

GENERAL TERMS AND CONDITIONS FOR CONTRACT WORK ALSO CONTAINING GENERAL TERMS AND CONDITIONS FOR THE DELIVERY OF GOODS

Article 1 Definitions, applicability

- 1.1 These general terms and conditions apply to all offers by all (operating) companies belonging to the Verwater group, being all subsidiaries of Verwater B.V., hereinafter to be referred to as Verwater, and all agreements or legal relationships between Verwater as (main)contractor and its client concerning the the work of a tangible nature to be executed by Verwater as described in the contract to which these terms and conditions apply,, the carrying out of repairs to buildings and structures in installations, in particular storage tanks, the jacking and relocation of such storage tanks, all in the widest sense of the word, as well as to the goods to be delivered by Verwater in this context.
- 1.2 The general terms and conditions of the client, including those referred to in the specifications used by the client, as well as stipulations which depart from the current stipulations are only applicable if and insofar as they have been expressly accepted by Verwater in writing.
- 1.3 Insofar as not contrary to these general terms and conditions for contract work, the Uniform Administrative Conditions for the Execution of Electrical, Mechanical and Plumbing Works (UAV 2012) [*Uniforme Administratieve Voorwaarden voor de uitvoering van werken en van technische installatiewerken*] shall have supplementary application.
- 1.4 Verwater is at all times entitled to amend these general terms and conditions.
- 1.5 Verwater shall notify the client in writing of the amendments as referred to in the previous paragraph at the latest 14 days before the intended commencement date of those amendments.
- 1.6 If the client has not notified Verwater within 14 days from the date of the notification referred to in the previous paragraph that it does not accept the intended amendments, the client is deemed to have

accepted the amendments, after which they form a full and integral part of the agreement entered into with the client.

- 1.7 Should in a particular case the English version of these terms and conditions be used and as a result of this obscurities arise on the interpretation of such version, in the context of such interpretation, the interpretation of the corresponding provision(s) in the original Dutch version of these conditions is guiding.

Article 2 Offers, agreements

- 2.1 An offer is valid for 30 days from the date of dispatch unless expressly stated otherwise in the offer. If the offer has not been accepted within this term, Verwater is entitled to withdraw or change the offer.
- 2.2 An agreement with the client is formed the moment the written acceptance of the offer has been received by Verwater.
- 2.3 If the acceptance deviates from the offer, all that is stated in the offer shall be deemed to be the content of the agreement.

Article 3 Prices

- 3.1 The prices referred to in the offer or agreement are exclusive of VAT and based on the cost determining factors at the time of its dispatch and the information provided by the client such as detailed work drawings by object and/or instruction.
- 3.2 If during the period between the offer and the delivery of the work, the prices of raw materials, (auxiliary) materials, wages, social charges, taxes and/or other cost determining factors undergo changes, even if these changes are the result of previously foreseeable circumstances, Verwater is entitled to adjust the prices accordingly, which adjustments are guided by the Insurance against the risk of price increases Residential Building and Non-residential Building Regulation 1991 [*Risicoregeling Woningbouw en Utiliteitsbouw 1991 (RWU 1991)*] or successive regulations. Section 47 of the UAV 2012 does not apply to the provisions of this paragraph

- 3.3 If after the formation of the agreement, there is evidence of any obscurity or incompleteness of the information referred to in the first paragraph which gives Verwater reason to investigate or to change the prices and/or man hours and/or the materials to be used, Verwater is entitled to charge the client the costs arising therefrom.

Article 4 General obligations of the client

- 4.1 The client acts towards Verwater as a proper and careful client.
- 4.2 The client ensures that Verwater has prompt access to a full overview of all the requirements of the client as well as to all the information required by Verwater in connection with the performance of the agreement.
- 4.3 The client provides Verwater with all the information Verwater requires for the performance of the agreement.

Article 5 Contract variations

- 5.1 Verwater is entitled to invoice additional work and to adjust the agreed price or prices accordingly.
- 5.2 Additional work is considered all that is delivered and/or introduced by Verwater, either at the written or oral request of the client, or on instruction of third parties authorized by the client or as a result of new or amended regulations or due to specification changes, beyond the quantities and/or types of materials to be processed expressly set out in the agreement, or that which has been performed beyond the activities set out in the agreement. When giving an instruction to carry out additional work, the client must grant Verwater a reasonable extension of the time limit as regards the delivery date.
- 5.3 Damage which occurs after the delivery can be repaired by Verwater as additional work. The relevant work shall be carried out at the day rate or hourly rate agreed for the work.
- 5.4 The materials to be delivered by Verwater are, in advance on call by and under the responsibility of the client, delivered at the

work on issue of a consignment note signed by or on behalf of the client for approval. If after delivery and approval it appears that the delivered quantity of material comes to more than 104% of the required quantity, Verwater can charge the excess to the client.

