

GENERAL TERMS AND CONDITIONS  
DUPI GROUP B.V.

12 JUNE 2018



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## Article 1: Definitions

In the present general terms and conditions, the following concepts are interpreted as follows:

### 1.1. "DUPI":

the private limited enterprise with limited liability DUPI Group B.V. (Dutch Chamber of Commerce registration 51642603) established Rotterdam, the Netherlands, and holding office at Blaak 16 in (3011 TA) Rotterdam, the Netherlands, and/or any successor in title of this legal entity, and/or any enterprises related to this legal entity;

### 1.2. "Contracting Party":

the counterparty to DUPI, meaning the Party to which DUPI has made an offer and/or a proposal; the Party from which DUPI has received instructions and/or assignments; the Party for which DUPI has performed activities; of the party with which DUPI has entered into an agreement;

### 1.3. "General Terms and Conditions":

the present general terms and conditions of DUPI Group B.V.

## Article 2: Applicability and general provisions

2.1. The present General Terms and Conditions are applicable to any offers and proposals by, any instructions and assignments to, and any agreements entered into by DUPI; as well as to any activities performed by DUPI;

2.2. Any associated enterprises employed for the completion of the assignment are also eligible to appeal to the present general terms and conditions;

2.3. Deviations from these General Terms and Conditions are only ever possible in writing;

2.4. DUPI explicitly rejects any applicability of any general terms and conditions whatsoever used by Contracting Party;

2.5. If and insofar as any stipulation of these General Terms and Conditions should appear to be invalid, void, or unenforceable, such to the appraisal of a competent court or arbitrator, all further stipulations contained in these Terms and Conditions shall remain in full force;

2.6. If any translation of these General Terms and Conditions deviates from the original Dutch text, the Dutch text shall prevail.

## Article 3: Offers and proposals

3.1. Any offers and proposals made by DUPI, unless such offers and proposals explicitly state otherwise, are free of engagement, and subject to the reservation of the outcomes of a client investigation to be carried out by DUPI in accordance with Wwft, Wft, and/or other (international) sanctions regulations;

3.2. Any offers and proposals made by DUPI on behalf of third parties, unless such offers and proposals explicitly state otherwise, are free of engagement, and subject to the reservation of acceptance by the third Party concerned, and of the outcomes of a client investigation to be carried out by DUPI in accordance with Wwft, Wft, and/or other (international) sanctions regulations;

3.3. Any rates and prices as stated in offers and proposals by DUPI do not include VAT and any further charges and taxes, and/or any other costs incurred by DUPI on performance of the activities, in addition to administrative expenses, unless explicitly agreed otherwise.

## Article 4: Establishment of an agreement

4.1. An agreement between DUPI and Contracting Party is considered to be established at the moment of acceptance in writing by DUPI of an assignment, or at the moment when DUPI commences performance of such agreements. DUPI is entitled to reject any assignments allocated to DUPI without stating reasons for such rejections; even after offers have been submitted for performance of activities;

4.2. Apart from articles 7:404 and 7:407 subsection 2 BW, any assignments are accepted and performed exclusively by DUPI; even if the explicit or implied intention is to have an assignment performed by a specific person.

## Article 5: Duration and termination of the agreement

5.1. Unless the parties agree otherwise in writing, an agreement is interpreted as being entered into for the reasonable duration of performance of the agreed activities;

5.2. If Contracting Party fails to meet their obligations under the agreement, DUPI is entitled, after granting Contracting Party a minimum term of fourteen (14) days to redress any failure to meet such obligations in writing, including statement of the nature of such failings, and Contracting Party nonetheless fails to meet their obligations, to terminate the agreement with immediate effect. In addition, DUPI is entitled to terminate the agreement at any moment (including agreements entered into for limited periods), observing a sixty (60) day period of notice;

5.3. If DUPI accountably fails to meet its obligations under the agreement for a thirty (30) day consecutive period, Contracting Party is entitled, after granting DUPI at term of at least thirty (30) days to redress such failings stating the nature of such failings, and DUPI nonetheless fails to meet its obligations, to terminate the agreement in writing with immediate effect. Any other authority of Contracting Party to prematurely terminate any fixed period agreement is expressly excluded;

5.4. In any event, DUPI is entitled to terminate the agreement in writing immediately if:

- Contracting Party fails to meet applicable laws and legislation;
- Contracting Party ceases all or most of their activities either entirely or predominantly;
- Contracting Party is dissolved or liquidated;
- Contracting Party loses authority over their assets or part thereof;
- Contracting Party has applied for moratorium, and/or is granted moratorium;
- Contracting Party is deceased or is under legal restraint;
- In any case of seizure of Contracting Party assets;
- Contracting Party has applied for bankruptcy, or is declared bankrupt.

