

## **GENERAL TERMS AND CONDITIONS**

of the private limited company Verbufa B.V., Hanzeboulevard 20-22 (3825 PH), Amersfoort, the Netherlands. Filed with the Chamber of Commerce in Amersfoort under file number 31044861 on 08/07/2013.

### **Article 1 - Definitions**

**Verbufa:** the private limited company Verbufa B.V., with its registered office in Amersfoort.  
**Client:** every (legal) person with whom Verbufa B.V. has a contractual relationship, including agreements about the provision of goods and/or services.  
**Quotation:** a written offer from Verbufa to conclude an agreement.

### **Article 2 - Applicability of these terms and conditions**

**2.1** These terms and conditions apply to the entire legal relationship between Verbufa and a Client, including every offer and every agreement between Verbufa and a Client.  
**2.2** The applicability of general terms and conditions used by a Client is excluded.  
**2.3** Any deviations from and additions to these general terms and conditions are valid only if Verbufa has explicitly confirmed their applicability in writing.  
**2.4** If any provisions of these general terms and conditions are null and void or are declared void, the other provisions of these general conditions will remain in full force.

### **Article 3 - Formation of the agreement**

**3.1** Unless stated otherwise, the Quotations issued by Verbufa are valid for 30 days from the date given in the Quotation.  
**3.2** Verbal promises will only bind Verbufa if and insofar as Verbufa has explicitly confirmed them to the Client in writing.  
**3.3** An agreement with Verbufa is concluded only through a written confirmation of the verbal agreements from Verbufa to the Client.

### **Article 4 - Prices**

**4.1** The prices stated in a Quotation are exclusive of VAT, unless stated otherwise.  
**4.2** Unless explicitly stipulated otherwise in the agreement, import duties, turnover tax and generally all governmental taxes and levies are payable by the Client. However, Verbufa is entitled to separately charge the Client for subsequent increases of governmental levies and/or taxes. The Client owes Verbufa such subsequent increases.  
**4.3** The prices do not include the costs for, for instance, demolition work, brickwork, laying pipes for gas, electricity and water, as well as the connections thereto.  
**4.4** In the event that Verbufa has agreed a certain price with the Client, Verbufa is nevertheless entitled to increase the price in the event of a change to cost-determining factors such as:  
- the price of raw materials;  
- unfavourable exchange rate changes;  
- price increases by Verbufa's suppliers.  
Verbufa will notify the Client of a price increase as soon as possible.  
**4.5** When, upon delivery based on the then prevailing pricelist of Verbufa, the price differs from the one in the Quotation, the pricelist prevails. Verbufa is entitled to charge the Client that price, with due observance of the provisions of article 4.6.  
**4.6** In the event of a price increase of 10% or more compared to the price in the Quotation, the Client is entitled to dissolve the agreement, but without any right to compensation. The Client must indicate its intention to dissolve the agreement within eight days of the price increase being announced, failing which both the agreement and the price increase continue. This also applies to agreements for delivery by instalments, with regard to the quantities yet to be purchased, if Verbufa increases its prices by more than 10% during the term of the agreement. If, in the event of agreements for delivery by instalments, the price is increased within the first three months of the agreement being concluded, the Client can dissolve the agreement within eight days of receiving the price increase notification, regardless of the extent of the price change.

### **Article 5 - Delivery**

**5.1** Unless agreed otherwise, delivery is made through transfer of title (hereinafter referred to as 'delivery' by Verbufa at the address of the warehouse of Verbufa or a storage location or depot to be allocated by Verbufa).  
**5.2** If delivery is made on the basis of the Incoterms, the Incoterms prevailing at the time when the agreement is concluded will apply.  
**5.3** When delivery free domicile has been agreed on, it means that the normal costs of transport up to the destination are included in the price, unless explicitly agreed otherwise. Normal costs of transport do not include additional costs such as costs incurred on account of unfavourable weather conditions, traffic jams, etc. Unless agreed otherwise, Verbufa, in the case of delivery free domicile, ensures that all goods, during their transport from Verbufa to their destination, are insured against the usual risk, including wilful damage, for at least the invoice amount.  
**5.4** The Client is obliged to accept the purchased

goods when Verbufa has prepared them for delivery or has delivered them (in the case of delivery free domicile). From that moment on, the Client bears the full risk for the goods.

