

**1. Applicability**

1.1 THE APPLICABILITY OF ANY GENERAL TERMS AND CONDITIONS HANDLED BY THE OTHER PARTY IS EXPRESSLY REJECTED.

1.2 The present general terms and conditions shall apply to all legal relations in which AKAPP-STEMMANN BV, with registered office at Barneveld, hereinafter referred to as AKAPP-STEMMANN, acts as a (potential) seller and/or supplier of goods and/or services.

**2. Deviations**

Any deviations from the present general terms and conditions shall be expressly agreed upon in writing.

**3. Conclusion of Agreements**

3.1 All proposals submitted by AKAPP-STEMMANN shall be subject to change and confirmation, unless otherwise expressly agreed upon.  
 3.2 Upon the other party placing an order, the pertinent agreement shall only be deemed to have been concluded after AKAPP-STEMMANN has accepted such order in writing or has made a beginning with the performance thereof.

**4. Prices**

4.1 Unless provisions to the contrary have been explicitly made, all prices shall be ex factory and exclusive of Value Added Tax.  
 4.2 Unless otherwise agreed upon for a specific order, any changes in production costs, wages, prime costs and cost prices of raw and base materials and/or exchange rates and other similar factors affecting the performance agreed upon shall entitle AKAPP-STEMMANN to pass these on to the other party, without prejudice, however, to the legal provisions concerning changes in circumstances. In case delivery has not yet been made, AKAPP-STEMMANN shall be entitled to dissolve the agreement in whole or in part by giving the other party written notice to that effect by registered post.  
 4.3 In case of AKAPP-STEMMANN, in the course of implementing an order, having performed activities, operations and/or deliveries in excess of what had been originally ordered or specified, or in excess of what had been allowed for or considered by one or both of the parties, AKAPP-STEMMANN shall likewise be entitled to compensation for such excess performance.

**5. Delivery and Time of Delivery**

5.1 Times of delivery agreed upon with AKAPP-STEMMANN shall be deemed to be indicative rather than peremptory. Delivery times shall take effect upon an order having been confirmed by AKAPP-STEMMANN and when all data needed for performance and implementation are available to AKAPP-STEMMANN. Dates for delivery shall accordingly be extended for the duration of AKAPP-STEMMANN not being in possession of all data and information needed.  
 5.2 Unless otherwise agreed upon, delivery shall be Ex Works at Barneveld, Netherlands.  
 5.3 The version currently in effect of the Inco Terms shall be applicable.  
 5.4 AKAPP-STEMMANN shall be entitled to implement and charge for its performance in parts.

**6. Payment**

6.1 Invoices of AKAPP-STEMMANN shall be paid within 30 days after the invoice date in the manner to be indicated by AKAPP-STEMMANN. Payment shall be made effectively in the currency agreed upon, without any setoff, discount and/or respite being allowed. The other party shall be in default by the mere expiration of the term of payment without AKAPP-STEMMANN having received the payment due.  
 6.2 In case of any delay in payment, all liabilities of the other party, irrespective whether or not they have already been invoiced by AKAPP-STEMMANN, shall become due and payable with immediate effect.  
 6.3 In case of tardy payment the other party shall owe interest at the rate of 1.0 percent per month on the amount outstanding.  
 6.4 Any costs of collection incurred or to be incurred by AKAPP-STEMMANN shall be charged to the other party according to the collecting rates effective in the country or countries where collection is made, with a minimum of 15 percent of the claim. Judicial as well as extrajudicial costs of collection incurred by AKAPP-STEMMANN in protecting or enforcing its rights shall be charged to the other party.  
 6.5 Payments by or on behalf of the other party shall be in settlement and on account of extrajudicial costs of collection, judicial costs and interests owing by it, in that order, and thereafter, in order of date or age, in settlement and on account of the principal amounts which are open and outstanding, notwithstanding and irrespective of any different designation which may be or have been specified by the other party.  
 6.6 Any complaints about invoices shall be submitted by the other party within 14 days after the forwarding date thereof.

