

Terms and Conditions - v5

bufferz.nl

13-05-2020

GENERAL TERMS AND CONDITIONS BUFFERZ
May 2020

Definitions

In these terms and conditions, these words have the following meaning:

- a. Bufferz: the company name of Vlastuin CDI B.V., also the user of these terms and conditions;
- b. Buyer: the opposite contracting party of Bufferz;
- c. Website: www.bufferz.nl

1. Applicability and validity

- 1.1. These General Terms and Conditions apply to all offers on the Website and applies to all contracts between Bufferz and Buyer, concluded on the Website. Contracts will be concluded with Buyer.
- 1.2. The usual general terms and conditions from Vlastuin CDI B.V. apply on all contracts which are not concluded on the Website.
- 1.3. Should any provision contained in these General Terms and Conditions be void, or for any reason whatsoever is null, invalid, inoperative or not applicable, the provision in question shall be replaced following immediate consultation between the parties by a provision that most closely approximates to the purport of the original provision.
- 1.4. Should any translation of these General Terms and Conditions differ from the Dutch language version of the General Terms and Conditions, the Dutch language version is binding.

2. Delivery and risk

- 2.1 The goods will be delivered to the location, which Buyer designated when placing the order. In such case Buyer shall ensure that on the agreed delivery date a person who is entitled/authorised shall be present at the agreed delivery address to take receipt of the goods. Unless otherwise agreed, the costs of transport and the risk fall on Buyer.
- 2.2 Goods will be delivered within the on the Website stated delivery time. When there is no delivery time stated on the Website, in principle the goods will be delivered within 14 days after the order is fully paid for, when the goods can be delivered from stock.
- 2.3 When possible, the goods will be delivered from stock. Bufferz will inform the Buyer if the goods are out of stock. Bufferz will communicate the estimated time of delivery for the orderd goods. If Buyer does not agree with the estimated time of delivery, Buyer has the right to dissolve the agreement without costs, within 7 days after Bufferz communicated the time of delivery.
- 2.4 Unless otherwise agreed expressly and in writing, Bufferz is free to choose the packaging, the carrier, the means of transport and the route to be followed.
- 2.4 If no-one representing Buyer is present on the delivery date, Bufferz shall be entitled to bring the goods back at the risk of Buyer. The costs thereby incurred, including storage charges and extra transport costs, are for the account of Buyer.
- 2.5 The goods are for the account and at the risk of Buyer from the moment of delivery.
- 2.6 Bufferz shall determine the amount delivered. This determination is decisive for the Buyer's obligation to pay.
- 2.7 Bufferz shall be entitled to make part deliveries within the agreed delivery period.
- 2.8 The dates for delivery and/or provision of services given by Bufferz are indicative and determined according to the best of its knowledge.
- 2.9 If Bufferz fails to perform the agreement in a timely manner Buyer must first serve notice of default in writing to Bufferz and state a reasonable period for performance. If it is anticipated that a period for performance will be exceeded, Bufferz shall inform Buyer of that without delay. Exceeding the period for delivery by Bufferz does not give Buyer any right to terminate the agreement or to any damages from Bufferz, except where Bufferz, having been served notice of default in writing by Buyer, has not effected delivery within a reasonable period stated by Buyer for performance.

3. Payment

- 3.1 Payment will take place when the order is placed on the Website. The goods have to be fully paid, before delivery of the goods will be arranged by Bufferz.
- 3.2 The prices given by Bufferz on the Website are in principle prices excluding VAT and free delivery, unless otherwise stated.

4. Property

- 4.1 The property in delivered goods transfers to Buyer only upon Buyer first having fulfilled its payment obligations to Bufferz arising from goods delivered or to be delivered under this agreement or from the provision of services supplied or to be supplied under such contract that are also for the benefit of Buyer, as well as regarding claims of failure in the performance of such agreements.

