

# GENERAL TERMS AND CONDITIONS OF SALE



## GENERAL PROVISIONS

### Clause 1 – Definitions

This document uses the following definitions:

IceBear:	IceBear Steenwijk B.V. and all entities affiliated to it as referred to in Article 2:24a Dutch Civil Code which enter into the Agreement and apply these General Terms and Conditions.
Buyer:	Any natural person or legal entity that orders Goods from IceBear and/or with whom IceBear negotiates the Contract for Services.
Contract for Services:	IceBear's order from the Buyer to deliver Goods.
Goods:	All goods delivered or to be delivered in the performance of a Contract for Services, irrespective of whether the Contract for Services exclusively concerns the delivery of those goods or also the performance of services.
Agreement:	The agreement between Buyer and IceBear with regard to the Contract for Services.

### Clause 2 – Applicability of These Terms and Conditions

1. The General Terms and Conditions of Sale apply to all IceBear's current and future offers of and agreements with the Buyer to sell Goods. The General Terms and Conditions of Sale also apply to negotiations on such orders or agreements, even if such negotiations do not lead to the conclusion of an agreement.
2. Stipulations deviating from these General Terms and Conditions of Sale, including any conditions of sale of the Buyer, are valid only if and insofar as these are explicitly accepted by IceBear in writing before the agreement concerned. Such acceptance does not imply that this deviation also applies or will apply to other agreements.
3. If one or more provisions of these General Terms and Conditions of Sale are invalid, the validity of the rest of these General Terms and Conditions of Sale is not affected.
4. In the event of any discrepancy or conflict between these General Terms and Conditions of Sale on the one hand and the offer or the Agreement on the other, the text of the offer or the Agreement prevails. If there is no discrepancy or conflict, these General Terms and Conditions of Sale supplement the Agreement and form an integral part of it.
5. IceBear's General Terms and Conditions of Sale apply to offers made by and agreements entered into with IceBear's suppliers for the purchase of Goods by IceBear. These are included in a separate document.

### Clause 3 – Applicable Law and Court with Jurisdiction

1. The General Terms and Conditions of Sale and all Agreements to be entered into with IceBear are subject to Dutch law. Applicability of the United Nations Convention on Contracts for the International Sale of Goods (Vienna Sales Convention, CISG) is excluded.
2. All disputes arising from these General Terms and Conditions of Sale or from the Agreement shall be submitted to the Zwolle District Court.

### Clause 4 – Validity of Provisions

1. If any provision in these General Terms and Conditions of Sale is void or voided, the other provisions of these General Terms and Conditions of Sale shall remain in effect and the parties must consult with each other to agree new provisions to replace the void or voided ones. In doing so, the purpose and meaning of the void or voided provision or provisions is taken into account as much as possible.

### Clause 5 – Offers and Confirmations

1. All offers are without obligation, unless explicitly agreed otherwise in writing.
2. Agreements entered into through representatives or intermediaries shall take effect after written confirmation by IceBear. In the absence of written confirmation, the dispatch of the invoice will also be regarded as order confirmation.
3. If an offer made by IceBear does not lead to any Agreement, IceBear may nevertheless charge the Buyer for all costs it has incurred to make the offer.
4. The General Conditions apply to all offers from prospective buyers and other Agreements.

### Clause 6 – Prices, Payment and Non-payment

1. IceBear may increase costs that also occur in connection with the delivery after the date of sale and before the date of delivery (such as an increase in VAT, government levies, purchase prices).
2. IceBear may require advance payment. If payment in advance has not been agreed, a payment term of 30 days after the invoice date applies. IceBear may terminate or suspend current agreements with immediate effect if the Buyer does not pay an outstanding invoice within the payment period and is not prepared to offer IceBear adequate security for what the Buyer still owes and will owe IceBear within eight (8) days.
3. If payment has not been made within the agreed payment term, the Buyer immediately owes IceBear interest. The interest is 12% annually, but is equal to the statutory interest rate if that is higher. In calculating interest, part of a month is regarded as a full month. In addition, IceBear has the right to take judicial or extra-judicial collection measures. The costs associated with these are borne by the Buyer. These costs are fixed at 15% on the first €5,000, 10% on the excess up to €25,000 and 5% on the excess up to €60,000 and must amount to at least €1,000.
4. IceBear may set off its debts to the Buyer against claims of companies affiliated with the Buyer. In addition, IceBear may set off its debts to the Buyer against debts of IceBear's affiliated companies to the Buyer. IceBear may also set off its debts to the Buyer against claims of companies affiliated with the Buyer. Affiliated companies are companies that belong to the same group within the meaning of Article 2:24b Dutch Civil Code and a participation within the meaning of Article 2:24c Dutch Civil Code.