**7. Reservation of Ownership Rights**

7.1 AKAPP-STEMMANN shall reserve ownership of goods supplied or to be supplied by it until integral satisfaction shall have been given it for:

(a) the performance owing by the other party for all goods delivered or to be delivered under pertinent agreements, as well as for the operations and activities performed or to be performed under such agreements;  
 (b) claims for default on the part of the other party in satisfying such agreement or agreements.

7.2 The other party shall not plead or exercise any lien with respect to (storage) charges, and/or shall not compensate any such charges with or against the performance owing by it.  
 7.3 In case of the other party producing new goods from, or in part from, the goods referred to in paragraph 1, these shall constitute goods produced for and on behalf of AKAPP-STEMMANN itself. In such case the other party shall keep the goods for AKAPP-STEMMANN as owner, until the other party shall have satisfied all of its obligations referred to in paragraph 1.  
 7.4 In case of the other party being in default with respect to the performance referred to in paragraph 1, AKAPP-STEMMANN shall have the right to recover, or to have recovered, for the account of the other party, from the premises where they are held, the goods that belong to it. The other party herewith grants AKAPP-STEMMANN for such eventuality the irrevocable free access, by AKAPP-STEMMANN or its authorized representatives, to the premises used by or on behalf of the other party.  
 7.5 The other party herewith pledges to AKAPP-STEMMANN, which accepts this pledge, all goods of which the other party becomes owner or co-owner as a result of conversion, accession and/or merger with or into goods supplied or to be supplied by AKAPP-STEMMANN, as security for all that AKAPP-STEMMANN shall have to claim at any time from, on or against the other party.

**8. Security**

8.1 If there are grounds to fear that the other party may not promptly meet its obligations, the other party, pursuant to the first pertinent request of AKAPP-STEMMANN, shall immediately provide adequate security in the form desired by AKAPP-STEMMANN, and supplement this subsequently as may be necessary for the fulfillment of all of its obligations. For as long as the other party shall not have met these requirements, AKAPP-STEMMANN shall be entitled to suspend performing its obligations.  
 8.2 If the other party should fail to comply with a request as referred to in paragraph 1 within 8 days after a pertinent written demand having been made, or if the other party should give notice of not complying with such request, all of its liabilities shall immediately become due and payable. AKAPP-STEMMANN shall then be authorized to dissolve the agreement, without prejudice to its right of recovering its losses suffered or to be suffered from the other party.

**9. Intellectual Property and Know-how**

9.1 All documentation and literature, folders, proposals, drawings and other information, recorded in any way whatsoever, used by AKAPP-STEMMANN in performing the agreement or issued to the other party, shall remain the property of AKAPP-STEMMANN.  
 9.2 AKAPP-STEMMANN shall expressly retain ownership of all appliances accessories and other goods used in the performance of the agreement.  
 9.3 The other party shall not multiply or copy the documents referred to in paragraph 1, or disclose the data contained therein or having come to its knowledge in any other way to third parties, unless AKAPP-STEMMANN shall have granted its express consent thereto in writing.  
 9.4 The other party shall not use the documents, data and/or information referred to in paragraph 1 otherwise than for the purpose of evaluation of the performance to be provided by AKAPP-STEMMANN to the other party. Any other use of the goods and/or information made available to the other party shall require the prior written consent of AKAPP-STEMMANN.  
 9.5 In case no arrangement has been made concerning the acquisition of rights of industrial and/or intellectual property to results proceeding from the performance of an order, AKAPP-STEMMANN shall reserve the patent rights as well as any and all other rights of industrial and/or intellectual property.

**10. Guarantee**

10.1 Guarantee shall be defined as the written commitment of AKAPP-STEMMANN, in cases explicitly specified by it, to repair or replace without charge new goods (or, in its option, parts thereof) showing material or manufacturing faults, irrespective of, and without prejudice to, the other stipulations laid down in the present terms and conditions. Expressly excluded from guarantee shall be the serviceability or suitability of the goods supplied for a specific application or purpose, unless AKAPP-STEMMANN and the other party should have concluded a separate agreement for such purpose.  
 10.2 AKAPP-STEMMANN shall furnish guarantee for a period not exceeding 1 year. The term of guarantee shall take effect as of the delivery date of the part concerned for which guarantee is given. In case the invoice date precedes the date of delivery, the term of guarantee shall commence on the invoice date.

