

**GENERAL TERMS AND CONDITIONS** of **Source 1 Media B.V.** registered in Amsterdam. The general terms and conditions will be sent free of charge upon request and are also published on the [website](#).

## **Article 1. Definitions**

**A.** In these general terms and conditions (hereinafter referred to as: Conditions) the following definitions apply:

**S1M:** the private company with limited liability Source 1 Media B.V. S1M is the user of these general terms and conditions.

**Buyer:** every natural person or legal entity under Dutch or foreign law which has entered into an Agreement with S1M with the purpose of purchasing Products.

**Defect:** demonstrable deviation in a Product with respect to the agreed characteristics.

**Intellectual Property Rights:** all intellectual property and related rights, including copyright, trademark rights, patent rights, design rights, trade name rights, database rights and neighbouring rights and rights to know-how and one line performances.

**Notice:** any notification of S1M to Buyer, including (but not limited to) offers, quotations, price lists, invoices, EDI, E-mail, bulletin board, SMS or other digital media message, brochures, advertisements, catalogs, proposals and letters.

**Order:** any order and / or ordering of the Buyer to S1M.

**Agreement:** any (written) agreement concluded between S1M and Buyer in which S1M undertakes to provide Buyer one or more Products against payment by Buyer of the applicable fee, any amendment or supplement thereto, and all actions for the preparation and the implementation of that Agreement.

**Force Majeure:** any non-culpable failure by third parties or suppliers hired by S1M, as well as any situation in which S1M factually has no (decisive) control, thus fulfilling its obligations towards the Buyer is wholly or partly prevented or causing that fulfilment of its obligations cannot reasonably be required from S1M. These circumstances include: strikes and lockouts, delays or other problems in the production by S1M or its suppliers and / or its own transportation or provided by third parties, and / or measures of any government body, telecommunication disruptions, and the absence of any government issued license and / or a court order or threat of such a ban on delivery of a Product.

**Product(s):** all physical and digital entertainment and media products or any article, as well as combinations thereof, which S1M exploits, sells and delivers, such as - but not limited to - print media (books, magazines), physical formats of image, sound and / or data (such as CD, CD ROM, DVD video, HD DVD, Blu-Ray, vinyl), digital and / or online multimedia applications (such as ringtones, all forms of 'video on demand' (VOD, such as 'Subscription based video on demand – SVOD', 'Transactional based video on demand – TVOD' and 'Advertisement based video on demand – AVOD') and furthermore, all related products (such as audio accessories) and / or Intellectual Property Rights which S1M exploits, sells and supplies, as well as services provided by S1M.

**B.** In case in these general terms and conditions notices "in writing" are required, then this also refers to a notice by digital media message or email.

## **Article 2. Applicability**

1. These Conditions are part of all Agreements and apply to all (legal) acts between S1M and Buyer, even if those (legal) actions do not lead to or are not related to an Agreement.
2. Additional or different terms or conditions - under which also conditions of purchase are understood - of Buyer are not part of the Agreement and therefore do not bind S1M, unless S1M has accepted these conditions explicitly and in writing.
3. In case of any conflict between these Conditions and those of the Buyer, these Conditions shall prevail unless S1M has confirmed Buyer in writing that its conditions prevail.
4. If in these Conditions entitlements or benefits in favor of S1M are granted, then these will also be deemed acquired by third parties hired by S1M in connection with the formation or performance of the Agreement.
5. If these Conditions are changed in the interim, then the modified version shall be part of each since the effective date of the modification concluded Agreement.
6. Insofar as provisions regarding the Buyer are not in conformity with Articles 6:236 and 6:237 Dutch Civil Code (BW), then the Buyer is deemed to be meant the party in the sense of Article 6:235 BW.

