-outs, concerted action of workers or other industrial dispute, fire, explosions, floods or other natural disaster, public disorder, riots or declared (or not) armed conflict, quota, shortage or allocation of normal labour sources, materials, transport, energy or services, accident, natural calamity, delay of subcontractors or suppliers, suffering or voluntary respect of governmental actions or governmental regulations (valid or not), embargo and any other cause, similar or not to any one of the causes or categories of causes described above, and outside of the control of the SELLER. In case of delay caused by any one of the causes outlined above, the execution timeframe granted to the SELLER must be extended for the time reasonably necessary to overcome the effect of the delay.

## 13- Intellectual Property

**13.1** – The digital 3D definitions designed on CAD or routing software, drawings, models, patents, software, plans and generally, all documents of any nature given or sent by the SELLER to the CUSTOMER, are the exclusive property of the SELLER or of their suppliers and, cannot consequently nor be executed nor reproduced without the express prior and written authorisation of the SELLER nor form the subject of any claim of any intellectual property right of any nature at all.

**13.2** – The intellectual property of studies, methods, modules and tools can only become that of the CUSTOMER if the corresponding service is well-notified in the offer of the SELLER and in the CONTRACT between the PARTIES. The payment made at 100%.

**13.3** – The sale of the PRODUCTS leads to no transfer of technology or know-how to the CUSTOMER. The technology and know-how, patent or not, remain the full and entire property of the SELLER.

## 14- Termination

**14.1** – For the case where the CUSTOMER would be led to terminate the CONTRACT before its normal date of completion, said termination must be notified in writing at least sixty (60) days before this termination taking effect and the grounds for said termination must be indicated. In such a case, the SELLER can claim the payment of reasonable termination costs, which will comprise a portion of the price representing the quantity of work carried out on the date of the notification, plus possible additional expenses engaged due to the termination of the agreements of the SELLER with their suppliers and subcontractors. Cancellation costs can be applied.

**14.2** – The SELLER reserves the right to terminate the contract under a notice of 30 days in case of breach by the CUSTOMER of the obligations made their responsibility at the end of the CONTRACT and in particular in case of failure of payment of the CUSTOMER within the timeframe granted. The termination will have immediate effect if the CUSTOMER forms the subject of judicial or out-of-court liquidation proceedings.



## 15- Subcontracting

The SELLER has the right to resort to the competence of third parties to assist them in executing the PRODUCTS. All of the SELLER's staff allocated to produce the PRODUCTS remain, in any case, the employee of the SELLER and, is placed, in this regard, under the hierarchical and disciplinary authority of the SELLER.

## 16- Confidentiality

Notwithstanding any separate confidentiality agreement which could be signed between the SELLER and the CUSTOMER prior to or simultaneously to the signature of the CONTRACT, the CUSTOMER will consider as strictly confidential and will be prohibited from disclosing any given information, technical formula or design of which it can have knowledge on the occasion of the CONTRACT. For the application of this clause, the CUSTOMER responds to their employees as themselves. The CUSTOMER could not, however, be bound as liable for a disclosure if the elements disclosed were in the public domain or if they were aware of them or obtained them from third parties by legitimate means. Likewise, the SELLER is committed to holding as strictly confidential, the information of which they will have been able to have in the execution of the CONTRACT.

## 17- Absence of waiver

The non-requirement by the SELLER of any of the obligations which are the CUSTOMER's responsibility under the terms of the CONTRACT will not be considered as a waiver to this, and will not prevent the SELLER from subsequently making these obligations respected.

## 18- Divisibility

For the case where any one of these conditions would be contrary to a legislative or regulatory provision or would be made inapplicable by this provision, said invalidity or inapplicability will affect none of the other conditions, if no CONTRACT based on these other conditions.

## 19 – Language of the contract and applicable law

The language of the CONTRACT is French. The general terms and conditions are available in English. In case of difficulty in interpreting the main French version.

Any order and/or CONTRACT will be governed and interpreted according to French law.

## 20 – Settlement of disputes

Any dispute based on the validity, interpretation or execution of the CONTRACT must be brought before the Commercial Court of the place of the registered office of the SELLER.