

The Leaseweb B2B Sales Contract Schedules, consisting of these General Conditions shall apply to all Quotes, Orders, the Services, the Services Specification, the Support and Service Level Schedule, the Leaseweb Policies,) and any other agreements and/or legal relationships between Leaseweb and Customer resulting therefrom or in connection therewith. Leaseweb expressly rejects the applicability of Customer's or third party general conditions. Any amendments to the General Conditions are only legally binding between parties, if both Parties have expressly agreed to such amendments in writing.

1. DEFINITIONS

In these General Conditions, the Services Specification, the Support and Service Level Schedule, the Order(s) and the Leaseweb Policies, the following words and expressions have the following meanings:

Affiliate means, with regard to any entity, any other entity that (directly or indirectly) Controls, is Controlled by, or is under common Control with such entity.

Agreement means the Order, including the General Conditions, Leaseweb Policies, the Services Specification, the Support and Service Level Schedule and all other schedules thereto, pursuant to which Leaseweb shall provide certain Services to Customer, which Services are indicated on the Order Form(s) or the Order Confirmation.

API means the application programming interface (or similar technology), through which Customer can access or communicate with Leaseweb and/or Leaseweb's servers and through which Customer may place API Orders.

API Order means the Order that comes into existence upon Leaseweb's acceptance of a purchase request that has been submitted by Customer to Leaseweb through the API. The Order Confirmation for the API Order shall set forth the Services Customer purchased or leased from Leaseweb and the relevant details.

Bandwidth means the amount of data that is be carried from one point to another in a second, expressed in bits per second (bps).

Business Day means Mondays to Fridays, with the exception of official public holidays in The Netherlands.

Business Hours means the period between 08.30 hours and 17.30 hours on a Business Day.

Change Order Form means the document, in standard Leaseweb layout, used by Leaseweb to respond to a change request, as referred to in Clause 5.

Confidential Information means all information not publicly known used in or otherwise relating to the Agreement, the business or affairs of a Party or an Affiliate of such Party and disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by the Disclosing Party to the Receiving Party whether before or after the Order Start Date.

Control means the possession of power, directly or indirectly, to direct or cause the direction of the management and policies of an entity, whether through ownership of voting rights, by contract or otherwise.

Customer means any business entity or a business internet professional (i.e. not as a consumer or private user) providing for its Customer's Account its business registration number and/or VAT number to the extent required by applicable law entering into an Order, Quotation, trial, beta test, with Leaseweb with respect to the provision of Services by Leaseweb.

Customer Account means registration for the use of the Leaseweb Customer Portal by separate and independent access to Leaseweb (by using switching functionality) in the Customer Portal.

Customer Portal means the online services available at <https://secure.Leaseweb.nl/auth/customer/login> for the sole purpose of executing the Sales Contract entered into by and between the Customer and Leaseweb, and therefore solely binding by and between the Customer and Leaseweb Sales Company upon the consent and acceptance granted by the Customer for such limited and restricted use under the Sales Contract.

The Customer Portal and the Leaseweb website are subject to the Terms of Use. Please be referred to Clause 16.6.

Data Center means a data center out of which or within which Leaseweb provides Services.

Data Traffic means the sum of data that is transmitted to and from Customer's infrastructure, measured in Bytes.

Delivery Date means the date on which Leaseweb enables Customer to use the Services for the first time. The requested Delivery Date shall be specified in the Order Form or Order Confirmation. The actual Delivery Date will be confirmed by Leaseweb.

Disclosing Party means the Party that discloses Confidential Information to the Receiving Party, as referred to in Clause 24.

Dispute means any claim, controversy, or dispute concerning questions of fact or law arising out of or relating to these General Conditions or the Agreement or the performance of either Party hereunder, or to the threatened, alleged or actual breach thereof of either Party

Emergency means any situation that poses an immediate risk to: (i) a person or persons; (ii) the Data Center; (iii) the provision of one or more of the Services; (iv) the Equipment; and/or (v) the provision of services by Leaseweb to other customers.

End User means any client of Customer or other user of Customer's services, as well as any other person or (legal) entity who obtains access to Services via Customer.

Equipment means any equipment, including but not limited to: computer hardware, telecommunications hardware, Interconnection Points, accessories, attachments, Hard Disks, SSD's, alterations of and spare parts for that equipment.

Facility Agreement means any lease, license and/or other agreement executed by and between Leaseweb and a third party, further to which Leaseweb is entitled to use a Data Center and to grant Customer a license to use the Housing Space within the Data Center.

Force Majeure means any event outside the reasonable control of a Party affecting its ability to perform any of its obligations (other than the Customer's payment and financial obligations during the applicable Term) under the Agreement, including: acts of God; acts of terrorists; acts of war; outbreak of hostilities; sabotage; civil disorder; riots; acts or demands of any (local) government or government agency; strikes or other labour unrest; fires; floods; earthquakes; storms; lightning, any interruption in the supply of electrical energy to the Data Center; restrictions related to an outbreak of disease (such as formally by local government and/or medical authorities established viruses; pandemics); epidemics; shortage of materials; unavailability or delay in delivery not resulting from the responsible Party's failure to timely place orders therefore; equipment failures; lack of or delay in transportation; failure of a third party to grant a required right-of-way permit, assessment or other required authorization; acts or omissions of vendors or suppliers; changes in law or government policy; and other unforeseeable circumstances, provided however that the Customer i) has no right to refer to Force Majeure for any event that the Customer could have reasonably known or been aware of prior to requesting Leaseweb for an order or quotation and/or entering in to an Agreement, any labour problems or strikes relating to the workforce of Customer or its suppliers or subcontractors, whereby such events shall not be included or referred to as Force Majeure.

GDPR means Regulation 2016/679/EU of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

General Conditions means these terms and conditions, including the preamble preceding clause 1.

HICP means the Harmonised Index of Consumer Prices for member states of the European Union who have adopted the Euro.

Initial Term means the Term for which the Order is initially entered into, as specified in the Order Form/Order Confirmation.

Intellectual Property Rights means any patent, copyright, trademark, trade name, service mark, moral right, database right, trade secret, knowhow and any and all other intellectual property right whether

registered or not or capable of registration and whether subsisting in the country of Leaseweb's principal place of business or any other part of the world together with any and all goodwill relating thereto.

Interconnection Point means a port on Leaseweb's switch and/or router and/or firewall and/or load balancer located in the Data Center, at which point the responsibility of the data stream transport is transferred from Leaseweb to Customer.

Leaseweb in relation to Service(s) and/or the Network provided to Customer it means LeaseWeb CDN B.V., a private company with limited liability, incorporated under the laws of the Netherlands, with its registered seat at Hessenbergweg 95, 1101 CX, Amsterdam, the Netherlands; a separate and independent IAAS hosting service provider also referred to as "Leaseweb Sales CyEntity and/or (Leaseweb) Sales Organization", executing its Sales Contract separately and independent from any other Leaseweb Sales Entity. **Leaseweb Policies** means the policies and guidelines applied by Leaseweb in its relationship with Customer.

Maintenance means maintenance, repairs, modifications or upgrades performed by Leaseweb from time to time on the Network.

Maintenance Window means the timeframe in which Leaseweb schedules the performance of Maintenance. Leaseweb endeavors to have the Maintenance Window before the start of the Business Day.

