



TERMS AND CONDITIONS OF SALE

1. Terms of Contract

- 1.1. These terms and conditions of sale ("Conditions") shall apply to all orders accepted in writing ("Acknowledgement of Order") by **Knauf Ceiling Solutions Limited ("KCS")** and all contracts of sale made by KCS for ceiling tiles, ceiling suspension systems and ceiling accessories (the "Goods"). These Conditions between KCS and the Buyer shall come into effect when the Buyer's order is accepted by KCS.
- 1.2. No variation of these Conditions shall be effective unless in writing and signed on behalf of both parties. The Buyer acknowledges that it has not relied upon any warranty, representation, statement or understanding made or given by **KCS** not set out in these Conditions provided always that nothing in this clause shall affect the rights of the Buyer in respect of any fraudulent misrepresentations of the other.

2. Description

Any description or illustration of **KCS's** Goods in a catalogue, leaflet, drawing or publicity material is a general description only, not a representation or warranty by **KCS** and shall not form part of the contract. The Buyer is responsible for satisfying itself that the Goods will be sufficient and fit for purpose.

3. Quotations

Prices quoted are subject to change without notice and are exclusive of value added tax or any other purchase tax which shall be paid by the Buyer at the rate ruling at date of despatch. Quotations are subject to the availability of Goods and materials.

4. Price and payment

- 4.1. Subject to 4.2, the price of the Goods shall be the price set out in the Acknowledgement of Order.
- 4.2. The Buyer will be invoiced upon the date of despatch of Goods by **KCS** at **KCS's** prices prevailing at that date so as to take account of any change in price since issue of the Acknowledgement of Order.
- 4.3. The price of the Goods is exclusive of the costs of carriage and freight which are stated in the Acknowledgment of Order.
- 4.4. The price of the Goods and carriage and freight is exclusive of amounts in respect of value added tax (**VAT**).
- 4.5. A minimum invoice charge of £50 (exclusive of VAT) will be applied unless it is the balance of a previous order.
- 4.6. The Buyer shall pay the invoice in full and in cleared funds within 30 days of the date of delivery. Payment shall be made to the bank account nominated in writing by **KCS**. Time of payment is of the essence.
- 4.7. If the Buyer fails to make any payment due to **KCS** by the due date for payment (**due date**), then the Buyer shall pay interest on the overdue amount at the rate of 8% per annum above Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Buyer shall pay the interest together with the overdue amount.
- 4.8. The Buyer shall pay all amounts due in full without any deduction or withholding except as required by law and the Buyer shall not be entitled to assert any credit, set-off or counterclaim against **KCS** in order to justify withholding payment of any such amount in whole or in part. **KCS** may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Buyer against any amount payable by **KCS** to the Buyer.

5. Goods in Transit

- 5.1. The Buyer hereby accepts the General Conditions of any carrier employed. Neither **KCS** nor any carrier shall be liable for damage or loss of Goods in transit or for shortage on delivery unless notice in writing is given to the carrier concerned and **KCS** within two days of the date of delivery, or in the case of non-delivery or loss of goods within seven days from the date of despatch, and such other steps are taken by the Buyer (including, if necessary, shorter notice to the carrier concerned) as may be necessary to preserve a claim against the carrier.
- 5.2. In cases of Goods damaged or lost in transit to a destination outside the United Kingdom, **KCS** and the carrier concerned must be notified within 2 days of the date of delivery of goods or (if lost) within seven days from the date of despatch.

6. Delivery

- 6.1. Delivery of the Goods shall be completed on the Goods' arrival at the delivery location or on the completion of loading of the Goods when collected from a nominated **KCS** or third-party premises as stated in the Acknowledgement of Order.
- 6.2. Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. **KCS** shall not be liable for any delay in delivery of the Goods or any losses, costs, expense or damages consequent upon such delay.
- 6.3. If the Buyer fails to take or accept delivery of the Goods within five business days of **KCS** notifying the Buyer that the Goods are ready, then
 - 6.3.1. delivery of the Goods shall be deemed to have been completed at 9.00 am on the fifth business day after the day on which **KCS** notified the Buyer that the Goods were ready; and

6.3.2. **KCS** shall store the Goods until delivery takes place and charge the Buyer for all related costs and expenses (including insurance).

6.4 If five business days after the day on which **KCS** notified the Buyer that the Goods were ready for delivery the Buyer has not taken or accepted delivery of them, **KCS** may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Buyer for any excess over the price of the Goods and carriage and freight charges or charge the Buyer for any shortfall below the price of the Goods and carriage and freight charges.

6.5 **KCS** may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment.

7. Retention of Title

7.1 Risk of loss of or damage to the Goods shall pass to the Buyer at the time of delivery.

7.2 Title to the Goods shall not pass to the Buyer until all sums due or owing to **KCS** by the Buyer on any account have been paid, and until payment the following provisions of this Clause 7 shall apply.

