

# docdata payments

Part of 

General Terms and Conditions

docdata payments B.V.

01/03/2018

*In the event of any inconsistency or conflict between the Dutch version and any translation of these General Terms and Conditions, the Dutch version shall prevail.*

## Article 1: Parties

docdata payments B.V., a private limited company having its corporate seat and office address at Papendorpseweg 25, 3528 BJ Utrecht, the Netherlands (“**DDP**”) and the Merchant (“**Merchant**”) as referred to in the Master Agreement for the Docdata Payment Service (“**Agreement**”). Both parties are hereinafter also referred to jointly as “Parties” and individually as “Party”.

## Article 2: Definitions

**Account Number:** the number by which the Merchant is identified by the Financial Institution which supports the Payment Method used by the Merchant through the Docdata Payment Service. An Account Number may be based on an agreement entered into directly between the Merchant and the Financial Institution or an agreement entered into between DDP and the Financial Institution.

**Effective Date:** the Agreement takes effect on the date of signature of the Agreement by all the Parties.

**Customer(s):** consumers, public authorities and companies who have agreed with the Merchant via the internet that the Merchant will provide products and/or services, digital or otherwise, to such consumers, public authorities or companies on Payment of a specific amount of money to the Merchant.

**General Terms and Conditions:** the General Terms and Conditions of docdata payments B.V.

**Payment Method:** a method of Payment selected by the Customer on the DDP payment page or on the Merchant’s payment page.

**Payment(s):** settlement of the amount owed by the Customer for the services provided or to be provided and/or products supplied or to be supplied by the Merchant. The amounts in question will be received on behalf of the Merchant using the Docdata Payment Service provided by DDP.

**Chargeback:** the option for a Customer to reverse a Payment by having the Financial Institution deduct the amounts already transferred from the balance in the Merchant’s account or reverse the transaction through the Docdata Payment Service.

**Collateral Balance:** the minimum amount which the Merchant must hold on deposit with DDP to cover the financial risks run by DDP on account of the Docdata Payment Service.

**Docdata Payment Service:** the service provided by DDP under the Agreement, the functionality of which is described in the Agreement, the General Terms and Conditions and in the technical documentation to be made available by DDP to the Merchant.

**Financial Institutions:** institutions that offer Payment Methods, issue credit cards, initiate and/or process Payments and have entered into agreements for that purpose with DDP, the Merchant or Customers, as well as intermediaries facilitating the provision of services between Financial Institutions and DDP and/or the offering of a Payment Method.

**Associated Company:** each legal entity, company or partnership belonging to the same group as DDP.

**Group:** the economic unit in which legal entities, companies and partnerships are organizationally linked.

**Merchant:** The party with whom DDP enters into the Agreement.

**Agreement:** the *Raamovereenkomst docdata payments B.V.* (Docdata payments B.V. Master Agreement), signed by the Parties, of which the General Terms and Conditions form an integral part.

**Payment Platform:** the coherent whole of telecommunication facilities, hardware and software and other (technical) means used by DDP to provide the Docdata Payment Service to the Merchant.

**Refund:** repayment of (part of) the Transaction Amount to the Customer at the request of the Merchant.

**Transaction:** a Payment order registered on the Payment Platform.

**Transaction Amount:** the amount of the Payment.

## Article 3: Agreement and applicability of terms and conditions

**Art. 3.1** The applicability of any standard terms and conditions used by the Merchant is expressly rejected. The conditions contained in these General Terms and Conditions and in the Agreement apply. Derogations from these terms and conditions will be included in the Agreement and will be valid only if signed by all the Parties.

**Art. 3.2** If any provision of these General Terms and Conditions is void or voided, the remaining provisions will remain in full force and effect, and the void or voided provision(s) of the General Terms and Conditions will be replaced by (a) valid provision(s), the purpose and intent of the void or voided provision(s) being taken into account as far as possible.

**Art. 3.3** DDP may amend the General Terms and Conditions unilaterally. The Merchant will be informed in writing of any amendments to the General Terms and Conditions one month before the date on which the amendments take effect. The Merchant is deemed to have accepted the amendments to the General Terms and Conditions if the Merchant does not inform DDP by registered letter before the proposed effective date that it does not accept them. DDP is entitled not to inform the Merchant beforehand if an amendment must be made within the aforesaid one-month period by virtue of changes in the law or orders or instructions from a competent regulatory authority.

