

These general terms and conditions (hereinafter: Terms and Conditions) apply to all quotations issued by Data Booster to the other party (hereinafter: the Client), all Agreements entered into between Data Booster and the Client (hereinafter: the Parties and each individually the Party), as well as all future agreements entered into between the Parties and all other contractual relationships insofar as related to the Service offered by Data Booster. In these Terms and Conditions, "Data Booster" is understood to be Data Booster B.V. and any of its subsidiaries or other affiliates that have declared to the other Party that these Terms and Conditions apply.

## I. GENERAL PROVISIONS

### 1. Definitions chapter I

- 1.1 Intellectual Property Rights: all intellectual property rights, including copyrights (*auteursrechten*), trademark rights (*merkenrechten*), patent rights (*octrooirechten*) and trade name rights (*handelsnaamrechten*), in respect of any work, including documents, designs, computer software, customized software (*maatwerkprogrammatuur*) and/or other whether or not electronically recorded information.
- 1.2 Services: the provided services as agreed upon in the Agreement.
- 1.3 Agreement: the quotation signed by the Client or the agreement signed by the Parties, both of which shall be covered by these Terms and Conditions.

### 2. Basic principles

- 2.1 If a provision in a written Agreement between the Parties conflicts with these Terms and Conditions, the provision in the Agreement shall prevail.
- 2.2 The application of any of the Client's purchasing conditions or any other of its conditions is explicitly rejected. A signature on behalf of Data Booster or an implied or express acceptance of the Client's documents in or on which it is stated that such general terms and conditions apply, for example because this has been pre-printed on stationery, shall never constitute the acceptance of Data Booster of such purchasing conditions or any other of its conditions.
- 2.3 Changes to the terms and conditions of the Agreement may only be agreed between the Parties in writing.
- 2.4 Where the Parties refer to communication "in writing", this shall exclusively refer to letters and email.

### 3. Cooperation

The Client shall provide all information and cooperation in good time, which Data Booster reasonably deems necessary for the performance of the Agreement. The Client guarantees that the information supplied is correct and complete and will take care of its timely delivery.

### 4. Intellectual Property Rights

- 4.1 All of Intellectual Property Rights of Data Booster shall remain vested in Data Booster or in the third party from whom Data Booster has obtained the right to make the work available to the Client. The Intellectual Property Rights as regards to any work will not be transferred to the Client in any manner at all. If Data Booster grants a right of use to the Client, this shall be a non-exclusive, non-transferable and non-sub-licensable right of use.
- 4.2 All of the Client's Intellectual Property Rights shall remain vested in the Client or in the third party from whom the Client has obtained the right to use the work.
- 4.3 All Intellectual Property Rights to all software and documentation, as well as any preparatory material thereof, developed or made available pursuant to the Agreement shall be vested exclusively in Data Booster. The Client shall not be entitled to transfer title to (*vervreemden*), encumber (*bezwaren*), license or sublicense the software and/or documentation. The Client shall not duplicate (*verveelvoudigen*), publish (*openbaar maken*) or copy the software or the goods identified in the present provision. The Client is allowed to copy the user instructions for internal use.

## 5. Rates

- 5.1 Data Booster is entitled to annually adjust its license rate with a maximum of 10%. The adjusted license rate will become effective after 4 months from the notification.
- 5.2 All rates stated in the Agreement shall be exclusive of VAT, in euro and shall be stated in (an annex of) the Agreement.
- 5.3 Without prejudice to article 5.1, Data Booster shall be entitled, at its reasonable discretion, to adjust its rates and fees to match any cost-increasing circumstances that are not caused by Data Booster, such as cost-increasing circumstances that are the consequence of changes to legislation and regulations, or other circumstances beyond Data Booster's control.
- 5.4 The Client shall pay all invoices within 30 (thirty) days after the invoice date. The Client shall not be entitled to any discounts or set-offs (*verrekening*).
- 5.5 If the Client fails to pay any amounts owed within the agreed payment term, the Client shall owe the statutory interest rate on the outstanding amount, as referred to in sections 6:119a and 6:120 of the Dutch Civil Code (*wettelijke rente bij handelstransacties*). The Client shall also owe Data Booster any reasonable compensation for the extrajudicial costs and for any costs incurred by court proceedings in connection with collecting such claim or exercising its rights.
- 5.6 Upon written notice, Data Booster shall have the right to suspend in whole or in part the further execution of the Agreement if the Client fails to comply with its duties under the Agreement.
- 5.7 If, at the end of the term of the Agreement, the Agreement is continued for another period than the initial period, any granted discounts shall no longer apply.
- 5.8 Additional work (*meerwerk*) means the work outside the content and scope of the work agreed upon in writing between the Parties. Additional work will be invoiced in accordance with the then offered rates or fee by Data Booster in an additional offer or quote.

