

## **VARLO, LLC -- CUSTOM ORDERS TERMS AND CONDITIONS**

VARLO, LLC ("VARLO" or "Seller") offers extensive options for design, branding, and garment build. All custom orders are manufactured to meet your specific needs. By agreeing to this Work Order, the signatory to this agreement ("Customer") consents to the following Terms and Conditions and agrees that such Terms and Conditions govern the transaction between Customer and VARLO as follows.

### **PLACEMENT OF ORDER**

VARLO will assign a Brand Consultant who will assist the Customer with their order. Once the order goes to production, the Brand Consultant will provide an estimated date of completion, generally 8-10 weeks after the Bulk Order or Team Store is closed, requisite payment(s) are received by VARLO, and the final order is placed with VARLO's factory, subject to constraints or delays outside of VARLO's reasonable control including events set forth in the FORCE MAJEURE section below.

### **BULK ORDER VS. CUSTOM TEAM STORE OPTIONS**

**CUSTOMER CAN CHOOSE TO UTILIZE EITHER A BULK ORDER OR A CUSTOM TEAM STORE AS FOLLOWS:**

#### ***BULK ORDERS (POLICY TERMS SPECIFIC TO BULK ORDERS)***

A bulk order is a single payment and single ship arrangement. A deposit of 50% of the total order is due before a final order can be placed with VARLO's factory to commence production. Payment in full to include any additional fees and taxes is due upon completion of order and prior to shipment or delivery.

- Sales Tax will be included where applicable and is due with the final payment.
- SHIPPING AND HANDLING -- VARLO will charge Customer a bulk shipping charge of 5% of the merchandise total (excluding taxes and fees) for each order within a store. In the event expedited shipping is requested by Customer, additional fees may apply.
- All Bulk Order sales are final; no exchanges or returns are allowed. No changes are allowed to an order once it is placed by Customer to VARLO.

#### ***TEAM STORES (POLICY TERMS SPECIFIC TO TEAM STORES)***

A team store allows your team members to purchase individual items from a custom website, and offers shipping options to suit your needs. These include bulk shipments to one location, pre-sorted shipments to one location or direct shipments to your team members. Pricing for these services varies by type and will be separately quoted to the Customer by VARLO.

- Individual team members will be charged for their orders through the Team Store at the time of placement, including all shipping and applicable taxes. A 5% processing fee will also be added to each individual team member's purchase price.
- SHIPPING AND HANDLING, Team Stores utilizing the individual shipment option will include a shipping and handling charge based upon the individual's order subtotal amount:

Subtotal Maximum	Charge Amount
100.00	11.00
250.00	12.00
500.00	16.00
750.00	18.00
1000.00	20.00

- Team Store orders can only be processed using a credit or debit card. We cannot accept other forms of payments for team stores.
- All Team Store sales are final; no exchanges or returns are allowed. No changes are allowed to an order once it is placed by a team member.

## GARMENT MINIMUMS AND SPECIAL PRICING

VARLO utilizes a garment minimum program. Under the program, a customer is required to meet the minimum units for each product style.

- As set forth in the VARLO Price Guide, we have a 5 unit minimum on items (men's and women's items are counted separately). We have price discounts at 15+ units and 25+ units.
- Where unit minimums are not met, an additional fee will be added per product style. For example: Customer and VARLO agree that a team store price of the Mezza Triathlon suit will be set at 15+ unit price of \$192, however, only 8 items are purchased from the team store. 5+ unit price of \$210- \$192 = \$18. \$18\*8 (units purchased) = \$144 will be invoiced to the Customer.

## DELIVERY

Delivery is contingent on placement of the final orders by Customer to VARLO, enabling VARLO to place orders with its factory, and payment of all amounts due by Customer prior to VARLO's shipment of the final product to Customer.

- Customer agrees to pay shipping costs and sales tax as applicable

- VARLO shall not be responsible or liable for delays relating to shipping, freight, customs or for any other reason beyond VARLO's reasonable control.