## Article 4: Term of the Agreement

**Art. 4.1** Except as otherwise agreed, the Agreement is entered into for a period of one (1) year from the Effective Date, which period will be automatically renewed from time to time for a period of one (1) year. To prevent automatic renewal, the Parties (or one of the Parties) must terminate the Agreement by giving a minimum of three months’ notice before the end of the then current period. Notice of termination must be given in writing by registered letter. The Agreement may not be terminated early, except in the circumstances described below.

**Art. 4.2** The Agreement may be terminated early with immediate effect, without court intervention, if one of the Parties is declared bankrupt, placed into liquidation, obtains court protection from creditors (moratorium), is dissolved or wound up, ceases its business operations, or if a composition is proposed to a Party’s creditors or a Party’s debts are rescheduled in any other way.

## Article 5: Legal framework

**Art. 5.1** DDP allows the Merchant to use its Payment Platform for the processing of Transactions and the resulting Payments. The Merchant may use the Payment Platform only for the website(s) specified in the Agreement. The Merchant declares that it holds the right to use the website(s) specified in the Agreement.

**Art 5.2** Without the permission of DDP, the Merchant is not permitted to use the DDP Payment Platform on websites other than those specified in the Agreement. If DDP gives such permission, the Agreement will be amended accordingly by specifying the website(s) in question in the Agreement.

**Art 5.3** On conclusion of the Agreement, DDP assesses the products/services offered by the Merchant on the website(s). The Merchant declares that the information given to DDP with respect thereto is correct and complete. The Merchant is obliged to notify DDP without delay of any changes made by the Merchant to the products/services offered by the Merchant on the website(s) specified in the Agreement. At the request of DDP, the Merchant shall provide information to DDP, taking into account the applicable privacy legislation, about its activities and objectives. Upon request, the Merchant shall inform DDP of the origin of funds deposited or to be deposited with DDP.

**Art. 5.4** DDP holds a licence as a payment institution for the provision of payment services as defined in the Dutch Financial Markets Supervision Act (*Wet op het financieel toezicht*) and is registered with and supervised by the Dutch central bank (*De Nederlandsche Bank*). Accordingly, DDP must meet the requirements in respect of controlled and sound operational management, the minimum equity, the protection of funds of Merchants and the related value dating rules and disclosure obligations to Merchants.

**Art. 5.5** DDP and the Merchant shall comply with all relevant laws and regulations at all times, in particular in connection with the Dutch Financial Markets Supervision Act, Book 7 of the Dutch Civil Code, the Dutch Money Laundering and Terrorist Financing (Prevention) Act (*Wet ter voorkoming van witwassen en financieren van terrorisme*) and the Dutch Sanctions Act 1977 (*Sanctiewet 1977*).

**Art. 5.6** The Merchant, its ultimate beneficial owner (UBO) and its representatives are obliged to give every assistance and provide any information to DDP that is required to enable DDP to establish and verify, inter alia, their identity, citizen service number, date of birth, civil status, legal capacity and authority to perform juristic acts, marital property regime or partnership property regime, legal form, their place of residence, place of business and/or corporate seat and, where applicable, their registration number of the Business Register and/or other registers, and their VAT registration number. DDP must be notified in writing of any changes to these details as soon as possible. DDP is entitled to make copies of documents containing these details, and may register and retain such details. If the Merchant is a legal entity or a partnership, the Merchant and its representatives are also obliged to provide information on the ownership and control structure of the legal entity or the partnership at the request of DDP.

**Art. 5.7** DDP will hold bank accounts with an independent depository named "*Stichting foundation docdata payments*" for the purposes of protecting the funds of Merchants. DDP and *Stichting foundation docdata payments* have laid down conditions for the management and custody of funds, which conditions have been made available to the Merchant on the website. DDP and *Stichting foundation docdata payments* do not pay any interest on the balance held for the Merchant in the current account(s).

**Art. 5.8** DDP is entitled to use the Payment Platform which is owned by a wholly-owned subsidiary of DDP. DDP may, as such, grant sublicences to Merchants.

**Art 5.9** DDP is never legally or financially responsible or liable for non-payment by a Customer for the products and/or services purchased by such Customer or for the costs incurred by a Merchant to secure payment from a Customer.

**Art. 5.10** DDP may immediately and without prior notice suspend or terminate the use of the Docdata Payment Service by the Merchant if there are facts and/or circumstances that reasonably lead DDP to conclude that the Merchant does not use the Docdata Payment Service for the website(s) and/or goods/services specified in the Agreement, or that the Merchant supplies goods and/or provides services contrary to the rules and regulations of a relevant Financial Institution and/or contrary to an applicable code of conduct and/or contrary to applicable laws and regulations in the country in which the Merchant supplies the goods/provides the services.

