

**AMENDED AND RESTATED
ASSET MONITOR APPOINTMENT AGREEMENT**
originally dated 30 May 2022
as lastly amended and restated on 2 October 2024

between

NIBC BANK N.V.
as Issuer and as Administrator

and

NIBC SB COVERED BOND COMPANY B.V.
as CBC

and

**STICHTING SECURITY TRUSTEE NIBC SB COVERED BOND
COMPANY**
as Security Trustee

and

EY ACCOUNTANTS B.V.
as Asset Monitor

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Annex: Engagement Letter (including the General Terms and Conditions of the Asset Monitor)

THIS AGREEMENT is originally dated the 30 May 2022, as lastly amended and restated on 2 October 2024 and made between:

1. **NIBC BANK N.V.**, a public limited liability company (*naamloze vennootschap*) organised under the laws of the Netherlands, and established in The Hague, the Netherlands;
2. **EY ACCOUNTANTS B.V.**, a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) organised under the laws of the Netherlands and established in Rotterdam, the Netherlands;
3. **NIBC SB COVERED BOND COMPANY B.V.**, a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) organised under the laws of the Netherlands, and established in Amsterdam, the Netherlands; and
4. **STICHTING SECURITY TRUSTEE NIBC SB COVERED BOND COMPANY**, a foundation (*stichting*) established under the laws of the Netherlands, with its registered office in Amsterdam, the Netherlands.

WHEREAS:

- A. the Issuer has decided to set up the Programme pursuant to which the Issuer will issue Covered Bonds from time to time;
- B. in connection with the Programme, the CBC (or the Administrator on its behalf) has agreed to perform certain calculations in relation to the Asset Cover Test, the Amortisation Test and the Mandatory Liquidity Test pursuant to the terms of the Administration Agreement and the Asset Monitoring Agreement;
- C. the Asset Monitor has been appointed as an external auditor to carry out various agreed upon procedures in relation to the calculations referred to in B. above and certain calculations prescribed by the CB Regulations and to report thereon, subject to and in accordance with the terms of this Agreement; and
- D. the Internal Cover Pool Monitor has been appointed to monitor compliance with Articles 3:33b and 3:33ba of the Wft and Articles 40e up to and including 40m of the Decree (excluding Articles 40g and 40k of the Decree), in each case in accordance with Article 40n of the Decree, subject to and in accordance with the terms of the Asset Monitoring Agreement.

NOW HEREBY AGREE AS FOLLOWS:

1. INTERPRETATION

- 1.1 In this Agreement (including its recitals), except in so far as the context otherwise requires, words, expressions and capitalised terms used herein and not otherwise defined or construed herein shall have the same meanings as defined or construed in the master definitions agreement originally dated 30 May 2022, as lastly amended and restated on 2 October 2024 and signed by, amongst others, the parties to this Agreement as the same may be further amended, restated, supplemented or otherwise modified from time to time (the "**Master Definitions Agreement**"). The rules of usage and of interpretation as set forth in the Master Definitions Agreement and all other agreements and understandings between the parties hereto contained therein shall apply to this Agreement, unless otherwise provided herein.
- 1.2 The expression "**Agreement**" shall herein mean this Asset Monitor Appointment Agreement, including the Annex hereto.
- 1.3 This Agreement expresses and describes Dutch legal concepts in English and not in their original Dutch terms. Consequently, this Agreement is concluded on the express condition that all words, terms and expressions used herein shall be construed and interpreted in accordance with the laws of the Netherlands.

2. APPOINTMENT OF THE ASSET MONITOR

- 2.1 The CBC, also on behalf of the Issuer, hereby instructs (*verleent opdracht aan*) the Asset Monitor to provide the services set out in Clause 3 of this Agreement and to comply with any reasonable directions which the CBC or the Security Trustee may from time to time give in connection therewith provided that such directions are not contrary to the professional rules and regulations and codes of conduct applicable to the Asset Monitor, which instruction the Asset Monitor hereby accepts, and to which instruction the Security Trustee hereby consents, all subject to and in accordance with the terms of this Agreement provided that in case of a conflict between directions from the CBC and the Security Trustee, the directions of the Security Trustee shall prevail.
- 2.2 The scope of the services set out in Clause 3 has been determined by the Issuer, the Administrator, the Security Trustee and the CBC in their sole and absolute discretion, and the Asset Monitor assumes no responsibility

for the adequacy of these procedures in meeting the objectives of the Issuer, the Administrator, the Security Trustee and the CBC or in meeting any other requirements contemplated by the Programme.

- 2.3 If the Asset Monitor requires clarification or interpretation of the Asset Cover Test, the Amortisation Test or the Mandatory Liquidity Test, the Asset Monitor may seek such clarification or interpretation from the Administrator, who shall respond in writing within five (5) Business Days of receipt of a written request for clarification from the Asset Monitor.
- 2.4 The Asset Monitor shall act as a prudent assignee (*goed opdrachtnemer*) in relation to the services to be provided pursuant to this Agreement and shall conduct its services under this Agreement in accordance with the Dutch law and the professional rules and regulations and codes of conduct applicable to the Asset Monitor, including the Dutch Standard 4400 '*Opdrachten tot het verrichten van overeengekomen specifieke werkzaamheden*' (*Engagements to perform agreed upon procedures*) and will not carry out any work by way of audit, review or verification of the financial information, accounting records or other sources from which that information is to be extracted for the purpose of providing its reports, which will be provided solely for use in connection with this Agreement.
- 2.5 The reports of the Asset Monitor will not be made available to any party other than the ones envisaged in this Agreement, being the Issuer, the Administrator, the Security Trustee and the CBC and, upon request, the Rating Agency and the Dutch Central Bank. The reports of the Asset Monitor will be provided to the Issuer, the Administrator, the Security Trustee and the CBC and, upon request, the Rating Agency and the Dutch Central Bank only for the purpose of their assessment of the matters set out in Clause 3 of this Agreement.
- 2.6 If requested by the Rating Agency or the Dutch Central Bank, respectively, the reports of the Asset Monitor can be provided to the Rating Agency or the Dutch Central Bank, respectively, for information purposes only, provided that, in case such request has been made by a Rating Agency, such Rating Agency has acknowledged in writing that the Asset Monitor owes no duty of care to such Rating Agency and shall not be liable to such Rating Agency.

3. SERVICES OF THE ASSET MONITOR

3.1 Asset Cover Test

3.1.1 Subject to Clauses 3.6, prior to the service of a Notice to Pay or a CBC Acceleration Notice, the Asset Monitor shall by no later than ten (10) Business Days following the receipt of the relevant information to be provided to it pursuant to Clause 4, perform agreed upon procedure with respect to the calculations performed by the CBC (or the Administrator on its behalf) in relation to the Asset Cover Test on or before each Calculation Date immediately preceding each anniversary of the Programme Date, as applicable, with a view to confirm the accuracy or otherwise of such calculations. In this respect, the Asset Monitor shall be provided with figures for the items listed in Clause 4.2 and shall perform the following procedures:

- (a) that A, B, C, D and Z and the Adjusted Aggregate Asset Amount have been calculated in accordance with Schedule 1 to the Asset Monitoring Agreement;
- (b) whether or not the Adjusted Aggregate Asset Amount is an amount at least equal to the aggregate Principal Amount Outstanding of the Covered Bonds;
- (c) whether or not the First Regulatory Current Balance Amount is at least equal to 105 per cent. of the aggregate Principal Amount Outstanding of the Covered Bonds, or such other percentage as may be required from time to time under the CB Regulations; and
- (d) whether or not the Second Regulatory Current Balance Amount is at least equal to 100 per cent., or such other percentage as may be required from time to time under the CB Regulations, of the nominal value of the obligations in respect of the Covered Bonds, which include repayment of principal, payment of interest, payment obligations under derivative contracts and expected costs related to maintenance and administration for the winding-down of the Programme (in each case within the meaning of the CB Regulations).

The Asset Monitor is not required to test the arithmetic accuracy of α , β , the Current Balance and the Indexed Valuation for each Mortgage Receivable as well as the accuracy of the Asset Percentage and the LTV Cut-Off Percentage and/or any other parameters used in the Asset Cover Test.

3.2 Amortisation Test

3.2.1 Subject to Clauses 3.6, following the service of a Notice to Pay, the Asset

Monitor shall by no later than ten (10) Business Days following the receipt of the relevant information to be provided to it pursuant to Clause 4, perform agreed upon procedures with respect to the calculations performed by the CBC (or the Administrator on its behalf) in relation to the Amortisation Test on or before each Calculation Date, with a view to confirm the accuracy or otherwise of such calculations. In this respect, the Asset Monitor shall be provided with figures for the items listed in Clause 4.2 and shall perform the following procedures:

- (a) that A, B, C and Z and the Amortisation Test Aggregate Asset Amount have been calculated in accordance with Schedule 2 to the Asset Monitoring Agreement; and
- (b) whether or not the Amortisation Test Aggregate Asset Amount is equal to or greater than the aggregate Principal Amount Outstanding of the Covered Bonds.

3.3 CB Regulations

3.3.1 Subject to Clause 3.7, the Asset Monitor, which at the 2022 Amendment Date is also the external accountant of the Issuer, shall on an annual basis conduct agreed upon procedures with respect to Articles 40g and 40k of the Decree in accordance with Article 40n subsection 2 of the Decree and shall as soon as reasonably practicable following the receipt of the relevant information to be provided to it pursuant to Clause 4, perform agreed upon procedures in accordance with the requirements of the CB Regulations from time to time in effect and which are required pursuant to Articles 40g and 40k of the Decree, with respect to compliance and arithmetic accuracy of the calculations performed by the CBC (or the Administrator on its behalf) in relation to the Asset Cover Test, the Amortisation Test and the Mandatory Liquidity Test during the relevant testing period. The CBC (or the Administrator on its behalf) shall timely notify the Asset Monitor of the timing of the agreed upon procedures referred to in this Clause 3.3. Reporting by the Asset Monitor with respect to the procedures shall continue, also in case the Issuer would be subjected to bankruptcy or resolution measures pursuant to Part 3A.1 of the Wft at such time.

3.4 Actions by Asset Monitor on Breach

3.4.1 If the agreed upon procedures conducted by the Asset Monitor in accordance with Clauses 3.1 or 3.2, as applicable, reveal errors in the arithmetic accuracy of the relevant calculations performed such that:

- (a) the Asset Cover Test had failed on the relevant Calculation Date (in

respect of the previous month's end) (where it had been recorded as having been satisfied); or

- (b) the reported Adjusted Aggregate Asset Amount or the reported Amortisation Test Aggregate Asset Amount, as applicable, was misstated by an amount exceeding 1 per cent. of the Adjusted Aggregate Asset Amount or the Amortisation Test Aggregate Asset Amount, as applicable, (as at the date of the relevant Asset Cover Test or the relevant Amortisation Test) as calculated by the Asset Monitor,

then for each of the four (4) consecutive Calculation Dates thereafter the Asset Monitor shall conduct the agreed upon procedures with respect to the calculations referred to in Clause 3.1 (in case of the Asset Cover Test) or Clause 3.2 (in the case of the Amortisation Test Aggregate Asset Amount), by no later than ten (10) Business Days following the receipt of the relevant information to be provided to it pursuant to Clause 4.

