



## **Terms and Conditions of Sale**

### **Preamble:**

The purpose of these Terms and Conditions of Sale (hereinafter referred to as "T&Cs") is to govern the business relationship between the Client and our company belonging to the Industries division of the KNAUF group (hereinafter referred to as the "Supplier"). They apply to all sales of the Supplier's Products, unless agreed in writing between the Client and the Supplier prior to the order.

Consequently, by placing an order, the Client unreservedly accepts these T&Cs, which constitute the sole basis of the commercial negotiation, regardless of the clauses that may be contained in its own documents and those of the Supplier and notwithstanding any specific terms and conditions freely negotiated between the Client and the Supplier and formalised in writing between them.

The T&Cs may be reviewed at any time, provided that any new version takes effect upon its date of receipt by the Client, who shall be informed by any written means at the discretion of the Supplier.

### **Article 1: Orders:**

Any order as well as any modification or cancellation of orders must be made in writing or by Electronic Data Interchange (EDI) by the Client and will be subject to written acceptance by the Supplier, setting the terms and conditions under which the order or the modification or cancellation of the order received will be honoured. The display screen of orders placed via EDI will be the equivalent of an electronic purchase order and will have the same value as a classic, written purchase order.

The Supplier reserves the right to refuse to honour orders from the Client should the latter breach any one of its obligations without the situation having been remedied within a reasonable time frame.

In the event that the Client does not have access to credit deemed sufficient by the Supplier, the latter reserves the right, even during the fulfilment of an order, to require a guarantee for the proper performance of its obligations, in particular with regard to payment. Any refusal from the Client shall allow the cancellation of all or part of the orders accepted and the immediate and automatic termination of the business relationship. The Client shall be notified by post or email with acknowledgement of receipt, without any other formalities and without prejudice to the exercise of any other rights by the Supplier.

Furthermore, the Supplier reserves the right to refuse any order from the Client that seems abnormal for any reason, especially in view of the volumes usually ordered by the Client, or orders placed in bad faith.

The order must be confirmed in writing by the Supplier, by means of an order confirmation, duly signed by the Client. Upon receipt, it shall be definitive and irrevocable.



The Client may not revoke the orders thus transmitted to the Supplier, unless the Supplier agrees thereto in writing. In the event that the Client modifies the order, the Supplier shall not be bound by the deadlines agreed for its fulfilment.

**Article 2: Retention of title - Transfer of risks:**

Full ownership of the Products shall be retained by the Supplier until full payment of the price for the Products has been settled by the Client, including the principal amount and other charges. Any stipulation to the contrary, notably those included in the terms and conditions of purchase of the Client, shall be deemed unwritten.

Nevertheless, liability for the risks and perils associated with the Products are transferred from the Supplier to the Client in accordance with the terms of the Incoterms chosen by the latter. In the absence of a special provision agreed between the Client and the Supplier, the Products shall be delivered within the EU on a DDP (Delivery Duty Paid) basis, in accordance with Incoterms 2020 at the destination indicated by the Client, and Products shall be delivered outside the EU on an FCA (Free Carrier) basis in accordance with Incoterms 2020 at the destination indicated by the Client.

By express agreement, the Supplier may exercise the rights that it holds under this retention of title clause in relation to any of its claims, over all of the Products in the Client's possession, the latter being contractually deemed to be those for which payment has not been made, and the Supplier may take them back or claim them as compensation for all unpaid invoices, without prejudice to its right to unilateral termination of the business relationship or sale.

Furthermore, the Supplier is authorised to carry out an inventory, at any time, on the premises of the Client or any third party to whom it has assigned the Products, of Products that have not been paid yet and sent from its establishments.

The delivery of an instrument creating an obligation to pay, whether a draft or other instrument, does not constitute payment as long as said instrument has not actually been cashed. Payment will not be considered complete until actual receipt of the price by the Supplier.

Until full payment has been made, the Products under retention of title shall be stored by the Client apart, so as not to be confused with Products from other suppliers; they may not be transferred, resold, pledged or be subject to rights granted to third parties. Furthermore, the Products under retention of title as well as their original packaging, must be perfectly preserved by the Client and must not have been subject to any deterioration. Products that cannot be re-sold cannot be taken back and their full price shall be due to the Supplier.

