

# GENERAL DELIVERY TERMS RS FINANCE I BV

Version 27 August 2018

## GENERAL

In the General Conditions the following definitions apply:

- Client: the party granting the Assignment
- We, Us: RS Finance I B.V., acting under the name RSFinance
- Parties: Client and RSFinance.
- Assignment: the written, verbal, or implicit services agreement (subsequently: "the Agreement"), whereby we commit ourselves towards a Client to carry out activities.

### 1. APPLICABILITY

- 1.1. These General Conditions are applicable to all our activities and manifestations.
- 1.2. Any possible deviations from these General Conditions are only valid if they are expressly established in writing. No rights can be derived from these established deviations for later Assignments.
- 1.3. The applicability of General Conditions of Client is emphatically rejected by us.

### 2. ADOPTION OF THE AGREEMENT

- 2.1. The Agreement consists of these General Conditions jointly with the Agreement and it is adopted at the moment that the Agreement signed by Client has been received back by us.
- 2.2. If the Assignment is granted verbally, or if the Agreement is not received back (yet) with signature, the Assignment is considered to have been adopted under the applicability of these General Conditions at the moment that we have started with the implementation of the Assignment on request of Client.
- 2.3. In conformity with money-laundering legislation, 'Wet voorkoming witwassen en financiering van terrorisme' (Wwft), we must identify a potential Client and verify the identification before we can start with the implementation of the Assignment. Verification of information provided by the potential Client will take place on the basis of documents, information, and enquiries from independent and reliable sources, such as the Trade Register of the Chamber of Commerce and for Clients which are incorporated pursuant to foreign legislation on the basis of information provided by independent professional business-services providers. We can ask Client for cooperation on identification and verification. The assessment whether the identification and the verification have taken place in correspondence with the law is reserved to us.
- 2.4. The Agreement is adopted for an unlimited time, unless the content, nature, or tenor of the granted Assignment evinces that it is entered into for a fixed period.

### 3. COLLABORATION BY THE CLIENT

- 3.1. Client will timely provide all information and documentation we need for the correct and timely execution of the granted Assignment to us in the form and manner we wish.
- 3.2. In that context, Client will inform us forthwith on (changes to) the legal structure and the power relations within the group he is a part of, as well as of all other (financial) partnerships he participates in or he is a part of, and all matters in the widest sense of the term and of other facts and circumstances which may be of importance in connection with the execution of the Assignment, so as to enable us to comply with the applicable independence requirements.
- 3.3. Client is exclusively responsible himself for the assignment description and for the decisions he makes or wants to make in connection with and/or (also) based on our activities, including the taking of management decisions in his business.
- 3.4. Client guarantees the correctness, completeness, and reliability of the information and documentation provided to us, also in the event these derive from or through third parties.
- 3.5. The additional costs and damage resulting from the Assignment, caused by not, not timely, or not adequately providing the requested information, documentation, facilities and/or collaborators, are at the expense and risk of Client. Client must make sure that all information and documentation we need for the timely and correctly carrying out of the granted Assignment, are made available to us on time and in the form and manner we wish.

### 4. EXECUTION OF THE ASSIGNMENT

- 4.1. All activities which are carried out by us are executed to the best of our insight and capabilities, in accordance with the requirements of good workmanship. With regard to the intended activities, we have a best-effort contract, unless it is expressly established otherwise.
- 4.2. We determine the manner in which and by what collaborators and/or third parties hired by us the Assignment is executed, though we thereby observe the requirements communicated by Client as much as possible.
- 4.3. We can carry out more activities and bill them to Client than those for which the Assignment is granted, if the proper execution of the Assignment requires such.
- 4.4. If Client wishes to involve third parties in the execution of the Assignment, he will only proceed to do so after having reached an agreement with us regarding, as the engaging of a third party in a direct or indirect manner for the execution of the Assignment may have an important impact on our possibilities to implement the Assignment correctly.
- 4.5. In the matter of the Assignment we maintain a working file which includes copies of relevant documents. That file is our property.