**Art. 5.11** Obligations which by their nature are intended to survive termination of the Agreement and/or the Docdata Payment Service will continue in force.

## **Article 6: Acceptance by and affiliation with Financial Institutions**

**Art. 6.1** DDP will initiate an acceptance procedure with the relevant Financial Institution for the use of certain Payment Methods. DDP cannot guarantee that the Financial Institution will accept the Merchant and allow the Merchant to offer specific Payment Methods to its Customers. The Merchant will provide DDP with all documentation and information required for the successful completion of the Financial Institution's acceptance procedure. If the Merchant is not accepted by the Financial Institution, the Merchant cannot hold DDP liable for this.

**Art. 6.2** The Merchant uses the Payment Platform for the collection of Payments. The Merchant uses Payment Methods for which DDP may involve other Financial Institutions. In that case, DDP has concluded a contract with the Financial Institution and/or the Merchant itself has concluded a contract with the Financial Institution.

**Art. 6.3** The relationship between the Customer and the Merchant and between the Customer and Financial Institutions is (also) a contractual relationship. DDP is not a party to such contractual relationships and is only in a contractual relationship with the Merchant and with the Financial Institutions whose services are used by DDP for the Docdata Payment Service.

**Art. 6.4** If the Merchant has its own Account Number that has been provided on the basis of a contract between the Merchant and the Financial Institution and if that Account Number is used for the processing of Transactions for specific Payment Methods using the Docdata Payment Service, DDP is not a party to the contractual relationship between the Merchant and the Financial Institution.

## **Article 7 Conditions imposed by the Financial Institutions.**

General and specific terms and conditions of Financial Institutions, other than the terms and conditions set out in the Agreement and in these General Terms and Conditions, may apply to the Merchant. To the extent that the Merchant uses (a Payment Method of) a Financial Institution, it is the Merchant's own responsibility to take note of the terms and conditions of the Financial Institution that apply to the Merchant. The Merchant is fully responsible for compliance with those terms and conditions. If the Financial Institution makes a claim against or imposes a penalty on the Merchant for non-compliance with the terms and conditions, the Merchant may never hold DDP liable for this.

## **Article 8: Rates**

**Art. 8.1** The Merchant is required to pay DDP the rates agreed in the Agreement as well as any penalties and costs that may be imposed on or charged to the Merchant or DDP by Financial Institutions.

**Art. 8.2** Rates are based on, inter alia, the monthly volume and/or average transaction value and/or highest transaction value and/or risk factors. If changes occur in the terms and conditions laid down in the Agreement between the Merchant and DDP with respect to volume, transaction value, credit card mix (such as the proportion of corporate cards, credit card origin) et cetera, the Merchant is obliged to notify DDP of such changes without delay. DDP reserves the right to revise the rates - in the event of changes to the agreed transaction value and/or volume and/or projected credit card mix - either retroactively to the date on which the changes take effect or otherwise.

## Article 9: Payments

**Art. 9.1** By signing the Agreement, the Merchant authorizes DDP and *Stichting foundation docdata payments* to receive Payments in accounts held in the name of *Stichting foundation docdata payments*, to settle such Payments and to set off Chargebacks, Refunds or other claims of DDP against the balances of the Merchant held by *Stichting foundation docdata payments*. The Merchant warrants that it will check payments made by DDP within 30 days and that it will repay without delay any wrongful/undue payments made by DDP and/or *Stichting foundation docdata payments*. After this period all payments made by and reports issued by DDP will be deemed to be correct.

**Art. 9.2** The Merchant will ensure that the contractual relationship between the Merchant and the Customer permits DDP to receive Payments intended for the Merchant through *Stichting foundation docdata payments*. The Merchant is obliged to furnish Customers or prospective Customers with adequate information about the way in which Customers can make valid Payments to the Merchant using the Docdata Payment Service. The Merchant indemnifies, defends and holds DDP harmless from and against any claims by its Customers for Payments made by Customers to DDP.

## Article 10: Chargebacks and Refunds

**Art. 10.1** DDP is entitled to set off Chargebacks and Refunds against Transaction Amounts owed by DDP to the Merchant. If the credit balances of the Merchant are insufficient to set off Chargebacks and Refunds, DDP will collect this amount from the Merchant. By signing the Agreement, the Merchant authorizes DDP to collect the outstanding amounts that cannot be set off from the Merchant's bank account by means of a continuous direct debit mandate. The Merchant indemnifies, defends and holds DDP harmless from and against any direct and indirect costs and liability arising from Chargebacks and Refunds, regardless of their correctness.