- 5.5 Settlement of the additional work is made in a lump sum after completion of the additional work but Verwater is entitled to have the settlement take place at the final settlement such at Verwater's discretion.
- 5.6 The client is obliged to notify Verwater promptly of a reduction of work on penalty of the loss of the right to be able to rely on settlement of such reduction in work. Savings which Verwater has introduced shall not apply as less work if they have not reduced the quality of the work.

Article 6 Retention of title in respect of delivered goods

- 6.1 All goods delivered by Verwater to the client remain the property of Verwater until such time the invoiced purchase price, including VAT and any possible other levies, in respect of all these goods has been paid. The retained ownership applies also for all that the client now or in the future shall owe pursuant the agreement(s), activities relating to the deliveries made by Verwater and due to failure of the client in the performance of one or more of his obligations, all this in the widest sense of the word.
- 6.2 If the client has failed in any due and payable obligation towards Verwater and all cases referred to under sub a toe inclusive of paragraph 3 of this article and in all other cases where Verwater has good reason to fear that the client is going to fail in his payment obligations towards Verwater, Verwater is entitled to repossess the goods delivered subject to retention of title from the client, whereby the client grants Verwater permission in advance to enter the sites and buildings it has in use with means of transportation and auxiliary persons in order to allow Verwater to repossess the goods. After repossession, the client shall be credited

- the market value of the repossessed goods which under no circumstance shall be higher than the original invoice amount invoiced to the client by Verwater exclusive of levies less the cost of repossession.
- 6.3 As long as the ownership of the goods delivered by Verwater has not transferred to the client, the client is not entitled to pledge one or more of these goods, to transfer such as security or to grant third parties any other right to it. The client is only permitted to deliver the goods to third parties if this forms part of his normal business operations and provided the client, in turn, has stipulated a retention of title in favour of Verwater towards the purchaser of the goods. This authority terminates if the client:
- offers an out-of-court settlement to all its unsecured creditors;
 - applies for a moratorium;
 - petitions its bankruptcy or a third party petitions its bankruptcy;
 - loses the unfettered control over its assets;
 - is in default of the performance of any obligation towards Verwater.
- 6.4 The client is obliged to adequately insure the goods delivered by Verwater subject to retention of title and to make the policies of these insurances available for inspection to Verwater on demand. All claims of the client on the insurers of the goods pursuant to the insurances referred to shall, as soon as Verwater notifies to require this, be pledged by the client to Verwater in the manner as indicated in section 3:239 Dutch Civil Code as additional security for the claim(s) of Verwater on the client.
- 6.5 The client undertakes on demand of Verwater to establish on the goods delivered by Verwater which have transferred in ownership to the client, rights of pledge in favor of Verwater as referred to in section 3:237 Dutch Civil Code as additional security for the claims which Verwater might have or might acquire against the client for whatever reason.
- 6.6 The client undertakes not to assign or pledge claims it acquires against its purchaser in connection with the sales of the goods delivered by Verwater to third parties without the prior written consent of Verwater. The client undertakes in addition, as soon as Verwater notifies to require this, to pledge the relevant claims to Verwater in the manner indicated in section 3:239 Dutch Civil Code as additional security for the claims which Verwater has on the client for whatever reason.
- 6.7 If and as long as Verwater is the owner of the goods or has a right of pledge on the goods, the client shall notify Verwater immediately when the goods are seized (or are threatened to be seized) or claims in respect of the goods (or any part of) are otherwise made.
- 6.8 If goods are seized which are subject to retention of title by Verwater or in respect of which Verwater has a right of pledge as well as in all the cases set out in subparagraph a toe inclusive of paragraph 3 of this clause, the client shall inform the seizure, the administrator or the trustee of the (ownership) rights of Verwater.

