

**GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY OF  
VLEESGROOTHANDEL GEBRS. ZANDBERGEN B.V. AND ITS AFFILIATES**

**1. DEFINITIONS AND APPLICABILITY**

- 1.1 In these general terms and conditions the following capitalized terms have the following meanings:
- **Terms and Conditions:** these general terms and conditions of sale and delivery of Products;
  - **Zandbergen:** Vleesgroothandel gebrs. Zandbergen B.V., a company with its office address at (2382 NW) Industrieweg 66, Zoeterwoude, the Netherlands, or any of its affiliates that declares these Terms and Conditions to apply to the legal relationships it enters into with a Buyer;
  - **Buyer:** any natural person, legal entity or partnership who is a party to or involved in any legal or other act as referred to in clause 2 or to whom a legal or other act is directed as referred to in said clause, or who has made a request as referred to in said clause;
  - **Multiple Use Packaging:** all multiple use packaging (in Dutch: *emballage*) owned by Zandbergen.
  - **Products:** all tangible matters (and, if any, related services) supplied or to be supplied by Zandbergen, including but not limited to all kinds of meat and meat products.
- 1.2 These Terms and Conditions apply to all offers, quotations, order confirmations, (partial) deliveries of Products and to invoices from Zandbergen to Buyer, to all orders placed by Buyer, to all agreements concluded between Zandbergen and Buyer and to any amendment thereto, and to all requests from Buyer for the same, regardless of whether an agreement will be or has been concluded between Zandbergen and Buyer.
- 1.3 By accepting these Terms and Conditions, Buyer also agrees to the applicability of these Terms and Conditions to all future offers, quotations, orders, order confirmations and (requests for) the delivery of Products and to all agreements to be concluded between Zandbergen and Buyer in the future.
- 1.4 The application of general terms and conditions of Buyer or any other terms and conditions is excluded. Buyer may only rely on stipulations which deviate from and/or supplement these Terms and Conditions if and insofar as Zandbergen has explicitly accepted them in writing. Such deviating and/or supplemental stipulations do not affect the applicability of any other provisions contained in these Terms and Conditions and apply solely to the agreement for which they have been explicitly agreed in writing.
- 1.5 The invalidity, invalidation or ineffectiveness of one of the provisions contained in these Terms and Conditions does not affect the validity of the remaining provisions. In the event that one or more provisions are/become invalid, invalidated or ineffective, Zandbergen and Buyer will record replacement provisions which are valid and which most closely match the content and purport of the invalid, invalidated or ineffective provision(s).
- 1.6 Zandbergen may at its discretion amend or supplement these Terms and Conditions at any time. Zandbergen will give Buyer notice of any such amendments and will provide Buyer with the new version of the Terms and Conditions. This new version of the Terms and Conditions will apply 5 (five) calendar days after that the amended Terms and Conditions have been provided to Buyer.

## 2. OFFERS AND CONCLUSION OF AGREEMENTS

- 2.1 All offers and quotations from Zandbergen and all orders from Buyer, whether verbal or in writing, do not entail any obligation for Zandbergen and do not bind it, unless this is otherwise explicitly evidenced by the offer or quotation from Zandbergen in which case however the respective offer or quotation is always subject to availability or unless Zandbergen has confirmed the order from Buyer in writing.
- 2.2 If an offer or quotation from Zandbergen comprises various price elements, Zandbergen is in no event obliged to deliver part of the Products to which the offer or quotation pertains at a corresponding percentage of the quoted price, nor will the offer or quotation concerned automatically apply to repeat orders. If Buyer wishes to place a repeat order, this will be billed separately.
- 2.3 All documents and information as stated in leaflets, brochures, offers, quotations and the like, are as accurate as possible but are not binding on Zandbergen and may in no event be regarded as an exact representation of what Zandbergen offers or is obliged to supply.
- 2.4 Agreements between Zandbergen and Buyer are concluded if, and as soon as, Zandbergen sends a written order confirmation to Buyer, for which the date of the order confirmation is decisive or – if this occurs beforehand – if Zandbergen has started processing Buyer's order, which includes but is not limited to the delivery of Products. The order confirmation will be deemed to accurately and fully represent the agreement and the Products to be delivered, including the applicability of these Terms and Conditions.
- 2.5 If Zandbergen for legitimate reasons (for instance Buyer's request for a small delivery of Products or a delivery that must be carried out with urgency) does not issue a quotation or order confirmation, the invoice from Zandbergen will be regarded as confirmation of the order, and that invoice will be deemed to accurately and fully represent the agreement, including the applicability of these Terms and Conditions.
- 2.6 Each agreement concluded between Zandbergen and Buyer in accordance with clause 2.4 results in a separate agreement between Zandbergen and Buyer. However, if it is legally established that the legal relationship between Zandbergen and Buyer must be considered to be a continuing performance agreement, Zandbergen may at any time and for whatever reason terminate (in Dutch: *opzeggen*) this legal relationship subject to three months' notice, without being liable to Buyer for any compensation, reimbursement and/or damages as a result of such termination.
- 2.7 Buyer will accompany its order with sufficient information to enable Zandbergen to proceed with the order, if accepted by it, forthwith. If any such information contains alterations from information that was provided by Buyer to Zandbergen previously to that order, Zandbergen is authorized to (i) amend the price(s) of the specific Product(s) in order to cover any increase in costs which may reasonably be incurred by Zandbergen as a consequence of these alterations; or (ii) refuse the order.
- 2.8 Zandbergen is entitled to engage the services of third parties for the performance of the agreement.