### **Article 3. Offer and conclusion of the Agreement**

1. A Notice does not bind S1M and serves only as an invitation to place an Order, unless explicitly stated otherwise. To the extent expressly provided otherwise, for example a period of acceptance of an offer, proposal or price (quote), then upon expiry of that term or condition no rights can be obtained. If a quotation or offer from S1M contains a non-committal offer and this offer is accepted by the Buyer, then S1M has the right to withdraw this offer within two working days of receiving the acceptance by the Buyer.
2. An Agreement only comes into effect if and when S1M accepts an Order in writing or if an Order is implemented by S1M. The acceptance or implementation can also be made only by a person authorized to represent S1M. The burden of proof whether a person of S1M is authorized lies with the Buyer. An Order of Buyer counts as acceptance of the Conditions. To the extent that a non-authorized person accepts an Order or implements an Order, S1M is entitled to - only to its discrete assessment - (do) ratify the Order or the performance afterwards by an appropriately qualified person within S1M.
3. S1M reserves the right by giving reasons not to accept Orders or to accept these only on condition that first the Order shall be confirmed by the Buyer by registered letter or the shipment is made by cash on delivery or after prepayment. Each Agreement is entered into by S1M under the suspensive condition of sufficient availability of the Products and under the suspensive condition that the Buyer - exclusively at discrete consideration of S1M - is sufficiently creditworthy for the financial performance of the Agreement.
4. S1M is entitled upon or after entering into the Agreement, before (further) performing, to require security from the Buyer or to require evidence showing that both the payment and other obligations of the Agreement will be met.

### **Article 4. Execution of the Agreement**

1. Buyer is obliged to provide all information and documents timely to S1M that are necessary for the proper performance of the Agreement and is responsible for the correctness and completeness thereof.
2. Buyer shall ensure the use of the Products in accordance with the specifications and the correct application of the Products within its organization.
3. If it is agreed that Buyer will provide hardware, materials or data information on carriers, they shall meet the necessary specifications required for the execution of the Agreement.
4. If necessary, data required for the execution of the Agreement are not in time or not in accordance with the agreements made available for S1M or if the Buyer otherwise does not fulfil its obligations, S1M is entitled to charge extra costs in accordance with the usual rates of S1M.
5. S1M is authorized, if considered necessary or desirable for the proper execution of the Order assigned to S1M and after consultation with the Buyer, to engage third parties in the implementation of the Agreement, the costs of which engagement will be passed on to the Buyer in accordance with the quotations provided. The applicability of Articles 7:404, 7:407 paragraph 2 and 7:409 BW is expressly excluded.
6. A composed Notice does not obligate S1M to perform a part against a corresponding part of the quoted price. A Notice does not automatically apply to future Orders or Agreements.

### **Article 5. Delivery dates**

1. A specified delivery date by S1M is based on the prevailing circumstances for S1M at the time of the offer and, to the extent dependent on the performance of suppliers of S1M, on the information provided to S1M by those suppliers.
2. If S1M needs information or resources for the implementation of the Agreement that need to be provided by the Buyer, then the delivery date will never commence earlier than on the day that all required information or resources are in possession of S1M.
3. If a Buyer refuses to take delivery of the Products or if he indicates that he no longer wishes to receive the agreed delivery, he nevertheless remains obliged to pay the agreed price and to reimburse the consequently resulting costs, damages and commercial interest under Article 6:119a BW to S1M.
4. All delivery dates used by S1M are target dates and therefore no fixed dates, unless expressly agreed otherwise. If the parties have agreed so otherwise, the Buyer shall inform S1M by registered letter of default for late delivery and will provide a reasonable period to S1M to comply.
5. Notwithstanding paragraph 4 of this article, the Buyer is not entitled to any compensation in this respect when crossing the delivery dates.

### **Article 6. Delivery and risk**

1. The Products to be delivered are at the risk of the Buyer from the moment of conclusion of the Agreement. Unless otherwise agreed, delivery will be made to the Buyer's business address. Freight paid delivery only takes place to the extent agreed with the Buyer by S1M and is indicated on the invoice or otherwise in writing.
2. The time of delivery is the moment when the order is made ready for shipping / transport.

3. S1M is authorized to make partial deliveries, which S1M can invoice separately.
4. When the Products after expiry of the delivery period are not taken in receipt by the Buyer, then these are available to the Buyer during 3 (three) business days stored at the expense and risk of the Buyer.
5. The mode of transport, shipment, packaging and the like, if no further instructions are given by the Buyer to S1M are determined by S1M in due care or merchant. Unless agreed otherwise, the Buyer assumes all risks in these operations, including fault or neglect of the carrier.
6. Any specific wishes of the Buyer regarding transport or shipping will only be executed if the Buyer has declared in writing that he will bear the additional costs thereof.
7. This article is fully applicable to warranty claims.

