

**GENERAL TERMS AND CONDITIONS OF  
THE SUPPLY OF SERVICES OF BILLER B.V.****CLAUSE 1. DEFINITIONS AND APPLICABILITY**

1.1 The following definitions are used in these general terms and conditions and Contracts:

**Affiliated Companies:** any legal entity that qualifies as a 'subsidiary' as referred to in Section 2:23a of the Dutch Civil Code ('DCC') or as a 'group company' as referred to in Section 2:24b DCC.

**Claims:** any claim for Losses or proceeding of any nature (whether in contract, tort, breach of statutory duty or otherwise and including, but not limited to, a claim for negligence).

**Commercial Details and Requirements:** the Commercial Details and Requirements as attached to the Contract, also to be found at <https://biller.ai/CommercialDetailsandRequirements>, and will be provided upon request.

**Contract:** all agreements which have been concluded or shall be concluded in the future, either in writing, orally or implicitly (tacitly), between Biller and a Seller.

**Credit Check:** the assessment of the transaction and the Customer dependent on the chosen Services, as performed by Biller.

**Customer(s):** the B2B-customers of the Seller that are purchasing in the (Online) Store via the Biller payment Services.

**Biller:** Biller B.V. (Trade Register number: 82724385) and all of its Affiliated Companies.

**GTC:** these present general terms and conditions as attached to the Contract, also to be found at <https://biller.ai/terms-and-conditions>, and will be provided upon request.

**Losses:** any harm, (financial) loss, (material) damage, costs or expenses suffered by any party, as well as all Claims and liabilities in any way relating to or arising out of a Contract, an Offer and/or rendered Services.

**Offer:** any offer communicated orally or in writing by Biller to a Seller regarding the performance of Services.

**Seller:** any company or legal entity that uses (or wants to use) the Services of Biller.

**Seller Portal:** the portal to which the Seller is granted access in relation to the (use of the) Services of Biller.

**Services:** all (payment) services provided by Biller.

**Service Charges:** the fee to which Biller is entitled for providing the Services, which fee is the percentage (as referred to in the Commercial Details and Requirements) over every Transaction Amount.

**Shipping Policy:** the Shipping Policy as attached to the Contract, also to be found at <https://biller.ai/shipping-policies>, and will be provided upon request.

**Store:** the company of the Seller that – amongst other things – runs a B2B (online) store for which the Services are (or will be) used.

**Transaction Amount:** the (amount of the) payment obligation of the Customer (debt/claim) resulting from a purchase of the Customer in the Online Store via the Services.

1.2 These GTC apply to all current and future Contracts and/or Services.

1.3 Using the Services of Biller shall constitute the Seller's acceptance of the applicability of these GTC as well as the exclusion of any GTC imposed by that Seller.

1.4 Deviations from these GTC shall only be valid if Biller consents to such deviations expressly and in writing.

**CLAUSE 2. CREDIT ASSESSMENT & UNDERWRITING, PERFORMANCE AND PRICES**

2.1 Biller will perform credit assessments (Credit Check) of each respective Customer and the Seller. As between Biller and the Seller, Biller will control, in its sole discretion, all decisions concerning Customer transaction approvals and underwriting of Customer's use of any Services offered by or through Biller, including decisions on applicable credit limits for Customers.

2.2 All Offers, Contracts and prices stated by Biller are free of obligation. Biller will be entitled at all times to refuse to perform the Services, regardless of whether these are accepted pursuant to an Offer that has been issued to the Seller, without giving any reason for said refusal. Hence, unless agreed otherwise in writing, Biller shall not have any (continuous) obligation to perform the Services whatsoever.

2.3 Unless expressly agreed otherwise, all prices stated by Biller are denominated in euros and are exclusive of VAT

2.4 The prices stated are free of obligation and may thus be changed by Biller at any given time. Prices agreed in Contracts that have already been concluded will not be binding in the event of manifestly and/or obvious errors (or typographical errors) and/or clerical errors.