### **3. PRICES**

- 3.1 Unless expressly indicated or agreed otherwise in writing, the prices quoted by or agreed with Zandbergen will be (i) in euros, (ii) net prices, therefore, exclusive of VAT and any import, export and/or excise duties, and – if applicable – (iii) based on a minimum purchasing of at least one pallet and (iv) based on the most recently adopted price lists/prices of Zandbergen. The net prices will furthermore not include costs of packaging, loading, transport, unloading, insurance and/or other services. If applicable, these costs will be added to the net prices. Any necessary documents, insofar as Zandbergen will be required to deliver them, will be charged extra at cost.
- 3.2 Unless expressly indicated or agreed otherwise in writing, Zandbergen may at all times, including after the agreement is concluded, adjust the price, for instance in the event of an increase in the prices of raw materials, wage costs and other costs and expenses. Zandbergen will notify Buyer of these price adjustments as soon as possible. Buyer will at all times be obliged to pay the prices adjusted in accordance with this clause.
- 3.3 Each ordered Product will be performed upon payment of the price that Zandbergen charges for that Product on the day on which Zandbergen has received the order concerned.

### **4. PAYMENT**

- 4.1 Regardless of whether Buyer is a new or existing customer, the creditworthiness of Buyer will be checked and periodically monitored by Zandbergen's credit insurer. If Zandbergen's credit insurer states that it is prepared to insure the transaction(s) with Buyer, Buyer will pay in full for Products purchased by it, by payment to a bank account designated by Zandbergen, within 30 (thirty) days of the date of the invoice, without any discount, deduction, offset or counterclaim. However, if Zandbergen's credit insurer states that it is not prepared to insure the transaction(s) with Buyer or Zandbergen deems for whatever reason advance payment in full from Buyer necessary, Buyer will pay in full for Products purchased by it in advance, therefore before Zandbergen commences delivery. All payments will be made in euros, unless expressly agreed otherwise in writing.
- 4.2 Buyer will, on first demand of Zandbergen, provide security, in a manner to be decided by Zandbergen, for the timely and correct fulfillment of its obligations.
- 4.3 Zandbergen may at all times invoice partial deliveries for Products. The same applies to any related services, if any, to be provided by Zandbergen.
- 4.4 Payment will be deemed to have been made by Buyer no sooner than the amount payable has been received by Zandbergen's bank in the Netherlands.
- 4.5 Any payment made by Buyer will in the first place be allocated to any costs due, then to any interest and, once these have been paid in full, the payment will be considered to be payment of the oldest outstanding invoice, regardless of whether Buyer stated otherwise in its payment.
- 4.6 Complaints concerning an invoice must be made in writing and must be received by Zandbergen within 14 (fourteen) days after the invoice date. After this term has expired, Buyer is deemed to have accepted the invoice. A complaint as referred to in this subparagraph does

not suspend Buyer's payment obligation. In the event that the complaint is justified, Zandbergen will credit the relevant amount to Buyer.

