

# General business sales and delivery terms and conditions

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**PLEASE, READ THESE GENERAL BUSINESS TERMS AND CONDITIONS, INCLUDING THE DATA PROCESSING AGREEMENT THAT IS PART OF THESE GENERAL BUSINESS TERMS AND CONDITIONS, VERY CAREFULLY. BY DOWNLOADING, ACCESSING, OR USING THE GOMIBO MATERIALS, THE CUSTOMER AGREES TO BE BOUND BY THESE GENERAL TERMS AND CONDITIONS, AND ALL TERMS INCORPORATED BY REFERENCE.**

## Article 1 - Definitions

Capitalised terms defined in this Agreement shall have the same meaning as defined in this Article. In this Agreement, the following terms and definitions shall apply:

**Account:** refers to the customer's account held at Gomibo on the Site and/or Gomibo Platform.

**Agreement:** refers to the agreement between the Customer and Gomibo, consisting of the General Business Terms and Conditions, personalised quotation, agreements, and other documentation agreed in writing between the Parties. This may include the Gomibo IT Products and Services and Gomibo Goods and Services.

**API-services:** refers to application programming interfaces consisting of a direct internet connection between the Customer's products and services, the Gomibo IT Products and Services via which data is sent, or CSV files via which data is shared.

**Apple devices:** refers to iPhones (smartphones), iPads (tablets), AirPods (wireless earbuds), and other devices which are manufactured by Apple Inc.

**Business Day:** refers to any day other than a Saturday, Sunday, or bank holiday in the Netherlands.

**Business Hours:** refers to Gomibo's business hours, which are from 09:00 to 17:30 (Amsterdam time) on a Business Day.

**Claim:** refers to a third-party claim, suit, demand, or proceeding.

**Confidential Information:** refers to any information relating to the disclosing Party or the receiving Party which is identified as confidential or proprietary at the time of disclosure by the disclosing Party or otherwise disclosed in a manner such that a reasonable person would understand its confidential nature, irrespective of the form in which it is disclosed (e.g., orally, in writing, electronically, or in other tangible form). Confidential Information includes, without limitation, algorithms, formulas, software, processes, ideas, know-how, inventions (whether or not patentable), other technical, business, financial, Customer and product development plans, forecasts, strategies, policies, technology, and customised quotations. Confidential Information does not include information that:

- (a) is or becomes generally known to the public without breach of the Agreement;
- (b) was already lawfully known by the receiving Party prior to the disclosure and has not been obtained directly or indirectly from the disclosing Party, as evidenced by the receiving Party's written records;
- (c) is lawfully obtained by receiving Party from any third Party authorised to make such disclosure without restriction, as evidenced by the receiving Party's written records; or
- (d) is independently developed by the receiving Party under circumstances not involving a breach of this agreement by the receiving Party without any use of any Confidential Information, as evidenced by the receiving Party's written records.

**Controller:** shall have the meaning given in the GDPR.

**CSV files:** refers to electronic files which contain Confidential Information about Gomibo Goods and Services.

**Customer:** refers to the legal entity that downloads, accesses or uses the Gomibo Materials, and/or acts as buyer or principal which enters into or wishes to enter into a contract at a distance (online) with Gomibo, or for whom Gomibo makes an offer or performs a delivery/performance.

**Dashboard:** refers to Gomibo's Customer portal available on the Site.

**Data subject:** refers to the identified or identifiable natural person to whom the Personal Data relates.

**Devices:** electronic hardware, including but not limited to mobile phones and tablets.

**Documentation:** refers to the developers' resources concerning the implementation and use of the Gomibo IT Products and Services available on the Site.

**Dropshipment(s):** signifies an order placed by an End Customer at Customer using Gomibo IT Products and Services, in which Gomibo delivers the order directly to End Customer for the benefit of Customer.

**Effective date:** refers to the first moment when the Customer is downloading, registering, accessing, or using the Gomibo Materials, unless another date is agreed upon in the Customised Quotation, in which case this other date applies.

**End-user / End-customer:** refers to any natural person or legal entity that ultimately uses the Gomibo Goods and Services and/or (IT) Products and Services, and/or acts as a buyer or customer and enters into or wishes to enter into a remote agreement (online) with a Gomibo Customer through Dropshipment while the Customer acts as Dropshipment party.

**Error Message(s):** refers to a message that will appear when the use of Gomibo IT Products and Services is denied to a Customer or End-user due to a defect in the Gomibo IT Products and Services.

**GDPR:** refers to the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons in connection with the Processing of Personal Data and concerning the free movement of this data and the repeal of the Directive 95/46/EG (General Data Protection Regulation).

**General Business Terms and Conditions or Agreement:** The current version of Gomibo's General Business Terms and Conditions, including the data processing agreement and annexes, and including all documentation incorporated by reference into the General Business Terms and Conditions.

**Gomibo:** refers to MobielWerkt B.V. (Belsimpel/Gomibo) incorporated under Dutch law, with its registered office located in Groningen, The Netherlands, and with its principal place of business at Waagstraat 1, 9712 JX, Groningen, registered with the Chamber of Commerce Register under number 02093714 and VAT-number NL819148003B01.

**Gomibo Goods and Services:** refers to any or all physical goods and services that are offered by Gomibo via the Site, Platform, Dashboard, API-services or other sources (Play Store and App Store) to the Customer and/or End-user, including but not limited to Devices, accessories, and telecommunication contracts (e.g. mobile, landline and internet).

**Gomibo IT Products and Services:** refers to any or all products and services that are offered by Gomibo via the Site, Platform, Dashboard, or other sources (including but not limited to GitHub, Play Store, and App Store) that support a Customer during the entire Customer lifecycle.

Products and services include:

- Maintenance
- Support
- Gomibo SDKs;
- Gomibo APIs;
- Gomibo Apps;
- Gomibo Widgets;
- Gomibo Addons;
- Gomibo Software;
- Gomibo SaaS;
- Gomibo Demo Environments;
- Gomibo Example Projects.

**Gomibo Material(s):** refers to any or all of the Gomibo IT Products and Services, the Platform, the Documentation, the Dashboard, the Site, the App for Android and iOS, the API-services and all related documentation provided by Gomibo.

**Inflation:** refers to the Euro Area Inflation (HICP All Items Euro Area) as found on <http://ec.europa.eu/eurostat/web/main/home> (or such future replacement website as may be used by Eurostat).

**Large Business Customer:** refers to Customer who has applied for the wholesale benefits themselves through the sign-up process or authorised a Team Business employee to request them for the Customer.