**Art. 10.2** If the Merchant has many Chargebacks, a Financial Institution may impose a penalty on the Merchant. DDP may at any time pass on such penalties and additional costs to the Merchant if and to the extent that these have been set off by the Institution against payments intended for the Merchant in question. If the Financial Institution cancels the Merchant's Account Number, the Merchant cannot hold DDP liable for this.

## Article 11: Collateral Balance

**Art. 11.1** The Merchant is obliged to maintain a Collateral Balance. The amount of the Collateral Balance will be determined at the discretion of DDP. The Collateral Balance is to be maintained in a bank account of *Stichting Foundation docdata payments*. The Collateral Balance will be paid to the Merchant once the Merchant has met all its obligations to DDP.

**Art. 11.2** The applicability of these General Terms and Conditions means that the Merchant:

- a. undertakes to pledge the Collateral Balance to DDP as security for any and all claims which DDP has or may have at any time against the Merchant on any account whatsoever;
- b. has pledged the Collateral Balance referred to in clause a. to DDP as far as legally possible;
- c. has given irrevocable power of attorney to DDP, with full power of substitution, to pledge the Collateral Balance to itself on behalf of the Merchant, repeatedly if necessary, and to take such action as is appropriate in connection with the pledge.

**Art. 11.3** The Merchant warrants that it is entitled to pledge the Collateral Balance and that the Collateral Balance is not and will not be subject to any rights and claims of parties other than DDP.

**Art. 11.4** DDP may enforce the pledge only if it has a claim on the Merchant that has fallen due and the Merchant is in default of payment thereof. DDP shall not enforce the pledge beyond the extent required for the payment of the Merchant's debt.

## Article 12: Rights and obligations of the Merchant

**Art. 12.1** The Merchant is responsible for compliance with local and international laws and regulations (such as the Dutch Electronic Commerce Directive (Amendment) Act (*Aanpassingswet richtlijn inzake elektronische handel*), laws and regulations relating to complaints handling, and the Dutch Distance Selling Act (*Wet koop op afstand*)).

**Art. 12.2** The Merchant may not use the Docdata Payment Service for the sale of goods and/or services that violate any laws and, in particular, local and international laws with respect to fraud, money laundering and terrorist financing and sanction legislation. If it becomes evident that the Merchant uses the Docdata Payment Service for sales that violate applicable local or international laws or regulations, DDP reserves the right to discontinue the use of the Docdata Payment Service with immediate effect and without prior notice to the Merchant, and to terminate the Agreement at the same time with immediate effect.

**Art. 12.3** On the basis of the terms and conditions of the Financial Institutions involved for a Payment Method, the Docdata Payment Service may not be used for specific categories of services, products and businesses. If the Merchant accepts (a) credit card(s), the Merchant itself is responsible for verifying whether its services and/or products are permitted by the credit card issuer and the acquirers or other Financial Institutions in the chain who facilitate credit card Payments for the benefit of the Merchant. The Merchant can never hold DDP liable for any claims made or penalties imposed by third parties on account of the provision of services and/or products that are not permitted. DDP maintains a list of banned categories of services, products and businesses for which the Docdata Payment Service may in any case not be used. With respect to Payment Methods for which DDP uses the services of other Financial Institutions, this list is not exhaustive and may be amended from time to time at the sole discretion of DDP. The Merchant is obliged to consult this list before using and on a regular basis during the use of the Docdata Payment Service. DDP will make the list available at the request of the Merchant.

**Art. 12.4** If Financial Institutions make repeated complaints about the Merchant, DDP may terminate the Agreement with the Merchant. This will, in principle, only be possible after DDP has notified the Merchant in writing of the complaints and has granted the Merchant a reasonable period of at least 14 days to change its working practices. During the said period of at least 14 days, DDP will not process any payments to the Merchant. However, if the complaints continue after the said period or if the initial complaint is of such a serious nature that DDP cannot be expected to continue providing its services to the Merchant, DDP may terminate the Agreement with immediate effect.

