



Z-Index

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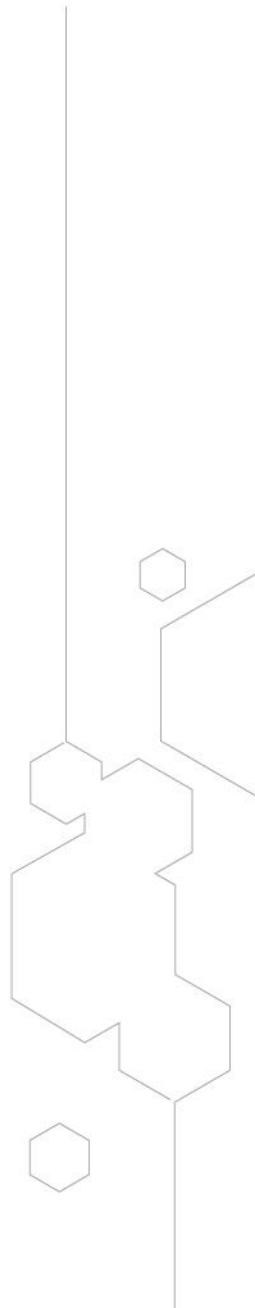
Chamber of Commerce registration
no.: Haaglanden 27177027

General Licence Terms for Z-Index B.V.

Z-Index 2007

● **Intermediair in zorginformatie op maat**

De databank van Z-Index ondersteunt het voorschrijven, bestellen, afleveren, declareren en vergoeden van geneesmiddelen, zelfzorgproducten en medische hulpmiddelen, en biedt organisaties en bedrijven over deze producten managementinformatie.



Article 1 – Definitions

The following definitions are used in these General Licence Terms:

Contractor:	the natural or legal person with which Z-Index has entered into an Agreement to use the Product. A Contractor can be an End User or an Intermediary.
End User:	a Contractor which has acquired from Z-Index the right to use the Product in the course of its usual trade, business or profession.
Intermediary:	a Contractor which has acquired the right to use the product from Z-Index and is authorised to provide the Product or parts thereof to End Users on behalf of Z-Index, regardless of whether Contractor has made any additions or changes to the Product.
Agreement:	the Licence Agreement between Contractor and Z-Index, which is governed by the General Licence Terms for Z-Index and the General Licence Terms published on the Z-Index website (www.z-index.nl).
Z-Index:	the private limited company Z-Index B. V., having its registered office in The Hague.
Product:	software or databases such as the G-Standaard© and/or other publications, which may or may not be derived works, which are recorded on paper supports and/or electronic media, including but not limited to CDs and DVDs, or by any other electronic means, and are supplied or provided to Contractor by Z-Index or on its behalf. For the purposes of determining the scope and limitations on the right of use, "Product" shall be understood to include any documentation, Updates and additions made to the Product by Z-Index or on its behalf.
Updates:	any subsequent versions and new releases of the Product supplied or provided to Contractor by Z-Index or on its behalf.
G-Standaard©:	Z-Index's electronically accessible data base, where data on medicinal products, medical devices and over-the-counter medications, and other elements are systematically gathered, organised, linked, enriched, managed and distributed.

Article 2 – Applicability, offers and quotations and Agreement

- 2.1 These General Licence Terms apply to any offers and quotations from Z-Index to a (potential) Contractor and any Agreements between Contractor and Z-Index.
- 2.2 Any offers and quotations made by Z-Index are non-binding and shall remain valid for 30 days unless it has been explicitly agreed otherwise in writing or electronically.
- 2.3 The Agreement shall come into effect when a written or electronic order or registration for the Product is carried out (e.g. using a standard Licence Agreement registration form) and accepted by Z-Index.
- 2.4 In the event of nullity or annulment of any provision of these General Licence Terms, the remaining provisions shall remain in full force and effect, and Contractor and Z-Index shall consult together in order to agree on new provisions to replace the provisions that are null or, as the case may be, annulled, duly observing insofar as possible the object and purport of the provision that is null or annulled.
- 2.5 Z-Index explicitly rejects the applicability of any purchase conditions or other conditions set by Contractor.