**Mark(s):** refers to any brand name, copyright, patent, service mark, trademark, trade name, product name, logo, slogan and all registrations or applications used for registration of any of the foregoing.

**Monthly Uptime Percentage:** refers to the availability of Gomibo IT Products and Services per calendar month, calculated per Single Gomibo Service using the following formula: Monthly Uptime Percentage = (100% - Unavailable Time).

**Outlet model:** refers to goods that are offered as such to Customer.

**Outage:** refers to the full or partial unavailability of one or more Gomibo IT Products and Services, due to an interruption or failure in the supply of power, especially electricity, the Internet or other third-party telecommunication infrastructure.

**Party / Parties:** refers to Gomibo and Customer individually or together.

**Personal Data:** refers to any information relating to an identified or identifiable natural person that Gomibo processes in the context of the Agreement on behalf of the Customer.

**Personal Data Breach(es):** refers to a breach of security information leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise Processed.

**Platform:** refers to the platform of Gomibo used for businesses and drop shipments.

**Possible Fraud:** refers to when an Order has been ordered from Gomibo by an End-Customer through the Customer, which has been brought about through the provision of false information, with the consequence and purpose that the invoice of the Order is not paid by the End-Customer. Also includes the situation where the End-Customer falsely claims that its order has not been delivered, while Gomibo's documentation or investigation into the missing item indicates otherwise.

**Processing:** refers to an operation or set of operations pertaining to the Agreement which is performed on Personal Data, or on sets of Personal Data, whether or not by automatised means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, aligning or combination, restriction, erasure, or destruction.

**Processor:** shall have the meaning given in the GDPR.

**Scheduled Maintenance:** refers to maintenance which is planned by Gomibo in advance.

**Security Measure(s):** refers to any procedure, protocol, policy document, or any other measure that is prepared or is proposed for the purpose of reducing risks by Gomibo.

**Site:** refers to Gomibo's web domains, including the documentation, support, demo environment, and all other web pages thereof, including but not limited to all Gomibo and Gomibo domains.

**Tax(es):** means all applicable local, federal, state, and national taxes. Also includes fees, charges, surcharges, and withholding or other similar taxes, including but not limited to VAT, GST, sales tax, and/or usage tax.

**Third-Party Applications and Services:** refers to third-party internet-based, or offline enabled software applications, operating systems, services, other types of platforms, or IT components and other electronic hardware that cooperate with the Gomibo IT Products and Services to enable its complete range of functionalities.

**Ticket:** refers to an email or text message sent to [business@gomibo.com](mailto:business@gomibo.com) or [zakelijk@belsimpel.nl](mailto:zakelijk@belsimpel.nl) or sent via the contact form via the Site.

**Unavailable Time:** refers to the percentage during which a Single Gomibo Service is not available for use in a given month according to the Gomibo Service Status.

**Unplanned Maintenance:** refers to maintenance which is required or necessary to perform due to unexpected events, including but not limited to force majeure, and essential security Updates.

**Updates:** refers to improvements of functionalities and features to existing Gomibo IT Products and Services, Dashboard, Site, and Platform.

**Upgrades:** refers to newly-added functionalities and features to existing Gomibo IT Products and Services, Dashboard, Site, and Platform.

## Article 2 - Applicability

1. The General Business Terms and Conditions apply to all offers, communications, quotations, and the execution of orders and deliveries of Gomibo Goods, and Services to Customers and/or End-users or End-customers, including the Gomibo Materials, and any legal relationship (delivery, downloading, accessing, integrating, using and any other interaction) in which Gomibo acts as a potential or actual supplier of the Gomibo Materials.
2. In all situations, Gomibo will reject any supplementary and/or deviating conditions made known by the Customer, unless Parties have expressly agreed otherwise in writing. If a conflict occurs between the terms in the General Business Terms and Conditions and any other written agreement between Customer and Gomibo, the terms described in the General Business Terms and Conditions shall always prevail.
3. The applicability of any of Customer's purchase or other terms and conditions is expressly rejected and not applicable to the Agreement.
4. The Agreement shall supersede all previous agreements between Parties relating to the same subject-matter.
5. Gomibo reserves the right to amend, revise, or change the Agreement from time to time, providing the Customer with an at least thirty (30) days written notice to the Customer via email or via the Gomibo Dashboard, after which continuous use of the services provided under this Agreement is deemed to constitute acceptance to the updated provisions. Only Gomibo is entitled to make unilateral changes to the Agreement.
6. The conclusion of the Agreement does not implicate any exclusivity for Gomibo.
7. Article 6:254 of the Dutch Civil Code (Burgerlijk Wetboek) is not applicable to any third-party clauses in the Agreement, except where the third party concerned is an affiliate of Gomibo.
8. If the Customer explicitly indicates that they do not agree with the General Business Terms and Conditions or if Customer is not legally represented, Customer may not use the Gomibo Materials.

## Article 3 - Account and registrations

1. Gomibo for business is not offered and available to consumers.
2. The Customer shall create an Account at the Site or Gomibo Platform in order to be able to retrieve and provide general information, retrieve and provide payment information, download invoices and bills, check order information, access insights and other relevant information, and allow access to and use of Gomibo Services during the duration of the Agreement.

3. The Customer guarantees that all information provided in the Account is complete, accurate, and truthful at any time. The Customer shall keep the login information for its Account secure, and provide this information on a need-to-know basis to its organisation. The Customer is responsible for all activities that take place on their Account.
4. Customer shall not use the Gomibo Materials, nor create an Account on the Site or the Gomibo Platform, for the purpose of conducting criminal activity or if Customer does not meet the Customer Acceptance Criteria specified by Gomibo. Customer Acceptance Criteria can be requested by emailing [business@gomibo.com](mailto:business@gomibo.com) or [zakelijk@belsimpel.nl](mailto:zakelijk@belsimpel.nl).
5. The Customer is under any circumstances responsible for all orders made from the Customer's Account at the Site, Gomibo Platform, API-services, or via any other Gomibo IT Products and Services, including but not limited to the event that orders are made fraudulently outside the will or sight of the Customer.
6. The Customer must check each order confirmation received from Gomibo to immediately detect orders for Possible Fraud. In the event of orders related to Possible Fraud, Customer must immediately notify Gomibo in writing.
7. A fraudulent order placed at Gomibo by Customer shall be at Customer's risk and expense. If, as a result of an order with Possible Fraud, an invoice remains unpaid by Gomibo, Customer must indemnify Gomibo. Customer can do this by payment of the invoice.