Network means the shared infrastructure facilities to enable the flow and exchange of information between components of Leaseweb hosting services and with the internet, as far as these are controlled by Leaseweb. Typically, the Network is comprised of Equipment (e.g. switches, routers, servers) and associated circuits (e.g. wiring and network services). For the avoidance of doubt: the Network does not include 1) Dedicated network Equipment owned, leased, or controlled by Customer, 2) telecommunications circuits or networks (including, without limitation, local access loops) between a Data Center or POP and a Customer location or between Customer locations, or 3) any networks, network equipment, or telecommunications circuits not owned or controlled by Leaseweb (e.g. controlled by external network providers like Tier 1 internet backbones).

Notice means a message of one Party to the other Party in writing by registered postmail, email sent and received by a legally authorized representative of each of the Parties, or by courier or by regular postmail thereby taking into account that the Notice is deemed to have been delivered no earlier than five Business Days.

Order means the agreement that comes into existence in the manner specified in Clauses 4.3 and 4.4.

Order Confirmation means a communication from Leaseweb to Customer, made via email, through the Customer Portal or otherwise, to notify Customer that Customer's Web Order or API Order has been accepted by Leaseweb. The Order Confirmation shall set out the Services Customer purchased or leased from Leaseweb and the relevant details.

Order Form means the document, in standard Leaseweb layout, in which Leaseweb has itemized which Services will be sold or given into use or lease by Leaseweb to Customer, including the prices, the requested Delivery Date, etc.

Order Start Date means (i) the date on which the Agreement becomes effective and the Term commences, the date on which an Order becomes effective and the Term commences, as specified in Order Form or Order Confirmation. Order Start Date may also be referred to as Contract Start Date.

Parties means Leaseweb and Customer, each a "Party".

Personal Data means all information pertaining to an identified or identifiable natural person within the meaning of Article 4 paragraph 1 GDPR.

POP means a 'point of presence', i.e. an access point to the Internet.

Quote means any offer, quote, proposal and/or tender-bid made by Leaseweb. All Quotes are free of commitment and subject to contract, even when a period for acceptance is mentioned in the Quote. In case no period for acceptance is mentioned, Quotes cease to apply after thirty (30) days from the date of the relevant Quote.

Quote Sheet means the document, in standard LeaseWeb lay out, in which LeaseWeb specifies a Quote.

Receiving Party means the Party that receives – or is granted access to – Confidential Information by the Disclosing Party, as referred to in Clause 24.

Service Charges means the charges, fees, costs prices and expenses payable under the Agreement by Customer to Leaseweb for the provision of Services and the same arising out of Customer's use of the Services, including recurring and non-recurring charges, set out in the Services Specification and the Order.

Service Credits means a credit, calculated in accordance with the Support and Service Level Schedule, applied to Customer's account, and to be used as credit against future invoices.

Service Disruption an interruption or degradation in the provision of one or more Services by Leaseweb to Customer; provided that such interruption or degradation is not the result of an Excluded Event (as defined in the Support and Service Level Schedule).

Service Levels means the performance metrics with respect to the Services, as set forth in the Order and the Support and Service Level Schedule.

Service(s) means the services to be provided by Leaseweb to Customer, as agreed and specified in an Order Form/Order Confirmation.

Services Specification means the document in which Leaseweb has set out and specified the services offered by Leaseweb, as well as the manner in which the services should be used, which document may be amended from time to time.

Support and Service Level Schedule means the document in which Leaseweb has specified the available Service Levels, which document may be amended from time to time.

Term means the period for which the Agreement and/or an Order has been entered into, starting on the Order Start Date.

Test means a trial or test performed on the Network in order to verify and ensure the proper performance thereof.

Web Order means the Order that comes into existence upon Leaseweb's acceptance of a purchase request by completing the online purchase process on Leaseweb's website or the Customer Portal. The Order Confirmation for the Web Order shall set out the Services Customer purchased or leased from Leaseweb and the relevant details.

Trial (Period) means any free of charge (No Fees, 100% Discount) use of the Service for the duration of a specified Term in the Quote, fully subject to all Leaseweb B2B Sales Contract Schedules.

Website means the Leaseweb website www.leaseweb.com, subject to the Website Terms of Use. Any Leaseweb B2B Sales Contract Schedules can be found under the header of Legal & Compliance – Sales Contract at <https://www.leaseweb.com/legal/sales-contract>.

2. DOCUMENT STRUCTURE

- 2.1 In general, the Agreement will consist of the following documents, whereby in the event of any inconsistency or conflict between or among provisions of the following documents, the contents of the document first listed shall have precedence and shall prevail over the documents listed later, in descending order:
 - a) The Change Order Form (only in relation to the relevant Order Form);
 - b) The Order Form/the Order Confirmation;
 - c) Data Processor Agreement (if concluded);
 - d) The Services Specification;
 - e) The Support and Service Level Schedule;
 - f) The General Conditions; and
 - g) The Leaseweb Policies.
- 2.2 The applicability of purchase terms or other terms and conditions of Customer or third parties is hereby expressly excluded.
- 2.3 Leaseweb is entitled to amend the General Conditions, the Services Specification, the Support and Service Level Schedule and the Leaseweb Policies. Such amendment also applies to existing Orders for Services, unless Leaseweb states otherwise. The amendments come into effect fifteen (15) days after the announcement or on a later date stated in the announcement. The announcement may be made through the Customer Portal

and/or the API. If Customer does not wish to accept an amendment that relates to an existing Order, it can terminate the Agreement in relation to that existing Order with effect from the date on which the amendment comes into force. The written cancellation must have been received by Leaseweb within fourteen (14) days after Leaseweb's announcement of the amendments. No such termination rights shall exist if: (a) the amendment is solely for the benefit of the Customer; (b) Customer is offered the option to refuse the amendment; (c) the amendments are required by law; or (d) the amendment does not adversely affect Customer's use of the Services.

3. SCOPE OF SERVICES

- 3.1 The scope and nature of the Services offered by Leaseweb are set out in the Services Specification. The scope and nature of the available Service Levels are set out in the Support and Service Level Schedule.
- 3.2 The Services, as well as the Service Levels are itemized in the Order Form/Order Confirmation.
- 3.3 Leaseweb may discontinue sales, support or offerings of Services at any time. Leaseweb will use commercially reasonable efforts to provide advance notice.
- 3.4 Customer is aware that Leaseweb will no longer provide security updates or technical support for the discontinued Services. Customer is aware that continuing to operate discontinued Services do so at their own risk.
- 3.5 Leaseweb may contact the Customer to provide alternative similar Equipment and/or Services as ordered for substitution in the Quotations and/or has the right at Leaseweb's reasonable discretion to substitute and deliver such alternative similar Equipment and Services as part of the Sales Contract.

