

General Terms and Conditions for the provision of Services by NOTYD B.V.

Version: September 2022

1. Purpose

- 1.1. These GTC describe the terms and conditions applicable to the relationship between NOTYD and Seller. Excluding any conditions or stipulations of third parties, these GTC apply to all Offers, Services and current and future Contracts between NOTYD and Seller. NOTYD offers the Services on the condition that Seller accepts these GTC.
- 1.2. Deviations from and additions to these GTC only apply if and insofar as these have been expressly accepted by NOTYD in writing.

2. Description of the Services

- 2.1. NOTYD will provide the following Services to Seller:
 - 2.1.1. **Payment method:** NOTYD provides a business-to-business payment method for B2B Stores by integrating the NOTYD transaction handling system in the B2B Store, which enables (i) Buyers to buy products and/or services in the B2B Store on a deferred payment basis and (ii) Seller to select a preferred pay-out period (i.e., Settlement Term as specified in the Order Form).
 - 2.1.2. **Customer service:** NOTYD operates a support desk which can be contacted by Seller and Buyer for operational support. The support desk is available from Monday to Friday from 09:00 till 17:00 (Central European Time) and can be reached by email via support@notyd.com.
 - 2.1.3. **Integration monitoring:** NOTYD provides technical support in relation to integration of the Services by Seller, by monitoring the integration process and monitoring the first Transactions after integration.
 - 2.1.4. **Seller Portal:** NOTYD grants the Seller access to the Seller Portal, as defined in Schedule 1.
 - 2.1.5. **Admin services:** NOTYD provides Seller with a Settlement Report following a Transaction via e-mail, including the information as described in Schedule 1. NOTYD will provide the Services in accordance with the Order Form.

3. Effectiveness of the Contract

- 3.1. Unless explicitly specified otherwise, the Contract shall be effective as of the day on which all of the following conditions are fulfilled ("**Effective Date**") (i.e. any and all obligations arising from the Contract shall only become effective under the following conditions precedent):
 - 3.1.1. NOTYD and Seller have both signed the Order Form ("**Contract Date**");
 - 3.1.2. Seller has provided NOTYD with all information necessary for NOTYD to fulfill its regulatory duties under applicable law and NOTYD has fulfilled such duties (e.g., anti-money laundering legislation);
 - 3.1.3. NOTYD has performed an assessment of Seller, including, but not limited to, its financial situation ("**Seller Risk Assessment**") and the outcome of such Seller Risk Assessment being satisfactory to NOTYD, at its sole discretion;
 - 3.1.4. NOTYD has confirmed to Seller that the Seller Risk Assessment has been completed to the satisfaction of NOTYD
- 3.2. If the Seller Risk Assessment cannot be finished in a timely fashion – to be established by NOTYD in its sole discretion – or the outcome of such Seller Risk Assessment is not satisfactory to NOTYD, at NOTYD's sole discretion, NOTYD shall notify the Seller and the Contract shall terminate upon receipt of such notification by the Seller, without any further notice or legal act being required and without any obligation on the part of NOTYD to compensate the Seller for any costs or damages whatsoever.
- 3.3. NOTYD will use reasonable efforts to complete the Seller Risk Assessment within a reasonable time, but is under no obligation to complete the Seller Risk Assessment within a certain amount of time. NOTYD cannot be held liable as a result of the Seller Risk Assessment not having been completed within a certain amount of time.

4. Performance and prices

- 4.1. All Offers, Contracts and prices stated by NOTYD are free of obligation on the side of NOTYD and may thus be changed by NOTYD at any given time. NOTYD will be entitled at all times to refuse to perform the Services at its full discretion, regardless of whether these are accepted pursuant to an Offer that has been issued to Seller, without giving any reason for said refusal. Hence, unless agreed otherwise in writing, NOTYD shall not have any (continuous) obligation to perform the Services whatsoever.
- 4.2. Prices agreed in Contracts that have already been concluded will not be binding in the event of manifest and/or obvious errors (or typographical errors) and/or clerical errors. Unless expressly agreed otherwise, all prices stated by NOTYD are denominated in euros and are exclusive of VAT.

5. Provision of the Services

- 5.1. Upon the Contract Date, Seller shall make reasonable effort to start using the Services as soon as possible, to which NOTYD shall provide the support that is necessary from NOTYD's side. Upon the Go-Live Date, NOTYD will grant Seller access to the Seller Portal. NOTYD shall perform the Set-Up Services up to and including the first month after the Effective Date in collaboration with Seller in order to make the Services ready for use for Seller, provided that Seller has requested such Set-Up Services to be performed, and it being understood that Seller remains solely responsible for designing, configuring, parameterizing and tuning the set-up of the Services, converting and uploading possible data and, where required, modifying the hardware and user environment.
- 5.2. For each Purchase, a credit query for Buyer will be sent to NOTYD. NOTYD will subsequently perform a Credit Check of each Buyer. As between NOTYD and Seller, NOTYD will control, in its sole discretion, all decisions concerning Buyer transactions approvals and underwriting of Buyer's use of any Services offered by or through NOTYD, including decisions on applicable credit limits for Buyers, notwithstanding the Maximum Order Amount.
- 5.3. In case of an acceptable result of such Credit Check – at the sole discretion of NOTYD – and provided that the Maximum Order Amount as specified in the Order Form will not be exceeded as a result of the Purchase, NOTYD will agree to allow Buyer to make a Transaction. The Transaction will be registered in the Seller Portal accordingly.
- 5.4. After Buyer makes the Transaction pursuant to Clause 5.3, Seller will issue an invoice to Buyer containing an overview of the

Purchase, which invoice shall in any case include the VAT calculated over the Purchase Price and shall comply with all applicable laws and regulations. Such invoice shall not constitute a Payment Request. The invoice shall specify that NOTYD will provide the Buyer with a separate Payment Request.

