

## GENERAL TERMS AND CONDITIONS OF SALE

### I. SCOPE

1. These General Terms and Conditions govern the terms and conditions of sale of products (hereinafter PRODUCTS) marketed by Berkem S.r.l. with registered office in Via della Provvidenza, 63 – 35030 Rubano (PD) Italy, num. Iscr. CCIAA di Padova 03655470247, Num.REA PD-405519, CF and P.IVA IT 03655470247 (hereinafter BERKEM).
2. All contracts for the sale of PRODUCTS by BERKEM to third parties (hereinafter the CUSTOMER) are governed by these General Terms and Conditions, which form an integral and essential part of any proposal, order and order confirmation referred to same products.
3. Any exceptions must be agreed and accepted in writing by BERKEM. Even in the case of exceptions agreed in writing, these terms will continue to apply for the parts that have not been expressly waived.
4. The placing of an order and / or the withdrawal of the goods by the CUSTOMER implies the full and complete acceptance of these Terms and Conditions of Sale.
5. The General Terms and Conditions of Sale applicable are those in effect on the date of the order.

### II. DEFINITIONS

1. **BERKEM warehouse:** deposit located in Via della Provvidenza, 63 – 35030 Rubano (PD) Italy.
2. **PRODUCT Price:** is the price in effect at the time of the order, specified in the Order Confirmation. It can be of two types: Fixed Price or Price Tag.
3. **Fixed Price:** price that does not vary in function of the daily price of precious metals, is used for products not containing precious metals, equipments or parts of them.
4. **Floating Price:** price that varies according to the daily price of precious metals. The products at variable prices are marked on the price list by a precise sentence. The daily value of the precious metal is added to a table on the middle of the home page and is expressed in EUR / g. The variable price of such products is given by the sum of the value of the precious metal content and the spread applied to the product in question

### III. COMMERCIAL POLICY

1. BERKEM operates exclusively in sales to professional customers (dealers, retailers, companies, brokers, wholesalers, professionals, who have a VAT). In view of its commercial policy, BERKEM therefore reserves the right not to process orders received from parties other than professional clients.
2. By the placing of an order and / or the withdrawal of the goods, the CUSTOMER declares and guarantees that the purchase of PRODUCTS Berkem occurs exclusively for professional, relevant to their work and not as an end consumer, this being an essential condition without which Berkem would not contract.

### IV. PRODUCTS

1. PRODUCTS covered by these General Terms and Conditions of Sale are those included in the Catalogue Berkem:
  - a. Precious plating solutions
  - b. Not precious plating solutions
  - c. Pre and post treatments
  - d. Enamels and lacquers
  - e. Machinery and Accessories
  - f. Cyanides
  - g. Salts and precious compounds
  - h. Chemical Laboratory Services

### V. QUOTES, ORDERS, STIPULATION OF THE CONTRACT

1. All purchase orders transmitted by the CUSTOMER to BERKEM in any form (e-mail, fax, phone call, etc) should be complete in their entirety and must contain all the elements necessary for the proper identification of the PRODUCTS and quantities ordered.

2. Each order that is transmitted to BERKEM constitutes a contractual proposal of the CUSTOMER and, therefore, will be binding on BERKEM only if it is confirmed for acceptance by issuing the relevant Order Confirmation.

3. The offers made by agents, representatives and auxiliary trade of BERKEM are not binding until they have been confirmed in writing by BERKEM.

4. The sale offers made by BERKEM, except as provided for Plating products precious, have a maximum validity period indicated in the same; in no case shall the validity exceed thirty (30) days from the formulation of the offer and apply only to the integral supply quoted. Upon expiry of this deadline the offer will no longer have any validity. For Plating products precious the validity of prices stated in the offers shall not exceed one (1) day from the issue and you have to refer to what is stated in the same offer.

5. BERKEM has the right to deliver PRODUCTS (even on the same order) in several successive deliveries: each delivery will be considered as a single and separate operation. In this case, the transport costs are charged to the CUSTOMER only once. Any complaints related to goods already delivered will not affect the completion of the order: therefore it will still be fully managed and processed.

## VI. PRODUCT FEATURES

1. The PRODUCTS features (weights, dimensions, prices, performances, colours) – and other data related to the products provided and indicated in the catalogs, price lists, circulars or other illustrative documents, drawn up by BERKEM, as well as the characteristics of the samples or of the test products - are merely indicative and are not binding, except in cases in which they are mentioned in the offer or in the confirmation of sale order.

2. BERKEM has the right to modify at any time the details of the products in order to improve their performance, with prior notice to the CUSTOMER in the case of material changes (such as changes affecting the mode of installation, the interchangeable features of the products etc.).

