

bundeling[®]

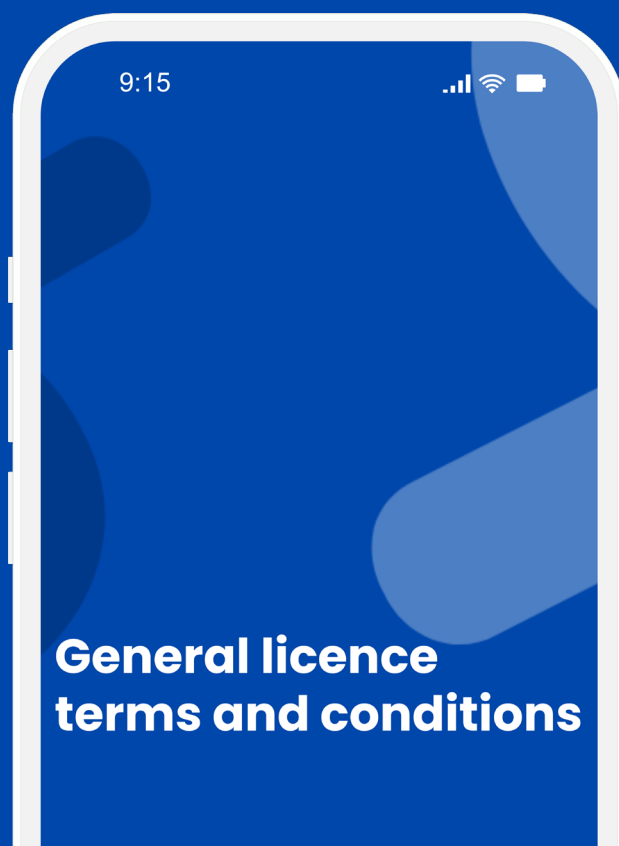


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Article 1 - Definitions

In these general licence terms, the following definitions shall apply:

1. Bundeling B.V.: licensor as defined in article 2 of these general (licence) conditions;
2. Licensee: the (public) legal entity with which Bundeling has concluded an Agreement;
3. User: persons/subordinate third parties associated with Licensee and enabled by Licensee to use the Application;
4. Agreement: any agreement between Bundeling and Licensee for granting the non-exclusive and non-transferable right to use the Application by Bundeling to Licensee;
5. Party(ies): Licensee and Bundeling together or each as an individual contracting party;
6. Written/In Writing: notification by e-mail only;
7. Third party/parties: other natural or legal persons who are not part of this Agreement;
8. Application: the software application licensed by Bundeling.

Article 2 - Identity of Bundeling B.V.

Company name:	Bundeling B.V.
Street name and number:	Protonenlaan 2a
Postal code and place of business:	5405 NE Uden
Chamber of Commerce number:	65041305

Article 3 - Description of the licence

1. The Licensee acquires the non-exclusive and non-transferable right to use the Application, allowing the Licensee and its User(s) to access the Application.
2. After concluding the Agreement, Bundeling will make the Application available to Licensee by providing electronic access to the Application.
3. The fee paid by Licensee to Bundeling expressly relates to the use of the Application and not to the transfer of any right. Licensee never becomes the legal owner of the Application.
4. These licence terms apply to both the Licensee and its User(s).