- 5.5. Seller acknowledges that for each Transaction, NOTYD shall have the sole right to receive and/or collect payment of the Transaction Amount from Buyer. For each Transaction, NOTYD will pay an amount equal to the Transaction Amount after deduction of the Service Fee plus VAT calculated over such Service Fee (i.e., the Seller Transaction Amount) to Seller within the Settlement Term, as further set out in Clause 7.3 below and in accordance with the terms and conditions as stipulated in the Order Form and these GTC.
- 5.6. The relation between Buyer and NOTYD will be regulated between NOTYD and Buyer with no further involvement of Seller.

6. Invoicing, Shipping Policy

- 6.1. After the Transaction, Seller shall provide NOTYD with relevant information relating to the Purchase and the relevant Buyer, including a copy of the invoice relating to such Transaction, Buyer's contact details, the amount of purchased goods/services, the Purchase Price including VAT (i.e., Transaction Amount) and a reference to the order number of the Purchase.
- 6.2. NOTYD shall collect the Transaction Amount from Buyer via a Payment Request sent to Buyer via e-mail or another method. NOTYD shall only submit the Payment Request to Buyer after Capture relating to the relevant goods or services.
- 6.3. Seller shall undertake to ship the goods or perform the services as soon as reasonably possible after the Purchase has been made by Buyer and in accordance with the Shipping Policy.

7. Service Fee, payment

- 7.1. For each Transaction, NOTYD will be entitled to receive a Service Fee from Seller for the provision of the Services, based on the rates set forth in the Order Form. The Service Fee will be charged per Transaction and will be deducted from the Transaction Amount due by Buyer.
- 7.2. All Service Fees and other Claims NOTYD may have under the Contract are excluding sales tax where sales tax is applied (and calculated on the Transaction Amount including sales tax), or any applicable local tax. Sales tax shall be read to include GST/VAT or equivalent value added sales tax under applicable law.
- 7.3. For each Transaction, NOTYD will pay the Seller Transaction Amount to Seller within the Settlement Term. NOTYD does not accept any responsibility whatsoever for a delay in the payment of the Seller Transaction Amount which is due to interbank systems or other circumstances over which NOTYD has no control.
- 7.4. Payment of the Seller Transaction Amount to Seller shall be made in the currency and to the bank account of Seller as specified in the Order Form. Any costs due to conversion of currency will be borne by Seller.

8. Assignment of claims

- 8.1. Due to the payment obligation of NOTYD under Clause 7.3 above, Seller acknowledges that, on the basis of the Contract, Seller assigns (*cedeert*) and transfers (*levert*) to NOTYD all (future) debts of (and/or claims upon) Buyers regarding all Transaction Amounts following a Purchase whereby Buyer uses the Services as payment method. Insofar as such would not be possible in any relevant jurisdiction, allowing Buyer to make a Purchase in the B2B Store using the Services as payment method shall constitute such assignment.
- 8.2. By entering into the Contract, Seller unconditionally and irrevocably grants full and complete power of attorney to NOTYD to:
 - 8.2.1. establish and enter into deeds of assignment, or any other agreement showing evidence that Seller has assigned and transferred its rights with respect to debts of (and/or claims on) Buyers regarding payment of the Transaction Amount on behalf of Seller (e.g. for debt collection proceedings); and
 - 8.2.2. carry out legal acts (*rechtshandelingen*) or any other acts on behalf of Seller that NOTYD deems useful or necessary in relation to the transfer and assignment of debts of (and/or claims upon) Buyers regarding payment of the Transaction Amount.
- 8.3. NOTYD is authorised to (further) notify Buyers of the transfer and assignment of debts of (and/or claim upon) such Buyers at all times, both on behalf of itself and Seller. NOTYD is further authorised to assign, transfer and/or sell any such debt and/or claim to a third party.

9. Seller's obligations related to the Services

- 9.1. Within the Initial Contract Term, Seller endeavours to process a total number of Transactions through the Services with an aggregate amount specified in the Order Form (i.e., Expected Transaction Volume). In case Seller does not meet the Expected Transaction Volume as stipulated in the Order Form within the Initial Contract Term, Parties agree to renegotiate the applicable terms included in Clause 4 of the Order Form (Commercial Details and Requirements) prior to a Renewal Term.
- 9.2. Seller shall not resell or redistribute access to the Services in any manner without prior written consent of NOTYD.
- 9.3. Seller shall provide NOTYD with any and all information that NOTYD requires to provide the Services, e.g., all information required by NOTYD to identify Buyer (as described in Clause 6.1).
- 9.4. Seller warrants that it shall at all times comply with any technical requirements imposed by NOTYD to enable the use of the Services.