#### **Article 7. Prices**

1. Unless expressly stated otherwise, all prices quoted in Notices are quoted in euros, excluding VAT. Unless stated otherwise, the prices of S1M are based on delivery from its distribution center, warehouse, or other storehouse of S1M.
2. Unless explicitly stated otherwise, the cost of packaging and transport or shipment, as specified in the relevant Notice, as well as all other levies or taxes imposed or levied in respect of the Products and their transport shall be borne by the Buyer.
3. Discounts are always deemed granted once. Previously granted discounts do not bind S1M in any way for a subsequent Agreement.
4. In case of Orders below an amount of € 150, - (one hundred and fifty euros), excluding VAT, S1M is entitled to charge administration costs.
5. The Buyer must report to S1M any objections to a bill or invoice within 7 (seven) business days after sending this invoice, with forfeiture of all rights and claims in this regard after expiration of these 7 (seven) business days.
6. In the event of an increase in one or more of the cost prices factors, S1M is entitled to increase the order price accordingly in the interim, provided that these are communicated to the Buyer 30 (thirty) days before the intended delivery date. The Buyer then has the right to cancel the Order within 10 (ten) working days after the cost price increase has been notified. After that, the Buyer is deemed to have accepted the cost price increase.

#### **Article 8. Payment**

1. Buyer shall pay to S1M the amounts charged, effectively in the currency stated on the invoice within 30 (thirty) days, unless another term is stated on the invoice. The payment term as aforesaid is a deadline. All payments will be made on a giro or bank account to be designated by S1M.
2. Invoices sent by post shall be deemed to have been received within 2 (two) days after postmark in the Benelux and within 5 (five) days after postmark in other countries, unless the contrary is proved by the receiver.
3. All amounts charged to Buyer must be paid without any discount or deduction. A Buyer does not have the right to suspend any payment obligation towards S1M. Without the express written consent of S1M, Buyer is not permitted to offset its payment obligation towards S1M with a claim of Buyer on S1M, on any basis whatsoever.
4. If Buyer violates the credit facilities offered by S1M, then S1M is entitled to refuse Orders from the Buyer, or to supply by cash on delivery.
5. Buyer shall be due, without further notice on any amounts not paid by the last day of the payment term, from that day on a late payment interest at the statutory rate plus 7% (seven percent) or the commercial interest under article 6:119a BW, at the discretion of S1M. The interest on the entire amount due will be calculated from the date on which payment should have been made until the date on which the full amount due is received by S1M.
6. From the due date S1M is entitled to assign the claim for collection to a third party. The Buyer shall reimburse all costs incurred by S1M and the third party to collect the debt, including, inter alia, legal fees, court costs and extrajudicial collection costs on the outstanding invoice amount, calculated in accordance with the collection rate recommended by the Dutch Bar Association with a minimum of € 250, - (two hundred and fifty euros) unless Buyer can prove that the actual costs are lower. In that case, Buyer is obliged to compensate the actual extrajudicial costs made by S1M.
7. Payments made by Buyer apply in the first place to discharge all interest and costs and only thereafter to discharge the longest outstanding and claimable invoices, even if Buyer states that the payment relates to a later invoice. S1M can, without being in default, refuse an offer to payment if Buyer designates a different sequence of attribution. S1M can refuse full payment of the principal amount due, if not also the accrued interest and costs are being met.
8. If S1M, after Buyer is in default, sends payment reminders or other requests for payment to Buyer, this does not invalidate previous provisions of this article.
9. Insofar as Buyer, after an Agreement has been concluded, wishes to cancel it, S1M is entitled to charge a cancellation fee of 10% (ten percent) of the value of the Agreement (including VAT) to Buyer, without prejudice to the right of S1M on full compensation (including lost profits).