Article 7 Performance, delivery

- 7.1 Verwater only has to commence with the performance of the agreement when:
- at least seven days have passed since the agreement was formed in accordance with the provisions in clause 2 and
 - it has received all the information required for the performance, the required final permits, exemptions, approvals and/or allocations needed for the work have been received and the place where the work has to be carried out is, in the opinion of Verwater, such that the performance of the work can commence.
- 7.2 If payment in installments has been agreed, Verwater can extend the date of commencement or the term of execution with the time during which the client leaves a due and payable installment or part thereof unpaid.
- 7.3 The work or a part thereof is deemed to have been delivered when either Verwater, after completion of the work or

the relevant part thereof, has given written notification of such to the client or the client has actually taken the work or the relevant part of such into operation or when the client has indicated in any other way to approve the work or the relevant part.

- 7.4 If requested, the client is obliged to inspect and/or check the work.
- 7.5 The term as referred to in paragraph 14(6) UAV 2012 is two months.

Article 8 Termination and force majeure

- 8.1 Verwater can terminate the agreements it has entered into unilaterally without recourse to the courts in one or more of the following events:
- if the client is in default of any of its obligations towards Verwater;
 - if the client fully or partially loses its unfettered control over its assets;
 - if it is unable to perform the agreement or perform it on time as a result of force majeure.
- 8.2 Except in the event of intent or gross negligence on the part of Verwater, small deviations both in relation to quantity and quality of the ordered goods as well as in relation to the agreed delivery time never entitle the client to any form of compensation, to terminate the agreement, to cancel the given instruction or to any possible right to suspension or a right to setoff.
- 8.3 Force majeure means any circumstance beyond the control of Verwater - even if it was already foreseeable at the time of entering into the agreement - which permanently or temporarily prevents the performance of the agreement by Verwater as well as - insofar as not already constituting such a circumstance - (civil) war (risk), fire, blockade, epidemic, flood, climatic circumstances of a special nature, machine failure, business interruption, late delivery of raw and auxiliary materials, traffic congestions and government measures of an impeding nature, all this both in the business of Verwater and that of its suppliers and auxiliary persons.

- 8.4 In all events set out in paragraphs 1 and 3 of this clause, Verwater is entitled to suspend the agreement wholly or in part without being liable to pay any compensation towards the client.
- 8.5 If a situation set out in paragraphs 1 and 3 continues for longer than 6 months, each party is entitled to terminate the agreement for the not-yet performed parts by written notification to the other party, in which case Verwater could demand payment in respect of the already performed parts however without being obliged to pay any kind of compensation.

Article 9 Execution

- 9.1 Verwater is obliged to carry out the work correctly and properly. If during the execution it appears that the work can only be carried out in a changed manner due to a cause which cannot be attributed to Verwater, Verwater is entitled, on settlement of any additional/reduced costs arising from such, to notify the client immediately of the changes to the execution as contracted it considers necessary and to implement these after consultation with the client.
- 9.2 The client is obliged to ensure that work to be carried out or goods to be delivered by third parties is carried out or delivered in such a way and in such good time that the execution of the work is not delayed by it. The client is also obliged to take all the measures as required in the opinion of Verwater to ensure that the execution of the work can continue without interruption.
- 9.3 The client must at its own expense - if in the opinion of Verwater the execution of the work so demands - ensure there are sufficient facilities for the supply, storage and/or removal of materials, equipment and/or raw materials. The client must also provide Verwater with connection facilities for electrical machines, lighting, gas, compressed air, water and other energy sources required for the execution, whereby the costs of the connection, electricity, gas, water and air are for the account of the client.

- 9.4 If the client fails to comply with the obligations imposed in paragraphs 2 and 3, Verwater is not liable for any possible loss arising from this for the client. In that event Verwater is also entitled, without any notice of default or demand being required, to charge the (extra) costs and losses it incurs as a result to the client.
- 9.5 The client is obliged to comply with the provisions in relation to the Working Conditions Act *[Arbeidsomstandighedenwet]* and the regulations arising from such and the implementation of such at Verwater's as expressed in the Arbo-policy provisions applicable within Verwater's company, as well as the requirements of the Health and Safety Inspectorate *[Arbeidsinspectie]* and to have them complied with and to take all measures considered necessary and useful by Verwater in this respect before and during the execution of the work or to have them taken, such in consultation with Verwater. Unless expressly agreed otherwise, the costs of such measures and/or provisions are not included in the contract price and are for the account of the client.

Paragraph 6(16) UAV 2012 only applies with due observance of the provisions in the two previous sentences.

