

# **GENERAL TERMS OF DELIVERY VARIANT BENELUX B.V.**

## **ARTICLE 1. DEFINITIONS**

- 1.1. In these General Terms of Delivery the following words shall have the following meaning, unless expressly stated otherwise:
- a. User: the User of these General Terms of Delivery, being Variant Benelux B.V., registered at (3208 KC) Spijkenisse, Kelvinweg 7, registered with the Chamber of Commerce under "KvK" number 24309627;
  - b. Contracting Party: the legal entity or natural person acting in the practice of his profession or operation of his business, who places an order with User;
  - c. Agreement: the Agreement between User and the Contracting Party;
  - d. Products: the vacuum cleaner bags, vacuum cleaner parts and associated articles that are supplied by User;
  - e. Website: the website [www.variantinternational.com](http://www.variantinternational.com) that are operated by User and through which Contracting Party can order Products from User;

## **ARTICLE 2. GENERAL**

- 2.1. These General Terms of Delivery apply to all offers, price quotations and Agreements between User and Contracting Party, to which User has declared these General Terms of Delivery applicable, to the extent that the parties have not expressly deviated from these General Terms of Delivery in writing or by email.
- 2.2. These present General Terms of Delivery also apply to Agreements with User, for the performance of which any third parties must be engaged.
- 2.3. Any deviations of these General Terms of Delivery are valid only if they have been expressly agreed in writing or by email.
- 2.4. The applicability of any purchase or other terms or conditions of Contracting Party is expressly rejected.
- 2.5. In case one or more provisions or part thereof of these General Terms of Delivery are void or declared invalid at any point in time, the remaining provisions of these General Terms of Delivery shall remain in full force and effect. The void or invalid provisions shall be replaced by User, taking into account the purport and intention of the original provision(s) to the extent as possible.
- 2.6. In case User does not always demand strict observance of these General Terms of Delivery, that does not imply that their provisions would not apply or that User would in any way forfeit the right to demand strict observance of the provisions of these General Terms of Delivery in other cases.
- 2.7. For the interpretation of the content and purport of these General Terms of Delivery the Dutch text shall at all times prevail.
- 2.8. The applicable version is always the latest version that has been registered or the version that applied at the time of conclusion of the Agreement.

## **ARTICLE 3. OFFERS AND PRICE QUOTATIONS**

- 3.1. Offers and price quotations are binding on User only in case of acceptance by Contracting Party within 5 days, preferably in writing or by email, unless stated otherwise.
- 3.2. All prices stated are exclusive of BTW (VAT) and inclusive of shipping, unless stated otherwise.
- 3.3. Offers and price quotations are not binding on User in case Contracting Party, according to reasonableness and fairness and generally accepted views, should have understood that the offer or price quotation or part thereof contains an apparent mistake or typographical error.
- 3.4. In case (minor) deviations between the acceptance and the contents of the offer, these deviations are not binding on User. In that case the Agreement is not concluded according to this deviating acceptance unless stated otherwise by User.

- 3.5. A combined offer or price quotation does not oblige User to supply part of the products contained in the offer or price quotation at a proportionate part of the price stated.
- 3.6. Offers or price quotations do not automatically apply to any additional and/or backorders.
- 3.7. The product range offered on the website is subject to change.
- 3.8. Apparent (typographical) errors on the website are not binding on User.
- 3.9. All products referred to are "suitable for" certain vacuum cleaner brands and types and therefore are not considered original products of the manufacturer of the vacuum cleaners concerned.

#### **ARTICLE 4. WEBSITE**

- 4.1. User does not guarantee that the website will function without interruptions or errors or that any mistakes will be corrected.
- 4.2. User has the right to modify the website at any point in time.

#### **ARTICLE 5. CONDITIONS FOR USE**

- 5.1. When using the website Contracting Party shall act in such a way as may be expected from a responsible internet user exercising due care.
- 5.2. Contracting Party is prohibited from circumventing or cracking the security applications of the website.
- 5.3. Contracting Party is prohibited from using the Website in such a way that it affects the proper performance of computer systems of User or any third parties, or that other users of the Website are interfered with respectively restricted as a result of that.

#### **ARTICLE 6. ACCOUNT**

- 6.1. To place orders with User through the website Contracting Party can create an account.
- 6.2. Contracting Party may request an account through the online application form on the website.
- 6.3. After User has accepted the application for an account of Contracting Party, Contracting Party may use the online ordering system of User.
- 6.4. Contracting Party itself is at all times responsible for the log in codes he can use to log in on the website. User cannot be made liable in case any unauthorized third parties use the log in information of Contracting Party. In case Contracting Party discovers that any unauthorized third parties use his log in codes, Contracting Party is obliged to inform User of this without delay.

