

## **General Terms and Conditions of Microz B.V.**

### **1. General**

- 1.1. In these general terms and conditions "we" or "us/our" means: Microz B.V., having its registered office in Geleen, having a place of business at Kampstraat 60, 6163 HG Geleen, registered in the business register of the Chamber of Commerce under dossier number 14080933. In these general terms and conditions the "parties" means: we and the client together.
- 1.2. In these general terms and conditions "the client" means: an undertaking and/or business, regardless of the legal form thereof, that gives us an assignment to deliver goods and/or services.
- 1.3. In these general terms and conditions "quote and/or offer" means: our offer to a (potential) client to enter into an agreement.
- 1.4. In these general terms and conditions "terms and conditions" means: these general terms and conditions.

### **2. Applicability**

- 2.1. These terms and conditions apply to all our quotes, offers, order confirmations, agreements and other legal relationships, whether or not related thereto, with the client.
- 2.2. The client accepts these terms and conditions without any reservation and with exclusion of its own terms and conditions.
- 2.3. The applicability of general terms and conditions of the client is hereby explicitly rejected in full.
- 2.4. In case of conflict of a provision from our offer or order confirmation with a provision of these terms and conditions, the provision of the offer or order confirmation shall prevail. Other agreements made explicitly and in writing (which also includes by e-mail) between the parties in deviation from the general terms and conditions, prevail over the general terms and conditions.
- 2.5. In case of nullity of one or more provisions of the general terms and conditions, the other provisions shall remain in full effect. The parties shall consult in such case in order to agree a substitute arrangement, whereby the goal and purport of the void provision shall be retained as much as possible.

### **3. Quotes and/or offers**

Our quotes and/or offers are without commitment and can be revoked by us as long as the agreement has not been made. The aforementioned quotes and/or offers do not automatically apply to repeat orders.

### **4. Agreements**

- 4.1. An agreement is made at the time that our quote or offer has been accepted by the client in writing (which also includes by e-mail)). After acceptance by the client, we will send an order confirmation to the client. We shall not start the performance of the agreement until our quote or offer has been accepted by the client, we have sent the order confirmation to the client and any down payment or advance payment that may have been agreed has been deposited on our bank account. If the acceptance of our quote or offer deviates, whether or not the deviation is on minor points, from the offer encompassed in our quote or offer, we are not bound by it.
- 4.2. The quote and/or offer and the order confirmation are based on the information that the client provides to us.
- 4.3. The client shall provide the information necessary for the performance of the agreement to us in a timely manner.
- 4.4. We shall send a product formulation along with the order confirmation. The product formulation sets out, among other things, the composition and the quantity of the additives to be used in the production. Because we work with natural products, the actual composition and quantity of additives may deviate from the composition and quantity stated in the product formulation. If necessary, we shall inform the client about this and send a modified product formulation. In case of such modification, the client is not entitled to terminate the agreement or to any compensation.

### **5. Prices, price modification and additional work**

- 5.1. Specified prices are exclusive of VAT and exclusive of other governmental charges, unless explicitly otherwise stated. Unless explicitly otherwise stated, specified prices are exclusive of transport costs.
- 5.2. If after the making of the agreement changes occur in one or more price-determining factors, of whatever nature, we are entitled to pass this cost increase on to the client.
- 5.3. Changes desired by the client and accepted by us in (the performance of) the agreement that can result in a decrease or increase in the costs, shall lead to a corresponding adjustment of the agreed price. The client must inform us in a timely manner about changes desired by the client in (the performance of) the agreement.
- 5.4. Extra work not included in the agreement, such as the addition of e.g., inserts, labels, extra packaging, etc. shall be charged separately depending on the time and costs that such activities entail. In case of additional work, which includes goods delivered and/or services provided by us on instruction of the client that are not included in the agreement, we have the right to a corresponding increase in the agreed price. The client must present a request for additional work to us in writing (which also includes by e-mail).

