

## Intercodam

### General Terms and Conditions for Consumers 1 September 2022

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#### ARTICLE 1 - Definitions

In these General Terms and Conditions, the following terms are defined as stated below:

**Consumer:** a natural person not acting in the exercise of his/her profession or the operation of a business.

**Collection Notice:** the written notice of Seller to Consumer setting out the date that the Goods will be present for collection by Consumer.

**Dispute Resolution Committee:** the Dispute Resolution Committee for Building and Finishing Materials of the Foundation for Consumer Complaints Boards (SGC), PO Box 90600, 2509 LP The Hague.

**General Terms and Conditions:** the General Terms and Conditions for Consumers concerning the sale and delivery of building and finishing materials and the performance of work.

**Contract:** the agreement between the Seller and the Consumer concerning the delivery of the Goods and/or the performance of the Work, as stated in the Offer.

**Goods:** all building and finishing materials offered for sale by the Seller and/or products to be processed for that purpose and all other materials and products.

**HIBIN Guarantee Fund:** The HIBIN fund that guarantees that the Contract will be fully complied in a situation where the Seller is no longer able to do so due to suspension of payment, bankruptcy or a debt rescheduling arrangement pursuant to the Debt Restructuring (Natural Persons) Act (Wet Schuldsanering Natuurlijke Personen). The regulations of the HIBIN Guarantee Fund form part of these General Terms and Conditions.

**Offer:** the more or less specified written offer by the Seller for the delivery of Goods and/or Work to be performed as well as the estimate of the associated costs.

**Parties:** the Seller and the Consumer jointly.

**Seller:** Intercodam B.V., a private company with limited liability, having its registered office in Amsterdam, which is a member of HIBIN.

**Work:** the entirety of the delivery of Goods agreed between the Consumer and the Seller and, if agreed, the Work to be performed.

#### ARTICLE 2 - Applicability

1. These General Terms and Conditions have been drawn up on behalf of the Seller and its affiliated companies.
2. Unless otherwise agreed in writing, these General Terms and Conditions apply to all Offers, price quotations, orders, Contracts with the Consumer and deliveries of Goods and the performance of Work by the Seller on behalf of the Consumer.
3. Derogations from these General Terms and Conditions are only valid if they have been expressly accepted by the Seller in writing. Such derogations shall apply only to the Contracts to which they relate.
4. All clauses in these General Terms and Conditions have also been drawn up for the benefit of all directors of the Seller and all persons who work for the Seller and/or its affiliated companies and/or are engaged by Seller and/or its affiliated companies.

5. The Seller reserves the right to change the content of these General Terms and Conditions to the extent that such changes will apply to future Offers and orders.
6. If the Seller does not always require strict compliance with these General Terms and Conditions, this does not mean that these General Terms and Conditions are not applicable or that the Seller loses the right to require strict compliance with the other provisions.

#### **ARTICLE 3 - Offer**

1. The Offer includes a written description of the Goods to be delivered, the method of – and term for Delivery of the Goods and, if desired, the Work to be performed. The Consumer cannot derive any rights from possible mistakes in the description of Goods, in the conditions for the purchase of the Goods and/or the conditions for the performance of the Work. Obvious mistakes or obvious errors in the Offers are not binding on the Seller.
2. All the Offers of the Seller are without obligation. The Seller may revoke its Offers at any time, unless the Seller, in addition to mentioning a fixed term for acceptance, has explicitly stated in the Offer that the Offer is irrevocable. If a fixed period for acceptance has not been specified, the Seller may consider the Offer to have lapsed if the Consumer has not responded after fourteen (14) days from the date of the Offer, without the Seller having to give any further notice.
3. The delivery times mentioned in the Offer are always indicative and are never strict dates or deadlines, unless explicitly agreed otherwise with the Seller in writing. The Seller shall make every effort to perform within the specified time.
4. If a term has been agreed upon or specified for the performance of certain Work or for the delivery of Goods, this is never a strict deadline. If a term is exceeded, the Consumer must therefore give the Seller notice of default in writing. In this regard, the Seller must be given a reasonable time to still execute the Contract.
5. The Offer specifies the price of the Goods and the Work to be performed.
6. The prices mentioned in the Offer are inclusive of VAT and other government levies, as well as any costs to be incurred in connection with the Contract, including travel, accommodation, postage and administration costs, unless otherwise stated in the Offer.
7. A combined price quotation does not oblige the Seller to perform part of the Contract for a corresponding proportion of the quoted price. The rate or price contained in any Offer or any other quotation does not automatically apply to any future orders.
8. The Offer states the method of payment.
9. Samples shown or provided serve only as an indication of the Goods, without the Goods having to correspond to them.
10. The Offer is accompanied by a copy of these General Terms and Conditions and the accompanying regulations of the HIBIN Guarantee Fund.