- 4.7 If Buyer fails to comply with its payment obligation(s) or fails to do so on time or only partly complies with its payment obligation(s), it will be deemed to be in default by operation of law and any amount Buyer owes will be immediately due and payable – without any further demand or notice of default from Zandbergen being required – plus the statutory commercial interest, pursuant to section 6:119a of the Dutch Civil Code, on the amount or remaining amount Buyer owes, calculated from the first day after the agreed payment period has expired, and for which part of a month will be calculated as a full month.
- 4.8 All judicial and extrajudicial costs incurred by Zandbergen for collecting the amounts Buyer owes will be for Buyer's account. The extrajudicial costs are set at at least 15% (fifteen per cent) of the amount due (including the interest referred to in clause 4.7), with a minimum of EUR 500 (five hundred euros), without prejudice to Zandbergen's right to demand the actual costs, if these turn out to be higher.

## **5. DELIVERY**

- 5.1 The delivery times and dates indicated by Zandbergen are target times and dates which are only approximations and never strict deadlines. Therefore, the mere fact that Zandbergen exceeds the agreed delivery time or date for delivery of Products will not constitute an event of default on Zandbergen's part and in such event Zandbergen will for instance not be liable for any damages suffered by Buyer or third parties.
- 5.2 Unless otherwise explicitly agreed in writing, Zandbergen will deliver Products to Buyer EXW Zandbergen's facility in Zoeterwoude at Industrieweg 66 (2382 NW), the Netherlands, in accordance with the Incoterms® 2020 Rules. The Products are for the account and risk of the Buyer pursuant to the agreed Incoterm and in accordance with the Incoterms® 2020 Rules, from the moment of delivery. If Zandbergen and Buyer have agreed in writing a different Incoterm in respect of an agreement, this different Incoterm will only apply in respect of that individual agreement and not for any other agreements concluded between them, unless otherwise explicitly agreed in writing.
- 5.3 Partial deliveries will at all times be permissible. Buyer is obliged to accept such deliveries.
- 5.4 For each delivery Zandbergen and Buyer will consult as to the time when Buyer will take delivery of the Products at the delivery address agreed between the parties. If Buyer takes delivery of the Products at another time than the one agreed between Zandbergen and Buyer (irrespective of the reason), and Zandbergen is forced to incur extra costs as a result, Zandbergen may charge these extra costs to Buyer. In such event, Buyer is furthermore considered to be in default by operation of law and Zandbergen may store the Products or have them stored for Buyer's risk and account. However, after a period of 3 (three) days, Zandbergen may proceed to sell these Products. Any sales revenue which Zandbergen misses out on at that time or the lower sales revenue that is generated and the costs that were incurred, will be charged to Buyer, without prejudice to the other rights of Zandbergen.
- 5.5 All Multiple Use Packaging made available by Zandbergen remains the property of Zandbergen. Buyer is not entitled to make the Multiple Use Packaging available to a third party nor to pledge or otherwise encumber the Multiple Use Packaging. Buyer will not use the Multiple Use

Packaging for purposes other than for which they are intended. Buyer will administer the Multiple Use Packaging with due care. Zandbergen has the right to charge Buyer a reasonable deposit fee for the Multiple Use Packaging. Zandbergen determines when the Multiple Use Packaging must be returned by Buyer. Buyer will at its own expense clean, sort, and return the Multiple Use Packaging within the term set by Zandbergen. If the Multiple Use Packaging is not returned by Buyer or, in the opinion of Zandbergen, is returned damaged, uncleaned or incomplete, Buyer will be deemed to be in default by operation of law without any further demand or notice of default from Zandbergen being required and Buyer will be liable for all damages suffered and costs incurred by Zandbergen as a result of this default. Zandbergen will not be obliged to repay any deposit fee for Multiple Use Packaging that is returned damaged, uncleaned or incomplete.