#### Article 4 - Provision of Offers

1. All quotations, offers, and any other communications of Gomibo are subject to confirmation by Gomibo, unless Gomibo has indicated otherwise in writing and with a specific duration in which the offer is open for acceptance.
2. The Customer guarantees that the information that it has provided or that has been provided on its behalf to Gomibo and on which Gomibo has based its quotation or offer is accurate and complete.
3. Gomibo is not bound to obvious mistakes or errors in the quotation or offer.
4. Gomibo reserves the right to refuse orders related to Gomibo Goods and Services, or Gomibo IT Products and Services, without giving reasons, or to demand payment in advance before the order will be accepted by Gomibo.
5. All offers that are communicated through the Gomibo consumer website(s) are not applicable to Large Business customers unless otherwise stated in the business portal.

#### Article 5 - Prices

1. Only the Prices communicated through the Site, Gomibo Platform, the Gomibo App, other Gomibo Materials, or the mutually signed quotation or offer apply. The Customer cannot derive any rights under any circumstances from different pricing that is communicated via other channels than the Site, Gomibo Platform, Gomibo App, other Gomibo Materials, or the mutually signed quotation or offer.
2. All Prices exclude Taxes and other levies imposed by the government.
3. All Prices are in euros (EUR), unless the Parties have agreed otherwise in writing.
4. The Customer may not derive any rights or expectations from a price estimate or budget issued by Gomibo, unless the Parties have agreed otherwise in writing.
5. Gomibo is entitled to adjust all prices on the Site, Gomibo Platform, Gomibo App, and other Gomibo Materials any time.
6. The Customer agrees that payment obligations shall start the moment when the first order has been placed at the Site, Gomibo Platform, Gomibo App, or API-services, and has electronically been confirmed by Gomibo to the Customer or End-user.
7. The Customer is not entitled to orders with the (lower) listed price on the consumer website(s). The Customer is only entitled to orders with the price listed on the business portal.

#### Article 6 – Payments

1. Payment shall be made before delivery of the Gomibo Goods and Services, unless Gomibo has indicated otherwise in writing that payment can be fulfilled after delivery of the Gomibo Goods and Services, but within the agreed upon payment term.
2. Gomibo only supports payment methods which are reported on the Site, Gomibo Platform, or Gomibo App. Other payment methods may be available upon request.
3. Gomibo will not accept payments by wire transfer without written consent for Gomibo Goods and Services and Gomibo IT Products and Services. Gomibo will only agree to payments by bank transfer in an official written agreement, which details the payment frequencies and any additional provisions and is signed by both Parties.

If the Customer pays the invoiced amount by bank transfer, Gomibo has the right, under all circumstances, to reverse the unsolicited payment to the original bank account number. The Customer's payment obligation is maintained until payment of the invoiced amount by an approved payment method is completed.

4. Only if Gomibo and the Customer or End-user agree on payment after delivery of Gomibo Goods and Services using Wire Transfer, an invoice will be sent to the billing email address specified by the Customer or End-user. Payment should be made within thirty (30) after receiving the invoice, unless agreed otherwise by both parties in writing. The received value date as stated on the bank account of Gomibo is regarded as the date of payment.
5. Only if Gomibo and Customer agree on payment for the use of Gomibo IT Products and Services using wire transfer, an invoice will be sent to the billing email address specified by the Customer. Payment should be made within thirty (30) days after the receipt of the invoice, unless agreed otherwise by both parties in writing. The received value date as stated on the bank account of Gomibo is regarded as the date of payment.
6. If payment is not performed on time, the Customer shall be considered as immediately in default without demand or notice of default being required, and Gomibo has the right to suspend or terminate the provision of ordered Gomibo Goods and Services or Gomibo IT Products and Services until the Customer has fulfilled all payment obligations.
7. If a payment via wire transfer results in additional bank charges for Gomibo, then Gomibo has the right to charge the Customer for these additional costs.
8. The Customer shall affect payment of amounts due within the respective periods mentioned in Articles [6.4] and [6.5] after the date of invoice, unless agreed otherwise in writing. The Customer shall not be entitled to suspend any payments or to set-off any amounts due.
9. Payments made by the Customer shall first of all serve to settle any payable interest and costs, and subsequently the longest outstanding payable invoices, even if the Customer states that the payment is related to an invoice sent at a later date.
10. In the event of a bona fide dispute with regard to the invoiced amounts, the Customer shall send a notice of such dispute to Gomibo within fourteen (14) days after receiving the relevant invoice, stating the disputed amount and the reasons for disputing it. Where the Customer disputes the amount of an invoice, such dispute shall not suspend the fulfilment of the payment obligation within the respective periods mentioned in Articles [6.4] and [6.5]. The parties shall enter into reasonable negotiations regarding the disputed amount. If Gomibo believes the dispute is justified, Gomibo shall provide a credit invoice and refund the disputed amount.
11. The terms mentioned in Articles [6.4] and [6.5] are intended to be strict deadlines within the meaning of Article 6:83(a) of the Civil Code. If the Customer or End-user fails to pay the amounts due within the agreed period, the Customer or End-user shall be in default by operation of law and Gomibo shall be entitled, without prejudice to its other rights, to charge the Customer or End-user the statutory commercial interest on the full amount due from the date of expiration of the relevant invoice until the date on which payment is due. The Customer or End-user is also liable for all extrajudicial and judicial collection costs incurred. The amount of the extrajudicial collection costs due to Gomibo will be calculated in accordance with the collection rates of the Dutch Bar Association, with a minimum of three hundred and forty euros (€340.00).

## Article 7 - Invoicing

1. The Customer shall pay the invoices sent by Gomibo in accordance with the conditions set out in these General Business Terms and Conditions, the Agreement, the Site, the Gomibo Platform, the Gomibo App, the Customer Account, or the quotation.

## Article 8 - Licenses

1. Gomibo can grant the Customer after formal written agreement, and based on minimum order volumes, a limited, non-exclusive, non-transferable, royalty-free license to use the API-services or CSV files made available by Gomibo solely for the purpose of using the Gomibo Materials for drop shipment activities in accordance with the terms in the Agreement and the applicable usage instruction communicated to the Customer from time to time.
2. Gomibo may, at its sole discretion, terminate, or suspend an Account or a license related to the API-services and the provision of CSV files, with immediate effect without prior notice and without any reason.
3. Gomibo may, at its sole discretion, terminate, or suspend an Account or a license, with immediate effect upon prior notice in the event of an actual or suspected breach of the Agreement or applicable laws and regulations by Customer, or a third party claim that the Gomibo Materials, or the use thereof by the Customer, is in violation of such third party's (intellectual property) rights, without prejudice to its other rights under the Agreement.