**Art. 12.5** When using Payment Methods for which DDP uses the services of Financial Institutions (including card schemes), the Merchant is obliged to comply with the rules, terms, conditions and procedures of those institutions that apply to the Payment Method in question. The Merchant is required to request DDP to furnish such rules, terms, conditions and procedures if and to the extent that the Merchant does not have them at its disposal. DDP will furnish the Merchant upon request with the applicable rules, terms, conditions and procedures (as amended from time to time) used by the Financial Institution whose services DDP uses with respect to a Payment Method.

**Art. 12.6** The Merchant is not permitted to charge Customers for excessive costs for Payment Methods.

**Art. 12.7** If the Merchant, when using a Payment Method, accepts payment cards (credit cards and international debit cards) to which the international Payment Card Industry Data Security Standard ("PCI DSS") applies, the Merchant is obliged to adhere to the PCI DSS. DDP may set additional conditions and procedures in respect of the PCI DSS as a condition for the use of a specific Payment Method.

**Art. 12.8** The Merchant is obliged to maintain strict confidentiality with regard to all means of access (such as username, password and digital certificate) to the Payment Platform and to make such information available only to employees or to third parties engaged by the Merchant who must have access to the Payment Platform in the context of their daily activities.

**Art. 12.9** The Merchant may not make the functionality of the Docdata Payment Service available to third parties or use it for the benefit of third parties.

**Art. 12.10** The Merchant is obliged to furnish DDP in a timely manner and in the form and manner specified by DDP with all the information considered necessary by DDP for the proper performance of the Docdata Payment Service. The Merchant warrants the accuracy, completeness and reliability of the data and information provided to DDP.

**Art. 12.11** In order to guarantee availability and security for all Merchants of DDP, the Merchant is expected to update its systems and the related hardware and software required for a secure connection to DDP's payment systems with the most recent software updates on a regular basis. DDP shall inform the Merchant in a timely manner, if possible, of any need to change protocols, software or connections. The Merchant is expected to comply with such a request within a reasonable period. DDP may request the Merchant to make immediate changes only in urgent circumstances which are external to both parties.

### **Article 13: Payment to the Merchant**

**Art. 13.1** In case of changes to the costs charged by Financial Institutions, DDP may pass on such changes by revising the rates payable by the Merchant with effect from the date of the change. DDP shall notify the Merchant of such revision in advance.

**Art. 13.2** DDP will deduct the rates agreed in the Agreement, as well as any penalties and costs that may be imposed on the Merchant or DDP by Financial Institutions, from the Transaction Amounts paid to the Merchant on a periodic basis. DDP will invoice non-recurring costs and monthly costs as agreed in the Agreement with effect from the Effective Date. By signing the Agreement, the Merchant authorizes DDP and, where necessary, *Stichting foundation docdata payments* to collect the outstanding amounts (DDP's claim against the Merchant) from the bank account specified by the Merchant by means of a continuous direct debit mandate.

**Art. 13.3** DDP will not pay the Transaction Amounts to the Merchant until the funds in question have been received from the Financial Institution in a bank account of *Stichting foundation docdata payments*.

**Art. 13.4** If the Merchant and DDP have agreed a Collateral Balance, the funds payable by DDP to the Merchant on account of Payments processed using the Docdata Payment Service will be limited to the amount payable by DDP over and above the amount of the agreed Collateral Balance.

**Art. 13.5** DDP has the right to suspend payment of the Transaction Amounts in the event of suspected or actual misuse or fraud by Customer(s) or the Merchant.

**Art. 13.6** DDP will, in principle, ensure that payments are transferred to the account number specified in the Agreement and held in the name of the Merchant who has signed the Agreement.

**Art. 13.7** DDP will pay the Transaction Amounts in the payment currency specified in the Agreement. Where no payment currency has been expressly agreed, payment will be made in euros. If the Merchant accepts Payments in a currency other than the currency in which the Merchant will be paid by DDP, DDP will charge a fixed percentage to cover the variable bank charges and other costs, the difference between bid and offered rate (spread) and the exchange rate risk. The Merchant may not challenge the exchange rate used by DDP.

### **Article 14: Non-disclosure**

**Art. 14.1** The Parties undertake and warrant that they will keep confidential and not disclose any data and information regarding machinery, inventions, patents, copyrights, drawings, contracts, organization, suppliers and customers and any other business matters of the Parties, which they know or ought to know to be of a confidential nature, both during and after the performance of the Docdata Payment Service as well as for a period of six months after the termination of the Agreement.

**Art. 14.2** The Merchant fully warrants that its employees, advisers, directors and the third parties it engages will comply strictly with the confidentiality provisions.

