

GENERAL TERMS OF DELIVERY

1. DEFINITIONS AND SCOPE

- 1.1 These General Delivery Conditions 'Conditions' use the following terms and definitions:
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| VanBerlo | In any case, VanBerlo B.V. (CoC no. 17079007). |
| Work | Each product from the work done by VanBerlo for the Client. |
| Product | The work submitted to the Client. |
| IP Rights | Intellectual and industrial property rights such as copyright, designs and models and patents. |
| Software | (Collection of) computer programs necessary for the application of a particular system of one or more computers and the associated equipment for input and output of information. |
| Source Code | The programming / code based on which a program / app / website works. |
- 1.2 These conditions apply to and form an integral part of every proposal, order agreement or legal relationship between VanBerlo and the Client. The applicability of any other terms or provisions referred to by the Client, is expressly excluded and explicitly rejected.
- 1.3 Deviations from these conditions will only be expressly agreed on in writing.
- 1.4 These conditions also apply to any complementary or further contracts.
- 1.5 If one or more provisions of these terms and conditions are invalid or void, the remaining provisions of these conditions will remain in full force and effect and VanBerlo and the Client will enter into negotiations to agree new provisions to replace the original provisions, in which the purpose and intent of the original provisions are observed to the greatest extent possible.
- 1.6 VanBerlo is not required to demand strict compliance of the Client with these conditions at VanBerlo's discretion. This does not mean that VanBerlo thereby loses the right to demand strict compliance with the conditions of the Client in future - similar or different - cases.
- 1.7 In the event of any discrepancy between these General Terms and Conditions and the offer in which they are declared applicable, the provisions of the offer shall prevail.
- 1.8 These General Terms and Conditions also apply to agreements between VanBerlo and the Client in which third parties are involved for the performance.

2. QUOTATIONS AND CONTRACTS

- 2.1 Quotations provided by VanBerlo may be accepted within the time period specified in the quotation, or, if no period is specified, within 30 days after the date of the quotation.
- 2.2 VanBerlo may revoke a quotation at any time prior to receipt of notice of acceptance of the corresponding quotation by the Client.
- 2.3 The fees and prices stated in a quotation, unless otherwise indicated, exclude VAT and other government levies, and exclude costs incurred in the context of the order that cannot be determined in advance, such as - but not limited to - costs for meetings, travel, courier services and reprographics.
- 2.4 Acceptance of the quotation and / or granting the order occurs in writing by signing the quotation or Purchase Order. The actual start of the performance of the order by VanBerlo, including, but not limited to, the payment of invoices as sent by the VanBerlo, shall constitute acceptance of these conditions.
- 2.5 VanBerlo will endeavour to perform the order carefully, to secure the interests of the Client to the best of its ability, and to strive to achieve the best possible results for the Client.
- 2.6 VanBerlo is entitled to engage third parties in the performance of the order. In case of any limitations of liability by third parties in connection with the performance of the order, VanBerlo assumes and hereby confirms that all contracts granted by the Client also include the authority to accept a limitation of liability on behalf of the Client.
- 2.7 A term specified by VanBerlo for the completion of (part of) the agreed order is only an approximation. The Client will provide written notice of default when VanBerlo exceeds a period. VanBerlo will always be offered a reasonable time period within which to realise the order or partial order.
- 2.8 If VanBerlo is forced to perform more or other work due to an altered or incomplete order or due to wrong or not timely delivery of accurate and correct information and / or materials by the Client, then VanBerlo is entitled to charge for this extra work.
- 2.9 The Client shall timely and free of charge provide VanBerlo with all information and data necessary for the performance of the contract. The Client ensures and guarantees the correctness of the information referred to above. The Client is also responsible for, and accepts the risk of, possible problems and / or claims arising from the content, accuracy, completeness and consistency of the information provided by the Client.
- 2.10 If the order is executed in parts or phases, or if VanBerlo uses a development method based on phased implementation, VanBerlo is entitled to suspend the implementation of these components or phases until the Client has approved the results of the preceding phase in writing.
- 2.11 VanBerlo will make every effort to perform the work with care, in accordance with the written agreements in the quotations. All services of VanBerlo are performed on the basis of a best efforts obligation, except to the extent that the written agreement by VanBerlo expressly promises a result and this outcome has been described with sufficient definiteness.
- 2.12 The Client has its own duty to investigate with respect to the safety and usability of (products or services derived wholly or partially from) the Work of VanBerlo, as well as with respect to their suitability for the purpose for which they are intended.
- 2.13 VanBerlo has no obligation to investigate possible infringements by her work on IP rights of third parties and is not obliged to investigate possible infringement of IP rights.
- 2.14 VanBerlo grants the client the opportunity to inspect and approve the Work prior to production, reproduction or disclosure.
- 2.15 Complaints must be communicated in writing to VanBerlo as soon as possible, but in any event within 30 days after completion of the contract, failing which the Client shall be deemed to have fully approved and accepted the result of the order.
- 2.16 After completion of the order neither the client nor VanBerlo is obliged to retain materials and information used.