Article 10 Complaints

- 10.1 The client must notify Verwater of any defects in the work - including defects in the materials delivered by Verwater - in writing and providing details within 8 days from the time referred to in article 7(3). In the absence of such statement, the client is deemed to have approved the work.
- 10.2 If a complaint by the client is considered justified by Verwater, Verwater shall remedy the defect free of charge on the proviso this does not include the costs of assembly and/or replacement of goods not delivered and/or assembled by Verwater. A complaint regarding a defect in the work is never justified if such defect is the result of constructions and/or working methods prescribed by the client,

of materials or raw materials delivered by or on behalf of the client or of any external cause.

Article 11 Liability of Verwater

- 11.1 Subject to delivery by Verwater itself, Verwater is not liable for the defects in the materials and/or building material it processes or the consequences of such.
- 11.2 Verwater is not liable for the costs and the consequences of the delivery of building material which it did not deliver. Paragraph 18(6) UAV 2012 does not apply.
- 11.3 Verwater is liable for damage to the work, auxiliary works, equipment and material insofar caused by incorrect constructions and/or calculations by Verwater or made by third parties on Verwater's instruction, in addition for errors or omissions on its part in the execution of the work insofar as this can be attributed to Verwater's or its managerial subordinates' intent or gross negligence. All (managerial) subordinates employed by Verwater can rely on the provisions of this article paragraph towards the client and, if necessary, towards third parties.
- 11.4 Verwater is also not liable for damage caused by auxiliary persons.
- 11.5 Losses as referred to in section 6:78 Dutch Civil Code are not eligible for payment.
- 11.6 Unless the loss is caused by intent or gross negligence on the part of Verwater, the client shall indemnify Verwater against all claims by third parties, directly or indirectly relating to (the use of) the goods and the client shall compensate Verwater for any loss Verwater might suffer as a result of such claims.
- 11.7 Verwater's liability is, except in the event of intent or witting recklessness of its board or company management, at all times and in all cases limited to maximum the amount Verwater's liability insurance policy would pay out in the relevant case.
- 11.8 Verwater is not liable for additional or other losses - such as trading loss and business interruption loss or other

consequential loss and/or immaterial loss
- than determined in these conditions.

Article 12 Liability of the client

12.1 Without prejudice to the other rights of Verwater, the client is liable for all loss, costs and interest which are the result of:

- a. the failure to comply with the requirements set by the government and/or organizations and institutions charged with the supervision of these requirements in respect of the goods to be delivered by Verwater to the client or the work to be carried out for the client;
- b. the compliance by Verwater with methods prescribed by or on behalf of the client, meeting the wishes expressed by the client as well as the consequences of all other instructions or directions issued by or on behalf of the client within the performance of the agreement by Verwater;
- c. circumstances attributable to the client which delay or otherwise prevent, whether or not permanently, the progress of the delivery by Verwater / the work to be carried out by Verwater.

12.2 Whether or not permits or subsidies are granted, the required financing is obtained and/or other unforeseen circumstances occur, these circumstances do not release the client from the liability referred to in the previous paragraph and the client shall never be able to derive the right from such to terminate the agreement, all this unless the parties have expressly agreed this in writing.

12.3 If, with a view to the delivery of the ordered and purchased goods / the performance of the agreed work, the client has taken on an obligation and fails in the performance of such obligation, Verwater is, if as a result in turn it fails in the performance of its own obligations, not liable for the ensuing loss, costs and interests. The client fully indemnifies Verwater against claims by third parties against Verwater which directly or indirectly arise from a failure as referred to in the previous sentence.

Article 13 Payment

13.1 The sum accruing to Verwater pursuant to the agreement is the balance, formed by the contract price, increased with what is otherwise due to Verwater in respect of the agreement.

13.2 If payment in installments has been agreed, the payment must be made, without reliance on compensation or discount, at the latest 30 days from the date of the relevant installment invoice.

13.3 The payment term agreed with the client is a strict deadline. The client shall therefore be in default by the mere expiry of the agreed payment term without any notice of default being required to this end.

13.4 If the client is in default of the payment of an installment referred to in paragraph 2, Verwater is entitled, without any notice of default or demand being required, to suspend its activities until such time the outstanding installment has been paid, without prejudice to its right to compensation of costs, loss and interest.

13.5 After delivery, Verwater submits a final settlement on request. A clearly specified invoice shall be submitted for any possible additional work carried out. Already paid installments are deducted from the final balance.

13.6 Payment of the balance due to Verwater in accordance with the final settlement must be made within 30 days from the date of the final settlement without reliance on compensation or discount.