- 3.4.2 If the agreed upon procedures conducted by the Asset Monitor in accordance with Clause **Error! Reference source not found.** reveals errors in the relevant calculations such that the Mandatory Liquidity Test has failed on the relevant Calculation Date, then the Asset Monitor shall promptly notify the CBC, the Administrator, the Security Trustee and the Issuer thereof in accordance with Clause 3.5.

3.5 Asset Monitor Report

- 3.5.1 The Asset Monitor shall promptly notify, on a confidential basis, the CBC, the Administrator, the Security Trustee, the Issuer and upon request of the Rating Agency and the Issuer, the Rating Agency, in writing, and in any event by no later than two (2) Business Days following the agreed upon procedures by it pursuant to this Clause 3 of the results of its agreed upon procedures. If the calculations performed by the CBC (or the Administrator on its behalf) have not been performed correctly, the written notification by the Asset Monitor shall (i) set out the correct calculation of the Asset Cover Test, the Amortisation Test or the Mandatory Liquidity Test, as applicable, (ii) indicate whether the Asset Cover Test, Amortisation Test or the Mandatory Liquidity Test, as applicable, has been passed or failed and (iii) set out the result of such correct calculation together with the incorrect calculation and the result of such incorrect calculation as carried out by the CBC (or the Administrator on its behalf). The Asset Monitor shall provide such written notification (in relation to the Administrator and the Issuer) for information purposes only and without accepting any duty of care, liability or responsibility whatsoever towards the Administrator or the Issuer

and (in relation to the CBC and the Security Trustee) subject to Clause **Error! Reference source not found.** of this Agreement.

3.6 Position of Asset Monitor

Other than in relation to the agreed upon procedures by the Asset Monitor of the arithmetic accuracy of calculations in accordance with the provisions of this Agreement, the Asset Monitor is entitled, in the absence of a Manifest Error, to assume that all information provided to the Asset Monitor in accordance with Clause 4 is true and correct and is complete and not misleading and is not required to conduct an audit or other similar examination in respect of such information or otherwise take steps to verify the accuracy or completeness of such information save that the Asset Monitor will be required to advise the Administrator and the CBC if it is not or has not been provided with any of those figures referred to in Clause 4.1, 4.2 or 4.2 (as applicable). For the purposes of this Clause 3.6 and Clause 3.7 "**Manifest Error**" means an error that would be manifest to a party reasonably competent to perform the services contemplated by this Agreement.

3.7 Action on Manifest Error

The Asset Monitor shall promptly notify the Issuer, the CBC, the Administrator and the Security Trustee if the information provided to the Asset Monitor in accordance with Clause 4 contains what appear to be Manifest Error(s). Following such notification, and within three (3) Business Days of receipt of such notification, the Issuer or the CBC (or the Administrator on its behalf) shall provide such further or amended information to the Asset Monitor as is necessary to remedy such Manifest Error(s) or shall confirm the accuracy of the information provided in accordance with Clause 4. By no later than five (5) Business Days following the receipt of such further or amended information or confirmation, the Asset Monitor shall perform agreed upon procedures with respect to the arithmetic accuracy of the relevant calculations and shall notify the CBC, the Administrator, the Security Trustee and the Issuer of the results of its agreed upon procedures in accordance with Clause 3.5.1.

4. **PROVISION OF INFORMATION TO THE ASSET MONITOR**

4.1 By no later than 10 (ten) Business Days prior to the Calculation Date in respect of which the Asset Monitor is obliged to perform agreed upon

procedures with respect to calculations of the Asset Cover Test, the CBC (or the Administrator on its behalf) shall provide the Asset Monitor with:

- (a) the figures used for (i) items A, B, C, D and Z described in Schedule 1 (*Asset Cover Test*) to the Asset Monitoring Agreement in its calculation of the Adjusted Aggregate Asset Amount and (ii) the First Regulatory Current Balance Amount and the Second Regulatory Current Balance Amount, in each case on the relevant Calculation Date;
- (b) the constituent figures used in the calculations of (i) items A, B, C, D and Z described in Schedule 1 (*Asset Cover Test*) to the Asset Monitoring Agreement and (ii) the First Regulatory Current Balance Amount and the Second Regulatory Current Balance Amount, in order to perform a clerical accuracy check with respect to the arithmetical accuracy of the figures used for item A, B, C, D, Z, the First Regulatory Current Balance Amount and the Second Regulatory Current Balance Amount, in each case provided in accordance with Clause 4.1(a); and
- (c) the aggregate Principal Amount Outstanding of the Covered Bonds on the relevant Calculation Date.

4.2 By no later than 10 (ten) Business Days prior to the Calculation Date in respect of which the Asset Monitor is obliged to perform agreed upon procedures with respect to the calculations of the Amortisation Test, the CBC (or the Administrator on its behalf) shall provide the Asset Monitor with:

- (a) the figures used for items A, B, C and Z described in Schedule 2 (*Amortisation Test*) to the Asset Monitoring Agreement in its calculation of the Amortisation Test Aggregate Asset Amount on the relevant Calculation Date;
- (b) the constituent figures used in the calculation of item A, B, C and Z described in Schedule 2 (*Amortisation Test*) to the Asset Monitoring Agreement in order to perform a clerical accuracy check with respect to the arithmetical accuracy of the figures used for items A, B, C and Z provided in accordance with Clause 4.2(a); and
- (c) the aggregate Principal Amount Outstanding of the Covered Bonds on the relevant Calculation Date.

4.3 By no later than ten (10) Business Days prior to the Calculation Date in respect of which the Asset Monitor is obliged to perform agreed upon

procedures with respect to the calculations of the Mandatory Liquidity Test, the Issuer shall provide the Asset Monitor with the figures and all other relevant information used or information required to check the Mandatory Liquidity Test.

- 4.4 The Asset Monitor may rely on any instructions, request or representation made, notices given or information supplied, in writing, by any person known or reasonably believed by the Asset Monitor to be authorised from time to time by the CBC (or the Administrator on its behalf) in connection with the provision by the CBC (or the Administrator on its behalf) of information pursuant to the terms of this Agreement.
- 4.5 For the avoidance of doubt any notice to be given to the Asset Monitor, shall be sent to those persons nominated by the Asset Monitor from time to time (the "Nominated Persons" and each a "Nominated Person") and the Asset Monitor shall not be deemed to have any knowledge of any notice sent to a person other than a Nominated Person, provided that a person shall continue to be a Nominated Person until such time as the Asset Monitor has sent notice to the Security Trustee, the Administrator, the CBC, the Issuer and the Security Trustee that any such Nominated Person has ceased to be a Nominated Person for the purpose of this Agreement.
- 4.6 If the Asset Monitor has not received the information to be provided to it pursuant to Clause 4 in time it will inform the Issuer, the CBC and the Administrator thereof within five (5) Business Days and as a result thereof the period given for agreed upon procedures in Clause 3.1, Clause 3.2 or 3.4 (as applicable) shall commence on the date the correct information pursuant to Clause 4 is received by the Asset Monitor.

5. UNDERTAKINGS OF THE ASSET MONITOR

Without prejudice to any of its specific obligations under this Agreement, the Asset Monitor undertakes with the CBC and the Security Trustee that it shall:

- (a) exercise reasonable skill and care in the performance of its obligations hereunder; and
- (b) comply with all legal and regulatory requirements applicable to the conduct of its business so that it can lawfully attend to the performance of its obligations under this Agreement.

6. TERMINATION

- 6.1 The Asset Monitor may, at any time, resign from its appointment under this Agreement upon providing the CBC, the Security Trustee and the Issuer with sixty (60) days' prior written notice. If a replacement asset monitor has not been found by the CBC within sixty (60) days of notice of resignation by the Asset Monitor, the Asset Monitor shall immediately undertake to seek a replacement (such replacement to be approved by the Security Trustee, such approval not to be unreasonably withheld) which agrees to perform the duties (or substantially similar duties) of the Asset Monitor set out in this Agreement. Any replacement asset monitor should in any event be an accountancy firm of international standing. The resignation of the Asset Monitor shall not be effective unless a replacement asset monitor has been found in accordance with this Clause.
- 6.2 Any costs, charges, fees or expenses incurred by the Asset Monitor as a result of its resignation under Clause 6.1 shall be payable in full by the Asset Monitor and will not be liable for reimbursement by the CBC or the Security Trustee, save that the Asset Monitor shall remain entitled to payment for any costs, charges, fees or expenses payable to the Asset Monitor in accordance with this Agreement incurred or accruing prior to such resignation coming into effect.
- 6.3 The CBC may, at any time but subject to the prior written consent of the Security Trustee and after consultation with the Issuer, terminate the appointment of the Asset Monitor hereunder upon providing the Asset Monitor with thirty (30) days' prior written notice, provided that such termination may not be effected unless and until a replacement approved by the Security Trustee has been found by the CBC which agrees to perform the duties (or substantially similar duties) of the Asset Monitor set out in this Agreement.
- 6.4 Any costs, charges, fees or expenses reasonably incurred by the Asset Monitor as a result of its appointment being terminated under Clause 6.3 (together with the Asset Monitor's rights under Clause 7 in relation to moneys owed to the Asset Monitor for the period up to and including the date of the termination of the Asset Monitor's appointment becoming effective) shall be payable in full by the CBC.
- 6.5 If the CBC has not found a replacement asset monitor in accordance with the provisions of Clause 6.3 of this Agreement within thirty (30) days of giving of notice of termination in accordance with Clause 6.3, the Asset Monitor may, but will have no obligation to, identify a replacement approved by the Security Trustee (such approval not to be unreasonably

withheld) which agrees to perform the duties of the Asset Monitor set out in this Agreement. Subject to the requirements of this Clause 6.5 being met in relation to any such replacement, the CBC shall be obliged to appoint that replacement. For the avoidance of doubt, the Security Trustee shall not be obliged to act as Asset Monitor in any circumstances.

6.6 The Asset Monitor agrees that, if a replacement is found in accordance with the provisions of Clause 6.1 or 6.3 or 6.5 of this Agreement, the Asset Monitor shall provide all reasonable co-operation to the replacement and shall forthwith deliver to such replacement (and in the meantime hold for the Security Trustee) all relevant records, papers, files and computer data which it has received pursuant to this Agreement since the most recent Calculation Date in respect of which the Asset Monitor was obliged, in accordance with Clause 3, to conduct agreed upon procedures with respect to the calculations performed by the Administrator on such Calculation Date and without accepting liability and/or responsibility to the succeeding Asset Monitor. The Asset Monitor shall retain all of its intellectual property rights in relation to its written notifications provided under Clause 3.4 and in relation to any of its records, working papers, files or computer data which it produces in its capacity as Asset Monitor but shall grant any succeeding Asset Monitor permission to use the same where required for the purposes herein without charging a fee to such succeeding Asset Monitor.

6.7 The Asset Monitor's appointment under this Agreement will terminate upon the earlier of the occurrence of (i) a CBC Event of Default and (ii) the payment in full of all amounts outstanding in relation to all Covered Bonds and all other payment obligations under the Transaction Documents of the CBC, provided that the CBC has sent a written notification thereof to the Asset Monitor.

7. FEES

7.1 The CBC (or the Issuer on its behalf) shall (subject to Clause 7.2) pay to the Asset Monitor for its services hereunder a fee as set out in the Engagement Letter (the "**Asset Monitor Fee**"), in the manner contemplated by and in accordance with the Trust Deed. The fee per Amortisation Test shall be agreed between the CBC and the Asset Monitor in the event the Amortisation Test is required to be carried out.