Should the Client refuse to take delivery or fail to provide information or instructions required for the delivery, the goods will be stored at the Client's expense and risk. In that case, the Client will be liable for all (additional) costs, including in any case the costs of storage. This also applies if the goods to be delivered are temporarily stored elsewhere following instructions from the Client.

**5.5** The delivery date given in the Quotation is indicative and also depends on the prompt delivery by Verbufa's suppliers. Verbufa will not be in default as a result of the mere act of exceeding the agreed delivery term. In that case, the Client will be entitled to demand delivery is made within a reasonable term to be set by Verbufa, failing which the Client is entitled to dissolve that part of the agreement that relates to the undelivered goods, by sending a registered letter to Verbufa, but without having any right to compensation. Dissolution does not constitute an obligation for Verbufa or the Client to reverse performances already made. The Client must therefore pay performances already made.

### **Article 6 - Partial deliveries**

Verbufa is entitled to deliver the sold goods in stages. This does not apply if the partial delivery has no independent value. If the goods are delivered in stages, Verbufa will be entitled to invoice each stage separately.

### **Article 7 - Technical requirements, assembly**

**7.1** In the event that the goods to be delivered to the Client by Verbufa must be used outside the Netherlands, the Client is obliged to notify Verbufa accordingly before the agreement is concluded and to promptly provide the information needed by Verbufa to ensure the goods to be delivered meet the technical requirements or standards attached by virtue of laws or stipulations in the country of use. Furthermore, any conditions that differ from the requirements and standards applicable in the Netherlands, also in the case of use in the Netherlands, must be explicitly indicated by the Client.

In the event that the Client fails to fulfil the obligations set out in this provision, Verbufa is not liable towards the Client, or for third-party claims against the Client.

**7.2** Unless explicitly agreed otherwise in writing, engineers or other members of staff are made available at calculation of all working and travel hours, as well as extra costs according to the then prevailing rates of Verbufa.

**7.3** 'Free assembly' is solely taken to mean the free use of one engineer for the actual assembly. The Client is obliged to provide the engineer, free of charge, with the necessary assistance, as well as all hoisting, transport and other equipment and polishing materials required for taking the goods inside and assembling them.

**7.4** All possible building work, laying foundations and pipes is at the expense and risk of the Client. Verbufa does not accept any liability for this.

**7.5** Additional costs ensuing from the fact that the engineer, as a result of an act or omission for which Verbufa cannot be held responsible, is unable to commence his work immediately upon arrival or has to interrupt his work, will be fully payable by the Client. When assembly cannot take place during normal day hours, the additional costs are also payable by the Client.

**7.6** Unless agreed otherwise, special security measures to be taken by order of the government or otherwise are at the expense of the Client.

### **Article 8 - Samples, models and examples**

**8.1** When Verbufa shows or provides a model, sample, examples, drawings, catalogues, prospectuses and other information material in a Quotation, order confirmation or otherwise, this is always done for indication purposes only. The qualities of the goods to be delivered may deviate from the sample, model, examples, drawings, catalogues,

prospectuses and other information material.

### **Article 9 - Confidentiality**

**9.1** The Client is obliged to observe confidentiality towards third parties with regard to all business details of Verbufa disclosed to it. This duty of confidentiality remains in force after termination of the agreement.

**9.2** If the Client fails to fulfil its obligations referred to in paragraph 1, the Client owes a penalty – that is not subject to mitigation – of EUR 1,000 for each violation (in the course of which each day a violation continues is regarded as a separate violation), without prejudice to Verbufa's right to claim compensation for the damage or losses actually suffered.