If the Client has re-sold the products that are under retention of title, the amount due to the Supplier shall automatically be transferred to the amount due for the price of the Products sold by the Client. The Client hereby transfers to the Supplier any receivables stemming from the re-sale of unpaid Products under retention of title. The Client undertakes to inform any third parties, notably in the event of seizure,



that the Products under retention of title belong to the Supplier and to inform the latter immediately of any seizure or similar operation.

**Article 3: Delivery and claim:**

The delivery times mentioned in the Supplier's order confirmations are indicative and are given for information purposes only.

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The Supplier shall endeavour to respect the delivery times indicated on the order confirmations, depending on the Supplier's reference logistical delivery times and to fulfil the orders, except in the event of force majeure, or circumstances beyond its control.

Delays to the initially planned delivery time cannot:

- (i) give rise to any penalty fee or compensation;
- (ii) justify the cancellation or termination of the order, except in the event of force majeure, or circumstances beyond the control of the Supplier.

It is the responsibility of the Client, in the event of damage to the Products delivered or missing items, to make all necessary reservations with the carrier, on the CMR waybill.

Any Product that has not been subject to reservations by registered letter with acknowledgement of receipt within three (3) business days of receipt with the carrier, in accordance with Article L.133-3 of the French Commercial Code, a copy of which must be sent to the Supplier at the same time, shall be deemed to have been accepted by the Client.

Without prejudice to the provisions to be made by the Client with regard to the carrier as outlined above, in the event of an apparent defect, non-conformity or missing products, any claim, of any nature whatsoever, relating to the delivered Products, shall only be accepted by the Supplier if it is made in writing, i.e. by post or email with acknowledgement of receipt within three (3) business days of the Products being delivered. Failure to file a claim within this period of three (3) business days shall result in the claim not being accepted and shall be considered to be time-barred.

Acceptance without express reservation of the Products ordered by the Client covers any apparent defect and/or missing product.

Disclosure of a hidden defect or an invisible non-conformity affecting the Products, existing at the time of delivery, and revealed following acceptance of the Products, must be made by the Client in writing to the Supplier, i.e. by post or email with acknowledgement of receipt within seven (7) business days following the date on which the non-conformity or hidden defect was discovered. It is the responsibility of the Client to prove the date of this discovery.

It is the responsibility of the Client to provide all evidence as to the reality of the malfunction, defects or missing products found, with the Supplier reserving the right to proceed, directly or indirectly with any in situ examinations or checks.



Any claim made by the Client under the terms and conditions set out in this article shall not suspend the payment by the Client for the concerned Products.

Failure to submit a written claim within the aforementioned period of seven (7) business days following the date on which the Client discovered the non-conformity or the hidden defect, shall result in any subsequent claim not being accepted and shall be considered to be time-barred.

No Product may be returned by the Client without the prior, express and written consent of the Supplier, obtained by email.

The return costs shall only be borne by the Supplier if a malfunction or apparent defect is actually noted by the Supplier or its agent.

Only the carrier chosen by the Supplier is authorised to return the Products in question.

If after inspection a malfunction, an apparent defect or a missing product is actually confirmed by the Supplier or its agent, the Client may only request that the Supplier replaces the non-conforming Products and/or the additional component, in order to compensate for the missing part at the expense of the Supplier, without being able to claim any compensation or the cancellation of the order.

The Client undertakes to submit sufficient financial guarantees and pay the sums due on their due date, in accordance with the legislation.

In addition, if the Supplier has serious or particular reasons to suspect payment difficulties on the part of the Client, it may make acceptance of the order or the continuation of its fulfilment subject to cash payment or the presentation, by the Client, of guarantees for the benefit of the Supplier.

Should the Client refuse any cash payment, without presenting sufficient guarantees, the Supplier may refuse to honour the order(s) placed and to deliver the concerned Products, without the Client being able to claim any unjustified refusal to sell, or claim any compensation.