4. QUOTES AND ORDER PROCEDURE

- 4.1 In the event that a Customer or prospect wishes to use Services from Leaseweb, Customer shall place a purchase request with Leaseweb to that effect.
- 4.2 Any purchase request shall be submitted (i) in writing by email in order to request Leaseweb provide a Quote; or (ii) by completing the online purchase process on Leaseweb's website (www.leaseweb.com); (iii) by means of or through the Customer Portal; or (iv) through the API.
- 4.3 Leaseweb shall review a purchase request within a reasonable time after receipt thereof. If Leaseweb is willing to provide the requested Service(s), Leaseweb shall confirm such to Customer or prospect in writing, by sending (i) a Quote Sheet to Customer or (ii) (in case of a Web Order or API Order) by sending an Order Confirmation.
- 4.4 If Customer or prospect approves the Quote, (an authorized representative of) Customer or prospect shall confirm such to Leaseweb in writing by sending a signed Quote Sheet. A Quote Sheet shall be deemed an Order Form upon written acceptance of such Quote Sheet by Customer.
- 4.5 Leaseweb reserves the right to terminate the Order by giving written notice to Customer, taking into account a seven (7) day notice period if a Customer does not pass the internal verification process. In that event, Leaseweb will return any payment made by Customer for the relevant ordered Services.
- 4.6 If a Service is mistakenly listed at an incorrect price on Leaseweb's website and/or the Portal and/or the API, Leaseweb reserves the right to refuse the Web/API Order, or in case Leaseweb has accepted the Web/API Order by sending an Order Confirmation, Leaseweb shall be entitled to terminate the Web/API Order by giving written notice to Customer, taking into account a seven (7) day notice period.
- 4.7 The Customer Portal shall contain activation options for some Services, including Services that are offered on a pay-as-you-go basis, i.e. Services that are charged to Customer based on Customer's actual usage of the Service, measured per day/minute/hour or other appropriate unitized measure. After the activation by Customer, Customer may use such Services

without entering into any subsequent Web Order, Order Form or API Order. Customer may deactivate the Service at any time in the Portal, unless the Portal has indicated that the Service has an Initial Term, in which case clause 20 shall apply.

5. CHANGE ORDER PROCEDURE

- 5.1 During the Term of an Order, Customer may submit a change request. Customer should submit its change request in writing or by email to Leaseweb for the attention of the Sales Department. Every change request is subject to acceptance and approval by Leaseweb, which may be granted or withheld at Leaseweb's sole discretion.
- 5.2 Any acceptance and approval of a change request shall only be valid if confirmed in writing by an authorized representative of Leaseweb. Generally, any such confirmation will be made by means of a Change Order Form.
- 5.3 Leaseweb shall be entitled to set conditions to its acceptance and approval of the change request, e.g. adjustment of the Service Charges, payment by Customer of a charge for administrative activities and/or payment by Customer of any other non-recurring charges in relation to effecting the change. Such conditions, adjustment and charges will be specified in the Change Order Form.

6. DELIVERY OF SERVICES

- 6.1 Leaseweb shall use commercially reasonable efforts to ensure that:
the Services will be ready for Customer's use on the requested Delivery Date. In view of the foregoing, Customer acknowledges that the Delivery Date is a target date.
- 6.2 may – at its sole discretion – unilaterally delay the Delivery Date, by giving written notice to Customer, taking into account a notice period of at least five (5) days, provided that Customer shall be entitled to a credit equal to ten percent (10%) of the non-recurring charges, referred to in Clause 10.4a), with respect to the affected Service if Leaseweb unilaterally delays the Delivery Date by more than thirty (30) days after the initial Delivery Date. Leaseweb's notice of delay shall state a new Delivery Date.
- 6.3 In case Customer has a complaint with respect to:
the Service, Customer shall provide written notice to Leaseweb, including in reasonable detail the grounds for its complaint, within two (2) days from the Delivery Date in the absence whereof Services shall be deemed to be approved of by Customer;
- 6.4 In the event that Customer has provided its written complaint in accordance with Clause 6.3, and such complaint is found to be justified, Leaseweb shall take such action as necessary, and as expeditiously as reasonably practicable, to correct or cure such defect or failure. Leaseweb will subsequently notify Customer hereof once the Service is functioning properly and the complaint periods specified in Clause 6.3 shall (re)commence on the date of such notice.

7. USE OF SERVICES

- 7.1 Customer using the Services or software, maintaining due care in respect of keys and access thereto, all within scope of the relevant Agreement, applicable laws and the Leaseweb Policies. Customer's use of any information obtained via the Network is at Customer's own risk. Leaseweb expressly disclaims any responsibility for the accuracy or quality of information obtained through its Services.
- 7.2 Leaseweb is not responsible or liable for and makes no representation or warranty, express or implied, with respect to the accuracy, quality or completeness of the (content of) information and communications, in whatever form transmitted over the Network.
- 7.3 Customer acknowledges that, by offering or providing the Services, Leaseweb does not publish or otherwise provide Customer's content to any End Users. Customer agrees that

Customer shall, at all times, be solely responsible for all text, graphics, sound, video, data and any aspect of Customer's content.

8. PERSONAL DATA / DATA PROTECTION

- 8.1 In the performance of Leaseweb's obligations under the Agreement, Leaseweb and its Affiliates shall Process Personal Data for or on behalf of the Customer. Leaseweb does not control and never acts as Data Controller of any (personal) data and content of Customer transmitted over the Network. Parties acknowledge and agree that with regard to the Processing of Personal Data on the Customer's behalf, the Customer is the Data Controller, and Leaseweb is the Data Processor. In order to comply with the relevant data protection legislation, in particular the GDPR, with respect to the Processing of Personal Data by Leaseweb, Parties agree upon the conditions as set forth in this Clause 8.
- 8.2 Leaseweb shall only Process Personal Data if and to the extent such Processing is required in the performance of the Agreement by Leaseweb, and only in accordance with the instructions of the Customer and under conditions as set out by the Customer. The exception thereto is if Leaseweb is under a legal obligation to Process the Personal Data. Leaseweb shall inform the Customer of such legal obligation unless it is prohibited by law or reasons of important public interest from doing so.
- 8.3 Leaseweb ensures that the persons authorized by Leaseweb and/or its Affiliates to Process the Personal Data shall have access to the Personal Data as is required and necessary for the performance of Leaseweb's obligations under the Agreement and upon Leaseweb's legitimate interests.
- 8.4 Leaseweb shall arrange for all appropriate technical and organizational measures, to the extent such measures may be reasonably expected of Leaseweb, to protect the Personal Data from loss, loss of integrity or from any form of unlawful Processing, and shall ensure that these measures to the extent such measures may be reasonably expected of Leaseweb meet all requirements under the applicable data protection legislation. An overview of the technical and organizational measures taken by LeaseWeb is included in the [Privacy Statement](#).
- 8.5 In case Leaseweb engages sub-contractors in the performance of the Agreement, Leaseweb shall impose similar data protection obligations as set forth in this Clause 8 on those sub-contractors.
- 8.6 Leaseweb shall provide all reasonable assistance to the Customer in order for the Customer to fulfill its obligations to respond to requests by data subjects (such within the meaning of the GDPR) exercising their rights under the applicable data protection legislation.
- 8.7 Leaseweb shall provide all reasonable assistance to the Customer in order for the Customer to comply with its obligations, taking into account the nature of the Processing and the information available to Leaseweb.
- 8.8 In the circumstances where Leaseweb discovers a data breach that may adversely affect the protection of Personal Data Processed by Leaseweb on behalf of the Customer, Leaseweb will notify the Customer, to the extent permitted by law, as soon as reasonably possible. Leaseweb will cooperate with the Customer on the investigation of the personal data breach. Where there is a legal requirement to report a data breach, it will be the Customer's responsibility to notify the relevant authority and/or the data subjects concerned, to the extent necessary, in case of a personal data breach.
- 8.9 After expiration or termination of the Agreement, for whatever reason, Leaseweb shall delete all the Personal Data pertaining to the Customer, including copies thereof, unless Leaseweb is required to retain such Personal Data under the applicable law.
- 8.10 Leaseweb shall make available to the Customer all information necessary, to the extent this is possible and reasonable, to demonstrate compliance with the conditions laid down in this Clause 8. Leaseweb shall cooperate, to the extent this is possible and reasonable, with any audits conducted by the Customer or

another auditor mandated by the Customer. Unless expressly agreed otherwise in writing, the costs of such audit or inspection will be borne by the Customer.