3 PRICE AND PAYMENT

- 3.1 The order is subject to the fee or the price laid down in the proposal or agreement accepted by the client. It is possible to agree the fee or the price as an indication, and/or per activity, per part or phase of the total order.
- 3.2 VanBerlo is entitled to invoice work performed per activity, component or phase of the overall order.
- 3.3 Payments must be made within 30 days of the invoice date, without deductions or settlement. The Client is not entitled to set-off, unless it is permitted by res judicata ruling.
- 3.4 If and to the extent that an agreement is entered into for a fixed price, only the work which is part of the agreement shall be performed. In case of extra work, in which extra work is regarded as all activities that have not been assessed and offered by VanBerlo, and are therefore not part of the agreement, VanBerlo has the right to make a supplementary offer, and the concerning work will only be carried out after the offer or a Purchase Order is signed.
- 3.5 Claims in response to a received invoice can be made in writing up to 10 days after the invoice date, failing which the right to claim on the concerning invoice is lost.
- 3.6 VanBerlo has the right to annually, in January, adjust the basic hourly rate charged by VanBerlo and the allowance applied by VanBerlo.
- 3.7 If the Client fails to timely or completely pay an invoice, the client is legally in default. In that case, the Client owes the legal interest rate plus 2% from the due date. In addition, all costs incurred by VanBerlo in obtaining payment in and out of court will be borne by the Client. The extrajudicial costs are set at 15% of the amount due with a minimum of € 150.00.
- 3.8 During the period of non-compliance by the Client of his payment obligations, VanBerlo has the right to suspend or postpone all its obligations under the agreement or legal relationship. During this period, the Client is not entitled to use the results of the work carried out by VanBerlo, while VanBerlo is entitled to claim full compliance.

4 INTELLECTUAL AND INDUSTRIAL RIGHTS

- 4.1 As the creator of the Work, VanBerlo is entitled to (has the sole entitlement to) all intellectual property rights over the Work developed for or made available to the Client in the context of the order. Only VanBerlo is authorised to establish IP rights on this work.
- 4.2 After completion of the order, VanBerlo transfers the relevant IP rights to the Client so that the Client is free to use the product without additional agreement with VanBerlo, and may take action against third parties who infringe these rights. This transfer does not cover any inventions, know-how or other IP rights that VanBerlo has acquired during the product development for the client and which are not distinctive to the aesthetic characteristics of the product. VanBerlo retains these rights and may use them for future work and product development, insofar as such use does not compete with the product.
- 4.3 Despite transferring the IP Rights, VanBerlo reserves the right to use the Work or two- or three-dimensional images thereof for acquisition and advertising purposes, while indicating the name of the Client. This applies only to the extent (products or services derived wholly or partially from) the Work has been made available for sale or otherwise has become part of the public domain.
- 4.4 Transfer of IP Rights shall be subject to the condition precedent that the Client has met all its obligations, including its payment obligation, towards VanBerlo.
- 4.5 Once the IP Rights have been transferred in accordance with this Clause, the Client indemnifies VanBerlo for any damages and costs arising from third-party claims against the Client or VanBerlo in respect of (potential) infringement by the Product on IP Rights of these third parties.