## **6. RETENTION OF TITLE**

- 6.1 Zandbergen will retain title to all Products delivered to Buyer (both paid and unpaid) until the purchase price for all these Products has been paid in full, including any interest and costs due. The retention of title also applies for claims against Buyer which Zandbergen may acquire on account of Buyer's failure to comply with one or more of its obligations to Zandbergen.
- 6.2 If and for as long as there is retention of title over the Products, Buyer is not permitted to sell these Products or to establish any limited right on them, except in the normal operation of its business. Buyer's right to sell the Products in the operation of its business will automatically expire if (i) an attachment is placed against Buyer, (ii) Buyer has requested a moratorium or insolvency (or bankruptcy), (iii) the insolvency (or bankruptcy) of Buyer will be/has been requested or (iv) Buyer enters into a payment plan with one or more of its creditors.
- 6.3 Buyer is obliged to store all Products sold and delivered to it by Zandbergen, at its premises, separately from other products and clearly identified. Buyer has a duty of care with respect to the Products which fall under the scope of the retention of title and must insure these and keep them insured against all the usual industry risks, including but not limited to fire, theft, explosion and water damage. Buyer will provide these insurance policies for inspection at Zandbergen's first request.
- 6.4 If Buyer fails to comply with any of its obligations ensuing from any agreement concluded with Zandbergen or if Zandbergen has good reason to fear that Buyer will fail to comply with its obligations ensuing from any agreement concluded with Zandbergen, then Zandbergen is authorized to remove the Products which were delivered to Buyer (whether paid or unpaid) or to have them removed, to take them back and to store them elsewhere. If Zandbergen wishes to exercise its proprietary rights referred to in this clause, Buyer must render its cooperation by giving Zandbergen or one or more third parties to be instructed by Zandbergen, permission to enter the place where the Products that are the property of Zandbergen are located and take back those Products.
- 6.5 All costs associated with exercising the retention of title, including transport and storage costs, are for Buyer's account.
- 6.6 If third parties claim to have rights over Products delivered by Zandbergen which fall under the scope of the retention of title or if third parties wish to establish rights on or attach the said Products, Buyer must notify Zandbergen of this within 24 hours of becoming aware of it. In that

case Zandbergen is entitled to temporarily or definitively remove the Products (or have them removed) from Buyer, to take them back and/or store them (or have them stored) elsewhere.

- 6.7 In the event that Zandbergen exercises its retention of title, then Zandbergen is at all times entitled to but not obliged to sell the Products to a third party and Zandbergen will credit Buyer for the value (to be determined by Zandbergen) of the Products on the open market or the net sales value, whichever of these two amounts is lower, less all the costs incurred to take back the Products and without prejudice to Zandbergen's right to compensation of the damage it sustained as a result of Buyer's failure.
- 6.8 In the event that Buyer resells any Products which have not been paid for or not yet paid for or which have only been partly paid for, Buyer undertakes that in that case, it will impose a lien on those claims against its buyer (the second buyer) which ensue from this resale, at the first request of Zandbergen. Buyer is required to provide all relevant information and to take whatever action is necessary to impose the aforementioned lien, all this at the first request of Zandbergen. Pursuant to the lien, the payment made by the second buyer to Zandbergen will be deducted from the amount which Buyer owes to Zandbergen.

## **7. INSPECTION AND COMPLAINTS**

- 7.1 Any delivered Product conforms to the agreement if (i) the Product's specifications provided to Buyer or (ii) reasonable variations thereof, as generally accepted in the industry and ensuing from applicable Dutch or European laws and regulations, are met. Buyer accepts that Zandbergen may deliver quantities of the Products that reasonably deviate from the quantities ordered with a maximum of 10%, without Zandbergen, if it does so, being in default, and whereby Buyer is obliged to pay for the actual quantities of the Products it receives. The same applies to weight loss of the Products due to cooling or freezing. Buyer accepts in this regard a weight loss tolerance as set forth in the applicable Dutch or European laws and regulations (if any) and if no such Dutch or European laws and regulations apply in the case in question, a weight loss tolerance with a maximum of 1%. Weight loss can only be demonstrated by Buyer with an official weighing slip that proves that weighing upon or immediately following delivery took place on scales calibrated for that purpose. If the Products are delivered at Zandbergen's facility, Zandbergen shall, at Buyer's request, give Buyer the opportunity to weigh the Products at Zandbergen's facility or to have a third party weigh the Products in Zandbergen's presence prior to delivery. If Products delivered at Zandbergen's facility are not weighed in accordance with the previous sentence, Buyer will be deemed to have waived the right to complain regarding any weight loss and Zandbergen will have the right to reject any such claims. Zandbergen and Buyer explicitly agree that article 7:17 of the Dutch Civil Code is not applicable.
- 7.2 Buyer is required to immediately examine the Products and its packaging for any deficiencies and/or visible defects (relating to, inter alia, temperature, quality and quantity) after delivery thereof. In the event of sampling, Buyer must also keep an additional sealed copy of every sample which gives cause to complain for Zandbergen. Any complaint due to any deficiencies identified and/or visible defects in the delivered Products must be submitted to Zandbergen in writing immediately and at the latest within 24 hours of the delivery, on pain of expiry of all possible claims in this regard. In the event of visible defects in the delivered Products as a result of damaged packaging, Buyer shall substantiate its complaint with pictures taken before unloading. Complaints in relation to non-visible defects in the delivered Products must be submitted to Zandbergen in writing within 24 hours of the time that they were or could reasonably have been discovered with a detailed description of the nature of and the reason for