Article 3 – Right of use

- 3.1 Z-Index shall grant Contractor a non-transferable and non-exclusive right to use the Product from a date agreed upon by the parties.
- 3.2 The right of use shall only include the powers granted in the General Terms and the Agreement. Contractor shall refrain from using, publishing, making available, supplying, reproducing or changing the Product in any other way.
- 3.3 Whenever the Product is a database (e.g. G-Standaard[®]) and the transaction is not limited to a one-time purchase of the Product, the right of use shall also include regular Updates released by Z-Index or on its behalf, if so required by the nature of the Product, and the online release of Updates by Z-Index or on its behalf against the payment of the relevant fees to Z-Index if the Product is provided directly by Z-Index to Contractor, unless it has been agreed otherwise.
- 3.4 Contractor shall always use the latest Update for the Product supplied or provided by Z-Index or on its behalf.
- 3.5 The right of use shall be contingent on full and timely payment of the corresponding fee by Contractor.

Article 4 – Agreement with End User

- 4.1 In the event that Z-Index concludes the Agreement with an End User, Z-Index shall grant End User a non-transferable and non-exclusive right to use the Product.
- 4.2 End User shall only use the Product or parts thereof as part of his/her usual business or professional operations.
- 4.3 The Product shall only be used a) by people who are employed or carry out activities in the End User organisation covered by the Agreement; and b) by a number of End User employees no greater than the one specified in the Agreement. Should the Agreement lack such a provision, the Product shall only be used by End User employees for whom use of the Product is strictly necessary, and only on those devices or infrastructure where the Product is first installed or used.
- 4.4 Should End User make the Product public or accessible or reproduce it in such a way that the Product can be used or is used by third parties, including parent companies, subsidiaries and/or sister companies as well as any pharmacy belonging to the same group or chain as the pharmacy covered by the Agreement but established at another address, or by one or several other employees or on devices or infrastructure other than those specified in paragraph 3 of this article without prior written consent from Z-Index, End User shall be required to pay Z-Index the usual fee for such expanded use, without prejudice to any other of Z-Index's rights infringed by such unauthorised use, including the right to full damages, and End User shall be liable to an immediately payable fine of €5,000 for every infringement or for every week that the infringement lasts.
- 4.5 Whenever the amount of the licence fee is based on the details provided by End User regarding a certain criterion, whether included in the standard registration form for the Licence Agreement or not, End User shall provide Z-Index with an audit report proving the accuracy of the aforementioned details upon request of Z-Index and bear any related costs. Z-Index may request such a report if it harbours any doubts on the provided details or as part of a random test. Z-Index may appoint an independent auditor to audit the books of End User to check the accuracy of the aforementioned criterion. End User shall grant the auditor appointed by Z-Index access to the relevant documentation upon first request. If and insofar the details provided by End User appear correct, Z-Index shall pay the fees of the independent auditor; otherwise, they shall be borne by End User without prejudice to the other rights appertaining to Z-Index, including the right to compensation.

Article 5 – Agreement with Intermediary

- 5.1 In the event that Z-Index concludes the Agreement with an Intermediary, Z-Index shall grant Intermediary a non-transferable and non-exclusive right to use the Product as well as the right to supply or provide the Product or parts thereof to an End User on behalf of Z-Index B. V., regardless of whether Intermediary makes any additions and/or changes to the Product.
- 5.2 Intermediary shall promptly provide to End User any Updates to the Product supplied or provided to Intermediary by Z-Index, regardless of whether Intermediary makes any additions and/or changes to the Update.
- 5.3 Intermediary shall only provide the Product or parts thereof to End User for use in the course of its usual trade, business or profession.
- 5.4 Upon request from Z-Index, Intermediary shall provide Z-Index with a copy of the Product, including any additions and/or changes made by Intermediary, whether in writing or electronically, at least on the file level, reflecting the content delivered to End User.
- 5.5 The Product shall only be provided to End Users. Intermediary shall provide any End User it wishes to provide the Product to with a registration form for General Licence Terms wherein End User, among other things, agrees towards Z-Index to comply with the provisions in the General Licence Terms insofar as they apply to End User. Intermediary shall submit the original statements to Z-Index before providing the Product to End User.
- 5.6 Upon request of Z-Index, Intermediary shall provide the details of End Users to which Intermediary has provided the Product or parts thereof, including at least their names, contact persons, addresses, registered offices and telephone numbers.
- 5.7 Insofar as provided under the Agreement, Intermediary shall collect the fees paid by End Users and pay them to Z-Index based on an invoice issued by Z-Index in accordance with Article 7 hereof.
- 5.8 Intermediary shall, until such time as Z-Index indicates to Intermediary that End User may again use the Product, (temporarily) cease delivery of the Product to End User or deny access to the Product by End User if Z-Index so requests in writing in accordance with Article 8, paragraph 3 hereof.
- 5.9 Should Intermediary, without prior written consent from Z-Index, make the Product public or accessible or reproduce it in such a way that the Product can be used or is used by third parties which have not entered into a valid Agreement with Z-Index, Intermediary shall be required to pay Z-Index the usual fee for such expanded use, without prejudice to Z-Index's other rights infringed by such unauthorised use, including the right to full damages, and Intermediary shall be liable to an immediately payable fine of €5,000 for every infringement or for every week that the infringement lasts.