### 5. AUTHORISATION

- 5.1. Client authorises us to exchange information on his behalf with (government) institutions, to the extent this falls within – and it is necessary for – an adequate execution of the Assignment.
- 5.2. A part of this exchange may be that we provide and request information on behalf of the Client, as well as take positions.
- 5.3. We consult as much as possible beforehand with Client regarding our contact with institutions. If the timely execution of our activities is at issue, the informing of client may take place afterwards.
- 5.4. Client can withdraw our authorisation at any time, by informing us in writing.

5.5. On grounds of the preceding, we are authorised to request from the tax office to receive tax return communications ('Serviceberichten Aanslag' as well as 'Vooringevulde aangifte'). Client can withdraw these authorisations immediately, by sending a letter to the tax office.

### 6. NON-DISCLOSURE AND PROCESSING OF PERSONAL DATA

- 6.1. Unless any legal provision, prescription, or other (professional) rule compels us, we and the collaborators and/or third parties deployed by us are bound by non-disclosure towards third parties regarding confidential information obtained from Client.
- 6.2. We will take appropriate measures to protect the confidential information and personal data and will inform the collaborators and third parties to be deployed by us regarding the confidential character of the information.
- 6.3. Processing of personal data by us takes place in conformity with the Data Processing Agreement, which is included as Annex A to these General Delivery Terms. This Data Processing Agreement is an integral part of these General Delivery Terms, is applicable to all our activities, and therefore binding between Parties. On request, we provide Client with a signed version of this Data Processing Agreement.
- 6.4. Unless a legal provision pertains, or a prescription or other (professional) rule, which obliges Client to disclose or our prior written consent to that effect is granted, Client will not disclose to third parties the content of our reports, advice, or other manifestations, whether or not written.
- 6.5. We have the right during the effective time of the Agreement to delete data from Client processed by us after expiry of the statutory retention period plus an extra retention term of three years for the benefit of the diligent provision of services towards Client, without requiring the prior permission of or notification to Client. Client must take care himself of the timely requesting of copies of these data.
- 6.6. We are never liable for any possible damage Client suffers due to the removal of data, as stipulated in the preceding section.
- 6.7. We have the right to collect, save, and combine anonymized data of our Clients from different data sources to make analyses for our own purposes.
- 6.8. Parties will impose their obligations pursuant to this article on third parties to be deployed by them.
- 6.9. We have the right to state the name of Client and to mention the activities in general terms to (potential) Clients as an indication of our experience.

### 7. INTELLECTUAL PROPERTY

- 7.1. We reserve ourselves all rights of intellectual property regarding products of the mind we use or have used and/or develop and/or have developed in the context of the execution of the Assignment, with regard to which we have or can effectively exercise the copyrights or other rights of intellectual property.
- 7.2. It is emphatically prohibited to the Client to multiply, render public, or exploit our products, also including computer programs, system designs, data models, work methods, advice, (model) contracts and other products of the mind, and all matters in the widest sense of the term, and whether or not through the deployment of third parties.
- 7.3. Multiplication and/or disclosure and/or exploitation is only permitted after the obtaining written consent from us. Client has the right to multiply the written documents for use within his own organisation, to the extent appropriate within the purpose of the Assignment. In case of the termination of the Assignment, the preceding is correspondingly applicable.

### 8. FEES

- 8.1. If after the adoption of the Agreement, though before the Assignment is entirely executed, rate-determining factors such as wages and/or prices undergo changes, we have the right to accordingly adjust the rate established before.
- 8.2. Our fees are exclusive of expenses and exclusive of expense accounts of deployed third parties.
- 8.3. All rates are exclusive of sales tax and other levies which are (possibly) imposed by the authorities.