### **6. Delivery**

- 6.1. Delivery of goods within Europe shall be effected in conformity with the Incoterms® 2020 rule DAP at the agreed place of delivery. Delivery of goods outside of Europe shall be effected in conformity with the Incoterms® 2020 rule ExWorks. The foregoing applies unless otherwise agreed between the parties in writing.
- 6.2. The relevant Incoterms® 2020 rule also determines the time when the risk in the goods passes to the client.
- 6.3. In case of delivery in conformity with the Incoterms® 2020 rule DAP we shall take care of the transport. We have taken out transport insurance for this purpose, with Europe as covered territory.
- 6.4. Delivery dates provided by us are only indicative and time is never of the essence.
- 6.5. The contractor is obliged to immediately take the goods at the time of delivery. In the event of failure to do so the client shall automatically be in default without a notice of default being required. In such case we are entitled to store the goods as the client's expense and risk. The client shall continue to owe the agreed price, increased by the costs of return shipment and storage and in case of late payment, increased by interest and (extra)judicial costs.
- 6.6. Early delivery is permitted at all times, as are partial deliveries and the right to separately invoice such partial delivery.
- 6.7. Insofar as delivery on demand has been agreed, in case of late presentation of the demand, we can invoice the client for the goods and store the goods at our own discretion. If goods have not been demanded during a period of two months, we can charge a reasonable and fair storage rate.

- 6.8. The agreed quantities are indicative. The delivered goods can deviate 10% from the specified quantity. If more or less is delivered than specified, the price shall be adjusted accordingly in such sense that the quantity shall be adjusted. The price per unit remains the same. The client is in such case obliged to take any additional quantity and to accept a lower quantity. If the client refuses the delivery, the client shall be in default and all related costs (including return shipment and storage costs) are at the client's expense, without prejudice to our right, in case of late payment, to interest and (extra)judicial costs.

## **7. Payment**

- 7.1. We are entitled to demand a whole or partial down payment or advance payment. In such case we shall only start with the performance of the agreement after we have received the down payment or advance payment. Specified delivery dates shall be suspended as long as payment has not been made.
- 7.2. Invoices whereby a down payment or advance payment is demanded, must be paid within 8 days after the invoice date. Other invoices must be paid within 30 days after the invoice date. The foregoing applies unless otherwise agreed between the parties in writing.
- 7.3. Payment shall be made by deposit on the bank account we have specified on the invoice. Payment is to be made without settlement, compensation or debt set-off.
- 7.4. Payment dates are deadlines whereby time is of the essence.
- 7.5. In case of late payment, the client shall automatically be in default without a notice of default being required. In such case the client shall owe interest of 1% per month over the outstanding amount, as well as compensation for extrajudicial costs and judicial costs. The compensation for extrajudicial costs is 15% of the outstanding amount with a minimum of €150.00. If the actual extrajudicial costs that have been made are higher, the client shall owe these actual extrajudicial costs. The compensation for judicial costs is the actual court costs, including court registry costs, attorney fees and bailiff's costs, subject to mandatory law provisions.
- 7.6. In case of late payment, we are entitled, at our own election:
- to suspend further deliveries and other obligations under the agreement until the client has fully performed its payment obligations to us, including claims relating to failure in the performance of the agreement, such as interest, extrajudicial and judicial costs, or;
  - to terminate the agreement in whole or in part by means of written notice (which also includes by e-mail) to the client.
- 7.7. If, in our opinion, the client's financial position or payment record gives cause for such, we are entitled to require the client to provide (additional) security in a form to be determined by us. If the client fails to provide the required security, we are entitled, without prejudice to our other rights, to immediately suspend further performance of the agreement, and all amounts the client owes us under whatever heading shall be immediately due and payable.
- 7.8. In case of liquidation, bankruptcy, moratorium on payment, or any other insolvency procedure including application of restructuring legislation (WVOA), (with regard to) the client, our claims on the client shall be immediately due and owing.
- 7.9. In case of an assignment that was granted jointly, the clients, insofar as the agreement was performed for the joint clients, are jointly and severally liable for payment of the invoice amount, the interest owing and costs.
- 7.10. The client shall, insofar as possible, make electronic invoicing possible at our request.