10. Seller's general obligations

- 10.1. Upon request from NOTYD, or as otherwise required at any time, Seller is obliged to immediately – in any event within 48 (forty-eight) hours after such request is being made – provide NOTYD with all information that NOTYD needs for the fulfilment of its obligations under the Contract, its regulatory duties (e.g. anti-money laundering information) or Seller Risk Assessment. Furthermore, Seller hereby gives NOTYD its explicit consent to monitor Seller's activity and/or payment transactions for the prevention and detection of money laundering, fraud, breach of sanctions and other crimes, as well as its compliance with the Prohibited Business/Industries List. Seller allows NOTYD with no delay, upon request, and, if necessary, the supervisory and law enforcement authorities, access to all relevant information retained concerning the Services and shall actively and fully cooperate in any investigations. Furthermore, Seller warrants that it will not be active in any industry or engage in any activity included in the Prohibited Business/Industries List. Any failure of Seller to comply with the provision as set out in this Clause 10.1 shall result in a material breach of these GTC, which shall entitle NOTYD to immediately suspend the provision of the

Services and/or terminate the Contract concluded between NOTYD and Seller, notwithstanding Clause 4.1 of these GTC.

- 10.2. In case Seller suspects that a Buyer is conducting and/or involved in (either knowingly or unknowingly) fraudulent or other criminal activity, whether or not related to a Transaction or the Services, Seller shall immediately, without undue delay, report such activity to NOTYD via aml@notyd.comi and shall provide NOTYD with any and all information relating to such suspected conduct.
- 10.3. If there are any material changes with regard to the type of products or services offered by Seller, or if the name under which Seller conducts its business is changed, Seller shall notify NOTYD of such changes without any delay.
- 10.4. Seller is obliged to display the address of its permanent establishment, its privacy policy, an active customer service email address and a customer service telephone number in the B2B Store, as well as any other information required to be provided under applicable laws, regulations or other applicable rules. Seller warrants that it will provide relevant and compliant information regarding cookies as well as comply with any requirements to obtain Buyer's affirmative consent prior to setting the cookies. Seller shall indemnify and hold NOTYD harmless against any Claims or Losses arising out of Seller's breach of this Clause.
- 10.5. Seller hereby permits NOTYD to use the contractual relationship between NOTYD and Seller for marketing purposes, which, inter alia, entails that NOTYD is entitled to use Seller's name and logo on the NOTYD website and in marketing materials.
- 10.6. Seller acknowledges and agrees that, in relation to the Purchase, it is Seller's sole responsibility to ensure that all sales tax laws and regulations are complied with and that, if specific information has to be provided by Seller to Buyers under local applicable laws, or if Buyer requests certain information to be provided by Seller (e.g. specific sales tax or other tax information), it is Seller's responsibility to provide a document containing such information. Such aforementioned documents shall not contain any bank details of Seller. Should the content of the document sent out by Seller lead to an increased number of complaints (e.g. due to Buyers paying to Seller's bank account or using incorrect reference numbers), Seller will, in cooperation with NOTYD, adjust the content of such documentation to mitigate such problems.
- 10.7. Seller warrants that NOTYD has the sole right to collect and/or receive payment of the Transaction Amount, and warrants that it will not carry out any action which may limit or impair such right in accordance with any applicable laws. Seller warrants that it has and at all times shall maintain and uphold all necessary permits, insurances and licenses required for its business, its business operations and business activities. If NOTYD so requests, Seller shall, without undue delay, provide NOTYD with any documentation or other information verifying that Seller upholds valid permits and licenses. Further, Seller warrants that all Transaction Amounts are connected to Purchases which are permitted under and in compliance with all applicable laws and these GTC. Notwithstanding its right to refuse performance of the Services as included in Clause 4.1, NOTYD has the right to suspend the provision of the Services at any time if there is reason to assume the provision of the Services, the Services as such or Seller's activities could be deemed illegal, unethical, involves an unacceptable risk for NOTYD (at its sole discretion) or in any other way non-compliant with any applicable rule or regulation or these GTC.
- 10.8. To the extent that Seller engages sub-Sellers that will deliver goods and/or perform services to Buyers, Seller is fully liable for all sub-Sellers and for the sub-Sellers' fulfilment of its obligations in relation to Buyers. Seller acknowledges and agrees that NOTYD may itself, or may require Seller to, at any time (e.g. due to a sub-Seller's non-compliance with applicable laws or NOTYD's instructions) block or in any other way terminate the provision of its Services in relation to Purchases via a specific sub-Seller. Seller may not grant any sub-Seller access to the Services.
- 10.9. Seller itself is responsible for the hardware, infrastructure and auxiliary software and ensures that the (auxiliary) software for its own hardware is installed, organised, parameterised and tuned. Seller shall take appropriate measures to ensure that any equipment that is used by Seller to access the Services, such as PC's, laptops, tablets or smartphones, is secure and free from viruses and other malicious software.
- 10.10. Seller shall ensure that all employees and/or auxiliary persons that it deploys in the performance of the Contract shall have the knowledge and experience required to use the Services. Seller may allow its employees and/or auxiliary persons to use the Services solely for Seller's internal business purposes, provided that (i) Seller ensures its employees and/or auxiliary persons comply with the terms of the Contract (where applicable) and other end users terms (if applicable) and (ii) Seller shall be liable towards NOTYD as if acts and omissions of employees and/or auxiliary persons would have been Seller's own.
- 10.11. Seller is responsible for the management, monitoring, checks of the settings, (manner of) implementation, and use of the Services provided by NOTYD.
- 10.12. NOTYD may continue to provide the Services using a new or modified version of the underlying (source) code or software. NOTYD is not obliged to maintain, modify, or add particular features or functionalities of the Services specifically for Seller, unless otherwise agreed.