#### **ARTICLE 7. CONCLUSION OF AGREEMENT**

- 7.1. The Agreement is concluded
  - a. after Contracting Party has expressly agreed to the offer of User, either in writing or by email;
  - b. after Contracting Party has logged in on the website and has completed the entire order process through the website.
- 7.2. The Agreement shall not be concluded through the website until, during the order process, Contracting Party has clicked the button confirming that he has approved of these General Terms of Delivery.
- 7.3. After the Agreement has been concluded through the website, User will immediately send Contracting Party a confirmation by email. This confirmation email will contain the order number and other information of the order of Contracting Party. In case Contracting Party has not received a confirmation email from User, Contracting Party is obliged to contact User without delay.
- 7.4. The Agreement, once concluded, cannot be cancelled. The right of withdrawal does not apply because User's Contracting Parties are enterprises.

## **ARTICLE 8. DELIVERY**

- 8.1. Unless agreed otherwise the Products are delivered by the transport company engaged by User. Whether User orders shipping of the Products to Contracting Party depends on the country in which Contracting Party is registered.
- 8.2. In case User orders shipping of the Products to Contracting Party:
  - a. the Products will be delivered to the delivery address specified by Contracting Party;
  - b. Contracting Party shall ensure that the location at which the Products are to be delivered can be accessed properly.
- 8.3. Contracting Party is obliged to take delivery of the Products ordered.
- 8.4. In case Contracting Party refuses to take delivery or fails to provide such information or instructions as are necessary for delivery, the Products intended for delivery shall be stored at the risk of Contracting Party after notification given by User. In that case Contracting Party is liable for any additional costs.
- 8.5. User has the right to deliver in parts.
- 8.6. In case User needs information from Contracting Party for the purpose of performance of the Agreement the time of delivery will commence after Contracting Party has provided said information to User.
- 8.7. In case User has given a time for delivery, said time is indicative. For that reason a stated time of delivery is never a final deadline. The actual time of delivery however will never exceed the stated time of delivery by more than one week, unless in case of Force Majeure. In case of non observance of a time Contracting Party must declare User in default in writing.
- 8.8. Transport damage to the Products supplied must be stated on the delivery bill. User must be informed of transport damage immediately after delivery.
- 8.9. The risk in the Products will pass to Contracting Party at the time at which the Products have been delivered to Contracting Party or any third party specified by Contracting Party.
- 8.10. In case Contracting Party itself sees to transport of the products, the risk in the Products shall pass to Contracting Party at the time at which the transporter of Contracting Party has received the Products.
- 8.11. Contracting Party itself is liable for any import duties, customs formalities and taxes levied in connection with the Products.

## **ARTICLE 9. SAMPLES AND MODELS**

- 9.1. In case User has provided a sample or model to Contracting Party, User guarantees that the Product will be consistent with the sample or model, unless the sample or model has been shown or provided by way of indication.

## **ARTICLE 10. RESERVATION OF TITLE**

- 10.1. Any Products supplied or to be supplied shall remain the property of User exclusively until any claims which User has or will have on Contracting Party have been fully settled.
- 10.2. Products supplied by User, which are subject to reservation of title in accordance with paragraph 1, may not be resold outside normal business operations and may never be used as payment. Contracting Party is not authorized to pledge or in any other way encumber the Products supplied subject to reservation of title.
- 10.3. Contracting Party shall at all times do anything it may be reasonably be expected in order to secure the property rights of User.
- 10.4. In case any third parties attach the Products supplied subject to reservation of title or intend to establish or invoke any rights in respect of said products, Contracting Party is obliged to inform User of that immediately.
- 10.5. Contracting Party is obliged to insure and keep insured the Products supplied subject to reservation of title against fire, explosion and water damage as well as theft, and to allow User to inspect the policy of this insurance upon request. In case of any payments made by the insurance User is entitled to this payment. To the extent as necessary Contracting Party

undertakes towards User in advance to lend its assistance to anything that may (prove to) be necessary or advisable for that purpose.