In the event that the Client places an order with the Supplier, without having paid for the previous order(s) by their due dates, the fulfilment of the orders in progress shall be suspended automatically and without further formalities being required, without the Client being able to claim any compensation, for any reason whatsoever.

#### **Article 4: Conformity of our Products - Warranty - Liability:**

The Supplier warrants that its Products comply:

- With the standards in force;
- With technical notices and certifications;
- With its specifications;
- With the code of practice for plastic packaging of the French plastic packaging trade union body.



- With the specifications drawn up and submitted by Clients and generally with the specifications set out in Client orders.

Unless expressly, otherwise stipulated and agreed by the Supplier, orders are fulfilled with normal usage and quality tolerances.

This warranty covers the non-conformity of the Products with regard to the order and any hidden defect resulting from a defect in material, design or manufacturing affecting the delivered Products and rendering them unfit for use and is strictly limited to the replacement of the Products to the value at which they were invoiced. The defect must be confirmed by an inspection carried out by the Client and the Supplier.

Instead of replacing the Products, the Supplier may, at its sole discretion, offer a refund for the defective Products.

The Supplier cannot be held liable:

- for any defect with the Product found in relation to the specific use intended by the Client, even if the latter notified the Supplier thereof and unless the latter undertook a specific commitment in this regard;
- for the consequences of any use of the Products not recommended by the Supplier, especially if this use does not comply with the recommendations or the rule book;
- for Product defects that are a result of their storage or handling conditions;
- in the event that the Products have not become the property of the Client.

The Supplier shall not be held liable for any damage to any product, equipment, system or application where components other than its own or those whose use it recommends have been integrated into or used in an assembly. Moreover, the Supplier shall not be held liable for any malfunction of one of its Products if this was caused by another component that the Client has added.

The Supplier's liability, for all causes, is strictly limited to the obligations thus defined and it is expressly agreed that it shall not be held liable under any circumstances to compensate for immaterial and/or indirect damages that the Client or any subsequent purchaser may incur, regardless of the cause and the basis for this liability (legal warranty, contractual liability such as a non-conformity, late delivery, etc.).

As such, the Supplier shall under no circumstances be required to compensate for losses in production, operation, profit, fees or expenses of any kind, in particular in the event that the Products delivered or goods in which the delivered Products may be incorporated are unavailable or unfit for their intended use, as well as for any damages incurred by third parties and generally any compensable damage other than bodily injury or damage to property.

**Article 5: Compliance of the prescription and implementation of the Products:**

Any person who prescribes and/or implements the Supplier's Products shall do so under her own responsibility. It shall be her responsibility to check at the time of prescription and/or implementation



that she is in possession of the latest version of the regulations in force and the latest version of the technical and commercial documentation of the Supplier.

**Article 6: Price - Payment terms:**

The Products are invoiced at the rate in force on the date of delivery. The prices are always exclusive of tax and packaging.

The Client may benefit from discounts/rebates (hereinafter referred to as "Price Reductions"), according to the terms and conditions determined by mutual agreement between the Client and the Supplier, during the commercial negotiation, depending on the quantities of Products purchased by the Client, the nature and volume of services provided.

The Price Reductions granted to the Client by the Supplier shall be calculated according to the net sales, excluding tax and shipping invoiced by the Supplier and paid in full by the Client during the calendar year.

Unless expressly agreed between the Parties, invoices shall be paid by SCT bank transfer at thirty (30) days net. In the presence of an express agreement, payments may also be made by protestable bank draft, by promissory note (SEPA Code to be specified), by SDD direct debit or by SCP card payment. In any case, the payment period may not exceed forty-five (45) days end of month (i.e. forty-five (45) days from the end of the month in which the invoice was issued). The Supplier may, at any time, depending on the Client's financial situation, set a credit limit, claim a cash payment or any other guarantee. Invoices are payable to the following address: KNAUF SSC, Service Comptabilité Client, Zone industrielle - 68190 UNGERSHEIM, FRANCE.