Article 4 – General provisions

1. These licence terms apply to every offer and all (legal) acts of Bundeling and to every Agreement concluded between Bundeling and Licensee.
2. If the Agreement is concluded electronically, notwithstanding the previous subsection and before the Agreement is concluded, the text of these licence conditions may be made available to the Licensee electronically in such a way that it can be easily stored by the Licensee on a sustainable data carrier. If this is not reasonably possible, before the Agreement is concluded, it will be indicated where the licence conditions can be consulted electronically and that they will be sent electronically or otherwise free of charge at the Licensee's request.
3. Unless expressly agreed in writing and otherwise, the applicability of other (general) terms and conditions is excluded.
4. Deviations from or additions to these licence terms shall only be valid if expressly agreed In Writing.
5. If Bundeling does not always require strict compliance with these licence terms, this does not mean that the provisions thereof do not apply, or that Bundeling would in any way lose the right to require strict compliance with the provisions of these licence terms in other cases.
6. If and insofar as any provision of these general licence terms and conditions cannot be invoked on the grounds of reasonableness and fairness or its unreasonably onerous nature, the provision in question shall in any event be given a meaning corresponding as far as possible to its content and purport, so that it can be invoked.
7. A breach of the Agreement by the User automatically leads to a breach by the Licensee. After all, the Licensee, in addition to himself, is also fully responsible and/or liable for the acts and/or omissions of his Users. Also in cases where the User acts in violation of any stipulation in these Licence Terms and/or the Agreement, for instance penalty clauses as referred to in these Licence Terms and/or the Agreement become claimable against the Licensee.

Article 5 – The offer

1. If an offer has a limited period of validity or is made subject to conditions, this shall be explicitly stated in the offer. In principle, the offer is valid for a period of 3 (three) months, unless otherwise agreed In Writing between the Parties.
2. The offer contains a complete and accurate description of the offered Application. The description is sufficiently detailed to enable a proper assessment of the offer by the Licensee. Bundeling is not bound by obvious mistakes or obvious errors regarding, for example, the amounts mentioned.

Article 6 – The Agreement

1. The Agreement comes into effect at the moment of acceptance by the Licensee of the offer and fulfilment of the conditions set out therein.
2. If any provision of these licence terms and conditions or of an Agreement turns out to be invalid or is nullified, this shall not affect the validity of the licence terms and conditions and/or the Agreement as a whole. The parties shall consult in order to agree on a new provision to replace the void or voided provision, taking into account as much as possible the purpose and meaning of the void or voided provision.
3. Bundeling reserves the right not to perform a concluded Agreement, for instance if it has reasonable doubt or information that Licensee will not (be able to) fulfil its (financial) obligations. If Bundeling refuses, it shall inform Licensee of the refusal in writing within a reasonable period after entering into the Agreement.
4. Bundeling reserves the right to deny Licensees and its Users access to the Application in case of misuse of the Application or access rights granted to him/her in any form.
5. The Licensee's right of suspension and right of set-off is excluded.
6. These licence terms also apply to future and/or additional Agreements. This may also include an extension of an already existing Agreement, for example by adding additional functionality to the Application. These licence terms apply in full to this 'new' section as well.
7. Agreed (delivery) dates are always indicative. The delivery periods are not strict deadlines. Exceeding a term therefore does not entitle Licensee to damages.

Article 7 – Dissolution and notice periods

1. If the Licensee does not fulfil one or more of his obligations, does not fulfil them on time or properly, is declared bankrupt, is granted a (provisional) moratorium, proceeds to liquidate his company, as well as if his assets are seized in full or in part or if the Licensee misuses the Application Bundeling shall be entitled to suspend the performance of the Agreement or to fully or partially terminate and/or dissolve the Agreement by operation of law and without prior notice of default by means of a Written statement, all this at its own discretion and always retaining any right to compensation for costs, damages and interest.
2. If the Agreement is terminated due to force majeure, Bundeling shall be entitled to payment for the investments already made at the time of the termination of the Agreement.
3. The Agreement is entered into for a definite period, namely for a period as stated on the offer. The Agreement for a definite period cannot be terminated prematurely.

4. If the Agreement ends for a definite period, it will be tacitly renewed for an indefinite period with a notice period of 3 (three) months.