## DEPOSITS, FEES AND PRICING

- NEW ORDERS
  - \$300 design fee is required to begin the design process where a VARLO designer is being utilized.
- QUALITY FIT KITS
  - On a limited basis, VARLO may offer and send fit kits to Customer, comprised of limited items to assess general size and quality. A credit card authorization is required and is charged if the fit kit is returned damaged as determined in VARLO's sole discretion.
  - VARLO will pay for freight to send the fit kit to Customer. Customer is responsible for freight to return the fit kit.
  - Customers must return the fit kit to VARLO in the condition in which it was received within ten (10) days of receipt of the kit. On the eleventh day following receipt of the fit kit, **Customer shall be charged 20% of the retail value of the fit kit items**. On the thirtieth day following receipt of the fit kit, **Customer shall be charged 100% of the retail value of the fit kit items**.
  - VARLO shall be entitled to full payment pursuant to the terms stated in this document irrespective of any mischarges, declined charges, late fees, or other issues relating to Customer's credit card account or provider. Customer agrees to contact VARLO directly to resolve any disputed credit card charges for orders placed hereunder.

## DESIGN

- Customer can provide VARLO with its own designs. Customer-provided designs must be provided as an Adobe Illustrator file, and be in a production-ready format.
- Alternatively, VARLO has designers who can work with Customer to create the perfect design that expresses your team ("Custom Design"). We have some of the best designers in the industry. We will work with you to make sure your designs come to life just as you'd like. Design fee is \$300. Custom Designs include two revisions. Additional design revisions are charged at \$45 per hour. Contrast Stitching is available on limited styles for a \$10 upgrade.
- Upon Customer's final approval of the Custom Design, it will be final, and no further changes are possible. VARLO is not responsible for any issues or errors in the Custom Design after final Customer approval is received.

## **WARRANTY**

All custom products are covered by a ninety (90) day warranty on product malfunctions (zippers or seams), excluding damage resulting from ordinary wear and tear or any unintended use or improper care of VARLO products. If a product is damaged in any way (through transportation or simply defective), we require clear photos of the product first and then evaluate if the product can be repaired or simply replaced.

## **DISCLAIMER OF WARRANTIES**

OTHER THAN THE WARRANTY AS PROVIDED ABOVE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, VARLO MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, WITH RESPECT TO ANY OF THE PRODUCTS SOLD HEREUNDER, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF INTELLECTUAL PROPERTY.

## **ACKNOWLEDGMENTS, AUTHORIZATION AND PAYMENT**

Customer has reviewed the VARLO Sizing Charts and Customization Booklet to confirm the correct sizes for its order. Customer acknowledges that artwork shown is not necessarily to scale, because the artwork is displayed for purchase in 2D, while actual uniforms are 3D. By indicating acceptance of the Work Order and making payment via VARLO's online ordering tool, Buyer authorizes VARLO to begin production on the Work Order and to charge Customer's credit card in the amount reflected on the Work Order. Following such charge, no changes may be made to a custom order. VARLO is not responsible for any errors in the final product caused by information provided by Customer (including sizes, colors, material and finish selections).

## **RETURNS AND REFUND POLICY**

Because VARLO's custom products are custom-made, VARLO does not accept returns, and no refunds are available. Notwithstanding the foregoing, if within 30 days of Customer's receipt of custom apparel, Customer discovers material defects in zippers, fasteners, stitching, or materials, it may submit an inquiry to VARLO for verification; if VARLO's Quality Control team determines in its sole discretion that an item is indeed defective, VARLO will offer at its election a resolution of the matter to Customer.

## **MATERIALS AND COLORS**

VARLO strives to accurately depict all colors on its website and in its Work Orders; however, colors displayed on VARLO's website and in Work Orders are representative. Because there are many variations in computer monitors and browsers, and not all monitors are calibrated equally, color reproduction on the Internet is not precise. Accordingly, VARLO does not guarantee that what you see online will match the color of the actual product delivered. Even finished products can have minimal color variations

within a production run, or in subsequent manufacture. Customer acknowledges that actual colors may vary from colors shown on your display monitor, and even within an order or in supplemental orders. There are no returns due to color variances.

## **INDEMNIFICATION**

Customer agrees to defend, indemnify and hold harmless VARLO from and against any and all first and third party claims, damages, costs and expenses (including, but not limited to, attorney's fees, expenses and court costs), arising from or relating to (i) Customer's use of VARLO's products and services, (ii) breach by Customer of these Terms and Conditions, and (iii) Customer's violation of any rights of any third party. VARLO has the right to select defense counsel and to direct the defense or settlement of any such claim or suit.