- 10.6. In case User wishes to exercise its property rights referred to in this article, Contracting Party now and for henceforth gives its unconditional and irrevocable permission to User and third parties specified by User to access any places where the property of User may be located and to repossess said property.
- 10.7. In case of attachment, suspension of payment or bankruptcy Contracting Party shall immediately inform User of that and inform the bailiff who carries out the attachment, the administrator or trustee in bankruptcy of the (property) rights of User.
- 10.8. The provisions of this article do not prejudice any other rights of User.

## **ARTICLE 11. CONFORMITY, INSPECTION AND OBJECTIONS**

- 11.1. User guarantees that the Products to be supplied meet the customary demands and standards that may be expected from said Products and that they are free from any defects.
- 11.2. Contracting Party is obliged to inspect or cause to inspect the Products supplied on delivery or in any case as soon as possible after delivery. During said inspection Contracting Party is required to inspect whether the quality and quantity of the Products supplied meet that which has been agreed or meet the demands that apply in normal (business) transactions in the industry. User must be informed about complaints about Products as soon as possible.
- 11.3. In case of complaints submitted in time and in accordance with the previous paragraphs Contracting Party shall remain obliged to take delivery of and effect payment for the Products supplied. If Contracting Party wishes to return any defective Products, this will take place after the prior written or electronic approval of User, and in the way as specified by user.
- 11.4. In case it appears during examination of a complaint, that one of the situations below applies, the complaint will not be looked into (any further):
  - a. the Product was not assembled in the correct way;
  - b. the Product was not used in accordance with the agreed purpose and, failing that, the customary purpose;
  - c. Contracting Party and/or third parties have performed work and/or modifications and/or repairs to the Product;
  - d. defects were caused by any external circumstances such as fire, destruction, natural catastrophes, explosion, terrorism, power interruptions and lightning;
  - e. defects are caused by any government regulations concerning the nature or quality of the materials used;
  - f. minor deviations that are customary in the industry and/or technically unavoidable;
  - g. the Product was not used in accordance with the instructions for use and/or its technical specifications.
- 11.5. In case Contracting Party proves that the Product was defective at the time of delivery, User will, at the discretion of User, repair the Product, supply a replacement Product or credit the price of the Product. The liability of User shall at all times be limited to the provisions of article 19.

## **ARTICLE 12. PRICE INCREASE**

- 12.1. In case User agrees a specific price with Contracting Party during conclusion of the Agreement, User will nevertheless have the right to increase the price, even in case the price was not originally given subject to this reservation.
- 12.2. In case a price increase occurs within 1 month after conclusion of the Agreement Contracting Party may terminate the Agreement by means of a written statement, irrespective of the percentage of the increase, unless
  - a. the price increase results from an authorization or obligation that applies to User by virtue of the law; or
  - b. in case it has been stipulated that delivery will take place more than 1 month after the purchase.

## **ARTICLE 13. PAYMENT**

- 13.1. Orders that have been placed through the website may be paid by means of the following methods:
- a. iDEAL;
  - b. PIN;
  - c. direct debit;
  - d. bank transfer;
  - e. payment in advance;
  - f. Giropay;
  - g. Mister cash;
  - h. SOFORT;
  - i. credit card.
- 13.2. In case the order has not been placed through the website Contracting Party will be informed of the payment method in writing or by email.
- 13.3. Invoices must be paid within the term of payment stated in the invoice.
- 13.4. Objections to the amounts of the invoice do not suspend the payment obligation.
- 13.5. After expiry of the term of payment Contracting Party shall be in default by operation of the law. From the point in time at which default commences Contracting Party shall owe an interest of 1% per month on the amount due, unless the legal commercial interest is higher, in which case legal, commercial interest applies,
- 13.6. In case of bankruptcy, suspension of payment or forced administration the claims of User and the obligations of Contracting Party towards User shall become due and payable immediately.
- 13.7. User has the right to apply any payments made by Contracting Party first to costs, then to payment of any accrued interest due and finally to the principal amounts and current interest. User can, without being in default on account of that, refuse an offer for payment in case Contracting Party specifies a different sequence of settlement. User can refuse payment of the entire principal amount in case payment does not also include accrued and current interest and costs.

