



GENERAL TERMS AND CONDITIONS OF INTERCARPET B.V.

Article 1 Definitions

In these general terms and conditions (the 'general conditions') the following terms shall have the following definitions, unless expressly stated otherwise:

The Seller: Intercarpet B.V., or any group company associated with Intercarpet B.V. as defined by Book 2 Article 24b of the Dutch Civil Code, that relies on these general conditions, jointly or individually;

The Buyer: the party that contracts with the Seller;

Contract: the agreement between the Buyer and the Seller.

Article 2 General

- 2.1 These general conditions apply to any invitation to order, offer, and contract between the Seller and the Buyer, insofar as they have not been expressly excluded in writing by the parties.
- 2.2 These general conditions also govern all Contracts which the Seller engages third parties to perform.
- 2.3 The applicability of any general terms and conditions of the Buyer is expressly excluded, unless agreed otherwise in writing.
- 2.4 If the Seller and Buyer enter into further Contracts in the future, all those Contracts will be governed by these general conditions whether this is expressly stated at the time or not.
- 2.5 If any provision of these general conditions proves to be void or voidable, then the other provisions shall remain fully enforceable.

Article 3 Offers, orders and contracts

- 3.1 All offers of any kind are subject to contract.
- 3.2 A Contract to which the Seller is a party will come into effect:
 - a) once it has been signed by both parties; or
 - b) following written acceptance by the Buyer of an offer made by the Seller, unless the Seller revokes its offer immediately following acceptance by the Buyer;
 - c) in the absence of a written contract, as soon as the Seller starts to perform its obligations. In the event of an oral contract the invoice is deemed to fully and accurately set out the terms of the contract, unless a complaint is made within 30 days of the invoice date.
- 3.3 The Seller reserves the right to refuse an order without the need to give reasons.
- 3.4 If the terms of acceptance differ from the terms set out in the offer – even on a minor point – the Seller will not be bound by the acceptance. The agreed contract terms will not then be the different terms contained in the acceptance unless the Seller indicates otherwise.
- 3.5 The prices stated in any offer are in euros, net of VAT and any other state taxes, and net of postage and packaging costs, unless expressly agreed otherwise.

Article 4 Models/images/samples

- 4.1 Any model, image or sample that is shown to the Buyer is deemed only to be an indication: the characteristics of the goods to be delivered may differ from those of any model, image or sample unless it is expressly agreed that the goods to be delivered should conform in all respects to the said model, image or sample.
- 4.2 The Buyer must carefully inspect all samples it has received, whether or not at the request of the Seller, for any mistake, defect, and fitness for purpose and application, and promptly notify the Seller in writing of its findings. The Buyer's approval of any samples constitutes acknowledgement by the Buyer that the Seller has correctly performed its work in respect of those samples.
- 4.3 Any sample manufactured at the request of the Buyer will be invoiced to the Buyer unless the parties have expressly agreed otherwise.
- 4.4 The models, images, quantities, colours, sizes, weights, specifications and descriptions contained in catalogues, offers, advertisements, price lists, and websites are indicative only.
- 4.5 Limited deviations in quality, measurements, weight, colour and/or other specifications that are technically unavoidable or permitted in accordance with good business practice, do not constitute any breach by the Seller of its contractual obligations.



- 4.6 The Buyer's drawings, dies, models, templates, moulds and tools are deemed to be correct and adequate. The Seller is under no obligation to further check that this is the case.
- 4.7 The drawings, dies, models, templates, moulds and tools owned by the Buyer or supplied by or via the Buyer to the Seller will be returned to the Buyer upon completion of the Contract at the expense of the Buyer. The Seller is entitled to suspend the return of such items until all its rights against the Buyer (including its rights under previous or subsequent Contracts) have been satisfied.