11. Repayment obligation of Transaction Amount

- 11.1. In certain situations, NOTYD has the right to require Seller to re-pay the Transaction Amount to NOTYD. Before NOTYD requires Seller to re-pay the Transaction Amount hereunder based on Buyer's claim not to be obligated to pay the Transaction Amount, NOTYD will use its reasonable efforts to communicate with Seller and Buyer to assess the legitimacy of Buyer's claim in accordance with Clause 12.3. NOTYD may require Seller to repay the Transaction Amount in the following situations (provided that NOTYD has already paid the Seller Transaction Amount to Seller):
 - 11.1.1. if there is a dispute or contestation between Seller and Buyer regarding the Transaction or Buyer's obligation to settle the Transaction Amount, and such dispute or contestation is not based on Buyer's mere unwillingness or inability to pay the Transaction Amount (a dispute may be e.g. when the goods or services are alleged to be faulty or not delivered in full, as further described in Clause 12 below);
 - 11.1.2. in case Seller or Buyer engaged in or is engaging in fraudulent or other criminal activities;
 - 11.1.3. if a Transaction is made by a natural or legal person who may reasonably be considered to share a financial interest with Seller, including but not limited to, a company affiliated to Seller, owners or an employee of Seller and/or such affiliated company. This sub-clause does not apply if Seller has more than 30 (thirty) employees;
 - 11.1.4. if Seller or Buyer in connection with the Transaction has not provided NOTYD with the information that NOTYD requires to submit a Payment Request to Buyer (including, but not limited to, Buyer's contact details and the goods/services purchased);
 - 11.1.5. if Seller has deviated from NOTYD's applicable Shipping Policy, or if the goods/services cannot be delivered in accordance with such Shipping Policy following a Transaction. This merely applies where Buyer claims that it has