**CLAUSE 3. SELLER'S GENERAL OBLIGATIONS**

3.1 Upon request, or as otherwise required, the Seller is obliged to immediately provide Biller with all information that Biller needs for the fulfilment of its obligations under any Contract, its regulatory duties (e.g. anti-money laundering information) or financial risk assessment. Furthermore, if there are any material changes with regard to the type of products or services offered by the Seller, or if the name under which the Seller conducts its business is changed, the Seller shall notify Biller of such changes without any delay.

3.2 The Seller warrants that it at all times will comply with Biller's technical requirements needed on its part to enable the use of the Services.

3.3 To the extent required to perform its obligations under any Contract, the Seller shall provide Biller with information that Biller needs to provide the Services, e.g. all information needed by Biller to identify the Customer.

3.4 The Seller is obliged to display the address of its permanent establishment, its privacy policy in the Store and an active customer service email address and a customer service telephone number in the Store, as well as any other information required to be provided under applicable laws. The Seller warrants that it will provide relevant and compliant information regarding cookies as well as comply with any requirements to obtain the Customer's affirmative consent prior to setting the cookies. The Seller shall indemnify and hold Biller harmless against any Claims or Losses arising out of the Seller's breach of this clause.

3.5 The Seller acknowledges and agrees that it is the 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 the Seller to the Customers under local applicable laws, or if a Customer requests certain information to be provided by the Seller (e.g. specific sales tax or other tax information), it is the Seller's responsibility to provide a document containing such information. Such aforementioned documents shall not contain any bank details of the Seller. Should the content of the document sent out by the Seller lead to an increased number of complaints (e.g. due to Customers paying to the Seller's bank account or using incorrect reference numbers), the Seller will, in cooperation with Biller, adjust the content of such documentation to mitigate such problems.

3.6 The Seller warrants that Biller has the sole right to receive payment in respect of a 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. The 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 Biller so requests, the Seller shall, without undue delay, provide Biller with any documentation or other information verifying that the Seller upholds valid permits and licenses. Further, the Seller warrants that all Transaction Amounts are connected to purchases which are permitted under and in compliance with all applicable laws. Biller 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 the Seller's activities could be deemed illegal, unethical or in any other way non-compliant with any applicable rule or regulation.

3.7 To the extent that the Seller engages sub-Sellers that will deliver goods to Customers, the Seller is fully liable for all sub-Sellers and for the sub-Sellers' fulfilment of its obligations in relation to Customers. The Seller acknowledges and agrees that Biller may itself, or may require the Seller to, at any time (e.g. due to a sub-Seller's non-compliance with applicable laws or Biller's instructions) block or in any other way terminate the provision of its Services in relation to purchases via a specific sub-Seller. The Seller may not grant any sub-Seller access to the Services.

**CLAUSE 4. REPAYMENT OBLIGATION OF TRANSACTION AMOUNTS**

4.1 In certain situations Biller has the right to require the Seller to re-pay the Transaction Amount. Before Biller requires the Seller to re-pay any Transaction Amount hereunder based on a Customer's claim not to be obligated to pay, Biller will use its reasonable efforts to communicate with the Seller and the Customer to assess the legitimacy of the Customer's claim. Biller may require the Seller to re-pay Transaction Amount in the following situations:

- a) if there is a dispute or contestation between the Seller and the Customer regarding the Transaction Amount, or the Customer's obligation to settle the Transaction Amount, and such dispute or contestation is not based on a mere unwillingness or inability to pay (a dispute may be e.g. when the goods or services are alleged to be faulty or not delivered in full);
- b) if it concerns Transaction Amounts which have been created in connection with a transaction made by a natural or legal person who may reasonably be considered to share a financial interest with the Seller, including but not limited to, a company affiliated to the Seller, owners or an employee of the Seller and/or such affiliated company. This sub-clause does not apply if the Seller has more than thirty (30) employees;
- c) if it concerns Transaction Amounts where the Seller or the Customer in connection with the placement of the order has not provided Biller with the Customer's, complete goods list, telephone number and e-mail address;