13.7 All costs relating to the payment, including bill and banking charges, are for the account of the client.

13.8 All collection costs, including the full costs of legal assistance, both at law and otherwise, granted by whomever, are fully for the account of the client. As proof of indebtedness of these costs, the submission of the invoice of the relevant counsel is sufficient. The amount to be charged to and payable by the client in respect of extrajudicial costs shall in any case and without any further proof being required be a sum equal to 10% of the principal sum due with a minimum of € 750.

13.9 If the client does not pay a due and payable installment or the balance of the final settlement within the term set in this article, the client shall pay interest on this of 1% per month, or the statutory interest if this is higher than 1% per month.

13.10 Paragraphs 40(12) and (13) UAV 2012 do not apply.

Article 14 Due and payable claims

All Verwater's claims on the client become immediately due and payable without any further notice of default or recourse to the courts being required:

- a. in the event of an attachment of the assets of the client;
- b. if the client submits an application for a provisional moratorium;
- c. if the client petitions its own bankruptcy, or if a creditor of the client petitions the bankruptcy of the client;
- d. if the client offers one (or several of its) creditor(s), whether or not in the context of a debt settlement, a (private) arrangement or otherwise puts forward a proposal to buy out its debt;
- e. if the client is dissolved and/or liquidated;
- f. if an administrator is appointed over the client or its assets;
- g. if the client becomes unauthorized to act or loses its power of disposition pursuant to any statutory provision or in any other way;
- h. if the client fails in the performance of the provisions in one or more articles in these general terms and conditions and/or of any agreement entered into with Verwater;
- i. at the end of the agreement entered into between the parties.

Article 15 Drawings, models

Designs, drawings, calculations and models prepared by or on instruction of Verwater remain its property and may not be reproduced, photocopied, handed to third parties by the client or used in any other way than for the benefit of the

instruction for which they have been provided. At the end of the instruction, the designs, drawings, calculations and models referred to shall be returned by the client to Verwater on demand.

Article 16 Security

On request, the client is obliged - the relevant obligation forming an integral part of the agreement - to demonstrate to the satisfaction of Verwater its creditworthiness and provide security for the performance of its obligations towards Verwater. If the client does not provide the requested security or does not provide it on time, Verwater is not obliged to perform its obligations towards the client, without prejudice to its right to compensation for its loss.

Article 17 Disputes and final provisions

- 17.1 Any dispute resulting from the offers, agreements, and legal relationships as referred to in article 1(1) or from the agreements which arise from those or which have been entered into as a result of those, is exclusively heard by the District Court in Rotterdam, subject to the right of Verwater to have the dispute settled by arbitration in accordance with the relevant regulations, such at the discretion of Verwater. All offers, agreements and legal relationships are governed by Dutch law.
- 17.2 The above provisions do not change the right of the parties to:
 - a) apply to the court in interlocutory proceedings of the District Court in Rotterdam to obtain injunctive relief;
 - b) make use of the remedies available against the ruling in interlocutory proceedings;
 - c) apply to the competent court in interlocutory proceedings in order to obtain leave to levy prejudgment and other attachments.

Article 18 Headings

The headings of the articles in these general terms and conditions are for reference purposes only and to promote readability. These headings do not form part of the general terms and conditions and the parties cannot derive any rights from these headings.

ADDITIONAL CONDITIONS FOR CONTRACT WORK RELATING TO THE JACKING UP, RELOCATING AND REPAIRING OF STORAGE TANKS AND THE INSTALLING AND REPAIRING OF FOUNDATIONS FOR STORAGE TANKS

Article 19 Technical provisions

- 19.1 If in the context of the work to be carried out by Verwater, one or more tanks have been put in a jacked up position, they may not, neither by the client nor by third parties appointed by the client, be moved. In the event such a relocation appears nevertheless to have taken place, Verwater is never liable for the damage to the relevant tank(s), tank foundations or any possible consequential loss of whatever nature, including damage to the environment.
- 19.2 The tanks jacked up, repaired or relocated by Verwater must be subjected to a water test before they are actually taken into operation again. The water test shall only take place after consultation with Verwater and in the manner as prescribed by Verwater and in accordance with Verwater's guidelines and instructions. If a tank, after completion of the work carried out on it or work related to it by Verwater, is taken into operation by the client without the prior water test as set out in this paragraph, or after a water test carried out in a non-prescribed manner, Verwater is never liable for any resulting loss in whatever form, including loss referred to in the last sentence of paragraph 1 of this article.