- not made a Purchase or that it has not received the goods/services;
- 11.1.6. if Seller does not meet the requirements as referred to in Clause 4 of the Order Form, or if Seller fails to perform any other obligation in connection with invoicing or otherwise pursuant to the Contract; and/or
- 11.1.7. if Buyer has used its lawful right to withdraw from/cancel the Purchase and/or its agreement with Seller, or Buyer has used any additional rights of withdrawal or return as extended to Buyer by Seller.
- 11.2. In case Seller has agreed with Buyer on a return of the goods/services purchased by Buyer, or a reduction of the Purchase Price, or if Buyer has used its return/revocation rights under applicable laws, Seller shall inform NOTYD thereof without undue delay. In the event that either Party has already fulfilled its payment obligation under this Contract following a Transaction, the following repayment obligations will apply:
- 11.2.1. if Buyer has already paid (a portion of) the Transaction Amount to NOTYD and NOTYD has not yet paid the Seller Transaction Amount to Seller, NOTYD shall repay (a portion of) the Transaction Amount to Buyer and NOTYD shall deduct the Service Fee in connection with the Transaction from the next aggregated pay-out of the Seller Transaction Amount to Seller;
- 11.2.2. if Buyer has already paid (a portion of) the Transaction Amount to NOTYD and NOTYD has already paid the Seller Transaction Amount to Seller, NOTYD shall repay (the relevant portion of) the Transaction Amount to Buyer and NOTYD shall deduct the Transaction Amount in connection with the Transaction from the next aggregated pay-out of the Seller Transaction Amount to Seller;
- 11.2.3. if Buyer has not yet paid the Transaction Amount to NOTYD and NOTYD has already paid the Seller Transaction Amount to Seller, NOTYD shall deduct the Transaction Amount from the next aggregated pay-out of the Seller Transaction Amount to Seller;
- 11.2.4. if Buyer has not yet paid the Transaction Amount to NOTYD and NOTYD has not yet paid the Seller Transaction Amount to Seller, NOTYD shall deduct the Service Fee in connection with the Transaction from the next aggregated pay-out of the Seller Transaction Amount to Seller; or
- 11.2.5. if Buyer has (in error) paid (a portion of) the Transaction Amount to Seller and Seller has not yet transferred such amount to NOTYD in accordance with Clause 12.2 below, Seller shall re-pay (the relevant portion of) the Transaction Amount to Buyer and payment of the Service Fee is due from Seller to NOTYD.
- 11.3. In the event NOTYD requires Seller to re-pay the Transaction Amount in accordance with the previous sub-clauses, Losses or other costs may arise, for which NOTYD has the right to compensation. The amount charged by NOTYD will correspond to NOTYD's actual Losses and depend on whether the returned Seller Transaction Amount is in reminder status, in debt collection status or in bailiff status. NOTYD may also be entitled to compensation under other provisions of the Contract. For the sake of clarity, in the event NOTYD requires Seller to re-pay the Transaction Amount, NOTYD retains the Service Fee.
- 11.4. Any claims NOTYD may have vis-à-vis Seller or vice versa pursuant to Clause 11.2 shall as much as possible be settled by way of set-off. In the event that set-off is not reasonably possible (e.g. because counterclaims with which to set-off are not reasonably expected within a reasonable amount of time), the relevant party may demand payment in cash.
- 12. Seller's obligations regarding Transaction Amounts, disputes and complaints**
- 12.1. Seller shall not without NOTYD's written consent enter into an agreement or arrangement with any third party regarding the Purchase, pledging or payment of the Purchase Price, nor any other arrangement which restricts NOTYD's ability to obtain payment of the Transaction Amount from Buyer following a Transaction. Seller may not enter into agreements with Buyers in other countries than those approved by NOTYD or in other currencies than contractually agreed.
- 12.2. If Buyer (or a third party) directly pays the Transaction Amount to Seller, Seller shall immediately register such payment in the Seller Portal or otherwise appropriately communicate this to NOTYD. NOTYD shall then deduct the Transaction Amount and the Service Fee (i.e., Seller Transaction Amount) in connection with such Transaction from the next aggregated pay-out of the Seller Transaction Amount to Seller.
- 12.3. Seller shall answer NOTYD's questions regarding Transactions without undue delay. NOTYD and Seller shall in particular inform each other if Buyer disputes the obligation to settle the Transaction Amount as described in Clause 11.1 above. Seller undertakes to handle Buyer complaints promptly and correctly. If Buyer files a complaint with Seller, and such complaint is not solved within the time period as stipulated by NOTYD, Seller shall inform NOTYD accordingly. Seller shall provide NOTYD, both on its own initiative and upon request from NOTYD, any and all information relating to such complaint forthwith.
- 12.4. Seller will remain responsible and liable in case of, for example, (i) non-performance (e.g. Buyer receives the wrong or damaged goods); (ii) Buyer cancels a Transaction; (iii) Buyer delays payment of the Transaction Amount while resolving a product quality dispute; (iv) Buyer is unhappy with the service provided by Seller and decides not to pay; (v) Buyer disputes the Payment Request and/or pays a lesser amount; et cetera. In case Buyer disputes a Payment Request and NOTYD has not yet paid the Seller Transaction Amount to Seller, NOTYD is entitled to suspend payment thereof until the dispute has been sufficiently solved by Seller or NOTYD in accordance with Clause 12.3. If NOTYD has already paid the Seller Transaction Amount to Seller and subsequently assesses that Buyer is not obliged to pay the Transaction amount following a successful claim pursuant to Clause 11.1, the repayment obligations in Clause 11.2 will apply.
- 12.5. Seller is solely responsible for the performance of its obligations (and those of its employees, agents, sub-Sellers and representatives) in relation to Buyers under the Contract with NOTYD in relation to Buyers, whether under any agreement with Buyers or under any applicable laws. Seller shall not use the Services in relation to Transactions which are deemed illegal under any applicable law.
- 12.6. In relation to the Services, Seller shall not impose any fees or otherwise set a higher Purchase Price for goods or services on the basis that the Purchase is made through the Services, or to act discriminatory towards NOTYD in any other way.
- 12.7. Seller agrees that, pursuant to a Transaction and after payment of the Seller Transaction Amount, NOTYD shall be exclusively entitled to all security interests related to the Transaction Amount, such as for example any retention of title in the goods delivered. If a Seller Transaction Amount is retransferred from Seller to NOTYD under the previous Clause 11, all security interest relating to the relevant Transaction Amount will also be retransferred to Seller.
- 12.8. As per the decree of 5 September 2003 from the Dutch Ministry of Finance, numbered DGB2003/4484M, NOTYD shall be exclusively entitled to apply for bad debt relief relating to all Transactions, as referred to in such decree, and Seller herewith grants NOTYD an unconditional and irrevocable power of attorney (*volmacht*) to apply for bad debt relief at the relevant

authority and to claim the relevant refund relating to all Transactions.

13. Purchases and handing out goods in physical stores

- 13.1. Unless it is agreed to include and integrate in-store under the Contract, Seller is not entitled to use the Services for the sale of goods in physical stores. Unless Clause 13.2 applies, Seller is neither entitled to accept the return of goods in its physical store(s).
- 13.2. If Seller has integrated the Services in its physical stores or has been permitted by NOTYD to accept returns in physical stores, Seller may accept return of goods in its physical store(s) subject to the following conditions: (i) all returns shall immediately be registered in the Seller Portal; (ii) all refunds of the relevant Transaction Amounts to Buyer following such return are handled by NOTYD (i.e. Seller may not refund the Transaction Amount to Buyer in case of a return); and (iii) Seller shall adhere to any other reasonable instruction NOTYD may provide from time to time specifically relating to return of goods in physical stores. Seller shall indemnify and hold NOTYD harmless against any Claim that NOTYD suffers due to Seller not fulfilling its obligations under sub-points (i)-(iii) above.