- 8.11 We may use your Personal Data for the purpose of sending you direct marketing (whether by messaging within our Service, by email or by other means) that offer or advertise the following products and services, but not limited to:
- a) The Leaseweb products and Services and similar Services and the products and Services of our Affiliate and third party suppliers, including network services, cloud computing services, payment services, location and mapping services and other social media, entertainment, e-commerce, information and communications software and services; and third party providers of Internet Services and products and Services relating to technology, that we think may be relevant to you.
- 8.12 Customer shall have the option to unsubscribe from any direct marketing messages.
- 8.13 Any requests, questions regarding data protection legislation, in particular the GDPR, should be sent to privacy@leaseweb.com.

9. KNOW YOUR CUSTOMER, CREDIT APPROVAL AND FINANCIAL SECURITY

- 9.1 The provision of Services by LeaseWeb to Customer is subject to know your customer requirements set by LeaseWeb.
- 9.2 Leaseweb may, at any time, by notice in writing impose a credit limit on Customer to an amount to be determined by Leaseweb. Any Services required by Customer in excess of any such credit limit will require Customer to deposit an amount equal to or greater than the amount by which Customer will exceed the credit limit.
- 9.3 In addition to Clause 9.1, Leaseweb may require Customer to provide a deposit or a bank guarantee or a parent guarantee, equivalent to up to three (3) months' Service Charges (actual or projected) or other security satisfactory to Leaseweb.
- 9.4 Any deposit or bank guarantee or parent guarantee shall be held by Leaseweb as security for the payment of Service Charges and any other amounts due under the Agreement. Upon termination or expiration of the Agreement, Leaseweb may apply a deposit or bank guarantee or parent guarantee to any amounts owed by Customer to Leaseweb. Any remaining credit balance of a deposit shall be refunded to Customer. Any deposit paid by Customer pursuant to this Clause will not carry any interest.

10. TERMS OF PAYMENT

- 10.1 For the use of the Services, Customer shall pay to Leaseweb the Service Charges. Unless specified otherwise, all Service Charges are in the currency stated in the Order Form/Order Confirmation (as applicable) and exclusive of VAT.
- 10.2 Leaseweb is entitled to increase any of the Service Charges one (1) time per calendar year, with: (a) five percent (5%); or – if higher – (b) the HICP for the previous year. The increase will apply with effect from the first (1st) of January, unless stipulated otherwise by Leaseweb in its notification to Customer. In the event that the increase of the Service Charges takes effect within twelve (12) months of the Order Start Date, the increase will be pro-rated on the basis of the number of months that have passed since the Order Start Date.
- 10.3 In addition to Clause 10.2, Leaseweb shall be entitled to pass on (a) changes in any (license) fees or prices or charges for (software) products: (i) used by Leaseweb in the provision of Services to Customer; (ii) or licensed or resold by Leaseweb to Customer (b) fees for third party Payment Services Provider in connection with the payment method.
- 10.4 Unless specified otherwise in the Order Form/Order Confirmation, Leaseweb will invoice:
- a) setup charges, Service activation charges and any other non-recurring initial charges, upon the Delivery Date or upon the Order Start Date, whichever is earlier; and
 - b) all recurring Service Charges, e.g. with respect to the usage of Bandwidth and/or Data Traffic, as of the Delivery Date or the

Order Start Date (whichever is earlier), and monthly in advance thereafter, with the exception of use of Services above the agreed levels of Service and/or additional services which will be invoiced monthly in arrears.

- 10.5 Leaseweb will send invoices to Customer by e-mail, in a portable document format (PDF). At Customer's request, Leaseweb will – as an extra Service – provide Customer with a print out of the invoice, via regular mail. For such extra Service, Customer shall pay a Service Charge to Leaseweb, in relation to the additional (administrative) activities performed by Leaseweb and the costs of the mail service.
- 10.6 Unless specified otherwise in the Order Form/Order Confirmation, all invoices sent by Leaseweb to Customer are payable by Customer to Leaseweb within fourteen (14) days from the invoice date.
- 10.7 The method of payment is specified in the Order Form/Order Confirmation. In case of Direct Debit or Credit Card, Customer authorizes Leaseweb to charge Customer's bank account or Credit Card for the Service Charges. Leaseweb is entitled to require Customer to make free of charge payment by means of Direct Debit as standard default method of payment for any Order Form, or any other free of charge payment method, automatically applicable and authorized by Customer by submitting the Order Form. If the Customer prefers and chooses any other non-free of charge payment method incurring costs charged by a third party Payment Services Provider, all such costs and charges shall be accepted and borne and paid by Customer (if possible directly to third party Payment Services Provider). Leaseweb has the right and Customer has the obligation if so instructed by Leaseweb in the Customer Portal, to make credit card payment to the regional Leaseweb Payment Service Provider acting on behalf of Leaseweb under the Sales Contract.
- 10.8 In case Customer has a complaint with respect to an invoice, Customer shall communicate such complaint in writing to Leaseweb within the payment term, in the absence whereof invoices are deemed to be approved by Customer. A complaint with respect to an invoice shall only be taken into consideration in the event that the complaint specifies the relevant invoice(s) and provides proper motivation for the complaint. In such case, the Parties will use commercially reasonable efforts to resolve the dispute amicably within twenty (20) days of Leaseweb's receipt of Customer's complaint, firstly at the level of each Party's senior management and – failing satisfactory resolution within fifteen (15) days – secondly at the Parties' executive level. In the event Parties fail to resolve the dispute amicably within twenty (20) days of Leaseweb's receipt of Customer's complaint, each Party shall be entitled to commence dispute resolution in accordance with Clause 28.2.
- 10.9 Customer shall not be entitled to any set-off or deduction of payment of an invoice. Customer's right to suspend payment of (part of) an invoice is limited to the amount of the invoice that is contested in good faith by Customer, in accordance with Clause 10.8. In the event Customer's complaint is found to be unjustified, Customer will immediately pay the outstanding amount, plus interest in accordance with Clause 10.10.
- 10.10 If Customer does not pay an invoice within the payment term, in the event that such invoice has not been disputed in accordance with Clause 10.8, or Customer does not pay the undisputed part of the invoice within the payment term, Customer shall be in default by operation of law and Leaseweb will, without a warning or notice of default being required, be entitled to (i) charge Customer interest on such sum on a daily basis from the due date until the date of payment on the basis of the statutory commercial interest rate plus two percent (2%), without prejudice to Leaseweb's other rights and remedies.
- 10.11 If Customer does not pay an invoice within the payment term, in the event that such invoice has not been disputed in accordance with Clause 10.8, Leaseweb may hand it over to an external collection agency. Any collection costs incurred by Leaseweb shall be borne by Customer.

- 10.12 Leaseweb will be entitled to charge an administrative fee to Customer, if: (i) Customer has cancelled the Direct Debit authorisation; or (ii) payment to Leaseweb has been reversed or denied more than once. The administrative fee shall amount to five hundred Euros (€ 500.-), unless payment of Service Charges in another currency is agreed between Parties, in which case the administrative fee shall be payable in that other currency and the amount of that administrative fee shall be the equivalent in that currency of five hundred Euros.