## **ARTICLE 14. SUSPENSION AND TERMINATION**

- 14.1. User has the right to suspend performance of the obligations or terminate the Agreement in case:
- a. Contracting Party does not or not fully perform its obligations resulting from the Agreement and Contracting Party does not comply with a notice of default sent to Contracting Party in which it is given a reasonable time to subsequently perform its obligations. In case performance has become permanently impossible a notice of default is not required;
  - b. after conclusion of the Agreement, User learns of circumstances that give good reason to fear that Contracting Party will not perform its obligations. In case of good reasons for the fear that Contracting Party will not perform properly or not entirely, suspension is permitted only to the extent that the failure in performance justifies suspension;
  - c. on conclusion of the Agreement, Contracting Party was requested to provide security for the performance of its obligations resulting from the Agreement, and said security is not provided or is not sufficient.
- 14.2. Further, User has the right to terminate or cause to terminate the Agreement in case of circumstances that are such that performance of the Agreement has become impossible or in case of other circumstances that are such that, according to reasonableness and fairness, maintaining the Agreement without modifications cannot be reasonably expected.
- 14.3. In case the Agreement is terminated the claims of User against Contracting Party will become due and payable immediately. In case User suspends performance of its obligations User's rights resulting from the law and the Agreement will remain in place.
- 14.4. User shall at all times have the right to claim damages.



## **ARTICLE 15. COSTS OF COLLECTION**

- 15.1. In case Contracting Party is in default or fails to perform one or more of its obligations, all reasonable costs to obtain payment out of court shall be borne by Contracting Party. In case Contracting Party fails to pay any amounts due in a timely manner, Contracting Party shall forfeit an immediately due and payable penalty of 15% of the outstanding amount, with a minimum of € 100,00.
- 15.2. In case User proves that the costs caused to User, which were reasonably necessary, were in excess of that, said costs shall also be eligible for compensation.
- 15.3. Any reasonable judicial costs and costs of enforcement shall also be borne by Contracting Party.

## **ARTICLE 16. OVERPAYMENTS AND CREDITS**

- 16.1. If the Contracting Party makes a payment that exceeds the invoice amount due, the excess will automatically be recorded as a credit in favor of the Contracting Party.
- 16.2. Credits resulting from invoice corrections, returns, or other circumstances will also be converted into a credit.
- 16.3. Credits will automatically be applied to a future order or invoice.
- 16.4. Refunds of the credit will only be made in cash upon written request from the Contracting Party and after approval by the User. The User reserves the right to apply reasonable administrative deadlines or fees for such a refund.
- 16.5. Credits are personal or company-specific and cannot be transferred to third parties unless the User expressly agrees in writing.

## **ARTICLE 17. INDEMNIFICATION**

- 17.1. Contracting Party shall indemnify User from and against any claims of third parties with respect to intellectual property rights in materials or information provided by Contracting Party, which are used during performance of the Agreement.
- 17.2. In case Contracting Party provides information media, electronic files or software and such to User, Contracting Party guarantees that these information media, electronic files or software are free from viruses and defects.

## **ARTICLE 18. INTELLECTUAL PROPERTY RIGHTS**

- 18.1. Without prejudice to other provisions of these General Terms of Delivery User reserves the rights and powers granted to User on the basis of the Copyright Act ("Auteurswet").
- 18.2. Contracting Party is not authorized to modify the Products, unless the nature of the Product supplied prescribes otherwise or in case otherwise has been agreed in writing or electronic form.
- 18.3. Any designs, sketches, drawings, films, software and other materials or (electronic) files produced under the Agreement by User shall remain the property of User, irrespective whether they have been provided to Contracting Party or third parties, unless agreed otherwise.
- 18.4. Any documentation provided by User, such as designs, sketches, drawings, films, software, (electronic) files and such are intended for use by Contracting Party exclusively and may not be reproduced, published or disclosed to any third parties by Contracting Party without the prior permission of User unless provided otherwise by the nature of the documentation.
- 18.5. User reserves the right to use any knowledge gained for the purpose of performance of the services, for other purposes, to the extent that no confidential information is disclosed to third parties as a result of that.
- 18.6. Any intellectual property rights with respect to the website are vested in User or its licensor. Contracting Party is required at all times to respect the intellectual property rights with respect to the website.