By express agreement and unless the Client has requested a delay in a timely manner and this has been granted by the Supplier, total or partial failure to pay the invoices by the due date shall result in:

- the immediate payment of any other invoice, even those that gave rise to the issuance of a bank draft and the immediate payment of all sums due by the Client for any reason whatsoever;
- the automatic payment of a late payment fee calculated from the day after the due date at the legal rate of interest in force multiplied by three (3);
- the automatic payment of compensation for recovery fees, the amount of which shall be equal to five percent (5%) of the sums due and may not, in any case, be less than forty euros (€40).

In the event of payment by bill of exchange, failing to return the bill will be considered a refusal of acceptance tantamount to failure to pay. Failure to accept a draft for failure to purchase a promissory note within sixty (60) days of the invoice being issued shall also be considered failure to pay. Bills of exchange must be returned accepted by the Supplier no later than fifteen (15) calendar days before the agreed due date.



No payment can be subject to compensation under the sole initiative of the Client, in particular in the event of the Client alleging late delivery or a non-conformity concerning the Products delivered. The prior, express and written agreement of the Supplier is essential in this case.

By express agreement, in the event that the Client is the object of insolvency proceedings, the unpaid sum of the invoices that it could have issued for services carried out for the benefit of the Supplier and any Price Reductions due shall be offset with the sums that the Client still owes to the Supplier, these becoming payable immediately.

**Article 7: Dispute regarding financial benefits owed by the Supplier:**

Any dispute by the Client regarding the financial benefits owed by the Supplier, of any kind whatsoever (in particular relating to Price Reductions), concerning a given year, must be formulated no later than twelve (12) months following the expiry of the calendar year in question. Failing this, and as an exception to the provisions set out in Article L.110-4 of the French Commercial Code and Article 18 hereinafter, no claim or dispute may be submitted and shall be considered as strictly inadmissible.

**Article 8: Disclaimer of all penalties:**

No penalties shall be accepted by the Supplier, except with the prior, express and written agreement of the latter, regardless of the reason for the penalty. Only damages actually incurred, that can be demonstrated and valued by the Client, may give rise to compensation from the Supplier, after a request is submitted to the Supplier and negotiated with the latter. The Client must, in this respect, provide the Supplier with any document justifying the actual loss incurred.

**Article 9: Intellectual property:**

Unless otherwise expressly stipulated, the plans, specifications, computer files, technical and commercial documentation, test results, photographs, samples, prototypes, studies, reports, letters, patents, models and drawings, etc. that the Supplier transmits to the Client shall remain the property of the Supplier. Consequently, the Client shall refrain from any dissemination, reproduction or use thereof without the prior, express and written consent of the Supplier and undertakes to make use thereof within the strict limits of the agreed intended use.

Any use of the Supplier's visual identity (i.e. any logo, drawing, image or representation of the Supplier's brand, regardless of the size and medium used) in the context of commercial agreements, promotion or advertising operations is strictly subject to prior, express and written consent. In no case can such an agreement, if it were to be granted, be valid for the future or for any other operation than that specifically mentioned by the Supplier.

Even if the Supplier agrees, the Client shall expressly refrain, under penalty of damages, to make use of this identity in such a way that is likely to harm the Supplier in any way or damage its brand image. The Client warrants that all information, indications, plans, drawings and specifications sent to the Supplier do not infringe the industrial property rights or other rights held by third parties.



The Client who becomes aware of any infringements of patents, trademarks or other intellectual property rights held by the Supplier must inform the latter immediately by email, confirmed by registered letter with acknowledgement of receipt.

**Article 10: Inventories:**

Inventories of raw material(s), components, inserts, tools and finished and semi-finished products made to meet the needs of the Clients shall be fully invoiced when their account is closed, for whatever reason.

**Article 11: Moulds - Models - Tools:**

Unless proved otherwise, the moulds, models and tools that are developed and manufactured by the Supplier to manufacture the Products in compliance with the specifications of the Clients shall remain the property of the Supplier.

Any financing by the Client to cover all or part of the manufacturing cost of specific tools shall not justify the transfer of ownership of said tool for the benefit of the Client and does not authorise the latter to request the transfer to another manufacturer without the consent of the Supplier nor to restrict its ability to manufacture for other clients using the same tool.