## Article 9 - Reservation of Ownership

1. All Gomibo Goods and Services delivered to the Customer or End-customer will remain the property of Gomibo until full payment of all invoices, including any interest and (purchase) costs, has been made.



2. The Customer or End-customer is obliged to ensure that all Gomibo Goods and Services are handled carefully and protected against the usual risks. The Customer or End-customer is not allowed to lease the delivered Gomibo Goods and Services, lend them in use, and/or create a (silent) pledge on them, other than with Gomibo's written consent, for as long as the Customer has not fully fulfilled its payment obligations, including any interest and costs to Gomibo.
3. If Gomibo is the owner of the provisioned Gomibo Goods and Services, the Customer or End-customer will immediately notify Gomibo if the Gomibo Goods and Services are foreclosed (or threatened to be foreclosed) due to a claim by a third-party. In addition, the Customer or End-customer will (in that case) notify Gomibo of the location of the Gomibo Goods and Services which are owned by Gomibo.
4. If the Customer or End-customer does not (properly) fulfil the obligations as mentioned in Article [9], the Customer must first, at Gomibo's request, return the Gomibo Goods and Services to Gomibo at its own expense and risk within forty-eight (48) hours, resulting in automatic termination of the Agreement and/or the written order confirmation of the respective Gomibo Goods and Services.
5. In the event of seizure or (provisional) suspension of payments, the Customer will immediately inform the respective bailiff of the seizure or the administrator of Gomibo's (ownership) rights. The Customer or End-customer guarantees that any seizure of the Gomibo Goods and Services will be lifted immediately.

#### **Article 10 (part a) – Delivery and Receipt**

1. All (delivery) dates communicated by Gomibo through the Site, Gomibo Platform, Gomibo App, API-services, quotations, affiliates, and/or other channels are approximate (delivery) dates and are determined on the basis of the data and circumstances known to Gomibo when the order is confirmed. If a change in the (delivery) data and/or circumstances causes a delay, the delivery date will be postponed.
2. If the communicated (delivery) dates are exceeded, Gomibo and the Customer or End-customer will agree on reasonable additional (delivery) days or terms.
3. The Customer is responsible for the accuracy of the delivery details from the End-customer. Any changes must be notified to Gomibo immediately.
4. If the Customer incorrectly informs Gomibo about the delivery details of the End-customer, the Customer will be responsible for recovering the Gomibo Goods and Services. Incorrectly communicating delivery information does not release the Customer from the payment obligation towards Gomibo.
5. Gomibo has the right to deliver the Gomibo Goods and Services in several parts (partial delivery). Partial delivery, as well as any change or delay of a delivery date or term, cannot result in dissolution of the Agreement or compensation in any kind of damage.
6. The Gomibo Goods and Services will be delivered to the Customer or End-customer in accordance with the DAP Incoterms® 2010, whereby the place of destination will be agreed with by mutual consent between Gomibo and the Customer.
7. The Customer must perform an initial verification of the Gomibo Goods and Services immediately upon receiving them, including but not limited to the correct product, correct quantity, and visible defects. In case of a drop shipment delivery, the Customer is responsible for the performance of an initial verification of the received Gomibo Goods and Services by the End-customer.
8. Gomibo aims to dispatch all Dropshipments in neutral packaging and with neutral packing slips. This way, it is not visible to the End Customer that the order has come from Gomibo. Under no circumstances will Gomibo be liable for any direct or indirect damage, capital loss, or other disadvantage if the End Customer receives marked packaging, packing slips, and other material.

#### **Article 10 (part b) – Defects and returns**

1. Complaints concerning defects in the Gomibo Goods and Services delivered in full or in part must be notified to Gomibo in writing within five (5) Business days after the delivery date, stating the delivery or invoice number of the concerned shipment. If Customer or End-customer fails to file the complaint within five (5) Business days after the delivery date, the Customer's right to complain will lapse and the Customer will immediately lose the right to complain under Article 6:89 or Article 7:23 of the Dutch Civil Code. If the Gomibo Goods and Products delivered by Gomibo are used by the Customer after verification as referred to in Article [10.7), sold on or made available to a third-party, the Customer will no longer have the right to complain about any defect and there will be an immediate loss of rights.
2. In the event of a return by the End Customer, the End Customer must return all Gomibo Goods and Services received to the Customer. Gomibo only accepts return shipments from the Customer.
3. The Customer shall under no circumstances encourage the End-customer to contact Gomibo.
4. The shipping costs, as well as the return costs incurred by the End-customer will not be reimbursed by Gomibo.

5. Notwithstanding any explicit written agreement to the contrary between Gomibo and Customer, Article 10, Book 7 of the Civil Code shall apply. Customer is expressly not allowed to return an alleged defect to Gomibo on its own initiative, repair it (or have it repaired), or set off the value of the alleged defect.
6. Gomibo reserves the right to inspect the defects of the Gomibo Goods and Services and the cause thereof on site.
7. If, provided that a complaint has been properly filed and in accordance with this Article [10 (part c)] made within the manufacturer's official warranty period, and the Customer has adequately demonstrated that the Gomibo Goods and Services do not meet the terms of the Agreement, Gomibo shall have the right to make a choice between (1) replacing the defective Gomibo Goods and/or Services with new good(s), (2) duly repairing the relevant Gomibo Goods and/or Services, (3) refunding the purchase price or crediting the invoiced amount in relation to the defective Gomibo Goods and/or Services, (4) replacing the defective Gomibo Goods and/or Services with (a) similar good(s) such as Outlet Device(s), (5) or granting the Customer a mutually agreed discount on the price. If this is not reasonably possible for Gomibo, the Customer has the right to rescind the Agreement, unless the defect does not justify the rescission. The fulfilment of any of the aforementioned obligations relieves Gomibo completely of its further obligations.
8. The Customer is not authorised to return the Gomibo Goods and Services until Gomibo has given its written consent.