## 6. Invoicing conditions

- 6.1 The use of Data Boosters' Services shall be charged based on a development fee and a license fee.
- 6.2 The first 50% of the development fee shall be invoiced after the first 'go'-decision by the Client. This is after two weeks of the start date of the Agreement and in any case at the end of the design phase. The other 50% of the development fee shall be invoiced after Data Booster announces that it has delivered the last chapter of the course for the Client. In the event that the Client does not wish to proceed after the two weeks of the start date of the Agreement and in any case at the end of the design phase (a 'no-go'-decision), the Client shall be invoiced 25% of the development fee.
- 6.3 The license fee shall be invoiced when the onboarded user accounts can access the Services. The amount of user accounts that shall be invoiced in the first year are stated in the Agreement (or an annex of the Agreement). During the term of the Agreement, the Client is allowed to add more user accounts to use the Services. The Client shall be invoiced quarterly for the added user accounts in accordance with the agreed license fee scale. The Client can not be reimbursed for any user accounts that did not use the Services.

## 7. Confidentiality

- 7.1 The Parties shall maintain strict confidentiality with regard to all information that has come to their knowledge regarding the Agreement and of which they know or reasonably should know the confidentiality of the information, unless disclosure is permitted or obliged by law or a court order.
- 7.2 Parties guarantee that all individuals engaged directly or indirectly comply with the obligations mentioned in this article and that they will take all necessary steps to ensure this.
- 7.3 Unless agreed otherwise in writing, Data Booster shall be allowed to communicate that the Agreement has been entered into in one or more press releases or other communications.

## 8. Privacy

- 8.1 To the extent that the Agreement involves the processing of personal data by Data Booster on the instructions and for the purpose of the Client, Data Booster shall act as processor. In such capacity, Data Booster will comply with all its statutory