The Supplier has a right of retention over the moulds, models and tools provided by its Clients to ensure the manufacture of the products until the invoices have been paid in full corresponding to the deliveries made by the Supplier.

With regard to tools belonging to the Client, the Supplier shall no longer be liable for the custody nor consequential responsibilities from the time, at the end of the business relationship, that the Supplier has requested to take back possession thereof. If the Client does not collect the tools within the agreed time frame, the Supplier may have them destroyed. The fees for removing and transporting or destroying the tools shall be borne by the Client.

**Article 12: Hardship:**

The Parties waive the use of the provisions set out in Article 1195 of the French Civil Code, and only the following stipulations shall apply.

Unforeseeability is characterised by an unforeseeable change in the conditions of performance of the contractual obligations in its occurrence or extent and independent of the will of the Parties at the time of the conclusion of the Contract or during its performance and not falling within the notion of force majeure or a fortuitous event as provided for in Article 13 below.

If such a change in circumstances unforeseeable at the time of the conclusion of the Contract makes its performance difficult or particularly onerous for one of the Parties, it may inform the other Party by registered letter with acknowledgement of receipt and request a renegotiation of its obligations under the conditions provided for in this article, in order to take account of the new circumstances.



In this case, the Parties agree to meet as soon as possible and, at the latest, within a period of 7 days from receipt of the aforementioned notification in order to renegotiate the terms of the Contract.

If the Parties fail to agree on the continued performance of the Contract within 30 days of their meeting, either Party may terminate this Contract by registered letter with acknowledgement of receipt with immediate effect unless the Parties agree on a period of notice.

**Article 13: Force majeure - Circumstances beyond the control of the Supplier:**

Neither party shall be liable if the non-performance or delay in the performance of any of its contractual obligations is due to force majeure. The Supplier therefore reserves the right to suspend, cancel, delay or modify the performance of its delivery obligation, without giving the Customer the right to claim, in the event of force majeure.

In this respect, force majeure is understood to mean any external, unforeseeable and irresistible event within the meaning of the provisions of Article 1218 of the Civil Code and the definition usually adopted by French case law.

Furthermore, it is expressly agreed between the Supplier and the Client that the following events constitute circumstances beyond the control of the Supplier and amount to cases of force majeure or fortuitous events: strikes by all or part of the Supplier's staff or its carriers or usual subcontractors, lockouts, destruction of the Supplier's manufacturing facilities and/or the Supplier's manufacturing tool, even partially, production stoppages due to incidental outages, transport interruptions, obstacles to the



movement of goods, the impossibility of being supplied or of obtaining supplies of raw materials or components for any reason whatsoever, administrative restrictions on the use of raw materials or components, difficulties in accessing the raw materials and energy market, interruption in the supply of energy, failure of an energy supplier, exceptional increase in the Supplier's activity, epidemics and pandemics, i.e. the development and spread of a contagious disease on national or international territory, war, climate conditions preventing the transport of Products, roadblocks, strike or disruption to energy supplies, or disruption of supply that is not the fault of the Supplier.

The Party invoking force majeure is required to inform the other Party in writing within a reasonable period of time by registered letter with acknowledgement of receipt of the occurrence or cessation of the event or circumstance qualifying as force majeure and undertakes to take all measures to limit the harmful consequences of this event for the other Party.

In any event, the Parties shall endeavour in good faith to take all reasonably possible measures to continue performance of the Contract.

If an event of force majeure persists for more than one (1) month, the Contract may be terminated with immediate effect by the injured party after sending a registered letter with acknowledgement of receipt.

#### **Article 14: Personal data:**

In the event that the Client or Supplier are required to exchange and process personal data in the context of their business relationship, each of them is considered to be a data controller within the meaning of EU Regulation 2016/679 of the 27th April 2016 known as the General Data Protection Regulation (GDPR).

As such, the Client and the Supplier undertake to apply the provisions of Law no. 78-17 of the 6th January 1978 (amended) relating to information technology, files and freedoms.

Therefore, the Client and the Supplier undertake to hold each other harmless against any claim brought by a natural person, either by a data subject concerned by the processing operations carried out by both Parties or by the French Data Protection Authority (CNIL), or by any other relevant authority.