7.3 The whole of the price shall not be treated as paid until any cheque, bill of exchange or other instrument of payment given by the Buyer has been met on presentation or otherwise honoured in accordance with its terms. **KCS** may sue for the whole of the price at any time after it has become payable.

7.4 The Buyer shall not pledge the Goods or documents of title thereto or allow any lien to arise thereon. The Buyer shall keep the Goods separate and identified as the property of **KCS**.

7.5 If the Buyer defaults in the punctual payment of any sum owing to **KCS** then **KCS** shall be entitled to the immediate return of all Goods sold by **KCS** to the Buyer (or the documents of title thereto) in which the property has not passed to the Buyer and the Buyer hereby irrevocably authorises **KCS** to recover the Goods or documents and to enter any premises of the Buyer for that purpose. Demand for or recovery of the Goods or documents by **KCS** shall not of itself discharge either the Buyer's liability to pay the whole of the price and take delivery of the Goods or **KCS's** right to sue for the whole of the price.

8. Warranty

8.1 Buyer shall inspect all the Goods delivered and **KCS** shall be notified within 2 days of delivery of any claim for shortages or damages.

8.2 **KCS** warrants that the goods will be within the normal tolerances as to quality and finish for goods of this type and free from defects in workmanship or materials under normal use and service at the time of delivery and for four months thereafter. No liability will be accepted under this warranty unless the Buyer notifies **KCS** in writing of any defect in quality or condition within five working days from the date of delivery or where the defect was not apparent on reasonable inspection within seven days after discovery of the defect or failure. **KCS's** obligation under this warranty will not arise until the Buyer returns the defective goods at its own expense and risk to **KCS**. **KCS's** sole obligation will be at its option to repair without charge such Goods or any defective component part of such Goods or to credit the Buyer with the price of such Goods. Any replacement of Goods or its components under this warranty shall not extend the period of the warranty.

8.3 **KCS** will not be liable hereunder if when the Goods which the Buyer alleges are defective, are tested or examined by **KCS**, the alleged defect appears to have been caused by the Buyer's misuse, neglect, improper installation, any cause beyond the range of intended use of the produce or by accident, fire or other hazard.

8.4 This warranty as far as the law permits is in lieu of and excludes liability to third parties and all other conditions, warranties and terms express or implied, statutory or otherwise, in respect of the condition of the Goods, their merchantability or quality or fitness for any particular purpose or design or performance and **KCS** shall not be liable for any loss of profit, loss of use, loss of production, loss of contracts or for any financial or economic loss or for any indirect or consequential damage whatsoever that may be suffered by the Buyer. In no circumstances whatsoever shall the liability of **KCS** to the Buyer under these Conditions exceed the price of the Goods.

9. Force Majeure

KCS shall not be liable for non-performance or delay in performance or for any loss or damage to the Goods due to Act of God, war, riot, embargo, strike, labour dispute, civil commotion, fire, theft, shortage of labour or materials, confiscation, delays in delivery or services of sub-contractors, prohibition of import or export or any other unforeseen event (whether or not similar in nature to those specified) outside its reasonable control.

10. Cancellation of Order

10.1 The Buyer may cancel any order for standard goods for delivery in the United Kingdom provided that:

10.1.1. such cancellation is notified to **KCS** at least forty-eight hours before the goods are dispatched or

10.1.2. after the period specified above on payment of 25% of the invoice value to **KCS** and by the return of any Goods delivered undamaged within three days of date of delivery.



- 10.2. An order for non-standard goods may only be cancelled up to 1 week of the order being confirmed if the buyer pays 65% of the price of the Goods. Up to two weeks of the order being confirmed the order can be cancelled if the buyer pays 75% of the price of the Goods. After two weeks of the order being confirmed, cancellation will result in 100% of the price of the goods being charged.
- 10.3. Each consignment of Goods will be considered as a separate order for the purpose of this clause.

11. General

- 11.1 These Conditions shall prevail over any and all of Buyer's general and specific terms and conditions of purchase, including purchase orders, and KCS's Acknowledgment of Order and shall supersede all prior agreements, communications and understandings, whether written or oral, between the parties.
- 11.2 A waiver of any provision must be in writing to be effective and a waiver of any breach of any provision shall not constitute a waiver of any subsequent breach of the same or any other provision.
- 11.3 The provisions of these Conditions are severable and if any one or more such provisions are judicially determined to be unenforceable in whole or in part the remaining provisions shall nevertheless be binding on and enforceable by the parties thereto.
- 11.4 Any notice required or permitted to be given hereunder shall be in writing and shall be sufficiently given if delivered personally or sent by recorded delivery post to the registered office of the other party or to such other address as either party may from time to time designate to the other in writing. Such notice shall be deemed to be given as at the date it was personally delivered or forty-eight hours after it had been deposited in the post as the case may be.
- 11.5 The Conditions and any contracts of sale pursuant to these Conditions shall be governed by and interpreted in accordance with the laws of England and Wales and, in the event of a dispute, the courts of England and Wales shall have exclusive jurisdiction.
- 11.6 The applicability of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.