7.2 Notwithstanding Clause 7.1, the parties agree that the Asset Monitor Fee shall not become due for payment unless and until the CBC, the Administrator and the Issuer have each received a duly completed invoice,

addressed to the CBC, at least thirty-five (35) days prior to the relevant CBC Payment Date. In the event that the CBC, the Administrator or the Issuer does not receive a duly completed invoice at least thirty-five (35) days prior to the relevant CBC Payment Date, the Asset Monitor Fee shall become due and payable on the next CBC Payment Date falling not less than thirty-five (35) days after receipt by the CBC, the Administrator and the Issuer of a duly completed invoice.

8. PROVISION OF INFORMATION TO THE SECURITY TRUSTEE

The CBC (or the Administrator on its behalf) and the Asset Monitor shall each provide to the Security Trustee, or procure the provision to the Security Trustee of, such information and evidence available to that party in respect of any dealing between that relevant party or its officers, employees, attorneys or agents and the CBC (or the Administrator on its behalf) and the Asset Monitor (as applicable) under or in relation to this Agreement as the Security Trustee may reasonably request and the CBC (or the Administrator on its behalf) and the Asset Monitor, hereby waive any right or duty of confidentiality which they may have or which may be owed to them in respect of the disclosure of such information and evidence pursuant to this Clause 8.

9. LIABILITY

The liability shall be limited as set out in the General Terms and Conditions.

10. ENGAGEMENT LETTER AND GENERAL TERMS AND CONDITIONS ASSET MONITOR

The services of the Asset Monitor are carried out subject to the engagement letter for agreed upon procedures between the Asset Monitor and the CBC dated 9 November 2023 and the addendum to this engagement letter dated 19 December 2023, which is updated annually (including its general terms and conditions dated October 2022 (the "**General Terms and Conditions**")) attached hereto as Annex (the "**Engagement Letter**").

11. NO DISSOLUTION, NO NULLIFICATION

To the extent permitted by law, the parties hereby waive their rights pursuant to Articles 6:265 to 6:272 inclusive of the Dutch Civil Code to dissolve (*ontbinden*), or demand in legal proceedings the dissolution (*ontbinding*) of this Agreement. Furthermore, to the extent permitted by

law, the parties hereby waive their rights under Article 6:228 of the Dutch Civil Code to nullify (*vernietigen*), or demand in legal proceedings the nullification (*vernietiging*) of, this Agreement on the ground of error (*dwaling*).

12. GOVERNING LAW AND JURISDICTION

- 12.1 This Agreement, including Clause 12.2 hereof, and any non-contractual obligations arising out of or in connection with this Agreement shall be governed by and construed in accordance with the laws of the Netherlands.
- 12.2 Any disputes arising out of or in connection with this Agreement including, without limitation, any disputes relating to any non-contractual obligations arising out of or in connection with this Agreement shall be submitted to the exclusive jurisdiction of the competent court in Amsterdam, the Netherlands.

(signature page follows)



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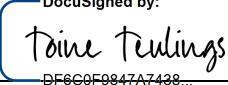
NIBC SBCB Update 2024

Asset Monitor Appointment Agreement

Execution copy

SIGNATURES:

NIBC BANK N.V.

DocuSigned by:

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 by : Toine Teulings
 title : Authorized signatory

DocuSigned by:

8936E6FA1F6F492...

 by : Christian Kepel
 title : Authorized signatory

NIBC SB COVERED BOND COMPANY B.V.

 by :
 title :

 by :
 title :

STICHTING SECURITY TRUSTEE NIBC SB COVERED BOND COMPANY

 by :
 title :

 by :
 title :

EY ACCOUNTANTS B.V.

 by :
 title :

 by :
 title :

SIGNATURES:

NIBC BANK N.V.

by :
title :

by :
title :

NIBC SB COVERED BOND COMPANY B.V.



by : Bart Paulusma
title : Proxyholder



by : Teun Hesseling
title : Proxyholder

STICHTING SECURITY TRUSTEE NIBC SB COVERED BOND COMPANY

by :
title :

by :
title :

EY ACCOUNTANTS B.V.

by :
title :

by :
title :



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NIBC SBCB Update 2024
Asset Monitor Appointment Agreement
Execution copy

SIGNATURES:

NIBC BANK N.V.

by : by :
title : title :

NIBC SB COVERED BOND COMPANY B.V.

by : by :
title : title :

STICHTING SECURITY TRUSTEE NIBC SB COVERED BOND COMPANY

DocuSigned by:
Nick Stegehuis
55D15DCEABC54F9...

by : N.E. Stegehuis by :
title : authorized signatory title :

EY ACCOUNTANTS B.V.

by : by :
title : title :

SIGNATURES:

NIBC BANK N.V.

by :
title :

by :
title :

NIBC SB COVERED BOND COMPANY B.V.

by :
title :

by :
title :

STICHTING SECURITY TRUSTEE NIBC SB COVERED BOND COMPANY

by :
title :

by :
title :

EY ACCOUNTANTS B.V.

 Peter Laan
02/October/2024

by : Peter Laan
title : Partner

by :
title :

**ENGAGEMENT LETTER
(INCLUDING THE GENERAL TERMS AND CONDITIONS)**

CONFIDENTIAL

The managing director of
NIBC SB Covered Bond Company B.V.
p/a Intertrust Management B.V.
Basisweg 10
1043 AP AMSTERDAM

Amsterdam, 9 November 2023

REQ6810087/FW/gkv

Engagement letter for agreed-upon procedures

Dear Sir, Madam,

In accordance with the asset monitor appointment agreement dated 30 May 2022 and updated through the deed of amendment and restatement dated 11 July 2023 (the Asset Monitor Appointment Agreement) pursuant to NIBC Bank N.V.'s (the Issuer) €10,000,000,000 Covered Bond Programme (the Programme), you have engaged us to perform agreed-upon procedures regarding the Asset Cover Test, the Amortisation Test and the Mandatory Liquidity Test performed by NIBC SB Covered Bond Company B.V. (hereinafter: SB CBC) as at 31 October 2023. We will report to you the factual findings resulting from these procedures. This letter is intended to confirm the terms and objectives of this engagement, as well as the nature and the limitations of the services we will provide.

We have summarized these in the following sections:

1. Responsibilities of Ernst & Young Accountants LLP (hereinafter: EY or we or the Asset Monitor)
2. Responsibilities of NIBC Bank N.V. and SB CBC
3. Reporting by EY
4. Other agreements
5. Fees
6. Confirmation

1 Responsibilities of EY

1.1 Engagement

The objective of this engagement is to enable SB CBC to comply with the reporting requirements in connection with the stipulations of the Asset Monitoring Agreement dated 30 May 2022 and updated through the deed of amendment and restatement dated 11 July 2023 (the Asset Monitoring Agreement). For the Programme, the new laws and regulations with respect to covered bonds effective from 8 July 2022 (the CB Legislation) are applicable. The agreed-upon procedures have been set out by SB CBC, NIBC Bank N.V. and Stichting Security Trustee NIBC SB Covered Bond Company (the Trustee) in the Asset Monitor Appointment Agreement.

The intended users, being SB CBC, NIBC Bank N.V., the Trustee, De Nederlandsche Bank N.V. and the rating agencies Fitch and Standard and Poor's are expected to determine for themselves whether the agreed-upon procedures are sufficient and appropriate for the purpose they intend to use them for.

1.2 Professional rules

We will conduct this engagement in accordance with Dutch law, including the Dutch Standard 4400N, Odrachten tot het verrichten van overeengekomen specifieke werkzaamheden (Engagements to perform agreed-upon procedures). This requires that we comply with ethical requirements.

1.3 Other responsibilities

1.3.1 Act on the prevention of money laundering and terrorist financing)

Under the Wet ter voorkoming van witwassen en financiering terrorisme (Wwft, Act on the prevention of money laundering and terrorist financing) we have to carry out a customer due diligence. Furthermore, this act obliges us to report unusual transactions carried out or intended at or by a client to the Financial Intelligence Unit Nederland in Zoetermeer. We are not allowed to notify you of such reporting.

1.3.2 Regulations on non-compliance with laws and regulations

The Regulations on non-compliance with laws and regulations (Nadere voorschriften NOCLAR – NV NOCLAR) apply to us. They contain requirements how we are required to act in case of non-compliance with laws and regulations by your company. Where appropriate we are required to report a relevant occurrence of non-compliance with laws and regulations immediately to a proper regulatory or enforcement authority. For more information about the NV NOCLAR, we refer to the website of the Royal Netherlands Institute of Chartered Accountants (<https://www.nba.nl>).

1.4 Procedures

We have agreed to perform the procedures as indicated below. The capitalized terms in Sections 1.4.1, 1.4.2 and 1.4.3 have the meaning as defined in the Asset Monitoring Agreement.

1.4.1 Asset cover test

As Asset Monitor we shall be provided by the SB CBC with figures as at 31 October 2023 for the items listed in Clause 4.2 of the Asset Monitor Appointment Agreement and shall establish the following:

- A and Z and the Adjusted Aggregate Asset Amount have been calculated in accordance with Schedule 2 to the Asset Monitoring Agreement
- Whether or not the Adjusted Aggregate Asset Amount is an amount at least equal to the aggregate Principal Amount Outstanding of the Covered Bonds
- The Net Outstanding Principal Amount of all Mortgage Receivables, excluding any Defaulted Mortgage Receivables, plus (ii) the Collateral Market Value of all Transferred Collateral in the form of Substitution Assets plus (iii) all amounts standing to the balance of the SB CBC Transaction Accounts, excluding Swap Collateral and excluding amounts standing to the balance of the Construction Account, are at least equal to 115% of the Principal Amount Outstanding of the Covered Bonds
- Whether the nominal value of the eligible cover assets subject to the restrictions in accordance with the CB Legislation, including by reference to Article 129(1)-(3) CRR (First Regulatory Current Balance Amount) is at least equal to 105% or such other percentage as may be required from time to time under the CB Legislation, of the aggregate Principal Amount Outstanding of the Covered Bonds, whereas we have been informed by NIBC Bank N.V. that

- The nominal value of the eligible cover assets subject to the restrictions in accordance with the CB Legislation, including by reference to Article 129(1)-(3) CRR equals the of (i) the Outstanding Principal Amount of the Mortgage Receivables and (ii) the Substitution Assets Amount.
 - i. The Outstanding Principal Amount of the Mortgage Receivables is calculated as the lower of (a) the Mortgage Receivables (“Net principal Balance” as stated in the Investor Report) and (b) the LTV Cut-Off percentage of the Indexed Valuation in relation to each Mortgage Receivable
 - ii. The Substitution Assets Amount relates to Transferred Collateral and is equal to B from the Asset Cover Test
- Whether the nominal value of the claims for payment attached to the cover assets held by SB CBC (Second Regulatory Current Balance Amount) is at least equal to 100% or such other percentage as may be required from time to time under the CB Legislation, of the nominal value of the obligations in respect of the Covered Bonds, whereas we have been informed by NIBC Bank N.V. that:
 - i. The nominal value of the claims for payment attached to the cover assets equals the sum of the nominal value of the claims resulting from (A) the Mortgage Receivables (Net Principal Balance as stated in the Investor Report) and (B) the Substitution Assets Amount.
The Substitution Assets Amount relates to Transferred Collateral and is equal to B from the Asset Cover Test
 - ii. The nominal value of the obligations in respect of the Covered Bonds, which include at least repayment of principal, payment of interest, payment obligations under derivative contracts and expected costs related to maintenance and administration for the winding down of the Programme (in each case within the meaning of the CB Legislation), at the end of such calendar month (or with respect to item B of the Asset Cover Test, up to the date specified in item (B)) all as calculated on the immediately succeeding Calculation Date. A lump sum calculation is allowed for the calculation of the expected costs for an amount equal to the higher of (a) 4 basis points of the aggregate nominal value of the outstanding covered bonds and (b) €400,000

We are not required to establish the arithmetic accuracy of α , β , the Current Balance and the Indexed Valuation for each Mortgage Receivable nor the accuracy of the Asset Percentage and the LTV Cut-Off Percentage nor any other parameters used in the Asset Cover Test.