Furthermore, the Supplier, as a data controller, carries out personal data processing for the management of its client relationships, including with the Client as well as for the execution of the sales agreement entered into with clients. The collected information (for example last names, first names, email addresses and telephone numbers of the Client's employees) are required for this processing and are intended for the relevant departments of the Supplier and, if applicable, its service providers and/or subcontractors. They are retained for the entire duration of the business relationship and for a period of 5 (five) years following the end of this relationship.

The Client's employees have the right to access, rectify and erase their personal data, the right to withdraw their consent, a right to restrict processing of their data, a right to object to the processing for legitimate reasons, a right to data portability, a right to issue advance *post-mortem* directives, by



sending a letter by post to the head office of the Supplier or an email to the following address [donneespersonnelles@knauf.com](mailto:donneespersonnelles@knauf.com), along with a copy of their identity document. They also have the right to lodge a complaint with the French Data Protection Authority (CNIL).

The Client undertakes to inform its employees of this provision.

#### **Article 15: Corporate Social Responsibility**

The Supplier is a member of the United Nations Global Compact program and undertakes to respect the ten founding principles grouped within four fundamental themes: human rights, working conditions, the environment and the fight against corruption.

The Client shall conduct its business in an ethical manner, in accordance with applicable international, national and local laws and regulations, and under conditions compatible with the aforementioned principles. He undertakes to ensure that the terms are respected by all of his staff, by the companies of the group to which he belongs as well as by his subcontractors.



**Article 16: Resale - Independence of the Client:**

The Supplier's Products comply with the legislation applicable in France and are adapted to the characteristics and standards of supply and consumption in France (excluding overseas territories [DROM-COM]).

In the event that the Client resells the Products outside this territory, the Client shall be solely liable for compliance with all applicable local laws and regulations.

The Client undertakes not to actively sell the Products outside the European Union.

The Client is solely responsible and authorised to set the re-sale price of the Products. Any recommendation (recommended prices, recommended marketing prices, recommended indicative prices) communicated by the Supplier, can in no way affect the Client's freedom to determine its own re-sale prices.

**Article 17: Waiver:**

The failure of the Supplier to avail itself at any given moment of any of the clauses of these Terms and Conditions cannot be considered a waiver to avail itself of these clauses at a later date.

**Article 18: Invalidity of a provision:**

The possible invalidity of one of the provisions of these T&Cs shall not result in the invalidity of all of the T&Cs. In such a case, the Client and the Supplier shall meet, at the request of the most diligent Party, to replace the invalid provision with a valid provision that maintains, as far as possible, the initial balance of the business relationship.

**Article 19: Applicable law - Disputes:**

French law, apart from its own conflict of law rules, shall exclusively govern the Supplier's sales. The T&Cs are drafted in French. Should they be translated into one or more languages, only the French language version shall prevail in the event of a dispute.

The provisions of the United Nations Convention on Contracts for the International Sale of Goods, signed in Vienna on the 11th April 1980, shall not apply to the relationship between the Supplier and its Clients.

If a dispute arises as to the validity, interpretation, execution, resolution and/or termination of the business relationship, the Client and the Supplier shall endeavour to reach an amicable solution with a broad spirit of compromise and thus expressly agree, before bringing the dispute before the courts, to try to find, in good faith, a satisfactory agreement to put an end to their dispute.

If the dispute cannot be settled amicably for a period of more than six (6) months, it shall, at the request of the most diligent Party, be brought exclusively before the courts sitting in the jurisdiction of the head



office of the Supplier, even in the event of an incidental request for the introduction of third parties or multiple defendants, with the exception of specific provisions relating to restrictive competitive practices. The Supplier reserves the right, however, to bring the dispute before the courts sitting in the jurisdiction of the head office of the Client, its establishments or place of delivery of the Products.

**Article 20: Limitation of actions**

As an exception to Article L.110-4 of the French Commercial Code, and except as provided in Article 7 of these Terms and Conditions of Sale, the rights and obligations of the Parties in connection with their business relationship shall lapse one year after the delivery of the Products. After this period, the Parties may no longer take legal action against each other.