5 USE OF FONTS

- 5.1 The Client is responsible for acquiring licenses from third parties for copyrighted material that will be used in the result. Copyrighted material includes: fonts, software, corporate identity elements, photos and (music) compositions. For the material proposed by VanBerlo to be used in the result, VanBerlo may, if required, request a cost estimate from the relevant supplier.
- 5.2 Client shall indemnify VanBerlo from claims of third parties in respect of licenses of these third parties.

6 RETENTION OF TITLE

- 6.1 All moveable property and IP rights supplied to the Client by VanBerlo in the context of the order will remain the property of VanBerlo until the Client has fully met all obligations arising from the agreement or legal relationship with VanBerlo.
- 6.2 The Client must always do all that may be reasonably expected of him to secure the goods delivered under retention of title. This means in any case that the Client will not sell, pledge, process and/or add them to a different product or otherwise encumber the goods delivered under retention of title of VanBerlo.
- 6.3 The Client is obliged to insure and keep insured the goods delivered under retention of title.

7 CONFIDENTIALITY

- 7.1 VanBerlo and the Client must exercise confidentiality in respect of all of other confidential information used for the performance of the order and / or which is expressly designated by them as confidential.
- 7.2 VanBerlo and the Client impose this duty of confidentiality on all third parties whom they involve in the performance of the contract.
- 7.3 The confidentiality obligation does not apply to information that:
 - i. is (or has become) part of the public domain;
 - ii. has been lawfully obtained from a third party who is not bound by a similar obligation of confidentiality;
 - iii. has been independently obtained, regardless of transfer of information from the other party;
 - iv. has been released with permission of the other party.
- 7.4 An infringement of the confidentiality obligation is an attributable failure to comply with the agreement.
- 7.5 The confidentiality obligation terminates three years after the commencement of the order, or at a time or the occurrence of a specific circumstance agreed on between VanBerlo and the Client.



7.6 In the event of early termination of the agreement between VanBerlo and the Client for whatever reason in whatever manner, the confidentiality mentioned in this article remains in full force.

8 CANCELLATION AND TERMINATION

8.1 When the Client terminates the agreement with VanBerlo, in addition to compensation, he is also liable to VanBerlo for the fee and the costs incurred with respect to the work carried out until the termination.

8.2 Both the Client and VanBerlo have the right to terminate the agreement with immediate effect in the event of bankruptcy or (provisional) suspension of payments of the other party. This does not release the Client from his (payment) obligations.

8.3 If the Client fails to meet his obligations arising from the agreement (and this failure justifies termination), then VanBerlo is entitled to terminate the agreement with immediate effect without any obligation to pay compensation or to indemnify Client for any losses, whilst the Client as a result of his default is liable to pay compensation and to indemnify VanBerlo for all losses.

8.4 The compensation referred to in 8.1 and 8.3 covers at least the costs incurred by VanBerlo for contractual commitments entered into with third parties for the fulfilment of the contract, and at least 30% of the remaining part of the fee that the Client would owe on full completion of the order.

8.5 If the client terminates the agreement due an attributable failure on the part of VanBerlo to meet its obligations, the work already supplied by VanBerlo and the associated payment obligations on the part of the client will not form part of the cancellation, unless the client contests that VanBerlo is in default in respect of this work. Any amount VanBerlo has invoiced prior to termination with respect to the work satisfactorily carried out or goods supplied by VanBerlo, remains due, in compliance with the provision stated in the previous sentence, and becomes payable immediately at moment of the termination.

8.6 In the event of early termination and termination of the agreement by the Client, the Client is not entitled to the transfer of IP rights that are wholly or partially the result of performance of the order by VanBerlo.