### 9. PAYMENT

- 9.1. Payment by Client must take place, without deduction, discount, or setting off of debts, within 14 days after invoice date. Payment must take place in the currency indicated on the invoice, by way of bank transfer to the credit of a bank account to be indicated by us. Objections against the amount of the invoices submitted do not suspend the payment obligation of Client.
- 9.2. In case of the overrunning of the payment term, Client falls into default legally after the first warning. In that case, Client owes statutory interest over the amount owed, from the invoice date until the day of settlement. After Client has fallen into default, also all judicial and extrajudicial collection costs will be borne by Client. The extrajudicial costs are set at, at least, 15% of the principal and interest, without prejudice to our right to claim the effective extrajudicial costs exceeding this amount. The judicial costs comprise the entire expenses we incur.
- 9.3. If the financial position and/or the payment behaviour of Client in our opinion provide grounds to do so, we have the right to demand from Client that he forthwith lodges (further) security in a form to be established by us and/or makes an advance payment. If Client fails to lodge the demanded security, we have the right – without prejudice to our other rights – to immediately suspend the further execution of the Assignment and we hold retention of property regarding the goods, matters, and documents of Client we have in our control, and everything Client owes to us – on whatever account – becomes immediately payable.
- 9.4. In case of a jointly granted Assignment, Clients are jointly and severally liable, to the extent the activities were carried out for the benefit of the joint Clients, for payment of the entire invoice amount.

## 10. COMPLAINTS

10.1. Complaints regarding the conducted activities and/or the invoice amount must be communicated to us in writing within 30 days after the forwarding date of the documents or information the Client has a complaint about, or otherwise within 30 days after discovery of the defect in case Client demonstrates that he was not reasonably able to discover the defect sooner.

10.2. Complaints as intended in the first section do not suspend the payment obligation of Client. Client under no circumstance has the right on grounds of a complaint regarding a certain service to postpone or refuse payment for other services provided by us which the complaint is not in reference to.

In case of a justified complaint, Client has the choice between adjustment of the billed fees, correction free of charges, or the renewed execution of the rejected activities, or the no (longer) executing of the Assignment, partially or totally, against the proportional refund of the fees already paid by Client.

## 11. DELIVERY TERM

11.1. If Client owes an advance payment or if he must provide information and/or material which is required for the implementation, the term within which the activities must be completed enters into effect no sooner than the payment has been fully received by us, or respectively that the information and/or material has been completely provided to us.

11.2. Because the duration of the Assignment can be influenced by a variety of factors, such as the quality of the information which Client provides and the cooperation which is provided, the terms within which the activities must be completed can only be considered strict time limits if such has been established in writing.

## 12. CANCELLATION

12.1. Clients can cancel the Agreement at all times (prematurely) with immediate effect, unless otherwise established.

12.2. We can cancel the Agreement (prematurely) at all times with due regard for a reasonable notice period of at least 30 days, unless standards of reason and fairness oppose cancellation or cancellation on such terms.

12.3. If (premature) cancellation has been sought by us, Client is entitled to our collaboration on the transfer of activities to third parties, unless that cancellation is based on facts and circumstances which can be attributed to Client. We retain entitlement in all cases of (premature) cancellation to payment of the bills for the activities carried out by us until that time. To the extent the transfer of the activities entails additional costs for us, these are charged to Client.

12.4. Upon termination of the Agreement, Parties must hand over all goods, matters, and documents in their possession which belong to the other party to that other party forthwith. We have the right to unilaterally suspend this obligation until the moment that Client has settled all bills for our activities in full.

## 13. LIABILITY

13.1. We will carry out our activities to the best of our abilities and thereby observe the diligence which can be expected from us. Our total liability towards Client for any possible errors which in case of diligent conduct on our part would have been avoided, is limited to a maximum of the amount of the fees which Client has paid and/or still owes for the specific activities carried out under the Assignment from which the error has resulted. If the Assignment has a longer lead time than three months, then the total liability in the context of the Assignment is limited to a maximum of the amount of the fees which Client has paid us and/or still owes us over the last three months of the specific activities carried out under the Assignment from which the error results. Our limitation of liability does not apply if there is intent or gross negligence on our part and/or if mandatory (inter)national legislation or (professional) regulations do not permit such a limitation.