## **8. Retention of title**

- 8.1. Goods delivered by us shall remain our property until the client has fully performed its payment obligations to us under any agreement that was made for the delivery of goods and/or the provision of services, including claims relating to a default in the performance of such an agreement, such as interest and judicial and extrajudicial costs.
- 8.2. As long as the title to goods that have been delivered has not passed to the client, the client is not entitled to alienate or encumber such goods or otherwise make them available to third parties, whether or not such third parties are end users.
- 8.3. The retention of title does not affect the time when the risk in the goods passes to the client.
- 8.4. The client is bound to insure delivered goods and to store them with the necessary care and recognisably marked as our property. The client is not permitted to remove or change any marks or recognition symbols that have been placed on the delivered goods or packaging, unless so obliged by a governmental authority or otherwise agreed in writing (which includes by e-mail).
- 8.5. If the client becomes insolvent, fails in the performance of a payment obligation to us or in our opinion there is a valid fear that the client will fail in this respect, we are entitled to take back the delivered goods. The client is obliged to give us or a third party designated by us the opportunity to do so and reimburse us for the costs we make in taking back the goods. Such retrieval of goods shall be deemed a termination of the agreement made with the client. Insofar as necessary the client hereby irrevocably authorises us to remove the goods in question from where they are located.
- 8.6. The client undertakes on our first request to this effect to grant an undisclosed pledge, if necessary in advance, in respect of the goods we have delivered and will deliver to the client, as security for all existing and future claims we have on the client, under whatever heading.
- 8.7. Stored goods of the client that are not our property, shall be stored with us at the expense and risk of the client (in the broadest sense of the word). If these goods are not taken by the client after a written reminder from us, we may retain ownership thereof or we may remove and/or destroy them at the client's expense. Storage, destruction and/or removal costs shall be calculated afterwards in accordance with an average market price of similar logistics service providers.
- 8.8. If we deliver goods outside of the Netherlands, the property law consequences of the retention of title shall be governed by the law of that country.

## **9. Duty to inspect, complaint obligation and time limits**

- 9.1. Immediately after delivery the client shall inspect whether the delivered goods correspond with the agreement. The client must inspect whether quality and/or quantity of the goods delivered corresponds with what has been agreed.
- 9.2. The client must inspect the accuracy of an invoice immediately after receipt thereof.
- 9.3. The client must lodge complaints relating to goods delivered and/or services provided with us in writing within 10 working days after delivery (which includes by e-mail), carefully stating the nature and scope of the asserted defect. If the client does not lodge a complaint in a timely manner and/or in the correct manner, it can no longer claim defects in the delivered goods and any claim and every defence factually based thereon shall lapse.  
Complaints are not possible with regard to deviations that are the result of external causes and/or any act or omission of the client or third parties, in particular, other than in accordance with the regulations provided by us, expiration dates,

faulty storage, etc. carried out by the client itself or by third parties. Complaints are not possible if the delivered goods (in the broadest sense) are marketed by the client and/or third parties outside of Europe without our written consent. Nor are complaints possible if the fact that the delivered goods are not compliant is the result of any governmental regulation relating to the content, nature or quality of the applied materials/commodities. If the technical insights in the industry or the relevant governmental regulations change, we cannot be held responsible for a shortcoming merely on this ground alone and the client does not have a ground to lodge a complaint on that basis alone. The goods to be delivered shall satisfy the customary requirements and standards that can reasonably be set therefore at the time of delivery and the requirements for normal use of the goods in the Netherlands.