Article 8 – Liability

1. Bundeling is not liable for indirect and direct damages. Bundeling's liability for damage resulting from intent or deliberate recklessness on the part of Bundeling is not excluded.
2. If Bundeling can nevertheless be held liable in a specific case, irrespective of what is stipulated in this article, this shall only apply with regard to direct damage and in those cases Bundeling's total liability shall be limited to compensation of damage up to a maximum of the amount of the fee stipulated for that Agreement (excluding VAT).
3. The amount of compensation will never exceed the amount paid out by Bundeling's liability insurance.
4. Direct damage means exclusively:
 - a. reasonable costs that Licensee would have to incur to have Bundeling's performance comply with the Agreement; however, such substitute damage shall not be compensated if the Agreement is dissolved by or at the request of Licensee;
 - b. reasonable costs incurred to determine the cause and extent of the damage, insofar as the determination relates to damage within the meaning of these general licence terms and conditions;
 - c. reasonable costs incurred to prevent or limit damage, insofar as Licensee demonstrates that these costs have led to the limitation of damage within the meaning of these general licence terms and conditions.
5. Licensee shall indemnify Bundeling for any claims of Third Parties who suffer damage in connection with the performance of the Agreement.
6. Licensee understands and accepts that all parties on the Application are independent and Bundeling therefore bears no responsibility for communications on or from the platform.
General liability provisions:
7. If the Agreement is a continuing performance agreement with a term of more than six months, the fee stipulated for that Agreement shall be set at the total of the fees (excluding VAT) for the past six months prior to the loss-causing event.
8. A condition for any right to compensation to arise is always that the Licensee reports the loss to Bundeling in writing as soon as possible after it arises. Any claim for compensation against Bundeling shall lapse by the mere expiry of 12 (twelve) months after the claim arose.

9. Bundeling shall not be liable for damage caused by auxiliary persons as referred to in Article 6:76 of the Civil Code.
10. Bundeling is not liable for damage, of whatever nature, due to Bundeling having relied on incorrect and/or incomplete information provided by Licensee or if Licensee has provided this information too late.

Article 9 – Force majeure

1. In addition to the provisions in article 6:75 of the Civil Code, a shortcoming by Bundeling in the fulfilment of any obligation towards Licensee cannot be attributed to Bundeling in case of a circumstance beyond Bundeling's control, as a result of which the fulfilment of its obligations towards Licensee is wholly or partly prevented or as a result of which the fulfilment of its obligations cannot reasonably be demanded from Bundeling. These circumstances also include non-performance by suppliers, such as for example the external hosting party or other third parties, power or internet failures, computer viruses, major cable breaks, hacks, other cyber attacks such as but not limited to trojan horses and hardware failures, fire (danger), (imminent) danger of war, pandemics, epidemics, quarantines, absenteeism, incapacity for work, strikes and government measures.
2. If a situation as referred to in paragraph 1 of this article occurs as a result of which Bundeling is unable to fulfil its obligations towards the Licensee, these obligations shall be suspended for as long as Bundeling is unable to fulfil its obligations. If the force majeure situation has lasted 30 (thirty) calendar days, both Parties shall be entitled to dissolve the Agreement in full or in part in writing. Upon dissolution of the Agreement, Bundeling shall be entitled to compensation for the costs incurred and investments made. In that case, Bundeling shall not be obliged to compensate any loss, not even if Bundeling were to gain any advantage as a result of the force majeure situation.