5. Impossibility of performance

- 5.1 By impossibility of performance ('act of God') by Bufferz is to be understood: every circumstance beyond the direct influence of Bufferz that occurs or every circumstance that is reasonably unforeseeable for Bufferz that temporarily or permanently prevents performance of the obligations of Bufferz under an agreement, including but not restricted to the complete or partial default by a third party involving the supply of goods or services, shortage of materials, unfinished products, ancillary materials and/or energy or fuel, transport difficulties, fire and other

calamities affecting Bufferz or its suppliers.

5.2 In the event of an impossibility of performance Vlastuin has the right to suspend the performance of the affected agreement, or to terminate such agreement entirely or in part, without any judicial intervention and without itself being liable for any payment of damages.

6 Guarantee and complaints

6.1 Statements by or on behalf of Bufferz regarding quality, composition, uses or properties of the rental goods, or quality, uses or results of services, respectively, shall be binding on Bufferz only if agreed expressly and in writing.

6.2 No guarantee period will be extended because a part of the goods is replaced.

6.3 Buyer shall comply with the instructions regarding storage and handling of the delivered goods. Buyer shall inspect the goods upon receipt or otherwise without delay and to the extent that such can be reasonably expected of him and/or in accordance with custom or usual practice. The defects in the goods determined by such inspection as well as defects that can be determined only at a later stage yet within any agreed guarantee period, shall not later than 7 days of such determination be notified to Bufferz in writing, or by telephone followed by written confirmation, stating the relevant invoice number and delivery note number (if known). Small defects, usual in the trade or technically unavoidable variations in quality, colour, weight and such-like do not qualify for complaint. Where no complaint is made within the prescribed period of 7 days, the goods are deemed to have been approved and accepted.

6.4 Complaints shall be considered by Bufferz only where Buyer has satisfied all the requirements of the preceding paragraph, and the loss or the defects are attributable to Bufferz. Defects in a portion of the delivered goods do not give the Buyer the right to refuse all goods delivered by Bufferz.

6.5 Complaints cannot be dealt with where the type and/or composition of the goods is changed or damaged entirely or in part after delivery.

6.6 Buyer shall be entitled to return goods only after prior consultation with Bufferz and on condition that the goods are accompanied by a letter stating the reason for the return and the date and number of the relevant invoice.

6.7 When a complaint is well-founded Bufferz shall be free to choose to repair or to replace the goods in question, or to grant Buyer a reduction of the purchase price to the exclusion of all other rights of Buyer to damages, except to the extent that the loss is the direct consequence of the gross negligence or intention of Bufferz and/or its management.

6.8 Making a complaint never discharges Buyer from its payment obligations.

7. Liability

7.1 Bufferz is only liable for loss suffered by Buyer as a result of attributable failure, unlawful act or otherwise, including consequential loss, indirect loss and loss resulting from lost profit or missed savings, if the loss is directly and solely the consequence of the gross negligence or intention of Bufferz and/or its executive personnel.

7.2 Where the loss suffered is due to an attributable failure, unlawful act or product liability of the manufacturer of the goods, the liability of Bufferz does not extend further than the sum that can be recovered from the manufacturer.

7.3 All liability of Bufferz is at all times restricted to a maximum of the net invoice value of the goods. In no case will the liability of Bufferz exceed the maximum sum that is paid out by Bufferz' insurance.

7.4 Claims against Bufferz in connection with agreements to which these General Terms and Conditions apply are subject to a period of limitation not exceeding one year.

8. Forum choice and applicable law

8.1 All disputes related to or arising under agreements between Bufferz and Buyer to which these General Terms and Conditions apply, are to be exclusively judged and settled by the Netherlands court in Utrecht that has jurisdiction. Bufferz can bring a dispute, notwithstanding the preceding rule, before the court that has jurisdiction in the place where Buyer is established.

8.2 The law of The Netherlands applies exclusively to all agreements between Bufferz and Buyer to which these General Terms and Conditions apply, with exclusion of the Vienna Sales Convention.

This is a translation of the Dutch general conditions of sale in the English language. The Dutch version however will be decisive. The Dutch version will be available on request.

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