If any of the circumstances stated in the present Article occurs, Contracting party is obliged to immediately inform DUPI in writing of such events;

5.5. Any Contracting Party rights to annul the agreement are explicitly precluded.

## Article 6: Cooperation by Contracting Party

6.1. Contracting Party is obliged to provide DUPI with any information and documentation required either by law or by the opinion of DUPI for correct performance of activities, in timely fashion and in the manner requested by DUPI. This includes, but is not limited to, any changes to contact information, to corporate activities, to corporate goals, to corporate dimensions, to corporate governance, to its location(s), to the activities performed on location(s), to the insured object, and to the insured values. If Contracting Party fails to (timely) provide such information and documentation, DUPI is entitled to suspend (continued) performance of activities until all required information and documentation has been submitted to DUPI;

6.2. Furthermore, Contracting Party is obliged to submit to DUPI any information and documentation that Contracting Party knows, or can be reasonably expected to know, to be necessary or useful for correct performance of activities;

6.3. Contracting Party guarantees that the information and documentation submitted to DUPI is correct, complete, and reliable; even if such information and documentation originates from third parties. Contracting Party is obliged to remunerate any damages arising from incorrectness and/or incompleteness of information and documentation submitted;

6.4. Contracting Party must check any documents submitted to DUPI for accuracy and completeness, and is required to immediately inform DUPI on any shortcomings or ambiguities;

6.5. If failure to comply by Contracting Party to Articles 6.1 through to 6.4 cause any delays, shortcomings, omissions, or other faults in (performance of) activities, DUPI shall not be liable for such delays, shortcomings, omissions, or other faults towards Contracting Party; furthermore, any resulting (additional) costs are attributable Contracting Party, and Contracting Party shall be obliged to remunerate to DUPI any (additional) costs incurred for (additional) activities required.

## Article 7: Performance of activities

7.1. Unless parties have agreed otherwise in writing, DUPI dictates the way in which activities are to be performed;

7.2. Assignments allocated to DUPI exclusively lead to obligations of performance by DUPI; never to any obligations of result;

7.3. DUPI is entitled, without prior permission of Contracting Party, to employ third parties for performance of activities. If DUPI has employed third parties to perform activities, the present General Terms and Conditions also serve to indemnify such third parties toward parties other than DUPI, and such third parties are entitled to invoke the present Terms and Conditions towards parties other than DUPI;

7.4. DUPI is at liberty to determine which persons are to perform the activities, except if the agreement explicitly states that any specific person must perform the activities;

7.5. Unless explicitly agreed otherwise in writing, any periods stated by DUPI for performance of activities can never be regarded as fatal terms;

7.6. Contracting Party cannot derive any rights from calculations made by DUPI, or from any further effects of such calculations. Such calculations must be considered preliminary and indicative, and may be subject to factors including, but not limited to, interim adjustments of interest rates and premiums;

7.7. Any general information provided by DUPI, either on the internet, and/or in writing, and/or upon request, and in any other fashion, is free of engagement, and is never regarded as advice provided by DUPI.

## Article 8: Confidentiality

8.1. DUPI and Contracting Party, as well as their employees and any third parties employed by either DUPI or Contracting Party, are obliged to observe strict confidentiality with regard to any information disclosed to them under the effected agreement, which must in fairness be understood as being either confidential or classified. Such obligations do not apply if specific information must be disclosed to third parties either by legal obligations, by court verdict, or due to performance of the agreement;

8.2. The present Article does not pertain to any information known to DUPI prior to granting of the assignment, which was either lawfully obtained from third parties, or publicly known.

## Article 9: Intellectual property

9.1. DUPI is the sole proprietor of any intellectual property rights with regard to the information, software, and other systems used by DUPI, developed by DUPI, or formerly used or developed by DUPI related to performance of activities and/or the agreement;

9.2. Contracting Party shall refrain from any form of distribution, copying, publication, or use of the information, software, or other systems; such including, but not limited to, computer programmes, work methods, advice, (model) contracts, and any other intellectual products either used by DUPI, or formerly used or developed by DUPI related to performance of activities and/or the agreement.

