

## General Terms and Conditions of DBP

### Clause 1 General

1.1 These General Terms and Conditions are applied by:

De Breed & Partners B.V.: listed in the Commercial Register of the Chamber of Commerce under number 20085691 ('DBP').

1.2 In these General Terms and Conditions the following definitions are applied:

Quotation/offer: The offer(s) and/or quotation(s) to be issued or already issued to the Client with regard to the provision of services and the performance of Activities by DBP.

Client: The natural person or legal entity who has given DBP an assignment to carry out activities or the natural person or legal entity to whom or which a Quotation is given by DBP or the natural person or legal entity with whom or which a written Agreement has been entered into by DBP.

Activities: All Activities commissioned by the Client or which are carried out by DBP in connection with the performance of an agreement with the Client.

Innovation Financing: Any contribution provided by third parties for a project, product, service or process which has been brought about through mediation between DBP and the Client. This contribution may consist of a subsidy, a monetary contribution, tax allowance or deduction, a credit/financing or non-financial support.

“No Cure No Pay”: The Activities based on “No Cure No Pay” means that the payment obligation of the Client arises at the moment of “Cure”. “Cure” is the moment of the first written granting of Innovation Financing whether or not conditional, such as a research and development ('S&O') statement, a settlement agreement or a document of similar purport.

1.3. The subsidy concept and the subsidy provisions in the Dutch General Administrative Law Act (Algemene Wet Bestuursrecht) do not apply to the relationship between DBP and the Client, but exclusively to the concept of Innovation Financing as defined herein.

## **Clause 2 Description of the services by DBP**

The activities of DBP consist briefly of the following forms of services: Organizing money, operating and / or growth capital for technologically entrepreneurial Netherlands by means of:

- Subsidy Services: inventory of and advice on relevant subsidies for the Client (research phase). Advice on and taking care of subsidy applications on behalf of the Client (application phase). Providing advice and support in order to be able to comply with the administrative frameworks set by the subsidy provider with regard to the use of this subsidy (implementation phase).
- Tax instruments: inventory of and advice on relevant tax instruments, such as the 'innovation box' and investment deduction schemes, for the Client (research phase). Advice on and taking care of tax instruments on behalf of the Client (application phase). Providing advice and support in order to be able to comply with the administrative frameworks set by the subsidy provider with regard to the use of this subsidy (implementation phase).
- Loan and equity solutions: inventory of and advice on relevant loan and / or equity solutions for the Client and their presentations to financiers (research and presentation phase). Advice on and taking care of financing applications / investor matching on behalf of the Client (application phase). Providing advice and support in order to comply with the administrative frameworks set by financiers (implementation phase).

## **Clause 3 Applicability**

3.1 These General Terms and Conditions apply to all Quotations / offers and order(s)(confirmations) to the Client, all (subsequent) agreements that are formed between the Client and DBP as well as to all other legal relationships between the Client and DBP.

3.2 The applicability of the General Terms and Conditions of the Client is explicitly rejected, unless otherwise agreed in writing.

3.3 Any deviations from and additions to these General Terms and Conditions are only valid if they have been agreed explicitly and in writing.

3.4 These conditions also apply to anybody who works for DBP (as a director or as an employee), third parties engaged by DBP and anybody for whose acts or omissions DBP is or could be liable.

## **Clause 4 Offers**

4.1 All Quotations / offers of DBP are without obligation, unless otherwise indicated by DBP.

4.2 Offers are made by DBP to the best of its knowledge and with due care but DBP does not accept any liability for faulty information or for expected results or performances that have not materialised.

## **Clause 5 Agreement**

5.1 Any assignment given by the Client to DBP or agreements (specifically) made between the Client and DBP are laid down in writing in a (master) agreement.

5.2 Any amendments to the (master) agreement may only take place after they have been recorded in writing by DBP and have been signed for approval by DBP and the Client.

5.3 The agreement as well as what has been agreed between the parties by means of these General Terms and Conditions replace any agreements made previously between the Client and DBP.

5.4 The agreement always constitutes only an obligation on DBP to perform to the best of its abilities and never an obligation to produce a certain result.

5.5 If and insofar as one of more provisions of the (master) agreement differ from one or more provisions of these General Terms and Conditions, the provisions in the (master) agreement will prevail.

## **Clause 6 Commencement and term of the agreement**

6.1 The agreement is formed and commences at the moment that the agreement signed by the Client has been received in return by DBP or from the moment that DBP commences its Activities on the basis of the Client's assignment.

