

1. Definitions

In the present General Terms and Conditions, the following shall be understood to be:

1.1 Agreement: The agreement between Vacumetal and the Client, of which the present General Terms and Conditions form part.

1.2 Client: The other party of Vacumetal in the legal relationships as described in article 2 of the General Terms and Conditions.

1.3 Goods: The goods described in the order confirmation which Vacumetal subjects to a surface treatment.

1.4 Vacumetal: B.V. Vacumetal, having its registered office and its principal place of business in (4903 RD) Oosterhout, at the address Gouden Rijderstraat 7.

2. Applicability

2.1 The present General Terms and Conditions shall apply to and shall form part of: each and every offer made by Vacumetal, all the applications for an offer filed by the Client, all quotations submitted by Vacumetal, all agreements that are concluded between the Client and Vacumetal and all the complementary orders and follow-up orders placed by the Client.

2.2 Deviations from the General Terms and Conditions shall only be valid to the extent they have explicitly been accepted by Vacumetal in writing.

2.3 The applicability of the general terms and conditions invoked by the Client, shall emphatically be rejected.

3. Offer and Conclusion of the Agreement

3.1 Each and every offer made by Vacumetal shall be without prejudice and subject to contract. Forwarding offers and/or (other) documentation shall not oblige Vacumetal to accept an assignment and/or to enter into an Agreement. Vacumetal shall not be bound by the offer that forms part of the documentation.

3.2 An Agreement between Vacumetal the Client shall only come into being when Vacumetal has explicitly accepted and confirmed an assignment in writing.

3.3 Oral arrangements and/or promises made by Vacumetal staff or sales representatives, agents, representatives or other intermediaries of Vacu-metal as well as complementary arrangements and/or modifications potentially made after conclusion of the Agreement, shall only be binding on Vacumetal if they have been explicitly accepted by Vacumetal in writing.

3.4 If neither party has confirmed the Agreement in writing and Vacumetal has started to execute the Agreement with the consent of the Client, the Agreement shall be deemed to have been concluded.

3.5 If Vacumetal so requests, the Client shall be under the obligation to furnish security for compliance with his obligations vis-à-vis Vacumetal.

4. Prices

4.1 Unless explicitly stated otherwise in writing, the prices referred to by Vacumetal shall be exclusive of value added tax (VAT).

4.2 Vacumetal shall be authorised to increase the price agreed upon with the Client at all times if said increase is the consequence of statutory provisions and/or arrangements or if said increase is the consequence of cost-increasing circumstances for which Vacumetal is not to be blamed. In such case, said price increase shall be binding on the Client.

4.3 The costs and prices charged to the Client by Vacumetal pursuant to altered and/or complementary activities, shall be binding on the Client.

4.4 The Client shall never be authorised to deduct any amount from the amount the Client owes Vacumetal, or to set off any amount or to suspend his obligations to pay.

4.5 Unless otherwise agreed upon in writing, the Client shall be under the obligation to pay the price agreed upon to Vacumetal in full within thirty days from the date of invoice.

5. Execution of the Agreement

5.1 Unless otherwise agreed upon in writing, Vacumetal shall use the test methods QAC-MC-102B, 112/H, 151/L, 536/B, 537/F. Vacumetal shall send specifications of said test methods to the Client upon the latter's first request to that effect. If parties have agreed in writing that Vacumetal will use another test, the additional costs shall be for the Client's account.

5.2 Prior to the moment Vacumetal starts carrying out its activities, the Client shall have to supply a sufficient quantity of goods to Vacumetal on which Vacumetal shall perform the test methods QAC-MC-102B, 112/H, 151/L, 536/B, 537/F, or another test agreed upon in writing. Based on the result of the tests performed by Vacumetal, Vacumetal shall determine how the activities will be carried out.

5.3 The delivery dates stated by Vacumetal shall be indicative and shall therefore not be terms to be observed on penalty of forfeiture of rights.