9 LIABILITY

9.1 If during the performance of the order an unexpected event occurs (including a failure to perform) which leads to liability on the part of VanBerlo, this liability shall be limited to the amount paid out by the liability insurance of VanBerlo in such case, including the deductible of VanBerlo. If and insofar no payment is made under the insurance policy for any reason whatsoever, any liability of VanBerlo is limited to the fee invoiced by VanBerlo to the Client with respect to the order concerned, with a maximum of € 25.000,00

9.2 Claims for payment of damages shall expire one year after the day on which the Client became aware of the damage and the potential liability of VanBerlo for that damage.

9.3 VanBerlo is liable only if the Client suffers damage that is directly attributable to a culpable failure of performance by VanBerlo, and there is intent or gross negligence on the part of VanBerlo, and the Client also has not made any attributable faults with regards to the relevant incident.

9.4 The Client shall indemnify and hold harmless VanBerlo against claims by third parties who claim to have been harmed by or in connection with the Product supplied by VanBerlo for the benefit of the Client, and against the cost of legal proceedings relating to a claim.

9.5 The Client shall indemnify VanBerlo of (damage) claims related to IP rights on materials or information submitted to the Client used in the performance of the contract.

9.6 In no event shall VanBerlo be liable for indirect damage, including - but not limited to - loss of revenue.

9.7 Damage to property owned by the Client which are entrusted to VanBerlo under the contract, shall only be reimbursed to a maximum of € 35.000,00

9.8 VanBerlo expressly accepts no liability for damage resulting from, but not limited to:

- a. repairs of and / or modifications to (products or services derived from) the Work performed by or on behalf of the Client;
- b. inadequate cooperation, materials and / or incorrect or incomplete information provided by the Client;
- c. conflicting third - party IP rights on the delivered Work and / or infringement of patents and / or industrial secrets;
- d. faulty and / or incorrect or incomplete information provided by official records and other external sources;
- e. incompetent, improper or incorrect use of the goods delivered, or use other than prescribed by or on behalf of the Client or VanBerlo;
- f. negative assessment by a third party / third - party expert to the extent this is not based on a mathematical, biological, chemical
- g. physical scientifically recognized principle;
- h. errors or defects in the Work if the Client gave his approval in accordance with article 2.10, or has been given an opportunity to
- i. inspect the work in accordance with Article 2.14 and has not proceeded to do so.
- j. legitimate exercise of retention, suspension and termination rights by VanBerlo granted by law or these conditions or agreement.
- k. force majeure. This includes, in addition to what has been determined on this matter in the law and case law, also all
- l. external causes, foreseen or unforeseen, on which VanBerlo has no influence, but due to which VanBerlo is unable to meet its
- m. obligations, including inability of suppliers, government measures, electricity failures, failures of computer networks or
- n. telecommunication facilities, Work Occupation, strike, general transport problems, etc.

9.9 Any possibility of appeal on liability by the Client expires within 1 year after completion of the contract.

9.10 The limitations and exclusions set out in the preceding paragraphs of this article apply only to the extent permitted by applicable mandatory Law.

10 APPLICABLE LAW AND COMPETENT COURT

10.1 The legal relationship between the Client and VanBerlo and the application of these conditions shall be governed by Dutch law.

10.2 Disputes between the parties shall be settled exclusively by the competent court in 's- Hertogenbosch.



11 OTHER CONDITIONS

- 11.1 VanBerlo reserves the right to modify and/or supplement these conditions. Amended conditions are deemed to be accepted if they are not explicitly rejected by the Client within 14 days.
- 11.2 The CISG is expressly excluded.
- 11.3 These conditions have been drawn up in Dutch and English. In case of any discrepancy between the English and Dutch text, the Dutch text shall prevail.
- 11.4 If one or more Clauses of this agreement shall be destroyed or deemed unreasonably onerous, the remaining provisions of these Terms and Conditions remain in full force.
- 11.1 VanBerlo reserves the right to modify and/or supplement these conditions. Amended conditions are deemed to be accepted if they are not explicitly rejected by the Client within 14 days.
- 11.2 The CISG is expressly excluded.
- 11.3 These conditions have been drawn up in Dutch and English. In case of any discrepancy between the English and Dutch text, the Dutch text shall prevail.
- 11.4 If one or more Clauses of this agreement shall be destroyed or deemed unreasonably onerous, the remaining provisions of these Terms and Conditions remain in full force.