6.2 Assignments are exclusively accepted on behalf of DBP. This also applies if it is the explicit or tacit intention of the Client that the assignment is to be carried out by a certain person. The applicability of Sections 7:404 of the Dutch Civil Code ('BW'), 7:407 BW and 7:409 BW are explicitly excluded herein.

6.3 The agreement is entered into for an indefinite period of time unless otherwise agreed. The agreement terminates by the completion of the activities assigned by the DBP Group, or by notice of termination by either party, all this with due observance of the provisions in Clause 16.2.

6.4 In the event that the Activities relate to a subsidy application in connection with the Dutch Research and Development Promotion Act (Wet Bevordering Speur- en Ontwikkelswerk: 'WBSO') contrary to Clause 6.3 the agreement will be entered into for a period of 2 years and it will be tacitly extended each time by one year unless a written notice of termination has been submitted 3 months before expiry. An agreement is formed exclusively with DBP if it relates to the provision of services in connection with the WBSO and related Innovation Financing. Different terms of the agreement are possible if this has been agreed in writing between DBP and the Client.

6.5 During the term of the agreement the Client will owe the fee for the Activities arising from the agreement.

In the event of Activities as described in 6.4 and the related Innovation Financing, a fee will also be payable to DBP during the term of the agreement if the subsidies have been applied for and enjoyed without any (further) interference or involvement of DBP. Only in the case that DBP explicitly advised negatively against the application for a subsidy in connection with the WBSO and the related Innovation Financing or has otherwise expressly refrained from Activities in this connection, will the Client not owe a fee for the Innovation Financing otherwise applied for.

## **Clause 7 Obligations of the Client**

7.1 The Client must provide all the cooperation that DBP considers necessary in order to be able to carry out the assigned/agreed Activities properly. Within good time and at the latest within 10 working days after a request for information the Client must provide DBP with all the administrative, technical and other information which DBP demands in order to carry out the agreed Activities. Where urgent action with regard to the assigned Activities is required, DBP will be entitled to request information from the Client within a reasonable shorter period. The Client warrants the accuracy and completeness of the information it provides.

7.2 DBP is entitled to suspend the performance of the Activities until the moment the Client has fulfilled the obligation set out in Clause 7.1, notwithstanding the right of DBP to the agreed fee.

7.3 If after having received a notice of default to this end and repeated requests by DBP the Client has not or not within good time provided the information or has provided incorrect information so that DBP is not reasonably able to carry out its Activities stipulated in the assignment, DBP will be entitled to terminate the agreement and to charge the Client for the time spent by DBP on the Activities at the agreed hourly rate or - in the absence of an agreed hourly rate - an indexed hourly rate of €290 excluding VAT plus any costs of third parties engaged. If it becomes apparent that the Innovation Financing can still be obtained, the payment for the time spent will be considered as an advance payment on the fee and offset against it in the final settlement.

## **Clause 8 Performance of the assignment**

8.1 DBP will determine the way in which the Activities are carried out and will, if possible, take into account the directions of the Client for the performance. Unless it has been agreed with the Client that the Activities are to be carried out by a certain person, DBP will be free to determine which of its directors or members of staff will be engaged in carrying out the Activities.

8.2 DBP is entitled to have certain Activities carried out by a third party. If this would mean extra costs for the Client, the Client will be asked for his consent to this end.

8.3 In performing the agreement with the Client and the Activities carried out in this connection DBP can rely on the accuracy and completeness of the information provided by the Client to DBP.

8.4 If a chain authorisation is issued by the Client, DBP will only be entitled to use this for the Activities for which the Client engaged DBP.

## **Clause 9 Secrecy**

9.1 The parties will treat as confidential all information provided between each other with regard to this agreement and with regard to the counterparty (counterparties) to be selected and contracted - insofar as this is not public information - and keep this information secret and not use it in any way other than in connection with the agreed Activities. This prohibition does not apply to information that a party is required to disclose by law or other regulations, or which must be disclosed by a court order that is final and conclusive.

9.2 In the event of a breach of the provisions set out in Clause 9.1, the breaching party will owe a penalty to the other party amounting to €2,500.00 for each breach.