#### **Article 10 (part c) – Manufacturer's warranty and commercial warranty**

1. All Gomibo Goods and Services are covered by a standard (limited) manufacturer's warranty, if applicable. If applicable, the (limited) manufacturer's warranty starts on the purchase date of the Gomibo Goods and Services. The purchase date is defined as the billing date of the purchase from Gomibo.
2. For Apple Devices only, a standard limited manufacturer's warranty is applicable for up to one year after the purchase date.
3. If the Customer cannot claim an Apple manufacturer's warranty on their purchased Apple Device during the second year from the date of purchase, the Customer will receive a warranty on behalf of Gomibo on the following Apple Devices purchased from Gomibo: Apple iPhone and Apple iPad, the purchase date being defined as the billing date of the purchase. Gomibo's warranty period is from the 365th calendar day after the invoice date to the 730th calendar day after the invoice date. There is a warranty only if the Apple Device consists of genuine Apple parts. This warranty only applies if the Apple Device has a defect that would also be covered by Apple's manufacturer's warranty in the first year after the purchase date, and does not apply to damage caused by the user or other Third Parties. The solution offered will be determined by Gomibo in its sole discretion.
4. Articles [10.13] and [10.14] do not apply to devices sold as outlet models. On outlet models, Gomibo does not offer any warranty.

#### **Article 10 (part d) – Suspected missing items**

1. If the receipt of Gomibo Goods and Services are disputed, the Customer will report this to Gomibo. Gomibo will start an investigation on its sole discretion, and share the results with the Customer.
2. Disputes of receipt regarding Gomibo Goods and Services do not release the Customer from its payment obligation to Gomibo.
3. The risk of damage or loss will apply to the Customer the moment when Gomibo passes the Gomibo Goods and Services on to the Carrier. Gomibo chooses the carrier under all circumstances. In this respect, these General Business Terms and Conditions deviate from the Incoterms declared applicable in Article [10.6].
4. In Dropshipments, the End Customer can choose to have the Gomibo Goods and Services delivered to a Private Collection Point. If End-Customer chooses a Private Collection Point, no investigation can be initiated if the delivery and any associated possible compensation are disputed. Gomibo can in no way offer End Customer a solution in the event of a loss in that case, the risk of a loss therefore lies entirely with Customer.

#### **Article 11 - Customer Obligations**

1. In order to facilitate the proper execution of the Agreement by Gomibo, the Customer shall at all times provide Gomibo with information that Gomibo deems to be useful, necessary, desirable, and give its full cooperation in a timely manner. Gomibo may suspend the performance of its obligations if such information or cooperation is not timely provided, until the Customer has provided the proper information or cooperation, and/or charge additional fees resulting from such delayed information or cooperation.
2. Gomibo may update the API-services using new or modified API-endpoints. The customer is responsible for adapting to the new or changed API endpoints in a timely manner. Under any circumstances, Gomibo holds the right and is entitled to withdraw the support of specific API-services.

3. The Customer is solely responsible for the use of the Gomibo Materials, by both the Customer and the End-user. In the relationship between the Parties, any act or omission of the End-user shall be considered as an act or omission of the Customer.
4. The Customer warrants and guarantees to Gomibo that the use of the Gomibo Materials in accordance with the Agreement, both online and offline, is permitted under all relevant local, national and international laws and regulations, and that it will perform its rights and obligations under the Agreement in accordance with all relevant local, national, and international laws and regulations. If the Customer becomes aware of any change in laws or regulations that is relevant for the performance of the Agreement by either Party, it will immediately inform Gomibo.
5. The Customer is responsible for obtaining any necessary (export) permits, approvals, and licenses required for the delivery and use of the Gomibo Goods and Services and Gomibo IT Products and Services, unless explicitly otherwise agreed.
6. If use is made of computer, data, or telecommunication facilities, including the internet, during the execution of the Agreement, the Customer shall be responsible for selecting the correct resources required for this purpose and for ensuring that these are available in full and in a timely manner, with the exception of those facilities that fall under the direct use and management of Gomibo. Gomibo shall under no circumstances be liable for losses or costs arising as a result of transmission errors, breakdowns, or the non-availability of these facilities, unless the Customer is able to demonstrate that these losses or costs are the result of intentional acts or deliberate recklessness on the part of Gomibo.
7. If Gomibo carries out activities on the Customer's business premises, the Customer shall ensure that any facilities reasonably requested by these employees, such as a workspace containing computer, data and telecommunication facilities, are provided free of charge. The workspace and facilities shall meet all statutory and other applicable requirements in relation to working conditions. The Customer shall notify the employees employed by Gomibo of any applicable company rules or security rules prior to the commencement of the activities.
8. The Customer is solely responsible for any required integration or implementation of the Gomibo Platform or API-Services in its software, applications, IT systems and other business processes, unless otherwise agreed in writing.
9. The Customer must comply with the documentation and Gomibo's instructions for use, implementation, and integration of the Gomibo Platform, API-Services, or any other Gomibo IT Products and Services.
10. The Customer is solely responsible for the security of its data, IT systems and environment. The Customer shall, at its own expense and costs, take all security measures necessary to comply with the organisational and technical requirements in accordance with the industry standards and the GDPR. The Customer is obligated to use up-to-date technologies to protect the Personal Data and other Confidential Information captured, processed, and stored by the Gomibo Platform or API-Services against disclosure, loss, unauthorised access, or any form of unlawful Processing. The Customer guarantees the availability and accuracy of the data. These measures shall include, but are not limited to:
  - a. Passwords, tokens, and other user login information shall be kept confidential;
  - b. Passwords shall be stored in a secure Password Manager;
  - c. The minimal password requirements are:
    - i. It must contain at least 8 characters;
    - ii. The password must contain at least 1 number;
    - iii. The password must contain at least 1 upper case letter;
    - iv. The password must contain at least 1 lower case letter;
  - d. The password must contain at least 1 special character.
  - e. If applicable, two-factor authentication (2FA) should be enabled;
  - f. Only authorised individuals have access to the Gomibo Materials;
  - g. Protect Personal Data and Confidential Information against unlawful or unauthorised access, storage, Processing, destruction, and accidental loss or alteration;
  - h. Ensure that IT systems are configured and designed in accordance with the 'privacy by design' and 'privacy by default' principles;
  - i. The Customer shall never use the Gomibo Materials on jailbroken, rooted, manipulated, or vulnerable device(s).
  - j. Guarantee a secure and encrypted network connection.
  - k. Performance of regular data back-ups.
11. The Customer shall conduct annual vulnerability assessments and penetration testing in order to ensure that its implementation of the Gomibo IT Products and Services are secure.
12. The Customer allows Gomibo reasonable access (free-of-charge) to Customer's systems to perform diagnostics and maintenance, including remote access, upon substantiated request by Gomibo.



13. The Customer shall not use the Gomibo Materials to perform as a managed service, or resell the Gomibo Materials without express written consent of Gomibo.
14. If the Customer orders at least €5000 excl. VAT in products from Gomibo annually, the Customer is required to convert the account to a Large Business account. From that point onwards, the Customer may no longer place orders via the consumer website(s), but must place all its orders via the business portal.