ADDITIONAL GENERAL DELIVERY CONDITIONS

FOR DIGITAL APPLICATIONS

WITHOUT PREJUDICE TO THE APPLICABILITY OF THE OTHER PROVISIONS OF THESE GENERAL CONDITIONS, THE FOLLOWING CONDITIONS APPLY IF THE ORDER COMPLETELY OR PARTIALLY CONCERNS THE DEVELOPMENT OF (INTERNET) SOFTWARE, INCLUDING, (INTERACTIVE) APPLICATIONS, MOBILE, DESKTOP, TABLET OR EMBEDDED (OR A COMBINATION OF THE AFOREMENTIONED ELEMENTS), OR OTHER MULTIMEDIA APPLICATIONS.

12 IP RIGHTS

- 12.1 VanBerlo will retain the IP rights of the software developed for the Client. The Client obtains a license for the use of the software for the purpose for which the order was awarded.
- 12.2 If VanBerlo is prepared to undertake to transfer an intellectual property right, such an intent shall only be entered into expressly in writing. If the parties agree in writing that the intellectual property rights with respect to specific software, websites, databases, equipment or other materials developed for the Client shall be transferred to the Client, this shall not affect the right or ability of VanBerlo to use and/or exploit underlying parts, general principles, ideas, designs, algorithms, documentation, works, programming languages, protocols, standards and the like, without limitation, for other purposes, either for themselves or for third parties. Nor shall the transfer of an intellectual property right affect the right of VanBerlo to develop software for the benefit of themselves or a third party that is similar to or derived from those for the Client.
- 12.3 The Client indemnifies and hold VanBerlo harmless against any claim by a third party that is based on the assertion that provision, use, adaptation, installation or incorporation infringes any right of a third party.
- 12.4 If and to the extent that the delivered software is based on open source and associated licenses, those licenses shall prevail over the provisions of these terms and conditions if those provisions are inconsistent with open source licenses. The Client declares to be familiar with the risks of open source and indemnifies VanBerlo of all third party claims relating to IP rights related to the used open source software. This indemnification also extends to costs, damages and any summons to proceedings.

13 DEVELOPMENT, MAINTENANCE, AND RISK MANAGEMENT

- 13.1 Client bears the risk of the selection, use, application and management in its organisation of the equipment, software, websites, databases and other products and materials and the services to be provided by VanBerlo. The Client itself is responsible for the proper installation, assembly and commissioning and the correct settings of the Software.
- 13.2 The development work of VanBerlo is always carried out on the basis of a best efforts obligation, unless and to the extent the written agreement with VanBerlo expressly promised a result and the concerning result has been described with sufficient definiteness.
- 13.3 VanBerlo will deliver the software on the agreed type and format of data carriers to the Client.
- 13.4 Only if agreed in writing between the parties, shall VanBerlo install the software at the Client. In the absence of express agreements, the Client will install and set - up the software itself.
- 13.5 VanBerlo is, after completion, not required to continue to maintain and develop the software.
- 13.6 VanBerlo shall perform the order to the best of its abilities in compliance with the then - current state of technology. VanBerlo cannot guarantee that the result will work in all environments without interruption or errors. The result and the display can depend on external factors such as systems, browsers, screen resolutions or operating systems, as well as of (unexpected) peak loads in the number of visitors.
- 13.7 In the case of an order for a website, VanBerlo shall repair defects in the software that are reported by the Client in writing within 14 days after installation or going live. This only applies to the extent these defects are caused by VanBerlo not meeting the requirements and specifications.
- 13.8 VanBerlo does not need to repair defects in the software if they are caused by the Client, by third parties or changes in circumstances, of which the contractor at the time of conclusion of the agreement did not know or ought to know.
- 13.9 VanBerlo does not guarantee that the software works properly with all types or new versions of the Web, internet browsers and operating systems, or when using Third Party Apps (APIs) and any other software. VanBerlo also does not guarantee that the equipment works well in conjunction with other equipment.
- 13.10 Hosting, maintenance and support must always be arranged in a separate agreement. The content and scope of the maintenance and support is then determined by the separate agreement and/or SLA (Service Level Agreement).
- 13.11 Without express written agreement, VanBerlo is not responsible for vulnerabilities, updates and upgrades of (open source) software as referred to in the preceding paragraph.
- 13.12 If during the execution of the agreement, computer, data or telecommunication facilities are used, including the Internet, the Client is responsible for the proper selection of required resources and for the timely and complete availability of those, except for those facilities which are the direct use and management responsibilities of the Client. VanBerlo is never liable for damage or expenses due to transmission errors, malfunctions or non - availability of these facilities, unless the Client proves that this damage or costs are the result of intentional or deliberate recklessness of VanBerlo.