Article 10 – Warranty and obligations

1. Bundeling warrants that it is competent to enter into this Agreement.
2. The Parties will inform each other immediately if they discover infringements of the Application or if a Third Party claims rights to the Application or states that the Application infringes its rights.
3. Bundeling is not in a position to directly check the input of Licensee and/or User in the Application and is therefore explicitly not liable for incomplete or incorrect data obtained by Licensee from (incorrect) input.
4. The Licensee and/or User itself is obliged to maintain a good and stable internet connection and environment to be able to use the Application. If this is not done, the consequences are at the expense and risk of the Licensee and/or User.
5. The Licensee is not authorised to assign its rights or obligations under this Licence Agreement to Third Parties.
6. The Licensee and/or User is responsible for supplying required information, data or otherwise. Late submission thereof shall be at the risk and responsibility of the Licensee. Bundeling is at all times entitled to charge the amounts due by Licensee to Bundeling from the date on which the Agreement was agreed.
7. Nor is the Licensee and/or User permitted to change or remove any indications in the Application regarding the authorship or confidential nature of the Application, or any other reference to Bundeling.
8. Unless otherwise agreed In Writing, the Licensee may only use the Application in and for the benefit of its own business or organisation.
9. Bundeling shall make every effort to deliver the Agreement and the Application licensed by Bundeling to the best of its ability. The Application will thus be delivered on the basis of an obligation to perform to the best of one's ability, unless and insofar as Bundeling has expressly undertaken In Writing to deliver a result and that result has been described with sufficient certainty between the Parties.
10. Bundeling shall make every effort to keep the availability of the Application as high as possible. Bundeling shall therefore, in the contracts concluded by it with Third Parties (including the hosting provider) engaged by Bundeling for the actual provision of the availability of the Application, make agreements on the availability of the services of these Third Parties.

Article 11 – Fees/Prices

1. All amounts are in euros and exclusive of sales tax and other government-imposed charges, unless otherwise agreed.
2. Bundeling reserves the right to apply an annual inflation adjustment in accordance with the CPI (Consumer Price Index).
3. The agreed amounts are based on cost-determining factors at the time of the offer. Bundeling reserves the right to pass on to Licensee any changes in cost-determining factors that occur three months after the conclusion of the Agreement and on which Bundeling cannot reasonably exert any influence, such as an increase in excise duty, social security charges, insurance payments or turnover tax, up to a maximum of 20% of the original amount.
4. Bundeling is also entitled to increase the amounts, as mentioned in the offer, above the maximum of 20% as mentioned in the previous paragraph. In that case, Licensee shall be entitled to immediate termination at the time the price change takes effect. Bundeling will always inform Licensee of such a price change 1 (one) month before it takes effect.
5. A compound quotation does not oblige Bundeling to perform part of the Agreement at a corresponding part of the quoted amount.
6. Discounts and quoted amounts do not automatically apply to future Agreements.

Article 12 – Payment and invoicing

1. Licensee shall pay the invoice sent by Bundeling to Licensee within 14 (fourteen) days.
2. A change in demand by Licensee and/or incomplete delivery of data and circumstances relevant to the performance of this Agreement may result in a change in the specified duration or total agreed cost of this Agreement.
3. In addition to the payment for the licence(s), Licensee also pays for a one-off set-up fee it and for any implementation of the Application. The manner in which these amounts are arrived at is specified in the offer attached to the Agreement.
4. Bundeling shall always first inform the Licensee of the expiry of a payment term, after which the Licensee shall be granted a period of 14 (fourteen) days to still fulfil his payment obligations free of charge. This additional period of 14 (fourteen) days is a strict deadline. This means that if the Licensee has not paid the agreed amount at the latest on the last day before the expiry of the payment term, he shall be in default by operation of law, without Bundeling having to send a second reminder and/or notice of default to the Licensee.

5. If the Licensee fails to pay even after expiry of this period of fourteen days, he shall also owe Bundeling the extrajudicial collection costs (if any) and any compensation.
6. Bundeling reserves the right to exclude Licensee and thereby the Users from the Application if Licensee is in default.

Article 13 – Complaints

1. The Licensee shall examine the Application delivered by Bundeling under this Agreement for any shortcomings as soon as possible upon delivery. If the Licensee has not reported a complaint to Bundeling within 2 (two) weeks after delivery or commissioning of the Application, the Application shall be deemed to comply with these licence terms and to function in accordance with the Agreement.
2. The Licensee must demonstrate that the complaint relates to (part of) the Agreement.
3. Complaints from Users must always be communicated to Bundeling In Writing via the Licensee, by sending a message to support@bundeling.com. Moreover, Bundeling must be given sufficient opportunity to respond substantively to the complaint.
4. Complaints do not suspend the Licensee's payment obligation if the Licensee is acting in the exercise of a profession or business.