1.4.2 Amortisation test

As Asset Monitor we shall be provided with figures as at 31 October 2023 for the items listed in Clause 4.2 of the Asset Monitor Appointment Agreement and shall, if the Amortisation Test was required to be made at the relevant reporting date, establish the following:

- A, B, C and Z and the Amortisation Test Aggregate Asset Amount have been calculated in accordance with Schedule 2 to the Asset Monitoring Agreement
- Whether or not the Amortisation Test Aggregate Asset Amount is an amount at least equal to the aggregate Principal Amount Outstanding of the Covered Bonds

We are not required to establish the arithmetic accuracy of α , the Current Balance, nor the accuracy of the Asset Percentage nor any other parameters used in the Amortisation Test.

1.4.3 Mandatory Liquidity test

As Asset Monitor, we will establish whether at 31 October 2023 a liquidity buffer (Mandatory Liquidity Required Amount) is maintained to cover the net liquidity outflow of the Programme for the following 180-day period as required by Article 40k of the Wft Prudential Rules Decree (Besluit prudentiële regels Wft) effective as of 8 July 2022 as part of the CB Legislation. We have been informed by NIBC Bank N.V. that the liquidity buffer as at 31 October 2023 comprises the Reserve Account and the net liquidity outflow for the following 180-day period comprises all payments of principal, interest, and any payments under derivative contracts falling due on 28 April 2024 (31 October 2023 plus 180 days).

1.5 Independence

We take also into account the independence requirements of the Verordening inzake de onafhankelijkheid van accountants bij assurance-opdrachten (ViO, Code of ethics for professional accountants, a regulation with respect to independence). These regulations include limitations as to the services we may provide to our audit clients. This means that certain types of non-audit services are subject to supplementary conditions and restrictions. In case such issues arise, we will consult you on the conditions and/or possible restrictions.

To continue safeguarding our independence in the most efficient manner, you will inform us about ([proposed] changes in) the legal structure of your company, the names of your direct and indirect shareholders, as well as the names of all other companies, including group companies and affiliates, to which your company is directly or indirectly related, stating which of these companies and shareholders are listed on a stock exchange. Any change in the composition or structure of your group could mean that we would be required to discontinue providing certain services to your company.

1.6 Team EY

Our team comprises the following people:

- Peter Laan, Associate Partner
- Farzia Wazir, Senior Manager
- Sheetal Choudhary, Manager
- Thomas Peijnenburg, Staff

The undersigned is responsible for the performance of the engagement. If the circumstances or the procedures to be carried out require changes to the team, we will consult you on the matter.

2 Responsibilities of NIBC Bank N.V. and SB CBC

2.1 Engagement

By signing this engagement letter you acknowledge and understand that you and NIBC Bank N.V. in its capacity as administrator are responsible for:

- The preparation of the Asset Cover Test, if applicable the Amortisation Test and the Mandatory Liquidity Test as at 31 October 2023
- Such internal control as necessary to enable the preparation of the Asset Cover Test, if applicable the Amortisation test and the Mandatory Liquidity Test as at 31 October 2023 that is free from misstatement, whether due to fraud or error

- The decision to select the engagement to perform these agreed-upon procedures, corresponding to the information needs of the intended users
- The distribution of the report of factual findings limited to the intended users these procedures are agreed with

Furthermore, you and NIBC Bank N.V. are responsible for:

- Making available all records, documentation and other information necessary for conducting our engagement
- Providing unrestricted availability to officers within the organization of SB CBC and NIBC Bank N.V. from whom we determine it necessary to obtain information

2.2 Fraud and non-compliance

Our engagement is not designed to detect fraud or error or illegal acts. However, we will inform you of any such matters should they come to our attention. The primary responsibility for the prevention and detection of fraud and error rests with both the supervisory body and the management of the entity. We are neither responsible nor accountable for the prevention of fraud and error.

2.3 Letter of representation

As part of our procedures, we will ask you to confirm that you have fulfilled the aforementioned responsibilities. We will request management of the SB CBC to confirm in writing the representations made to us in the context of this engagement.

3 Reporting by EY

We report on the results of our procedures in the form of a report of factual findings.

We do not make any statement about the implications of the factual findings for the Asset Cover Test, the Amortisation Test and the Mandatory Liquidity Test as at 31 October 2023 as a whole. The intended users are expected to assess for themselves the implications of the factual findings for the Asset Cover Test, the Amortisation Test and the Mandatory Liquidity Test as 31 October 2023 as a whole on the basis of our report of factual findings and any other available information.

The report should not be used for any other purpose than as described in the engagement section and is intended solely for SB CBC, NIBC Bank N.V., The Trustee, De Nederlandsche Bank N.V. and the rating agencies Fitch and Standard and Poor's. Our report (or part of it) should not be made available to others than the intended users without our express prior consent, unless required by law. Furthermore, it is not allowed to quote from or refer to this report, whether or not with acknowledgement.

4 Other agreements

4.1 General terms and conditions

Our services are subject to the General terms and conditions of EY version October 2022, a copy of which is enclosed. These general terms and conditions contain inter alia a choice of forum. In the event of an inconsistency between this engagement letter and the general terms and conditions, the provisions of this engagement letter prevail. By signing and returning this engagement letter you acknowledge receipt and acceptance of the General terms and conditions of EY version October 2022.

4.2 Safeguarding of personal data

In performing this engagement EY processes personal data. Therefore, the European General Data Protection Regulation (GDPR) is applicable.

This engagement is performed in accordance with Standard 4400N whereby the performance of the service(s) is not primarily aimed at the processing of personal data, but is a consequence of the performance and therefore EY acts as a controller as defined in the GDPR.

5 Fees

Our fees are based on the time spent by our audit team, the corresponding hourly rates, plus the additional costs, if any, attributable to the engagement. We expect our total fee for the services described in this letter to be approximately €10,500 (excluding VAT and additional expenses) in case this engagement is executed for both this Programme and the €5,000,000,000 Conditional Pass-Through Covered Bond Programme simultaneously.

When we will perform the procedures for the Programme separately, we will estimate a total fee of €13,650. The fee will be adjusted for inflation annually with CBS Dutch core inflation.

The amount specified above excludes VAT and a fixed 4% office expense surcharge that covers the use of electronic databases, administrative charges, printed matter, IT costs, archiving costs due to the statutory retention periods, and costs of telecommunication, et cetera.

Our fee is based on the current information and on the assumptions that the requested documentation is adequate and reliable and that contact persons will be sufficiently available for us.

If, during the performance of our services, additional procedures prove to be necessary either at your own expressed request or because of unforeseen circumstances or an unexpected increase in the complexity of the work, we will discuss the impact of these changes on our costs with you in advance.

6 Confirmation

We kindly request that you sign, date and return this letter to us to confirm your agreement and understanding of the terms and objectives of the engagement including the specific procedures which we have agreed to be performed. Once we have received the signed confirmation of the engagement, we will contact you to arrange the commencement of the procedures.

This engagement letter will remain valid until the engagement is completed, modified or replaced by a different type of engagement.

We are very pleased to accept the engagement. Should you require any further information, please do not hesitate to contact us.

Yours sincerely,
Ernst & Young Accountants LLP



Digitally signed by
Peter Laan
Date: 2023.11.09
18:20:51 +01'00'

P. Laan

Enclosure: General terms and conditions of EY version October 2022

Agreed by:
for Intertrust Management B.V.



Name: Marnix Knol
Position: Proxyholder
Date: Nov 13, 2023

for NIBC SB Covered Bond Company B.V.



Name: Peter van der Linden
Position: Proxyholder
Date: Nov 13, 2023

CONFIDENTIAL

The managing director of
NIBC SB Covered Bond Company B.V.
C/o Intertrust Management B.V.
Basisweg 10
1043 AP AMSTERDAM

Amsterdam, 19 December 2023

REQ6821748/FW/ntb

Addendum to engagement letter for agreed-upon procedures

Dear Sir, Madam,

We have discussed the agreed-upon procedures detailed in our engagement letter dated 9 November 2023 with reference REQ6810087/FW/gkv (hereinafter: referred to as: the preceding engagement letter) with you. After further review it was determined that some of the agreed-upon procedures needed to change. These changes are described in this addendum to the preceding engagement letter.

1 Changes to agreed-upon procedures

With respect to the procedures included in the subsection 1.4.1 Asset Cover Test of the preceding engagement letter we have made changes in the wording of the procedures to be aligned with the requirements of the Asset Monitoring Appointment Agreement.

These changes result in the following, amended subsection 1.4.1 Asset Cover Test of the preceding engagement letter:

1.1 Asset Cover Test

As Asset Monitor we shall be provided by the SB CBC with figures as at 31 October 2023 for the items listed in Clause 4.2 of the Asset Monitor Appointment Agreement and shall establish the following:

- ▶ A, B, C, D and Z and the Adjusted Aggregate Asset Amount have been calculated in accordance with Schedule 1 to the Asset Monitoring Agreement
- ▶ Whether or not the Adjusted Aggregate Asset Amount is an amount at least equal to the aggregate Principal Amount Outstanding of the Covered Bonds
- ▶ Whether or not the nominal value of the eligible cover assets subject to the restrictions in accordance with the CB Legislation, including by reference to Article 129(1)-(3) CRR (First Regulatory Current Balance Amount) is at least equal to 105% or such other percentage as may be required from time to time under the CB Legislation, of the aggregate Principal Amount Outstanding of the Covered Bonds, whereas we have been informed by NIBC Bank N.V. that:
 - ▶ The nominal value of the eligible cover assets subject to the restrictions in accordance with the CB Legislation, including by reference to Article 129(1)-(3) CRR equals the of (i) the Outstanding

Principal Amount of the Mortgage Receivables and (ii) the Substitution Assets Amount, where the following is defined:

- i. The Outstanding Principal Amount of the Mortgage Receivables is calculated as the lower of (a) the Mortgage Receivables (Net principal Balance as stated in the Investor Report) and (b) the LTV Cut-Off percentage of the Indexed Valuation in relation to each Mortgage Receivable, and
 - ii. The Substitution Assets Amount relates to Transferred Collateral and is equal to B from the Asset Cover Test
- ▶ Whether or not the nominal value of the claims for payment attached to the cover assets held by SB CBC (Second Regulatory Current Balance Amount) is at least equal to 100% or such other percentage as may be required from time to time under the CB Legislation, of the nominal value of the obligations in respect of the Covered Bonds, whereas we have been informed by NIBC Bank N.V. that:
- i. The nominal value of the claims for payment attached to the cover assets equals the sum of the nominal value of the claims resulting from (A) the Mortgage Receivables (Net Principal Balance as stated in the Investor Report) and (B) the Substitution Assets Amount. The Substitution Assets Amount relates to Transferred Collateral and is equal to B from the Asset Cover Test;
 - ii. The nominal value of the obligations in respect of the Covered Bonds, which include at least repayment of principal, payment of interest, payment obligations under derivative contracts and expected costs related to maintenance and administration for the winding down of the Programme (in each case within the meaning of the CB Legislation), at the end of such calendar month (or with respect to item B of the Asset Cover Test, up to the date specified in item (B)) all as calculated on the immediately succeeding Calculation Date. A lump sum calculation is allowed for the calculation of the expected costs for an amount equal to the higher of (a) 4 basis points of the aggregate nominal value of the outstanding covered bonds and (b) €400,000

We are not required to establish the arithmetic accuracy of α , β , the Current Balance and the Indexed Valuation for each Mortgage Receivable nor the accuracy of the Asset Percentage and the LTV Cut-Off Percentage nor any other parameters used in the Asset Cover Test.