5.4 The delivery shall only take effect when the Agreement has been concluded, when Vacumetal has received all the required data and goods from the Client, when the necessary formalities have been performed and when the (payment in advance) of the price agreed upon potentially owed by the Client, has been received.

5.5 Vacumetal shall be authorised to call in the services of third parties for the execution of the Agreement it has concluded with the Client. Vacumetal shall not be liable for shortcomings on the part of said third parties or for damage caused by said third parties. If said third parties wish to limit their liability for the execution of an assignment, Vacumetal shall be entitled to accept such limitation of liability on behalf of the Client.

5.6 Vacumetal shall return the goods in the same packaging as the one it received them in. If, in the opinion of Vacumetal, the packaging is not fit to repackage and/or return the goods, the costs of potential new packaging shall be charged on to the Client. Vacumetal shall never be liable for direct and indirect damage caused due to the use of new packaging.

5.7 Deliveries shall be made for the risk and account of the Client.

5.8 If the Client refuses to accept the delivery, Vacumetal shall store the goods elsewhere for the risk and account of the Client. In such a case, the Client shall be held to pay Vacumetal damages to the amount of the full price agreed upon, increased by the non-planned storage and transport costs.

6. Force Majeure

6.1 If the execution of the Agreement is hindered or seriously hampered by circumstances of force majeure, Vacumetal shall have the right to adjust the activities to the circumstances that have arisen, or to suspend (have) the execution of the Agreement (suspended) for the time said circumstances continue to exist. All the costs incurred by Vacumetal up to that moment, shall be fully and immediately due and payable.

6.2 In addition to what is understood to be force majeure under the law and law of precedent, force majeure shall be understood to be all external causes, foreseen or not, that are beyond Vacumetal's control but which make it impossible for Vacumetal to comply with its obligations vis-à-vis the Client. In the present General Terms and Conditions, force majeure shall in any case be understood to include: war, the threat of war, riots, war risk, strikes, fire, water damage, forces of nature, floods and other adverse weather conditions, problems hindering traffic, illness of staff, plant occupations, interruptions of operations, power cuts, malfunctions of a (telecommunication) network or link, force majeure on the part of suppliers or other third parties whose services have been called in, non-delivery or overdue delivery by suppliers or other third parties whose services have been called in and the lack of any permit to be obtained from the government authorities.

6.3 Vacumetal can also successfully invoke force majeure if the circumstance that hinders the execution of the Agreement, takes effect after Vacumetal should have complied with its obligation.

6.4 The Client can never derive any right to damages from the dissolution, modification and/or suspension of the (execution of) the Agreement as a result of force majeure.

6.5 Dissolution, modification and/or suspension of the (execution of) the Agreement as a result of force majeure, shall not relieve the Client of his obligation to pay all and everything that has been delivered and/or executed up to the moment the force majeure situation came into being.

7. Default on the Part of the Client, Suspension and Dissolution

7.1 In the event the Client fails to comply with his obligations to pay or complies with them too late, or if the Client fails to comply with any or any other of its obligations by virtue of the Agreement with Vacumetal, or fails to comply with it in due time or to comply with it properly, in the event the Client has been declared bankrupt, the Client has been granted suspension of payments, the Client has been placed under guardianship, in cases other than those referred to hereinbefore in which the Client can no longer freely dispose of his assets and in the event the security furnished by the Client for compliance with his obligations proves to be insufficient, the claims of Vacumetal shall be fully and immediately due and payable and the Client shall be in default by operation of law. In that case, Vacumetal shall be authorised to wholly or partially dissolve the Agreement and/or suspend its obligations, all this at the discretion of Vacumetal.

7.2 Over the period of time the Client defaults on his obligation to pay, he shall owe Vacumetal interest on the amount owed, equalling the statutory commercial interest by virtue of article 6:119a "Burgerlijk Wetboek" (The Netherlands Civil Code) increased by 2%, on an annual basis.