**Art. 14.3** The Merchant shall impose its obligations under this Article on any third parties it engages.

**Art. 14.4** If the provisions of this Article are not complied with, DDP has the right to terminate the Agreement with immediate effect and the Merchant shall in that case be liable to pay a penalty to DDP, payable immediately without any demand for payment or notice of default being required, of 12,500 euros for each instance of non-compliance plus a penalty of 2,500 euros for each day that the non-compliance continues. This shall apply without prejudice to the obligation on the Merchant to compensate DDP and without prejudice to any other rights of DDP.

**Art. 14.5** Article 14.1 does not apply:

- if the confidential information is already in the public domain at the time when it is provided to the other Party other than through a breach of the Agreement;
- if the disclosure takes place with the express approval of the other Party;
- if the use or disclosure is necessary for the performance of obligations under the Agreement;
- if the use or disclosure of confidential information is necessary for the fulfilment of a statutory duty or obligation incumbent upon one of the Parties or a Party's Associated Company under its own national law or any other regulations, or in compliance with an order from a court,

competent authority or regulatory authority in or outside the Netherlands.

## Article 15: Protection of personal data

**Art. 15.1** The parties will observe the applicable legislation on data protection and privacy with every processing of personal data in the performance of the Agreement. With regard to the processing of personal data, the Parties are both controller within the meaning of the applicable privacy legislation. Parties shall take appropriate technical and organizational measures to secure the personal data. The parties acknowledge that regular adaptation of the security measures is necessary to comply with the privacy legislation. If requested, the Parties will inform each other about the security measures taken.

**Art. 15.2** The Parties shall treat all personal data processed under the Agreement between the Parties as confidential. DDP will process personal data for the delivery of the services as agreed in the Agreement, in connection with legal, governmental and judicial regulations, as well as within the framework of security and integrity of the Payment Platform and / or the financial sector. For the processing of Transactions and Payments DDP will cooperate with, and is dependent on various Financial Institutions and will transfer the personal data to these Financial Institutions.

**Art 15.3** The Merchant shall state in its agreement or general terms and conditions agreed with a Customer that DDP has been appointed by as the payment service provider for the processing of Transactions and the resulting Payments.

**Art. 15.4** Upon the occurrence of a personal data breach under the Agreement, the Parties will notify each other and provide each other with assistance insofar as this is reasonably possible. A Party shall notify the other Party in the event of an incident without undue delay, but in any case within 48 hours of discovery.

**Art. 15.5** The Parties will assist each other where possible in so far as the other Party makes a reasonable, timely and well-founded request with respect to obligations under this agreement, including but not limited to: (a) a complaint, question or request from a natural person with regard to: the processing of personal data by the DDP; (b) an investigation of personal data by government officials or other persons, or an indication that this will take place; (c) Privacy Impact Assessments (PIAs) or other risk assessments prescribed by law.

**Art. 15.6** Each Party is responsible for taking appropriate measures to protect the rights of the data subject and to take it into account in processing operations for which that Party is responsible. If a Party receives a request from a data subject regarding a processing that does not fall under his responsibility, that Party will immediately forward the request to the responsible Party within ten working days. The Party that forwards the request will substantiate why it considers that the receiving party is responsible for handling it. If possible, the request will be supplemented by the requesting Party with information to deal with the request adequately and to contact the person concerned. The parties acknowledge that a data subject can exercise his or her rights under the privacy legislation with regard to and against each of the Parties.

**Art. 15.7** The Parties shall indemnify and hold each other harmless against claims by third parties against the other Party that result directly or indirectly from their own attributable shortcoming in the fulfillment of obligations regarding the processing of personal data under this Agreement and / or the applicable privacy legislation. If a Party has paid a claimant compensation for damage for which joint liability applies on the basis of privacy legislation, that Party is entitled to recover the part of the compensation for which the other Party is responsible under the privacy legislation or the Agreement from the other party. A Party is not liable if this party proves

that it is in no way responsible for the event that resulted in the damage. This is the case if the processing is not the responsibility of this Party.

## Article 16: Sanction regulations

**Art. 16.1** In their country of domicile DDP and its Associated Companies are bound by statutory obligations under national and international (including European and American) sanction regulations. Each member or division of the Group to which DDP belongs will be involved in complying with the requirements of the sanction regulations applying to other members or divisions of the Group. In the context of such compliance, DDP may pass on data within the Group. The Group division or member in question may also disclose such data to the competent authorities.