11. TAXES

- 11.1 Unless specified otherwise, all Fees are exclusive of any sales tax, VAT, or similar tax. Customer shall be responsible for and shall pay all sales, use, excise, or similar consumption indirect taxes (including VAT, when applicable) arising out of its purchase or lease of Services from Leaseweb; provided, however, that Leaseweb shall be solely responsible for its own income-, net worth-, and property taxes.
- 11.2 Notwithstanding the foregoing, Leaseweb shall not invoice Customer for any taxes for which Customer has provided a valid exemption certificate in a form reasonably acceptable to Leaseweb.

12. SUSPENSION OF SERVICES

- 12.1 Leaseweb shall be entitled to immediately suspend the provision of any of the Services and/or to suspend Customer's right to access or use the Customer Portal and/or the API and/or to limit Customer's consumption of Data Traffic or Bandwidth, on giving written notice to Customer, in the event that:
- Leaseweb receives an order or ruling or decision to that effect from a court, any law enforcement authority or any (other) governmental authority;
 - Customer is in breach of the Acceptable Use Policy (part of the Leaseweb Policies), and fails to take (timely) remedial action in accordance with the Abuse Policy (part of the Leaseweb Policies) after receipt of a notice from Leaseweb, provided always that Leaseweb may immediately suspend Services without providing a remedy period if the continued provision of Services if this causes material breach under the Sales Contract and/or may subject Leaseweb to incur liability vis-à-vis third parties, and/or may cause an Emergency;
 - Customer's consumption of Data Traffic or Bandwidth exceeds the Committed Data Traffic or the Committed Bandwidth (specified in the Order Form/Order Confirmation), as the case may be, and Customer fails to reduce such consumption to a level on or below the Committed Data Traffic or the Committed Bandwidth, as the case may be, within three (3) days after having received notice thereon;
 - Customer has failed to maintain the licenses, permits, and authorizations required to use the Services and fails to remedy such failure within seven (7) days after having received written notice thereon;
 - Customer does not cooperate with any investigation of Customer's alleged improper or unlawful use of the Services, the Network or other networks accessed through Leaseweb, and fails to remedy such breach within seven (7) days after having received written notice thereon;
 - Customer does not pay an invoice within the payment term and fails to pay such invoice, plus the interest referred to in clause 10.10, within a period of seven (7) days after having received notice thereon;
 - The Services or software are exported or used in a country, or used by a Customer or an End User, in violation of the restrictions referenced in clause 16.9; and/or
 - Customer is in breach of any of the other provisions of the Agreement and Customer fails to remedy such breach within fourteen (14) days after having received written notice thereon, provided always that Leaseweb may immediately suspend Services without providing a remedy period if the continued provision of Services if this causes material breach

under the Sales Contract and/or may subject Leaseweb to incur liability vis-à-vis third parties, and/or may cause an Emergency;

- i) Leaseweb has good reasons to fear that Customer will materially breach its obligations under the Agreement, and Customer does not, upon written request, confirm to Leaseweb in writing that it will fully perform in conformity with its obligations under the Agreement.

12.2 Leaseweb shall be entitled to continue the suspension or limitation described in Clause 12.1 until: (i) Customer has remedied the breach and has paid the deactivation charge specified in Clause 12.3; or (ii) the Agreement has been terminated in accordance with Clause 21.

12.3 Following suspension of the provision of the Services, in accordance with this Clause 12, Leaseweb may claim -and Customer shall pay upon demand- a deactivation charge in relation to the (administrative) activities performed in order to suspend and – if applicable – to recommence the provision of the Services. The deactivation charge shall be sixty two Euros and fifty cents (€ 62.50), unless payment of Service Charges in another currency is agreed between Parties, in which case the deactivation charge shall be payable in that other currency and the amount of that deactivation fee shall be the equivalent in that currency of sixty two Euros and fifty cents (€ 62.50).

13. SERVICE DISRUPTION

13.1 Immediately on becoming aware of a Service Disruption, Customer shall notify Leaseweb by email and by telephone of the Service Disruption and shall provide Leaseweb with the appropriate information in accordance with Chapter B of the Support and Service Level Schedule.

13.2 Following notification by Customer in accordance with Clause 13.1, Leaseweb shall:

- a) notify Customer of the estimated timescale for restoration of the affected Services, on Leaseweb's website and via email;
- b) use its best endeavors to end the Service Disruption and to restore the affected Services; and – as necessary -
- c) provide Customer with information updates on its progress to end the Service Disruption.

13.3 Instead of restoring a Service, Leaseweb may elect to substitute such affected Service by a reasonably equivalent Service.

13.4 In the event of a Service Disruption, Customer may be entitled to compensation in the form of a Service Credit as specified in the Support and Service Level Schedule.

14. MAINTENANCE AND TESTING

14.1 Leaseweb reserves the right to suspend the Services in order to perform Maintenance.

14.2 Customer acknowledges that Leaseweb will from time to time have to perform Maintenance in order to ensure a proper performance of the Network, Data Center and the Services and that such Maintenance may affect the provision of the Services to Customer.

14.3 If Leaseweb expects scheduled Maintenance, referred to in Clause 14.2, to affect the provision of the Services shall:

- a) - to the extent reasonably possible - provide at least three (3) days prior notice to Customer of the intended Maintenance;
- b) to keep the duration of any interruption or suspension or degradation in the provision of the Services as short as possible.

14.4 If Leaseweb does not expect scheduled Maintenance, referred to in Clause 14.2, to affect the provision of the Services, Leaseweb shall be entitled to perform such Maintenance at any time, without taking into account a notice period.

14.5 Customer acknowledges that Leaseweb may from time to time have to perform non-scheduled Maintenance, in order to resolve or prevent an Emergency. Leaseweb shall be entitled to perform such Maintenance at any time, without taking into account a notice period. Leaseweb shall in such case notify Customer of

such Emergency and the need to perform Maintenance without undue delay.

14.6 Customer acknowledges that Leaseweb will from time to time perform Tests and that Tests may be performed at any time, without taking into account a notice period.

15. RELOCATION

15.1 Customer acknowledges that Leaseweb's ability and obligation to provide the Services, are subject to the provisions of – and continuance of – Leaseweb's Facility Agreement with third party Data Center Provider.

15.2 Leaseweb reserves the right to relocate any POP used to provide the Services and to suspend the Services in relation to such POP in connection with such relocation.

15.3 Customer agrees that any interruption or suspension or degradation in the provision of the Services due to a relocation, shall not constitute a Service Disruption, provided that LeaseWeb has given prior written notice to Customer of the intended relocation, taking into account a notice period of at least thirty (30) days, unless such notice cannot reasonably be expected from Leaseweb.

16. WARRANTIES

16.1 Each Party warrants, represents and undertakes that it:

- a) has obtained and that it will - at least for the duration of the Agreement - maintain all of the necessary licenses, permits, and authorizations to use or provide (as appropriate) the Services;
- b) shall use or provide (as appropriate) the Services with all due skill, care and diligence, at least in accordance with good industry practice.

16.2 Without limiting the generality of Clause 16.1, Customer warrants, represents and undertakes that (i) it shall pay all due local access- or telecommunications charges applicable to transmitting data beyond the Network and/or through other public and private networks, as necessary and related to Customer's use of the Services; and (ii) it owns or has the right to use and offer the content stored on the Leaseweb infrastructure and/or transmitted by Customer over the Network, and (iii) it shall comply with all relevant laws in using the Services.

16.3 With respect to software licensed or resold or otherwise given into use by Leaseweb to Customer, Customer warrants, represents and undertakes that it shall comply with the provisions of any (end-user license) agreement related to such software.