14. Right to retain payments and set-off

- 14.1. If the Contract terminates for any reason, NOTYD may retain payments owed to Seller, including, but not limited to Seller Transaction Amounts due, for the purpose of covering NOTYD's financial risks. The amount retained shall not exceed NOTYD's financial risk exposure.
- 14.2. NOTYD may temporarily retain payment of the Seller Transaction Amount corresponding to its financial risk exposure if:
- 14.2.1. Seller materially breaches the Contract;
 - 14.2.2. Seller repeatedly breaches the Contract, and fails to cure the breaches after receiving notice from NOTYD;
 - 14.2.3. NOTYD reasonably suspects that Seller is engaging in or has engaged in fraudulent or other criminal activity;
 - 14.2.4. Seller's financial standing or ability to fulfil orders or satisfy refunds to Buyers materially reduces; or
 - 14.2.5. NOTYD and Seller are engaged in recurring and/or continuing disputes relating to the Contract.
- 14.3. Prior to NOTYD retaining payment of the Seller Transaction Amount in accordance with this Clause 14, NOTYD undertakes to inform Seller as to the reason why such payment will be retained. NOTYD undertakes to pay any retained Seller Transaction Amount under this section once the underlying reason for retention has been cured. NOTYD shall notify Seller thereof.
- 14.4. NOTYD may temporarily retain payment of the Seller Transaction Amount corresponding to its financial risk exposure in case NOTYD has concerns regarding Seller's financial standing, until the moment that:
- 14.4.1. NOTYD and Seller reach an agreement to mitigate the relevant financial concerns; or
 - 14.4.2. Seller provides NOTYD adequate proof of solvency to NOTYD's reasonable satisfaction.
- 14.5. NOTYD may retain payment of the Seller Transaction Amount to Seller if there is a reasonable risk that NOTYD, due to a breach of the Contract (of which these GTC form an integral part), or a breach of applicable law by Seller, may incur fines, penalties or other Claims from third parties. NOTYD may only retain payments in an amount that corresponds to its reasonable estimate of such fines, penalties or other Claims and shall pay such retained Seller Transaction Amount(s) to Seller without delay when NOTYD deems such risk no longer present.
- 14.6. NOTYD may, in its own discretion, offset any amounts owed to Seller against any Claim NOTYD may have against Seller.

15. Limitation of action and liability

- 15.1. If a Party does not fulfil its obligations under the Contract, the other Party shall be entitled to claim Losses.
- 15.2. Neither Party is liable, whether in contract or tort (including negligence (*onrechtmatige daad*)) for breach of statutory duty, or otherwise arising under or in connection with the Contract, for any Losses caused by its employee and/or assistants it engages, nor for any consequential and/or indirect Losses (*indirecte schade* or *gevolgschade*), including (but not limited to): loss of profits, income, revenue, turnover, anticipated savings, business, contracts, goodwill or commercial opportunities, as well as all other (forms of) consequential harm or business losses. Consequential and/or indirect Losses also explicitly includes all Losses that are arising out – or are the result – of errors, malfunctions and/or failures in the Services (except as far as it concerns Losses to the Service itself). Furthermore, neither Party shall be liable for unforeseeable damages or damages atypical for the Contract, and particularly not for punitive or consequential damages.
- 15.3. NOTYD does not accept any liability for unavailability of the Services or any other circumstance which may result in the Services being unavailable. To the maximum extent permitted by applicable law, NOTYD hereby disclaims all implied warranties regarding the availability of the Services, fitness for a particular purpose or non-infringement. The Services are provided “as is” and “as available” without warranty of any kind, meaning that NOTYD does not guarantee that the Services are free of errors and functions without any interruptions. In addition, NOTYD rejects all implied warranties that the Services and the use thereof comply with Seller's expectations thereof.
- 15.4. Parties can only be liable for direct Losses. Direct Losses are defined as Losses other than indirect or consequential Losses, incurred by a Party and can/shall solely (exclusively) be reasonable costs:
- 15.4.1. to establish or determine the cause and the scope of the Losses, insofar as such establishments/determinations relate to direct Losses in the sense of these GTC;
 - 15.4.2. incurred to bring the faulty performance in line with the Contract, insofar as these are attributable (*toerekenbaar*) to the defaulting Party; or
 - 15.4.3. costs incurred to prevent or limit the Losses insofar as the claiming Party proves that these costs have resulted in a limitation of the direct Losses as referred to in these GTC.
- 15.5. In addition, the maximum aggregate (annual) liability of NOTYD for Losses shall be limited to 80%(eighty percent) of the amount (exclusive of VAT) corresponding to the Service Fee paid or payable by Seller to NOTYD in the 12 (twelve) months immediately preceding any Claim.
- 15.6. All aforementioned limitations of liability do not apply in the event that the claimed Losses are the result of an intentional act or omission (*opzettelijk handelen* of *nalaten*), gross negligence (*grove nalatigheid*) and/or willful misconduct (*bewuste roekeloosheid*) of a Party.
- 15.7. The limitation of liability set out in this Clause, shall not apply to any explicit warranties or indemnifications given under this GTC or the Contract.
- 15.8. All rights and/or Claims (*vorderingen*) of a Party will lapse (*vervallen*):

- 15.8.1. Without prejudice to sub-clause 15.8.2 and 15.8.3 below, if the claiming Party has not instituted legal proceedings on the date falling 6 (six) months after the date the claiming Party became aware (or should reasonably have become aware) of the Losses;
- 15.8.2. on the date falling 9 (nine) months after the event causing the Loss/harm occurred;
- 15.8.3. on the date falling 9 (nine) months after the Services were performed.
- 15.9. The term for prescription (*verjaring*) of all Claims and defences of a Party against the other Party and/or any of its employees or assistants it has engaged, is 12 (twelve) months.

