

Business Terms and Conditions

Including Data Processing Agreement

Last version: July 1, 2022

PLEASE, READ THESE BUSINESS TERMS AND CONDITIONS, INCLUDING THE DATA PROCESSING AGREEMENT THAT IS PART OF THESE BUSINESS TERMS AND CONDITIONS, VERY CAREFULLY. BY DOWNLOADING, ACCESSING OR USING THE GOMIBO MATERIALS, THE CUSTOMER AGREES TO BE BOUND BY THESE BUSINESS TERMS AND CONDITIONS AND ALL TERMS INCORPORATED BY REFERENCE. IF THE CUSTOMER DOES NOT AGREE TO ALL OF THE TERMS BELOW, OR IF YOU ARE NOT ENTITLED TO REPRESENT THE CUSTOMER, DO NOT USE THE GOMIBO MATERIALS.

1. Definitions

Capitalized 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:

Term	Definition
Account	means the account held at Gomibo of the Customer on the Site and/or Gomibo Platform
Agreement	means the legal agreement between Customer and Gomibo, consisting of the Business Terms and Conditions, the customized quotation and other documentation agreed on in writing between the Parties. This can also relate to, from time to time, to the Gomibo IT Products and Services, and Gomibo Goods and Services.
API-services	means 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	means iPhones (smartphones) and iPads (tablets) which are manufactured by Apple Inc.
Business Day	means any day other than a Saturday, Sunday, or bank holiday in the Netherlands.
Business Terms and Conditions	the current version of the Business Terms and Conditions of Gomibo, including the data processing agreement and annexes, and including any documentation incorporated in the Business Terms and Conditions by reference.
Claim	means a third-party claim, suit, demand or proceeding.
CSV files	means electronic files which contain Confidential Information about Gomibo Goods and Services.
Confidential Information	<p>means 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).</p> <p>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 customized quotations.</p> <p>Confidential Information does not include information that:</p> <ul style="list-style-type: none">(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 authorized 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.
Customer	means 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	means Gomibo's Customer portal available on the Site.
Data subject	means 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	means the developers' resources concerning the implementation and use of the Gomibo IT Products and Services available on the Site.
Effective Date	means the first moment when the Customer is downloading, registering, accessing or using the Gomibo Materials, unless another date is agreed upon in the Customized Quotation in which case this other date applies.
End-user /	means any natural person or legal entity who ultimately uses the Gomibo IT Products and Services, and/or acts as buyer or

End-customer	customer and enters into or wishes to enter into a contract at a distance (online) with a Customer of Gomibo by means of drop shipment whereas the Customer acts as drop-shipment party.
Error Message(s)	means 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	means 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).
Gomibo	means 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 61324612 and VAT-number NL819148003B01.
Gomibo Goods and Services	means 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, accessoires, and telecommunication contracts (e.g. mobile, landline and internet).
Gomibo Material(s)	means 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.
Gomibo IT Products and Services	means 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: <ul style="list-style-type: none"> • Maintenance • Support • Gomibo SDKs; • Gomibo APIs; • Gomibo Apps; • Gomibo Widgets; • Gomibo Addons; • Gomibo Software; • Gomibo SaaS; • Gomibo Demo Environments; • Gomibo Example Projects.
Inflation	means 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).
Mark(s)	means 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	means 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).
Outage	means 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	means Gomibo and Customer individually or together.
Personal Data	means 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)	means a breach of security information leading to accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored or otherwise Processed.
Platform	means the platform of Gomibo used for businesses and drop shipments.
Processing	means 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 automatized means, such as collection, recording, organization, 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	means maintenance which is planned by Gomibo in advance.
Security Measure(s)	means any procedure, protocol, policy document or any other measure that is prepared or is proposed for the purpose of reducing risks by Gomibo.
Site	means Gomibo's web domain, including the documentation, support, demo environment and all other web pages thereof, including but not limited to all Belsimpel and Gomibo domains.
Tax(es)	means any and all applicable local, federal, state and national taxes. This also includes fees, charges, surcharges, and withholding taxes or other similar taxes, including but not limited to VAT, GST, sales tax and/or use tax.
Third-Party Applications and Services	means 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	means an email or text message sent to business@gomibo.com or zakelijk@belsimpel.nl or sent via the contact form via the Site.
Unavailable Time	means that 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	means maintenance which is required or necessary to perform due to unexpected events, including but not limited to force majeure and essential security Updates.
Updates	means improvements of functionalities and features to existing Gomibo IT Products and Services, Dashboard, Site and Platform.
Upgrades	means newly-added functionalities and features to existing Gomibo IT Products and Services, Dashboard, Site and Platform.
Working Hours	means Gomibo's working hours which are from 09:00 to 17:30 (Amsterdam time) on a Business Day.

