

1. Applicability

These General Terms and Conditions apply to all offers made by and/or agreements with Akatherm, at Panningen, Heiden Municipality, The Netherlands, hereinafter referred to as Akatherm. Applicability of the purchaser's Terms and Conditions, including their Purchase Terms and Conditions are explicitly excluded, unless Akatherm has accepted in part or in whole in writing the applicability of the purchaser's Terms and Conditions.

2. Acceptance

All offers from Akatherm shall be without obligation, unless expressly stated otherwise in the offer. Agreements shall only be deemed to be effective from the moment that they are accepted or confirmed in writing by Akatherm.

3. Delivery

3.1 Unless explicitly otherwise agreed deliveries will take place ex works (EXW), at Panningen, the Netherlands, from which moment onwards the goods will be at the purchaser's risk. All delivery conditions shall apply in accordance with the Incoterms 2000.

3.2 Delivery periods shall be laid down per transaction. The delivery period shall commence from the moment the acceptance or confirmation of the order is sent by Akatherm, in accordance with Article 2. If the Purchaser has to put documents at the disposal of Akatherm in order to execute the Agreement, the delivery period shall commence from the moment Akatherm has received the documents from the Purchaser.

3.3 The agreed delivery period can never be regarded as a deadline unless explicitly otherwise agreed in writing. On overdue deliveries, Akatherm should be given a notice of default giving them a reasonable further period to fulfil their obligations. Should they again fail to deliver the goods, the purchaser may cancel the agreement, provided Akatherm is in default. However, Akatherm will never be liable to pay damages with respect to direct or consequential losses save for gross negligence or intentional acts or omissions.

4. Packaging

The Products shall be delivered in packaging material suitable for road transport, at no extra cost. The Purchaser shall not be required to return the packaging material, unless agreed otherwise in writing.

5. Prices

5.1 Prices are ex works (EXW, Incoterms 2000) at Panningen, the Netherlands, including packaging in accordance with clause 4 and excluding VAT and other levies by the authorities, unless otherwise agreed in writing. The prices are expressed in Euro (€).

5.2 Prices shall be based on exchange rates between domestic and foreign currencies, wage costs, raw materials prices, import duties, taxes and other levies, current at the time of the Agreement coming into effect.

5.3 If changes occur in one or several of the factors stated in Article 5.2 as a result of extraordinary circumstances before the delivery of has been made, Akatherm shall be entitled to make reasonable price alterations.

5.4 If the agreed final delivery date is exceeded, price increases made after said delivery date shall not be for the Purchaser's account, unless the delayed delivery is due to circumstances out of the control of Akatherm.

6. Payment

6.1 Unless agreed otherwise, payment shall be due within 30 days of the invoice date. Payment shall be made in full, in Euro and without claiming any compensation, to a Dutch bank in the Netherlands.

6.2 If it is agreed to use a letter of credit (L/C) as a means of payment, the letter of credit shall be a confirmed, irrevocable letter of credit in favour of Akatherm. The letter of credit shall cover the total contract price and shall be obtained by the Purchaser from a major bank within 15 days of the Agreement coming into effect, in accordance with Article 2. Confirmation shall be given by a Dutch bank. The letter of credit shall be subject to the 'Uniform Customs and Practice for Documentary Credits, 1993 Revision', ICC publication no.500.

6.3 Without prejudice to further rights of Akatherm, arising from legislation or the Agreement, the Purchaser shall, in the event of failure to make timely payment, be deemed, without any notice of default or judicial intervention, to be in default, and interest over the amount due shall be charged, equal to the legal interest rate laid down by De Nederlandsche Bank, plus 3%.

6.4 All judicial costs and extra-judicial costs in connection with debt-collection incurred by Akatherm due to untimely payment by the purchaser, including the fees of third parties engaged by Akatherm for the collection of the claim, shall be for the purchaser's account.

7. Security

7.1 Akatherm shall be entitled, before delivery or continuing delivery, to stipulate that sufficient security for the fulfilment of the payment obligations is provided, or payment is made in advance by the Purchaser.

7.2 If the Purchaser refuses to provide the required security, Akatherm shall be entitled, without intervention by a judge, to consider the Agreement as cancelled, and compensation shall be received for any loss and/or damages suffered by Akatherm.

8. Reservation of ownership

8.1 All sold and delivered products shall remain the property of Akatherm until all claims, including collecting charges and interests, Akatherm have on the Purchaser, for whatever reason, have been paid by the Purchaser to Akatherm.