### **Article 10 - Intellectual property rights**

**10.1** The Client guarantees not to infringe any intellectual property right of Verbufa and/or a third party.

**10.2** The intellectual property rights to all that Verbufa makes available and/or delivers to the Client accrue to Verbufa or any third-party titleholder, never with the Client.

**10.3** The Client is not permitted to remove and/or somehow change any notice pertaining to the confidential character or to copyrights, brands, trade names or other intellectual or industrial property rights of the website, data files, equipment or materials and more in general of that which has been made available and/or delivered to the Client.

**10.4** All models, samples, drawings, examples, catalogues, prospectuses and information material made available to the Client by Verbufa remain Verbufa's property, even though costs have been charged for them.

Furthermore, they cannot be shown and/or made available to third parties, and the Client is not entitled to make and/or keep copies thereof.  
**10.5** The Client indemnifies Verbufa against all third-party claims and direct and indirect damage or losses caused by an infringement by the Client of the intellectual property right of Verbufa and/or a third party. Verbufa is not liable for such claims and damage or losses, not towards the Client or towards the third parties.

**10.6** The Client indemnifies Verbufa against third-party claims and direct and indirect damage or losses based on an infringement of an IP right of the aforementioned third parties and Verbufa is not liable for such claims and damage or losses if the Client has caused the goods to be delivered to become part of other goods through accession or connection and/or if the Client has delivered the goods (after they have become part of other goods through accession and/or connection or otherwise) to third parties for use outside the EU or to third parties established outside the EU. As such, causing the goods to be delivered to become part of other goods through accession or connection and/or delivering the goods to third parties established outside the EU and/or for use outside the EU is at the full expense and risk of the Client.

### **Article 11 - Deviations and changes**

**11.1** Verbufa is entitled to deliver goods/objects that deviate from what has been agreed on if it concerns changes required in order to meet applicable statutory regulations or if it concerns minor deviations or changes that constitute an improvement of the goods/objects according to Verbufa's standards.  
**11.2** If for whatever reason the agreement is not executed in full, the agreement will continue to be in force for the remainder, this at the discretion of Verbufa.

### **Article 12 - Payment**

**12.1** The Client is obliged to pay the full amount invoiced by Verbufa within 30 days of the invoice date; - by means of any legal payment method at the offices of Verbufa; - by transferring the amount due to Verbufa in Amersfoort. Thirty days after the invoice date, the Client is in default without further notice of default; from the moment it is in default, the Client owes interest on the amount due to the extent of

the statutory interest rate plus a surcharge of 2% (in words: two percent).

**12.2** In the event of the Client's liquidation, bankruptcy or moratorium, the Client's obligations will become immediately due and payable.

**12.3** The Client is never entitled to fully or partially suspend payments.

**12.4** Payment is made without discount.

**12.5** The Client is never entitled to set off any payment.

**12.6** Payments made by the Client will be used to pay the invoices – from any agreement between the parties – due and payable which have been outstanding for the longest period of time, even if the Client states that the payment concerns a later invoice.

### **Article 13 - Credit restriction**

In addition to the interest payable, Verbufa is entitled to impose a surcharge of 2% (in words: two percent) of the invoice amount, which is not payable when payment is made within 30 days of the invoice date.

### **Article 14 - Suspension and dissolution**

**14.1** In the event of attributable failure of the Client or if the Client is likely to fail in fulfilling any obligation, Verbufa is entitled to suspend all or some of its obligations without legal intervention and without a further notice of default being required. Dissolution is effectuated by means of a written declaration.

**14.2** Verbufa is also entitled to suspension or full or partial dissolution without legal intervention:

- if circumstances occur with regard to persons and/or equipment that Verbufa uses or tends to use for the execution of the agreement, which circumstances are of such a nature that the execution of the agreement becomes impossible or inconvenient and/or disproportionately expensive to such extent that fulfilment of the agreement can no longer reasonably be required; - if, on conclusion of the agreement, Verbufa has asked the Client for security with regard to fulfilment and this security is not forthcoming or insufficient.