## **LIMITATION OF REMEDIES**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, VARLO's LIABILITY WHETHER IN CONTRACT, IN TORT, UNDER ANY WARRANTY, IN NEGLIGENCE OR OTHERWISE, WILL NOT EXCEED THE RETURN OF THE AMOUNT OF THE PURCHASE PRICE PAID BY CUSTOMER AND UNDER NO CIRCUMSTANCES WILL VARLO BE LIABLE FOR SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, EVEN IF VARLO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NO ACTION, REGARDLESS OF FORM, ARISING OUT OF THE TRANSACTION UNDER THIS AGREEMENT MAY BE BROUGHT BY CUSTOMER MORE THAN ONE YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED.

## **DISPUTE RESOLUTION AND APPLICABLE LAW**

Dispute Resolution and Applicable Law. Customer and VARLO agree all disputes regarding Customer's purchase of VARLO products (the "Claim") shall be resolved by binding arbitration, which is an alternative to a trial by jury. The arbitration shall be before a retired Superior Court Judge in Camden County, New Jersey, in accordance with the Rules of the American Arbitration Association then in effect ("AAA Rules"). The applicable law shall be New Jersey law, without reference to its conflicts of laws provisions, or federal law, as applicable. Customer and VARLO agree any decision by the arbitrator shall be final and binding. The parties agree the arbitration proceeding will be kept confidential and the existence of the proceeding and any element of it (including, without limitation, any pleadings, briefs, submissions, awards, materials exchanged in discovery) will not be disclosed beyond the arbitration proceedings, except as may be lawfully required in judicial or regulatory proceedings relating to the arbitration, or as specifically permitted by law. This arbitration agreement does not preclude you or VARLO from seeking action by federal, state, or local government agencies.

Neither you nor VARLO may act as a class representative, nor participate as a member of a class of claimants, with respect to any Claim. Claims may not be arbitrated on a class or representative basis. The arbitrator may not consolidate or join the claims of other persons or parties who may be similarly situated.

Further, it is agreed that the language in these Terms shall be interpreted as to its fair meaning and not strictly for or against any party. Customer stipulates to personal jurisdiction in New Jersey and agrees to accept service of process by registered or certified mail.

THIS SECTION LIMITS CERTAIN RIGHTS, INCLUDING THE RIGHT TO MAINTAIN A COURT ACTION, THE RIGHT TO A JURY TRIAL, THE RIGHT TO PARTICIPATE IN ANY FORM OF CLASS OR REPRESENTATIVE CLAIM, THE RIGHT TO ENGAGE IN DISCOVERY EXCEPT AS PROVIDED IN THE AAA RULES, AND THE RIGHT TO CERTAIN REMEDIES AND FORMS OF RELIEF. OTHER RIGHTS THE PARTIES WOULD HAVE IN COURT MAY ALSO NOT BE AVAILABLE IN ARBITRATION.

## **FORCE MAJEURE**

VARLO is excused for failure to perform its obligations under this agreement if it is prevented or delayed in performing those obligations by an event of force majeure. An event of force majeure means any event or circumstance, regardless of whether it was foreseeable, that was not caused by VARLO and prevents VARLO from complying with any of its obligations under this agreement. For purposes of example, such event of force majeure includes, but is not limited to, acts of God, pandemics, fires, floods, hurricane, explosions, riots, wars, acts of terrorism, acts of any governmental authority, strikes and other labor difficulties, and other events or circumstances beyond the reasonable control of VARLO.

## **USER CONTENT**

If Customer or Customer Team Representative(s) provides photos and/or testimonials to VARLO, Customer authorizes VARLO to use such photos and testimonials in the marketing of VARLO's goods and services. Customer represents and warrants that any content submitted to Customer is original to it, that VARLO owns all applicable legal rights in such content, and that the content does not infringe upon the rights of any other person or entity, including individuals depicted within the content. Customer certifies, represents and warrants that any individual depicted in any content submitted to VARLO has given permission to use his or her likeness in the marketing of VARLO's goods and services or Customer has the authority to attest to this release on his or her behalf.