0 Performance of the contract

- 5.1 The Seller will perform the Contract to the best of its ability in accordance with the standards set by good business practice, in accordance with the state of the art in the Netherlands at such time.
- 5.2 The Seller will determine how the Contract is to be performed insofar as not expressly agreed otherwise in writing between the parties.
- 5.3 If and insofar as in the opinion of the Seller it is required for the proper performance of the Contract, the Seller may specify the persons to perform certain work, including third parties. The provisions of Book 7 Articles 404 and 407(2) of the Dutch Civil Code are expressly excluded. The Buyer shall ensure at its own expense that all data and items that the Seller indicates are necessary for the performance of the Contract, or that the Buyer ought reasonably to know are necessary for the performance of the Contract, are made available to the Seller in good time. If the data and items required for the performance of the Contract are not provided to the Seller in good time, the Seller is entitled to suspend the performance of the Contract and/or to charge the Buyer at the then current rates for the additional costs resulting from the delay.
- 5.4 The Seller is not liable for loss of any kind resulting from information provided by the Buyer and relied upon by the Seller that is incomplete or incorrect.
- 5.5 The costs incurred by the Seller in the event that the conditions of section 5.4 of this article are not complied with on time or at all, are the liability of the Buyer.
- 5.6 The Seller is entitled to make part-deliveries of the goods and to invoice such part deliveries separately.
- 5.7 If the Contract is to be performed in stages, the Seller is entitled to suspend performance of tasks that form part of a subsequent stage until such time as the Buyer has approved the results of the completed stage.
- 5.8 Seller reserves the usual tolerances of the industry for quantity and technical data such as sizes, weights, colour (authenticity), finish of the pole and the like.
- 5.9 Seller is entitled to deliver within the usual tolerances of the industry more or less than the quantities he has specified. The quantity actually delivered is billed.

Article 6 Delivery

- 6.1 Goods will be delivered in accordance with the Incoterm 'Ex Works', unless the parties have agreed otherwise.
- 6.2 If the Seller delivers the goods, they will be delivered to the most recent delivery address notified to the Seller by the Buyer.
- 6.3 If by virtue of the agreed Incoterm or other agreed delivery terms the goods have been made available, or offered for delivery to the Buyer, the Buyer must accept delivery of the goods. If the Buyer for whatever reason does not accept delivery of the goods, then legal delivery may be deemed to have occurred without transfer of possession, by means of written notice from the Seller.
- 6.4 If the Buyer refuses to accept delivery of the goods or fails to provide the information or instructions required for delivery, then the Seller is entitled to store the goods at the expense and risk of the Buyer.
- 6.5 If after a period of two weeks following the agreed delivery date the Buyer has still not accepted delivery of the goods, the Buyer will automatically be in breach without the need to have first been served with notice of default, and the Seller is then entitled to terminate the Contract and to sell the goods to a third party. The costs thereby incurred, together with any reduction in sale price from the sale of the goods are at the risk and expense of the Buyer.
- 6.6 The Seller is entitled to deliver the goods cash on delivery.
- 6.7 If the Seller requires information from the Buyer for the purposes of performing the Contract, the delivery period starts to run as from such date on which the Buyer supplies this information to the Seller.
- 6.8 If the Seller has indicated a delivery period, this is approximate only. A delivery period is not a deadline. If delivery is not made within the delivery period, the Buyer must serve written notice of default upon the Seller, stipulating a further reasonable period within which the Seller should comply with its obligations.
- 6.9 If the Buyer makes changes to an order that mean that the performance of the Contract will require more time, the delivery date will be extended by the amount of this time.



- 6.10 The Seller is entitled to require an advance payment. Once the advance payment has been made, the goods will be delivered to the Buyer, unless the parties have agreed otherwise.

Article 7 Inspection, complaints

- 7.1 The Buyer should inspect the goods or completed work at the time of delivery. This means that the Buyer should as a minimum check:
- whether the right goods have been delivered;
 - whether the goods meet the agreed terms concerning quantity and quality;
 - whether in the case of delivery other than 'Ex Works' the goods have been damaged in transit.
- 7.2 Any visible defects should be notified by the Buyer to the Seller in writing within 14 days following delivery. All rights of the Buyer against the Seller in respect of visible defects or deficiencies will lapse if the Buyer has not notified the Seller of these defects or deficiencies in writing within this period.
- 7.3 Any latent defects must be notified to the Seller in writing within 14 days of their discovery or of the date by which they reasonably ought to have been discovered, and in any event within six months following the delivery date. All rights of the Buyer against the Seller in respect of latent defects or deficiencies will lapse if the Buyer has not notified the Seller of these defects or deficiencies in writing within this period.
- 7.4 Indications of quality, structure, size, colour and finish of the pole are given only approximately and are only indicative in nature. Derogations based on these indications are not such as to result in non-conformity, provided that these deviations are technically reasonably unavoidable and/or common and acceptable within the industry.
- 7.5 The notice of default as referred to in sections 2 and 3 of this article should describe the breach in as much detail as possible, so that the Seller is able to respond adequately. The Buyer should enable the Seller to investigate the complaint.
- 7.6 A note of any damage to the packaging or to the goods should be made on the packaging slip /CMR and also notified to the Seller in writing.
- 7.7 The Seller will investigate the complaint as soon as notice has been received unless the complaint has not been made in time, as pursuant to sections 2 and 3 of this article.
- 7.8 Even if a complaint is made in time, the Buyer must nevertheless take delivery of, and pay for, the purchased goods. If the Buyer wishes to return defective goods it must first obtain the written consent of the Seller. Goods should be returned postage paid in an undamaged state and in their original packaging.
- 7.9 Any right of claim by the Buyer against the Seller becomes unenforceable one year after the Buyer becomes aware of this right of claim, unless the Buyer commences legal proceedings against the Seller within this period.