13.2. We exclude any liability for:

- Damage occurring because we comply with the legislation and (professional) regulations applicable to us

- Damage occurring because of every mistake which is the consequence of incorrect or incomplete information which Client has provided us with

- Business-, indirect, or consequential damage occurring at Client or third parties.

13.3. If the Assignment is carried out for the benefit of multiple (legal) persons, then the limitation of liability regarding the Assignment applies to all involved (legal) persons jointly. It is the responsibility of that group of involved (legal) persons to divide in the event of liability the maximum compensation to be disbursed between themselves.

13.4. All Assignments are exclusively accepted and executed by or on behalf of us. Client will exclusively exercise his possible rights of claim and complaint towards us and not vis-à-vis our (administrators of) shareholders, administrators, or employees of auxiliary persons deployed by us.

13.5. The liability limitations set forth in this article are also stipulated for the benefit of the third parties deployed by us for the execution of the Assignment which consequently can directly appeal to this liability limitation.

13.6. Client safeguards us against all third-party claims, unless Client demonstrates that they are caused by intent or gross negligence which can be equated with it on our part.

13.7. Unless such is stipulated emphatically in the Agreement, we do not give investment advice which also means that our utterances concerning any organisation cannot be understood as investment advice.

## 14. TRANSFER OF CONTRACT

14.1. It is not permitted to Client to transfer (any obligation from) the Agreement to third parties, unless we emphatically accept this. We have the right to subject this permission to conditions. Client commits himself in any case to impose in such case all (payment) obligations from the Agreement and these General Conditions which would be relevant in such case on the third party. Client remains liable at all times besides this third party for the obligations from the Agreement and these General Conditions, unless parties explicitly agree otherwise.

14.2. In case of the transfer of contract, Client safeguards us in the matter of all third-party claims which may arise as a result of the Client not or not correctly complying with any obligation from the Agreement and/or these General Conditions, unless any mandatory (inter)national legislation or regulation prohibits such a clause.

## 15. INTERNET USE

15.1. During the execution of the Assignment, use is made of digital means of communication such as e-mail and various digital services of third parties. Parties acknowledge that there are risks involved in the use of digital means of communication and services such as – though not limited to – the lack of guarantee in the delivery of communications, breaches regarding personal data, delays, and viruses.

15.2. For the application of these General Conditions, we also intend by written communication communications by e-mail or another electronic messaging service which addresses personally.

15.3. The data from our computer systems constitute compelling evidence for (the content of) the digital communications sent by us and the used digital services, until the moment proof to the contrary has been produced by the Client.

15.4. We are not liable for damage which may result at Client as a consequence of the use of digital communication and/or services, including – though not limited to – damage as a result of non-delivery or delay on delivery of digital communications, as well as loss, interception, misappropriation, unauthorised access to, or manipulation by third parties or of software/devices used by third parties, barring the extent to which the damage is the result of intent or gross negligence.

## 16. FORCE MAJEURE

16.1. Force majeure pertains if the execution of the Assignment is impeded, completely or partially, and whether or not temporarily, by circumstances outside the volition of parties and/or through circumstances on our part such as strikes, staff issues, transport issues, weather conditions, also including malpractice on the part of suppliers engaged by us.

16.2. We are not held to compliance with any obligation resulting from the Agreement if we are prevented from doing so due to force majeure. In case of force majeure or of any other special circumstance on our part, we have the right to fulfil one or more obligations from the Agreement within a reasonable term. If execution is no longer possible, we have the right to completely or partially rescind the Agreement.

## 17. NON-SOLICITATION CLAUSE

During the execution of the Assignment and within one year after termination of the Assignment, Client may not employ collaborator(s) who are or have been involved from our side in the execution of the Assignment, nor negotiate with this/these collaborator(s) on employing them. If Client, despite this non-solicitation clause, does employ collaborator(s) of us, he owes us a directly payable fine which is equal to six months' full-time gross wages of the collaborator(s) in case, without prejudice to our right to demand full indemnification.

## 18. LIMITATION CLAUSE

To the extent it is not stipulated otherwise in the Agreement, the claiming rights and other authorisations of Client on whatever account towards us lapse in any case upon expiry of one year following the moment a fact occurs allowing Client to exercise these rights and/or authorisations towards us.