- 10.3 For any claims to guarantee it shall be established that:
- (a) the directions or instructions for use have been observed;
  - (b) the goods have been correctly and judiciously used;
  - (c) the goods supplied have not been repaired, adjusted, modified, etc., except by AKAPP-STEMMANN or with AKAPP-STEMMANN's consent;
  - (d) the goods have not been submitted to overloading;
  - (e) the goods have not been used in a manner differing from that reported to AKAPP-STEMMANN;
  - (f) the complaint is not due to normal wear or influences arising from goods that have been or were connected to the goods supplied by AKAPP-STEMMANN;
  - (g) the trouble is not due to outside causes or influences beyond the control of AKAPP-STEMMANN;
  - (h) the obligations of guarantee are capable of being performed at Barneveld, Netherlands.
- 10.4 Cables and hoses shall be excluded from guarantee.
- 10.5 In no case shall the guarantee extend to compensation for direct or indirect damage, costs or loss, of whatever nature, including those occasioned by disassembly, wages, travel time, travel expenses, subsistence, and the like. Under this guarantee, the other party shall not be entitled to any performance on the part of AKAPP-STEMMANN over and beyond that listed and specified in this article.
11. **Complaints, Obligation of Inspection, Limitation, Fulfillment**
- 11.1 Upon delivery of the goods, the other party shall be under the obligation to inspect whether the goods meet the specifications laid down in the agreement. Any apparent or perceptible defects in or of any delivery and/or any variations in or of the goods delivered with respect to those ordered and/or in or of the number stated to have been delivered shall at all times be promptly reported to AKAPP-STEMMANN by telephone and confirmed within 24 hours in writing with a statement of all relevant particulars.
- 11.2 In case of the goods not being in accordance with the agreement, in respects other than those referred to in paragraph 1, the other party shall have no further recourse if it fails to notify AKAPP-STEMMANN thereof in writing, sustained by arguments, at the earliest possible time, and at any rate not later than 6 days following the delivery. The provisions in this paragraph shall not entail any prejudice to such separate and explicit guarantees as may have been granted by AKAPP-STEMMANN for new goods.
- 11.3 The other party shall take the necessary measures for enabling AKAPP-STEMMANN, or such experts as may be employed by it, to assess the complaint. The other party shall show on request of AKAPP-STEMMANN that the provisions laid down in article 10, paragraph 3, have been complied with.
- 11.4 Claims and pleas based on facts appearing to substantiate the allegation of the goods delivered not being in accordance with the the agreement shall become barred by prescription through lapse of 1 year after delivery.
- 11.5 In case of the goods delivered not being in accordance with the agreement, AKAPP-STEMMANN, in its option and discretion, shall only be liable to supply what is missing of the goods delivered, or to repair or to replace the goods delivered. AKAPP-STEMMANN shall be free, before proceeding to replacement of goods falling under a guarantee, to stipulate that such goods shall be forwarded to it carriage prepaid (at the risk and expense of the other party), with simultaneous transfer of ownership to AKAPP-STEMMANN. Such shipment and transfer of ownership shall not take place until after AKAPP-STEMMANN shall have granted its written consent thereto.
- 11.6 AKAPP-STEMMANN shall be free, instead of proceeding to repair or replacement as referred to in paragraph 5, to deduct an amount from the pertinent invoice.
12. **Measures, Weights, Numbers, and Other Data**
- 12.1 Minor variations from stated measures, weights, numbers, colours, and other similar data shall not be considered faults or defects, unless AKAPP-STEMMANN should have given express guarantees for them in writing.
- 12.2 Commercial practice shall determine whether minor variations are at issue.
13. **Dissolution and Release**
- 13.1 If the other party does not, or not properly or not in time, satisfy any obligation arising for it from the agreement, as well as in the case of bankruptcy, or of a moratorium, or the state of receivership of the other party, or of suspension or liquidation of its business, AKAPP-STEMMANN, in its option and discretion, shall be entitled, without being liable to provide compensation, and without prejudice to any of its other rights, to dissolve the agreement in whole or in part, and/or to suspend the (further) performance of the agreement. AKAPP-STEMMANN in these cases shall furthermore be entitled to claim immediate payment for anything and everything due to it.