#### **ARTICLE 4 - Formation of the Contract**

1. A Contract is formed when the Consumer signs the Offer of the Seller and returns it to Seller before the Offer expires. Either the Consumer agrees to the Offer in writing or by other means, such as by e-mail and/or WhatsApp, or the Seller commences the performance of the Work and/or delivery of the Goods with the consent of the Consumer.
2. In addition to the provisions of paragraph 1, a Contract is also formed when the Seller, at the request of the Consumer, confirms the order/delivery to the Consumer. The content of the order confirmation of the Seller determines the content of the Contract.
3. The Offer approved by Consumer, these General Terms and Conditions and any additional written contracts or the Contract jointly constitute a complete representation of the rights and obligations of the Parties and supersede all previous written and oral estimates, announcements and all other correspondence.
4. The Seller shall not be bound by any unilateral change of the Offer by the Seller. Such change shall only be part of the Contract after express written acceptance by the Seller.
5. Changes to the Contract must be agreed in writing, whereby the written confirmation by the Seller is decisive with regard to the content and scope of the changes and the price consequences.
6. The Consumer shall ensure that all information, data, drawings, design, dimensions and related matters which the Seller indicates are desirable or which the Consumer should reasonably understand are necessary for the execution of the Contract, are provided to the Seller in good time.
7. If the information, data, drawings, design, dimensions and related matters required for the execution of the Contract are not provided by the Consumer to the Seller in good time, the Seller shall be entitled to suspend the execution of the Contract and to charge the Consumer for the costs arising therefrom in accordance with its usual rates.

#### **ARTICLE 5 - Obligations of the Seller**

1. The Seller shall deliver the agreed Goods properly and in accordance with the provisions of the Contract. The Seller shall carry out the work properly and in accordance with the provisions of the Contract.
2. The Seller shall exercise the greatest possible care with regard to the interests of the Consumer in the execution of the Contract. In particular, the Seller shall ensure that the processing of the personal data of the Consumer takes place in accordance with the legal requirements arising from the General Data Protection Regulation (Algemene verordening gegevensbescherming). The Seller refers to its Privacy Statement in this respect.
3. Unless otherwise agreed, the Work to be performed shall be carried out during the usual working hours that apply in the business of the Seller.
4. The Seller shall observe the applicable legal regulations that are or will be in force at the time of delivery/performance during the delivery of Goods and the performance of Work.
5. The Seller shall provide the Consumer with clear instructions regarding the unloading of the Goods to ensure that the place of delivery of the Goods is easily accessible and the Goods can be unloaded from the back of the truck. The Seller shall, if applicable, state this explicitly in the Offer.
6. The Seller is obliged to point out to the Consumer:
  - a. inaccuracies in the order insofar as the Seller is aware or should reasonably be aware of them;
  - b. defects and unsuitability of items, including Goods or tools, made available by the Consumer insofar as the Seller is aware or should reasonably be aware of them;
  - c. inaccuracies in the commissioned Work, including working on a faulty foundation, insofar as the Seller is aware or should reasonably be aware of them.

7. The Seller undertakes to perform the Work regularly after its commencement.
8. The Seller shall ensure that the Work is performed by competent persons.

