

**GENERAL PURCHASE CONDITIONS OF PSA ANTWERP NV**

**GENERAL PROVISIONS**

**1 APPLICABILITY**

- 1.1 These general purchase conditions (the “**Conditions**”) apply from 1 January 2025 to any provision of services and/or delivery of goods (by sale or otherwise), and any offers or agreements pertaining thereto (the “**Underlying Legal Relationship**”), to PSA Antwerp NV or any of its affiliated companies in Belgium, including but not limited to Antwerp International Terminal NV (AIT), Antwerp Terminal Services NV (ATS), Computer Software, Management, Operations & Services NV (COSMOS), Container Handling Zeebrugge NV (CHZ), MSC PSA European Terminal NV (MPET), PSA Zeebrugge NV, PSA Breakbulk NV, PSA Baltics NV, PSA Belgium NV, PSA Belgium Ventures BV, PSA Finance Europe NV, PSA Investments NV, Global Ports Services BV, PSA Marine Belgium BV, PSA Genoa Investments NV, PSA Supply Chain Solutions BV and PSA Belgium Holdings BV (hereafter collectively “**PSA**”). The Conditions also apply to any requests made by PSA for the making of an offer, to all offers made to PSA, to all instructions and orders made by PSA (hereafter “**Orders**”) and to all agreements with PSA pertaining to the above. Only the PSA company entering into the agreement or, in the absence of an agreement, receiving the goods and/or the services, can incur obligations or liabilities (if any) in respect thereof, without any joint liability of any of its affiliated companies. The Conditions also apply to any non-contractual obligation or liabilities, including but not limited to those resulting from gross error, that the Supplier may incur as a result of the provision of services and/or the delivery of goods by it. The Conditions apply to provision of services and/or delivery of goods against payment or free of charge.
- 1.2 These Conditions apply to the exclusion of all other general or specific terms and conditions which have been or will be communicated by the party providing the services or goods referred to in clause 1.1 (hereafter the “**Supplier**”), unless PSA has explicitly accepted such provisions in writing. Unless explicitly agreed in writing, any provision deviating from these Conditions will only apply to the Underlying Legal Relationship for which this deviation was agreed. If there is any discrepancy, inconsistency or ambiguity between the Conditions and any specific terms agreed with the Supplier, then the specific terms agreed with the Supplier will prevail to extent of the discrepancy, inconsistency or ambiguity.
- 1.3 Any Supplier that has provided services or goods on the basis of these Conditions expressly confirms to have effectively received the Conditions, have taken notice of the Conditions, having had the opportunity to discuss them with PSA and agrees with the applicability of these Conditions to any subsequent agreements between itself and PSA.
- 1.4 Commercial terms used in these Conditions or in other documents applicable between parties, are to be construed and interpreted in accordance with the Incoterms, latest version.

**2 ENTERING INTO AN AGREEMENT**

- 2.1 Any offers by the Supplier will be irrevocable. All costs to be made by the Supplier in the context of an offer will be for the account of the Supplier.
- 2.2 An agreement with the Supplier only enters into force if and to the extent PSA accepts the Supplier's offer by means of a written Order.
- 2.3 Oral commitments or arrangements by or with its personnel, or its representatives, will not bind PSA until after and insofar PSA has confirmed these in writing, such confirmation to be signed by the corporate body legally authorised to represent the relevant company.

**3 PRICES AND PAYMENT**

- 3.1 Any prices and other tariffs mentioned in these Conditions or in any agreement, offer or other document to which these Conditions apply, include all expenses, rights and taxes (VAT excluded) and include transport, adequate packaging, inspections, testing, certificates and suchlike.
- 3.2 Agreed prices are fixed for the duration of the Underlying Legal Relationship. If a withholding tax is withheld from the payments made by PSA to the Supplier, PSA will withhold such withholding tax without having any obligation to gross up the payments to the Supplier.
- 3.3 Payment by PSA will be made within thirty days after reception of the invoice, but no earlier than thirty days after delivery in conformity with clause 14 or clause 19. Invoices will only be considered for payment if they have been provided with the number and the date of PSA's Order.
- 3.4 If PSA is late in making any payment (of invoices or of any other amount that may be due under these Conditions or any agreement, offer or other document to which these Conditions apply), the Supplier will formally summon PSA to pay by registered letter. From the day of receipt of this registered letter, PSA will (if it does not have a valid reason for the delay, such as protesting an invoice) pay a late payment interest equal to the reference interest rate as defined in the law of 2 Augustus 2002 on combating late payment in commercial transactions.
- 3.5 If advance payment has been agreed, PSA is entitled, at any moment, to ask the Supplier to provide a bank guarantee or a parent company guarantee, to the satisfaction of PSA, as security for the repayment in the event of withdrawal of the Order or termination of the agreement.
- 3.6 Any payment by PSA does not in any way imply a waiver of any right pursuant to the agreement or these Conditions.
- 3.7 For invoicing, only those currencies, numbers, weights and/or volumes are valid which have been accepted or determined and confirmed in writing by PSA.
- 3.8 Invoices are addressed exclusively to PSA's financial administration.
- 3.9 Any amounts owed by PSA to the Supplier may, be set off against any sums due by the Supplier to PSA. Any amounts due by the Supplier to PSA will be paid without deduction or set-off.
- 3.10 Article 5.210 of the Belgian Civil Code will not apply on payments by PSA, such that partial payments by PSA will firstly be imputed on the capital.