Article 14 – Transfer

1. Rights and obligations of Licensee under this Agreement cannot be assigned without the prior Written consent of Bundeling. This provision is a property law provision as referred to in article 3:83 paragraph 2 of the Civil Code.

Article 15 – Intellectual property

1. The Licensee and the Users shall never be entitled to any intellectual property rights (including copyright, patent rights, trademark rights, drawings and models rights, etc.) in respect of all designs, drawings, writings, carriers containing data or other information, quotations, images, sketches, models, etc. relating to the Application.
2. Licensee only acquires the non-exclusive and non-transferable rights of use expressly granted by these general licence terms and conditions and the law. Any other or further rights of Licensee are expressly excluded.
3. Without the prior written consent of Bundeling, the Licensee and the Users are not allowed to copy the intellectual property rights referred to in paragraph 1 (or have them copied), to show and/or make them available to Third Parties (other than the permitted Users), or to use or change them in any other way.
4. Furthermore, the Licensee and/or User is expressly prohibited from using the knowledge and know-how, acquired by the Licensee through the use of the Application, to develop similar Application equal to the Application licensed by Bundeling to the Licensee.
5. Nor is the Licensee and/or User permitted to change or remove any indications in the Application regarding the authorship or confidential nature of the Application, or any other reference to Bundeling.
6. Unless otherwise agreed, the Licensee and/or its User(s) is not authorised to grant sub-licences to Third Parties.
7. The Licensee shall indemnify Bundeling against the claims of Third Parties regarding intellectual property rights
8. Bundeling is entitled to use Licensee's trade name and logo/picture mark as a reference in commercial expressions, unless Licensee objects. Also, by concluding the Agreement, the Licensee agrees to the publication of the Licensee's logo/image mark and/or trade name in the Google Playstore and/or App Store.

Article 16 – Management and maintenance of the Application

1. Bundeling is at all times unilaterally entitled to make changes to the (non-)technical facilities and/or functionalities of the Application.
2. Licensee and Users shall act and behave in accordance with what may be expected of a responsible and careful user of the Application.
3. The Licensee is at all times responsible for any use - including unauthorised use - made of the rights of use and access to the Application granted to it. The Licensee shall take appropriate and reasonable measures to prevent unauthorised use. The Licensee is not permitted to share rights of use and/or access with Third Parties other than its Users. In this context, however, the Licensee is responsible and/or liable for violations of this provision by its Users. In such cases, Bundeling may turn to Licensee to recover the damage and/or claim for breach of contract.
4. Licensee shall at all times follow the directions and instructions given by Bundeling for the use of the Application.
5. Bundeling will provide updates to the Application on an ongoing basis.
6. If the Licensee does not wish to implement the update to the Application proposed by Bundeling, Bundeling shall be entitled but not obliged to terminate this Agreement. If the Licensee does not wish to implement the update, Bundeling cannot guarantee that the Application will work properly. The (possible) consequences of this are therefore at the expense and risk of the Licensee.

Article 17 – Confidentiality

1. Licensee is obliged to keep confidential all information provided by Bundeling to Licensee in the context of the concluded Agreement, which is indicated to be confidential, or which Licensee could or should reasonably know to be confidential and/or if this results from the nature of the information.
2. Licensee shall treat all confidential information from Bundeling as strictly confidential, unless Licensee is obliged to disclose this information under a legal or judicial provision. If such a situation arises, Licensee shall always inform Bundeling first.
3. Licensee shall only share the confidential information with persons and/or employees who need to know the confidential information in the context of using the Application.
4. Confidentiality expressly does not include publicly available information as listed on the Bundeling website. The Licensee is therefore not prohibited from making Third Parties aware of the existence of Bundeling's Application.