14 ACCEPTANCE

- 14.1 The parties may agree prior to the conclusion of the agreement that an acceptance test will be performed on the software delivered by VanBerlo, with respect to predefined acceptance criteria. If an acceptance test has been agreed on, the test period will constitute 5 days after delivery, unless otherwise agreed in writing.
- 14.2 During the test period, the Client is not allowed to use the delivered software for productive or operational purposes. If the Client during the test period before the moment of acceptance makes any use of the delivered software for productive and/or operational purposes, the software shall be considered fully accepted from the start of that use.



- 14.3 If during the performance of the acceptance test, the delivered software contains errors, the Client shall immediately and no later than the last day of the test period notify VanBerlo through a written and detailed test report. VanBerlo shall use its best efforts to repair the identified errors within a reasonable period. Errors include a substantial failure to meet the functional and/or technical specifications agreed by the parties in writing. An error occurs only if the Client can prove it and if it is reproducible.
- 14.4 Acceptance may not be refused on grounds unrelated to the specifications expressly agreed between parties. Moreover, acceptance may not be refused because of the existence of minor errors, i.e. errors that do not hinder operational - and / or productive use of the delivered software, notwithstanding the obligation of VanBerlo to repair these minor errors under the warranty, if applicable.
- 14.5 If the parties have not agreed that an acceptance test shall be performed, the Client shall accept the software in the condition of the time of delivery, and therefore with all visible and invisible defects. In this case, the software shall be construed as being accepted at the moment of delivery.

OTHER PROVISIONS FOR THE PROVISION OF SOFTWARE
TO CLIENT BASED ON (USER) LICENSE.

15 RIGHT OF USE

- 15.1 VanBerlo grants the right to use certain computer programs and the corresponding user documentation to the Client, hereinafter 'Software'.
- 15.2 Unless otherwise agreed, the duty only extends to providing (the use of) the so called object code of the software. The right to use the Client does not extend to the source code of the Software, unless otherwise agreed between the parties in the quotation. If VanBerlo is convicted in court to make the technical documentation and/or source code available to the Client, VanBerlo can charge a reasonable fee for this provision.
- 15.3 Unless otherwise agreed in writing, VanBerlo is not obliged to make any other program or data libraries available other than the concerned Software, even if they needed for the use and/or maintenance of the software. If, notwithstanding the foregoing, VanBerlo must also make other program or data libraries available, VanBerlo may require the Client to conclude a separate written agreement for this purpose.

16 DELIVERY OF SOFTWARE OF THIRD PARTY SUPPLIERS

- 16.1 If VanBerlo acts as a mediator in the realisation of a (license) agreement between a third party provider and the Client, the Client accepts the concerning conditions of that third party supplier. VanBerlo is not responsible for maintenance and support, as the Client must conclude an agreement with the third party supplier for this, unless otherwise agreed in writing.

17 DELIVERY AND INSTALLATION

Unless VanBerlo shall host the Software under the agreement, VanBerlo shall deliver the Software to the Client on a data carrier in a form to be determined.