**Art. 16.2** In view of the obligations referred to in Article 16.1, DDP may check whether the transactions that are performed in the context of the performance of the Agreement are in accordance with the sanction regulations by which the members and divisions of the Group are bound. If a transaction is found to be contrary to these regulations, DDP will be free not to carry out such transaction. DDP shall notify the Merchant accordingly in that case.

**Art. 16.3** In view of the obligations referred to in Article 16.1 that are incumbent upon DDP or its Associated Companies, DDP is permitted to further process the data it obtains in connection with the performance of the Agreement, for example by screening the transactions for potential non-compliance with relevant European or American sanction regulations. DDP may engage processors within Europe in the context of such processing.

**Art. 16.4** If DDP or any of its Associated Companies discloses data it obtains in connection with the performance of the Agreement to a competent authority inside or outside Europe, DDP shall notify the Merchant accordingly, except where this is prohibited under laws or regulations or an order from a competent authority.

## Article 17: Non-compete clause

During the term of the Agreement and for a period of one (1) year after its termination the Merchant is not permitted to launch a service similar to the Docdata Payment Service in any way or to participate in an entity wishing to perform or already performing activities similar to those performed by DDP.

## Article 18: Intellectual property

**Art. 18.1** Each of the Parties will retain all intellectual property rights to the works it contributes and that are used and/or made available in the context of the Agreement. Each of the Parties indemnifies, defends and holds the other Party harmless from and against claims by third parties on account of alleged infringement of the intellectual property rights it has contributed. No intellectual property rights are transferred under the Agreement, except as expressly otherwise agreed by the Parties in writing.

**Art. 18.2** The Merchant is expressly prohibited from directly or indirectly reproducing, forwarding, publishing and/or exploiting products, methods, system documentation, manuals, advice and other intellectual works of DDP in the broadest sense of the word, unless such products are expressly intended (as evidenced in writing) for reproduction, publication and/or exploitation. Consequently, publication is permitted only with DDP's prior permission in writing.

**Art. 18.3** Each of the Parties acknowledges that the other Party's trade name, logo and trademark represent valuable assets of that other Party. DDP may post the Merchant's trade name and logo on the DDP website and/or include them in a customer list and may

identify the Merchant as a DDP customer in communications with third parties. The Parties agree not to use each other's trade name, logo and trademark for any other purposes.

## Article 19: Complaints

Any complaints with respect to the services performed and/or rates withheld must be submitted to DDP by the Merchant in writing within 30 days of the transaction between the Merchant and the Customer, or within 45 days of discovery of the alleged cause of complaint if the Merchant demonstrates that it could not reasonably have discovered the defect earlier. After the expiry of the above-mentioned periods, the Merchant will be deemed to have accepted the services performed. Complaints do not suspend the Merchant's payment obligations in respect of the part of the services to which the complaints do not relate.

## Article 20: Indemnification

**Art. 20.1** The Parties indemnify each other from and against claims by third parties on account of loss or damage caused by one of the Parties providing incorrect or incomplete information, unless the Party providing the information proves that the loss or damage is not related to negligent acts on its part or that the loss or damage has been caused by wilful intent, or gross negligence amounting to wilful intent, on the part of the other Party.

**Art. 20.2** The Merchant shall indemnify DDP if DDP is held liable, by any legal means, by a Customer or a Financial Institution on account of the content, or the non-performance or improper performance of the Agreement, or on account of any other unlawfulness regarding the Agreement concluded between the Merchant and the Customer or the Financial Institution.

**Art. 20.3** All costs incurred by DDP in connection with, inter alia, disputes as referred to in the preceding Paragraphs between the Merchant, of the one part, and the Customer, Financial Institutions or third parties such as *Stichting foundation docdata payments*, of the other part, will be recovered from the Merchant. These include the legal costs incurred, for example the costs associated with the speediest possible lifting of any seizure by a Customer, a Financial Institution or a third party of accounts of DDP in connection with a dispute between the Merchant, of the one part, and Customers, Financial Institutions or third parties, of the other part.

**Art. 20.4** DDP indemnifies, defends and holds the Merchant harmless from and against claims by third parties on account of any valid (intellectual) property rights of third parties, unless such claims relate to negligent acts by the Merchant or wilful intent or gross negligence on the part of the Merchant.

## Article 21: Liability

**Art. 21.1** The Parties are liable only to the extent that such liability is evident from the Agreement and the General Terms and Conditions.