Article 8 Transfer of risk

- 8.1 If the Buyer refuses to accept delivery of the goods, the Seller's rights against the Buyer, including the cost of transportation and storage, are immediately payable by the Buyer.
- 8.2 The risk of damage or loss to goods that are the subject of a Contract transfers to the Buyer at the moment such items are actually delivered to the Buyer, as stated in article 6.

Article 9 Force majeure

- 9.1 The Seller cannot be held liable for any breach that is the result of force majeure.
- 9.2 In these general conditions, the term 'force majeure' includes, in addition to the definition in statute and case law, any foreseen or unforeseen circumstance over which the Seller has no control and due to which the Seller is unable to meet its obligations, such as work stoppages within the Seller's business, fire, energy supply/computer disruptions, traffic jams, export restrictions, stoppages in the delivery of suppliers of raw materials and shortages in the supply of the necessary raw materials and of other goods or services needed for the performance of the Contract.
- 9.3 During the period of force majeure, the parties may suspend their contractual obligations. If this period continues for longer than two months, either party may terminate the Contract without thereby incurring any obligation to pay compensation to the other party.
- 9.4 Insofar as at the time that force majeure occurs the Seller has complied in part with its contractual obligations, or is able to do so, and the part that has been or can be performed provides value in itself, the Seller is entitled to charge separately for the said part, and the Buyer must pay such invoice as though it pertained to a separate Contract.



Article 10 Suspension and termination

- 10.1 The Seller's rights against the Buyer become immediately enforceable, without the need to serve notice of default, and the Seller is entitled to suspend performance of its contractual obligations or terminate the Contract without said notice of default, if:
- the Buyer fails to comply with its contractual obligations on time, in full or at all;
 - after entering into the Contract, the Seller learns of facts justifying a fear that the Buyer may not meet its obligations on time, in full or at all;
 - there is an application made for the liquidation of the Buyer, or the Buyer applies for voluntary liquidation or a (provisional) moratorium, or assets of the Buyer are attached and such attachment is not lifted within a period of three months;
 - when entering into the Contract, the Buyer is requested to provide a guarantee for performance of its contractual obligations and it fails to prove any, or any adequate, guarantee.
- 10.2 Furthermore, the Seller is entitled to terminate the Contract if circumstances arise that are of such a nature that either the performance of the Contract becomes impossible or the Seller cannot be reasonably expected to comply with the Contract, or if circumstances arise that are of such a nature that Seller cannot be reasonably expected to comply with the original terms of the Contract without changes thereto.
- 10.3 If the Contract is terminated, the Seller is not obliged to pay any compensation to the Buyer and the termination releases both parties from their obligations under the said Contract. Insofar as such obligations have already been complied with, the parties are under an obligation to undo their respective performance.
- 10.4 If the Seller suspends performance of its obligations, it retains its rights to claim under the law and under the terms of the contract.
- 10.5 The Seller reserves the right to claim compensation.

Article 11 Cancellation

- 11.1 If having entered into a Contract the Buyer wishes to cancel the Contract, it will be charged 10% of the amount of the order (including BTW) as a cancellation penalty, without prejudice to the right of the Seller to claim compensation for the full amount of its loss, including loss of profit.
- 11.2 If as a result of cancellation the Buyer refuses to purchase goods already manufactured by the Seller specifically for the Buyer, the Buyer must reimburse the Seller for all costs thereby incurred.
- 11.3 Notice of cancellation must be sent by registered post.

Article 12 Price and costs

- 12.1 The Seller must notify the Buyer regarding any intention to increase prices or rates, the amount of the increase, and the date on which it is to come into effect.
- 12.2 The Seller is entitled to charge a credit limit surcharge of 2%, which is only payable in the event that payment is not made within eight days of the invoice date.

Article 13 Payment

- 13.1 Unless agreed otherwise, payment must be made within 30 days of the invoice date by transfer of the amount invoiced, in the currency invoiced, into the bank account of the Seller. Objections to any amount invoiced do not suspend the obligation to pay.
- 13.2 If the Buyer fails to pay an invoice within 30 days it is automatically in breach, without the need to be served notice of default. In such a case, the Buyer is liable to pay interest at the rate of 1% per month or part month, or at the statutory or commercial rate, whichever is highest. Interest on the sum claimable is calculated from the date on which the Buyer is first in breach up to the date of payment of the full amount of the claim.
- 13.3 Payments are firstly set against accrued costs, then against accrued interest, and finally against the principal sum and continuing interest.
- 13.4 The Buyer is not entitled to set off, suspend, or apply any discount to a payment.