## 19. WAIVER OF RIGHTS

Not directly enforcing any right or authorisation on our part will not affect or limit those rights and authorisations under this Agreement. The waiving of a right regarding any provision or condition in the Agreement will exclusively be effective if it is done in writing.

## 20. CONVERSION

If and to the extent on grounds of reason and fairness or the unreasonably encumbering character thereof, it is impossible to appeal to any provision of the Agreement, to the relevant provision will in any case be attributed a meaning which corresponds as much as possible regarding content and tenor, so that it can still be invoked.

## 21. AFTEREFFECT

The provision of this Agreement, which are intended emphatically or tacitly to remain in effect after termination of this Agreement, will remain in effect afterwards and will continue to bind both parties.

## 22. CONFLICTING CLAUSES

In case these General Conditions and the Agreement contain contradictory conditions, the conditions stipulated in the Agreement are valid.

## 23. MODIFICATION CLAUSE

We have the right to unilaterally modify these conditions if there are weighty grounds for doing so and the Client is not disproportionately impaired as a result.

## 24. APPLICABLE LAW AND CHOICE OF COURT

24.1. To all Agreements between Client and us, Netherlands legislation is applicable.

24.2. All disputes which are related to Assignments between parties will be resolved at the first instance by binding arbitration at an independent third party as will be nominated by parties jointly. Only at a second stage will disputes be resolved by the competent court in Amsterdam.

## ANNEXES:

- A: DATA PROCESSING AGREEMENT

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### DATA PROCESSING AGREEMENT THE

#### UNDERSIGNED

- RS Finance I B.V., a corporation founded according to Netherlands legislation, with statutory seat in (1097 DM) Amsterdam on James Wattstraat 100 and listed in the trade register of the Chamber of Commerce under number 56741154 (subsequently called: 'Processor'),
- and
- «Controller», a corporation founded according to Netherlands legislation, with statutory seat in «Postal code» «Place» on «address\_and\_home number» and listed in the trade register of the Chamber of Commerce under number «CoC nummer» (subsequently called: 'Controller'), in the following referred to jointly as: 'Parties' and to each individually as: a 'Party',

#### CONSIDERING THAT

Parties have established that Controller makes use of Processor as a provider of services in the area of (payroll) administration, fiscal declarations, business operations- and fiscal advice, HR and labour law issues, computerization and IT and/or entrepreneurial advice. Processor processes personal data of the Controller in the context of the implementation of a services agreement between Processor and Controller.

#### AGREE AS FOLLOWS

In order to enable Parties to implement their relationship in a manner which is compliant with the law, Parties have entered into this Data Processing Agreement ("DPA"), as follows:

##### 1. DEFINITIONS

In the context of this DPA the following definitions apply:

- 'Algemene Verordening Gegevensbescherming' or 'AVG': the General Data Protection Regulation (EU) 2016/679 of the European Parliament and the Council of 27 April 2016 regarding the protection of natural persons in connection with the processing of personal data and which regards the free traffic of those data, which has become effective 20 days after publication (4 May 2016) and applicable as of 25 May 2018.
- 'Data Subject': an identifiable person who can be directly or indirectly identified, especially on the basis of an identifier such as a name, an identification number, location data, an on-line identifier or of one or more elements which are characteristic for the physical, physiological, genetic, psychological, economic, cultural, or social identity of that natural person.
- 'Special Categories of Data': data from which race or ethnic background, political views, religious or philosophical convictions, or the membership of a labour union are evinced; genetic data, biometric data which are Processed with an eye on the unique identification of a natural person; data on health, or data regarding someone's sexual conduct or sexual orientation.
- 'Third Country': a country with regard to which the European Commission has not decided that that country, or an area or sectors further specified within that country, guarantees an appropriate security level.
- 'Services': the services provided by Processor to Controller as agreed in the Services Agreement.
- 'Breach in connection with personal data': a breach of security which by accident or in an illegitimate manner leads to the destruction, loss, modification, or the unauthorised provision of or the unauthorised access to forwarded, stored, or otherwise Processed data.
- 'International organisation' an organisation and the bodies of international administrative law falling under it which were founded through or pursuant to an agreement between two or more countries.
- 'Member state': a country belonging to the European Union.
- 'Services Agreement': the main agreement which is concluded between Controller and Processor and in which the conditions for the provision of the Services are stipulated, also including the applicable General Delivery Terms of Processor.
- 'Personal data': all information on an identified or identifiable natural person (Data Subject).
- 'Sub-processor': a data processor which is deployed by Processor and which declares to be willing to receive Personal data from Processor which are exclusively intended for Processing activities which must be executed for the benefit of Controller, in accordance with their instructions, the conditions of this DPA, and the conditions of a written sub-processing agreement.
- 'Technical and Organisational Security Measures': the measures which aim for the protection of Personal data against inadvertent destruction or unintentional loss, modification, unauthorised disclosure or access, especially where the Processing consists of the forwarding of data through a network, and against all other illegitimate forms of Processing.
- 'Applicable Data Protection Legislation': the legislation which offers protection for the fundamental rights and freedoms of persons, particularly of their right to privacy regarding the Processing of Personal data, which legislation is applicable to Controller and Processor; the term 'Applicable Data Protection Legislation' also comprises AVG, as in has become effective 20 days after publication (4 May 2016) and applicable as of 25 May 2018.
- 'Monitoring agency': an independent government institution set up by a Member State pursuant to article 51 AVG.
- 'Controller': the client of Processor who, as a natural or legal person, individually or with others jointly, establishes the purpose of and means for the Processing of Personal data.

- 'Process/processing': a modification or a whole of modifications regarding Personal data or a whole of Personal data, whether or not executed through automatic procedures, such as the collecting, recording, ordering, structuring, saving, updating or modifying, requesting, perusing, using, providing by way of forwarding, distributing or making available in another manner, aligning or combining, shielding, deleting or destroying of data.

##### 2. DETAILS OF PROCESSING

The details of the Processing activities which are carried out by Processor for the benefit of Controller in the capacity of data processor which has obtained an assignment to that effect (such as the object of the processing, the nature and the purpose of the processing, the type of personal data and categories of Data Subjects) as follow from the Main Agreement.

##### 3. RIGHTS AND OBLIGATIONS OF CONTROLLER

Controller remains the data controller for the Processing of the Personal data in conformity with the instructions to Processor pursuant to the Services Agreement, this DPA and any other possible instructions. Controller has ordered Processor and will continue to order Processor during the effective time of the data processing for which the order was given, to exclusively process the Personal data for the benefit of Controller and in accordance with the Applicable Data Protection Legislation, the Services Agreement, this DPA, and instructions of Controller. Controller has the right and the obligation to give Processor instructions in connection with the Processing of the Personal data, both generally and in individual cases, on condition such is fitting within the Services Agreement. Instructions can also regard the rectification, deletion, and blocking of the Personal data. Instructions are generally given in writing, unless the urgency or other specific circumstances require another form (for example verbal or electronical). Non-written instructions must be confirmed forthwith by Controller in writing. To the extent the implementation of an instruction leads to costs for Processor, Processor will first inform Controller of those costs. Only after Controller has confirmed that the costs for the implementation of an instruction will be borne by him, will Processor implement that instruction.

##### 4. OBLIGATIONS OF PROCESSOR

Processor will:

- Exclusively process the Personal data in conformity with the instructions of Controller and for the benefit of Controller; those instructions are issued in the Services Agreement, this DPA and otherwise in a documented form as mentioned in article 3 in the preceding. That obligation to follow the instructions of Controller also applies to the transfer of the Personal data to a Third Country or an International Organisation;
  - Immediately inform Controller if Processor for whatever reason is unable to comply with an instruction of Controller;
  - Make sure that persons whom have been authorised by Processor to Process the Personal data for the benefit of Controller commit themselves to observe secrecy or that an appropriate non-disclosure obligation will be imposed on those persons and that the persons having access to the Personal data will Process those Personal data in conformity with the instructions of Controller;
  - Implement appropriate Technical and Organisational Security Measures which are compliant with the requirements of the Applicable Data Protection Legislation before Processing the Personal data and make sure that he offers Controller sufficient guarantees regarding those Technical and Organisational Security Measures;
  - Assist Controller by way of appropriate Technical and Organisational Measures, to the extent feasible, for the fulfilment of the obligation of Controller to heed requests for the exercise of rights of the Data Subjects regarding information, access, rectification and deletion, limitation of processing, notification, data transferability, objection and automatic decision-making. To the extent those appropriate and feasible Technical and Organisational Measures require additions or modification to the existing Technical and Organisational Measures, Processor will inform Controller on the costs of implementation of those additional or modified Technical and Organisational Measures. As soon as Controller has confirmed that those costs will be borne by him, Processor will implement those additional or modified Technical and Organisational Measures to assist Controller with heeding requests from Data Subjects;
  - Provide all information to Controller which is required to prove that the obligations mentioned in this DPA and in Art. 28 AVG are complied with, and enable controls, including inspections by Controller or another inspector who has been authorised to that effect by Controller, as well as contribute to them. Controller is aware that controls in person and on location can cause considerable disturbance to the business activities of Processor and that they can cost a lot of time and money. Controller may therefore only carry out a control in person and on location if Controller compensates the costs and/or expenses incurred by Processor as a result of the disturbance of the business activities to Processor;
- g. Inform Controller without unnecessary delays:
- Of any legally binding request to provide the Personal data by an institution of law enforcement, unless this notification is otherwise prohibited, such as a prohibition in the area of criminal law which aims to maintain the confidentiality of an investigation of law enforcement;
  - Of complaints and requests which were received directly from Data Subjects (for example complaints and requests for access, rectification, deletion, limitation of processing, data transferability, objection against processing of data, automatic decision-making) without heeding that request, unless he is otherwise authorised to do so;
  - If Processor is obligated pursuant to EU legislation or the legislation of a Member State which is applicable to Processor, to process the Personal data

outside the framework of the assignment of Controller, before carrying out that processing outside that framework, unless that EU legislation or legislation of that Member State prohibits that notification for weighty reasons at the level of public interest; that notification must state the legal requirement pursuant to that EU legislation or legislation of the Member State;

iv. if, in the opinion of Processor, an instruction is in violation of the Applicable Data Protection Legislation; upon expiry of that notification, Processor is not obligated to follow the instruction, unless and until Controller has confirmed or modified it; and  
v. as soon as Processor becomes aware of a Breach in connection with Personal data at Processor no later than within 48 hours after discovery. In case of such a Breach in connection with Personal data, Processor will assist Controller, upon written request of Controller, with the obligation of Controller on account of Applicable Data Protection Legislation to inform the Data Subjects and/or the Monitoring Agency respectively, and to document the Breach in connection with Personal data;

h. assist Controller on a Data Protection Impact Assessment (DPIA) in case the nature of the Services provided by Processor to Controller and/or the nature of the Personal data which are processed by Processor for the benefit of Controller require such pursuant to art. 35AVG;

i. handle all questions of Controller regarding his Processing of the Personal data to be processed (for example by enabling Controller to timely react to complaints or requests of Data Subjects) and to follow up on the advice of the Monitoring agency regarding the Processing of the transmitted data;

j. to the extent Processor is obliged and requested to rectify, delete and/or block Personal data which were processed pursuant to this DPA, to do so forthwith. If and to the extent Personal data cannot be deleted on grounds of legal requirements in connection with data retention, Processor must, instead of deleting the Personal data in question, limit the further Processing and/or the further use of Personal data, or remove the associated identity from the Personal data (subsequently called: "block"). If such a blocking obligation applies to Processor, Processor must delete the relevant Personal data no later than on the last day of the calendar year in which the retention period ends.