#### **ARTICLE 6 - Responsibilities of the Consumer**

1. The Consumer shall give the Seller the opportunity to deliver the Goods or to perform the Work.
2. The Consumer is required to inspect the Goods upon delivery with regard to the quantity and any damage. Defects in delivered Goods that the Consumer can reasonably observe must be reported in writing by the Consumer to the Seller after delivery and before processing and/or assembly as soon as possible, but within forty-eight (48) hours of receipt of the Goods.
3. The Consumer shall ensure that the place of delivery of the Goods is easily accessible and, if applicable, that the space where the Work is to be performed is available in good time.
4. The Consumer shall ensure that the Seller is able to obtain the necessary approvals, such as permits, etc., and information for the Work in good time; all this is on the instructions of the Seller.
5. The Consumer shall provide the connection facilities for the energy and water required for the Work. The cost of electricity, gas and water are for the account of the Consumer.
6. The Consumer must ensure that work and/or deliveries to be carried out by third parties, which are not part of the Work of the Seller, are carried out in such a way and at such time that the performance of the Work is not delayed. If a delay within the meaning of this paragraph nevertheless occurs, the Consumer is required to inform the Seller of this in good time.
7. If the start or progress of the Work is delayed due to circumstances as referred to in the previous paragraph, the Consumer is required to compensate the Seller for the damage involved if these circumstances are attributable to the Consumer.
8. If the Work is delayed due to circumstances for which the Consumer is responsible, the Seller is entitled to an extension of the time limit.
9. The Consumer bears the risk for damage caused by:
  - a. inaccuracies in the commissioned Work;
  - b. inaccuracies in the information, data, drawings, design, dimensions and related items provided by the Consumer;
  - c. inaccuracies in the constructions and working methods desired by the Consumer;
  - d. defects in the movable or immovable property on which the Work is performed;
  - e. defects in Goods or tools made available by the Consumer. This does not affect the duty of the Seller to warn the Consumer pursuant to Article 5(6).
10. The Consumer is obligated to assemble and/or install the Goods in accordance with the installation instructions. In the event that the installation instructions are not included and Consumer cannot find the installation instruction of the Goods online, Consumer shall contact Seller and request the installation instruction. Seller is not liable for any damages or costs caused by Goods that have not been assembled and/or installed in accordance with the installation instructions.

#### **ARTICLE 7 - Unforeseen complications**

1. The Seller shall notify the Consumer of any unforeseen complications as soon as possible.
2. If the Seller is unable to reach the Consumer, the Seller should suspend the Work unless the unforeseen complications require immediate action.
3. Any additional costs incurred by the Seller due to unforeseen complications and which are reasonable to limit the damage, shall be reimbursed by the Consumer.

#### **ARTICLE 8 - Contract variations (meer- minderwerk)**

1. In accordance with the contract fee pricing method, the Consumer may order contract variations (meer- minderwerk) after the conclusion of the Contract without the conclusion of a separate Contract, provided that the balance of the resulting variations does not exceed 10% of the contract price.
2. Contract variations shall be agreed in advance in writing, except in the case of urgent circumstances.

#### **ARTICLE 9 - Completion of the Work in an unfinished state**

1. The Consumer is entitled to terminate the Contract for the performance of the Work, in whole or in part, at all times.
2. If the Seller has already performed part of the Work, then the Seller is entitled to invoice the Work in question. In such case, the Consumer is obliged to pay the relevant invoice of the Seller, including costs incurred and reasonable compensation for loss of profit that the Seller would have enjoyed over the entire Work.
3. If the Contract is terminated early by the Seller, the Seller shall, in consultation with the Consumer, ensure that the Work still to be performed is transferred to third parties. This shall not apply if the termination is attributable to the Consumer. The costs of the transfer of the Work shall be charged to the Consumer unless the early termination is attributable to the Seller. The Seller shall inform the Consumer about the amount of these costs in advance as much as possible. The Consumer is obliged to pay these costs within the term indicated by the Seller, unless the Seller indicates otherwise.
4. In the event of termination as referred to in this article, the Parties mutually undertake to cooperate in jointly recording the unfinished state of the Work.