## Article 10: Force majeure

10.1. In the event where DUPI is unable to meet its obligations under the agreement, either entirely or in part, due to causes that are either beyond the control of DUPI, that cannot be anticipated, or that cannot be avoided in fairness; such including, but not limited to, DUPI employee sick leave, third party shortcomings, automation disruptions, or other forms of stagnation, then all obligations of DUPI are suspended until such time as when DUPI is capable of meeting its obligations in the agreed manner, in which DUPI is not considered to be in default in any way, and in which case DUPI shall not be due any compensation of damages whatsoever to Contracting Party.

## Article 11 Remuneration

11.1. The remuneration receivable by DUPI for activities to be performed may take various forms, including provision, commission, hourly rates, etc. Such remunerations shall be agreed upon in a case-by-case fashion;

11.2. Any costs incurred during performance of activities – such including but not limited to travel expenses and expenses made by third parties employed by DUPI during performance of the activities – are not included in the aforementioned remuneration, and DUPI is entitled to separately charge such costs to Contracting Party. Remunerations due are independent of the results of activities performed by DUPI;

11.3. DUPI is entitled to immediately pass on any increase of taxes (such as vat tax, for instance), or any other costs (issued by government authorities or otherwise) to Contracting Party. DUPI is entitled to increase its remunerations annually, as per February 20, in accordance with the applicable Consumer Price Index (CPI) range for all households, as published by the Dutch Census Bureau (Centraal Bureau voor de Statistiek (CBS)), based upon the base year 2018.

11.4. Any potential estimates made by DUPI or its employees regarding the amount of time to be spent on activities are purely indicative, and can never be regarded as either a lump sum or a price agreement, unless explicitly agreed upon in writing by the parties;

11.5. DUPI invoicing shall occur on a monthly basis.

## Article 12: Payment and security

12.1. Contracting Party shall pay the amounts charged in the currency specified on the invoice to the bank account stated by DUPI within thirty (30) days of the date of invoice; failure to comply by Contracting Party shall result in default by Contracting Party, by which Contracting Party shall be due legal trade interest as dictated by Dutch Civil Code article 6:119a BW, commencing on the date of expiry of the term of payment, until the moment when the full invoice amount has been paid; such without detriment to any other rights of DUPI;

12.2. To the extent by which DUPI charges premiums and/or interests to Contracting Party on behalf of third parties, Contracting Party must realise that failure to pay, or failure to pay in time, any premiums and/or interest charged may result in Contracting Party's inability to enforce agreements entered into with such third parties (such as insurers, for instance; in which case an agreed insurance may cease to cover the risk insured). Nothing can be interpreted in such a way that DUPI would commit to the Contracting Party, or on behalf of the Contracting Party, with regard to paying any amounts due (such as premiums and costs, for instance) to or of third parties (such as insurers or insured, for instance) as a personal debt;

12.3. DUPI is entitled to settle any amounts due to Contracting Party with any possible claims of Contracting Party towards DUPI;

12.4. Contracting Party is not entitled to either suspend or settle payment of any invoices;

12.5. DUPI is entitled at all times to demand payment in advance, payment in cash, or security for payments;

12.6. In case the circumstances stipulated in Article 5.4 of the present terms and conditions occur, any amounts charged to Contracting Party by DUPI are claimable with immediate effect;

12.7. DUPI is entitled to effect a right of retention on all documents and/or information and/or any other assets in the possession of DUPI, until the moment when Contracting Party has paid all amounts due to DUPI (including any amounts associated with prior or later agreements);

12.8. DUPI is entitled to suspend performance of activities or any other obligation of DUPI related to the agreement, until the moment when Contracting Party has met all of their payment obligations and further obligations.

## Article 13: Extrajudicial costs

13.1. If Contracting Party fails to meet their payment obligations, or any other obligation issuing from the agreement, Contracting party is obliged to remunerate to DUPI any legal and extrajudicial costs incurred to recoup the outstanding claims, in which extrajudicial costs are established at 15% of the amount due by Contracting Party, with a minimum of € 250.00 multiplied by a 1.5% monthly interest rate commencing at the moment such costs were incurred by DUPI, and until the moment when such costs have been paid by Contracting Party.