2. Applicability

1. The 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 Business Terms and Conditions and any other written agreement between Customer and Gomibo, the terms described in the 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.

3. Account and registration

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 organization. The Customer is responsible for all activities that take place on their Account.
4. The Customer shall not use the Gomibo Materials, nor create an Account at the Site or Gomibo Platform, for the purpose of performing Criminal Activities or if the Customer fails to meet the Customer Acceptance criteria specified by Gomibo. The Customer Acceptance criteria can be requested by sending an email to business@gomibo.com or 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 shall check every order confirmation received from Gomibo to detect fraudulent orders immediately.
7. In the event of fraudulent orders, the Customer must immediately report this in writing to Gomibo. In such an event, The Customer is responsible for recovering the Gomibo Goods and Services. Fraudulent orders from the Customer's Account do not discharge the Customer from the Payment obligations towards Gomibo.

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. 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.

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 of the Gomibo Goods and Services.
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 shall not accept wire transfer payments without written permission for Gomibo Goods and Services and Gomibo IT Products and Services. Gomibo will only agree on wire transfer payments in an official written agreement, detailing payment frequencies and any additional provisions, signed by both parties. If the Customer pays the invoiced amount via wire transfer, Gomibo has the right, under any circumstances, to transfer the unsolicited payment back to the originating bank account number. The payment obligation of the Customer remains enforced until payment of the invoiced amount has been fulfilled by an approved payment method.
4. Only if Gomibo and 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 effect 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 periods referred to in Articles [6.4] and [6.5] are intended as strict deadlines within the meaning of section 6:83(a) of the Dutch Civil Code. If the Customer or End-user does not pay the amounts owed within the agreed period, the Customer or End-user will be in default by law and Gomibo will be entitled, without prejudice to its other rights, to charge the Customer or End-user the statutory commercial interest on the full amount owed from the due date of the invoice concerned until the fulfilment date of the payment. The Customer or End-user will also be liable for all extrajudicial and judicial collection costs incurred. The amount of the extrajudicial collection costs owed to Gomibo will be calculated in accordance with the collection rates of the Dutch Bar Association, with a minimum of three hundred-and-forty euro (€340,00). The amounts recorded by Gomibo for the aforementioned costs will provide full proof of the amount.

7. Invoicing

1. The Customer shall pay the invoices sent by Gomibo in accordance with the terms set out in this Agreement, the Site, Gomibo Platform, Gomibo App, Customer Account or the quotation.

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.

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 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.