16.4 With respect to software licensed or sublicensed or otherwise given in to use or provided to Customer by Leaseweb, Leaseweb will provide a (software) warranty that is equivalent or equal to the warranty granted to Leaseweb by the manufacturer / supplier of such software. To the extent possible:

- a) Leaseweb will transfer to Customer and Customer will accept the warranty that Leaseweb has received from the manufacturer / supplier of the software; or
- b) Leaseweb will arrange that the manufacturer / supplier of the software grants such warranty directly to Customer.

In the events referred to under sub a) and b) of this clause, Customer will not have any recourse against Leaseweb with respect to such software, but instead may seek recourse directly from the manufacturer / supplier of such software.

16.5 Without limiting Clause 16.4, the Customer Portal (including the use thereof, and the related services) is provided 'as is'; and otherwise Leaseweb hereby disclaims any and all warranties of any kind, whether express or implied, relating to the Customer Portal and the API, the software used therein or as part thereof, and any data accessed there from, including any implied warranties of title, satisfactory quality, fitness for a particular purpose and non-infringement. It is the Customer's sole responsibility to provide Leaseweb with accurate formally verifiable Customer information and contact details in the webshop Order, the Quote and the Customer Portal, lacking to

provide such accurate verifiable Customer information and contact details and/or in case of wrongful Customer information and contact details provided by the Customer, the Customer incurs all liability for any costs, expenses and damages arising for the Customer's risk and account while indemnifying and keeping Leaseweb harmless for any consequences thereof.

- 16.6 Without prejudice to any Party's position with respect to whether a licence under or to any patent(s) covering video standards (such as MPEG standards) are necessary to provide or use the Service, LeaseWeb makes no representation or warranty that it is granting a license under any patents covering use of such standards. Customer will be responsible for obtaining all relevant permissions relating to the patents covering use of such standards.
- 16.7 Customer warrants, represents and undertakes that modifications and additions to LeaseWeb's Equipment and/or Service resulting from any specifications, requests, recommendations, instructions, methods and/or designs from Customer, shall not infringe any Intellectual Property Rights of third parties.
- 16.8 Leaseweb does not warrant that the Customer Portal, the API, the software used therein or as part thereof, or the related services, or the Customer's use thereof, are or will be error free or will operate without interruption.
- 16.9 The Services and software may be subject to local, EU, international rules that govern the export of Services and software. Customer warrants that it shall comply with all end-user, end-use, or destination restrictions issued by national governments or similar bodies, and restrictions on embargoed nations.
- 16.10 The warranties expressly set forth in the Agreement constitute the only warranties of Leaseweb regarding the Services and software and such warranties are in lieu of all other warranties, express, implied, written, oral or statutory, by operation of law or in fact, including but not limited to warranties of merchantability, availability, uptime, non-infringement or fitness for a particular purpose. Without limiting the generality of the foregoing, Leaseweb does not warrant that the Services or the Customer's use thereof, are or will be error free or will operate without interruption.

17. INDEMNIFICATION

- 17.1 Without limiting any other legal remedy available to Leaseweb, Customer shall indemnify and hold harmless Leaseweb against all actions, losses, costs, damages, awards, expenses, fines, fees (including legal fees - including attorney and collection agency fees - incurred and/or awarded against Leaseweb), proceedings, claims or demands brought or threatened against Leaseweb by a third party: (i) related to content stored or transmitted through the Services; (ii) arising out of the use by Customer of the Services, (iii) related to any willful or negligent act or omission of Customer.
- 17.2 In respect of the indemnification under clause 17.1, Customer shall at its sole expense (a) provide Leaseweb with full authority, information and assistance as is reasonably necessary for the defence, compromise or settlement of the third party claims; and (b) at the request of Leaseweb, take those steps that are reasonably required to put Leaseweb in the financial position it would have been in if said third party claim did not occur.

18. LIMITATION OF LIABILITY

- 18.1 Neither Party shall be liable to the other Party in respect of any breach of an obligation, warranty or guarantee under the Agreement for loss of profits, loss of revenue, loss of anticipated savings, loss or any plant or facility, loss of opportunity, loss of goodwill, special or punitive damages, loss of contract, or any type of indirect, consequential loss, loss or damage as a result of an action brought by a third party and such liability is excluded whether it is foreseeable, known, foreseen or otherwise.
- 18.2 Leaseweb shall not be liable for:

- a) any harm or personal injury to Customer or Customer's employees, clients, representatives or agents, except when such harm or personal injury is the direct result of gross negligence or willful misconduct on the part of Leaseweb; any transaction, which Customer may enter into with a third party using the Services;
- b) the contents of any information and/or communications transmitted via the Services or for any information or content on the Internet;
- c) the contents of any information and communication, in whatever form, transmitted by Customer over the Network;
- d) the accuracy or quality of information obtained through the Services;
- e) damage to or loss of any of Customer's Personal Data, data (bases) or loss of technology, including if such damage or loss arise due to Processing, except when such damage or loss is the direct result of gross negligence or willful misconduct on the part of Leaseweb;
- f) damage that is the direct or indirect result of the actions of Customer contrary to (one of) its obligations under the Agreement;
- g) damage that is the direct or indirect result of an inaccuracy of the information provided by or on behalf of Customer;
- h) damage that is the direct or indirect result of the suspension of Services by Leaseweb, as referred to in Clause 12 and Clause 14;
- i) damage that is the direct or indirect result of the Customer Portal and/or API being (temporarily) offline or otherwise unavailable;
- j) damage that is the direct or indirect result of the Customer's use of the Customer Portal or the API;
- k) damage that is the direct or indirect result of a Denial-of-Service attack, or other attack that results in a peak in data traffic, or any damage resulting from successful or unsuccessful hack attempts, regardless whether protected by an SSL certificate or (hardware) firewall provided by or through Leaseweb;
- l) damage in case Leaseweb has not been notified of such damage in writing within eight (8) days after Customer has come to know of the damaging event, or should reasonably have known of it; or
- m) any damage in case and insofar as such damage is covered by any insurance effected by or for the benefit of Customer.
- 18.3 The legal remedies outlined in Clauses 6.2 and 21.4a) constitute all legal remedies available to Customer in relation to a delay of the Delivery Date by Leaseweb. Leaseweb shall have no other liability to Customer if the Service is not ready for Customer's use on or before the Delivery Date; or - if the installation is to be performed by Leaseweb - the installation is not completed by the Delivery Date.
- 18.4 The legal remedies outlined in Clause 13.4 and Clause 21.4b) constitute all legal remedies available to Customer in relation to a Service Disruption and any failure by Leaseweb to meet the agreed Service Levels.
- 18.5 Should Leaseweb be liable in spite of the provisions set out above in this Agreement or the Services Specification, this liability is limited to the amount that is in the relevant case paid out by the liability insurance of Leaseweb and shall in no case exceed the amount of Service Charges paid by Customer to Leaseweb with respect to the twelve (12) month period prior to the event or events giving rise to such liability.
- 18.6 All Customer's claims for compensation end in any case twelve (12) months after the damaging event has taken place, unless: (i) Customer and Leaseweb have come to a written arrangement; or (ii) Customer has commenced legal action in accordance with clause 28.2.
- 18.7 Nothing in the Agreement shall exclude or limit the liability of Customer to: (i) pay the Service Charges; or (ii) repair (or if repair is not practicable, replace) any tangible physical property intentionally or negligently damaged by Customer or its representatives or employees.

18.8 Nothing in this Agreement shall operate to exclude or limit a Party's liability resulting from (i) willful misrepresentation or fraud; or (ii) willful misconduct; or (iii) gross negligence.