## Article 14: Complaints

14.1. Contracting Party is obliged to report to DUPI in writing on any complaints regarding any shortcomings by DUPI in the performance of activities, and/or regarding any invoice; either within fourteen (14) days of Contracting party becoming aware of such shortcomings, or within fourteen (14) days of the date of invoice. Such complaints must include a detailed description of either the shortcoming, or of the objection against the invoice, in order to allow DUPI a motivated response;

14.2. If a founded complaint is submitted, DUPI shall repair the shortcoming in accordance with the agreement. If Contracting Party fails to enable DUPI to effect damage control measures as soon as Contracting Party becomes aware of the complaint concerned, any rights to compensation of damages and/or compliance shall expire;

14.3. Any liability by DUPI associated with shortcomings in performance of the activities is limited in accordance with Article 15 of the present General Terms and Conditions.

## Article 15: Liability

15.1. DUPI is never liable for any damage, unless Contracting Party proves that DUPI has not observed the due care to be expected from a good contractor while performing the activities, and has failed to act as a competent fellow professional would act in fairness;

**15.2.** Furthermore, DUPI is never liable for:

- Any damages arising from situations of force majeure, as described in Article 10 of the present Terms and Conditions;
- Any damages incurred by Contracting Party or third parties arising from or related to distribution of inaccurate or incomplete documentation or information by Contracting Party to DUPI, including instances in which such information and documentation originates from third parties, or any damages otherwise arising from or related to instructions, actions, or negligence by Contracting Party;
- Any damages incurred by Contracting Party or third parties related to actions or negligence by aides employed by DUPI (excluding DUPI employees), including any employees of organisations related to DUPI;
- Any damages incurred by Contracting Party or third parties arising from or related to the passing of periods of limitation and/or periods of expiry, and/or any other limitations of opportunities for regress; such unless Contracting Party has appointed DUPI in writing for safeguarding such periods or opportunities for regress;
- Any trading loss, consequential damages, or consequential loss incurred by Contracting Party or third parties, including but not limited to damages due to stagnation of operations, or loss of revenue or profits;

**15.3.** DUPI's liability for damage caused by (shortcomings in) the agreement and/or performance of activities (regardless of whether the claim is based upon agreement or tort), is limited per event causing the damage to up to three times the remuneration paid by and/or due by Contracting Party with regard to the activities and/or the agreement to which the event causing the damage pertains; such with a maximum equal to the amount remunerated to DUPI by DUPI's professional liability insurer in the case concerned; if for any reason whatsoever, no remunerations by force of the intended insurance take place, then the maximum liability of DUPI for damages arising from (shortcomings in) the agreement and/or performance of activities (regardless of whether the claim is based upon agreement or tort) is limited to a maximum amount of € 100,000.00 per event causing the damage.

**15.4.** Contracting Party is obliged to compensate DUPI for, and indemnify DUPI against, any claims by third parties (including but not limited to aides and employees of DUPI and Contracting Party) issuing from or related to performance of activities, as well as for any legal and/or extrajudicial costs incurred by DUPI to defend itself against such third party claims, except to the extent by which such claims result from deliberate acts or deliberate recklessness by DUPI or by executive officers associated with DUPI;

**15.5.** Any claims towards DUPI must be brought before the competent court no later than within twelve (12) months of the moment when the aggrieved party becomes familiar with both the damage and the person liable for such damage; failure to do so renders void any rights to compensation of damages and/or compliance.

## Article 16: Legislation and sanctions

**16.1** Parties shall refrain from any actions that run counter to

applicable international and national legislation, including any sanctions legislation. Parties are explicitly disallowed to conduct business or to facilitate business dealings with and by persons, organisations, and nations that are subject to sanctions and/or listed on sanctions lists. Parties shall take the necessary measures to prevent violations of any laws and legislation.

## Article 17: Protection of personal information

**17.1.** DUPI processes personal information submitted to DUPI by Contracting Party on behalf of performance of the agreement in accordance with any obligations issuing from applicable laws and legislation, including, but not limited to, the General Data Protection Regulation ("GDPR"; Algemene Verordening Gegevensbescherming or "AVG" in Dutch usage).

## Article 18: Applicable law and jurisdiction

**18.1.** Dutch law is exclusively applicable to all offers, proposals, instructions, assignments, and all legal relations issuing from or related to the present General Terms and Conditions, the agreement, and/or performance of the activities.

**18.2.** Any disputes issuing from or related to the agreement and/or performance of the activities shall be settled by the competent court at Rotterdam, the Netherlands.

## Contact details

DUPI Group B.V.

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