Article 6 – Fees

- 6.1 Any offers, quotations and fees specified in the standard registration forms for the Licence Agreement and Agreements are VAT-exclusive.
- 6.2 Contractor shall pay Z-Index the agreed fees plus VAT.
- 6.3 Z-Index may adjust the fees yearly to reflect changes in the Consumer Price Index (CPI) for all households published by Statistics Netherlands.
- 6.4 Z-Index may also increase the fees.
- 6.5 New prices shall come into force at the time of their introduction.

Article 7 – Payment

- 7.1 Z-Index shall invoice Contractor for the amount payable. Invoices shall be paid using the method and before the deadline specified on them. If no deadline for payment is specified, the relevant deadline shall be 30 days.
- 7.2 Subscriptions (for the right of use) to the Product run for a calendar year and are invoiced yearly (January) for the current year.
- 7.3 If a subscription begins during a calendar year, the yearly fee shall be paid in advance on a *pro rata* basis, with fractions of a month counted as whole months.
- 7.4 Failure to pay by Contractor shall automatically constitute default without any notice of default being required. Contractor shall be liable for interest on the amount payable at the legal rate from the date on which the default begins, whereby a fraction of a month shall count as a whole month. In the event of late payment, Contractor shall also be liable to pay judicial and extrajudicial collection expenses. Extrajudicial collection expenses shall be set at a minimum of €1,500.
- 7.5 Payments made by Contractor shall first go towards settling any interest and costs owed, and then towards settling the oldest outstanding and claimable invoices, even if Contractor links the payment to a later invoice.

Article 8 – Supply and *force majeure*

- 8.1 If the Product agreed upon by the parties is scheduled to be supplied or provided by Z-Index directly to contractor, whether on a regular basis or not, Z-Index shall make full and timely deliveries, considering that the delivery dates put forward by Z-Index are target deadlines and therefore not strict deadlines. The Product shall be provided to Contractor by the means agreed upon by the parties, without prejudice to the provisions set out in paragraph 4 of this article.
- 8.2 If the Product is available online, Z-Index shall grant Contractor access to the Product via a user name (a unique access code for Contractor) and a password (a unique identification code for Contractor). Contractor shall be responsible for any use of the user name and/or password provided by Z-Index.
- 8.3 Should Contractor fail to meet one or more of its obligations under the General Licence Terms or the Agreement fully and timely, or otherwise fail to meet any of its obligations towards Z-Index under the provisions therein, Z-Index may suspend the right to use the Product, deny access to the Product or prevent delivery of the Product by Intermediary, whether directly or through third parties acting on its behalf. Z-Index shall suspend or block access, whether directly or through third parties acting on its behalf, after declaring Contractor in default.
- 8.4 Beyond those cases of *force majeure* defined in law, Z-Index may invoke *force majeure* in the event of unforeseen circumstances that have a significant impact on fulfilment of the Agreement, including delivery of the Product as set out in paragraph 1 of this article, as long as Z-Index has made every reasonable effort to fulfil its commitments.

Article 9 – Intellectual property rights

- 9.1 The intellectual property rights and rights relating to the protection of databases on the product shall remain with Z-Index or third parties authorised by Z-Index to market the Product (or parts thereof) to Contractor.
- 9.2 Contractor shall notify Z-Index immediately whenever a third party claims rights on the Product.
- 9.3 Contractor shall file declarations, make pledges, recognise rights or facts, assume obligations or enter into agreements orally or in writing with any third party that commits an infringement without prior written permission from Z-Index.
- 9.4 Should it be determined judicially or extrajudicially that use of the Product or part thereof infringes intellectual property rights or rights relating to the protection of databases, Z-Index shall make every endeavour to modify the Product so that Contractor may continue to use the Product.

Article 10 – Warranty

- 10.1 Z-Index depends on third parties to compile and maintain the Product. As a result, Z-Index provides no warranty for the Product.

