



# GENERAL TERMS AND CONDITIONS FOR DELIVERY TO NON-CONSUMERS

**OF:**  
**VARIANT BENELUX B.V.**  
**Kelvinweg 7, 3208 KC Spijkenisse,**  
**The Netherlands**  
**Chamber of Commerce Registration Nr. 24309627**  
**At the offices of Rotterdam**

hereinafter to be referred to as: user

## Article 1 - Definitions

1. In the present general terms and conditions, the following terms are used in the sense given below, unless explicitly indicated otherwise.

User: the user of the general terms and conditions.

Buyer: customer

Agreement: the agreement between the user and buyer.

Vacuum cleaner bags and parts: All mentioned vacuum cleaner bags and parts are "suitable for" and are not considered as an original from corresponding vacuum cleaner manufacturers.

## Article 2 - General

1. The stipulations of the present terms and conditions shall apply to each and every offer and agreement between user and a buyer, to which user has declared the present terms and conditions applicable, insofar as parties have not explicitly deviated from the present terms and conditions in writing.
2. The present terms and conditions shall also apply to all agreements with user, the execution of which calls for the services of third parties.
3. Any exceptions to these general conditions are only valid if expressly agreed in writing.

## Article 3 - Offers and Tenders

1. All offers shall be free of obligation and will be done in any written form, unless user forgoes a written offer because of practical, urgent or other reasons. The offer provides for a date or is determined by date.
2. User shall only be bound by the offers if the acceptance thereof is confirmed in writing by the buyer within five days, unless otherwise indicated. The prices given in offers and tenders shall be exclusive of VAT, as well as of shipment costs and possible packaging and administration costs, unless explicitly stated otherwise.
3. User can not be held to offers and tenders if the other party, to terms of reasonableness and fairness in society and prevailing views should have understood that the offer or any part thereof contains a manifest mistake or error.
4. If the acceptance deviates (on secondary items) from the offer given, user shall not be bound by it. The agreement shall

1-6

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in such event not be concluded in accordance with said deviating acceptance, unless user indicates otherwise.

5. A compound quotation shall not oblige user to execute part of the assignment against a corresponding part of the given quotation.
6. Offers and tenders shall not apply automatically to repeat orders.

## **Article 4 - Conclusion of the Agreement**

1. The agreement is concluded through the timely acceptance by buyer of user's offer.

## **Article 5 - Delivery**

1. Delivery shall be made ex works/store/warehouse of user.
2. Buyer shall be held to take delivery of the goods the moment that user delivers them to him or has them delivered, or the moment at which the goods are put at buyer's disposal under the agreement.
3. If buyer refuses to take delivery or fails to give the information or instructions necessary to the delivery, user shall be entitled to store the goods at buyer's risk and expense.
4. If delivery of the goods has been agreed by user and buyer, the delivery will be free of charge, unless user has communicated the specified conditions to buyer at the conclusion of the contract. User reserves the right to supply the service charge separately.
5. If execution of the agreement in stages has been agreed upon, user can suspend the execution of the parts belonging to a following stage until the buyer has approved in writing the results of the stage prior to it.
6. If, in the framework of the execution of the agreement, user requires data to be given by the buyer, the term of delivery shall commence after the buyer has provided user with said data.
7. If user has given a term of delivery, it shall only be indicative. A given term of delivery shall therefore never constitute a term to be observed on penalty of forfeiture of rights. If a term is exceeded, the buyer must give user notice of default in writing.