#### **Article 9. Control of delivered Products**

1. Buyer needs to (let) examine purchased Products upon delivery - or as soon thereafter as possible. Buyer should assess here whether the delivered goods comply with the Agreement, namely:
  - whether the correct Products or services have been delivered;
  - whether the delivered Products or services meet the agreed quality requirements or - if none were agreed - the requirements that may be set for normal use or commercial purposes;
  - whether the delivered Products in terms of quantity (such as the number and quantity) correspond with what the parties have agreed.
2. If visible Defects or shortcomings are found, the Buyer needs to notify, if possible, the carrier thereof and also notify these not later than 5 (five) working days after delivery in writing to S1M. In case of non-visible Defects, the Buyer needs to notify these, within 5 (five) working days after discovery, but ultimately within 3 (three) months after delivery, or if a warranty period applies, within the warranty period, in writing to S1M.
3. If Buyer does not timely complain, then S1M is entitled not to act on such a complaint, in which case the rights of the Buyer to repair, replacement or credit expire.
4. If Buyer complains timely, its obligation to pay and accept the orders remains. Products should be returned in the cases referred to in paragraph 2 after prior written permission to S1M. The presence of a Defect in respect of a Product never gives any right to Buyer to suspend or set off his payment obligations towards S1M.
5. After a complaint that has been submitted and found to be well-founded, S1M will only be bound to:
  - reimbursement of reasonable shipping costs from the Buyer in connection with the return shipment;
  - replacement of returned Products, provided the Buyer has taken care of this as a careful debtor;
  - delivery of the missing.
6. If replacement or delivery of the missing is not possible, then S1M is authorized to rescind the Agreement (in part) with crediting Buyer for (the relevant part of) the purchase price, without being obliged to pay any further compensation to Buyer.
7. In case Buyer wants to rescind the Agreement or returns Products, then delivered Products remain at the risk of Buyer. Buyer ensures Products sold by S1M from the moment they came to his risk against damage, loss and theft, on the usual conditions.

#### **Article 10. Return of Products**

1. Products delivered may only be returned by the Buyer in accordance with the provisions of the Agreement or, in the absence of such provisions, after having been granted express prior written consent by S1M.
2. Returns need to be made within three months from delivery date.
3. Products to be returned must be sorted by the Buyer and need to be returned in undamaged and original condition and with original and unopened packaging.
4. If returned Products are received by S1M that are not undamaged and not with original and unopened packaging, then S1M has the right to charge the Buyer with incurred damages and any costs, such as costs of repairing the Products and the Buyer is not entitled to claim the refund of the purchase price of the relevant Products.
5. Returned products by the Buyer, in accordance with the preceding paragraphs, will be checked and counted by S1M when received. After such has occurred and S1M has concluded that the return has taken place in accordance with the provisions of this article, then S1M shall issue a credit note regarding these returned Products and refund the purchase price of the returned Products.
6. Products manufactured, mixed, edited or custom made, at the request of the Buyer, or Products that have been ordered at the request of the Buyer from a third party are always excluded from the right of return. Other restrictions or exclusions of the right of return will be clearly stated in the Notice.
7. Returns are at the expense and risk of the Buyer, unless the parties expressly agree otherwise in writing.

#### **Article 11. Default and rescission**

1. If the Buyer does not properly or not timely comply with any payment obligation that might arise for him from any Agreement or S1M has taken notice of circumstances that give it good grounds to fear that the Buyer will not meet its payment obligations, the Buyer will be in default and without notice of default being required S1M has the right to suspend the execution of that Agreement and directly related Agreements until sufficient security has been provided for payment, or to rescind all or part of that Agreement and directly related Agreements, without prejudice to its other rights under the law and the Agreement and without being obliged to pay any compensation or damages.
2. In the event of (application for) (provisional) suspension of payment, (application for) bankruptcy, cessation or dissolution of the business of the Buyer, all Agreements with the Buyer will be terminated by operation of law, unless S1M informs the Buyer within a reasonable time of performance of (a) part of) the relevant Agreement(s). In the latter case, S1M is entitled to suspend the execution of the Agreement until sufficient security has been provided for compliance by the Buyer, without prejudice to its other rights under the law and the Agreement and without being obliged to pay any compensation or damages.