Article 14 Enforcement costs

- 14.1 If the Buyer is in breach of its obligations it is liable for all costs reasonably incurred in the extrajudicial



enforcement of payment. In the event of a monetary claim, the Buyer is as a minimum liable for the following enforcement costs:

Principal sum up to and including	Relevant percentage	Maximum
€ 2,500	15% of the principal sum	€ 375 (min. € 40)
€ 5,000	€375 + 10% of (principal sum - €2,500)	€ 625
€ 10,000	€625 + 5% of (principal sum - €5,000)	€ 875
€ 200,000	€875 + 1% of (principal sum - € 10,000)	€ 2,775
Above € 200,000	€ 2,775 + 0.5% of (principal sum - € 200,000)	€ 6,775

- 14.2 If the Seller can show it has incurred additional costs that were reasonably necessary, the extra costs are also eligible for reimbursement. Any court costs and the costs of enforcing a court order are also the liability of the Buyer, insofar as the court has found mainly against the Buyer in judicial proceedings between the Buyer in and the Seller.

Article 15 Warranty

- 15.1 The Seller warrants that its goods will be free from design and manufacturing faults for a period of six months following delivery, subject to the provisions of Article 7. Any liability of the Seller for defects arising thereafter is excluded .
- 15.2 The Buyer should inspect the goods on delivery to ensure they are fit for purpose. The Seller does not give the Buyer any warranty regarding fitness for purpose, colourfastness, composition, and materials used in the goods it manufactures and excludes any liability for any loss arising therefrom.

Article 16 Liability and indemnity

- 16.1 The Seller is not liable for loss of any kind if the Buyer is in breach of its obligations under Article 7 section 1 and has not reported the defects in accordance with Article 7.
- 16.2 If a defect or deficiency is attributable to the Seller and liability for the loss arising therefore has not been excluded, the Buyer is entitled only to the repair of the goods or the making up of the deficiency if the defect or deficiency is outside permitted tolerances.
- 16.3 As an exception to the preceding section, the Seller may choose to replace the goods, or to terminate all or part of the Contract, so that goods or part thereof are returned to the Seller and the purchase price or part thereof refunded to the Buyer. The Buyer is only entitled to a replacement of the goods if their repair is not possible. Goods that are replaced become the property of the Seller.
- 16.4 The Seller is not liable for:
- discrepancies, damage, errors or defects that were unobserved by the Buyer in approved samples;
 - loss arising from assumptions made by the Seller on the basis of incorrect information supplied by the Buyer;
 - indirect loss, including consequential loss, loss of profits, missed savings and loss from business stagnation;
 - loss resulting from raw materials or dyes banned as a result either of changes after the Contract date made to, or of ambiguously drafted, environmental legislation or standards;
 - unlawful, improper or unprofessional use of the goods by the Buyer or a third party;
 - discolouration and shrinkage;
 - loss resulting from the goods being unusable or unsuitable;
 - loss resulting from unsound foundation;



- loss resulting from noncompliance with instruction for use;
 - incorrect treatment or cleaning.
- 16.5 Any liability of the Seller is limited to a maximum of the amount paid out by the Seller's insurer in the relevant claim. If any claim is not covered by the Seller's insurer, the liability of the Seller is limited to a maximum of the sum invoiced, or the part of the sum invoiced to which the liability relates.
- 16.6 If the seller is liable for direct damage, the liability is limited to the value of the products delivered.
- 16.7 The Seller is not liable for loss arising from advice it may give. Advice given by the Seller is based on facts known to the Seller and in consultation with the Buyer, whereby the Seller bases such advice on the intentions of the Buyer.
- 16.8 The limitations on liability set out in these general conditions do not apply if the loss is the result of a deliberate act or gross negligence on the part of the management of the Seller.

Article 17 Intellectual property and copyright

- 17.1 Notwithstanding the provisions of these general conditions, the Seller reserves all intellectual and industrial property rights including, but not limited to, copyright, trademark rights, patents, model rights and the rights to trading names. Unless agreed otherwise in writing all intellectual and industrial property rights to the goods remain with the Seller even if the Buyer is charged for the same. The same applies to designs, half-finished goods, packaging, labels, drawings, models, designs and know how.
- 17.2 The Buyer is not permitted to supply the Seller's intellectual property rights to any third party, or to disclose, copy, exercise, or provide information about such rights without the prior written consent of the Seller. All documents created by the Seller must be returned to the Seller on demand.
- 17.3 The Buyer guarantees to the Seller that the performance of the Contract does not infringe any industrial or intellectual property rights of third parties. The Buyer indemnifies the Seller against any third-party claims arising hereunder.