- 9.4. The client must notify us in writing of complaints relating to invoices within 10 working days after receipt of the invoice (which includes by e-mail), with substantiation for the complaint, whereby failure to comply is subject to loss of the right to dispute the invoice.
- 9.5. The client is obliged to give us the opportunity to examine the validity of a complaint. If the client does not cooperate, it can no longer claim defects in the delivered goods and any claim and any defence factually based thereon shall lapse.
- 9.6. After determination of a defect, the client is obliged to cease the use or the processing of the relevant goods to prevent further loss.
- 9.7. Every claim of the client on us shall be time-barred, subject to mandatory law provisions, after the passing of one year to be counted as of the time the agreement to which the claim relates was made.

#### **10. Liability, exoneration and indemnification**

- 10.1. If goods delivered by us do not comply with the agreement or if there is otherwise breach in the performance of the agreement or unlawful act, at our own election and within a reasonable period of time, we shall see to repair free of charge or replacement free of charge of the delivered goods or compensation of the direct loss or damage that the client suffers in consequence thereof, provided the client has complained in a timely and correct manner. Direct loss or damage means the damage to the delivered goods. The performance of the agreement shall be deemed fully proper and the agreement can in such case not be terminated by the client. If it is established that a complaint is unfounded, the costs arising as a result, including all investigation costs on our part and those of third parties, shall be fully at the expense of the client and shall be passed on to the client.
- 10.2. We are not liable if the client has processed the delivered goods, if the client has made changes or instructed changes to be made to the delivered goods or has carried out repair work or instructed repair work to be carried out on the delivered goods as well as if we use goods of the client for processing on the client's request.
- 10.3. We are in any event not liable to the client and/or the end user for:
  - damage or loss which is the result of the following acts or omissions: incorrect or inexpert use, storage and (re)packaging of the goods delivered by us, including, but not limited to, use, storage and (re)packaging other than advised by us and other than is customary;
  - damage or loss that is the result of a decline in the activity of the raw materials used during storage at the client's place;
  - damage or loss relating to goods delivered in bulk if the client has not properly repackaged these goods immediately after the delivery;
  - damage or loss that is the result of use of the delivered goods and/or the raw materials used outside of the Netherlands, because the goods and/or the raw materials used do not comply with the conditions that apply in such location outside of the Netherlands;
  - damage or loss that is the result of the provision of incorrect or incomplete information or information or documents that has/have not been provided or has/have not been provided in time by the client to us or that is otherwise the result of an act or omission of the client;
  - damage or loss that is the result of an act or omission of agents engaged by us (not including our employees), even if they work at an organisation affiliated with us;
  - damage or loss due to overrunning a specified delivery date;
  - damage or loss due to use of goods delivered by the client to be processed by us;
  - damage or loss resulting from the use of electronic communication means, including, but not limited to, damage or loss as a result of non-delivery or delay in the delivery of electronic communication by third parties or by software/equipment used for sending, receipt or processing of electronic communication, transfer of viruses and the non-functioning or improper functioning of the telecommunications network or other resources necessary for electronic communication;
  - damage or loss that is the result of advice, communications and texts of the client to the end user in whatever form, including, but not limited to, texts on labels and packaging regarding, e.g., composition, dosage and use of the delivered goods;
  - damage or loss that is the result of interactions between the ingredients used or between these ingredients and the capsule, insofar as we performed the production in accordance with recipes, specifications or other regulations of the client;
  - business, indirect or consequential loss of the client, including, but not limited to, damage or loss in relation to goods other than the goods delivered by us, lost profit, lost savings, loss due to stagnation in business operations, loss as a result of claims of third parties that in any way, directly or indirectly, arise from or are connected with the goods delivered and the services provided by us.
- 10.4. Our total obligation to pay compensation to the client under whatever heading is at all times limited to the amount that our liability insurance actually pays out in this respect, increased by the excess owed by us. If our liability insurance does not pay out, our total liability under whatever heading is limited to the invoice amount for the delivery of the goods and/or service in question.
- 10.5. The client indemnifies us against all claims of third parties, including the end users, that in any way directly or indirectly, arise from or are related to the goods delivered and services provided by us, including indemnification of all costs including legal expenses arising on our part as a result of such claims of third parties.
- 10.6. All (personal) liability on the basis of Article 6:162 of the Dutch Civil Code of all those person(s) who work or worked for us for loss caused in relation to or due to the performance of the agreement is fully excluded.
- 10.7. We are at all times entitled, if and insofar as possible, to remedy or limit the loss suffered by the client by rectifying or improving the goods delivered and/or the service provided by us.