10. 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 a 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 with regard 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. 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 shipment concerned. 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.
9. End-customer must return all received Gomibo Products and Services to the Customer. Gomibo will only accept returns from the Customer.
10. The Customer shall under no circumstances encourage the End-customer to contact Gomibo.
11. The shipping costs, as well as the returning costs incurred by the End-customer will not be reimbursed by Gomibo.
12. Without prejudice to an explicitly different written agreement between Gomibo and the Customer, the Customer may under no circumstances return the Gomibo Goods and Services, have work carried out by third-parties on the Gomibo Goods and Services, or settle a covering (purchase) agreement. Gomibo reserves the right to inspect the defects of Gomibo Products and Services and their cause on site.
13. If, under the condition that a complaint was made correctly and in accordance with this Article [10] within the manufacturer's official guarantee period, and the Customer has sufficiently demonstrated that the Gomibo Goods and Services do not comply with the Agreement, Gomibo is entitled to make a choice between (1) to replace the defective Gomibo Good(s) and/or Service(s) with (a) new good(s), (2) to repair the concerned Gomibo Good(s) and/or Service(s) properly, (3) to refund the purchase price or to credit the invoiced amount related to the defective Gomibo Good(s) and/or Service(s), (4) or to grant the Customer a mutually agreed upon discount on the price. If this is not reasonably possible for Gomibo, the Customer will be entitled to dissolve the Agreement, unless the defect does not justify dissolution. By fulfilling one of the aforementioned obligations, Gomibo is fully discharged of its further obligations. The Customer does not have the right to return the Gomibo Goods and Services until Gomibo has given its written consent. All Gomibo Goods and Services are covered by a standard (limited) factory guarantee if appropriate. If applicable, the (limited) factory warranty

commences on the purchase date of the Gomibo Goods and Services. The purchase date is defined as the invoice date of the purchase at Gomibo.

14. Only Apple Devices are covered by a standard limited manufacturer's warranty up to one year after the purchase date. If the Customer cannot claim a manufacturer's warranty from Apple on its purchased Apple Device in the second year after the purchase date, the Customer will receive a warranty on behalf of Gomibo on all Apple Devices purchased from Gomibo, whereby the purchase date will be defined as the invoice date of the purchase. The Gomibo warranty period runs from the 365th day after the invoice date to the 730th day after the invoice date. There is only a warranty if the Apple Device consists of original Apple parts. This warranty only applies if the Apple Device has a defect that would also fall under Apple's factory 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 at its sole discretion.
15. Articles [10.13] and [10.14] do not apply to devices sold as outlet models. On outlet models, Gomibo does not guarantee any warranty.
16. Gomibo aims to send all drop shipments in neutral packaging, packing slips and other materials. This way, it will not be visible to the End-customer that the order originated from Gomibo. Gomibo is not liable for any direct or indirect damage, capital loss or other disadvantage if the End-customer receives branded packaging, packing slips and other materials.
17. Disputes of receipt regarding Gomibo Goods and Services do not release the Customer from its payment obligation to Gomibo.
18. If the receipt of Gomibo Goods and Services are disputed, the Customer will report this to Gomibo. Gomibo will start on its sole discretion an investigation and share the results with the Customer.
19. The risk of damage or loss will apply to the Customer on the moment when Gomibo passes the Gomibo Goods and Services to the Carrier. Gomibo chooses the carrier under all circumstances.

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.
3. Under any circumstances, Gomibo holds the right and is entitled to withdraw the support of specific API-services.
4. 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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.
11. 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 organizational 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, unauthorized 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;
 - v. The password must contain at least 1 special character.
 - d. If applicable, two-factor authentication (2FA) should be enabled;
 - e. Only authorized individuals have access to the Gomibo Materials;

- f. Protect Personal Data and Confidential Information against unlawful or unauthorized access, storage, Processing, destruction, and accidental loss or alteration;
 - g. 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).
 - h. Guarantee a secure and encrypted network connection.
 - i. Performance of regular data back-ups.
12. 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.
 13. 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.
 14. The Customer shall not use the Gomibo Materials to perform as a managed service resell the Gomibo Materials without express written consent of Gomibo.

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 are 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 Customized Quotation.
3. Gomibo may, at its sole discretion, not provide support to the Customer if (i) the Customer fails to meet its obligations set out in Article [12] of the Agreement, in particular Customer's obligation to run the latest version of the Gomibo IT Products and Services, (ii) the request for support is disproportionate in the opinion of Gomibo.
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 Customized 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.