## **Clause 10 Force majeure**

10.1 If DBP is not, not within good time or not properly able to fulfil its obligations under the agreement and/or the assignment due to a cause for which it is not to blame (force majeure), these obligations will be suspended until the moment that DBP is again able to fulfil them in the agreed way without DBP being obliged to pay compensation to the Client. The term force majeure includes among other things, business disruptions at DBP or its suppliers, strikes at DBP or its suppliers, disruptions including traffic congestion regardless of the cause, government measures, failure or delay in deliveries to DBP, fire, water damage, failure in the supply of energy, or breakdown in means of communication, malfunctions in hardware and software and destruction of property of DBP, diseases and epidemics and theft.

10.2 If due to force majeure the performance of the Activities is delayed by DBP for more than 60 days, DBP as well as the Client will be entitled to terminate the agreement with immediate effect.

### **Clause 11 Intellectual property**

11.1 The intellectual property rights such as - but not limited to - copyrights of the data, proposals, advice and/or reports issued and other intellectual products provided or made available by DBP will at all times remain the property of DBP and/or the suppliers of DBP, unless otherwise agreed in writing.

11.2 Without the prior written consent of DBP the Client is not allowed to publish and duplicate them or to make them available to third parties. This provision remains also effective after dissolution of the agreement between DBP and the Client.

### **Clause 12 Fee**

12.1 DBP will invoice the Activities either on the basis of time spent, a fixed price, "no Cure No Pay" or a combination of these.

12.2 On the basis of time spent, the actual time spent will be multiplied by the agreed rates (hours x rate) regardless of the outcome of the assignment given to DBP by the Client.

12.3 If a fixed price is agreed, DBP will be entitled to increase the price, if this fixed price has been agreed on the basis of incorrect and/or incomplete information from the Client. DBP will then be entitled to charge the Client for the extra Activities which appear necessary at the agreed hourly rates or - failing this - the fixed hourly rate of €290.00 excluding VAT.

12.4 With "No Cure No Pay" the agreed percentage is used for the calculation of the fee owed by the Client at the time of a "Cure".

12.5 In the event that DBP agrees with a Client that DPB is entitled to a fee equal to a certain percentage of an Innovation Financing obtained, which fee will be determined on the basis of reports / figures to be provided by the Client, but the Client fails to provide the reports / figures, then DBP will be entitled to calculate its fee on the basis of the information known to it. In this context, DBP is entitled to contact the (innovation financing) granting body in order to find out the information required by DBP for the calculation of the fee. In this connection the Client is obliged to cooperate fully in requesting the necessary information.

12.6 All prices are exclusive of value added tax (VAT) and other levies imposed by the authorities or otherwise.

12.7 Disbursements of third parties and costs of third parties engaged are not included in DBP's rates and the Client is charged separately for them unless explicitly stated otherwise.

12.8 DBP is entitled to adjust the specified hourly rates every year on the basis of the price index as published by Statistics Netherlands ('CBS').

### **Clause 13 Payment**

13.1 Payment of the invoice amount must take place by the Client without any change to the invoice amount and without suspension or setoff, within 30 days after the invoice date by means of payment into a bank account indicated by DBP.

13.2 For Activities based on "No Cure No Pay" the payment conditions as included in the agreement entered into with the Client will apply.

13.3 The Client will be in default by operation of law without any demand or notice of default being required, at the moment that the payment does not take place within the stipulated payment period. In the event of a default the Client will be obliged to pay 1.5% interest per month. Contrary to this, in the event that the Client is a natural person or consumer and he or she is in default, he or she will owe the statutory interest pursuant to Section 6:119 of the Dutch Civil Code.

13.4 All extrajudicial costs in connection with the collection by DBP of the invoice amount including collection costs according to the applicable hourly rate - with a minimum of 15% of the amount to be collected and at least €120 - will be at the expense of the Client. If the Client is a natural person/consumer, he or she will owe extrajudicial collection costs in accordance with the Dutch Extrajudicial Collection Costs Standardisation Act (Wet Normering Buitengerechtelijke Incassokosten). In addition, the judicial costs in connection with the collection of the claim will be at the expense of the Client. The judicial costs are not limited to costs of the proceedings to be reimbursed but will be fully at the expense of the Client, if he is found to be (predominantly) at fault.

13.5 The Client is obliged when requested to provide sufficient security for the fulfilment of his payment obligations to DBP. If a furnished security has become insufficient, the Client will be obliged to supplement or replace the security when requested.

## **Clause 14 Complaints**

14.1 A complaint with regard to the performance(s) made and/or the invoice amount must be notified to DBP in writing within 30 days after the date of despatch of the documents or information to which the Client's complaint relates.