- obligations as a processor. By entering into the Agreement, the Client instructs Data Booster to process personal data in accordance with the applicable data processing agreement between Parties which is part of the Agreement
- 8.2 Without prejudice to art. 8.1, Data Booster shall collect, use, transfer or in any other way process personal data from the European Economic Area (hereinafter: the EEA) in accordance with the legislation on the protection of personal data from the EEA. Data Booster is allowed to engage sub-processors in accordance with the data processing agreement. Data Booster shall ensure that a transfer of personal data to a third country or an international organization, is a country as described in art. 45 General Data Protection Regulation (hereinafter: the GDPR) or has appropriate safeguards as described in art. 46 GDPR and that such transfers and safeguards are documented in accordance with art. 30 (2) GDPR. In the event that personal data is processed outside the EEA based on a model contract for the transfer of personal data (as referred to in art. 46 (2) or (3) GDPR), the Client authorizes Data Booster to conclude these clauses on its behalf.
- 9. Development, feedback and statement of acceptance**
- 9.1 The principle of the development is that it is a joint effort by Data Booster and the Client and the success of the development depends on the degree of cooperation and proper information provided by the Client. The Parties acknowledge that the development is an interactive and dynamic process wherein adjustments may occur in timing. Parties will actively attempt to aim for achievement of the agreed timelines.
- 9.2 The number of days or weeks of development stated in (an annex of) the Agreement is a preliminary estimate where no rights can be derived from by the Client. The described development process is described in an annex of the Agreement and shall start on the date specified by the Parties in the Agreement and shall finish at the moment when the Client discharges (*décharge verlenen*) Data Booster from its duties by signing a statement of acceptance. In case of any deficiencies related to a specific chapter found by Client and the Client does not make those deficiencies known to Data Booster in writing during the planned feedback rounds per delivered chapter, the Client shall be deemed to have discharged Data Booster from that part of its duties. The Client shall be deemed to have discharged Data Booster from all its duties, if user accounts of Client are using the Services. If there are any (supposed) deficiencies by Data Booster, Parties will consult on the necessary additional (implementation) activities.
- 9.3 Unless explicitly agreed in the Agreement, the costs for travel and accommodation, additional hours and other special costs attached to the work under the Agreement are not included in the rates and prices agreed to in the Agreement. They can only be invoiced separately by Data Booster upon prior confirmation in writing by the Client.
- 10. Terms**
- 10.1 All the terms stated by Data Booster have been established to the best of its knowledge, based on the data known to Data Booster when entering into the Agreement and they will be respected to the greatest extent possible.
- 10.2 Any delivery dates and/or time limits stated in any Agreement, annex or quotation shall always apply as target dates, shall always be indicative and are no fatal terms (*fatale termijnen*) unless explicitly agreed otherwise. In all events, including if the Parties have explicitly agreed a final time limit in writing, Data Booster shall only be in default (*verzuim*) after the Client has sent Data Booster a written, proper and detailed notice of default (*ingebrekestelling*) and the reasonable term, that the Client has granted to Data Booster to remedy the breach, has passed.
- 10.3 Data Booster shall not be bound to any time limits or delivery dates that can no longer be complied due to circumstances beyond Data Boosters' control that have occurred after entering the Agreement. If any time limit threatens to be exceeded, Data Booster and the Client shall consult with each other as soon as possible.
- 11. Liability**
- 11.1 Data Booster accepts an obligation to compensate damages insofar as stipulated in this article. Data Booster's total, cumulative liability in respect of the Client for direct damage or loss (*directe schade*) shall be limited to 25% of the amount paid by the Client to Data Booster pursuant to the Agreement in the twelve months preceding the fact that caused the damage or loss. In this regard, a series of mutually related events that cause damage or loss shall be considered as one event and one fact causing the damage or loss.
- 11.2 Data Booster shall not be liable for any indirect damage or loss (*indirecte schade*), including, without limitation, loss of profit, loss of data, claims from third parties, fines, penalties or additional tax demands (*naheffingen*), lost income or lost savings, reputational damage or damage to one's image, or any other indirect damage or loss or consequential damage (*gevolgschade*) or loss resulting from or in connection with any failure by Data Booster to comply with an obligation or in connection with any unlawful act.
- 11.3 The Client shall indemnify Data Booster against any claims from the Client's personnel in connection with the Agreement.
- 11.4 The Client shall only be entitled to any compensation of damages if the Client reports the damage to Data Booster in writing as soon as possible, but no later than one (1) year after the damage has been caused.
- 11.5 The previous paragraphs of this article shall not apply if and in so far as such damage or loss was caused by Data Booster's deliberate intent (*opzet*) or wilful recklessness (*bewuste roekeloosheid*).
- 12. Force Majeure**
- 12.1 In the event of force majeure (*overmacht*) affecting one of the Parties, the obligations pursuant to the Agreement shall be suspended for as long as the situation of force majeure lasts. Any non-conformance by suppliers of Data Booster shall also be considered as force majeure. However, the suspension shall not apply to the obligations that the force majeure does not concern and/or the obligations that already occurred before the situation of force majeure came into being.
- 12.2 If the situation of force majeure (*overmacht*) has lasted for more than sixty (60) days, the Parties will be entitled to terminate the Agreement by means of a registered letter, unless it is foreseeable that the situation of force majeure will be resolved within a reasonable period of time. Anything that already has been performed as a result of the Agreement shall then be settled *pro rata*, without the Parties owing each other anything else.
- 13. Subcontracting and transfer**
- Data Booster is allowed to deploy third parties to carry out its obligations under the Agreement. The applicability of section 7:404 of the Dutch Civil Code is explicitly excluded. The Parties shall not be allowed to transfer the rights from the Agreement to a third party without the other Party's prior permission in writing.
- 14. Provisions being declared null and void**
- If any of the provisions of the Agreement (including these Terms and Conditions) is null and void (*nietig*) or is declared null and void (*vernietigd*), this shall be without prejudice to the legal effect of the other provisions.
- 15. Dissolution and termination**
- 15.1 A Party shall have the right to terminate all or parts of the Agreement with immediate effect, without notice of default (*ingebrekestelling*), without judicial intervention being required and without this creating any obligation to compensate possible damage or loss of Parties if any of the following circumstances occurs:
- the other Party is declared bankrupt (*failliet verklaard*);
  - temporary or permanent suspension of payment (*surseance van betaling*) is granted to the other Party;
  - the enterprise of the other Party is liquidated or discontinued.
- 15.2 In the case of dissolution, the dissolution will only affect the obligations arising after the dissolution date and therefore the dissolution will not have retroactive effect.
- 15.3 Data Booster is allowed to make changes to the Service, which will then be the service within the meaning of this Agreement. If a replacement application or software with equivalent and/or more extensive functionality than an existing application of software is introduced, Data Booster shall be allowed to transfer

the Client to such replacement application of software, which will then be an application or software within the meaning of the Agreement. In such events, Data Booster shall have the right to charge the reasonable costs of the transfer as a separate item to the Client. Data Booster shall announce such costs in advance.

- 15.4 The application of section 7:408 of the Dutch Civil Code is explicitly excluded. Without prejudice to the other rights of Data Booster, including its right to additional compensation of damage, if the Client terminates the Agreement prematurely, the Client shall owe Data Booster an immediately due and payable penalty equal to the full development fee and the full license fee of the amount of initial user accounts as agreed upon in the Agreement and any added user accounts in the event these fees have not yet been paid in full by the Client.
- 15.5 Any rights and duties from the Agreement which by their nature and content are intended to remain in effect, such as Intellectual Property Rights, liability, force majeure and dispute resolution, shall remain in full effect after termination or dissolution (*ontbinding*) of the Agreement.

#### **16. Representation**

- 16.1 Only the duly authorised representatives of the Parties shall be authorised to make any arrangements (in writing) that differ from the provisions of the Agreement.

#### **17. Applicable law/Competent court**

- 17.1 The Agreement (and these Terms and Conditions) shall be governed by Dutch law. Any and all disputes arising as a result of or in connection with the Agreement and the Terms and Conditions shall be submitted to the competent court in Amsterdam, the Netherlands.