## VII. PRICES

1. The prices shown are net, VAT excluded. Transport costs are always excluded unless otherwise agreed in writing.

2. Products prices refer to the price list in effect at the time of issue of the order confirmation by BERKEM and are for goods delivered ex works or ex warehouse, excluding packaging, taxes, insurance, transport and any other kind of additional charges.

3. BERKEM reserves the right to change prices at any time, without notice, in the event that occur increases in cost of raw materials, labor or any other factor that determines a significant increase in production costs. In any case, is valid the price on the order confirmation sent to the CUSTOMER.

## VIII. DELIVERY

1. Delivery terms are only indicative and are calculated in working days.

2. Therefore BERKEM is not for all and any the damages resulting from advanced or delayed delivery, total or partial.

3. If the CUSTOMER is not up to date with payments for previous or other supplies, the expiry of the term of delivery is suspended and BERKEM can delay it until they have been paid all the sums due.

## IX. TRANSPORT, TRANSFER OF RISK

1. The supply and transport of PRODUCTS ordered means EXW Ex Works (Incoterms 2010) so therefore the risks associated with the supply itself pass to the CUSTOMER when the goods leave the BERKEM warehouse.

2. Unless otherwise agreed, the goods travel at the risk of the recipient, this mean that BERKEM is not responsible for any theft and / or damage and / or complete or partial missing. The risk of damage or loss of the product is borne by the recipient since the time of shipment of the goods and then since the moment of delivery to the courier in charge of transport.

3. The delivery means carried out at the BERKEM warehouse.

4. In the absence of specific instructions, the goods will be sent by a carrier selected by BERKEM: the choice of the carrier is not in any case any liability of BERKEM.

5. The goods travel at the risk of the CUSTOMER even if sold with the clause of free destination. The shipping costs, insurance and other charges involved in the transport of the goods, are paid by the CUSTOMER.

#### **X. INSURANCE, DAMAGE IN TRANSPORT, OBLIGATION TO MONITOR AND ADVISE**

1. The goods may be covered by insurance if specifically requested by the CUSTOMER: the related expenses will be charged.
2. As soon as receives the goods, the CUSTOMER must verify that:
  - a. the number of packages delivered corresponds to that indicated in the transport document accompanying
  - b. the goods correspond to what is actually indicated in the transport document;
  - c. the packaging is intact, not damaged or wet or otherwise altered or tampered with, even in materials / seals closing (adhesive tape, bands ...)
3. Any damage or the mismatch in the number of packages, as well as any delays in delivery, must be immediately reported to the courier who delivers, adding the word "withdrawal conditional for loss and / or damage to n °. .. packages " on the shipping document. Any damage or missing items on delivery must be reported immediately - or within twenty-four (24) hours of receipt - by e-mail at [support@berkem.it](mailto:support@berkem.it), accompanied by proof (photos) for any damage related to the transport, this is in order to proceed to the opening of your refund, in case of insured carrier.
4. While the packaging is intact, the goods must be verified within twenty-four (24) hours of receipt.
5. Concealed damage must be reported to BERKEM within eight (8) calendar days from delivery.
6. Any claim made outside the terms and / or by other means as described above, will not be taken into account. the CUSTOMER assumes full responsibility for any declaration made: once signed the transport documents of the courier, the CUSTOMER can not make any objection about the appearance of what was delivered and the number of packages received.

#### **XI. DELAYS JUSTIFIABLE**

1. BERKEM is not responsible for failure to comply with contractual obligations, to the extent that such failure is derived, directly or indirectly, by:
  - a. reasons not attributable to Berkem and / or acts of God;
  - b. actions (or omissions) of the CUSTOMER including not providing information and approvals necessary to BERKEM to proceed with the work and the subsequent supply of the products;
  - c. failure to meet the terms of payment by the CUSTOMER;
  - d. inability to obtain materials, components or services necessary for the execution of the work and the supply of PRODUCTS.
2. In the event that there were to be any of the above hypothesis, BERKEM will communicate it to the CUSTOMER along with the quantification of the possible delay and the new delivery date.
3. If the delay of BERKEM is caused by the actions or omissions of the CUSTOMER, or by specific work of other contractors or suppliers of the CUSTOMER, BERKEM will also be entitled to an equitable adjustment of the price.