**14.3** All costs incurred by Verbufa and damage or losses caused by suspension and/or dissolution are payable by the Client.

**14.4** Verbufa also has the rights referred to in paragraph 1 if the Client is declared insolvent, if a winding-up petition has been filed or granted, if an attachment is effectuated against the Client or if its business has gone into liquidation.

**14.5** If a situation occurs as described above in paragraphs 1, 2 and 4, all outstanding claims of Verbufa at that time are immediately due and payable.

**14.6** In the event of an attributable failure of the Client, Verbufa is entitled to compensation for all direct and indirect damage or losses it has suffered.

### **Article 15 - Liability**

**15.1** Verbufa's overall liability is, except in the event of intent or gross negligence by Verbufa and subject to the other provisions in these general terms and conditions, limited to compensation of direct damage subject to a maximum of the amount of the last invoice or, if the liability is covered by the insurance, the amount of the payment made by the insurer. In addition to the direct damage itself, direct damage also includes:  
a. the reasonable costs to be incurred by the Client in order to have Verbufa's performance comply with the agreement;  
b. reasonable costs, incurred in order to determine the cause and the extent of the damage, insofar as the determination relates to direct damage within the meaning of these terms and conditions;  
c. reasonable costs, incurred in order to prevent or limit damage, insofar as the Client proves that these costs have led to a reduction of direct damage within the meaning of these terms and conditions.

**15.2** Compliance with the provisions in paragraph 1 of this article is regarded as the only and full compensation, so that Verbufa is never liable for any other damage or losses such as trading loss, lost profits, lost orders, reduced turnover, loss of turnover or production, stagnation of or slowdowns in the production process, full or partial damage to or loss of goods, personal injury, damage or losses suffered by

third parties or any other type of damage or losses.

**15.3** In all cases, Verbufa will be liable only if the Client holds Verbufa liable and/or declares Verbufa to be in default by registered letter within fourteen days of the shortcoming arising, in the course of which a reasonable period of time to remedy the shortcoming is given in the event of a notice of default and Verbufa continues to attributably fail to fulfil its obligations once that period has lapsed. In order to allow Verbufa to respond effectively, the notice of default must contain a description of the failure that is as accurate and detailed as possible.

**15.4** A condition with regard to any right to compensation being created is that the Client reports the damage or losses to Verbufa by registered letter within fourteen days of it having arisen. Any right to compensation towards Verbufa lapses 2 (in words: two) months after the Client could have reasonably been aware of the damage or losses. If the Client has notified Verbufa and has held it liable in writing with due observance of the provisions in the previous sentence, the right to compensation nevertheless lapses if the Client fails to bring a legal claim against Verbufa at the competent authorities within 6 months of the notification.

**15.5** The limitations of liability contained in these general terms and conditions are deemed to have been stipulated also for third parties engaged by Verbufa for the fulfilment of its obligations.

**15.6** The Client indemnifies and reimburses Verbufa in respect of all third-party claims for compensation, for which the liability of Verbufa towards the Client is excluded in these terms and conditions.

#### **Article 16 - Force majeure**

**16.1** Verbufa's failure to fulfil its obligations cannot be attributed to Verbufa if the failure is not the result of a wrongful act on the part of Verbufa and for which it is not accountable by virtue of the law, legal act or generally accepted standards (force majeure). Force majeure of Verbufa is also taken to mean force majeure of Verbufa's suppliers and the conditions set out in article 16.2.

**16.2** Failures by Verbufa to fulfil its obligations as a result of war, mobilisation, unrest, floods, transport disruptions, stagnation and/or restriction of and/or discontinuation of the supply by utility companies, machinery breakdown and other accidents, strikes, exclusions, trade union action, export restrictions, other governmental measures, non-delivery of the necessary materials and semi-finished products by third parties, intent or gross negligence by auxiliary persons and other similar circumstances beyond Verbufa's control are regarded as not attributable to Verbufa and as such are deemed to fall under force majeure.