#### **ARTICLE 10 - Delivery of the Work and completion**

1. The Work is considered to be delivered in the following cases:
  - a. when the Seller has notified the Consumer in writing that the Work is completed and the Consumer has accepted the Work by signing a completion form;
  - b. where a reasonable period of time, not exceeding forty-eight (48) hours, has elapsed since the Seller notified the Consumer in writing that the Work is complete and the Consumer has failed to accept the Work within that period, unless the Consumer rejects the Work in writing within that period stating reasons. Minor defects that can easily be repaired before a subsequent payment deadline may not be a reason for withholding acceptance, provided they do not impede any use. The Seller is obliged to remedy the defects referred to in this paragraph as soon as possible in the manner desired by the Seller; and

- c. when the Consumer puts the object on which the Work was performed back into use, on the understanding that by putting part of the Work into use, that part is deemed to have been completed, unless the consequence of putting it into use, i.e. completion, is not justified.
2. The Goods are considered to be delivered in the following cases:
  - a. delivery of Goods ex warehouse: as soon as the Goods are loaded onto the means of transport; and
  - b. delivery of Goods carriage paid: as soon as the Goods have been delivered on site and unloaded from the truck.

#### **ARTICLE 11 – Returns**

Returned Goods will only be accepted if this has been agreed in writing.

#### **ARTICLE 12 – Price and payments**

1. If the Seller agrees on a certain price at the conclusion of the Contract, the Seller cannot increase this price except if the price increase is a result of a change in the Contract and/or if the price increase arises from the law.
2. When concluding the Contract, the Seller may demand an advance payment of the agreed price from the Consumer. The provisions of the HIBIN Guarantee Fund, which forms part of these General Terms and Conditions, apply mutatis mutandis to advance payments.
3. The invoicing of Goods to the Consumer takes place in two instalments:
  - a. No later than one (1) week after the conclusion of the Contract or the confirmation of the order, the Seller shall send a down payment invoice for the value of approximately one quarter (25%) of the total value of the Contract. This invoice must be paid immediately, but at the latest within seven (7) days, so that the Seller can reserve the Goods in its warehouse and/or schedule the production of Goods with its suppliers. Failure to pay this invoice on time will result in the order not being processed; and
  - b. Before the delivery of the Goods is scheduled, the Seller shall send the invoice for the remaining approximately three-quarters (75%) of the value of the Contract. Payment of this invoice must be made no later than five (5) days before the time of delivery.
4. The Seller currently uses the following payment methods:
  - c. Payment by bank transfer;
  - d. Payment by PIN in the warehouse upon collection;
  - e. Payment by PIN in the shop;
  - f. Payment in cash up to a maximum of EUR 2,000.00.The payment methods of the Seller can be expanded.

#### **ARTICLE 13 – Delivery, collection and/or storage of the Goods**

1. The Goods ordered by the Consumer can, by choice of the Consumer be (a) delivered, (b) collected or (c) stored. The agreed upon method of delivery will be stated in the Offer.

##### **Delivery**

Seller will mention an indication of the delivery period on the Offer. Seller will inform the Consumer when the Goods are offered to the transport service as well as about the specific date of delivery.

Consumer is obligated to fully cooperate with the delivery of the Goods by the Seller in accordance with the terms of the Contract as well as providing instructions necessary for the delivery of the Materials by the transport service. Consumer shall, without being summoned thereto, be in default, in case he/she refuses to accept the delivery of the Goods on the stated delivery date.

In the event that Consumer refuses the delivery of the Goods, Seller is entitled to dissolve the Contract and collect damages, the already incurred storage costs and all further damages and costs from the Consumer.

##### **Collection**

In case the Consumer wishes to collect the Goods, the Seller shall inform the Consumer in writing from which date the Goods will be ready for collection by Consumer (“Collection Notice”). Consumer is obligated to collect the Goods within four (4) weeks after receipt of the Collection Notice. In case the Consumer does not collect the Goods within the stipulated time of four (4) weeks after receipt of the Collection Notice, the Consumer is, without being summoned to, in default. Seller is entitled to dissolve the Contract and collect damages, the already incurred storage costs and all further damages and costs from the Consumer after the expiry of the term of four (4) weeks after receipt of the Collection Notice.

##### **Storage**

In case the Consumer wishes to store the Goods, the Consumer is obliged to arrange the storage and the transportation of the Goods to the storage and pay for all the costs related thereto.

Seller shall inform the Consumer in writing from which date the Goods will be ready for collection (“Collection Notice”) by Consumer or the transport service arranged and paid for by the Consumer. The Consumer is obliged to collect the Materials within four (4) weeks after the Collection Notice. In case the Consumer does not collect the Goods within the stipulated time of four (4) weeks after receipt of the Collection Notice, the Consumer is, without being summoned to, in default. Seller is entitled to dissolve the Contract and collect damages, the already incurred storage costs and all further damages and costs from the Consumer after the expiry of the term of four (4) weeks after receipt of the Collection Notice.