## Article 12 - Support

1. Gomibo provides regular support on the Site and Documentation or via email on Business Days and during Working Hours. The supported helpdesk is available in different languages, operating in English and Dutch. Documentation and other relevant information on the Site is also available in English. The Site will contain most relevant information.
2. Gomibo will provide the Customer, based on best efforts, information about the implementation, integration and/or use of the Gomibo Materials. However, Gomibo will not be obligated to provide support to the Customer for the integration, implementation and/or use of the Gomibo Materials by the Customer, unless Gomibo has expressly agreed in writing in the Customised Quotation.
3. Gomibo may, at its sole discretion, not support the Customer if (i) the Customer fails to comply with its obligations set out in Clause [11] of the Agreement, in particular the Customer's obligation to use the latest version of the Gomibo IT Products and Services (Clause [11.2]), (ii) the request for support is disproportionate in Gomibo's opinion.
4. The Customer will be able and shall be encouraged to report errors and malfunctions of Gomibo IT Products and Services in a Ticket to Gomibo immediately after discovery. Gomibo will do its best to solve the error(s) and/or malfunction(s), based on priority and complexity, as soon as possible after the error(s) and/or malfunction(s) are reported to Gomibo via a Ticket. The Customer cannot derive any rights regarding a time window when the Ticket will be processed and resolved.
5. Gomibo will not be obligated to maintain, plan, modify, or add certain functionalities, modifications, or changes to Gomibo IT Products and Services, especially or specifically on demand of the Customer, unless Gomibo has expressly agreed so in writing in the Customised Quotation.
6. The Customer cannot, under any circumstances, determine or influence the priority of functionalities on the roadmap for Gomibo IT Products and Services or the roadmap itself. The Customer cannot derive any rights, under any circumstances and any rights, from information shared by Gomibo to the Customer about the roadmap, projects and planning of functionalities and Gomibo IT Products and Services.

## Article 13 – Data processing Agreement

1. Gomibo may process Personal Data on behalf of a Customer in the context of the Agreement. Insofar as Gomibo processes Personal Data on behalf of the Customer within the context of this Agreement,
  - a. Parties have determined that Parties are Joint Controller of the Processing of Personal Data as described in article 4 (7) of the GDPR;
  - b. Parties have agreed on the arrangements in this Article and other Articles in these General Business Terms and Conditions relating to the Processing by Gomibo on behalf of the Customer, which jointly qualify as a Data Processing Agreement as described in article 28 (3) of the GDPR.
2. Insofar as Gomibo will process Personal Data as a Controller, it will process personal data in accordance with the privacy policy available on the Site ([Security and Privacy](#)).
3. Gomibo will ensure that only authorised personnel as defined in Article 15 will process Personal Data.
4. Gomibo will take appropriate technical and organisational measures to ensure that the Processing fulfils the requirements of the GDPR and the protection of the rights of the Data Subject. The measures will ensure a security level of the Personal Data adjusted to the nature of the Processing and the risks, and include the Security Measures.
5. Gomibo informs the Customer without undue delay, and within 72 (seventy-two) hours after Gomibo becomes aware of a Personal Data Breach. The notification of Gomibo will contain the information referred to in article 33(3) of the GDPR to the extent reasonably available. Each party bears its own direct and indirect costs associated with the report and handling of Personal Data Breaches, including those associated with notifying the competent supervising authorities and Data Subject(s). The Customer is solely responsible for notifying the competent data protection authority and End-user(s) in case of a Personal Data Breach caused by Gomibo.
6. Gomibo shall fulfil the requirements of the GDPR and any other mandatory legislation that applies in the Netherlands concerning the processing of Personal Data, including but not limited to assisting the Customer to achieve compliance with the obligations under articles 32 through 36 of the GDPR or to respond to requests or

investigations of a competent data protection authority, taking into account the nature of the Processing and the information available to Gomibo. Gomibo may charge a fee for such assistance.

7. The Customer hereby provides Gomibo with a general authorisation to engage sub-Processors. Gomibo shall impose the same obligations on the sub-Processor as set out in this Article.
8. When a Customer directly engages a (sub-)Processor other than Gomibo to perform Processing, whereby the (sub-)Processor will use the Gomibo IT Products and Services for Processing activities, the Customer is fully liable and responsible for drafting and signing a data protection agreement with such party in accordance with the GDPR. The Customer shall indemnify and defend Gomibo against all Claims, fines, and costs that are indirectly or directly caused by the Customer's violation of the provisions under this Article.
9. Gomibo provides reasonable assistance to the Customer for the compliance with its duty to answer requests concerning the execution of the rights of the Data Subject as determined in Chapter III of the GDPR, and will forward any requests of Data Subjects relating to the Processing that are received by Gomibo. Gomibo may charge a Fee for such assistance.

## Article 14 - Audit

1. At a reasonable request of the Customer, Gomibo will make data available to demonstrate its performance of the obligations as detailed in this Agreement. Once a year, the Customer shall have the right to commission an independent registered auditor to perform an audit or similar type of check to verify compliance with the Agreement to the extent that such compliance could not be verified by requesting Gomibo to provide data. If the Customer wishes to invoke its audit right, it shall notify Gomibo in writing in advance, specifying the proposed scope of the audit, the proposed time and date, and the proposed auditor. Gomibo may reject a proposal in part or in full, or set additional requirements of a procedural and organisational nature provided that these requirements do not structurally impede the audit.
2. Gomibo shall provide the auditor any reasonable assistance, access and information required for the performance of the audit.
3. The Customer shall ensure that any version of the audit report is shared with Gomibo upon receipt by the Customer.
4. If the Customer uses the right to perform an audit of Gomibo, the Customer will bear the direct and indirect costs and expenses of the auditor. Gomibo may charge a fee for its cooperation with the audit.