#### **XII. COMPLAINTS**

1. Any complaint relating to the PRODUCTS delivered, to be valid, must be detailed and communicated to BERKEM, by any means that allows the sender to have proof of receipt by BERKEM thereof, no later than three (3) working days of receipt of goods.
2. In any case, the receiver must do reserve the courier on receipt of goods, if the complaint concerns the state of the packaging and the number of packages.
3. If the complaint was not disclosed in the form and terms of the above, the PRODUCTS delivered are deemed to comply with those ordered by the CUSTOMER.
4. Complaints validly made, regarding all or part of the supply does not entitle the CUSTOMER to cancel the order, being the responsibility of BERKEM limited, in any case, to the replacement, on the same terms, of the

goods subject of the complaint, excluding any compensation for damages. In the event of unavailability - for any reason – of the goods, BERKEM can decide at its sole discretion to replace the product with any having the same or better performance.

5. Each CUSTOMER will have the responsibility to ensure that the products of BERKEM ordered and used are suitable for the use to which they are intended.

6. BERKEM ensures compliance of the products with regulations and technical specifications. The proper use and use of the products is the exclusive responsibility of the Customer. No responsibility can be charged to BERKEM for wrong, unsuitable or non-compliant use of the products and the consequent inadequate or unsatisfactory results. Any advice and / or instructions on how to use products, however were given by employees and / or staff of BERKEM, fall as part of explaining the quality and characteristics of products, without this effect the release - in any way -, even implicitly, of guarantees and / or assumption of responsibility by BERKEM of the result of processing and / or work in which the products have been used.

### **XIII. PAYMENT TERMS**

1. Payments shall be made in accordance with appropriate indications given in the order confirmation. Payments and any other sum due for any reason to BERKEM must be made at the domicile of BERKEM.

2. Any payments made to agents, representatives or auxiliary trade of BERKEM no means done, and therefore do not release the CUSTOMER from his obligation, as long as the sums are received by BERKEM.

3. Unless otherwise agreed, payments will be made in Euro.

4. The prices denominated in foreign currencies are subject to change according to fluctuations in the relative exchange rate.

5. Any delay or irregularity in payment gives BERKEM the right to:

- a. suspend the supplies in progress, even if not related to the payment in question
- b. vary the terms of payment and of discount for subsequent deliveries, even requiring advance payment or the issuance of additional guarantees;
- c. proceed to immediate application of conventional interest equal to the 3 month EURIBOR + 6% and will result in the consequent disruption of supply, save in any case the right to BERKEM to claim compensation for additional damages suffered.
- d. If payments are unpaid, bank and management charges of the unpaid portion at € 10/ each will be charged on any subsequent supply.
- e. in all these cases, any amount due in any way to BERKEM become immediately due.

6. The CUSTOMER shall pay the full PRODUCTS even when exceptions arise, disputes or controversies which will be defined only after the payment of the amount due.

### **XIV. RETENTION OF PROPERTY**

1. Products delivered remain the property of BERKEM until the moment of complete and full payment.

Therefore in case of non-payment BERKEM shall be entitled to claim the goods delivered, even in case of bankruptcy.

2. It is not allowed to pledge or guarantee or lease to any title to third parties the goods delivered until it has not completed its payment and therefore endure this reserve property. The CUSTOMER is obliged to inform immediately by e-mail at [info@berkem.it](mailto:info@berkem.it) of each request, claim or dispute come from third parties relating to property owned by BERKEM, in particular in the event of legal action.

3. In a case where the products purchased by the CUSTOMER are mixed with products that are not owned by us, Art. 939 “uniting and commingling” of the Civil Code will apply.

4. In case of failure to fully and timely payment by the CUSTOMER of even one of the stated payments deadlines, such as if the CUSTOMER is subjected to bankruptcy proceedings or even to be proposed request to that effect, BERKEM shall be entitled to resolve the existing contract and to demand the immediate return of the goods and to seek for compensation for damages.