Article 18 – Penalty clause

1. If the Licensee breaches a provision as referred to in article 15 or 17, the Licensee may be liable to forfeit to Bundeling an immediately payable penalty of EUR 25.000 (in words: twenty-five thousand euros) per breach and per day that the breach continues with a maximum of EUR 250.000 (in words: two hundred and fifty thousand euros). Bundeling reserves the right to claim full or partial damages from Licensee in addition to the immediately payable penalty.

Article 19 – Exclusivity

1. Licensee grants Bundeling the exclusive right to perform the assigned Agreement for the duration of the Agreement

Article 20 – Applicable law

1. Agreements between Bundeling and Licensee shall be governed exclusively by Dutch law.
2. Disputes between Parties shall be resolved in good consultation as much as possible. All disputes between Licensee and Bundeling shall be settled exclusively by the competent court in the district where Bundeling is located.
3. Besides the Dutch language, Agreements with the application of these general licence terms and conditions are also concluded in other languages. The Dutch language shall be leading with respect to these general licence terms and conditions and the Agreement and shall therefore prevail over the other languages in the event of a dispute regarding the meaning and/or content of these general licence terms and conditions and/or the Agreement.

Article 21 – Survival

1. The provisions of these general licence terms and conditions and the Agreement intended to remain valid after termination of the Agreement shall remain in full force and effect after termination of the Agreement.

Article 22 – Amendment or supplementation

1. Bundeling is entitled to unilaterally amend or supplement these general licence terms and conditions. In that case, Bundeling shall inform the Licensee of the amendments or additions in good time.
2. A minimum of 30 (thirty) days will elapse between such notification and the entry into force of the amended or supplemented terms and conditions.

CHAPTER II – DATA PROCESSING CONDITIONS

Whereas:

- In this section, Bundeling will be referred to as a processor and the Licensee as the controller.

Article 23 – Personal data processing

1. If Bundeling is considered a processor as referred to in Article 4 paragraph 8 of the General Data Protection Regulation (GDPR), Articles 23 to 28 of these general (licence) conditions qualify as agreements to be made in accordance with Article 28 paragraph 3 of the General Data Protection Regulation (GDPR).
2. Bundeling shall process personal data on behalf of and only on the instructions of the Licensee, subject to deviating legal obligations. Bundeling shall process, inter alia, the personal data of the Licensee's Users, such as: name, address, place of residence, telephone number, e-mail address, gender, age, social media addresses, job title, profession and other (profile) data to be entered by Users themselves.
3. Bundeling processes personal data of User(s) in performance of the Agreement concluded with Licensee.
4. Such data shall never be the property of Bundeling. Data provided by the Licensee for the above purpose shall remain the property of the Licensee.
5. Bundeling will not process Personal Data for longer than for the duration of the Agreement, unless Licensee has expressly instructed In Writing to do so. Personal Data will be kept in a back-up for 14 (fourteen) days after termination of the Agreement.
6. Bundeling has no control over the purposes and means of processing personal data and does not take independent decisions on the use of personal data, the disclosure to Third Parties and the duration of storage of personal data.

7. If, in the opinion of Licensee, certain personal data should or need not be kept any longer, Bundeling shall, upon Licensee's Written request, promptly destroy the relevant personal data specified by Licensee and declare to Licensee In Writing that it has done so.

Article 24 – Execution processing

1. Bundeling shall only be responsible for the processing of personal data processed in the context of the Services offered under the conditions set forth in these general licence terms and conditions. Bundeling shall expressly not be responsible for any other processing of personal data, including the collection of personal data by Licensee and/or Third Parties, unless such Third Party has been appointed by Bundeling.
2. Bundeling will not, unless it has received express prior Written consent from Licensee and legal requirements are met, process personal data in countries outside the European Economic Area ("EEA"). Transfer of personal data to countries outside the EEA that do not have an adequate level of protection is prohibited. Bundeling shall promptly notify Licensee In Writing of any planned permanent or temporary transfers of Personal Data to a country outside the EEA and shall only give effect to the transfer(s) following Licensee's Written consent.
3. Bundeling will keep personal data concerning Licensee separate from personal data it processes for itself or on behalf of Third Parties.
4. Bundeling will process personal data in a proper and careful manner and in accordance with Bundeling's obligations under privacy legislation, including European Regulations and the GDPR.