3. In the event of an event as referred to in Articles 11.1 or 11.2, (i) all claims of S1M against the Buyer under the relevant Agreement (s) and (ii) all claims of S1M against the Buyer are immediately and fully claimable and S1M is entitled to take back the Products delivered. In connection with this, S1M and its authorized representative(s) will be entitled to enter the areas and buildings of the Buyer in order to take possession of the Products. The Buyer is obliged to take the necessary measures to enable S1M to enforce its rights. All costs of retrieving the delivered Products are for the Buyer.

#### **Article 12. Guarantees**

1. Defects which are reported by Buyer to S1M in a period of 30 (thirty) days after the receipt of the Products will be, either repaired without charge or replaced by S1M at its option, unless the cause of these Defects is attributable to the Buyer or the Agreement already contains relevant provisions. In case of replacement of a Product the return postage costs shall be borne by the Buyer.

#### **Article 13. Retention of title**

1. All Products already delivered and to be delivered and other goods remain the property of S1M, notwithstanding the actual delivery, as long as Buyer has not fully satisfied his (payment) obligation(s) towards S1M which Buyer is or will be due under any agreement to S1M, including claims in respect of a failure in the performance of any Agreement (such as eventual due interest and collection costs). Rights are always granted to Buyer or, where appropriate, assigned under the condition that Buyer pays agreed remunerations on time and in full. The retention of title also extends to Products made with the new movable goods.
2. If and as long as S1M is the owner of the Products, the Buyer will immediately inform S1M when the Products are (threatened to be) seized or if (any part of) the Products are claimed. In addition, the Buyer will inform S1M at the first request where the Products are located.
3. Before the ownership of the Products has passed to a Buyer, the Buyer is not entitled to rent out the Products or to use them, to pledge them or to encumber them in any other way. The Buyer is only entitled to sell or deliver the Products which S1M owns, to third parties, insofar as this is necessary within the context of these Buyer's normal business operations.
4. In case of seizure, (provisional) suspension of payment or bankruptcy, Buyer shall immediately inform the bailiff, administrator or trustee of the (property) rights of S1M. The Buyer warrants that any seizure of the Products shall be liquidated immediately.
5. In case S1M wants to exercise its property rights referred to in this article, then Buyer gives unconditional and irrevocable consent to S1M or those designated third parties to enter all those places where the properties of S1M are located and to take back the Products.
6. As long as the Products have not been transferred to the Buyer, the Buyer is obliged to individualize and mark the Products so that they are recognizable as Products of S1M. Insofar as the retention of title cannot be exercised as a result of non-compliance with this obligation, the Buyer is fully liable for the damages that S1M suffers and still to be suffered as a result.
7. Buyer is obliged to insure the Products adequately as long as the Products have not passed into ownership. At the first request of S1M, the Buyer must submit the insurance policy to S1M in this regard.
8. All goods present at the Buyer with trade names or brands carried by S1M are deemed to have been supplied by S1M within the framework of this article.

#### **Article 14. Retention**

1. S1M can exercise the right of retention on the delivered Products, if and as long as:
  - Buyer has not or not fully complied with its payment obligation(s) pursuant to the Agreement;
  - Buyer fails to pay or to pay in full the delivery costs of the Products delivered;
  - Buyer fails to comply or does not comply in full with other claims arising out of any (other) Agreement with S1M.
2. In the cases mentioned above in paragraph 1 S1M may retain the Products of the Buyer and S1M can claim priority on these Products, unless the Buyer provides sufficient security to settle that claim.

#### **Article 15. Liability and indemnity**

1. Although the utmost care has been taken with regard to the content of the Products delivered by S1M, the absence of errors or incompleteness therein, or in the transmission thereof, cannot be guaranteed. S1M, authors, editors and other creators of the Products and persons who provide the services will in no way be liable for such errors or omissions. S1M therefore only accepts statutory obligations to pay damages to the extent that this appears from this article.