## **ARTICLE 19. LIABILITY AND LIMITATION**

- 19.1. User cannot be obliged to compensate any damage that is directly or indirectly caused by:
- a. an event beyond the actual control of User, which therefore cannot be attributed to its acts and/or omissions, such as described in article 20 of these General Terms of Delivery;
  - b. any acts or omissions on the part of Contracting Party, its subordinates or other persons engaged by or on behalf of User.
- 19.2. User is not liable for any damage caused by temporary unavailability of the possibility to order, inaccessibility or removal of its website for maintenance purposes or otherwise.
- 19.3. Colours shown on the screen of Contracting Party may differ from the actual Product colours. User is not liable for any such colour differences.
- 19.4. Contracting Party is under any circumstances responsible for the accuracy and completeness of information provided by Contracting Party, such as the information on the basis of which the Products are produced. User is never liable for any damage that is (also) caused by the fact that information provided by Contracting Party is incorrect and/or incomplete.
- 19.5. User is not liable for any damage caused to Contracting Party due to the fact that Contracting Party does not store, keep or transport the Products correctly, as a result of which the Products may be damaged.
- 19.6. In case Contracting Party modifies or causes to modify the Product, User excludes any liability.
- 19.7. User is not liable for distortion or loss of information as a result of transfer of information by telecommunication facilities.
- 19.8. In case in the opinion of User, User is compelled to take measures or assist in any recall actions initiated by its suppliers in order to prevent any (further) damage due to claims of customers on account of a defect in Products supplied, Contracting Party undertakes to cooperate with such measures. User can never be made liable for damage caused to Contracting Party as a result of initiated recall actions.
- 19.9. User is never obliged to pay damages on account of consequential damage. Consequential damage is in any case understood to include: loss of turnover, loss of profit, loss of savings, operating damage, interruption of operations, loss due to business stagnation, loss caused by delay, reputation damage, imposed fines and indirect damage, irrespective of their cause.
- 19.10. In case User would be liable for any damage, the liability of User is limited to the amount of the payment made by the insurer of User. In case the insurer does not pay in any given case or the damage is not covered by the insurance, the liability of User is limited to the invoice amount, i.e. that part of the Agreement to which this liability applies.
- 19.11. Contracting Party indemnifies User from and against claims instigated by third parties due to incidents, acts or omissions for which User is not liable in accordance with the above. Contracting Party is obliged to compensate User upon request for any costs, damage and interest caused to User as a direct or indirect consequence of a claim instigated against User by a third party such as referred to in this paragraph.
- 19.12. Rights to instigate claims and other powers of Contracting Party vis a vis User, however caused, will in any case lapse after expiry of 1 year after that point in time at which a circumstance occurs due to which Contracting Party may exercise these rights and/or powers against User.
- 19.13. In case Contracting Party does not, not in a timely manner or not properly comply with its obligations resulting from the Agreement or the law, or commits a tort against User, Contracting Party shall be obliged to compensate any damage caused to User as a result of that.

## **ARTICLE 20. FORCE MAJEURE**

- 20.1. User is not obliged to observe any obligations in case it is prevented to do so due to Force Majeure. Force Majeure shall in any case include: weather conditions, theft, fire, flood, landslides, terrorism, obstructions caused by third parties including government entities, obstructions in transport, strike, revolt, war or threat of war, loss of or damage caused to Products during their transport, delayed delivery or non delivery to User by its suppliers, export and import restrictions, fire in means of transport of User, its suppliers or a forwarding agent engaged for shipping, malfunctions of said means of transport;; involvement in accidents of said means of

transport, measures taken by any domestic, foreign or international government entities.

- 20.2. Force Majeure shall also be understood to include a non attributable failure on the part of suppliers of User.
- 20.3. User also has the right to refer to Force Majeure in case the circumstance that prevents (further) performance occurs after User should have performed its obligation.
- 20.4. In case the circumstances of Force Majeure have continued for more than 2 months, both parties have the right to cancel the Agreement by means of a written statement.
- 20.5. To the extent that User has meanwhile performed or is able to perform part of its obligations resulting from the Agreement at the time at which Force Majeure occurs, and the part performed or to be performed has an individual value, User has the right to separately invoice the part performed or to be performed. Contracting Party is obliged to settle this invoice as if it were a separate Agreement.

## **ARTICLE 21 SECURITY AND THE INTERNET**

- 21.1. User shall take suitable security measures in order to prevent the website against the risks of unauthorized access or modification, destruction or loss of the information provided through the website by Contracting Party.

## **ARTICLE 22. DISPUTE**

- 22.1. The court in the registered place of business of User has exclusive jurisdiction to settle any disputes. Notwithstanding that, User has the right to submit the dispute to the court of law that is competent in accordance with the law.
- 22.2. The Parties shall not refer a dispute to a court of law until they have made every effort to settle said dispute by mutual consultation.

## **ARTICLE 23. APPLICABLE LAW**

- 23.1. All Agreements between User and Contracting Party are governed by Dutch law. The Vienna Convention on the International Sale of Goods is expressly excluded.