

General Terms and Conditions of Inter Ocean Services B.V.

This translation can only be used in combination with and as explanation to the Dutch text. In the event of a disagreement or dispute relating to the interpretation of the English text the Dutch text will be binding.

1. Parties

1. IOS: Inter Ocean Services B.V., registered with the Chamber of Commerce under number 20113553, located at Koperslagerij 19a (4762 AR) in Zevenbergen, user of these general terms and conditions.
2. Further details of IOS:
Website: www.iosbv.com
Email: sales@iosbv.com
Phone number: (+31) (0)168 7600 04
VAT-identification number: NL812977361B01
3. The Customer: the (potential) purchaser of goods offered by IOS.

2. Applicability

1. IOS declares these general terms and conditions applicable to every offer made by IOS and to any agreements, whether or not arising from such offers, that the parties, or the legal successors of the parties, have entered into with each other. Insofar as the content thereof has not been amended and/or no more specific terms and conditions apply between the parties, these general terms and conditions shall also apply to future contractual relationships between the parties or their legal successors.
2. Deviations from these terms and conditions shall only apply insofar as they have been expressly agreed in writing by the parties.
3. The Customer's general (purchasing) terms and conditions are expressly rejected.
4. Third parties involved by IOS in the performance of the agreement may also invoke these general terms and conditions.
5. If one or more (parts of) the provisions of these general terms and conditions are void or are annulled, for example because they are contrary to mandatory law and cannot be deviated from, the other provisions or the remaining part of the relevant provision of these general terms and conditions will remain applicable. The parties will then consult to agree on new rules to replace the invalid or void (part of the) provisions, which will reflect as much as possible the purpose and scope of the invalid or void (part of the) provisions.

3. Offer and agreement

1. Every offer, whether in the form of a quotation or otherwise, is unconditional, non-binding and revocable in its entirety and is valid for 30 days, unless otherwise stated in writing by IOS.
2. Unless otherwise stated, the prices stated in an offer are in euros and exclude 21% VAT, shipping costs and are subject to levies, surcharges and other factors.
3. All statements by IOS regarding numbers, sizes, weights and colours of the goods in the designs, drawings, images, photographs or models shown or provided are indicative only. A minor deviation from this in the delivered item does not constitute a failure to fulfil the agreement on the part of IOS.
4. An offer does not automatically apply to follow-up orders.
5. Obvious clerical errors and mistakes in the offer are not binding on IOS.
6. A composite quotation does not oblige IOS to perform part of the order for a corresponding part of the quoted price.
7. The agreement is concluded after both parties have signed a written offer, after IOS has confirmed written acceptance, or after IOS, or a third party on its behalf, has commenced performance.
8. The agreement is expressly entered into subject to the condition precedent of sufficient availability of the products ordered.
9. IOS is expressly not a party to any agreement concluded between The Customer and third parties. Any disputes arising from such an agreement must be resolved by the parties themselves. IOS plays no role in this.
10. If an order has been placed by multiple customers, all customers are jointly and severally liable for the agreement. If IOS accepts the order with multiple contractors, each contractor is responsible for its own actions. [Article 7:407\(2\) of the Civil Code](#) is excluded.
11. Verbal and/or written commitments made by IOS's (hired) personnel are not binding on IOS, insofar as they have not been expressly confirmed in writing by a legally authorised representative of IOS.