## **Article 6 - Guarantee**

1. User shall guarantee that the goods to be delivered shall meet the usual requirements and standards that can be set for and made upon them and that they shall be free of any defect whatsoever.
2. The guarantee mentioned under 1 shall equally apply if the goods to be delivered are destined for use abroad and if the buyer explicitly informed user of this use in writing the moment the agreement was entered into.
3. The guarantee mentioned under 1 shall be valid for a period of 1 month following delivery.
4. User shall give the other party a written guarantee. In absence thereof, the sales receipt as proof with respect to the guarantee.
5. If the good to be delivered does not comply with said guarantee, user shall, at his discretion, replace or see to the repair of the good, within a reasonable period of time following receipt thereof, or, if the good cannot be returned in reason, following notification of the defect by the buyer. In the event the good is replaced, the buyer shall already now undertake to return the replaced good to user and to transfer ownership to user.
6. The guarantee mentioned for this purpose shall not apply when the defect originated as the result of injudicious or improper use or when the buyer or third parties have introduced changes or tried to introduce changes to the good without user's consent in writing or if they have used it for purposes for which the good was not intended.
7. If the delivered good does not comply with the agreement and this non-compliance is a lack under the scheme of productliability, the user is not liable for consequential damages.
8. Terms in these general conditions relating to warranty, shall not affect the claims of the other party under the law, all in



accordance with in this and general conditions in the agreement, including the nature and quality to the other party of what is sold and delivered.

9. If one has agreed with the quality and implementation via previously supplied sample one can not claim in any way guarantee. Provided the supplied is not equal to previously sent samples for approval.

## **Article 7 - Samples and Models**

1. If a sample or model has been given to buyer, then the assumption is that such has been given by way of indication only, unless parties agree explicitly that the product to be delivered shall correspond with it.

## **Article 8 - Retention of Title**

1. All goods delivered by user, shall remain user's property until buyer has fulfilled all of his obligations under all agreements concluded with user.
2. Goods delivered by user falling under the retention of title by virtue of the stipulations under 1. of the present article, may only be sold on within the framework of normal business activities and must never be used as instrument of payment. Buyer shall not be authorised to pledge or encumber in any way the goods falling under the retention of title.
3. The buyer must always do what can be reasonably expected of him to secure the property rights of the user.
4. If third parties seize goods delivered subject to retention of title or wish to establish or assert a right to them, buyer shall be held to inform user thereof as soon as can reasonably expected.
5. The buyer shall undertake to insure the goods delivered subject to retention of title and to keep them insured against damage caused by fire, explosion and water as well as against theft and make this insurance policy available for inspection on first demand. In case of payment of this insurance user is entitled to these tokens. As far as needed the buyer will co-operate with all that is necessary or desirable in that framework.
6. In the event that user wishes to exercise his ownership rights mentioned in the present article, buyer shall give user or third parties to be appointed by user, now for then, unconditional and irrevocable permission to access all sites and locations where user's property might be found and to take these goods back.

## **Article 9 - Inspection & Complaints**

1. Buyer shall be held to examine the delivered goods (to have the delivered goods inspected) the moment of delivery (handing over), but in any case in as short a period of time as possible. In this respect, buyer must examine whether the quality and the quantity of the delivered goods comply with what was agreed upon, or at least whether they meet the requirements applying to said goods in normal (business) transactions.
2. Possible visible shortcomings must be communicated in writing to user within three days following delivery, this with the simultaneous submission of warranty and defective product, unless this is impossible or unreasonably onerous.
3. Non-visible shortcomings must be reported by buyer within five days following their detection but latest within the guarantee period to user, subject to the provisions in the preceding paragraph of this article. After the warranty the user is entitled to charge all costs to buyer for repair or replacement, including all administration-, shipping and call out costs.
4. If in accordance with the previous paragraph, buyer files his complaint in due time, he shall still be held to take delivery and effect payment of the goods purchased. If buyer wishes to return defect goods, he shall do so following prior consent in writing from user.



## **Article 10 - Transfer of Risk**

1. The risk of loss of, or damage to the products being the subject of the agreement, shall be transferred to buyer the moment said products are judicially and/or actually delivered to buyer and therefore fall into the power of buyer or of third parties to be appointed by buyer.