2. The total liability of S1M on the ground of attributable failure in the performance of the Agreement is limited to compensation of 'direct damage' to maximum the amount of the price stipulated in the Agreement (excluding VAT). If the Agreement is primarily a continuing performance agreement with a term exceeding one year, the agreed price will be set at the total of the fees (exclusive of VAT) stipulated in the last 3 (three) months prior to the attributable failure. In no case, however, the total compensation for direct damage per 3 (three) months will exceed € 5,000 (five thousand euros).  
By 'direct damage' as stated above is exclusively meant:
  - A. the reasonable costs that Buyer would have to incur to ensure that the performance of S1M fulfils to the Agreement. This damage will not be compensated if Buyer has rescinded the Agreement;
  - B. the reasonable costs incurred to prevent or mitigate damage, insofar as Buyer proves that these costs resulted in mitigation of direct damage within the meaning of this article;
  - C. the reasonable costs incurred to determine the cause and extent of the damage, insofar as the determination relates to direct damage within the meaning of this article.
3. S1M is only liable for personal injury and damage for which it is liable under the product liability regime, to the extent caused by willful misconduct or gross negligence of the management, representatives, or employees of S1M. In that case the liability is limited to the price stipulated in the Agreement between the parties, but never more than € 5,000 (five thousand euros).
4. S1M is never liable for any indirect damages of Buyer or third parties, including consequential damage, loss of turnover and profit, loss of data and immaterial damage, lost savings and loss due to business interruption related to or arising out of the Agreement or the use of the Products. The liability of S1M for indirect damages exists in the event of intent or gross negligence of S1M or by third parties engaged by it.
5. S1M is not liable for damage of Buyer or any third party resulting from incorrect or improper use by Buyer or any third party of Products delivered by S1M.
6. Beside the cases mentioned in article 15 paragraphs 2 and 3, S1M is not liable at all for damages, regardless of the grounds on which an action for damages or compensation is based.
7. Buyer may only invoke the consequences of an attributable failure in the performance of the Agreement by S1M, after Buyer has properly given notice of default in writing to S1M and S1M remains to fall short even after the expiry of the stipulated reasonable period. The notice must contain a detailed description of the failure, in order to enable S1M to respond adequately.
8. The condition for the existence of any right on compensation is always that Buyer reports the damage and failure or Defect as soon as possible after it occurs in writing to S1M.
9. A series of related damaging events applies for the purpose of this article as one event.
10. Buyer indemnifies S1M from any and all third party claims regarding delivered and or provided goods or Products by S1M, unless it is established in court that these claims are a direct result of gross negligence or intent on the part of S1M and Buyer furthermore proves there is no blame in regard to him.
11. S1M is in no way liable for damages or for repair if Buyer cannot use a Product or for reduced use thereof and such use takes place by means of hardware or software of Buyer and / or any electronic communication network, unless Buyer can demonstrate that it is not caused by the equipment used, software and electronic communication network.
12. Insofar S1M depends with its activity on the cooperation, services and deliveries of third parties on which S1M has little or no influence, then S1M can in no way be held liable for any damages whatsoever arising out of these relationships with S1M or the breaking thereof, regardless of whether such damage occurs or becomes visible during the relationship with S1M.
13. If S1M is liable under the paragraphs of this article and S1M has insured itself in a conventional manner against this damage, then any and all liability shall be limited to the amount that is eligible for payment under this insurance in such occasion.
14. By order of the Buyer, S1M can arrange for online payment options that are integrated into the Products. However, S1M cannot be held liable in any way for damage suffered in connection with the use of the aforementioned online payment options.

#### **Article 16. Intellectual and industrial property rights**

1. The Intellectual Property Rights to all Products or services provided by S1M under the Agreement and the confidential business information of S1M, belong exclusively to S1M or the third party from whom S1M has obtained the right to provide (a part of) the Products or services to Buyer. Buyer acknowledges these rights and will refrain from any form of direct or indirect violation of these rights, in case of breach he forfeits an entire payable fine of € 2,500 (two thousand and five hundred euros) for each offence and each week the breach continues, without prejudice to all other rights of S1M, including the right to fulfilment and / or compensation or remittance of profits. With respect to providing computer programs and other eligible products, subject to the suspensive condition of payment by Buyer of all amounts owed by him in the context of the Agreement, S1M hereby grants to Buyer a right

of use that is non-exclusive and non-transferable, unless the Agreement expressly provides otherwise.