4. Performance and delivery

1. The Customer shall enable IOS to perform the agreement. The Customer undertakes to provide the necessary cooperation for the performance of the agreement by IOS.
2. IOS shall endeavour to fulfil the agreement within the specified/estimated period. This period is not strict, which means that The Customer must always first give IOS notice of default, setting a generous and reasonable period of at least 30 days, before taking any remedial action. The Customer cannot dissolve the agreement upon expiry of this period and is not entitled to compensation. After the expiry of this period, the parties will endeavour to perform the agreement within a reasonable period of time.
3. If IOS is responsible for the delivery, The Customer must provide a delivery address where IOS can deliver the goods on the specified date. If The Customer is not present on the specified date when the goods are delivered, the costs of offering the goods at a later date will be borne by The Customer. The Customer will then receive a message that the order can be collected at a location specified by IOS after payment of the additional costs, including the logistical (planning) costs at the storage location due to unexpected extra storage.
4. If delivery takes place at the premises of IOS and The Customer therefore collects the goods there, The Customer must adhere to the agreed delivery date. If The Customer does not collect the goods on the agreed date, IOS has the option of recovering the reasonable costs of storing the goods from The Customer.
5. IOS is free to have the order and/or delivery carried out by third parties. [Article 7:404 of the Civil Code](#) is expressly excluded from the agreement.
6. Delivery of goods will only take place after the agreement has been concluded. The risk of loss or depreciation of the goods to be delivered will pass to The Customer from the moment they are made available or would be made available to them. This is regardless of whether the transfer of ownership has already taken place.
7. IOS is entitled to perform the agreement in different phases and to invoice the part thus performed separately. If the agreement is performed in phases, IOS may suspend the performance of those parts that belong to a subsequent phase until The Customer has approved the results of the preceding phase in writing. Upon approval, IOS can no longer be held liable for defects that could reasonably have been known at the time of approval.
8. Without being in default, IOS may refuse a request to amend the agreement if this could have qualitative and/or quantitative consequences, for example for the goods to be delivered in that context.
9. Unless expressly agreed otherwise in writing, delivery by IOS shall be expressly subject to the latest Incoterms® EXW (EX Works).

5. Obligations of The Customer

1. The Customer shall enable IOS to perform the agreement. The Customer undertakes to provide the necessary cooperation for the performance of the agreement by IOS. This includes, among other things:
 - a) Being present at the delivery address specified by The Customer on the agreed delivery date;
 - b) Ensuring that IOS has timely access to the approvals (such as permits, etc.) and information required for the assignment;
 - c) Ensuring that work and/or deliveries to be carried out by third parties, which are not part of IOS's assignment, are carried out in such a way and in such a timely manner that the execution of the assignment is not delayed.
2. If the obligations in paragraph 1 are not fulfilled (on time), The Customer must inform IOS of this in good time. IOS is entitled to charge The Customer for any additional costs incurred as a result, such as storage, travel or labour costs.
3. If the obligations in paragraph 1 are not fulfilled (on time), IOS is not obliged to compensate The Customer for damage resulting from delays in delivery.
4. The Customer shall ensure that all information that IOS indicates is necessary or that The Customer should reasonably understand to be necessary for the performance of the agreement is provided to IOS in a timely manner. The Customer bears the risk and responsibility for the correct and timely delivery of the necessary information and its content, regardless of how The Customer provides it. If the necessary information is not provided to IOS in a timely manner, IOS has the right to suspend the performance of the agreement and/or to charge The Customer for the additional costs resulting from the delay in accordance with the usual rates.
5. Prior to performance, The Customer must provide IOS with the agreed and necessary items and information, such as address and contact details. IOS will assess these to the best of its knowledge. However, IOS is not liable for damage caused by work being carried out on the basis of incorrect items and information provided by The Customer.
6. The Customer expressly bears the risk for damage caused by:
 - a) Inaccuracies in the constructions and working methods requested by The Customer;
 - b) Defects in/caused by the movable or immovable property on or in which the assignment is carried out;
 - c) Defects in materials or tools made available by The Customer.
7. The Customer guarantees that digitally supplied material is secure and does not contain any viruses or other harmful content that could in any way cause damage to the computer systems or computer programmes of IOS and/or third parties.

6. Retention of title

1. Contrary to the actual transfer of power, ownership of the goods to be delivered will only transfer to The Customer after The Customer has paid IOS in full for everything that The Customer owes or will owe to IOS under the agreement. This therefore includes not only the purchase price, but also any additional penalties, additional costs or extrajudicial collection costs.
2. Pursuant to this retention of title, The Customer is therefore not entitled to dispose of the goods nor encumber them with, for example, a right of pledge. This clause also has property law effect.
3. In connection with the effectiveness of the retention of title, The Customer undertakes to inform IOS in a timely and adequate manner in the event of imminent bankruptcy, suspension of payments, debt restructuring or when third parties threaten to seize any of the goods delivered under retention of title. The Customer is also obliged to adequately insure the goods delivered under retention of title against damage and theft.
4. If The Customer is in default of any obligation under the agreement, The Customer is obliged, at the request of IOS, to provide all necessary cooperation so that IOS can once again dispose of the delivered goods unencumbered. This also includes the possible obligation to return the goods at its own expense at the request of IOS.