Article 25 – Security

1. Bundeling will take all appropriate technical and organisational measures in accordance with Article 32 GDPR to secure personal data against loss or any form of unlawful processing. These measures, given the costs involved and the state of the art, will correspond to the nature of the personal data to be processed.
2. Bundeling shall make every effort to prevent, detect and take action against security breaches relating to personal data as far as possible.

Article 26 – Duty to report

1. In the event of a security breach and/or a data leak as referred to in the Data Breach Notification Act, Bundeling will inform Licensee reasonably as soon as possible.
2. In any case, the duty to report includes the reporting of the fact that a leak or incident has occurred, as the (alleged) cause of the leak or incident, the as yet known and/or expected consequence and the (proposed) solution.
3. Licensee shall, if in its judgment necessary, inform Data Subjects and other Third Parties including the Personal Data Authority of a data breach or other incidents.
4. Bundeling is not allowed to provide information about a data breach or other incidents directly to data subjects or other Third Parties, except insofar as Bundeling is legally obliged to do so or has obtained permission from the Licensee.

Article 27 – Rights of data subjects

1. Bundeling grants cooperation to Licensee to, upon the written approval of, and at the instruction of Licensee:
 - a. Provide data subjects with access to personal data concerning them;
 - b. Delete or correct personal data of data subjects;
 - c. Demonstrate that personal data have been deleted or corrected, if they are incorrect (or there is discussion about the correctness of personal data).
2. Bundeling shall cooperate as far as reasonably possible with Licensee in complying with its obligations under the GDPR and other applicable legislation regarding the processing of personal data. The responsibility for compliance with these obligations rests fully and exclusively with Licensee. The costs associated with this cooperation are not included in the agreed prices and fees of Bundeling and shall be borne entirely by Licensee.

Article 28 – Engaging Third Parties by Processor in performance of Contract

- 1.** By entering into the Agreement with Bundeling, the Licensee gives general consent that Bundeling may engage a Third Party in the performance of the Agreement, this Third Party processes personal data on Bundeling's instructions and this Third Party should therefore be regarded as a sub-processor.
- 2.** Bundeling shall provide Licensee with an annex listing the sub-processors. If a change or addition takes place regarding the sub-processor(s), the Licensee has the right to object to this. The Licensee shall object to the change or addition of sub-processor(s) In Writing no later than within 2 (two) weeks after the announcement thereof. If no objection is made within 2 (two) weeks, it is assumed that the Licensee agrees with the change and/or addition of the sub-processor(s).
- 3.** Bundeling will enter into an agreement with its sub-processor in which the sub-processor will be bound by at least the same obligations that Bundeling has towards the Licensee in accordance with these Licence Terms. Special personal data will not be shared with sub-processors.
- 4.** Bundeling is in all respects responsible and liable for the acts and omissions of Third Parties it engages in the context of this Agreement, and shall indemnify Controller for all damages and costs caused by these Third Parties.

Article 29 – Inspection

- 1.** Bundeling shall allow Licensee to inspect Bundeling's compliance with the security measures once a year or, at Licensee's request, to have Bundeling's processing facilities inspected by a designated investigative body.
- 2.** Licensee shall pay all costs, fees and expenses related to the inspection, including reasonable internal costs incurred by Bundeling.
- 3.** Licensee shall provide Bundeling with a copy of the inspection report.
- 4.** If the report results in recommendations for Bundeling, Bundeling shall implement these recommendations insofar as Bundeling can reasonably be expected to do so. If these changes result from changed insights or legislation, the costs involved will be at the expense and risk of Controller.