**16.3** In the event that circumstances are changed to the extent that Verbufa cannot reasonably be expected to (continue to) fulfil its obligations, Verbufa is, without legal intervention, entitled to suspend execution of the agreement or to fully or partially dissolve the agreement, without Verbufa being obliged to pay any compensation for damage or losses suffered by the Client or third parties.

**16.4** Verbufa is also entitled to invoke force majeure if the circumstance that prevents the (continued) fulfilment arises after Verbufa should have fulfilled its obligation.

**16.5** If the period during which Verbufa is unable to fulfil its obligations due to force majeure continues for more than 3 months, both parties will be authorised to dissolve the agreement without any obligation to pay compensation.

**16.6** Should Verbufa have already fulfilled some of its obligations when the situation of force majeure commenced, or only be able to fulfil its obligations partially, it will be entitled to separately invoice the parts delivered and/or deliverable and the Client will be obliged to pay this invoice as if it concerned a separate contract. However, this does not apply if the parts delivered and/or deliverable do not have an independent value.

#### **Article 17 - Retention of title**

**17.1** Ownership of the goods delivered to the Client by Verbufa transfers to the Client only after the latter has paid Verbufa all that it owes in consideration for all that has been delivered to the Client under the agreement with Verbufa. The retention of title described in the previous sentence also comprises claims of Verbufa against the Client on account of failure to comply with the agreement referred to in the first sentence of this paragraph.

**17.2** Goods delivered by Verbufa, which are subject to retention of title by virtue of article 17.1, may only be resold in the context of normal business activities. The Client is otherwise not entitled to pledge the goods or to attach any other rights to them.

**17.3** Should the Client fail to fulfil its obligations or if there is a reasonable ground to believe that it will fail to do so, Verbufa will be entitled to remove delivered goods that are subject to the retention of title referred to in article 17.1 from the Client or third parties keeping the goods on behalf of the Client. The Client is obliged to cooperate in this subject to a penalty of EUR 10,000 for each day that no full cooperation is given.

**17.4** Should third parties wish to attach or exercise any rights with regard to the goods delivered under retention of title, the Client will be obliged to notify Verbufa thereof as soon as is reasonably possible.

**17.5** On Verbufa's demand, the Client

undertakes:

- to insure the goods delivered under retention of title against fire, explosion and water damage and against theft and to keep these insured and to submit the policy of this insurance for inspection by Verbufa;
- to pledge to Verbufa all of the Client's claims against insurers with regard to the goods delivered under retention of title in the legally prescribed manner;
- to mark the goods delivered under retention of title as the property of Verbufa;
- to otherwise cooperate in all reasonable measures that Verbufa wishes to take in order to protect its retention of title with regard to the goods and which do not hinder the Client in its normal business operations in any unreasonable way.

**17.6** Any repairs to the goods will be made at the expense and risk of the Client, by persons appointed by Verbufa.

**17.7** If the value of the goods taken back by Verbufa must be assessed, this valuation will be undertaken by an expert to be appointed by Verbufa. During every valuation, the price for which Verbufa, on the day on which the goods are taken back, could deliver new goods of the same nature as the ones taken back will be taken into account. Assuming this price, the goods' value reduction on account of use, damage, ageing and reduced saleability for whatever reason will also be taken into account.

**17.8** Any repairs to the goods will be made at the expense and risk of the Client, by persons appointed by Verbufa.

**17.9** If the value of the goods taken back by Verbufa must be assessed, this valuation will be undertaken by an expert to be appointed by Verbufa. During every valuation, the price for which Verbufa, on the day on which the goods are taken back, could deliver new goods of the same nature as the ones taken back will be taken into account. Assuming this price, the goods' value reduction on account of use, damage, ageing and reduced saleability for whatever reason will also be taken into account.