2 Confirmation

We kindly request that you date, sign and return this addendum to the preceding engagement to us to confirm your agreement and understanding of the terms and objectives of this addendum. Once we have received the signed confirmation of the addendum, we will contact you to arrange the commencement of the procedures.

The preceding engagement letter and this addendum thereto will remain valid until the engagement is completed, modified or replaced by a different type of engagement.

Yours sincerely,
Ernst & Young Accountants LLP



Digitally signed by
Peter Laan
Date: 2023.12.19
15:43:26 +01'00'

P. Laan

Agreed on behalf of:

for Intertrust Management B.V. for NIBC SB Covered Bond Company B.V.



Name: Marnix Knol
Position: Proxyholder
Date: Dec 21, 2023



Henri Kroner
proxy holder
Dec 21, 2023

Algemene voorwaarden

Structuur

1. Deze Algemene voorwaarden, samen met de Begeleidende brief en een eventueel toepasselijke Statement of Work en eventuele bijlagen (samen de "Overeenkomst"), vormen de contractuele structuur voor de verlening van Diensten door EY aan de Cliënt.
2. In deze Overeenkomst betekent "partij" EY of Cliënt.
3. Indien er sprake is van strijdigheid tussen bepalingen in verschillende onderdelen van deze Overeenkomst, dan zullen die onderdelen als volgt prevaleren, tenzij uitdrukkelijk anderszins is overeengekomen: (a) de Begeleidende brief, (b) de toepasselijke Statement of Work en eventuele bijlagen daarbij, (c) deze Algemene voorwaarden, en (d) overige bijlagen bij deze Overeenkomst.

Definities

4. Met hoofdletters aangeduide termen die in deze Overeenkomst gebruikt, maar niet anderszins gedefinieerd worden, hebben dezelfde betekenis als in de Begeleidende brief of de toepasselijke Statement of Work. De onderstaande termen hebben de volgende betekenis:
 - a. "Cliëntinformatie" betekent informatie die door EY van de Cliënt of van een derde namens de Cliënt is verkregen.
 - b. "Deliverables" betekent alle adviezen, mededelingen, informatie, technologie of andere inhoud die EY op grond van deze Overeenkomst verschaft.
 - c. "Externe dienstverleners" betekent externe dienstverleners van EY en andere EY-firma's en hun respectieve onderaannemers.
 - d. "EY" betekent de EY-firma die partij is bij de Overeenkomst.
 - e. "EY-firma" betekent een lidfirma van het EY-netwerk en elke entiteit die samen met een lidfirma van het EY-netwerk onder de naam EY optreedt.

General terms and conditions

Structure

1. These General terms and conditions, together with the Cover Letter and any applicable Statement of Work and any annexes (together the "Agreement"), form the contractual structure for the provision of Services by EY to Client.
2. For the purposes of this Agreement, "party" means either EY or Client.
3. If there is any inconsistency between provisions in different parts of this Agreement, those parts shall have precedence as follows unless expressly agreed otherwise: (a) the Cover Letter, (b) the applicable Statement of Work and any annexes thereto, (c) these General terms and conditions, and (d) other annexes to this Agreement.

Definitions

4. Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Cover Letter or applicable Statement of Work. The following terms are defined as specified below:
 - a. "Client Affiliate" means an entity that controls, is controlled by, or is under common control with, Client.
 - b. "Client Information" means information obtained by EY from Client or from a third party on Client's behalf.
 - c. "Deliverables" means any advice, communications, information, technology or other content that EY provides under this Agreement.
 - d. "EY" means the EY Firm party to the Agreement.
 - e. "EY Firm" means a member of the EY network and any entity operating under a common branding arrangement with a member of the EY network.

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| <p>f. "EY-personen" betekent onderaannemers, (directeuren van) members, aandeelhouders, functionarissen, partners of opdrachtgevers of werknemers van EY of een andere EY-firma.</p> <p>g. "Fiscaal Advies" betekent belastingaangelegenheden, waaronder belastingadvies, fiscale opinies, belastingaangiften of de fiscale behandeling of fiscale structuur van een transactie waar de Diensten betrekking op hebben.</p> <p>h. "Gelieerde Cliëntentiteit" betekent een entiteit die de controle heeft over, gecontroleerd wordt door of onder gemeenschappelijke controle staat met Cliënt.</p> <p>i. "Interne Ondersteunende diensten" betekent interne ondersteunende diensten waarvan EY gebruikmaakt, met inbegrip van maar niet beperkt tot: (a) administratieve ondersteuning, (b) boekhoudkundige en financiële ondersteuning, (c) netwerkcoördinatie, (d) IT-functies waaronder bedrijfstoepassingen, systeembeheer en gegevensbescherming, -opslag en -herstel, en (e) risicobeheer, kwaliteitsbeoordelingen en het voorkomen van belangenverstrengeling.</p> <p>j. "Persoonsgegevens" betekent Cliëntinformatie die met individuele personen in verband kan worden gebracht.</p> <p>k. "Rapport" betekent een Deliverable dan wel enig deel daarvan dat is uitgebracht op EY-briefpapier of onder het merk EY of op andere wijze identificeerbaar is als zijnde opgesteld door of in samenwerking met EY, een andere EY-firma of EY-persoon.</p> | <p>f. "EY Persons" means EY's or any other EY Firm's subcontractors, members, shareholders, directors, officers, partners, principals or employees.</p> <p>g. "Internal Support Services" means internal support services utilized by EY, including but not limited to: (a) administrative support, (b) accounting and finance support, (c) network coordination, (d) IT functions including business applications, system management, and data security, storage and recovery, and (e) conflict checking, risk management and quality reviews.</p> <p>h. "Personal Data" means Client Information relating to identified or identifiable natural persons.</p> <p>i. "Report" means a Deliverable or any portion of a Deliverable issued on EY letterhead or under the EY brand or otherwise identifiable as being prepared by or in association with EY, any other EY Firm or EY Person.</p> <p>j. "Support Providers" means external service providers of EY and other EY Firms and their respective subcontractors.</p> <p>k. "Tax Advice" means tax matters, including tax advice, tax opinions, tax returns or the tax treatment or tax structure of any transaction to which the Services relate.</p> |
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Verlening van de Diensten

5. EY zal de Diensten verlenen in overeenstemming met de toepasselijke beroepsregelgeving en hetgeen bij of krachtens de wet van EY wordt geëist. Cliënt dient de daaruit voor EY voortvloeiende verplichtingen steeds volledig te respecteren. Onder *beroepsregelgeving* wordt verstaan "de relevante gedragscodes en beroepsregels die van toepassing zijn op de (bestuurders van) members/partners, bestuurders, medewerkers en/of derden die bij de verlening van de Diensten betrokken zijn, zoals de regels van organisaties als NBA, NOREA, AG, NOB, RB en/of ROA".

Provision of the Services

5. EY will provide the Services in accordance with applicable professional standards and the requirements to which EY is subject by or pursuant to law. Client shall at all times respect in full the obligations ensuing therefrom to EY. "Professional standards" means "the relevant rules of conduct and professional rules applying to the (directors of) members/partners, directors, employees and/or third parties involved in performing the Services, for example the rules of such organizations as NBA, NOREA, AG, NOB, RB and/or ROA".

6. Het is EY toegestaan om een gedeelte van de Diensten uit te besteden aan een of meer EY-firma's, alsmede aan andere derden, die eventueel direct contact met Cliënt hebben. EY blijft als enige jegens Cliënt verantwoordelijk voor de uitvoering van de Diensten.
7. EY handelt als zelfstandig opdrachtnemer en niet als werknemer, agent of partner van Cliënt. Cliënt blijft verantwoordelijk voor managementbesluiten met betrekking tot de Diensten en voor het bepalen of de Diensten geschikt zijn voor het beoogde doel. Cliënt dient het toezicht op de Diensten alsmede het gebruik en de implementatie van de Diensten en Deliverables aan daartoe gekwalificeerd personeel op te dragen.
8. Cliënt dient EY onverwijld de Cliëntinformatie, (hulp)middelen en assistentie (waaronder toegang tot bescheiden, systemen, panden en mensen) te (laten) verschaffen die EY redelijkerwijs nodig heeft voor de verlening van de Diensten.
9. Cliëntinformatie is in alle opzichten juist en volledig. EY mag vertrouwen op de Cliëntinformatie en heeft, tenzij schriftelijk uitdrukkelijk anders overeengekomen, geen verantwoordelijkheid om deze te verifiëren. De verstrekking aan EY van Cliëntinformatie, waaronder Persoonsgegevens, (hulp)middelen en assistentie, vindt plaats in overeenstemming met de toepasselijke wetgeving en zal geen inbreuk vormen op het auteursrecht of enig ander recht van een derde.
6. EY may subcontract a portion of the Services to one or more EY Firms, as well as to other third parties, who may deal with Client directly. EY will remain solely responsible to Client for the performance of the Services.
7. EY will act as an independent contractor and not as Client's employee, agent or partner. Client will remain solely responsible for management decisions relating to the Services and for determining whether the Services are appropriate for its purposes. Client shall assign qualified personnel to oversee the Services as well as the use and implementation of the Services and Deliverables.
8. Client agrees to promptly provide to EY or cause others to so provide Client Information, resources and assistance including access to records, systems, premises and people that EY reasonably requires to perform the Services.
9. Client Information will be accurate and complete in all material respects. EY will rely on Client Information, and, unless EY expressly agrees otherwise in writing, EY will have no responsibility to verify it. The provision of Client Information including Personal Data, resources and assistance to EY will be in accordance with applicable law and will not infringe any copyright or other third-party rights.

Deliverables

10. Alle Deliverables zijn bedoeld voor gebruik door Cliënt in overeenstemming met de toepasselijke Statement of Work op grond waarvan deze worden geleverd.
11. Het is Cliënt niet toegestaan om op een conceptversie van een Deliverable te vertrouwen. EY is niet verplicht om een reeds definitieve Deliverable aan te passen aan omstandigheden of gebeurtenissen waarmee EY bekend wordt of die zich voordoen na levering van de Deliverable.