#### 5. SUB-PROCESSING

a. Data Controller acknowledges and accepts that Processor may outsource (a part of) his activities which (partly) consist of the processing of the Personal data or whereby it is prescribed that Personal data are processed, to a third party.

b. Upon first request of Controller, Processor will inform Controller of any Sub-processors which have been deployed by Processor for the benefit of Controller. If Controller holds that the processing by a Sub-processor would constitute an issue or risk, Controller must immediately report and substantiate this towards Processor. In that case, Controller and Processor will decide by mutual agreement to what extent it is necessary and possible to resolve the problem or risk.

c. Processor is responsible for the actions of his Sub-processors in accordance with the Main Agreement, in the degree as Processor would be liable if the services would have been provided directly under the conditions of this Processor Agreement, barring different provisions in the Main Agreement.

d. Processor contractually imposes the same or similar data protection obligations as those mentioned in this DPA on all Sub-processors. The agreements between Processor and Sub-processors offer sufficient guarantees especially for the implementation of appropriate Technical and Organisational Security Measures, to the extent those Technical and Organisational Security Measures are of importance for the services provided by the Sub-processor.

e. Processor selects the Sub-processor with all due care.

f. If such a Sub-processor is located in a Third Country, upon written request of Controller Processor will enter into an EU model contract (Controller > Processor) for the benefit of Controller (in the name of Controller), pursuant to Resolution 2010/87/EU. In this case, Controller instructs and authorises Processor to issue instructions for Sub-processors in name of Controller and to make use of all rights of Controller vis-à-vis the Sub-processors pursuant to the EU-model contract.

#### 6. LIMITATION LIABILITY

All liability resulting from or related to this DPA follows and is exclusively governed by the liability provisions as stipulated in, or as otherwise applicable to, the Services Agreement. Therefore, and for the purpose of calculating liability limits and/or to determine the applicability of other limitations to liability, any liability which occurs on account of this DPA, is considered to occur on account of the relevant Services Agreement.

#### 7. DURATION AND TERMINATION

a. The effective time of this DPA is equal to that of the relevant Services Agreement. Unless it is established otherwise in this agreement, rights and obligations in the area of termination are the same as the rights and obligations which are stipulated in the relevant Services Agreement.

b. Upon the first request of Controller, Processor will, at his discretion, either delete or return to Controller all Personal data after the end of the provision of the Services, and delete all copies, unless Processor (i) is obligated pursuant to EU legislation or legislation of a Member State to keep those Personal data, or (ii) within the framework of the diligent provision of services towards Controller – also after its effective end – deems it necessary to keep those Personal data for up to three (3) years after expiry of the statutory retention period.

#### 8. MISCELLANEOUS

a. In case of conflict between what is stipulated in this DPA and any other agreements between Parties, what is stipulated in this DPA regarding the data protection obligations of Parties prevails. In case of doubt about the question whether clauses in those other agreements regard the data protection obligations of Parties, this DPA prevails.

b. The invalidity or unenforceability of any provision in this DPA does not affect the validity or enforceability of the other provisions of this DPA. The invalid or unenforceable provision is (i) altered in such a manner that the validity or enforceability of it is guaranteed and simultaneously the intentions of Parties retained as much as possible or – if this is not possible – (ii) interpreted in such a way as if the invalid or unenforceable part had never been included in it. The preceding is also applicable in the event this DPA contains an omission.

c. This DPA is governed by the same legislation as the Services Agreement, barring the extent to which Applicable Data Protection Legislation is mandatorily applicable.

d. Processor will periodically evaluate this Processor Agreement and if necessary modify it with due regard for the interests of both parties, if such contributes to the proper implementation of the Services Agreement in the context of AVG.

#### THUS AGREED BETWEEN PARTIES

##### Representing Processor:

Name: A.I. Schipperus

Position: Director

Signature: .....

Date: .....

##### Representing Controller:

Name: .....

Position: .....

Signature: .....

Date: .....

END GENERAL DELIVERY TERMS RS FINANCE I BV INCLUDING  
DATA PROCESSING AGREEMENT

Version 25 May 2018