2. Parties have agreed that Seller has fulfilled its obligation to supply and deliver the Goods, in case Seller has offered the Goods to Consumer. Parties shall investigate and determine whether the Goods have been offered complete and undamaged by the Seller. After the aforementioned investigation, the Goods have been delivered and the Seller has fulfilled its obligation to deliver. From the moment of delivery, the risk of damage, loss, theft and destruction of the Goods transfers to the Consumer. Any applicable warranty period starts from that date. For the determination of the delivery date and any (financial) obligation off Consumer towards Seller, the administration of the Seller is leading.
3. The Consumer is obliged to accept the delivery of the Goods at the moment Seller offers the Goods to him/her or when the Goods are handed over to Consumer. If, after expiry of the terms as described above, in the article 13.1 the Consumer has not accepted the delivery or collected the Goods after expiry of the applicable terms, the Seller is entitled to freely dispose over the Goods, to destroy these or to sell these and keep the proceeds. In case the Consumer has

fulfilled all of his/her payment obligations, the Seller is entitled to pay to the Consumer the proceeds with deduction of the storage costs, other costs and a compensation for damages of 30% of the total purchase price of the Goods, unless Seller can prove that the suffered damages exceed the already deducted 30%. In case the Consumer has not fulfilled his/her payment obligation, the proceeds will first be used to fulfill all payment obligations of the Consumer. Before the Seller proceeds to destroy or to sell the Goods, Seller shall inform the Consumer of this intention.

#### **ARTICLE 14 – Warranty for the supplied Goods**

1. The Goods to be delivered by the Seller shall meet the usual requirements and standards that can reasonably be set at the time of delivery and for which they are intended within the Netherlands.
2. The Consumer is obliged to inspect the delivered Goods at the moment they are made available to him/her.
1. Any defects in the delivered Goods must be reported by the Consumer to the Seller within forty-eight (48) hours. After this period, the claim to non-conformity lapses unless it concerns defects that could not have been detected earlier by the Consumer. 3. The Seller guarantees that any defects in the delivered Goods will be replaced free of charge unless the Seller proves that the defect is not attributable to Seller. The defects referred to in this paragraph are defects that could not have been recognised by the Consumer before their discovery and that were communicated to the Seller by the Consumer in writing as soon as possible thereafter.
3. Any form of warranty is invalidated if the defect is a result of improper and unsafe use, improper assembly and/or installation of the Goods and/or the fault or gross negligence on the part of the Consumer and/or a third party or is the result of modifications and/or repairs made by the Consumer or a third party.
4. Any form of warranty shall also lapse if the defect is caused by or the result of circumstances beyond the control of the Seller, such as weather conditions.
5. In the case of delivery based on a sample or showroom model, this sample or showroom model shall be deemed to be the standard condition of the delivery. If the supplier or the manufacturer from whom the Seller obtains the Goods guarantees that the Goods to be delivered or processed comply with NEN-EN or DIN standards in terms of dimensions and technical qualities, this guarantee also applies between the Seller and the Consumer.

#### **ARTICLE 15 – Assembly and installation of Goods by Seller**

1. If the Seller also performs Work consisting of the assembly or installation of Goods, this shall be expressly mentioned in the Offer and a separate invoice shall be issued for this purpose.
2. The invoice for the installation/assembly is sent to the Consumer after delivery of the assembly/installation services.
3. If there is a derogation from the Offer price, for example in the case of contract variations, the Parties must have agreed this in advance and in writing.
4. If necessary, the Consumer and the Seller may agree on a different payment arrangement, which must be recorded and confirmed in writing.

#### **ARTICLE 16 - Warranty for the assembly by Seller**

1. If the purchased Goods are assembled or installed by the Seller, the stipulations of Article 19 apply.
2. The Consumer is obliged to inspect the Work performed at the time of delivery. Any defects in the Work performed must be reported to the Seller by the Consumer within three (3) days of delivery.
3. Any defects in the Work performed by the Seller that can be attributed to the Seller will be remedied free of charge for a period of twenty-four (24) months from the delivery of the Work. The defects referred to in this paragraph are defects that could not have been recognised by the Consumer before their discovery and that were communicated to the Seller by the Consumer in writing as soon as possible thereafter, but within forty-eight (48) hours at the latest.
4. The extent to which and the manner in which repair and/or replacement will take place is at the discretion of the Seller.

