



GENERAL USER AND PAYMENT CONDITIONS OF BILLER B.V.

CLAUSE 1. DEFINITIONS

- 1.1 **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.
Biller: Biller B.V. (Trade Register number: 82724385) and all of its Affiliated Companies.
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).
GTC: these present general (user and payment) terms and conditions, also to be found at <https://Biller.com/GeneralUserandPaymentConditions>, and will be provided upon request.
Losses: any harm, (financial) loss, (material) damage, costs or expenses suffered by you, as well as all Claims and liabilities in any way relating to or arising out of the Services.
Services: all (payment) services provided by Biller.
Store: the (online or offline) store of the B2B-retailer/seller in which you have made your purchase.
Transaction Amount: the amount of your payment obligation resulting from your purchase in the Store.
You: the company that has made a purchase in the Store and has chosen (by submitting an application) to pay by means of the Biller payment Services.

CLAUSE 2. APPLICABILITY

- 2.1 These GTC apply to your visit and use of the Biller website and/or online payment application, your application for the Services of Biller, the assessment of your application and all Services.

CLAUSE 3. ASSESSMENT OF APPLICATION AND PROCEDURE

- 3.1 By choosing for the Biller payment Services, you have submitted an application to pay your purchase in the Store via the (payment) Services of Biller. Biller has the right to reject your application at all times, without any reasons or explanation required.
- 3.2 Acceptance of your application depends on the result of the review of your data and the outcome of the credit assessment and is at the sole discretion of Biller.
- 3.3 By choosing for the Biller payment Services and submitting your application to pay your purchase via the (payment) Services of Biller, you give Biller permission to perform a credit assessments. Providing your information is required to use the payment Services of Biller and thus is necessary to pay via the Biller Services. Biller and the Store process your data for the execution of the Services.
- 3.4 The outcome of your application procedure will be displayed to you directly online, indicating whether or not your application is (conditionally) accepted. This approval is conditional due to the fact that it is only the result of a just a digital data check by Biller. Biller shall, at all times, have the right to request more (additional) information from you, or to do more research, perform other checks and/or credit assessments, which can result in a rejection of your application at all times (thus also after your application has been conditionally accepted first).

CLAUSE 4. REQUIREMENTS AND WARRANTIES

- 4.1 In order to use the Services of Biller, you represent and warrant the following:
- you will fully fulfil (in a timely manner) your payment obligations arising from your purchase in the Store, by paying via the Biller Services;
 - upon the request of Biller, you will immediately provide all information required for Biller to provide the Services and to collect payment from you;
 - you are not insolvent and have not ceased to pay your debts in a timely manner, you have not been declared bankrupt or have applied a requested to be declared bankrupt or applied for suspension of payment;
 - you are authorised to submit this application (on behalf of your company) and you are not under any form of administration or placed under tutelage;
 - you have not provided any incorrect or misleading information, or have concealed circumstances of importance in anyway have ceased to pay your debts in a timely manner.

CLAUSE 5. PAYMENT

- 5.1 By choosing to pay via the Services, upon acceptance of your application, your payment obligations (debt/claim) arising from your purchase in the Store has been assigned and transferred to Biller. Therefore, you will only be discharged from your payment obligations for your purchase in the Store by paying directly to Biller. Your payment to the Store and/or any other third party, will not discharge you from your payment obligation for your purchase in the Store.
- 5.2 To the extent permitted by law, Biller has the right to not refund any costs of payment and/or other costs in case you return your purchase.
- 5.3 Biller is authorised to exercise the same rights against you as the Store may/could exercise based on your purchase.
- 5.4 Biller has the right to assign, transfer and/or sell the debt arising from your purchase in the Store to a third party at all times.
- 5.5 Your payment must be received by Biller within thirty (30) days after the invoice date, unless a different term has been agreed with you in writing. This is a firm deadline (in Dutch: "*fatale termijn*"). Therefore, if you fail to pay within the stated deadline, the amount owed is immediately claimable and you will be in default by operation of law (without any further notice required).
- 5.6 In case of default, Biller is entitled to the statutory interest as referred to in article 6:119a of the Dutch Civil Code, as well as administration fees pursuant to the Debt Collection Fees Act. Biller will charge you all reasonable costs, both judicial and extrajudicial to obtain satisfaction. Biller is also entitled, at its own discretion, to transfer your debt to an external debt collection agency.
- 5.7 *Notwithstanding the provision of the previous sub-clause, if you fail to pay within the deadline, Biller will send you (as a courtesy and without obligation) a free email reminder to indicate the exceeding of the payment period. If you do not act on this reminder, Biller will send a reminder in which the amount owed is increased with costs due to debt collection. If you do not act on this reminder, Biller will send you a demand (last reminder) by post, whereby the costs are increased again. The total extrajudicial collection costs are stated on the last reminder.*
- 5.8 If you choose Biller combined with direct debit, Biller explicitly authorises the automatic collection of (delivery) costs on your bank account number and you have freely paid as soon as the direct debit is successfully completed and the reversal period (if applicable) has expired. Biller will be compliant with all applicable regulation. Any (bank) processing costs are for your own account and risk. You must ensure there is a sufficient balance on the account number which you have specified, failing which will be considered late-payment, resulting in default (by operation of law).
- 5.9 To the extent permitted by law, suspension (in Dutch: "*opschorting*") and/or offset (in Dutch: "*verrekening*") of any payment (obligation) by you towards Biller is prohibited and expressly excluded.