## XV. WARRANTY AND TERMS FOR RETURNS

1. As the products are sold exclusively for professional use, BERKEM warrants the PRODUCTS without flaws / faults, limited to the free repair or replacement of defective goods, after returning them at the expense of the CUSTOMER.
  2. The duration of the warranty period depends on the type of product:
    - a. for Tools and Machinery, Accessories and Spare parts the guarantee is valid for a period of twelve (12) months after delivery
    - b. for Plating products precious, Plating products Not precious, Products Decorative the guarantee is valid for a period equal to the lesser of expiry date of the product and 12 months after delivery.
  3. The Warranty is valid only if the PRODUCTS have not been tampered with, repaired by third parties or used other than in accordance with the standard of use stated by BERKEM or vice/ defect is not a result of natural wear or damage during transport or store, preservation and storage.
  4. The customer must report any defects within eight (8) working days from the moment it has established its presence.
  5. On condition that the claim is protected by the guarantee and has been notified in the terms and in the manner provided by these General Terms and Conditions of Sale, BERKEM will replace / repair, at its option, each product or product parts that present defects / faults. The detection of defects must be made at the plant of BERKEM and the return of defective goods will be final only if the defect is existing. Until that time the goods will only be placed on deposit at BERKEM.
  6. The guarantee is provided on condition that BERKEM verify that the defect highlighted occurs resulting from material and/ or workmanship defective and that the CUSTOMER has requested authorization to return the goods (RMA Return Merchandise Authorization) and has sent to BERKEM:
    - a. defective goods complete with all its accessories and packed in original packaging
    - b. a copy of the original bill of sale showing the date of purchase (*if you are user*) or a copy of the original bill of sale to the user (*if you are dealer of the product*)
    - c. the data for the product type, model, serial or lot number
    - d. the data of any dealer
- Everything must be sent no later than the expiration of the warranty period and in any case within three (3) working days from the detection of the fault.
7. In case of replacement of the product or component, the original products or the relevant parts returned, against the replacement, become the property of BERKEM. The services rendered under the guarantee does not extend the warranty period, and therefore, in case of replacement of the product or of a part, on the good or the component provided as a replacement shall not start a new warranty period, but you must take into account the date of 'purchase of the original good.
  8. The existence of any single units of defective products does not involve the resolution in the contract of sale.
  9. No other rights in addition to those identified by the General Terms and Conditions of Sale will be up to the CUSTOMER, including claims for damages and reimbursement of costs of any nature.
  10. In the provision of non-production of BERKEM, the warranty is limited to the rights that compete to BERKEM towards their suppliers.
  11. In any case, the Customer may not assert the right of guarantee to the BERKEM if the price of the products has not been paid in the conditions and terms agreed.
  12. They are expressly excluded from this warranty:
    - a. The periodic maintenance and repair or replacement of parts due to wear and tear;
    - b. Consumables (components that predictably require periodic replacement during the lifetime of a product, such as rechargeable or non-rechargeable batteries, pins, lamps, etc.);

- c. Damage or defects caused by use, operation or improper treatment of the product, for purposes other than normal professional use expected;
- d. Damage or changes in the product resulting from misuse, including: - treatments causing damage or alter the physical, aesthetic or surface of the product; - incorrect installation or use of the product for purposes other than those provided or failure to follow instructions on installation and use; - Improper maintenance of the product, not in accordance with instructions on proper maintenance; - Installation or use of the product that does not comply with the technical or safety regulations of the country in which the product is installed or used.
- e. Condition or defects of the systems to which the product is connected or in which it is incorporated, with the exception of other products specifically intended for use in combination with the product.
- f. Use of Plating Products precious and non-precious or decorative products in combination with other products not manufactured nor supplied by BERKEM.
- g. Use the product with accessories and other products of the type, condition and standard other than prescribed.
- h. Repairs or attempted repairs by unqualified personnel and authorized service centers.
- i. Adaptations or changes made to the product without prior written consent of BERKEM including: -
- j. upgrading the product exceeding the specifications and features described in the Instruction manual; - Changes to the product to conform to standards or national security or local in countries other than those for which the product was specifically designed and built.
- k. Negligence.
- l. Accidents, fire, liquids, chemicals or other, flooding, vibrations, excessive heat, improper ventilation, power surges, voltage input excessive or incorrect, radiation, electrostatic discharges including lighting, other forces and external impacts.

#### **XVI. COMPENSATION OF DAMAGES**

1. The responsibility of BERKEM, whether arising from the execution or breach of contract, warranty, tort or whether arising out of strict liability, can not in any case exceed the value of the product to which this responsibility is linked.
2. Under no circumstances BERKEM can be liable for direct or indirect damages to people and / or things, lost profits or loss of profits, or for non-use or technical stop of the product or of any associated equipment, for complaints of the CUSTOMER and / or third parties relating to such damage or for any possible other damage, including indirect or consequential damages.

#### **XVII. NO LIABILITY FOR ANALYSIS**

1. BERKEM does not assume nor will assume any responsibility for the results of chemical analyses on the products or baths carry out by the laboratory at the request of the CUSTOMER, and this irrespective of the fact that the CUSTOMER has or has not paid the fee for the same.
2. The CUSTOMER, therefore, if decides to rely on analyses carried out by BERKEM and would put actions and/or omissions in place as a result of this, does so at its own risk.