2. S1M declares that to the best of its knowledge the Products do not infringe the intellectual and / or industrial property of third parties valid in the Netherlands. In the event of third party claims for infringement of such rights, S1M can if necessary replace or modify the relevant Product, or rescind the Agreement in whole or in part. Buyer only has the right to rescind the Agreement if maintenance of the Agreement cannot reasonably be expected of him. Only if and in so far by a final judgment of a competent court has been established that the trade of Products delivered by S1M infringe on the rights of intellectual and / or industrial property of one or more third parties, then S1M will be required to take the Products back against compensation of the Buyer of the purchase price as well as directly related costs with the return thereof, to which the Buyer will cooperate directly on first request. Any further liability, obligation to comply and obligation to pay damages is hereby excluded.
3. Buyer shall immediately notify S1M of any claim by third parties in respect of an infringement of intellectual and / or industrial property rights relating to the Products. In the event of such a claim only S1M is entitled - also on behalf of Buyer - to defend or take legal action against the third party, or to enter into an amicable settlement with such third party. Buyer shall refrain from such measures, insofar as it can reasonably be expected of him. In any and all cases, Buyer shall cooperate with S1M.
4. Buyer shall also as soon as possible inform S1M if he has evidence that third parties infringe any intellectual and / or industrial property right of S1M in connection with the delivered Products. Buyer shall under no circumstances take legal action or issue a statement to third parties in that case.
5. Buyer is also not allowed to sell Products outside the country in which he is resident or established, unless the parties have otherwise agreed or a nationally or internationally accepted rule of law does not allow this ban.
6. S1M is not liable for any damage arising from hampered resale of the Products outside the area referred to in paragraph 5, because a third party has the right to sell the Products in this area.
7. Buyer is not permitted to remove or modify any designation from or in the Products regarding the confidential nature or with respect to Intellectual Property Rights.

#### **Article 17. Force Majeure**

1. S1M is not obliged to fulfil any obligation if it is prevented from doing so by Force Majeure or as a result of a circumstance that is not due to her fault or is not accounted to her under the law, a legal action or generally accepted common practices.
2. Parties are entitled to suspend the obligations under the Agreement during the period that the Force Majeure continues. If this period lasts longer than two months, each party is entitled to rescind the Agreement without any liabilities.
3. S1M is also entitled to invoke on Force Majeure if the circumstance preventing (further) fulfilment occurs after S1M should have fulfilled its obligations.
4. Insofar S1M at the time of the occurrence of Force Majeure has already partially fulfilled its obligations under the Agreement or will be able to fulfil these, and substantive value is due to such fulfilment or part to be fulfilled, then S1M is entitled to invoice separately the already fulfilled part respectively the part to be fulfilled. Buyer is obliged to pay this invoice as if it were a separate Agreement.
5. S1M shall never be held liable by Buyer for damage suffered by him in any form whatsoever in the event of Force Majeure.

#### **Article 18. Applicable law and disputes**

1. All disputes relating to these Conditions and any Agreement, shall be governed exclusively by Dutch law, with the exclusion of the Vienna Convention on the International Sale of Goods of April 11, 1980 (CISG).
2. Unresolved disputes shall, unless otherwise required by mandatory law, in first instance be submitted exclusively to the competent court in Amsterdam.
3. If, based on international (private) law and / or foreign law a judge in another country other than the Netherlands is competent beside the competent court referred to in paragraph 2 and the Buyer summons S1M for that court or otherwise files suit, for whatever reason and regardless of whether that court is legally authorized, then the Buyer is obliged to fully compensate S1M of actual costs of travel and accommodation incurred thereof.

#### **Article 19. Miscellaneous**

1. Deviations from and additions to any provision in an Agreement and / or the Conditions apply only if they are put in writing by S1M and only relate to the relevant Agreement.
2. S1M is entitled to amend the Conditions unilaterally. To the extent this occurs, S1M shall provide the Buyer timely notice thereof. Buyer is then entitled not to agree to the changes within a period of 5 (five) working days of receiving these changes from S1M and needs to notify that in writing to S1M by registered mail. Insofar as Buyer does not respond within this period, Buyer shall be deemed to have agreed with the changes of S1M.

3. If by court ruling one or more articles of these Conditions are declared invalid, the remaining provisions of these Conditions will remain in full force and effect and S1M and Buyer will discuss to agree upon new provisions to replace the invalid or void provisions whereby as much as possible the purpose and intent of the invalid or void provisions are being observed.

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