## **Article 11 - Remuneration, Price and Costs**

1. If user and buyer have agreed upon an administered price, user shall nevertheless be entitled to increase said price, also if the price were originally not given subject.
2. If a price increase occurs within 1 month after the conclusion of the agreement, buyer may terminate the agreement by a written statement regardless of the rate of increase, unless
  - the price increase is caused by a power or on the user's obligation under the law or
  - if stipulated that delivery will take place longer than 1 month after sale.

## **Article 12 - Payment**

1. Unless otherwise agreed with VARIANT BENELUX payment must be made by cash on delivery or by direct debit.
2. If payment is not made by cash on delivery or by direct debit, payment must be made within 14 days from the date of invoice, in a way to be indicated by user and in the currency in which the goods were invoiced.
3. Contestation of the amount of the invoices shall not suspend the fulfilment of the payment obligation.
4. If buyer fails to fulfil his payment obligation within 8 days after due date, then buyer shall be in default by operation of law. In that event, buyer shall owe an interest of 1% per month, unless the statutory interest rate is higher, in which case the statutory interest rate shall apply. The interest on the amount due and payable shall be calculated as from the day the buyer is in default until the moment he has paid the amount in full.
5. User's claims against buyer shall become due on demand in the event that buyer is wound up, attached, declared bankrupt, or if a suspension of payment is granted.
6. User shall be entitled to have the payments made by the buyer go first of all to reduce the costs, subsequently to reduce the interest still due and finally to reduce the principal sum and the current interest. User shall have the right, without this leading user to be in default, to refuse an offer for payment, if the buyer designates a different sequence of attribution. User shall be entitled to refuse full payment of the principal sum, if said payment does not include the interest still due, the current interest and the costs.

## **Article 13 - Suspension and Dissolution**

1. User shall be authorised to suspend the fulfilment of the obligations under the agreement or to dissolve the agreement, in the event that:
  - buyer does not fulfil or does not fully fulfil his obligations resulting from the agreement.
  - after the agreement has been concluded, user learns of circumstances giving good ground to fear that the buyer will not fulfil his obligations. If good ground exists to fear that the buyer will only partially or improperly fulfil his obligations, suspension shall only be allowed in so far the shortcoming justifies such action.
  - buyer was asked to furnish security to guarantee the fulfilment of his obligations resulting from the agreement when the contract was concluded and that this security is not provided or insufficient. As soon as security is furnished, the authorisation to suspend shall lapse, unless said fulfilment has been unreasonably delayed because of it.
2. User shall furthermore be authorised to dissolve the agreement (have the agreement dissolved) if circumstances arise of such a nature that fulfilment of the obligations becomes impossible or can no longer be demanded in accordance



with the requirements of reasonableness and fairness, or if other circumstances arise of such a nature that the unaltered maintenance of the agreement can no longer be demanded in all reasonableness.

3. If the agreement is dissolved, the user's claims against the buyer shall be forthwith due and payable. If user suspends fulfilment of his obligations, he shall retain his rights under the law and the agreement.
4. User shall always retain the right to claim damages.

## **Article 14 - Collection Charges**

1. If the buyer fails to fulfil his obligations (in due time) or defaults on them, then all reasonable costs incurred to have all extrajudicial costs and debts paid shall be borne by the buyer. If the buyer remains in default of payment within the set time period, he forfeits a immediately payable fine of 15% on the amount due at that moment. This with a minimum of € 100,00.
2. If user demonstrates that he has incurred higher expenses, which were necessary in reason, said expenses shall also qualify for reimbursement.
3. The reasonable judicial and execution costs possibly incurred shall equally be borne by buyer.
4. Buyer shall owe interest over the made collection charges.

## **Article 15 - Safeguarding**

1. The buyer shall safeguard user against claims filed by third parties concerning intellectual property rights on material or data provided by the buyer, which shall be used for and during the execution of the agreement.
2. If the buyer provides user with information carriers, electronic files or software etc., the former shall guarantee that said information carriers, electronic files or software are free of viruses and defects.