Article 18 Export/transport

- 18.1 Unless agreed otherwise in writing, payment for export transactions should be made in advance.
- 18.2 The Buyer guarantees that if and insofar as any import certificate or licence is required for the import of goods into the country where they are to be delivered, such an import certificate or licence has been or will be obtained prior to transportation.
- 18.3 If the Seller is responsible for the transportation or storage of goods pertaining to the Contract then this will be done at the expense and risk of the Buyer.
- 18.4 If and insofar as the Seller is responsible for transportation, storage, delivery, packaging, etc., then, insofar as the Buyer has not given the Seller any instruction in any such regard, the Seller will determine the manner in which this is done. Unless agreed otherwise, the risk transfers in accordance with the Incoterm 'Ex Works'.
- 18.5 Any specific requirements of the Buyer concerning transportation/delivery/storage will only be performed at the Buyer's expense.

Article 19 Retention of title

- 19.1 Goods supplied by the Seller shall remain the property of the Seller until the Buyer has complied fully with all its following contractual obligations:
- obligations relating to the goods themselves (whether or not yet delivered);
 - obligations relating to the services supplied or to be supplied by the Seller under the Contract(s);
 - any claims based on noncompliance by the Buyer with any obligations under the Contract(s).
- 19.2 Goods delivered by the Seller that are subject to the retention of title under section 1 of this article may only be sold on or processed in the normal course of business, and provided that in respect of such goods the Buyer also stimulates a retention of title. For the purposes of this section, 'selling on or processing in the normal course of business' expressly excludes the insolvency of, or grant of a moratorium to, the Buyer. The Buyer is furthermore not permitted to pledge the goods or attach any other right to them.
- 19.3 If the Buyer fails to meet its obligations or if there is a well-founded fear that it will not do so, the Seller is entitled to remove (or arrange for removal of) goods that are subject to retention of title referred to in section 1 of this article and that are in the possession of the Buyer or of a third party holding them for the Buyer. The Buyer hereby gives consent to the Seller to enter any premises where the Seller's property is being kept. The Buyer is also required to provide every assistance in this respect, failing which it is liable to



pay an immediate penalty without the need to first be served with notice of default, of 10% per day of the sum owed.

- 19.4 Once the Seller has recovered from the Buyer any goods subject to retention of title the Buyer will be credited a sum equal to the purchase price as on the day the goods are collected, subject to this sum not exceeding the amount invoiced to the Buyer. The Seller may set off against the amount to be credited a sum representing diminution in value as a result of, for example, damage or ageing, as well as the costs incurred by the Seller.
- 19.5 If any third party seeks to encumber these goods, or seeks to enforce rights thereto, the Buyer must notify the Seller of this fact as soon as possible.
- 19.6 The Buyer undertakes:
- to insure at all times the goods subject to retention of title against damage and loss (including against theft) and to provide the policy for inspection;
 - to pledge to the Seller on demand all rights of the Buyer against insurers relating to the goods held under retention of title;
 - to pledge to the Seller on demand all rights acquired by the Buyer against its purchasers by virtue of a further sale of goods supplied by the Seller under a retention of title;
 - to pledge to the Seller on demand goods in which ownership has passed to the Buyer as a result of payment as additional security for all other rights that the Seller may have against the Buyer;
 - to identify the goods delivered under retention of title as property belonging to the Seller; to otherwise cooperate with all reasonable measures that the Seller wishes to take to protect its retention of title to the goods insofar as these do not unreasonably hinder the Buyer in the normal conduct of its business.

Article 20 Translations of these general conditions

The Dutch language version of these general conditions is the original version. If these general conditions have been drafted in any other language, this will be a translation of the original Dutch text. If there is any discrepancy between the Dutch text and a translation thereof, the Dutch text will take precedence. The Dutch text has been filed with the Chamber of Commerce in Zwolle, as specified in Article 23.

Article 21 Disputes

Any dispute arising between the parties in respect of a Contract between them should first be brought before a court with jurisdiction for the place where the Seller has its registered office. However, the Seller is entitled to bring any dispute before any competent court as defined by law.

Article 22 Applicable law

Contracts between the Seller and the Buyer are governed by Dutch law. The terms of the Vienna Sales Convention (CISG) are hereby expressly excluded.

Article 23 Filing

These general conditions have been filed with the Chamber of Commerce in Zwolle.