#### **XVIII. INSTALLATION AND MAINTENANCE OF EQUIPMENT**

1. The provision of installation and maintenance of equipment and machinery (hereinafter SERVICES) are subject to the following additional conditions:

**Customer Cooperation** The Customer must undertake, at its own expense, all that is necessary to ensure that the installation/ maintenance can commence within the agreed time and that it can be performed without difficulty under normal working conditions and in compliance with the provisions of Art. 26 of Leg. Decree 81/08 U.L. on Safety. Unless otherwise agreed in writing, the Customer must provide everything needed, including: staff and assistance as well as tools, protection and lifting equipment, excavations, foundations, buildings, stands, shelving, building materials, including paints; industrial electricity, heating, water and sewage connections where needed, an enclosed space adequate and sufficiently large to preserve the

systems, their parts, tools and other materials necessary for the execution of the works for the duration of our staff's stay, as well as adequate sanitation; equipment and personal protective clothing required for the particular situations that are beyond our normal type of activity. **Responsibility** BERKEM will be responsible for compliance with safety standards and other regulations only within the limits prescribed by law. In the case of solely supervising the work, our liability shall consist only in the instruction and supervision of personnel provided by the CUSTOMER, not also in qualifying these staff and their actions. If the CUSTOMER provides systems or parts thereof, BERKEM will not be responsible in any way for them, including their quality or suitability **Acceptance** The CUSTOMER is obligated to accept the Service performed or to formulate any objections no later than eight (8) business days after the completion of service. This period passing without use, the service will be considered automatically accepted. **Fees and payment** Unless otherwise agreed in writing, maintenance services are invoiced according to the national ANIE Tables. Travel expenses, baggage, customs, etc. will be billed at cost as well as the materials consumed. Reciprocal deliveries of materials must be invoiced separately. If the installation, commissioning, repair, maintenance or delivery of materials should be delayed for reasons beyond our control, the waiting times or further travel will be charged to the Customer. If our staff cannot work the shifts that we expected due to the different work schedules of the Customer, or for other causes of its responsibility, the lost time will be billed as normal time worked. The shifts of our staff are regulated by law or by national collective labour contracts for the Chemical Industry. Overtime, where possible, requires our prior written confirmation. Payments are due upon receipt of the invoice to be issued upon completion of the work.

#### **XIX. CONFIDENTIALITY**

##### 1. CUSTOMER agrees to:

- a. process information / data / drawings / expertise / documentation received and / or learned from BERKEM as reserved,
- b. limit the use of such information / confidential documents and its access for purposes related to the execution of the contract. Information / confidential documents can not be reproduced without the prior written consent of BERKEM, and all copies thereof shall immediately be returned at the request of BERKEM.

##### 2. The provisions above shall not apply to information that:

- a. are public or become public, not for disclosure by the CUSTOMER, its employees or collaborators,
- b. were already in possession of the CUSTOMER before the receive from BERKEM
- c. were disclosed by sources that are not subject to restrictions being put on the CUSTOMER relating to their use,
- d. may be disclosed to third parties, on the basis of written authorization to BERKEM.

#### **XX. PRIVACY**

1. CUSTOMER with the placing of an order and / or the withdrawal of the goods, agrees to the processing of personal data solely for tax and administrative purposes. The data collected will not be disclosed to third parties under any circumstances and no license.
2. BERKEM ensures compliance with the Italian rules on the processing of personal data covered by the Decree of 30 June 2003, n. 196th - CODE RELATED TO PERSONAL DATA PROTECTION and European Regulation n. 679/2016 GDPR
3. The owner of the data is BERKEM as identified above.

#### **XXI. ENTRY INTO FORCE**

1. These terms and conditions come into force from the day following the date at the bottom of the same

#### **XXII. FINAL PROVISIONS**

1. To these General Terms and Conditions of Sale will be applicable only to Italian law.
2. Court exclusive, jurisdiction for any dispute relating to the supply of BERKEM, is the Court of Padua (Italy).



Company with  
Management System Certified:  
UNI EN ISO 9001:2015  
UNI EN ISO 14001:2015  
UNI EN ISO 45001:2018



RJC Certified Member:  
0000 1766

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3. The sale by the CUSTOMER of the rights or obligations under the contract, without the prior written consent of BERKEM, shall be null. BERKEM will have the right to assign, at any time, to any third party, claims arising from the contract, after having notified in writing to the Client.
4. The invalidity of all or part of any provision of these Conditions of Sale shall not affect the validity of the remaining provisions.
5. It is clear that any tolerance to violations of these General Conditions and Terms of Sale shall in no way be construed as a waiver to exercise the rights and / or faculties linked to them or consequential.
6. Any change or correction in these conditions shall only be valid if agreed in writing between the parties.

Rubano, 10 Febbraio 2021