Deliverables

10. All Deliverables are intended for Client's use in accordance with the applicable Statement of Work under which they are provided.
11. Client may not rely on any draft Deliverable. EY shall not be required to update any final Deliverable as a result of circumstances of which EY becomes aware, or events occurring, after its delivery.

12. Tenzij anders overeengekomen in een Statement of Work is het Cliënt niet toegestaan om een Rapport dan wel enig gedeelte of een samenvatting van een Rapport openbaar te maken, of in verband met de Diensten naar EY of een andere EY-lidfirma te verwijzen, anders dan:
- aan Gelieerde Cliëntentiteiten (met inachtneming van deze openbaarmakingsbeperkingen);
 - aan advocaten van Cliënt (met inachtneming van deze openbaarmakingsbeperkingen), die dat Rapport uitsluitend mogen beoordelen om Cliënt te adviseren over de Diensten;
 - aan de externe accountants van Cliënt (met inachtneming van deze openbaarmakingsbeperkingen) die dat Rapport uitsluitend mogen beoordelen in verband met hun controlewerkzaamheden;
 - voor zover vereist op grond van de wet (waarvan Cliënt EY - indien en voor zover toegestaan - onverwijld zal verwittigen);
 - aan andere personen met voorafgaande schriftelijke toestemming van EY, die dit uitsluitend mogen gebruiken/doen op de wijze zoals nader door EY in deze toestemming is omschreven; of
 - voor zover dat Rapport Fiscaal Advies bevat.

Indien Cliënt een Rapport openbaar maakt, dan wel enig gedeelte daarvan, is het Cliënt niet toegestaan om dat Rapport aan te passen, te redigeren of te wijzigen. De Cliënt dient degenen aan wie hij een Rapport ter beschikking stelt, anders dan de verstrekking van Fiscaal Advies aan de belastingdienst, erop te wijzen dat zij daar, voor welk doel dan ook, zonder voorafgaande schriftelijke toestemming van EY geen vertrouwen aan kunnen ontleen. Met inachtneming van het voorgaande is het Cliënt op grond van artikel 12 toegestaan om in zijn communicatie met derden Deliverables die geen Rapporten zijn te gebruiken, mits: (i) er niet wordt verwezen naar, of wordt gecommuniceerd over, de betrokkenheid van EY of een andere EY-firma bij de ontwikkeling van deze Deliverables, en (ii) Cliënt verantwoordelijkheid neemt voor dergelijk(e) gebruik en communicatie.

12. Unless otherwise provided for in a Statement of Work, Client may not disclose a Report or any portion or summary of a Report, or refer to EY or to any other EY Firm or EY Person in connection with the Services, except:
- To Client Affiliates subject to these disclosure restrictions
 - To Client's lawyers subject to these disclosure restrictions, who may review it only in connection with advice relating to the Services
 - To Client's statutory auditors (subject to these disclosure restrictions) who may review it only in connection with their audit
 - To the extent, and for the purposes, required by applicable law and Client will promptly notify EY of such legal requirement to the extent Client is permitted to do so
 - To other persons with EY's prior written consent, who may use it only as specified in such consent
Or
 - To the extent it contains Tax Advice

If Client discloses a Report or a portion thereof, Client shall not alter, edit or modify it from the form provided by EY. Client shall inform those to whom it discloses a Report other than disclosure of Tax Advice to tax authorities that they may not rely on it for any purpose without EY's prior written consent. Subject to the foregoing, Client is not prohibited by this Section 12 from using Deliverables that do not qualify as Reports in communication with third parties provided that: (i) there is no reference to, or communication of, EY's or any other EY Firm's involvement in the development of such Deliverables, and (ii) Client assumes sole responsibility for such use and communication.

Aansprakelijkheid

13. a. Indien EY aansprakelijk is jegens Cliënt (en eventuele anderen ten behoeve waarvan Diensten worden verleend) voor schade, hetzij op grond van wanprestatie dan wel onrechtmatige daad, hetzij op grond van de wet of anderszins, is de aansprakelijkheid van EY beperkt tot:
- i. in geval van een opdracht voor fiscale diensten, driemaal het aan Cliënt gefactureerde bedrag van het honorarium voor de betreffende diensten in de betreffende Statement of Work in dat betreffende jaar; met een maximum van € 300.000;
 - ii. bij alle overige opdrachten, driemaal het aan Cliënt gefactureerde bedrag van het honorarium voor de betreffende diensten onder de desbetreffende Statement of Work in dat betreffende jaar. In geval van een Statement of Work die een periode van meer dan zes maanden beslaat, is de aansprakelijkheid beperkt tot een maximum van driemaal het aan Cliënt gefactureerde bedrag van het honorarium voor de betreffende diensten onder de desbetreffende Statement of Work in de zes maanden voorafgaande aan de schadeveroorzakende gebeurtenis.
- b. Indien EY jegens Cliënt (dan wel jegens anderen ten behoeve waarvan Diensten worden verleend) op grond van deze Overeenkomst of anderszins in verband met de Diensten aansprakelijk is voor schade waaraan ook andere personen hebben bijgedragen, dan is EY niet hoofdelijk maar maximaal voor een gelijk deel met die anderen aansprakelijk. De aansprakelijkheid is beperkt tot een evenredig deel van de totale schade, gebaseerd op de mate waarin de aan EY toe te rekenen omstandigheden tot de schade hebben bijgedragen. Een op enig moment opgelegde of overeengekomen uitsluiting of beperking van de aansprakelijkheid van overige verantwoordelijke personen laat een beoordeling van de evenredige aansprakelijkheid van EY op grond hiervan onverlet. Ook een schikking of problemen met het afdwingen van een vordering, of het overlijden, de ontbinding of de insolventie van dergelijke andere verantwoordelijke personen of het feit dat zij niet langer aansprakelijk zijn voor de schade of een deel daarvan, laten een dergelijke beoordeling onverlet.

Limitations

13. a. If EY is liable to Client (or any others for whom Services are provided) for loss or damage, either on the basis of non-performance or on the basis of a wrongful act and either by law or otherwise, EY's liability is limited to:
- i. In the case of an engagement for tax services, three times the amount of the fees for which Client has been invoiced for the specific services under the Statement of Work concerned in that year, the total aggregate liability under a Statement of Work will not exceed €300,000
 - ii. In the case of all other engagements, three times the amount of the fees for which Client has been invoiced for the specific services under the Statement of Work concerned in that year. In the case of a Statement of Work covering a period of more than six months, liability will be limited to a maximum of three times the amount of fees for which Client was invoiced for the specific services under the Statement of Work concerned in the six months prior to the event causing the damage
- b. If EY is liable to Client or to any others for whom Services are provided under this Agreement or otherwise in connection with the Services, for loss or damage to which any other persons have also contributed, EY's liability to Client shall be several, and not joint, with such others, and shall be limited to EY's proportionate share of that total loss or damage, based on EY's contribution to the loss and damage relative to the others' contributions. No exclusion or limitation on the liability of other responsible persons imposed or agreed at any time shall affect any assessment of EY's proportionate liability hereunder, nor shall settlement of or difficulty enforcing any claim, or the death, dissolution or insolvency of any such other responsible persons or their ceasing to be liable for the loss or damage or any portion thereof, affect any such assessment.

c. Cliënt zal eventuele klachten over de Diensten of anderszins uit deze Overeenkomst voortvloeiend binnen bewaarde tijd na ontdekking van het probleem dat aan de klacht ten grondslag ligt schriftelijk aan EY kenbaar maken. Het vorderingsrecht en eventuele andere rechten van Cliënt jegens EY vervallen uiterlijk één jaar na de datum waarop Cliënt het probleem dat aan de klacht ten grondslag ligt heeft ontdekt of redelijkerwijs had kunnen ontdekken.

14. De in bovenstaand artikel 13a. neergelegde beperkingen zijn niet van toepassing op schade die is veroorzaakt door opzet of bewuste roekeloosheid van EY of voor zover deze bij wet of beroepsregelgeving verboden zijn.

15. Cliënt (en alle anderen aan wie op grond van deze Overeenkomst Diensten worden verleend) zullen hun eventuele vorderings- en verhaalsrechten met betrekking tot de Diensten of anderszins voortvloeiend uit deze Overeenkomst niet uitoefenen tegen een andere EY-firma of EY-persoon. Cliënt zal eventuele vorderings- en verhaalsrechten uitsluitend uitoefenen tegen EY. Alle Diensten worden met terzijdestelling van de artikelen 7:403 lid 2, 7:404 en 7:407 lid 2 van het Burgerlijk Wetboek, uitsluitend door EY aanvaard en uitgevoerd.

Geen verantwoordelijkheid tegenover derden

16. Tenzij schriftelijk specifiek anders wordt overeengekomen met Cliënt, is EY uitsluitend tegenover de Cliënt verantwoordelijk voor de uitvoering van de Diensten. Indien een Deliverable door of op verzoek van de Cliënt openbaar wordt gemaakt of anderszins beschikbaar wordt gesteld aan een derde, met inbegrip van maar niet beperkt tot toegestane openbaarmakingen zoals genoemd in artikel 12, gaat Cliënt ermee akkoord EY, de andere EY-firma's en de EY-persoonen te vrijwaren voor alle vorderingen van derden en de daaruit voortvloeiende aansprakelijkheden, schade, schadevergoedingen, kosten en onkosten (waaronder redelijke externe en interne kosten van rechtsbijstand) die voortvloeien uit deze openbaarmaking.

c. Client shall make any complaint relating to the Services or otherwise under this Agreement without undue delay in writing to EY after discovery of the problem underlying such complaint. Client's right of action and other powers to make any claim towards EY for any account whatsoever will end ultimately one year after the date on which Client became aware or may reasonably be expected to have become aware of the problem underlying such complaint.

14. The limitations set out in Section 13a. above will not apply to losses or damages caused by EY's intentional act or omission or gross negligence or to the extent prohibited by applicable law or professional regulations.

15. Client and any others for whom Services are provided under this Agreement may not make a claim or bring proceedings relating to the Services or otherwise under this Agreement against any other EY Firm or EY Person. Client shall make any claim or bring proceedings only against EY. All Services will be accepted and performed exclusively by EY setting aside Articles 403 paragraph 2, 404, and 407 paragraph 2 of Book 7 of the Dutch Civil Code.

No Responsibility to Third Parties

16. Unless specifically otherwise agreed with Client in writing, EY's responsibility for performance of the Services is to Client and Client alone. Should any Deliverable be disclosed, or otherwise made available, by or through Client or at Client's request to a third party including but not limited to permitted disclosures to third parties under Section 12, Client agrees to indemnify EY, as well as the other EY Firms and the EY Persons, against all claims by third parties, and resulting liabilities, losses, damages, costs and expenses (including reasonable external and internal legal costs) arising out of such disclosure.

Intellectuele-eigendomsrechten

17. Elke partij behoudt haar rechten op haar reeds bestaande intellectuele eigendom. Behoudens het bepaalde in de toepasselijke Statement of Work is alle door EY ontwikkelde intellectuele eigendom en zijn alle in verband met de Diensten samengestelde dossiers (doch niet de daarin opgenomen Cliëntinformatie) eigendom van EY.