7.3 When the Client is in default, Vacumetal shall be authorised to proceed with the collection of the amount it is owed, without need for any further notice of default. All corresponding costs, including both extrajudicial and judicial costs, shall be for the account of the Client. The extrajudicial collection costs shall at least amount to 15% of the amount owed by the other party – including the interest owed on it, all this with a minimum of € 1,500.00.

7.4 Any payment made by the Client, shall in the first instance be deducted from all the costs and interest owed and shall subsequently always be deducted from the longest outstanding due and payable claims.

7.5 If the Agreement is dissolved, the claims Vacumetal has on the Client, shall be immediately due and payable. If Vacumetal suspends compliance with its obligations, Vacumetal shall retain its claims pursuant to the law and the Agreement.

7.6 If Vacumetal proceeds to dissolve or suspend the Agreement on the grounds as set out in the present article, it shall not in any way be held and/or be liable by that virtue to and for compensating the damage and costs, whereas the Client shall indeed be held to compensate damage and costs and/or pay damages and shall be liable for it.

8. Complaints

8.1 Upon delivery, the Client shall have to check whether the activities carried out and/or the goods delivered by Vacumetal, meet the requirements of the Agreement. If any visible defects are noticed, the Client shall forthwith have to report them to Vacumetal in writing. If the Client does not do so forthwith and does not file a complaint in writing in this respect within, at the most, seven days after receipt, the activities carried out and/or the goods delivered by Vacumetal as well as the data on the consignment notes, the delivery notes or documents of this kind, shall be accepted as being complete and correct.

8.2 With respect to defects that already existed the moment of delivery, but which only afterwards manifested themselves for the first time, the Client shall have to file a complaint in writing not later than within fourteen days after delivery.

8.3 If the Client does not file a complaint within the terms as referred to in articles 8.1 and 8.2, the Client cannot derive any rights from his complaint. Complaints that are not filed in due time, shall not be handled by Vacumetal.

8.4 If the Client has filed the complaints in due time, as referred to in articles 8.1 and 8.2, and the complaint proves to be well-founded in the opinion of Vacumetal, Vacumetal shall be at liberty at its own discretion to either carry out the activities as yet as agreed upon or to repair the defects for no consideration.

8.5 In order to be able to invoke the rights resulting from article 8.4, the Client shall have to:

- notify Vacumetal in writing in due time after delivery, as referred to in articles 8.1 and 8.2, of the defects observed;
- prove that the defects are to be attributed to a faulty execution of the activities carried out by Vacumetal, or that they are the direct consequence of an imputable failure on the part of Vacumetal;
- prove that the goods delivered and/or the activities carried out by Vacumetal, do not meet the requirements of the test methods QAC-MC-102B, 112/H, 151/L, 536/B, 537/F, or those of another test agreed upon in writing;
- prove that the defects manifest themselves in normal circumstances and in conditions of normal use of the delivered goods;
- prove that the goods delivered by Vacumetal have not (further) been processed, treated or otherwise worked on by the Client and/or a third party after their delivery by Vacumetal.

8.6 If the costs of carrying out the activities as yet as agreed upon and/or the costs of repair are, in the opinion of Vacumetal, not in proportion to the interest the Client has in this respect, the Client shall be entitled to damages if Vacumetal is liable in this respect, all this having due regard to the stipulations of article 9 of the present General Terms and Conditions, which stipulate that the Client is no longer entitled to repair work. In such a case, Vacumetal shall

never be liable for an amount in excess of the costs Vacumetal would have incurred if it had complied with the obligation set out in article 8.4.

8.7 The goods shall be returned for the risk and account of the Client.

8.8 In the event of an unfounded complaint, the costs incurred by Vacumetal shall be for the Client's account.

9. Limitation of Liability

9.1 The liability of Vacumetal as referred to in article 8.5, as well as any other liability resulting from other facts or circumstances or otherwise, shall never exceed and shall at all times be limited to what is set out in the present article 9.