the complaints and an explanation as to why the non-visible defect could not be discovered sooner, on pain of expiry of all possible claims in this regard. Under no circumstances does a complaint give Buyer the right to suspend performance of any of its obligations ensuing from any agreement. Zandbergen and Buyer explicitly agree that articles 6:89 Dutch Civil Code and 7:23 paragraph 1 Dutch Civil Code are not applicable.

- 7.3 Any complaint as referred to in clause 7.2 must be accompanied by an inspection report drawn up by a recognized and independent expert from which the specification, nature and scope of the deficiencies and/or defects become apparent. Products in respect of which Buyer submitted a complaint must be kept available at a suitable location for inspection by or on behalf of Zandbergen, without the same having been used, mixed or processed. If so requested, Zandbergen, its insurer or a designated representative on behalf of Zandbergen or its insurer must be provided immediate access to the Products and any and all cooperation required to examine the alleged defect.
- 7.4 Without prejudice to clause 7.2, Buyer is not entitled to any legal right under these Terms and Conditions, any agreement and/or the applicable law resulting from any alleged defects in Products delivered by Zandbergen if Buyer has fully or partly put delivered Products into use or treated or processed these delivered Products.
- 7.5 Following the written notification pursuant to clause 7.2 and the inspection report pursuant to clause 7.3, Zandbergen will investigate the merits of the complaint as soon as possible and Buyer will render its cooperation to Zandbergen in this regard for no consideration. If Zandbergen deems the complaint to be well-founded, it shall at its own discretion (i) replace the defective Product or part thereof, free of charge, with the defective Product becoming the property of Zandbergen, or (ii) reimburse or partially reimburse Buyer for the purchase price of the Product, without Buyer being entitled to any other compensation or damages. The remedies as mentioned under (i) and (ii) in the preceding sentence are Buyer's sole and exclusive remedies for, or related to, any claim with respect to defective Products and on condition that, at Zandbergen's sole discretion, Buyer either shall return or destroy (part of) the defective Product at Buyer's expense. However, if Zandbergen considers the complaint to be unfounded, then it is entitled to charge Buyer for the costs which arose in connection with the investigation, as well as any other losses which it sustained as a result thereof.

## **8. BUYER'S OBLIGATIONS**

- 8.1 Buyer undertakes and warrants that with regard to the Products delivered by Zandbergen, Buyer shall always strictly comply with any and all rules, instructions and obligations that (primarily) derive from the specifications pertaining to these Products including but not limited to the storage-temperature indicated in the product specification and/or (transport, conservation, processing, storage and temperature) instructions and directions provided by Zandbergen. Buyer is furthermore obliged to pass on these rules, instructions, obligations and directions as referred to in the preceding sentence to its own customers.
- 8.2 Without prejudice to clause 8.1, Buyer shall at all times comply with the obligations deriving from the applicable (national and international) legislation and regulations as well as guidelines or instructions from national authorities in the area of food safety, applicable at the time of delivery (inter alia the General Food Law Regulation (EC) no. 178/2002 and European and national rules and regulations deriving from the same (including Regulation (EC) no. 852/2004 on the hygiene of foodstuffs as well as Regulation (EC) no. 2073/2005 on microbiological criteria for

foodstuffs and the technical documents based on the same that serve as a guideline for operators of ready-to-eat food (Guidance document on *Listeria monocytogenes* shelf-life studies for ready-to-eat foods, under Regulation (EC) No. 2073/2005 of 15 November 2005 on microbiological criteria for foodstuffs and Technical guidance document on shelf-life studies for *Listeria monocytogenes* in ready-to-eat foods, EU-RL for *L. monocytogenes*, version 2 November 2008), as well as the applicable statutory veterinary quality requirements).