- d) if it concerns Transaction Amounts where the Seller has deviated from Biller's applicable Shipping Policy, as well as Transaction Amounts relating to goods/services which cannot be delivered in accordance with such Shipping Policy (e.g. digital downloads). This merely applies where the Customer insists not having made the order or insists not having received the goods, or if it is otherwise unclear who has received the goods/services;
  - e) if it concerns Transaction Amounts where the Seller does not meet the requirements as referred to in the Commercial Details and Requirements, or where the Seller in connection with invoicing or otherwise breaches the Contract;
  - f) if it concerns Transaction Amounts where the Customer has used its lawful right to withdraw from/cancel its purchase and/or its agreement with the Seller, or where the Seller has extended to the Customer a right to return the goods or services in excess of what applies under applicable mandatory laws; and/or
  - g) if it concerns Transaction Amounts in relation to which the Seller is imposing terms and conditions in relation to Customers which deviate from the terms and conditions provided by Biller or if the Seller has agreed terms with the Customer that deviate from what has been communicated with Biller.
- 4.2 In the event Biller requires the Seller to re-pay a Transaction Amount in accordance with the previous sub-clauses, loss of interest or other costs may arise, for which Biller has the right to compensation. The amount charged by Biller will correspond to Biller's actual costs/losses and depend on whether the returned Transaction Amount is in reminder status, in debt collection status or in bailiff status. Biller may also be entitled to compensation under other provisions of the Contract with the Seller. In the event Biller requires the Seller to re-pay a Transaction Amount, Biller retains the Service Charges. If Biller at the time of the return already has received payment for the Transaction Amount from the Customer or a third party, Biller is entitled to repay those amounts to them.

#### CLAUSE 5. SELLER'S OBLIGATIONS REGARDING TRANSACTION AMOUNTS / DISPUTES AND COMPLAINTS

- 5.1 The Seller may not without Biller's written consent enter into an agreement or arrangement with any third party regarding the purchase, pledging or payment of Transaction Amounts, nor any other arrangement which restricts Biller's ability to obtain payment from a Customer in respect of a Transaction Amount. The Seller may not enter into agreements with Customers in other countries than those contractually agreed or in other currencies than those that apply to the respective countries.
- 5.2 If payment for a Transaction Amount is made by the Customer (or a third party) directly to the Seller, this shall immediately be registered in the Seller Portal or be communicated to Biller in any other appropriate way. The Seller has to immediately transfer the amount to Biller and specify what the payment refers to.
- 5.3 In relation to the Transaction Amount and the underlying purchase, the Seller may only agree to arrangements with the Customer which can be registered in the Seller Portal or through the agreed upon integration set-up used by the Seller. The Seller has to inform Biller without undue delay if the Seller has agreed with the Customer on a return of goods/service or a reduction of the purchase price, or if the Customer has used its return/revocation rights under applicable laws. A reservation shall be cancelled immediately if the goods or services are unavailable.
- 5.4 The Seller shall answer Biller's questions regarding Transaction Amounts without undue delay. Biller and the Seller shall in particular inform each other if a Customer disputes the obligation to settle the Transaction Amount. Biller and the Seller both undertake to handle Customer complaints promptly and correctly. The Seller has to inform Biller if a complaint has not been solved within one (1) month after receipt.
- 5.5 The Seller will remain responsible and liable if, for example, **(i)** non-performance (e.g. the Customer receives the wrong or damaged goods); **(ii)** the Customer cancels an unfulfilled order; **(iii)** the Customer delays a payment while resolving a product quality dispute; **(iv)** the Customer is unhappy with the service provided by the Seller and decides not to pay; **(v)** the Customer disputes the invoice and/or pays a lesser amount; et cetera. In case a Customer disputes an Invoice, payment of the involved Transaction Amount will be paused until the dispute has been sufficiently solved by the Seller. If a disputed Invoice c.q. the involved Transaction Amount has already been paid to the Seller, Biller has the right to deduct those funds from the next pay-outs.
- 5.6 The Seller is solely responsible for the performance of its obligations (and those of its employees, agents, sub-Sellers and representatives) under any Contract with Biller in relation to the Customers, whether under any agreement with the Customers or under any applicable laws. The Seller is not entitled to use the Services in relation to transactions which are deemed illegal under any applicable law.
- 5.7 In relation to the Services, the Seller is not entitled to impose any fees or otherwise a higher price for goods or services on the basis that the purchase is made through the Services, or to act discriminatory towards Biller in any other way.
- 5.8 The Seller agrees that when the Transaction Amount is created, Biller 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. For clarity, if a Transaction Amount is retransferred from Biller to the Seller under the previous clause 4 (Return of Transactions Amounts), all security interest relating to such Transaction Amount will also be retransferred.