16. Confidentiality

- 16.1. All confidential information which Parties exchange within the context of the Contract and any negotiations relating thereto, will remain undisclosed in respect of third parties. Information is considered confidential if this results from the nature of the information or the information is explicitly regarded as confidential by either Party.
- 16.2. Parties will not use or disclose the confidential information for any purpose other than is necessary in connection with the execution of the Contract.
- 16.3. Neither Party is liable for compensation of damages or indemnification, if they are required by law to disclose the confidential information and comply with this statutory duty.
- 16.4. Confidential information does not include information that:
 - 16.4.1. is known or becomes known to the public in general, other than as a result of a breach of this Clause 16 by a Party;
 - 16.4.2. is or has been independently developed or conceived by a Party without the use of confidential information; or
 - 16.4.3. is or has been disclosed to a Party by a third party without a breach of any obligation of confidentiality such third party may have.

17. Duration and termination

- 17.1. The duration of the Initial Contract Term is specified in the Order Form.
- 17.2. Upon expiry of the Initial Contract Term, the Contract Term is tacitly extended with consecutive one-year periods (i.e., Renewal Term(s)), unless NOTYD or Seller terminates the Contract by serving a written notice of termination to the other Party, at least 3 (three) months before the end of the Initial Contract Term or a Renewal Term.
- 17.3. If the Contract is terminated or ceases to have effect, any provisions of this Contract which are intended, by the Parties or in its nature, to survive such termination shall continue in full force thereafter. This includes in any event the obligations under Clauses 16 and 22.
- 17.4. Insofar as legally possible, either Party is authorised, but not obliged, to terminate (*opzeggen*) the Contract with immediate effect in the event that the other Party:
 - 17.4.1. is declared bankrupt or applies for suspension of payment, has submitted a request to be declared bankrupt, has applied for debt restructuring or any other proceedings equal or similar to the aforementioned proceedings, in any jurisdiction;
 - 17.4.2. decides to dissolve or liquidate itself, its business or actually terminates its business activities;
 - 17.4.3. has provided incorrect or misleading information, or has concealed circumstances of importance; or
 - 17.4.4. harms, damages or injuries (defamation) the other Party's reputation, the reputation of its brands and/or services or products in any way whatsoever.
- 17.5. In case NOTYD terminates the Contract pursuant to Clause 17.4 above, NOTYD has the right, but not the obligation, to, after deduction of the Service Fee and any other amounts NOTYD is entitled to claim from Buyer pursuant to or in connection with the Contract, require the Seller to re-pay the aggregate amount of all unsettled Transaction Amounts and NOTYD will retransfer the rights it has against Buyers in respect of any or all unsettled Transaction Amounts paid by the Seller. Insofar as necessary, the necessity of which to be determined by the Seller, Seller shall procure any notifications to Buyers necessary for such assignment/transfer under applicable laws.

18. Intellectual property

- 18.1. All intellectual property rights emanating from the Services are exclusively owned by NOTYD (or its licensors, where applicable). The same applies to all intellectual property rights vesting in or related to all AI (artificial intelligence), software, technology, (online) content, photographs, designs, drawings, models, slogans, texts, descriptions, artistic products, artwork, data, trade names, trademarks used or offered by NOTYD in the course of rendering its Services.
- 18.2. Intellectual property rights include (under any applicable jurisdiction) patents, copyrights, trademarks, trade names, service marks, service names, internet domain names, trade secrets and knowhow, all including pending applications therefore (to the extent applicable). Seller acknowledges that no licence is granted to use or apply any of NOTYD's intellectual property rights unless expressly permitted by either these GTC or otherwise expressly permitted by NOTYD in writing.
- 18.3. Seller shall not, either directly or indirectly via a third party, (attempt to) reverse assemble or decompile any part of the AI (artificial intelligence), software or other technology used or offered by NOTYD in the course of rendering its Services.
- 18.4. Seller acknowledges that any unauthorised redistribution or dissemination of the Services rendered by NOTYD causes materially and irreparably harm to NOTYD.

19. Force majeure

- 19.1. Notwithstanding Clause 4.1 of these GTC, NOTYD may, at its discretion, terminate the Contract or suspend its execution, if, due to circumstances beyond its sphere of influence or of which it was not aware, it temporarily cannot comply with its obligations without being liable to pay any compensation for damages.

20. Data protection

- 20.1. In performing the Contract, Seller may share with NOTYD personal data ("**Personal Data**") within the meaning of the General Data Protection Regulation ("**GDPR**"). This Personal Data may regard persons associated with Seller and Affiliated Companies for purposes such as (i) provision of the Services, or (ii) for Know Your Customer obligations to which NOTYD is subject. The Personal Data may also regard Buyers for purposes such as processing and administering payments. The processing of such

Personal Data by NOTYD is further described in NOTYD's privacy notice as available on <https://notyd.com/privacy-policy>.