- 8.3 If Products are intended for customers outside the Netherlands, Buyer will ensure that the Products are suitable for import, (re-)sale and processing outside the Netherlands, in particular with regard but not limited to the specific legislation that applies in the relevant country (other than EU legislation) with respect to trading, product liability, hygiene and food safety regulations and other applicable regulations in connection with the delivery of food products, including traceability.
- 8.4 Buyer will indemnify Zandbergen in full against all third-party claims for damages where these concern loss as a result of non-compliance by Buyer with these Terms and Conditions or other requirements of Zandbergen or Buyer's failure to sufficiently inform its customers on the use of the Products. Buyer will furthermore compensate all loss or damage Zandbergen will suffer in such instance, including damage to its reputation and own name.
- 8.5 In the event Zandbergen for whatever reason recalls any Products, Buyer will provide its full cooperation regarding this product recall and will at first request of Zandbergen take all actions Zandbergen deems necessary.

## **9. LIABILITY**

- 9.1 Zandbergen cannot be held liable (i) for a failure against Buyer, regardless of whether or not it is attributable to Zandbergen, (ii) for an unlawful act against Buyer, or (iii) based on any other (legal) ground, except where Zandbergen's liability results from intent or the deliberate recklessness of the directors of Zandbergen or of executive officers forming part of the management. Under no circumstances Zandbergen can be held liable for company damage, environmental damage, consequential loss and/or indirect damage, including but not limited to Buyer's loss of profits and sales, lost savings, damage resulting from the loss of productivity, reputation damage, loss of goodwill and business interruption loss. Nor can Zandbergen be held liable for loss or damage which can be attributed to an act or omission by Buyer or by a third party hired by Buyer or resulting from Buyer providing incorrect, incomplete or unreliable information to Zandbergen.
- 9.2 Without prejudice to clause 9.1 or any other clause in these Terms and Conditions, Zandbergen's cumulative liabilities (and therefore Zandbergen's total liability), based on whatever legal ground, are in all cases limited to the original purchase price of the Products (less any discounts) as listed on the invoice of the relevant delivery or, if this is lower, to the amount that is covered by Zandbergen's liability insurance policy and that is actually paid out in the case in question.

## **10. FORCE MAJEURE**

- 10.1 For the purpose of these Terms and Conditions, force majeure means any circumstance taking place independent of the will of Zandbergen, even if such circumstance could already have been foreseen at the time of entering into the agreement, and which fully or partly, permanently



or temporarily, prevents the performance of the agreement between Zandbergen and Buyer. This includes but is not limited to: natural disasters, (threat of) war, terror attacks, riots, serious disturbances, stagnation in the supply of raw materials or the shipment of a final product, also including veterinary diseases and epidemics, sickness of such a number of employees that compliance is not reasonably possible, industrial actions, industrial disputes, other problems in production or supply at Zandbergen or its suppliers and/or problems with in-house transport or transport carried out by third parties, damage to the production as a result of fire, storm or other extreme unforeseen circumstances, every measures taken by or on behalf of an (inter)national authority as well as the impossibility of performing the agreement due to a shortcoming on the part of Zandbergen's suppliers or on the part of persons or businesses engaged by Zandbergen in connection with the performance of an agreement between Zandbergen and Buyer.

10.2 In the event of a force majeure situation Zandbergen may, at its own discretion, suspend the performance of its obligations under the affected agreement, or terminate (in Dutch: *opzeggen*) or dissolve (in Dutch: *ontbinden*) said agreement, without judicial intervention being required. Such suspension, termination or dissolution will not create any obligation on the part of Zandbergen to pay any compensation or damages.

## 11. SUSPENSION AND DISSOLUTION

11.1 If and as soon as:

- (i) Buyer fails to meet one or more of its obligations under these Terms and Conditions or any agreement with Zandbergen on time, in full, properly, or at all;
- (ii) third parties claim to have rights with respect to Buyer's property or if Buyer's property is seized;
- (iii) a suspension of payment (in Dutch: *surséance van betaling*), or bankruptcy of Buyer is or has been applied for by or for the account of Buyer, Buyer makes a payment arrangement with one or more of its creditors or otherwise gives the impression of being (or becoming) insolvent;
- (iv) Buyer (being a natural person) dies, is placed under guardianship, is put under administration, or is in a debt restructuring process;
- (v) Buyer dissolves or liquidates its business, either voluntarily or otherwise, Buyer's business is continued in a different legal form, Buyer's seat under the articles of association or registered office is transferred to another country, or direct or indirect control over Buyer is transferred to a third party;
- (vi) Buyer transfers rights under an agreement to which these Terms and Conditions apply to a third party;
- (vii) any benefit is or has been offered or provided by or on behalf of Buyer to an employee of Zandbergen or a third party engaged by Zandbergen in connection with the formation or performance of the agreement;