8.2 Until the property is transferred to the Purchaser, he shall not be entitled to transfer ownership of said products, either in their original form, treated or processed, to third parties. Nevertheless, the Purchaser shall be authorised to sell the products on to third parties in the normal execution of his business activities. The Purchaser shall always cooperate to ensure that Akatherm is able to exercise its right of ownership.

9. Quality

Deliveries shall be made in accordance with the agreed specifications. Akatherm shall ensure that the products it supplies comply with the legal safety regulations and approval specification of the country of destination, at the time of delivery.

10. Complaints

10.1 Within 14 days of the Purchaser receiving the products, the Purchaser should check the products and inform Akatherm immediately in writing, stating the order date, invoice number and article number, of any complaints with respect to the quality or quantity of the products. Faults, which can only be detected at a later date, should be brought to the attention of Akatherm within 14 days of the faults being detected. If the Purchaser fails to take the aforementioned into consideration, he shall lose any claim he has on Akatherm with respect of said faults.

10.2 Complaints shall not defer the Purchaser's payments obligations, unless Akatherm expressly gives the Purchaser its consent in writing.

10.3 The products can only be returned for the account and risk of Akatherm after it has expressly given its consent in writing.

11. Guarantee

11.1 Akatherm shall give a 6 month guarantee on the products from the moment of commissioning. If and in so far as the products do not meet the agreed quality standards, Akatherm shall, at its own discretion, either replace the products in question, or take back the products, depending on the extent to which the delivery does not comply with the agreed standards, and credit the purchase price to the Purchaser, provided that the Purchaser has complained within the guarantee period, in accordance with Article 10.

11.2 Akatherm's liability to the purchaser and/or its customers with respect to the products supplied to the purchaser is limited to fulfilling the obligation set out in clause 11.1. Akatherm is not liable for consequential damage or subsequent damage for whatever reasons or whatever nature.

11.3 The purchaser will indemnify Akatherm against claims of third parties with respect to damages in relation to or resulting from the goods supplied by Akatherm.

11.4 All claims on the guarantee shall become null and void if the products are not kept/or handled in accordance with the regulations belonging to the products.

12. Issued information, advice and standards

Information on the processing and use of the products, technical advice and any other data, issued by Akatherm, is correct to the best of its knowledge. Akatherm shall not accept any liability for data it issues. A reference to standards shall only serve as a description of the products, and therefore is not a guarantee obligation towards the Purchaser.

13. Industrial property

13.1 Akatherm shall expressly reserve all rights it has with respect to industrial and intellectual property regarding the products and/or documentation it supplies.

13.2 The Purchaser shall not be permitted to partially or completely alter delivered products, or affix a different brand name to said products, unless consent is expressly given in writing.

14. Force majeure

14.1 Should Akatherm not or partly not be able to fulfil its obligations under the respective agreement as a result of facts and circumstances that are reasonably beyond its control, Akatherm will be entitled to temporarily suspend its obligations towards the purchaser under the respective agreement until these circumstances or facts have ceased to exist. Should these facts or circumstances last for longer than six months, or are reasonably expected to continue, Akatherm will be entitled to cancel in part or in whole

the respective agreement without any judicial intervention, without being obliged to pay any compensation to the other party. Immediately after a force majeure situation has occurred, Akatherm should inform the purchaser of this.

14.2 Included in the facts and circumstances as meant in clause 14.1 are for instance war or similar situations, a state of siege, riots, sabotage, boycott, epidemics, natural disasters or lightning strikes, fire, explosion and leaching of dangerous substances or gases. This also includes work strikes, occupation, blockade, machine breakdown and other business interruptions at Akatherm and/or its suppliers, transport interruption, failure by suppliers and/or haulage companies and measures by the authorities (including a foreign authority) such as a prohibition on transport, import, export or manufacturing and moreover all other matters caused outside the fault or sphere of risk of Akatherm.

15. Applicable law

All offers by and/or agreements with Akatherm and the obligations arising from said offers and/or agreements, to which these Terms and Conditions partially or completely apply, shall only be subject to Dutch law.

16. Settlement of disputes

All disputes between parties, which cannot be resolved in mutual consultation, shall, at the discretion of Akatherm be adjudicated by the competent Dutch judge in the district where Akatherm has its registered office.

17. Headings

Headings placed at the top of each clause serve exclusively to make reading easier. No meaning as to their contents should be given to these headings and in particular they have no effect on the nature and extent of the mutual rights and obligations.

18. Conversion

Should a provision of an agreement or these conditions be regarded as null and void, or be annulled, the parties will be bound to a provision which is, as far as is possible, of like tenor and which is not subject to annulment.