#### CLAUSE 6. PURCHASES AND HANDING OUT GOODS IN PHYSICAL STORES

- 6.1 Unless it is agreed to include and integrate in-store under the Contract, the Seller is not entitled to use the Services for the sale of goods in physical stores. Unless clause 6.2 applies, the Seller is neither entitled to accept the return of goods in its physical store(s). Subject to sub-clause 4.1d, goods purchased via the Services may always be handed out to Customers in physical stores of the Seller.
- 6.2 If the Seller has integrated the Services in its physical stores or has been permitted by Biller to accept returns in physical stores, the 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 to the Customer are handled by Biller (i.e. the Seller may not refund the Customer in connection with a return); and **(iii)** the Seller shall adhere to any other reasonable instruction Biller may provide from time to time specifically relating to return of goods in physical stores. The Seller shall indemnify and hold Biller harmless against any Claim that Biller suffers due to the Seller not fulfilling its obligations under sub-points (i)-(iii) above.

#### CLAUSE 7. RIGHT TO RETAIN PAYMENTS AND SET-OFF

- 7.1 If a Contract terminates for any reason, Biller may retain further payments to the Seller for the purpose of covering Biller's financial risks. Biller will then undertake a final account and pay out the amount owing to the Seller. The amount Biller retains will not exceed its financial risk exposure, such as anticipated refunds. Biller will notify the Seller if Biller retains payments under this clause, and the reason(s) for the retention.
- 7.2 Biller may temporarily retain payments corresponding to its financial risk exposure if:
  - a) the Seller materially breaches the Contract;
  - b) the Seller repeatedly breaches the Contract, and fail to cure the breaches after receiving notice from Biller;
  - c) Biller reasonably suspects that the Seller is engaging in or has engaged in fraud; or
  - d) the Seller's financial standing or ability to fulfil orders or satisfy refunds to Customers materially reduces.
- 7.3 Prior to Biller retaining payments in accordance with this clause, Biller undertakes to inform the Seller as to the reason why payments will be retained. Biller will release any retained payments under this section once the underlying reason for retaining them has been cured.
- 7.4 Biller may temporarily retain payments corresponding to its financial risk exposure due to the Seller suffering insolvency. Biller may only retain payments under this sub-clause until:
  - a) Biller and the Seller reach an agreement to mitigate the relevant financial concerns; or
  - b) the Seller provides Biller adequate proof of solvency to Biller's reasonable satisfaction.
  - c) Biller will notify the Seller if it retains payments under this section, and the reason(s) for the retention.
- 7.5 Biller may, acting reasonably, retain payments to the Seller if there is a risk that Biller, due to the Seller's breach of the Contract or breach of applicable law, may incur fines, penalties or other Claims from third parties (each: a "**Fine**"). Biller may only retain payments in an amount that corresponds to its reasonable estimate of the Fine that may be imposed on it and must release such payments to the Seller without delay following the cessation of the relevant risk.
- 7.6 Biller may, in its own discretion, offset any amounts owed to the Seller against any Claim Biller may have against the Seller.

#### CLAUSE 8. LIMITATION OF ACTION AND LIABILITY

- 8.1 If a party does not fulfil its obligations under the Contract, the other party shall be entitled to claim Losses.
- 8.2 Neither party is liable, whether in contract or tort (including negligence) 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 (in Dutch: "*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.
- 8.3 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:
  - a) 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;