### Clause 7 – Purchase Obligation

1. If, in the event of an agreed delivery on demand within the period determined in advance, the Buyer, without being entitled to do so towards IceBear, has not purchased the Goods within this period, or at least has not purchased them within three months of the sales date, IceBear may cancel or terminate the orders that have not been accepted (as well as all other current orders or parts of orders) without IceBear being obliged to pay any compensation, without prejudice to IceBear's right to claim compensation from the Buyer.

### Clause 8 – Delivery Periods

1. The delivery periods are indicative and are expressly not considered firm deadlines. Exceeding a delivery period does in no case entitle the other party to compensation or termination.
2. If the Buyer is liable for an advance payment or the Buyer must make information, instructions or materials necessary to implement the Agreement available to IceBear, the delivery period will not start before payment has been received in full or the information, instructions and/or materials have been made available in full, respectively.

### Clause 9 – Force Majeure

1. IceBear may be excused from not performing or postponing performance, in whole or in part, in the event of and to the extent that natural disaster, war, riot, strikes, staff disputes, pandemic, unforeseen availability, fire, explosion, flood, sabotage, compliance with laws and regulations, national defence requirements, or any other event beyond IceBear's reasonable control prevents delivery of the Goods of the Agreement.

### Clause 10 – Delivery and Transfer of Risk

1. IceBear delivers the Goods Ex Works (EXW) Incoterms 2020. The Buyer is responsible for all costs and risks related to packaging, loading, transport from the IceBear premises to the desired destination.
2. If delivery is not made ex works and no specific means of dispatch has been agreed, IceBear determines the means of dispatch. If delivery is not made ex works, delivery is deemed to have taken place:
  - in case of dispatch by a professional carrier, by handing over the Goods to the carrier;
  - in case of dispatch by means of the Seller: by delivery or offer for delivery to the Buyer's home or warehouse or to the receipt address specified by the Buyer in writing in advance.
3. All transport costs are borne by the Buyer. In all cases, the transport risk is borne by the Buyer, even if the transport takes place from, by or at the expense of IceBear. With due observance of the above, IceBear takes out insurance for transport up to the amount of the selling price of the Goods. Transport costs are borne by the Buyer. The Goods shall be insured against the normal risk of transport, i.e. not against vandalism or other extraordinary risks. The Buyer must report damage or loss in writing to the carrier and to IceBear within 24 hours of delivery.

### Clause 11 – Liability and Indemnity

1. In the event of failure in the performance, IceBear is not liable for consequential damage, trading loss, property damage, personal injury or any other damage whatsoever which may be caused directly or indirectly to the Buyer and/or third parties, except in the case of intent or gross negligence. IceBear is at most obliged to redeliver the item or service, or, if delivery is no longer reasonably possible, to apply a reasonable price reduction. Minor deviations in dimensions that are considered acceptable in commerce or that cannot reasonably be avoided as a result of differences in, for example, the thickness of wood and due to stretching and shrinkage, do not constitute a failure or a breach.
2. Any liability of IceBear is limited to the damage that was foreseeable as a possible consequence of the act requiring compensation, with a maximum of the amount paid out in the case in question under its liability insurance policy, increased by the amount of the excess that is not payable by the insurer under the terms of the policy.
3. If, for whatever reason, IceBear cannot invoke the limitation of paragraph 2 of this article, the obligation to pay compensation is limited to a maximum of 10% of the total invoice amount (excluding VAT). If the Agreement consists of parts or partial deliveries, the obligation to pay compensation is limited to a maximum of 10% (excluding VAT) of the order sum of that part or that delivery.