#### **Article 18 - Faults, time limit for lodging a complaint**

**18.1** The Client must inspect the purchased goods on delivery or as soon as possible thereafter. In the course thereof, the Client must verify if the delivered goods comply with the agreement, i.e.:

- if the correct goods have been delivered;
- whether the goods delivered comply with the agreement as regards their quantity (e.g. numbers and volumes);
- if the goods delivered meet the agreed quality requirements, or in the absence thereof, the requirements which may be set to normal use and/or commercial purposes.

**18.2** If any visible faults or shortcomings are found, the Client will notify Verbufa thereof in writing within 14 days of delivery, subject to all claims lapsing.

**18.3** The Client must notify Verbufa in writing of invisible faults within 14 working days of discovery, yet no later than 2 months after delivery, subject to all claims lapsing.

**18.4** If the Client fails to act in accordance with the provisions in this article, its claims against Verbufa will lapse and delivery is deemed to have been accepted unconditionally.

**18.5** Even if the Client submits complaints within the specified periods, it will still be obliged to take delivery of and pay for the goods ordered. Goods may be returned to Verbufa only after having received the latter's prior consent in writing. In that case, the goods must be returned postage paid. Verbufa's obligation in the case of identified faults will never be more than the obligation to replace faulty goods.

**18.6** Replacement parts are subject to the retention of title described in article 17 of these general terms and conditions.

**18.7** Claims based on a warranty obligation must, when disputed, brought before the court subject to all rights lapsing, within 6 months of expiry of the terms mentioned in 18.2 and 18.3, subject to all claims lapsing.

**18.8** Verbufa offers a warranty for assembly and installation only if the assembly and installation are undertaken by Verbufa staff. In the event that the Client instructs a party other than Verbufa to maintain the machines delivered and/or to repair or modify them in any way, including the assembly of other manufacturing parts other than the originals, other than by or on behalf of Verbufa and/or without Verbufa's explicit consent, any claim under any warranty and any right to complain and/or remedy faults lapses.

**18.9** The warranty never relates to faults caused by natural wear and tear or faults in the proper operation caused through no fault of Verbufa, for instance as a result of improper, incorrect or careless treatment, overloading, etc.

Verbufa is never obliged to furnish the Client with a warranty that goes beyond the warranty Verbufa can invoke towards the suppliers.

**18.10** Verbufa never furnishes a warranty for old, non-overhauled objects/systems.

**18.11** The provisions in this article apply by analogy to replacement parts.

#### **Article 19 - Judicial and extrajudicial costs**

**19.1** All costs, both judicial and extrajudicial, that, among other things, relate to the collection and recovery of money not paid or not paid in time, are payable by the Client.

The extrajudicial costs are set at:

- on the first EUR 6,500: 15% of the principal sum
- in excess of the above, up to EUR 13,500: 10% of the principal sum
- in excess of the above, up to EUR 32,550: 8% of the principal sum
- in excess of the above, up to EUR 130,000: 3% of the principal sum

If Verbufa proves that it did indeed incur higher costs, which were reasonably necessary, these costs are also eligible for reimbursement.

**19.2** The costs of a winding-up petition for the Client by Verbufa are also payable by the Client.

#### **Article 20 - Settlement of disputes**

**20.1** Any disputes that may ensue in connection with the agreement which these general terms and conditions apply to, or in connection with other agreements will only be settled by the appropriately competent court in the court district of central Netherlands (the Netherlands), without prejudice to Verbufa's right to have any dispute settled by the court that is competent by virtue of the law or any treaty.

**20.2** In the event that the general terms and conditions are available in several languages, the Dutch version and translation and as such the Dutch meaning of the Dutch words used will at all times prevail for the interpretation of the general terms and conditions.

#### **Article 21 - Applicable law**

All agreements that are fully or partially subject to these terms and conditions are governed by Dutch law. The applicability of the Vienna Sales Convention is excluded.