- b) incurred to bring the faulty performance in line with the Contract, insofar as these are attributable (“in Dutch: “*toerekenbaar*”) to the defaulting party;
  - c) 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.
- 8.4 In addition, the maximum aggregate (annual) liability of a party for Losses shall be limited to hundred percent (100%) of the amount (exclusive of VAT) corresponding to the Service Charges paid or payable by the Seller to Biller in the twelve (12) months immediately preceding any Claim.
- 8.5 All aforementioned limitations of liability do not apply in the event that the claimed Losses are the result of an intentional act or omission (in Dutch: “*opzettelijk handelen of nalaten*”), gross negligence (in Dutch: “*grove nalatigheid*”) and/or willful misconduct (in Dutch: “*bewuste roekeloosheid*”) of a party.
- 8.6 The limitation of liability set out in this clause, shall not apply to any explicit warranties or indemnifications given under this GTC or a Contract.
- 8.7 All rights or rights of action (in Dutch “*vorderingsrechten*”) of a party will lapse (in Dutch: “*vervallen*”):
- a) if the claiming party has not instituted legal proceedings by no more than six months after the claiming party became aware of (or should reasonably have become aware of) the Losses;
  - b) within nine months after the event causing the loss/harm occurred;
  - c) within nine months after the Services were performed;
- such on pain of said Claim becoming inadmissible.
- 8.8 The term for prescription (in Dutch: “*verjaring*”) of all Claims (including the right of action) and defenses of a party against the other party and/or any of its employees or assistants it has engaged, is twelve months.

#### CLAUSE 9. INTELLECTUAL PROPERTY

- 9.1 All intellectual or industrial property rights related to the Services accrue exclusively to Biller. Intellectual property rights, such as rights to specifications, photographs, designs, drawings, models, slogans, texts, descriptions, artistic products, artwork, either in their original form or after alteration, data, including all changes thereto, and other publicity materials, trade names and/or trade marks, etc., which Biller provides to a Seller will remain, in their entirety, the property of Biller. The Seller warrants and guarantees that it does not and will not infringe, in any way whatsoever, upon any intellectual property right held by Biller or its licensors.

#### CLAUSE 10. GENERAL PROVISIONS

- 10.1 If, in a given case, Biller refrains from invoking an applicable provision in the GTC, this will not affect Biller's entitlement to invoke that provision or any other provision in a subsequent case.
- 10.2 Biller is entitled to amend these GTC unilaterally from time to time.
- 10.3 The applicable version of these GTC will always be that which applied on the date a Contract was formed with the Seller.
- 10.4 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.
- 10.5 The headings used in a Contract or this GTC are included for reference purposes only and shall not affect the interpretation of the provisions of a Contract or this GTC.

#### CLAUSE 11. DISPUTES: APPLICABLE LAW, COMPETENT COURT, ARBITRATION CLAUSE

- 11.1 These GTC, all Contracts or other contracts ensuing therefrom or any disputes and/or non-contractual obligations relating thereto, are governed exclusively by the laws of the Netherlands.
- 11.2 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 a Seller and Biller.
- 11.3 Any disputes between Biller and a Seller ensuing from – or relating to – these GTC or any Contract, will be submitted in the first instance exclusively – and thus to the exclusion of any other court – to the competent section of the Amsterdam District Court, unless mandatory law confers jurisdiction upon another instance.
- 11.4 Contrary to the provision of the previous sub-clause (competent court), only if and so far the Seller is established (or has its principal place of business) in a non-EU Member State and Biller shall act as plaintiff/claimant (in Dutch: “*eiser*”), Biller 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 the parties shall agree otherwise at that time:
- a) the arbitral tribunal shall be composed of one arbitrator;
  - b) the arbitrator of the arbitral tribunal shall be appointed according to the ‘list procedure’ as laid down in the aforementioned Arbitration Rules;
  - c) the proceedings shall be conducted in the Dutch language;
  - d) the place of arbitration shall be Rotterdam;
  - e) the arbitral tribunal shall decide as ‘amiable compositeur’ (in Dutch: “*goede mannen naar billijkheid*”) with due observance of the rule of law (that being Dutch law).
  - f) 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;
  - g) the arbitration decision shall not be subject to appeal.

#### CLAUSE 12 DATE AND SOURCE OF THE GTC

- 12.1 These GTC were adopted in June 2021 and can be accessed, printed and downloaded [here](#).

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