18. Na betaling voor de Diensten is het Cliënt toegestaan om de Deliverables te gebruiken.

Geheimhouding, Bescherming Persoonsgegevens en -Beveiliging

19. Tenzij anderszins geoorloofd op grond van deze Overeenkomst, is het partijen niet toegestaan om door, of namens, de andere partij verstrekte informatie niet zijnde Fiscaal Advies die redelijkerwijs als vertrouwelijk behandeld dient te worden, waaronder in het geval van EY Cliëntinformatie, aan derden openbaar te maken. Het is ieder van partijen echter wel toegestaan om dergelijke informatie openbaar te maken, indien deze:

- anders dan op grond van de niet-nakoming van deze Overeenkomst algemeen bekend is of bekend wordt;
- nadien door de ontvanger wordt ontvangen van een derde die, voor zover de ontvanger bekend is, met betrekking tot die informatie jegens de openbaarmakende partij geen geheimhoudingsverplichting draagt;
- ten tijde van openbaarmaking reeds aan de ontvanger bekend was of daarna onafhankelijk werd gecreëerd;
- voor zover noodzakelijk, openbaar wordt gemaakt teneinde de uit deze Overeenkomst voortvloeiende rechten van de ontvanger af te dwingen; of
- op grond van de toepasselijke wetgeving, de rechtsorde, een rechterlijke of arbitrale beslissing of beroepsregelgeving openbaar moet worden gemaakt.

In aanvulling op het bovenstaande is het EY toegestaan dergelijke informatie bekend te maken ingeval EY namens zichzelf optreedt in een procedure waarin dergelijk(e) informatie of materiaal van belang is.

Intellectual Property Rights

17. Each party retains its rights in its pre-existing intellectual property. Except as set out in the applicable Statement of Work, any intellectual property developed by EY, and any working papers compiled in connection with the Services but not Client Information contained in them, shall be the property of EY.

18. Client's right to use Deliverables under this Agreement arises following payment for the Services.

Confidentiality, Data Protection and Security

19. Except as otherwise permitted by this Agreement, neither party may disclose to third parties any information other than Tax Advice, provided by or on behalf of the other that ought reasonably to be treated as confidential including, in the case of EY, Client Information. Either party may, however, disclose such information to the extent that it:

- Is or becomes public other than through a breach of this Agreement
- Is subsequently received by the recipient from a third party who, to the recipient's knowledge, owes no obligation of confidentiality to the disclosing party with respect to that information
- Was known to the recipient at the time of disclosure or is thereafter created independently
- Is disclosed as necessary to enforce the recipient's rights under this Agreement

Or

- Must be disclosed under applicable law, legal process, court or arbitral decision or professional regulations

In addition to the above, EY may disclose such information in case EY acts on its own behalf in proceedings to which such information or material may be relevant.

20. EY maakt gebruik van andere EY-firma's, EY-personeel en Externe dienstverleners die toegang kunnen hebben tot Cliëntinformatie voor de levering van Diensten en om Interne Ondersteunende dienst te verlenen. EY is verantwoordelijk voor het gebruik/de openbaarmaking van Cliëntinformatie door andere EY-firma's, EY-personeel of Externe dienstverleners als was het EY die hiervan gebruikmaakte of dit openbaarde.
21. Cliënt gaat ermee akkoord dat Cliëntinformatie, waaronder Persoonsgegevens, kan worden verwerkt door EY, andere EY-firma's, EY-personeel en hun Externe dienstverleners in de verschillende landen waarin zij actief zijn (de EY-kantoorlocaties zijn vermeld op www.ey.com). Cliëntinformatie, met inbegrip van Persoonsgegevens, wordt verwerkt in overeenstemming met de toepasselijke wetgeving, en er worden passende technische en organisatorische beveiligingsmaatregelen genomen om deze te beschermen. De doorgifte van Persoonsgegevens binnen het EY-netwerk is onderworpen aan het Binding Corporate Rules-programma van EY, beschikbaar op https://www.ey.com/nl_nl/data-protection-binding-corporate-rules-program. Meer informatie over de verwerking van Persoonsgegevens door EY is beschikbaar op https://www.ey.com/nl_nl/legal-and-privacy.
22. Als zakelijke dienstverlener moet EY bij de verlening van Diensten zelf de doeleinden en middelen van de verwerking van Persoonsgegevens bepalen. Tenzij anders aangegeven, treedt EY bij de verwerking van Persoonsgegevens die onder de Algemene verordening gegevensbescherming of andere toepasselijke wetgeving inzake gegevensbescherming valt dan ook op als zelfstandig verwerkingsverantwoordelijke en niet als verwerker onder controle van Cliënt of als gezamenlijk verwerkingsverantwoordelijke met Cliënt. Voor Diensten waar EY handelt als verwerker van Persoonsgegevens namens Cliënt, komen de partijen passende voorwaarden voor gegevensverwerking overeen in de toepasselijke Statement of Work.
20. EY uses other EY Firms, EY Persons and Support Providers who may have access to Client Information in connection with delivery of Services as well as to provide Internal Support Services. EY shall be responsible for any use or disclosure of Client Information by other EY Firms, EY Persons or Support Providers to the same extent as if EY had engaged in the conduct itself.
21. Client agrees that Client Information, including Personal Data, may be processed by EY, other EY Firms, EY Persons and their Support Providers in various jurisdictions in which they operate (EY office locations are listed at www.ey.com). Client Information, including any Personal Data, will be processed in accordance with applicable law, and appropriate technical and organizational security measures will be implemented to protect it. Transfer of Personal Data among members of the EY network is subject to the EY Binding Corporate Rules Program, available at www.ey.com/bcr. Further information about EY's processing of Personal Data is available at www.ey.com/privacy.
22. As a professional services firm, EY is required to exercise its own judgment in determining the purposes and means of processing any Personal Data when providing the Services. Accordingly, unless otherwise specified, when processing Personal Data subject to the General Data Protection Regulation or other applicable data protection law, EY acts as an independent controller, and not as a processor under Client's control or as a joint controller with Client. For Services where EY acts as a processor processing Personal Data on Client's behalf, the parties will agree appropriate data processing terms in the applicable Statement of Work.

23. BUITEN TOEPASSING.

24. Indien Cliënt verlangt dat EY toegang heeft tot of gebruikmaakt van systemen of apparaten van derden, is EY niet verantwoordelijk voor de vertrouwelijkheid, beveiliging of controles op de gegevensbescherming van deze systemen of apparaten of voor hun prestaties of naleving van de eisen van Cliënt of van de toepasselijke wetgeving.

25. Om de uitvoering van de Diensten te vergemakkelijken, kan EY personeel van Cliënt of derden die namens of op verzoek van Cliënt handelen toegang geven tot technologische samenwerkingstools en -platforms of deze anderszins aan hen beschikbaar stellen. Cliënt is verantwoordelijk voor de naleving van de toepasselijke voorwaarden voor het gebruik van dergelijke tools en platforms door al deze personen.

Naleving en risicobeheer

26. In verband met de uitoefening van hun respectieve rechten en nakoming van hun verplichtingen op grond van deze Overeenkomst voldoen EY en Cliënt aan alle wet- en regelgeving zoals die van tijd tot tijd geldt in de verschillende landen, bijvoorbeeld met betrekking tot of verband houdende met omkoping of corruptie.

27. De wet- en regelgeving die op EY van toepassing is, zoals de Wet ter voorkoming van witwassen en financieren van terrorisme (Wwft), legt EY verschillende verplichtingen op, waaronder verplichtingen inzake cliëntenonderzoek, identificatie en verificatie. Deze verplichtingen zijn zowel voor als na aanvaarding van een cliënt van toepassing op EY. Cliënt dient EY onverwijld alle informatie en documentatie te verschaffen waar EY Cliënt om verzoekt, zodat EY aan zijn verplichtingen op grond van de Wwft kan blijven voldoen. Indien EY - naar eigen goeddunken en na Cliënt een termijn van veertien dagen te hebben geboden om specifieke tekortkomingen te verhelpen - vaststelt dat Cliënt artikel 27 uit dit document niet volledig nakomt, kan EY deze Overeenkomst beëindigen overeenkomstig de tweede zin van artikel 33 zonder dat EY gehouden is tot enige schadevergoeding aan Cliënt als gevolg van een dergelijke beëindiging.

23. INTENTIONALLY LEFT BLANK.

24. If Client requires EY to access or use Client or third-party systems or devices, EY shall have no responsibility for the confidentiality, security or data protection controls of such systems or devices or for their performance or compliance with Client requirements or applicable law.

25. To facilitate the performance of the Services, EY may provide access to, or otherwise make available, technology-enabled collaboration tools and platforms to Client personnel or third parties acting on Client's behalf or at Client's request. Client shall be responsible for all such persons' compliance with the terms applicable to the use of such tools and platforms.

Compliance and Risk Management

26. In connection with the performance of its respective rights and obligations under this Agreement, EY and Client each will comply with all laws and regulations of any jurisdiction applicable to it from time to time e.g. concerning or relating to bribery or corruption.

27. Laws and regulations applicable to EY including but not limited to the Dutch Money Laundering and Terrorist Financing (Prevention) Act (Wwft) place various obligations upon EY, including obligations on client screening, identification and verification. These obligations apply both before EY accepts a client as well as after acceptance. Client must provide EY promptly with all information and documentation that EY requests from Client, in order for EY to continuously meet its obligations under the Wwft. If EY - in its sole discretion and after having provided the Client with a fourteen days' term to redress specified shortcomings - determines that Client does not fully comply with this Section 27, EY may terminate this Agreement in accordance with the second sentence of Section 33, without EY being obliged to pay any compensation to Client as a result of such termination.

Honoraria en onkosten algemeen

28. Cliënt dient - zoals nader in de van toepassing zijnde Statement of Work is gespecificeerd - professionele honoraria en specifieke onkosten van EY in verband met de Diensten te voldoen. Cliënt dient tevens overige redelijke, tijdens de uitvoering van de Diensten gemaakte onkosten aan EY te vergoeden. De honoraria van EY zijn exclusief belastingen en vergelijkbare heffingen, alsmede exclusief ten aanzien van de Diensten opgelegde douanerechten of -heffingen, die Cliënt alle dient te voldoen (met uitzondering van belastingen die worden geheven over de inkomsten van EY in het algemeen). Tenzij anders overeengekomen in de betreffende Statement of Work, zal betaling geschieden binnen veertien dagen na factuurdatum van elke factuur van EY. Cliënt draagt alle gerechtelijke en buitengerechtelijke incassokosten die redelijkerwijs door EY zijn gemaakt als gevolg van de niet-nakoming van de betalingsverplichtingen door Cliënt. De buitengerechtelijke incassokosten worden berekend overeenkomstig het Besluit voor vergoeding van buitengerechtelijke incassokosten van 1 juli 2012 (Staatsblad 2012/141). Eventuele facturen en kennisgevingen (inclusief herinneringen) kunnen elektronisch worden voorgelegd.

29. EY is gerechtigd aanvullende honoraria in rekening te brengen, indien gebeurtenissen die buiten de macht van EY liggen (waaronder enig handelen of nalaten van de zijde van Cliënt) van invloed zijn op het vermogen van EY om de Diensten uit te voeren zoals overeengekomen in de toepasselijke Statement of Work, of indien Cliënt aanvullende werkzaamheden van EY verlangt.