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 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 (<https://www.belsimpel.nl/klantenservice/overbelsimpel/veiligheidenprivacy>).
3. Gomibo will ensure that only authorized personnel as defined in Article 15 will process Personal Data.
4. Gomibo will take appropriate technical and organizational measures to ensure that the Processing fulfills 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 fulfill 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 authorization to engage sub-Processors. Gomibo shall impose the same obligations on the sub-Processor as set out in this Article.
8. When Customer directly engages a (sub-)Processor other than Gomibo to perform Processing, whereby such (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 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.

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 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 organizational 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.

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 other 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 unauthorized disclosure;
 - d. shall restrict possession, knowledge, development and use of the Confidential Information to its employees, officers, directors, legal advisors and entities controlled by it (collectively "Authorized Personnel") who have a need to know Confidential Information in connection with the Purpose, providing that such Authorized Personnel is bound by a non-disclosure agreement or similar written confidentiality arrangements with the receiving Party that contains terms and conditions that are no less restrictive than the terms in this Agreement, and have been advised of the confidential nature of the Confidential Information;
 - e. shall refrain from copying the Confidential Information, except for when its 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 unauthorized 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 receiving Party is required by applicable law, by binding order of competent governmental entity or by a court order from a competent court to disclose any Confidential Information, Parties acknowledge that the receiving Party does not violate this Agreement 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 the Confidential Information as is required to comply with such legal requirement or order. Any such required disclosure shall not, in and of itself, change the status of the disclosed information as Confidential Information under the terms of this Agreement.
5. Neither disclosure of Confidential Information, nor the Agreement, shall be construed as:
 - a. requiring a Party to disclose or accept Confidential Information;
 - b. using or selling the Confidential Information or products derived therefrom;
 - c. granting to the other Party any rights by license or otherwise, express or implied, under any patent, trade secret or other intellectual property right in the Confidential Information, now or hereafter obtained or licensable by the disclosing Party. The receiving Party acknowledges that Confidential Information is proprietary and/or trade secret information of the disclosing Party.
6. The parties' obligations hereunder shall survive and continue in effect with respect to any Confidential Information for a period of three (3) years upon termination of the Agreement.
7. 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.
8. 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 this agreement.

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 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.

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 not 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.

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 declares and warrants that the Customer is a legal entity and has the legal power to enter into the Agreement. In case of any misrepresentation by the Customer in regard to the aforementioned confirmation, Gomibo reserves the right to terminate the Agreement immediately, without 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.

19. Term and termination

1. The Agreement enters into force from the Effective Date.
2. The Customer is not permitted to cancel the order after receiving a written order confirmation via email, invoicing or any other communication channel. The Customer can only cancel the order after reviving 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 maximum 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

organization, 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 19, 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.

20. Force Majeure

1. Neither Party shall be obliged to fulfill 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.

21. Miscellaneous

1. Gomibo reserves the unilateral right to change the functionalities, features, or characteristics of the Gomibo Materials from time to time, provided that such change does not materially or adversely affect the Customer's use of the Gomibo Materials. Any such changes shall be made by Gomibo in accordance with the terms stipulated in the Agreement. If a change does materially or adversely affect Customer's use of the Gomibo Materials, the Customer may give notice of termination of the Agreement within 30 days upon notification by Gomibo, unless the change is related to changes in relevant legislation or other instructions issued by competent bodies. Termination will take effect on the date on which the change takes effect.
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 and 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 contained in the Agreement shall be deemed to constitute either Party 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 an equivalent provision.
6. All timelines and (delivery) dates agreed or specified by Gomibo shall be 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 14 (data processing agreement). Gomibo will be responsible for the performance of the Agreement by its subcontractors.

22. Laws and Jurisdiction

1. The Agreement is construed and governed by the laws of The Netherlands without regard to the conflicts of law provisions thereof.
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.