## Article 15 - Confidentiality

1. Both Parties may disclose valuable Confidential Information to each other relating to their operations and business for the purposes of requesting or providing an offer, evaluating a potential business relationship or the performance of the Agreement (the "Purpose").
2. The receiving Party, except as expressly provided in the Agreement:
  - a. shall not disclose the disclosing Party's Confidential Information to anyone without the disclosing Party's prior written consent;
  - b. shall not use, or permit others to use, Confidential Information for any purpose other than the Purpose;
  - c. will hold the disclosing Party's Confidential Information in confidence and take reasonable precautions to protect such Confidential Information (including, without limitation, all precautions the receiving Party employs with respect to its own confidential materials) and avoid unauthorised disclosure;
  - d. shall restrict the possession, knowledge, development, and use of the Confidential Information to its employees, officers, directors, legal advisers, and entities under its control (collectively 'Authorised Personnel') who have a need to know the Confidential Information in connection to the Purpose, provided that such Authorised Personnel are bound by a non-disclosure agreement or similar written confidentiality arrangements with the receiving Party that contains terms no less restrictive than the terms in these General Business Terms and Conditions , and have been informed of the privileged nature of the Confidential Information;
  - e. shall refrain from copying the Confidential Information, except for when it is required for furtherance of the Purposes, or as backup for disaster recoveries, in each case subject to the accurate reproduction of all proprietary legends and notices located in the originals;
  - f. shall notify the disclosing Party promptly and in writing on the existence of circumstances concerning any unauthorised knowledge, disclosure, possession or use of Confidential Information.
3. The Customer shall never disclose information retrieved via API-services or CSV files.
4. In the event that the Receiving Party is required by applicable law, by a binding order of a competent governmental authority, or by a court order of a competent court to disclose Confidential Information, the Parties acknowledge that the Receiving Party is not in breach of these General Business Terms and Conditions by providing such Confidential Information, provided that the Receiving Party:

- a. provides, to the extent permitted by applicable law or order, prompt written notice hereof to the disclosing Party in order to enable disclosing Party to seek a protective order or otherwise prevent such disclosure;
  - b. shall consult, to the extent permitted by applicable law or order, with the disclosing Party in an attempt to agree on the form, content, and timing of such disclosure;
  - c. shall disclose only that Confidential Information which is necessary to comply with such legal requirement or order. Any such required disclosure shall not in itself alter the status of the disclosed information as Confidential Information under the provisions of these General Business Terms and Conditions. Neither the disclosure of Confidential Information, nor the Business Terms and Conditions, nor the Agreement, shall be construed as:
    - i. requiring a Party to disclose or accept Confidential Information;
    - ii. using or selling the Confidential Information or products derived therefrom;
    - iii. to the other Party any rights through licensing or otherwise, express or implied, under any patent, trade secret, or other intellectual property right in the Confidential Information, now or hereafter obtained or licensed by the disclosing Party. The Receiving Party acknowledges that Confidential Information is proprietary and/or trade secret information of the Disclosing Party.
5. The parties' obligations under the General Business Terms and Conditions shall survive and continue in effect with respect to any Confidential Information for a period of three (3) years upon termination of the Agreement.
  6. Where the Confidential Information constitutes a trade secret, the receiving party's obligations with respect to that trade secret shall continue indefinitely until such Confidential Information no longer constitutes a trade secret under applicable law. Within ten (10) business days after termination of the Agreement and at the disclosing party's option, the receiving party shall promptly return or destroy all documents and Confidential Information and any copies of such Confidential Information in whatever form and provide the disclosing party with a written notice certifying such return or destruction.
  7. The parties may retain one (1) copy of that Confidential Information for the purposes of and for so long as required by any law or regulatory requirement, judicial or administrative process, or its legitimate internal compliance procedures, which shall continue to be governed by these General Business Terms and Conditions.

## Article 16 – Intellectual Property

1. Gomibo and, if applicable, its licensors, own the (intellectual) property rights of Gomibo Materials and the Confidential Information shared by Gomibo. No transfer of (intellectual) property rights shall take place as a result of the performance of the Agreement.
2. The Customer shall not reverse-engineer, decompile, or disassemble any Gomibo Materials, and shall not infringe Gomibo's intellectual property on other notice of ownership from any originals or copies of the Gomibo Materials or any other Confidential Information it obtains from Gomibo in any other way.
3. Gomibo shall indemnify, defend, and hold the Customer harmless for all Claims, that use of the Gomibo IT Products and Services by the Customer infringes the intellectual property rights of a third party in the Netherlands, provided that the Customer has promptly informed Gomibo in writing upon becoming aware of the claim, provides all reasonable assistance to Gomibo in handling the Claim, and does not make any statements relating to the Claim.
4. If Gomibo receives information about an infringement related to the Gomibo Materials, Gomibo may, in its sole discretion, and at no costs of the Customer, modify the Gomibo Materials so that infringements or misappropriate use will no longer occur, obtain a license, or terminate the Agreement in full or in part.
5. The indemnification obligations in this article do not apply to the extent a Claim arises from or relates to:
  - a. the failure to timely implement Updates, Upgrades, modifications, replacements, or enhancements to Gomibo IT Products and Services which were made available by Gomibo to Customer;
  - b. the use and/or integration or implementation of Gomibo IT Products and Services in combination with another product or service which is not provided by Gomibo;
  - c. any Updates, Upgrades, modifications, replacements, or enhancements of the Gomibo IT Products and Services not provided by Gomibo;
  - d. the Customer's breach of the Agreement;
  - e. the use, implementation or integration of third-party application;
  - f. data provided or made available by the Customer in the context of its use of the Gomibo Materials, including Personal Data and Confidential Information.

## Article 17 - Liability

1. Gomibo shall only be liable for its own acts or omissions, and not for the acts or omissions of Customer or any third parties, other than sub-contractors or sub-Processors engaged by Gomibo for the performance of the Agreement.

2. Neither Party shall be liable for breach of contract, tort, or under any other legal theory for any loss of profit, business contracts, revenues, missed, or anticipated savings, damage to good name, loss of data, or any special, indirect, direct, or consequential damages.
3. The limitations and exclusions of liability in this Article do not apply in the event of fraud, intent, or gross negligence by a Party or its board members.
4. The Customer shall indemnify, defend, and protect Gomibo under all circumstances, without any limitation and at any time, for all Claims, including claims of End-users or Claims from providers of Third-Party Applications and Services, or resulting from a breach by the Customer of the Agreement or applicable law.
5. The provisions of this clause and all other limitations and exclusions of liability referred to in these terms shall also apply for the benefit of all natural persons and legal entities that Gomibo engages in the performance of the Agreement.
6. If Customer uses third party services, such as, but not limited to Zero Touch, DEP or KNOX, Customer is also bound by the terms and conditions set by the relevant service. Gomibo is not liable for any Customer acts in breach of the relevant terms of service. Customer shall indemnify Gomibo for any such damages for which Gomibo may be deemed liable as a result.