7. Warranty and liability

1. The Customer accepts that all goods are sold with all known, unknown, visible and invisible factual and legal defects, encumbrances and restrictions.
No other warranties are given, except insofar as the supplier of IOS provides a warranty or otherwise expressly agreed.
2. The Customer is obliged to check the delivery and performance as soon as possible, but within 7 days, for conformity in terms of quantity and quality. If the performance does not meet the conformity agreed upon in the agreement, and there is therefore a defect, The Customer must inform IOS of this within 14 days of delivery.
3. After the information has been provided as referred to in the previous paragraph, IOS will reasonably repair or replace the defect (free of charge), but in accordance with the provisions of these general terms and conditions and the agreement. If neither of the two remedies described above offers a solution to effectively remedy the defect, The Customer has the right to dissolve the agreement (in part) with regard to this defect, in which case The Customer shall bear the costs of returning the delivered goods. The foregoing applies without The Customer being entitled to any compensation.
4. If the defect has arisen due to an error attributable to The Customer or if The Customer has informed IOS too late about the defect, their right to repair, replacement or possible dissolution as described in this article shall lapse. The burden of proof that the error is not attributable to The Customer lies with The Customer.
5. The existence of a defect does not suspend The Customer's payment obligation.
6. The Customer shall never be entitled to any remedy if the item has been used incorrectly or carelessly. The Customer is obliged to use the goods in accordance with the relevant documents, such as an instruction manual and/or instructions on the packaging of the goods supplied by IOS. The Customer undertakes to allow the goods to be used exclusively by persons who have been properly instructed in their use. If the foregoing is not observed or if The Customer makes additions and/or changes of any kind, any warranty shall lapse.
7. IOS is only liable to The Customer for direct damage suffered by The Customer. Direct damage is exclusively understood to mean: (1) the reasonable costs of determining the cause and extent of the damage, insofar as the determination relates to damage within the meaning of these terms and conditions; (2) any reasonable costs incurred to have IOS's defective performance comply with the agreement, insofar as these can be attributed to IOS; and (3) reasonable costs incurred to prevent or limit damage, insofar as The Customer demonstrates that these costs have led to a limitation of direct damage as referred to in this provision.
8. Should IOS be liable to The Customer, this liability shall be limited to the amount paid out under the professional/business liability insurance or other liability insurance taken out by IOS, but not exceeding (in the event that no insurance claim can be made or the insurance does not pay out) the invoice amount of the entire agreement to which the liability relates, or at least that part of the total agreement to which the liability relates.
9. IOS's liability does not extend to consequential damage, which in any case includes, but is not limited to, indirect damage, immaterial damage, damage due to delay, property damage, reduced goodwill, damage to reputation, loss of turnover and/or profit, business interruption, etc.
10. The limitations of liability included in this article do not apply if the damage is due to intent or gross negligence on the part of IOS.

11. The Customer indemnifies IOS against any damage incurred by third parties in connection with the agreement as a result of IOS's actions, including omissions, based on incorrect, incomplete or late information, data and documents provided by The Customer or in deviation from these general terms and conditions.

12. Any damage and/or right of claim, other than the defects described above, must be reported to IOS within 12 months of the moment at which The Customer became aware or could reasonably have become aware of the existence of these rights and powers, on pain of forfeiture of the claim. If The Customer suffers damage, this must be reported to IOS immediately. In doing so, The Customer is obliged to do everything reasonable to limit the aforementioned damage as much as possible.

8. Prices and payment

1. The offer has been made in consultation. By entering into the agreement, the parties consider the prices to be reasonable and fair.
2. Unless otherwise agreed, The Customer must pay the amount due in full prior to delivery by IOS. Invoices must in any case be paid within 7 days of receipt of the invoice by means of a bank transfer. IOS is entitled to send the invoice immediately after the agreement has been concluded.
3. If the agreed payment term is exceeded, IOS is immediately entitled to charge The Customer default interest of 2% of the principal sum per month or part thereof, as well as an amount for [extrajudicial collection costs](#). The latter costs amount to 15% of the principal sum due, with a minimum of EUR. 100,- excluding VAT.
4. Without the express written consent of IOS, The Customer is not permitted to apply any set-off and/or suspension and/or withholding in respect of its payment obligations.
5. All prices are based on/determined by factors applicable at the time of quotation or conclusion of the agreement, including tax charges, levies, raw material, energy, fuel and material prices, import duties, transport/freight costs and exchange rates of or relative to the Euro. If, after the conclusion of the agreement but before delivery by IOS, changes occur in one or more of these price-determining factors, IOS shall at all times be entitled to adjust the agreed price during the term of the agreement in accordance with this increase. The parties expressly regard this circumstance as unforeseen.