9.2 Vacumetal may only be held liable for the direct damage that can be attributed to Vacumetal. Direct damage shall be understood to be exclusively:

- a. reasonable costs to establish the cause and the scope of the damage, to the extent the establishment relates to damage in the sense of the present General Terms and Conditions;
- b. reasonable costs that are necessary to have the faulty performance by Vacumetal meet the requirements of the Agreement;
- c. reasonable costs incurred to prevent or limit damage, to the extent the Client demonstrates that said costs have led to the limitation of the direct damage as referred to in the present General Terms and Conditions.

9.3 Vacumetal shall never be liable for any damage other than the direct damage referred to hereinbefore, such as indirect damage, including consequential damage, loss of profits, savings missed out on, and damage due to stagnation.

9.4 If the execution of an Agreement by Vacumetal, including an omission, leads to liability, said liability shall at all times be limited to the level of the invoice sent by Vacumetal with respect to the Agreement concerned, all this with a maximum of € 100,000.00.

9.5 Having due regard to stipulations set out elsewhere in the present article, Vacumetal shall never be liable for damage caused by the injudicious use of the delivered goods or the use thereof for any purpose other than the one they are suited for according to objective standards, or for damage that has arisen after the Client and/or a third party has (further) processed, treated or otherwise worked on the goods after Vacumetal has delivered them. Vacumetal shall equally not be liable for damage if:

- the goods the Client has supplied to Vacumetal to carry out the activities, deviate from the goods the Client has previously provided Vacumetal with to perform the test methods QAC-MC-102B, 112/H, 151/L, 536/B, 537/F, or to perform another test agreed upon in writing;

- the activities carried out and/or the goods delivered by Vacumetal meet the requirements of the test methods QAC-MC-102B, 112/H, 151/L, 536/B, 537/F, or those of another test agreed upon in writing;
- it is plausible, considering the circumstances of the case, that the defect that caused the damage did not exist the moment it was delivered by Vacumetal;
- the defect that caused the damage, is a consequence of the fact that the activities carried out and/or the goods delivered by Vacumetal, corresponds with imperative government instructions;
- it was impossible to detect the defect that caused the damage on the basis of the state of scientific and technical knowledge that was available at the time of delivery by Vacumetal;
- the damage that has arisen is to be attributed to goods, instructions, information and indications given to Vacumetal by or on behalf of the Client.

9.6 The Client shall fully indemnify Vacumetal against all claims lodged by third parties to compensate damage or that otherwise relate to the activities carried out and/or the goods delivered by Vacumetal.

9.7 If the Client has insured any risk in connection with the Agreement, he shall be held to indemnify Vacumetal against the damage sustained and to be sustained by Vacumetal as a result of the fact that said risk has materialised.

9.8 All and every liability of Vacumetal shall lapse after a period of six months from the moment of delivery by Vacumetal. The Client's legal claims to damages, compliance, repair or otherwise on Vacumetal shall lapse after a period of time of six months after the Client has held Vacumetal liable in writing.

10. Other Stipulations

10.1 Should any stipulation in the present General Terms and Conditions prove to be null and void or subject to annulment, this shall not result in the fact that another stipulation in the present General Terms and Conditions shall be (partially) null and void or subject to annulment. If any stipulation in the present General Terms and Conditions should prove to be null and void or subject to annulment, it shall be replaced with a valid stipulation that is the most in line with the tenor of the stipulation that is null and void or subject to annulment.

10.2 Dutch law exclusively shall apply to each and every legal relationship between Vacumetal and the Client to which the present General Terms and Conditions relate, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.

10.3 All disputes between Vacumetal and the Client shall in the first instance be ruled on by the absolutely competent Court in Breda.

10.4 The Dutch text of the present General Terms and Conditions shall prevail over any translation thereof.