- 13.2 If the proper fulfillment by AKAPP-STEMMANN should be impossible in whole or in part, either temporarily or permanently, on account of circumstances beyond the responsibility and control of AKAPP-STEMMANN, including the circumstances listed in the next paragraph, AKAPP-STEMMANN shall be the sole party having the right to dissolve the agreement.
- 13.3 Circumstances which in any event shall be outside the liability of AKAPP-STEMMANN shall be constituted by: the behaviour and actions, save guilty intent or gross neglect, of persons employed by AKAPP-STEMMANN in implementing the agreement; the exercise by a third party towards the other party of one or more rights in respect to a failure on the part of the other party in meeting an agreement concluded between the other party and that third party concerning the goods supplied by AKAPP-STEMMANN; government measures; strikes, lockouts; illness; import, export and/or transit prohibitions; problems involving industrial equipment and the supply of raw materials and/or energy; transport problems; nonperformance of commitments or obligations by subcontractors or other suppliers; forces of nature and climatological influences; nuclear influences; war and/or threat of war.
- 13.4 In case of the other party failing to cooperate towards taking delivery, and 48 hours after the moment of first having been enabled to take delivery of the goods still having failed to cooperate towards delivery being made, AKAPP-STEMMANN shall be released from its obligations. This shall leave unimpaired AKAPP-STEMMANN's claim to payment for the invoices relating to the pertinent order of the other party.
14. **Export Rules and Regulations**  
The other party shall comply with all applicable national and international laws and regulations governing the exportation and re-exportation of goods supplied to it.
15. **Damage**
- 15.1 AKAPP-STEMMANN shall only be liable for damages imputable to its guilty intent or gross neglect.
- 15.2 AKAPP-STEMMANN shall never be liable for compensations for damages other than damage or loss to persons or goods.
- 15.3 Damages for which AKAPP-STEMMANN should be liable under the present terms and conditions shall in any event remain restricted to the invoice value of the good or goods involved which had or have directly caused the damage at issue, with a maximum € 45,000 per event per year. The restrictions stated in this paragraph shall be removed by AKAPP-STEMMANN in case and to the extent of its having been able to recover, and of its effectively having recovered, from third parties (including insurers) the damage incurred.
- 15.4 The other party shall hold AKAPP-STEMMANN harmless from claims of third parties on account of damage or loss for which AKAPP-STEMMANN is not liable under the present terms and conditions.
- 15.5 AKAPP-STEMMANN shall stipulate for all legal and contractual defences capable of being invoked for averting its own liability towards the other party, also on behalf of its employees and those who are not its subordinates but for whose conduct and actions it would be liable in law.
- 15.6 The provisions laid down in this article shall leave intact, and shall constitute no prejudice to, the legal liability of AKAPP-STEMMANN under enactments of imperative law.
16. **Applicable Law; Competent Judge**
- 16.1 All legal relations between AKAPP-STEMMANN and the other party shall be governed by the Law of the Netherlands.
- 16.2 Any and all disputes between AKAPP-STEMMANN and the other party, and belonging to the competence of a District Court, shall be tried exclusively at Arnhem, Netherlands, except in the case AKAPP-STEMMANN, in the capacity of claiming or petitioning party, should opt for another, likewise competent Court.
17. **Interpretation and Conversion**
- 17.1 The provisions laid down in the present terms and conditions shall be correspondingly applicable to the performance of services.
- 17.2 If and insofar as any provision of the present terms and conditions cannot be invoked in reason and fairness, or because of a possibly burdensome character, such provision shall be given a meaning approaching it as far as possible in content and purport, in such a way as to allow it to be invoked as effectively as the other provisions.
18. **Prevalence of the Dutch Version**  
The Dutch version of these general terms and conditions shall prevail over any translations thereof.
- The present general terms and conditions (version of 12 December 1995) have been lodged at the Office of the Clerk of the District Court at Arnhem, Netherlands.
- AKAPP-STEMMANN B.V., Nijverheidsweg 14, 3771 ME Barneveld, Netherlands, registered pursuant to the Dutch Business Names Act in the Registry of Companies at Arnhem, Netherlands, under No. 09059684.