## **Article 16 - Intellectual Property and Copyrights**

1. Without prejudice to the other stipulations of the present general terms and conditions, user shall reserve the rights and authorities to which user is entitled under the Copyright Act.
2. The buyer shall not be allowed to introduce changes to the goods and material provided, unless the nature of the delivered goods and material dictates otherwise or if agreed upon otherwise in writing.
3. The designs, sketches, drawings, films, software and other material or (electronic) files, possibly produced by the user within the framework of the agreement, shall remain user's property, irrespective of the fact whether they have been handed over to the buyer or to third parties, unless agreed upon otherwise in writing.
4. All documents, such as designs, sketches, drawings, films, software, (electronic) files, etc., provided by user, shall be destined to be used by buyer exclusively and must not be reproduced, made public or brought to the notice of third parties by buyer without prior consent from user, unless the nature of the documents provided dictates otherwise.
5. User shall reserve the right to use the knowledge gained due to the execution of the work for other purposes, in so far no confidential information shall be brought to the notice of third parties when doing so.

## **Article 17 Liability**

1. If the goods delivered by user are defective, user's liability vis à vis the buyer shall be limited to the arrangements made in the present terms and conditions under "Guarantee".
2. If the manufacturer of a defective good is liable for consequential damage, user's liability shall be limited to repair, replacement or refund of the goods.



3. Notwithstanding the above, user shall never be liable for damage due to intent and/or gross negligence and/or culpable action or to injudicious or improper use of the buyer.
4. The limitations of liability for direct damage contained in the present terms and conditions shall not apply if the damage is due to intentional act or omission or gross negligence on the part of user or his subordinates.

## **Article 18 Force Majeure**

1. Parties shall not be held to fulfil any of their obligations if they are hindered to do so due to a circumstance through no fault of their own and which cannot be attributed to them by virtue of law, a legal action or generally accepted practice.
2. In addition to the provisions of the law and the judge-made law in this respect, force majeure shall in the present general terms and conditions furthermore be understood to be any external circumstance, be it envisaged or not, on which user cannot have any influence but which prevents user from fulfilling his obligations. Industrial action at user's company shall also be understood to be a circumstance of force majeure.
3. User shall also be entitled to invoke force majeure if the circumstance rendering (further) fulfilment of the obligation(s) impossible, commences after the point in time on which user should have fulfilled his obligation.
4. Throughout the duration of the circumstances of force majeure, parties shall be entitled to suspend the fulfilment of their obligations. If this period lasts for more than two months, either of the parties shall be entitled to dissolve the agreement without any obligation to pay the opposite party damages.
5. Insofar user has already partially fulfilled his obligations resulting from the agreement at the moment the circumstance of force majeure commenced or shall be able to fulfil them and insofar separate value can be attributed to the part already fulfilled or still to be fulfilled respectively, user shall be entitled to invoice the part already fulfilled or still to be fulfilled respectively. The buyer shall be held to pay this invoice as if it were a separate agreement.

## **Article 19 - Disputes**

1. The Court in user's place of business shall have exclusive jurisdiction to hear actions, unless the District Court is the competent Court. User shall nevertheless be entitled to submit the dispute to the Court deemed competent by the law.
2. Parties shall only refer the matter to the court if they have done their utmost to solve the dispute in mutual consultations.

## **Article 20 - Applicable Law**

1. Dutch law shall apply to each and every agreement between user and the buyer. The Vienna Sales Convention shall be explicitly excluded.

## **Article 21 - Changes to the Terms and Conditions, interpretation and their location**

1. The present terms and conditions have been filed at the office of the Chamber of Commerce in Rotterdam.
2. The Dutch version of these general terms and conditions prevails at all time in case of disputes with regard to the interpretation and purpose of these terms and conditions.
3. The most recently filed version shall always apply, or, as the case may be, the version valid at the time the agreement was concluded.