## Article 18 - Warranties

1. Unless expressly otherwise stated in the Agreement, Gomibo will perform its obligations under the Agreement to the best of its abilities, and all Gomibo Materials are made available on an "as-is" and "as-available" basis. Gomibo makes and has made no guarantees to the Customer, neither express, implied, or statutory, with respect to the Gomibo Materials, and Gomibo expressly disclaims any implied guarantees to the Customer regarding the suitability for a particular purpose, non-infringement, or intended use.
2. Gomibo operates as a Platform and expressly does not guarantee that the Gomibo Materials will be secure, error, bug-free, or free from interruptions.
3. The Customer guarantees that the Customer is a legal entity and that its personnel or the natural persons representing it are authorised (signatory and representative) to conclude the Agreement. In case of any misrepresentation by the Customer regarding the above confirmation, Gomibo reserves the right to immediately terminate the Agreement without prior notice and without being liable for any damages or costs related to such termination.
4. The Customer declares and warrants that all information and personal information of Customer's Customers provided to Gomibo, are complete, accurate, non-infringing, truthful, and that the use of the Gomibo Materials is in compliance with applicable laws and regulations. The Customer is solely responsible for the use of the Gomibo Platform.
5. When the Customer sends product(s) for repair to a Gomibo certified repair company and this repair company detects user damage, the warranty becomes null and void. In this case, Gomibo may recover 100% of the repair costs from the Customer.

## Article 19 – Term and termination

1. These General Business Terms and Conditions shall take effect from the effective date of the collaboration between (Large Business) Customer and Gomibo.
2. The Customer is not permitted to cancel the order after receiving a written order confirmation via email, invoice, or any other communication channel. The Customer can only cancel the order after rescinding written approval by Gomibo.
3. The Customer can terminate the Agreement only with at least thirty (30) days written notice to Gomibo via email. Outstanding payment obligations remain in effect after the Account is terminated.
4. Gomibo is entitled to terminate the Agreement or provision of certain Gomibo Materials at any time and with immediate effect by notifying the Customer in writing via email if Gomibo considers that the Customer's use of the Gomibo Materials is contrary to applicable law and/or regulation, public order and morality, or breaches the terms and conditions of the Agreement. If a breach is capable of being remedied, Gomibo will provide the Customer a reasonable term of a maximum of thirty (30) days to remedy its breach. If the Customer has not remedied the breach within this term, Gomibo may terminate the Agreement with immediate effect in part or in full.
5. Gomibo may terminate the Agreement in writing, without notice of default being required, and with immediate effect, if the Customer is granted a moratorium, a provisional petition for bankruptcy is filed, is liquidated or dissolved other than for restructuring or a merger of organisation, or if a direct or indirect change occurs in the decisive control of the Customer's company. If the Customer is declared irrevocably bankrupt, its right to use the Gomibo Materials shall automatically end, without termination by Gomibo being required.

6. The terms in the Agreement that are meant to survive the termination of the Agreement, such as Article [13, 15, 16, and 17] will remain applicable after.
7. Upon termination of the Agreement, all licenses granted by Gomibo will automatically end.
8. Unless explicitly otherwise stated in the Agreement, termination does not affect any rights and obligations accrued prior to termination, including the payment obligation.

## **Article 20 – Force Majeure**

1. Neither Party shall be obliged to fulfil any obligation, including any statutory and/or agreed warranty obligation, if it is prevented from doing so by force majeure. Force majeure refers to the circumstances described in article 6:75 of the Dutch Civil Code, and includes force majeure with respect to a subcontractor of Gomibo.
2. Either Party shall have the right to terminate the Agreement in writing if a force majeure event continues for more than ninety (90) consecutive days. In such an event, everything that has already been performed under the Agreement shall be paid for on a proportional basis without the Parties owing each other anything else.

## **Article 21 - Miscellaneous**

1. Gomibo reserves the unilateral right to modify the functionalities, features, or characteristics of the Gomibo Materials from time to time, provided that such modification does not materially or adversely affect Customer's use of the Gomibo Materials. Such changes shall be made by Gomibo in accordance with the terms and conditions set out in the Agreement. If any amendment materially or adversely affects Customer's use of the Gomibo Materials, Customer may terminate the Agreement within 30 days after being notified by Gomibo, unless the amendment relates to changes in relevant legislation or other instructions from competent authorities.
2. Where the Agreement requires a notification or document to be in writing, this includes a notification or document in electronic form, unless an Article explicitly requires otherwise. The Parties shall send any notice or communication in writing by email or to the designated address of the relevant Party as mentioned in the Customer Account if an email is not sufficient. The delivery shall be by hand making use of a mail company or courier.
3. None of the rights or obligations under the Agreement may be assigned or transferred by the Customer without the prior written consent of Gomibo. Gomibo may assign or transfer its rights or obligations under the Agreement upon prior notice to the Customer.
4. Nothing in the Agreement shall be considered to establish either Party as a Customer, joint venture, or employee of the other Party, for any purpose.
5. If a court declares Articles from the Agreement null or invalid, the other Articles in the Agreement shall remain fully in force, and Parties shall discuss if and how the invalid Article can be replaced by a similar provision.
6. All timelines and (delivery) dates agreed or specified by Gomibo are target dates. Gomibo shall make every reasonable effort to comply with deadlines and final (delivery) dates wherever possible.
7. The mere fact that an obligation, service level or (delivery) date, final or otherwise, specified by Gomibo or agreed between the Parties has not been met, shall not mean that Gomibo is automatically in default. Gomibo shall only be in default if the Customer has given written notice of default, giving Gomibo a reasonable term of at least 30 days to perform its duty, and Gomibo either fails to cure its breach within such term or fails to propose an alternative reasonable term for remedying the breach within this term. The notice of default must contain a description of the breach that is as comprehensive and detailed as possible, in order to ensure that Gomibo has the opportunity to respond adequately.
8. Gomibo may engage subcontractors for the performance of the Agreement without prior written permission of the Customer, subject to its obligations under Article [13] (data processing agreement). Gomibo will be responsible for the performance of the Agreement by its subcontractors.

## **Article 22 – Laws and jurisdiction**

1. These General Business Terms and Conditions and the Agreement shall be interpreted and governed by Dutch law.
2. The Parties irrevocably agree that the District court Noord-Nederland, location Groningen, the Netherlands, shall have exclusive jurisdiction to settle any dispute or Claim that arises out of or in connection to the Agreement, without prejudice to the right of Gomibo to initiate arbitration proceedings to settle a dispute or Claim at the NAI or SGOA. In such an event, the place of arbitration will be Groningen, the language will be English, and there will be one arbitrator or three arbitrators.