- 10.8. The limitations of liability laid down in this article do not apply if the loss is due to intent and/or gross negligence on our part.
- 10.9. The provisions of this article apply to both our contractual and extra-contractual liability to the client.

#### **11. Force majeure**

- 11.1 Force majeure on our part means, among other things, all external circumstances over which we have no control and that hinder normal performance of the agreement, regardless of whether those circumstances were foreseeable when making the agreement. Such circumstances are, e.g., fire, war, terrorism and threat of terrorism, including the receipt of a powder letter, strikes or illness of personnel, epidemics, pandemics, quarantine, hold up due to frost, default of third parties, a general lack of raw materials, stagnation on the part of suppliers and other third parties we depend on, governmental measures, general disruptions in the energy supply and general transport problems. The same circumstances relating to our suppliers or experts engaged by us are also covered by this provision.
- 11.2 In case of force majeure on our part we are entitled at our own election to suspend further deliveries and other obligations until the force majeure ceases to exist and we can perform normally again, or to annul the agreement in whole or in part by means of written notice (which also includes by e-mail) to the client. If we have already performed our obligations in part upon the arising of the force majeure or can only perform our obligations in part, we are entitled to separately invoice the part already delivered and the client is obliged to pay this invoice as if it related to a separate agreement.
- 11.3 If specified delivery times are overrun by more than three months due to force majeure on our part, the client can terminate the agreement by means of written notice (which includes by e-mail) to us, without the client having any claim for compensation from us.
- 11.4. Insofar as at the time of the occurrence of force majeure obligations under the agreement have in the meantime been performed in part, we are entitled to separately invoice the part already performed. The client is bound to pay this invoice as if it were a separate agreement.

#### **12. Suspension, termination and rescission**

- 12.1. Without prejudice to the other provisions of these terms and conditions, each of the parties has the right to terminate the agreement in whole or in part by means of written notice (which includes by e-mail) to the other party if the other party makes a decision to petition for a moratorium on payment, or file for bankruptcy or dissolution or if the other party is declared bankrupt, ceases its business or activities and/or is liquidated.
- 12.2. The client is only entitled to full termination of the agreement if partial termination is not possible.
- 12.3. Whole or partial termination regardless of the party effecting the termination shall not lead to any obligation to pay compensation on our part.
- 12.4. With the exception of the provisions in Article 11.3 and Article 12.1 of these general terms and conditions, the client waives its right to terminate the agreement in whole or in part.
- 12.5. The client waives its right to settlement, compensation, set-off and suspension, its right to rescind the agreement and to a claim to remedy a disadvantage.

#### **13. Intellectual property rights of third parties**

- 13.1. We have the right to use all goods developed by us and the knowledge gained by us in the performance of the agreement for other purposes as well, insofar as no strictly confidential information of the client is disclosed to third parties. All intellectual property rights arising from the agreement, including copyright and design right, belong to us, unless otherwise agreed by the parties in writing.
- 13.2 Without our consent the client is not permitted to place our name/logo on goods or packaging and/or remove or change marks or recognition symbols that have been placed on goods or packaging, or to change or reproduce the goods or any part thereof, unless this arises directly from the agreement or the client is obliged to do so by a governmental authority.
- 13.3 The client must respect intellectual property rights of third parties, including but not limited to, patent rights, copyright, mark rights and design rights. The client guarantees to us that all intellectual property rights of third parties are respected and that the production of goods by us in accordance with an assignment, recipes, specifications or other regulations provided by the client shall not lead to infringement of any intellectual property right of third parties. The responsibility and liability in this respect rests entirely and alone with the client. The client shall indemnify us and hold us harmless in respect of all claims of third parties on us in relation to an infringement of any intellectual property right of such third parties, including indemnification against all costs, including legal expenses arising on our part as a result of such claims of third parties. If we agree a settlement with a third party under the heading of which we pay an amount to such third party, the client is bound to compensate us for this amount, increased by all costs incurred by us, including legal expenses. The client shall immediately inform us in writing as soon as it becomes aware of a possible infringement or claim of a third party. The client shall immediately provide us with all necessary information, powers of attorney and cooperation to be able to assess a claim and if necessary to be able to present a defence to this judicially and extrajudicially.