#### **ARTICLE 17 – Complaints**

1. If the Consumer considers that the Seller has not fulfilled its obligations towards the Consumer, he/she may inform the Seller thereof by submitting a complaint.
2. The complaint or defect must be clearly and fully described and reported to the Seller in writing as soon as possible after its discovery, but within forty-eight (48) hours at the latest.
3. The Consumer must give the Seller the opportunity to investigate the complaint.
4. If the complaint cannot be resolved amicably within a reasonable period of time or within three (3) months of the submission of the complaint, the Consumer may apply to the competent court.
5. If the Consumer submits a complaint in time, this does not suspend its payment obligation.
6. If the complaint is well-founded, the Seller shall be given the opportunity to execute the Contract by replacing or repairing the Goods, as desired by the Seller. If the execution of the Contract is no longer possible, the Seller shall reimburse the Consumer for the value of the Goods delivered. The refund shall be made by means of a bank transfer.
7. Complaints will not be considered if it appears that there is improper and unsafe use, improper mounting of the Goods by the Consumer and/or third parties and/or the Consumer and/or third parties have made changes or carried out repairs to the Goods delivered.
8. Complaints regarding Goods assembled or installed by the Consumer and/or third parties on behalf of the Consumer, will not be accepted by the Seller. In such cases, the Consumer should approach this third party.

#### **ARTICLE 18 - Non-fulfilment of the payment obligations**

1. If the Consumer does not pay on time, he/she is legally considered to be in default without further notice. Nevertheless, the Seller shall send the Consumer one payment reminder after the expiry of the payment date of the invoice, in which it points out the default of the Consumer and gives him/her the opportunity to pay within two (2) weeks after receipt of this payment reminder.
2. The Seller may charge interest on any payment not made on time from the expiry of the payment term of the invoice until the day on which the amount owed is received. This interest is equal to the statutory interest pursuant to Article 6:119 of the Dutch Civil Code (Burgerlijk Wetboek).



3. After the expiry of the two-week period referred to in paragraph 1, the Seller shall be entitled to collect the amount owed to it without further notice of default. If the Seller proceeds to do so, the associated judicial and extrajudicial costs shall be reasonably borne by the Consumer.
4. The Seller remains the owner of delivered and/or unprocessed Goods until the Consumer has fulfilled his/her payment obligation.

#### **ARTICLE 19 – Limitations of liability**

1. The Seller is not liable for any shortcomings in performance towards the Consumer if such shortcoming or delay is the result of circumstances beyond the reasonable control of the Seller, unless there is wilful misconduct or gross negligence on the part of the Seller.
2. The Seller is not liable for any damage suffered by the Consumer as a result of improper and unsafe use, improper assembly of the Goods and/or products by the Consumer and/or any third party on behalf of the Consumer, unless there is wilful misconduct or gross negligence on the part of the Seller.
3. The Seller is not liable for damage of any kind whatsoever if the Goods have been assembled or installed by the Consumer and/or third parties on the instructions of the Consumer, unless there is wilful misconduct or gross negligence on the part of the Seller.
4. The Seller is not liable for damage of any kind whatsoever that arises because the Seller has relied on incorrect and/or incomplete information, data, measurements and/or documentation provided by the Consumer.
5. In the case of delivery of Goods by the Seller that it has purchased from third parties, the Seller only provides a warranty on these Goods or products if and insofar as it obtains a warranty from its suppliers. In that case, the warranty is the same as the warranty that the Seller obtains from its suppliers.
6. If the Seller is sued by third parties for damage, the Consumer shall indemnify the Seller against such claims for compensation made by third parties, unless there is intent or wilful recklessness on the part of the Seller.
7. The Seller is not obliged to process a claim under warranty if the Consumer has not fulfilled his/her payment obligations towards the Seller.
8. If it is established in court that the Seller and/or the third party that it has engaged is liable for damage suffered by the Consumer, the total liability of the Seller on account of an attributable failure in the fulfilment of the Contract or on account of an unlawful act or otherwise shall at all times be limited to the amount that is paid out under the company liability insurance of the Seller in the case in question. If no insurance has been concluded or the payment is refused, the total liability of the Seller shall be a maximum of the reimbursement of the invoice value or the re-delivery of similar materials, insofar as the Seller is able to deliver similar items, such at the discretion of the Seller.
9. The Seller shall never be liable for consequential loss, damage caused by stagnation, delay in construction, processing costs and the like, unless there is wilful misconduct or gross negligence on the part of the Seller.
10. If the Consumer claims under the warranty issued by the Seller, the extent to which and the manner in which repair and/or replacement will take place shall be at the discretion of the Seller.
11. The exclusions and limitations of liability as stated in this article and the indemnifications, are also stipulated for and on behalf of the subordinates of the Seller and its affiliated companies and any other parties used by the Seller for the execution of the Contract.