19. INSURANCE

19.1 Customer shall obtain and - at least for the duration of the Agreement - maintain the following insurances with a reputable insurance company, which (at minimum) covers:

- a) third party liability;
- b) Customer's liability towards Leaseweb; and up to an amount per event of - at least - three (3) times Customer's total annual Service Charges, with a minimum of one million Euros (€ 1,000,000.--).

19.2 with documentation evidencing Customer's compliance with the provisions set out above in this Clause 19, within ten (10) days of Leaseweb's request to that effect. In general Leaseweb considers a written statement by Customer's insurance company, confirming Customer's compliance, to be sufficient evidence.

20. TERM / RENEWAL

20.1 The Term commences on the Order Start Date.

20.2 At the end of the Initial Term of an API Order or a Web Order, the Order shall be renewed for successive terms equal to the Initial Term, unless either Party notifies the other in writing that it does not agree to renewal of the Order, taking into account a notice period of at least:

- a) one (1) hour, provided that such notice is submitted by means of the Customer Portal or the API; or
- b) five (5) Business Days, in the event that notice is submitted by other means than the Customer Portal or the API.

20.3 At the end of the Initial Term of a non-Web/non-API Order, the Order shall be renewed for successive terms equal to the Initial Term, unless either Party notifies the other in writing that it does not agree to renewal of the Order, taking into account a notice period of at least:

- a) one (1) hour, in the event of an Initial Term / Renewal term of one (1) month, provided that such notice is submitted by means of the Customer Portal or the API;
- b) five (5) Business Days, in the event of an Initial Term / Renewal term of one (1) month, in the event that notice is submitted by other means than the Customer Portal or the API;
- c) two (2) months, in the event of an Initial Term / Renewal term of three (3) months or longer.

21. TERMINATION

21.1 A Party is entitled to terminate the Agreement by giving written notice to the other Party, without an obligation to take into account a notice period, if:

- a) the other Party has ceased to exist or has been dissolved;
- b) the other Party has been declared bankrupt, or it has been granted suspension of payments or entered into voluntary liquidation;
- c) the other Party's business has been discontinued;
- d) the other Party is in breach of any of the other terms of the Agreement and -if and to the extent such breach can be remedied- fails to remedy such breach within a period of thirty (30) days after having received notice with respect to the breach; and/or
- e) the other Party is unable to perform its obligations due to an event of Force Majeure, provided that the event of Force Majeure has lasted more than sixty (60) days and the Parties are unable to reach a temporary solution for the Force Majeure period in spite of having negotiated in good faith with respect to such temporary solution.

21.2 Leaseweb is entitled to terminate the Agreement with immediate effect, by giving written notice to Customer, without an obligation to take into account a notice period, in the event:

a) the provision of the Services has been suspended in accordance with Clause 12.1 for seven (7) or more consecutive days; and/or

b) in the event the continued provision of the Services under the Agreement cannot reasonably be expected from Leaseweb, e.g. if (i) Customer or its End User has - according to Leaseweb's findings- repeatedly breached the Acceptable Use Policy; and/or (ii) the continued provision of the Services may subject Leaseweb to a third party claim; and/or

c) Customer does not pay an invoice within the payment term and fails to pay such invoice, plus the interest referred to in Clause 10.10, within a period of fourteen (14) days after having received notice thereof; and/or

d) of a change of ownership or Control of Customer if - in Leaseweb's view - (i) the party that acquires ownership or Control of Customer is of lesser socio-economic standing than the party which owned Customer or had Control of Customer as at the Order Start Date; and/or (ii) Customer's credit position is adversely affected by such change of ownership or Control; and/or

e) a court has ruled or decided, or Leaseweb reasonably expects that a court will rule or decide, that the provision of any Service infringes upon the Intellectual Property Rights of a third party; and/or

f) Leaseweb has good reasons to fear that Customer will materially breach its obligations under the Agreement, and Customer does not, upon written request, confirm to Leaseweb in writing that it will fully perform in conformity with its obligations under the Agreement.

21.3 Leaseweb is entitled to terminate the Agreement in respect of any POP used to provide the Services by giving written notice to Customer, taking into account a notice period of at least thirty (30) days, in the event that the Facility Agreement in relation to such POP terminates (for whatever reason) or expires.

21.4 Customer shall be entitled to terminate the relevant Order with immediate effect, by giving written notice to Leaseweb, without an obligation to take into account a notice period, if:

- a) Leaseweb unilaterally delays the Delivery Date, and such delay lasts for thirty (30) days after having received a notification of Customer's intention to terminate; and/or
- b) Leaseweb fails to remedy a Service Disruption that results in the Service provided under the Order being fully unavailable or unusable, within thirty (30) days after having received a notification of Customer's intention to terminate.

21.5 A Party may only terminate an Order or the Agreement in accordance with the termination rights explicitly granted to such Party in the Agreement.

22. CONSEQUENCES OF TERMINATION

22.1 Termination or expiration of the Agreement shall be without prejudice to any rights or remedies available to, or obligations or liabilities accrued to the Parties, as at the date of termination or expiration.

22.2 Upon expiration or termination of the Agreement:

- a) Leaseweb shall cease to provide all Services;
- b) Leaseweb shall, subject to Clauses 8, be entitled to erase and delete any and all data of Customer -and any and all data of Customer's End Users- from Leaseweb's Equipment;
- c) all sums due to Leaseweb up to the date of termination shall become due and payable in full immediately;
- d) Customer shall ensure that all (Internet) domains which have been registered through Leaseweb are transferred to another registrar.

22.3 If Customer has not transferred the (Internet) domains to another registrar ultimately within five (5) Business Days of the date of expiration or termination of the Agreement, in accordance with Clause 22.2d), Leaseweb shall be entitled to deregister or cancel the registration of such (Internet) domains, without any obligation to provide Customer prior notice thereof.

- 22.4 In the event that Leaseweb terminates the Agreement in accordance with Clause 21.1, 21.2a), 21.2b), 21.2c), 21.2d), or 21.2f), Customer shall – without prejudice to any other rights or remedies that Leaseweb may have – within five (5) Business Days after the effective date of termination, pay to Leaseweb one hundred percent (100%) of the committed Service Charges, for the period from the effective date of termination up to and including the last day of the then current Term.
- 22.5 In the event that Customer terminates the Agreement without cause, Customer has the obligation to pay – without prejudice to any other rights or remedies that Leaseweb may have – within five (5) Business Days after the effective date of termination, to Leaseweb one hundred percent (100%) of the Service Charges, actual or projected, for the period from the effective date of termination up to and including the last day of the then current Term.
- 22.6 In the event that Leaseweb terminates the Agreement or an affected Service in accordance with Clause 21.2e), Leaseweb shall refund to Customer:
- any non-recurring initial charges or setup charges that have been paid by Customer to Leaseweb in respect of the Service so terminated, in the event that the Agreement or affected Service is terminated prior to the Delivery Date; and
 - a pro rata portion of any recurring Service Charges that have been prepaid by Customer to Leaseweb in respect of the Service so terminated, if and to the extent that such prepayment exceeds the Service Charges that will accrue until the date of termination of the affected Service.
- 22.7 The following Clauses shall survive termination or expiration of the Agreement and continue in full force and effect, in addition to those Clauses the survival of which is necessary for the interpretation or enforcement of this Agreement: Indemnification (Clause 17), Limitation of Liability (Clause 18), Confidentiality (Clause 24), Notices (Clause 26), Miscellaneous (Clause 27), Governing Law and Jurisdiction (Clause 28).