**Art. 21.2** If DDP is in default and such default is a direct consequence of a breach (*toerekenbare tekortkoming*) by DDP of its obligations, the Merchant must notify DDP accordingly in writing as soon as possible in order to enable DDP to remedy the breach within a reasonable period. The notice of default must describe the breach in as much detail as possible to allow DDP to respond to the breach in an appropriate manner. Liability for the breach does not arise until the Merchant has notified DDP of the breach in the manner set out above and DDP has not adequately remedied this breach within a reasonable period.

**Art. 21.3** DDP is not liable for retransfers, Chargebacks and complaints by Customers or any refusal by Financial Institutions to execute a payment order from a Customer.

**Art. 21.4** DDP is liable to the Merchant only for loss or damage resulting from non-performance, late performance or defective performance of its obligations under the Agreement and the General Terms and Conditions, to the extent that such loss or damage is the result of intent, deliberate recklessness or gross negligence on the part of DDP, of third parties engaged by DDP, or to the extent that the loss or damage is at the risk of DDP according to common opinion.

**Art. 21.5** DDP will never be liable for any indirect loss or damage, including consequential loss or damage, loss of profits, unrealized savings, and loss or damage due to interruption of business operations.

**Art. 21.6** The Merchant may use the anti-fraud module made available by DDP to prevent fraud. DDP will never be liable, however, for any loss or damage resulting from fraud occurring despite the use of the anti-fraud module.

**Art. 21.7** Any entitlement to compensation is always conditional upon the Merchant notifying DDP in writing of the loss or damage as soon as possible after it is discovered.

**Art. 21.8** DDP's liability is always limited to the amount paid out under DDP's professional/business indemnity insurance policy in respect of the event or series of events in question.

**Art. 21.9** If and to the extent that no payment is made under the indemnity insurance, for any reason, any liability is limited to a maximum of 10,000 euros per event and per calendar year.

**Art. 21.10** The limitation of liability set out in this Article also inures to the benefit of the third parties engaged by DDP for the performance of the Agreement by DDP, who may consequently invoke this limitation of liability clause directly.

## Article 22: Force majeure

**Art. 22.1** Neither Party is obliged to meet any obligations if it is prevented by force majeure from doing so. A Party is deemed to be affected by force majeure if it is not to blame for any omission or shortcoming because such Party is not liable or responsible for such omission or shortcoming by law, by virtue of a juristic act or according to generally accepted standards and practices.

**Art. 22.2** If a force majeure event has continued for more than 7 days, the Parties have the right to terminate the Agreement with immediate effect by means of a written notice. Any services already provided under the Agreement will then be settled on a pro rata basis, without the Parties owing each other anything else.

**Art. 22.3** Force majeure on the part of DDP in the context of the Docdata Payment Service will in any case include, without excluding any other possible cases of force majeure:

**Art. 22.3.1** Delays in the performance or non-performance of the Docdata Payment Service to the extent that this is due to a technical failure as a result of interruptions in telephone or internet services, malfunctions in the systems used by DDP or the Merchant, hardware or software of Financial Institutions or of third parties, or power failures, except where DDP is to blame for these.

**Art. 22.3.2** The consequences of a terrorist act or terrorism or any violent actions and/or conduct in the form of an attack or a series of attacks that are related in terms of time and objective, resulting in injury and economic damage in general and in prejudice to the economic interests of DDP, it being likely that such actions and

conduct, either within an organizational framework or otherwise, were aimed at achieving certain political and/or religious and/or ideological goals.

**Art. 22.3.3** Delays in the performance or non-performance of the Docdata Payment Service and any other possible consequences, such as payment details becoming public and the status of Payments being changed, to the extent that this is attributable to deliberate interruption, penetration, manipulation, destruction or theft by persons or companies, also termed hackers or crackers, targeted at the Docdata Payment Service.

**Art. 22.4** A situation where a third party engaged by DDP stops providing services to DDP as a result of an application for court protection from creditors (moratorium) or where such third party is declared bankrupt or placed into liquidation also qualifies as a force majeure event, on condition that such termination of services by the third party is not attributable to any wrongful act on the part of DDP. DDP is obliged to make every effort to ensure that the Docdata Payment Service is performed by another party as quickly and effectively as possible.

### **Article 23: Governing law and competent court**

**Art. 23.1** The Agreement between DDP and the Merchant and anything arising from it shall be governed by the laws of the Netherlands.

**Art. 23.2** Any disputes about the conclusion, interpretation or performance or any other aspect of the Agreement and the General Terms and Conditions pertaining to it shall be submitted to the Dutch courts, in particular the District Court of Amsterdam.