#### **14. Indemnification**

The client shall indemnify us against any claims of third parties that suffer loss in connection with the performance of the agreement, and the cause of which is attributable to someone other than us. If we are held liable by third parties under that heading, the client is bound to assist us both judicially and extrajudicially and to immediately do all that can be expected of it in such case.

#### **15. Time limits**

Insofar as these general terms and conditions do not stipulate otherwise, rights of actions and other rights of the client under whatever heading against us in connection with the performance of the agreement shall in any event lapse one year after the time when the existence of such claims and rights became known or should reasonably have become known to the client. This does not exclude the provisions of Article 6:89 of the Dutch Civil Code.

#### **16. Applicable law**

- 16.1. The legal relationship between the parties is governed by Dutch law. All current and future agreements between the parties and the obligations arising therefrom and connected therewith, all current and future obligations other than under contract, such as obligations under the law, the general terms and conditions and all negotiations between the parties are governed by Dutch law. Foreign law can apply to the property law consequences of the retention of title.
- 16.2. The applicability of the Vienna Sales Convention is expressly excluded.

## **17. Exclusivity**

Other than with our explicit prior written consent, the client is not permitted to disclose the content of our advice or other communications of ours, written or otherwise, or otherwise make them available to third parties, unless such arises directly from the agreement, the client is subject to a legal or professional duty of disclosure or the client is acting on its own behalf in legal proceedings.

## **18. Competent court**

The District Court of Limburg, Maastricht location, has exclusive jurisdiction to adjudicate disputes that have arisen or will arise in connection with the current and/or future agreements between the parties as well as for disputes which have arisen and will arise in connection with all current and future obligations between the parties other than under an agreement, such as obligations under the law.

## **19. Default and notice of default**

19.1. Except in the cases in which according to the agreement, the law or these terms and condition no notice of default is required for the arising of default (e.g. in the event of a deadline where time is of the essence), a party shall first be in default with regard to the other party if it, after having been given notice of default, defaults or continues to default on its obligations under the agreement.

19.2. A notice of default must be given in writing (which includes by e-mail) subject to a term of 14 days.

## **20. Changes**

If desirable and/or necessary, we are authorised to change these general terms and conditions. The version of the general terms and conditions as applicable at the time the legal relationship was established always applies. The Dutch text of the general terms and conditions is always decisive with regard to the interpretation thereof.

## **21. Protection of personal data**

21.1. We treat any personal data provided by the client carefully.

21.2. In case of a data breach the parties shall, if such is necessary and reasonably possible, cooperate with each other so that the parties can comply with the notification duty to which they are subject pursuant to the provisions of the GDPR in a timely manner.

21.3. The client is itself responsible for compliance with the applicable laws and regulations in the area of the protection of personal data and indemnifies us against costs and loss as a result of claims of third parties in connection with non-compliance with the GDPR by the client.

## **22. Notices and deposit**

22.1. Insofar as no other address has been provided, notices or notifications must be sent to us in writing (which includes by e-mail): Kampstraat 60, 6163 HG Geleen, the Netherlands and e-mail address [info@microz.eu](mailto:info@microz.eu).

22.2. These general terms and conditions are deposited with the Chamber of Commerce under number 14080933.

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