23. FORCE MAJEURE

- 23.1 A Party shall not be deemed in breach of any of its obligations, guarantees or warranties under the Agreement if, and to the extent that, performance is prevented or delayed by an event of Force Majeure, - taking into account that Force Majeure shall not apply and Customer remains fully obligated to perform all of its obligations of the Agreement if Leaseweb was requested for an Order or Quote and/or entering in to an Agreement after an event that the Customer could have reasonably known or been aware of -, provided that the Party that is effected by the event of Force Majeure has:
- promptly notified the other Party thereof in writing, as soon as reasonably possible and no later than five (5) Business Days after the first occurrence of the Force Majeure event; and
 - provided the other Party with all information on the event of Force Majeure and the (expected) cessation or termination of said event.
- 23.2 The Party that is affected by an event of Force Majeure shall use all reasonable endeavors to avoid or minimize the effects of an event of Force Majeure on its performance of its obligations under the Agreement.
- 23.3 Upon the occurrence of an event of Force Majeure, the time for performance shall be extended for the period of delay or inability to perform due to such occurrence, but if an Event of Force Majeure continues for a continuous period of more than sixty (60) days the other Party shall be entitled to terminate the Agreement.
- 23.4 During an Event of Force Majeure, Customer shall remain liable for payment of all Service Charges due under the Agreement and Customer shall not be entitled to a refund for any Service Charge paid by Customer to Leaseweb for such suspended period.

24. CONFIDENTIALITY

- 24.1 A Receiving Party shall: (i) keep all Confidential Information confidential, (ii) not disclose any Confidential Information to any other person without the prior written consent of the Disclosing Party, and (ii) only use and reproduce the Confidential Information for the performance of its obligations under the Agreement.
- 24.2 The obligations contained in clause 24.1 shall not apply to any Confidential Information which: (i) at the date of the Agreement is, or at any time after the date of the Agreement becomes, public knowledge other than through breach of the Agreement by the Receiving Party; (ii) can be shown by the Receiving Party to the reasonable satisfaction of the Disclosing Party to have been known to the Receiving Party prior to it being disclosed by the Disclosing Party to the Receiving Party; or (iii) is required to be disclosed or used by law.
- 24.3 The Receiving Party agrees that any and all notes, diagrams, descriptions, memoranda and other writings or electronic information obtained from the Disclosing Party and any copies, notes or excerpts thereof containing Confidential Information shall remain the property of the Disclosing Party and that said documents shall, upon request of the Disclosing Party and at the Disclosing Party's option, be promptly returned to the Disclosing Party or destroyed upon any termination of consideration of the possible business arrangement.

25. TRANSFER OF RIGHTS AND OBLIGATIONS

- 25.1 Without prejudice to Clause 25.2 and 25.3, neither Party shall be entitled to assign or transfer, or purport to assign or transfer, any rights or obligations under the Agreement to a third party without the prior written consent of the other Party, which consent may not be unreasonably withheld.
- 25.2 Leaseweb shall be entitled to assign any of its rights or obligations under the Agreement to an Affiliate (or its or their successors, through merger or acquisition of substantially all of their or its assets), upon giving written notice to Customer.
- 25.3 Leaseweb shall be entitled to sub-contract any or all of its obligations under the Agreement to a third party, provided that Leaseweb shall remain liable to Customer for the performance of those obligations.
- 25.4 Nothing in the Agreement shall exclude or limit Leaseweb's rights to grant or create a right of pledge or other security right - for the benefit of a bank or other financial institution or other third party – on or over any or all (cash) receivables that Customer owes or comes to owe to Leaseweb.

26. NOTICES

- 26.1 Unless specified otherwise herein, any notice, demand, claim or other communication under or in connection with the Agreement shall be in writing and shall be delivered personally or sent by registered mail or by prepaid recorded courier delivery or by e-mail, to the Party due to receive the notice at its address set out below or such other address as any Party may specify by notice in writing to the other:
- | | |
|----------------|--|
| If to Leaseweb | to Hessenbergweg 95, 1101 CX
Amsterdam, The Netherlands;
with a copy directed for the attention of
the Legal Department, by email to:
legal@cdn.leaseweb.com |
| If to Customer | to the person and at the address as
specified in the Customer Portal |
- 26.2 In the absence of evidence of earlier receipt, any such notice, demand, claim or other communication shall be deemed to have been received:
- if delivered by hand, at the time of delivery;
 - if posted, on the expiration of three (3) Business Days after the notice has been provided to the courier company; or

- c) if sent by e-mail, the moment the e-mail has been received on or by a mail server or mail exchanger used or operated by the receiving Party.
- 26.3 For the purpose of Clause 26.2c) any failure to deliver -and any impossibility to receive or access- a notice, demand, claim or other communication shall be for the risk and account of the receiving Party, if -and to the extent that- such failure or impossibility is related to -or the result of- an act or omission of the receiving Party, a failure of the mail server or mail exchanger used or operated by the receiving Party, or a failure or interruption in the services of a third party that manages or hosts of the mail server or mail exchanger used or operated by the receiving Party.

27. MISCELLANEOUS

- 27.1 No waiver of any of the terms of the Agreement or of any breach of those terms shall be effective unless such waiver is in writing and signed by the waiving Party. No waiver of any breach shall be deemed to be a waiver of any other or subsequent breach.
- 27.2 Other than Leaseweb's subcontractors who shall have the benefit of the Agreement, nothing in the Agreement shall confer upon any third party any right, benefit or remedy of any nature under the Agreement.
- 27.3 In the event of the circumstances set forth in Clause 21.2e), LeaseWeb shall, in addition to the termination right set forth in Clause 21.2, be entitled to (i) modify the infringing part of the Service so it becomes non-infringing, or (ii) discontinue the provision of the infringing part of the Services. Any such modification or discontinuance shall not be deemed a Breach by LeaseWeb hereunder.
- 27.4 Should any or several of the provisions of the Agreement be invalid or null and void, this shall not affect the remaining provisions thereof. In such event, the relevant provision shall be replaced by a valid provision that reflects – to the extent possible – the purpose and the intended effect of the original provision.
- 27.5 Nothing in the Agreement shall result in the transfer of a Party's Intellectual Property Rights (of whatever nature) to the other Party.
- 27.6 Both Customer and Leaseweb agree not to solicit or hire any personnel of each other until at least six (6) months after the termination of the Agreement.
- 27.7 Neither Party shall be authorized to (i) make press or public announcements relating to this Agreement, without the prior written approval of the other Party, or to (ii) use the other Party's Intellectual Property Rights in any advertising, sales, promotions, or other publicity materials. However, Leaseweb shall - without Customer's approval - be entitled to inform third parties that Leaseweb provides Services to Customer, e.g. as a Customer case during sales activities and on Leaseweb's website.

28. GOVERNING LAW AND JURISDICTION

- 28.1 These General Conditions, the Agreement and all matters arising there from or connected therewith are governed by the laws of the Netherlands, to the exclusion of the provisions of the UN Convention on Contracts for the International Sale of Goods.
- 28.2 Subject to Clause 28.3, the competent courts of Amsterdam, the Netherlands shall have exclusive jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with the Agreement or other agreements or other legal relationships resulting there from or in connection therewith.
- Nothing herein shall prevent Leaseweb from pursuing action in any other jurisdiction as may be appropriate for the purpose of seeking urgent and/or interim and/or interlocutory injunctive or other relief against Customer.