- 20.2. Seller acknowledges that, with respect to the processing of Personal Data as described in Clause 20.1, Seller and NOTYD each qualify as a data controller within the meaning of the GDPR.
- 20.3. Seller will comply with the GDPR and other relevant data protection legislation (together referred to as the Privacy Legislation) when sharing Personal Data with NOTYD as described in this Clause 20. In this scope, Seller will in any case ensure that Buyers and any person associated with Seller or its Affiliated Companies are made aware of the processing of their Personal Data by NOTYD and of the privacy notice before a Contract is concluded or before any Personal Data is disclosed by Seller to NOTYD, whichever occurs sooner.
- 20.4. Seller will provide NOTYD all necessary assistance or perform all necessary formalities as reasonably required by NOTYD under the Privacy Legislation.

21. Miscellaneous

- 21.1. If, in a given case, NOTYD does not enforce parts of the Order Form and/or these GTC, this shall not be regarded as a waiver of the right to enforce this at a later stage against Seller.
- 21.2. Seller cannot transfer its rights and obligations under the Contract to third parties. NOTYD can assign and/or transfer all rights and obligations under the Contract to a third party, without consent from Seller being required. Insofar as such consent would be required under any applicable law, such consent is herewith granted. Insofar as such consent cannot be granted in advance, Seller shall grant such consent upon first request by NOTYD.
- 21.3. NOTYD may revise these GTC unilaterally from time to time at its own discretion. In case of an envisaged amendment of the GTC, NOTYD shall inform Seller thereof by giving at least 30 (thirty) days written notice to Seller via email or in the Seller Portal. If the amendment has a material adverse impact on Seller and Seller does not agree to the amendment, Seller may give written notice of its objection to NOTYD within 15 (fifteen) days after receiving notice of the amendment. If NOTYD receives such notice, NOTYD will contact Seller to discuss the objections of Seller. If Seller continues to refuse to accept the amendment and NOTYD refuses to withdraw the announced amendment, Seller is authorised to terminate the Contract by giving at least 1 (one) month written notice to NOTYD (such termination notice to be sent at the latest 30 (thirty) days after Seller received notice of the amendment). Seller is not entitled to object to and shall not have the rights set out in this Clause 21.3 for any of the following amendments to these GTC:
 - 21.3.1. non-material amendments, meaning amendments that do not, in the aggregate, materially and adversely affect the interests of Seller;
 - 21.3.2. amendments which NOTYD implements in order to comply with applicable law; or
 - 21.3.3. amendments which NOTYD implements as a consequence of modifications, enhancements or other changes and/or additions to the Services.
- 21.4. After amendment of the GTC, NOTYD shall provide Seller with the amended GTC. The latest version of these GTC always applies between NOTYD and Seller.
- 21.5. If any provision of the Order Form and/or these GTC is deemed unlawful, void, voidable or otherwise unenforceable, this does not affect the validity and enforceability of the remaining provisions of the Order Form and/or these GTC. The unlawful, void, voidable or otherwise unenforceable part shall be deemed replaced by a valid and enforceable provision that achieves the aim and scope of the replaced provision closely.
- 21.6. If there is a dispute regarding the interpretation or explanation of any provision of the GTC, the Dutch translation as included in several places in the text of these GTC, shall always take precedence and will be leading for the purposes of such interpretation.
- 21.7. If at any time any provisions of these GTC conflicts with the Contract, the provisions of the Contract shall prevail.
- 21.8. Clause 3.1 of the Order Form and Clauses 1, 3, 10, 15, 16, 18, 19, 20, 21 and 22 of these GTC are effective upon entering into the Contract. The conditions precedent included in these GTC do not apply to the obligations resulting from the aforementioned clauses.
- 21.9. The English language version of this Agreement shall be controlling in all respects and shall prevail in case of any inconsistencies with translated versions of this Agreement.

22. Applicable law and competent court

- 22.1. These GTC, the Contract and/or any other contracts ensuing therefrom, or any disputes and/or non-contractual obligations relating thereto, are governed exclusively by the laws of the Netherlands.
- 22.2. The applicability of the 'United Nations Treaty on Contracts for the International Sale of Goods' (CISG) – also known as the Vienna Sales Convention 1980 – is expressly excluded, also with regard to all other (future) legal relations between Seller and NOTYD.
- 22.3. Unless contrary to mandatory law, all disputes and Claims arising out of or in connection with the Contract, these GTC and/or any other contract shall be submitted solely to the competent court in Amsterdam.
- 22.4. Contrary to the provision of the previous sub-clause (competent court), NOTYD will be exclusively entitled (in the form of a discretionary authority) to choose that any dispute as referred to in the previous sub-clause shall be settled in accordance with the most recent and then-applicable version of the 'Arbitration Rules of the Netherlands Arbitration Institute' (NAI) in Rotterdam, the Netherlands. Unless Parties shall agree otherwise at that time:
 - 22.4.1. the arbitral tribunal shall be composed of one arbitrator;
 - 22.4.2. the arbitrator of the arbitral tribunal shall be appointed according to the 'list procedure' as laid down in the aforementioned Arbitration Rules;
 - 22.4.3. the proceedings shall be conducted in the Dutch language;
 - 22.4.4. the place of arbitration shall be Rotterdam;
 - 22.4.5. consolidation of the arbitral proceedings with other arbitral proceedings, as provided for in Article 1046 of the Dutch Code of Civil Procedure and Article 39 of the Arbitration Rules of NAI, is excluded;
 - 22.4.6. the arbitration decision shall not be subject to appeal.