9. Termination of the agreement

1. IOS has the right to dissolve the agreement with The Customer with immediate effect for the future by means of a written notification without (further) [prior notice of default](#) if:
 - a) The Customer ceases its business operations in whole or in part or otherwise liquidates and/or radically changes its business activities or transfers them to a third party without the prior written consent of IOS;
 - b) The Customer is granted a moratorium on payments (whether provisional or not) or The Customer is declared bankrupt, The Customer submits a request for a debt restructuring scheme or The Customer is placed under guardianship or administration;
 - c) A right accruing to The Customer is seized.
2. In the event of dissolution of the agreement, all payments owed by The Customer to IOS shall become immediately due and payable in full. If the work has not been completed in full, The Customer shall owe a proportionate part of the total amount.
3. In the event of dissolution of the agreement, The Customer shall, at the request of IOS, provide all necessary cooperation to enable IOS to regain unencumbered possession of the goods delivered.
4. In the event of (interim) dissolution of the agreement, all payments owed by The Customer to IOS shall become immediately due and payable in full.

10. Force majeure

1. Force majeure is understood to mean, in addition to what is understood in this regard in law and case law, all external causes, foreseen or unforeseen, over which IOS has no influence. This includes war, strikes, traffic disruptions, unforeseeable stagnation, disruptions in energy supply, transport difficulties, fire, loss or damage during transport, import and/or export restrictions, shortcomings of third parties on which IOS depends in the performance of the agreement with The Customer, epidemics, pandemics and government measures.
2. During force majeure, IOS's obligations will be suspended. If fulfilment is impossible for more than one month due to force majeure or if there are other circumstances that make it disproportionately difficult for IOS to fulfil its obligations, IOS is entitled to dissolve the agreement in whole or in part by notifying The Customer and without judicial intervention, without any obligation to pay compensation in that case.
3. If IOS has already partially fulfilled its obligations when force majeure occurs, it is entitled to invoice the part already delivered or performed separately, or to credit part of the advance payments.
4. In the event of (interim) dissolution of the agreement, all payments owed by The Customer to IOS shall become immediately due and payable in full.

11. Intellectual property rights

1. IOS reserves the rights and powers vested in it under the Dutch Copyright Act and other intellectual property laws and regulations.
2. The trademarks, images, logos and photographs used and displayed on the website and goods of IOS are registered or unregistered trademarks of IOS or third parties and may not be used commercially without the prior consent of the owner of those trademarks.

12. Amendments to the general terms and conditions

IOS reserves the right to amend or supplement these general terms and conditions. Amendments also apply to agreements already concluded, subject to a period of 30 days after notification of the amendment. Minor changes may be made at any time. If The Customer does not wish to accept a change to these general terms and conditions, they must notify us in writing before the date on which the new general terms and conditions come into effect.

13. Forum, choice of law and transfer of rights

1. IOS is authorised to transfer its rights and obligations under this agreement to a third party. The Customer is only authorised to transfer its rights and obligations to a third party with the written consent of IOS.
2. This agreement and any other agreements concluded between the parties are governed exclusively by Dutch law, with the express exception of the [United Nations Convention on Contracts for the International Sale of Goods](#).
3. Disputes arising from the agreement between the parties will initially be dealt with through mediation. If these cannot be resolved, the court in Amsterdam will have exclusive jurisdiction if The Customer is established in a country to which the Brussels I-bis Regulation applies, but if The Customer is established in a country to which the Brussels I-bis Regulation does not apply, the dispute will be settled exclusively in accordance with the Arbitration Rules of the Netherlands Arbitration Institute (NAI). The arbitral tribunal will consist of one arbitrator. The place of arbitration will be Amsterdam, the Netherlands. The proceedings will be conducted in English.

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