#### **ARTICLE 20 – Invalid or voidable provisions**

In the event that any provision of these General Terms and Conditions should be invalid or voidable, this shall not affect the validity of the remaining provisions. The Seller and the Consumer shall then consult in order to agree on new provisions to replace the invalid or voided provisions, taking into account the purpose and tenor of the original provision as much as possible.

#### **ARTICLE 21 - Dispute settlement rules**

1. Any dispute between the Consumer and the Seller regarding the conclusion or execution of Contracts relating to services provided or to be provided by this Seller, the Work performed and the Goods provided, may be submitted by both the Consumer and the Seller to the Dispute Resolution Committee for Building and Finishing Materials, PO Box 90600, 2509 LP The Hague.
2. The Dispute Resolution Committee shall only deal with a dispute if the Consumer has first submitted his/her complaint to the Seller.
3. After the complaint has been submitted to the Seller, the dispute must be submitted in writing to the Dispute Resolution Committee no later than three (3) months after it arose.
4. If the Consumer refers a dispute to the Dispute Resolution Committee, the Seller is bound by this choice. If the Seller wishes to submit the dispute to the Dispute Resolution Committee, it must ask the Consumer in writing to state within five (5) weeks whether he/she agrees to this. The Seller must also inform the Consumer that, after the expiry of the aforementioned period, it may submit the dispute to the ordinary court at its discretion.
5. The Dispute Resolution Committee shall rule in accordance with the provisions of the rules of procedure applicable to it. The rules of procedure of the Dispute Resolution Committee shall be sent on request. The decisions of the Dispute Resolution Committee take the form of a binding opinion. A fee is payable to the Dispute Resolution Committee for the handling of a dispute.

#### **ARTICLE 22 - Industry warranty for compliance with binding opinions**

1. HIBIN shall promptly take over the obligations of the Seller to the Consumer that are imposed upon it by the Dispute Resolution Committee in a binding opinion if the Seller has not fulfilled these obligations within the period specified in the binding opinion, unless the Seller has submitted the binding opinion to the court for review within two (2) months of its date.
2. The Consumer is required to make a written appeal to HIBIN in order for this warranty to take effect.

#### **ARTICLE 23 – Suspension and termination of the Contract**

1. The Seller is authorised to suspend the fulfilment of the obligations or to terminate the Contract immediately and with immediate effect (i) if the Consumer does not fulfil the obligations of the Contract or does not fulfil them completely or

in a timely manner, (ii) if, after the conclusion of the Contract, the Seller learns of circumstances that give good reason to fear that the Consumer will not fulfil his/her obligations, (iii) if the Consumer was asked to provide security for the fulfilment of his/her obligations under the Contract at the conclusion of the Contract and this security is not provided or is insufficient, (iv) if the delay on the part of the Consumer is such that the Seller can no longer be required to fulfil the Contract under the originally agreed conditions, or (v) if circumstances occur that are of such a nature that fulfilment of the Contract is impossible or the Seller cannot reasonably be required to maintain the Contract unchanged.