14.2 The Client cannot invoke a defect in the performance or the inaccuracy of the invoice amount if no complaint has been lodged within the period stipulated in paragraph 1.

14.3 Any claims arising from complaints by the Client lapse after the period stipulated in paragraph 1 has expired.

14.4 A complaint as referred to in paragraph 1 does not suspend the payment obligation of the Client.

## **Clause 15 Liability**

15.1 The liability of DBP towards the Client is limited as follows:

a. If DBP is liable for direct damage, that liability will explicitly be limited to the amount that will be paid by the liability insurance of DBP. If and insofar as for any reason whatsoever no payment under this insurance takes place, the liability for damages will explicitly be limited to the invoice amount, excluding VAT, with regard to the assignment or the Activities to which the damage relates; the latter up to a maximum of €10,000.00 excluding VAT. Any further liability is explicitly excluded.

b. The term direct damage means exclusively:

- material damage to the property of the Client;
- reasonable costs which the Client incurred in order to determine the liability and the (extent of the direct) damage;
- reasonable costs which the Client reasonably incurred to prevent or restrict the damage, on the conditions that the Client demonstrates that these costs were incurred to prevent/restrict the damage.

c. DBP is not liable for consequential loss, including - but not exclusively - trading loss, loss due to delay, loss of profit or loss due to stagnation or other consequential loss that the Client claims to have suffered. In addition DBP will not be liable for damage of any nature whatsoever caused by DBP having relied on incorrect and/or incomplete details provided by or on behalf of the Client.

15.2 The maximum amounts referred to in paragraph 1 will lapse exclusively if the damage of the Client is the result of the intention or conscious recklessness on the part of DBP.

15.3 The Client shall indemnify DBP and its auxiliaries against claims by third parties alleging to have suffered losses by or in connection with Activities or services performed by DBP for the Client as well as for the costs of DBP in connection with putting up a defence against such claims.



15.4 The performance of the assignment given and the Activities carried out will be exclusively for the benefit of the Client. Third parties cannot derive any rights from them.

15.5 Claims for payment of compensation will lapse one year after the day on which the Client became aware of the damage and a possible liability of DBP for that damage.

15.6 The Client is fully liable for any fines, damage or reduction of the Innovation Financing arising from the Client's negligence and/or the Client acting contrary to the law or as a result of giving an incorrect and incomplete picture to DBP and/or to the Innovation Financing authority with regard to the activities, revenues and or costs which the Client has provided to DBP as information and/or basis for granting the respective Innovation Financing. If a circumstance as referred to in this paragraph occurs, the Client will never be entitled to a refund or reduction of (a part of) the fee payable to DBP or any payment by DBP on any other ground.

## **Clause 16 Termination**

16.1 Both parties are entitled to terminate a formed agreement immediately and without any judicial interference through a registered letter in the event that:

- a. the other party has been declared bankrupt, has applied for a bankruptcy or offers a settlement outside bankruptcy;
- b. the other party applies for a (provisional) moratorium or has been granted a moratorium;
- c. a resolution to wind-up and/or dissolve the company has been passed;
- d. the other party in actual fact discontinues its business activities;
- e. the other party does not fulfil its obligations on account of the agreement and - after a written notice of default by the other party - this party still has not fulfilled its obligations within the reasonable period stipulated in the notice of default.

16.2 If the agreement is fully or partially terminated or cancelled by the Client, for any reason whatsoever, before DBP has completed it, the Client will:

- a. owe in the event that the fee of DBP consists of a percentage of an Innovation Financing obtained, the percentage of the Innovation Financing agreed between the Client and DBP which has been received by the Client (in connection with which the provisions of Clause 12.5 apply), or:
- b. owe in other cases a fee equal to the time spent until that moment multiplied by the agreed hourly rate or - in the absence of an agreed hourly rate - a fixed amount of €290.00 excluding VAT per hour.

16.3 If the parties have made a 'No Cure No Pay' agreement, the Client will still owe the agreed success fee to DBP if within 12 months after termination the Client accepts a proposal or enters into an agreement with regard to the same financing object with a third party from the DBP network with whom there was contact during the term of the agreement, less the amount that has been charged with due observance of paragraph 2 of this Clause.

#### **Clause 17 Applicable law and disputes**

17.1 Dutch law shall be applicable to all agreements between the Client and DBP.

17.2 All disputes which might arise between the parties will exclusively be settled by the competent court in the district in which DBP is based, unless DBP opts for the jurisdiction of the court based on the legal jurisdiction rules.