Article 11 – Z-Index's liability

- 11.1 Z-Index shall not be held liable to Contractor for any damages that may occur during the conclusion or fulfilment of the Agreement and the use of the Product.
- 11.2 Z-Index may not invoke the limitation of liability specified in paragraph 1 of this article if the damages are the result of wilful acts or gross negligence on the part of Z-Index, acting with the knowledge that the damages would occur.
- 11.3 The aforementioned right to compensation for damages shall be contingent on the Contractor notifying Z-Index in writing or electronically immediately after the damages occur.
- 11.4 The presence of a defect shall not give Contractor the right to suspend or offset its payment obligations with regard to the supplier or provided Product.

Article 12 – Contractor's liability and indemnity

- 12.1 Contractor shall be responsible for any damages arising from Contractor's failure to adequately meet its obligations under the Agreement.
- 12.2 Contractor shall hold Z-Index free from harm from any third-party claim for damages insofar as the claim is based on use of the Product by or through Contractor, unless it can be legally proved that these claims are a direct consequence of wilful acts or gross negligence on the part of Z-Index and Contractor proves that no blame can be attached to it with respect to the matter.

Article 13 – Confidentiality

- 13.1 The parties are bound to keep secret with respect to third parties any confidential data, in whatever form, which they have received from the other party.
- 13.2 The parties shall use any information received from the other party and covered by the confidentiality obligations exclusively for the purpose for which they have said information has been provided.

Article 14 – Amendments to the General Licence Terms, fees and Agreement

- 14.1 Z-Index may change the General Licence Terms and fees.
- 14.2 Amendments to the General Licence Terms and fees shall apply to the Agreement.
- 14.3 Amendments to the General Licence Terms shall come into force either 14 days after notice is served or on a later date specified on the notice.
- 14.4 New fees shall come into force at the time of their introduction.
- 14.5 The Agreement may only be modified in writing.

Article 15 – Duration and termination of the Agreement

- 15.1 The contract is concluded for an indefinite period, unless otherwise agreed in writing.
- 15.2 The Agreement can only be terminated by Contractor or Z-Index in writing before November 1 of the current subscription year, with effect on January 1 of the following year, unless otherwise agreed, failing which the Agreement shall be tacitly extended for a year and Contractor shall receive an invoice for this period that must be paid in full, without prejudice to the provisions set out in the following paragraphs of this article.
- 15.3 Should Contractor reject an amendment to the General Licence Terms or the fees, Contractor may terminate the contract in writing from the date that the new General Licence Terms or the new fees come into effect. Z-Index must receive notice no later than thirty days after the Contractor receives the notice of amendment of the General Licence Terms or the notice of new fees, including the (yearly) invoice. If Z-Index does not receive notice of termination within the specified period, Contractor shall be deemed to agree to the changes made to the General Licence Terms or the fees. The provisions in this paragraph are only applicable insofar as the changes work to the disadvantage of Contractor and if the changes to the fee exceed the amount attributable to the Consumer Price Index (CPI) for all households published by Statistics Netherlands.
- 15.4 Z-Index may terminate the Agreement with Contractor with immediate effect by sending written notice without (further) prior notice of default in the event that Contractor, despite adequate notice of default from Z-Index, fails to meet the requirements of these General Licence Terms or the Agreement.
- 15.5 Based on the grounds provided by law, either of the parties may immediately terminate the contract completely or in part if:
- a. the counterparty has applied for or has been granted suspension of payments;
 - b. the counterparty has been declared bankrupt or has applied for bankruptcy protection.

- 15.6 Should Z-Index exercise the rights set out in paragraphs 4 and 5 of this article, there shall be no refunds on the paid fees concerning the remainder of the corresponding calendar year. Furthermore, all amounts owed by Contractor to Z-Index shall become immediately and fully payable. Z-Index shall not be liable to pay compensation for damage or any other payment to Contractor if the Agreement is terminated in such circumstances.
- 15.7 Whenever the Agreement is terminated, Contractor shall return to Z-Index all copies of the Product, including any documentation, media on which the Product is saved and any copies made of the product within ten days from the termination of the Agreement. Contractor is also bound to, ten working days after the termination of the Agreement, delete or have the Product deleted from all (computer) devices used by Contractor and, if so requested, to allow Z-Index to check compliance with this obligation either directly or through a third party acting on its behalf.

Article 16 – Applicable law and jurisdiction

- 16.1 The Agreement shall be governed by Dutch law.
- 16.2 The parties agree to submit any dispute to the competent court in The Hague.