2. If the termination of the Contract is attributable to the Consumer, the Seller shall be entitled to compensation for the damage, including the costs, incurred directly and indirectly as a result.
3. If the Contract is terminated, the claims of the Seller against the Consumer shall become immediately due and payable. If the Seller suspends fulfilment of its obligations, it shall retain its claims arising from the law and under the Contract.
4. If the Seller proceeds to suspend or terminate the Contract on the grounds mentioned in this article, it shall not be liable in any way whatsoever for compensation for the damage and costs arising in any way whatsoever or for indemnification, while the Consumer, on account of its imputable failure to meet its obligations, shall be obliged to pay compensation or indemnification.
5. In the case of a request for suspension of payment or bankruptcy, an attachment if and insofar as the attachment has not been lifted within three (3) months at the expense of the Consumer, a debt restructuring or another circumstance as a result of which the Consumer can no longer freely dispose of his/her assets, the Seller is entitled to terminate the Contract immediately and with immediate effect or to cancel the order or Contract, without any obligation on its part to pay any compensation or indemnification. In such case, the claims of the Seller against the Consumer are immediately due and payable.

#### **ARTICLE 24 - HIBIN Guarantee Fund Regulations**

1. The HIBIN Guarantee Fund was established in order to execute orders that an HIBIN-affiliated supplier is no longer able to execute due to a suspension of payment, bankruptcy or a debt rescheduling arrangement under the Debt Restructuring (Natural Persons) Act (Wet Schuldsanering Natuurlijke Personen).
2. The HIBIN Guarantee Fund only applies if the order is placed with a supplier that is a member of HIBIN.
3. An advance payment of 10% is guaranteed by the HIBIN Guarantee Fund.
4. The HIBIN Guarantee Fund shall ensure that the order is executed at the agreed price and conditions.
5. In the event of an application to the HIBIN Guarantee Fund, the Consumer is obliged to send a copy of the order or order confirmation as soon as possible, as well as evidence of any advance payment, to HIBIN, P.O. Box 6680, CD Arnhem.
6. HIBIN is obliged to confirm to the Consumer in writing his/her application to the Guarantee Fund and to contact the Consumer as soon as possible thereafter about the delivery of the order.
7. HIBIN shall, in consultation with the Consumer, appoint a company affiliated with HIBIN to execute the order under the agreed conditions. It shall make every effort to maintain the original delivery date or to approach it as closely as possible. If the Consumer applies to the HIBIN Guarantee Fund and there is an agreed fixed or probable date of delivery, the penalty clause shall be suspended in accordance with the conditions referred to in this article. The Parties shall agree a new date of delivery in consultation with HIBIN.
8. The company to be appointed shall carry the vast majority of the Goods ordered in its range. In consultation with the Consumer, the other materials will be supplied in equal quality and design.
9. Once the order has been executed, both the Consumer and the Seller shall send notice of this to HIBIN.

#### **ARTICLE 25 - Force majeure**

1. In a situation of force majeure, the Seller is entitled to terminate the Contract wholly or partially or to suspend its delivery obligation for as long as the force majeure continues, at its discretion and without the Seller being obliged to compensate any damage suffered by the Consumer.
2. In this Contract, force majeure shall have the meaning given to it under Dutch law. In addition, force majeure for the Seller shall include strikes in the broadest sense of the word, obstructions in the supply, breakage of machines and/or equipment, non-availability of transport, government measures and any case where the suppliers of the Seller fail to deliver, explicitly including circumstances that cause delays in the normal production process and/or the delivery of the suppliers from which the Seller procures the Goods.
3. In the event that the Seller, at the time of the occurrence of force majeure, has already partially fulfilled its obligations to the Consumer arising from the Contract, and has partially delivered the Goods and/or services for the benefit of the Consumer - and the Goods and/or services already delivered have independent value - the Seller is entitled to invoice the Goods and/or services in question separately. The Consumer is then obliged to pay the relevant invoice of the Seller.

#### **ARTICLE 26 - Applicable law and competent court**

1. All Contracts entered into by the Seller are governed by Dutch law, to which these General Terms and Conditions apply as a supplement and, insofar as provisions of a mandatory nature do not oppose them, as a derogation.
2. Any disputes between the Seller and the Consumer shall be settled by the competent court of the place of business of the Seller, unless the Consumer or the Seller has opted to submit the dispute to the Dispute Resolution Committee in accordance with Article 20.