4. Without prejudice to the provisions set out elsewhere in these General Conditions, IceBear is never liable for goods or services obtained from third parties that exceeds the liability that those third parties have to IceBear and that offer recourse. IceBear is not liable for damage of any kind in the event that IceBear itself carries out loading or unloading using a forklift truck belonging to the Buyer.
5. The Buyer shall fully indemnify IceBear against any form of liability which may rest with IceBear against third parties with regard to Goods delivered or services rendered by IceBear, in so far as this liability does not rest with IceBear under these conditions.
6. The limitation of liability and indemnity only applies to the Consumer-Buyer to the extent permitted by law.

### Clause 12 – Obligation to Complain and Forfeiture of Rights

1. Possible complaints must be reported to IceBear in writing or by email immediately, and no later than three (3) days after the actual delivery, at the risk of forfeiting the right to invoke failure that could reasonably have been discovered during a careful inspection. If the Buyer does not complain within three days, the delivered Goods are deemed to have been irrevocably and unconditionally accepted.
2. Any legal claims must furthermore be brought before a court no later than one (1) year after delivery of the agreed services and/or goods on penalty of forfeiting all rights.

### Clause 13 – Retention of Title

1. IceBear retains the right of ownership of all of the Goods it has supplied to the Buyer until the purchase price has been paid in full, also in respect of any future Goods. Furthermore, retention of title applies to claims which IceBear may acquire against the Buyer due to the Buyer's failure to perform one or more of its other obligations towards IceBear.
2. As long as ownership of the Goods delivered has not been transferred to the Buyer, the Buyer may not assemble, build in or attach to, use, consume, sell, pledge or grant a third party any other right in respect of the Goods. Goods that have been delivered, the ownership of which has been transferred to the Buyer through payment, and other Goods held by IceBear still serve as security for those claims that IceBear may still have against the Buyer for whatever reason (reserved non-possessory pledge).
3. The Buyer shall carefully keep the Goods delivered under retention of title and as the identifiable property of IceBear at all times. The Buyer shall insure the Goods against all usual risks for the duration of the retention of title. The Buyer authorises IceBear, on behalf of the Buyer, to pledge to itself all its liabilities to the insurer or insurers under the aforementioned insurance policies within the meaning of Article 3:239 Dutch Civil Code, as additional security.
4. If the Buyer fails to perform its payment obligations towards IceBear or IceBear has good grounds to fear that the Buyer will not perform the payment or any other obligations, IceBear may repossess the Goods delivered or have them repossessed subject to a retention of title. After the Goods have been repossessed, the Buyer shall be credited for the market value (on the basis of purchase price), which may never exceed the amount of the original purchase price, minus any costs incurred during the repossession procedure.
5. The Buyer is obliged to insure Goods against fire, explosion and water damage, as well as theft, from the moment of delivery and for the duration of the retention of title, and to provide IceBear with the policies of these insurances on request. All of Buyer's rights to claim in respect of the aforementioned insurances shall, as soon as IceBear so wishes, be subrogated with regard to the Goods that are subject to retention of title.

#### **Clause 14 – Right of Retention and Pledge**

1. IceBear may, until such time as at which the Buyer has performed all its obligations towards IceBear, hold on to Goods, documents and funds at IceBear's disposal as part of its agreements with the Buyer at the Buyer's risk and expense.
2. All Goods, documents and funds that IceBear holds on to or will have in its possession for whatever reason, serve as security for all claims it has or will have against the Buyer.
3. IceBear can also exercise the rights granted to it in paragraphs 1 and 2 in respect of anything the Buyer still owes in connection with other agreements, with or without group companies.

#### **Clause 15 – Intellectual Property Rights**

1. Unless otherwise agreed in writing, IceBear retains the copyrights and all industrial property rights on its offers, designs, images, drawings, models, test models, software, and the like.
2. The rights to the information mentioned in paragraph 1 of this article remain the property of IceBear irrespective of whether costs have been charged to IceBear for its production. This information/ data may not be copied, used or shown to third parties without the Buyer's explicit advance written consent. For each breach of this provision, the Buyer owes IceBear an immediately payable penalty of €25,000. This penalty can be claimed in addition to compensation owed under the law.