all claims Zandbergen has against Buyer, for whatever reason, will become immediately due and payable, without any demand or notice of default being required and without prejudice to any other rights Zandbergen has under the agreement, these Terms and conditions and/or the applicable law. In such event Zandbergen will furthermore be entitled, at its discretion, to suspend its obligations (of any nature) to Buyer until Buyer has fully met its obligations to Zandbergen and/or to dissolve (in Dutch: *ontbinden*) the agreement in full or in part, in both cases without any court intervention being required, by way of a written statement, and without being liable in any way to Buyer for any loss, damage, costs and interest, and all this notwithstanding the right of Zandbergen to claim full compensation of damage.

11.2 Buyer's right to dissolve (in Dutch: *ontbinden*) any agreement between Zandbergen and Buyer pursuant to section 265 in Book 6 of the Dutch Civil Code is excluded.

## 12. INTELLECTUAL PROPERTY RIGHTS

12.1 All intellectual property rights and/or similar rights vested in and/or relating to (part of) the Products which Zandbergen delivers in any manner whatsoever to Buyer are held solely and exclusively by Zandbergen and/or its licensors. The delivery of Products originating from Zandbergen, may not be constituted as an express or implicit license for use, operation or release to third parties of Zandbergen's intellectual property rights, unless Zandbergen has given its express prior written permission thereto.

12.2 Insofar as Buyer, with the required written consent of Zandbergen, changes, processes or otherwise modifies or supplements the Products which Zandbergen delivers or provides in any manner whatsoever to Buyer and this change, processing, modification or supplement is subject to intellectual property rights, then at the first request of Zandbergen, Buyer will transfer these intellectual property rights to Zandbergen *nunc pro tunc*, without placing any conditions on this, and will render every cooperation to Zandbergen in this regard.

12.3 Buyer will refrain from any action that may be detrimental to any intellectual property right, the distinctive character or the repute or goodwill of Zandbergen, its Products and/or - where applicable - its licensors.

## 13. MISCELLANEOUS

13.1 The titles and sections contained in these Terms and Conditions are only intended to facilitate reading and they do not affect the content and meaning of the provisions contained in these Terms and Conditions.

13.2 Each claim against Zandbergen, except those acknowledged by Zandbergen, will expire on account of the mere expiration of a period of 12 (twelve) months after the claim arose.

13.3 Zandbergen is entitled to assign its rights and obligations under these Terms and Conditions to a third party. Buyer hereby grants its permission to Zandbergen in advance to implement the provision of the preceding sentence and undertakes in advance to provide any further assistance that may be required for that purpose.

13.4 Buyer's rights and obligations under the agreement and these Terms and Conditions are non-transferable, except where the transferability thereof is expressly provided for by the agreement or these Terms and Conditions.

## 14. APPLICABLE LAW AND DISPUTE RESOLUTION

14.1 All obligations and undertakings between Zandbergen and Buyer, these Terms and Conditions and all extra-contractual obligations arising therefrom or relating thereto are governed by the laws of the Netherlands, with the exception of the rules of Dutch private international law. The Vienna Sales Convention (CISG) is also explicitly excluded.

14.2 **If Buyer is seated in the EU or a country with which the Netherlands has concluded an enforcement treaty:** all disputes relating to or arising out of an agreement concluded by

Zandbergen or an offer or quotation from Zandbergen to which these Terms and Conditions apply in whole or in part, these Terms and Conditions, and all extra-contractual obligations arising therefrom or relating thereto, will be submitted to the exclusive jurisdiction of the competent courts in The Hague, the Netherlands.

**If Buyer is not seated in the EU or a country with which the Netherlands has concluded an enforcement treaty:** all disputes relating to or arising out of an agreement concluded by Zandbergen or an offer or quotation from Zandbergen to which these Terms and Conditions apply in whole or in part, these Terms and Conditions, and all extra-contractual obligations arising therefrom or relating thereto, will be submitted to the International Court of Arbitration of the International Chamber of Commerce exclusively and will be finally settled under the Rules of Arbitration of the International Chamber of Commerce by three arbitrators appointed in accordance with the said Rules. The place of arbitration will be The Hague, the Netherlands. The language of the arbitration will be English.

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