30. Indien EY op grond van de toepasselijke wetgeving, juridische procedures of een overheidsmaatregel verplicht is om met betrekking tot de Diensten of deze Overeenkomst informatie te verstrekken of personeel als getuige te laten optreden, dan dient Cliënt aan EY alle professionele uren en onkosten (waaronder redelijke externe en interne kosten van rechtsbijstand) te vergoeden die zijn besteed c.q. gemaakt om aan het verzoek tegemoet te komen, tenzij EY partij is bij de procedure of het onderwerp van het onderzoek is.

Fees and Expenses Generally

28. Client shall pay EY's professional fees and specific expenses in connection with the Services as detailed in the applicable Statement of Work. Client shall also reimburse EY for other reasonable expenses incurred in performing the Services. EY's fees are exclusive of taxes or similar charges, as well as customs, duties or tariffs imposed in respect of the Services, all of which Client shall pay (other than taxes imposed on EY's income generally). Unless otherwise set forth in the applicable Statement of Work, payment is due within fourteen days following the date of each of EY's invoices. Client will bear any and all judicial and extrajudicial collection costs reasonably incurred by EY as a consequence of Client's not meeting its payment obligations. The extrajudicial collection costs shall be calculated in accordance with the Decree on extrajudicial collection costs of 1 July 2012 (Official Gazette 2012/141) (*Besluit voor vergoeding van buitengerechtelijke incassokosten*). Invoices and notices (including reminders), if any, can be presented electronically.

29. EY may charge additional professional fees if events beyond its control (including Client's acts or omissions) affect EY's ability to perform the Services as agreed in the applicable Statement of Work or if Client asks EY to perform additional tasks.

30. If EY is required by applicable law, legal process or government action to produce information or personnel as witnesses with respect to the Services or this Agreement, Client shall reimburse EY for any professional time and expenses including reasonable external and internal legal costs, incurred to respond to the request, unless EY is a party to the proceeding or the subject of the investigation.

Overmacht

31. Geen van partijen is aansprakelijk voor de niet-nakoming van deze Overeenkomst, met uitzondering van betalingsverplichtingen, die is veroorzaakt door omstandigheden die buiten hun redelijke macht liggen.

Duur en beëindiging

32. Deze Overeenkomst is van toepassing op alle Diensten om het even wanneer deze zijn verleend, waaronder vóór de datum van deze Overeenkomst of de toepasselijke Statement of Work.
33. Deze Overeenkomst eindigt bij voltooiing van de Diensten. Het is ieder van partijen toegestaan om deze Overeenkomst dan wel bepaalde Diensten op te zeggen met inachtneming van een schriftelijke opzegtermijn van dertig dagen. Daarnaast is het EY toegestaan om deze Overeenkomst dan wel bepaalde Diensten schriftelijk met onmiddellijke ingang te beëindigen, indien EY in redelijkheid en billijkheid vaststelt dat het niet meer in staat is om de Diensten in overeenstemming met de toepasselijke wetgeving óf de van toepassing zijnde beroepsregels te verlenen.
34. De Cliënt dient EY te betalen voor alle onderhanden werk, reeds uitgevoerde Diensten en door EY gemaakte onkosten tot en met de datum van beëindiging of afloop van deze Overeenkomst, alsmede voor een eventueel toepasselijke beëindigingsvergoeding zoals overeengekomen in de toepasselijke Statement of Work.

Toepasselijk recht en geschillenbeslechting

35. Deze Overeenkomst, alsmede alle niet-contractuele aangelegenheden of verplichtingen voortvloeiend uit deze Overeenkomst en de Diensten, worden beheerst door en dienen te worden uitgelegd in overeenstemming met Nederlands recht.

Tenzij schriftelijk uitdrukkelijk anders overeengekomen, zijn alle geschillen met betrekking tot deze Overeenkomst of de Diensten onderworpen aan de exclusieve bevoegdheid van de rechter te Rotterdam, waaraan ieder van partijen zich ten behoeve van deze Overeenkomst zal onderwerpen.

Force Majeure

31. Neither party shall be liable for breach of this Agreement other than payment obligations, caused by circumstances beyond such party's reasonable control.

Term and Termination

32. This Agreement applies to all Services whenever performed including before the date of this Agreement or the applicable Statement of Work.
33. This Agreement shall terminate on the completion of the Services. Either party may terminate this Agreement, or any particular Services, upon thirty days' prior written notice to the other. In addition, EY may terminate this Agreement, or any particular Services, immediately upon written notice to Client if EY reasonably determines that it can no longer provide the Services in accordance with applicable law or professional obligations.
34. Client shall pay EY for all work-in-progress, Services already performed, and expenses incurred by EY up to and including the effective date of the termination or expiration of this Agreement, as well as any applicable termination fees set forth in the applicable Statement of Work.

Governing Law and Dispute Resolution

35. This Agreement, and any non-contractual matters or obligations arising out of it or the Services, shall be governed by, and construed in accordance with, the laws of the Netherlands.

Except as otherwise expressly agreed in writing, any dispute relating to this Agreement or the Services shall be subject to the exclusive jurisdiction of the court in Rotterdam, to which each party agrees to submit for these purposes.

Overige bepalingen

36. Deze Overeenkomst omvat de gehele tussen de partijen gesloten overeenkomst met betrekking tot de Diensten en andere zaken die daarin geregeld worden, en vervangt alle eerdere overeenkomsten, afspraken en toezeggingen die hiermee verband houden, met inbegrip van enige eerder overeengekomen geheimhoudingsovereenkomsten.

37. Het is ieder van partijen toegestaan om deze Overeenkomst alsmede alle aanpassingen daarop elektronisch te ondertekenen. Tevens is het ieder van partijen toegestaan om een ander exemplaar van hetzelfde document te ondertekenen. Wijzigingen op deze Overeenkomst dienen door beide partijen schriftelijk overeen te worden gekomen.

38. Cliënt gaat ermee akkoord dat het EY en de andere EY-firma's is toegestaan om met inachtneming van hun gedrags- en beroepsregels voor andere cliënten, waaronder concurrenten van Cliënt, werkzaamheden te verrichten.

39. Voor zover wettelijk niet verboden, is het geen van de partijen toegestaan om hun rechten, verplichtingen of vorderingen op grond van deze Overeenkomst op enige wijze geheel of gedeeltelijk over te dragen zonder de voorafgaande schriftelijke toestemming van de andere partij. In afwijking van het voorgaande is het EY toegestaan haar rechten, verplichtingen of vorderingen op grond van deze Overeenkomst over te dragen aan (i) een andere EY-firma en/of (ii) een entiteit/entiteiten die voortvloeit/voortvloeien uit of is/zijn opgericht als onderdeel van een gehele of gedeeltelijke herstructurering, verkoop of overdracht van een EY-firma, geheel of gedeeltelijk, op voorwaarde dat een dergelijke overdracht van de rechten, verplichtingen of vorderingen de continuïteit van de Diensten niet wezenlijk beïnvloedt. EY zal Cliënt informeren over een dergelijke overdracht.

40. Indien blijkt dat enige bepaling van deze Overeenkomst (geheel of gedeeltelijk) onwettig, ongeldig of anderszins onafdwingbaar is, dan blijven de overige bepalingen volledig van kracht.

Miscellaneous

36. This Agreement constitutes the entire agreement between the parties as to the Services and the other matters it covers, and supersedes all prior agreements, understandings and representations with respect thereto, including any previously agreed confidentiality agreements.

37. Each party may execute this Agreement, as well as any modifications to it, by electronic means, and each party may sign a different copy of the same document. Both parties must agree in writing to modify this Agreement.

38. Client agrees that EY and the other EY Firms may, subject to professional obligations, act for other clients, including Client's competitors.

39. To the extent legally not prohibited, neither party may assign any of its rights, obligations or claims under this Agreement in whole or in part without the prior written consent of the other party. Notwithstanding the foregoing, EY may assign any of its rights, obligations or claims under this Agreement to (i) any other EY Firm and/or (ii) any entity/entities resulting from, or established as part of, a restructuring, sale or transfer of an EY Firm, in whole or in part, provided further that any such assignment does not materially affect the continuity of the Services. EY shall provide Client with notice of any such assignment.

40. If any provision of this Agreement (in whole or part) is held to be illegal, invalid or otherwise unenforceable, the other provisions shall remain in full force and effect.

41. Cliënt erkent dat, wanneer onafhankelijkheid van accountants vereist is, bepaalde beperkingen inzake vertrouwelijkheid met betrekking tot de fiscale constructie op grond van de regelgeving van de U.S. Securities and Exchange Commission ertoe kunnen leiden dat de auditor als niet onafhankelijk wordt beschouwd of specifieke belastinginformatie vereist is. Indien en alleen voor zover de regelgeving inzake de onafhankelijkheid van accountants van de U.S. Securities and Exchange Commission op de relatie tussen Cliënt dan wel de aan Gelieerde Cliënt entiteiten enerzijds en een EY-firma anderzijds van toepassing is, staat Cliënt er, vanaf de datum van deze Overeenkomst, dan ook naar beste weten voor in dat hij noch de met hem gelieerde entiteiten mondeling of schriftelijk met een andere adviseur is/zijn overeengekomen om de mogelijkheid van Cliënt te beperken om aan wie dan ook de fiscale behandeling of fiscale constructie openbaar te maken van een transactie waar de Diensten betrekking op hebben. Cliënt gaat ermee akkoord dat de gevolgen van een dergelijke overeenkomst voor zijn rekening komen.
42. Het is geen van partijen toegestaan om de naam, logo's of handelsmerken van de andere partij in het openbaar te gebruiken of daarnaar te verwijzen zonder voorafgaande schriftelijke instemming van de andere partij, met dien verstande dat het EY is toegestaan de naam van Cliënt te gebruiken om hem te identificeren als cliënt in verband met specifieke Diensten of anderszins.
43. De beperkingen in de artikelen 13 en 15 en de bepalingen van de artikelen 16, 21, 23 en 38 zijn mede bedoeld ten behoeve van de andere EY-firma's en EY-personen, die hier dan ook een beroep op kunnen doen. Het gaat bij deze artikelen om bepalingen met betrekking tot derden in overeenstemming met artikel 6:253 van het Burgerlijk Wetboek.
41. Client acknowledges that the U.S. Securities and Exchange Commission regulations indicate that, where auditor independence is required, certain confidentiality restrictions related to tax structure may render the auditor to be deemed to be non-independent or may require specific tax disclosures. Accordingly, if and only to the extent that U.S. Securities and Exchange Commission auditor independence regulations apply to the relationship between Client or any of Client's associated entities and any EY Firm, with respect to the tax treatment or tax structure of any transaction to which the Services relate, Client represents, to the best of its knowledge, as of the date of this Agreement, that neither Client nor any of its affiliates has agreed, either orally or in writing, with any other advisor to restrict Client's ability to disclose to anyone such tax treatment or tax structure. Client agrees that the impact of any such agreement is its responsibility.
42. Neither party may use or reference the other's name, logos or trademarks without its prior written consent, provided that EY may use Client's name publicly to identify Client as a client in connection with specific Services or otherwise.
43. The limitations in Sections 13 and 15 and the provisions of Sections 16, 21, 23 and 38 are intended to benefit the other EY Firms and all EY Persons, who shall be entitled to enforce them. These Sections are third-party clauses in accordance with Article 253 of Book 6 of the Dutch Civil Code.

In geval van een geschil over de interpretatie van deze voorwaarden prevaleert de Nederlandstalige versie.

In the event of any dispute to the interpretation of any of these conditions, the Dutch language version will prevail.