CLAUSE 6. DATA, PRIVACY AND COOKIES

- 6.1 Biller respects your privacy and shall ensure that information relating to natural persons is treated confidentially. Biller processes your personal data to confirm your identity, to verify that you can pay later, for administrative reasons, to prevent fraud, to carry out a risk assessment, to prevent money laundering and to fulfil legal obligations. Personal data is information that can be directly or indirectly traced back to you. In this respect, Biller is e.g. permitted to process to following data:
- contact information: name, address, date of birth, email address, telephone number, et cetera;
 - Payment information: billing details, account numbers, et cetera;
 - Financial information: negative payment history, Debt Rescheduling Natural Persons Act (in Dutch: "*WSNP*"), et cetera;
 - Information about goods/services: details about your order;
 - Historical information: your order history with Biller;
- 6.2 We re-use data that you have previously provided Biller with and share this information with credit reference agencies and anti-money laundering screening companies to assess your creditworthiness, assess risks and to confirm your identity before you can use the Biller payment Services.
- 6.3 Once you have used the Biller Services, information about you may be stored, for example, for administrative reasons. Biller uses this information wherever possible in order to confirm your identity and to simplify the use of Biller.
- 6.4 Your personal data may be supplied to the Store where you ordered (for administrative reasons) and authorities or other public bodies where Biller is required to do so.
- 6.5 Ultimately, Biller is responsible for processing your personal data and refers to its privacy statement for a full description of the processing of personal data by Biller. By agreeing to these GTC, you agree to this privacy statement.
- 6.6 Biller uses cookies on its website. Cookies are small files that are temporarily placed on your hard drive and used to collect information about the use of the Biller website. This makes it possible to automatically recognise your computer with subsequent visits to the Biller website. Depending on your settings, your internet browser can automatically accept cookies. You can change your browser settings at any time and also use the Biller website without cookies.

CLAUSE 7. LIMITATION OF ACTION AND LIABILITY

- 7.1 Biller is only involved in handling your payment, but in no way with your purchase in the Store. Therefore, regarding your Purchase in the Store, Biller shall never be liable for any Losses, whether in contract or tort (including negligence) for breach of statutory duty, or otherwise arising under or in connection with your purchase.
- 7.2 Biller is never liable 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, Biller shall be liable for unforeseeable damages or damages atypical for the Services, and particularly not for punitive or consequential damages.
- 7.3 Biller can only be liable for Losses that are attributed to gross negligence, or have arisen as a result of circumstances that are at the risk of Biller according to mandatory law.
- 7.4 In addition, if Biller nevertheless, for whatever reason, is obliged to compensate any of your Losses, the maximum aggregate (annual) liability of Biller shall be limited to the amount (exclusive of VAT) corresponding with the invoice value of the Service(s) performed by Biller that caused your Losses.
- 7.5 The 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*").
- 7.6 All your rights or rights of action (in Dutch "*vorderingsrechten*") will lapse (in Dutch: "*vervallen*"):
 - a) if you have not instituted legal proceedings by no more than six months after you became aware of (or should reasonably have become aware of) the Losses;
 - b) within nine months after the event causing the Losses occurred;
 - c) within nine months after the Services were provided;such on pain of your Claim becoming inadmissible.
- 7.7 The term for prescription (in Dutch: "*verjaring*") of all Claims (including the right of action) and defenses against Biller and/or any of its employees or assistants it has engaged, is twelve months.

CLAUSE 9. GENERAL PROVISIONS

- 9.1 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.
- 9.2 Biller is entitled to amend these GTC unilaterally from time to time.
- 9.3 The applicable version of these GTC will always be that which applied on the date your application to use the Services was submitted.
- 9.4 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.
- 9.5 The headings used in this GTC are included for reference purposes only and shall not affect the interpretation of the provisions of this GTC.

CLAUSE 10. DISPUTES: APPLICABLE LAW, COMPETENT COURT, ARBITRATION CLAUSE

- 10.1 These GTC, or any disputes and/or non-contractual obligations relating thereto, are governed exclusively by the laws of the Netherlands.
- 10.2 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.
- 10.3 Any disputes between you and Biller ensuing from – or relating to – these GTC, 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.
- 10.4 Contrary to the provision of the previous sub-clause (competent court), only if and so far you are established (or have your 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 11 DATE AND SOURCE OF THE GTC

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

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