**4 FORCE MAJEURE**

- 4.1 For the purposes of these Conditions, force majeure only means those unforeseeable circumstances that are not due to the party relying on it (or to third parties upon which that party depends for the execution of its obligations, such as its suppliers and/or subcontractors) and that make it completely impossible for the force majeure-invoking party to carry out its obligations. Strikes, lock out, shortage of personnel, theft, machine breakdown, a cyber attack (a virus, a worm, DDoS attack, hacking and phishing and similar events that disrupt the ICT environment), epidemic and pandemic do not constitute force majeure. Cases of force majeure that occur on the part of third parties on which the force majeure-invoking party is wholly or partly dependent for the performance of its obligations do not constitute force majeure.
- 4.2 In the event of force majeure, the party relying on it will immediately inform the other party in writing of all relevant details, including a description of the force majeure situation, the manner in which it prevents the force majeure-invoking party from carrying out its obligations and the estimated duration of the force majeure event. The force majeure-invoking party will continue to keep the other party informed about the developments concerning the force majeure event. If the force majeure-invoking party invokes force majeure it must make all reasonable efforts, at its own expense, to end the force majeure event as soon as possible. As soon as possible after the force majeure event ceases to exist, the force majeure-invoking party will resume the execution of its obligations.
- 4.3 If as a result of force majeure, the execution of the force majeure-invoking party's obligations has become impossible or such execution has been suspended for at least ninety days or it is established that it will be suspended for at least ninety days, or if, in the other party's motivated opinion, compliance with the agreement is impeded or aggravated for an excessive amount of time, that party can terminate the Underlying Legal Relationship.

## **5 TERMINATION**

- 5.1 PSA can terminate or suspend any Underlying Legal Relationship, in whole or in part, without judicial intervention and without prior notice of default, notification or notice period, with immediate effect, at the expense of the Supplier, by sending a registered letter, in the following events:
- 5.1.1 if the Supplier is in default with regard to one or more obligations or if it is established that it will not be possible for the Supplier to comply without default (exceeding the delivery date by more than ten weeks will be considered as such a default);
  - 5.1.2 if PSA has other sound reasons to expect that the Supplier will not be willing or able to comply with its obligations;
  - 5.1.3 if the Supplier is declared bankrupt, is wound up, applies for temporary suspension of payment or (through seizure, legal restraint or otherwise) loses the power over its assets or part thereof, or applies for a court composition, or any other collective measure is taken, or applied for in relation to the Supplier, which has the aim of protecting the Supplier against its creditors;
  - 5.1.4 if there is a change in control over the Supplier;
  - 5.1.5 if in relation to the realisation or execution of the agreement, any benefit is offered or provided (through, or in name of, the Supplier) to any person who is part of PSA's organisation;
  - 5.1.6 in the event of termination in accordance with clause 4.3.
- 5.2 In the event of termination or suspension in accordance with the previous clause, PSA will never be held to any form of damages whatsoever. The Supplier will compensate and indemnify PSA against any damages (including claims by third parties) which may originate by or are in connection with the termination.
- 5.3 In the event of termination by PSA for no cause according to Article 1794 of the old Belgian Civil Code, PSA cannot be held liable for any loss of profit suffered by the Supplier as a result of this termination.
- 5.4 In the event of termination or suspension, the Supplier will promptly reimburse all costs already made by PSA, without prejudice to the right of PSA to claim full compensation of damages.

## **6 CYBER SECURITY, DATA PROTECTION and CONFIDENTIALITY**

- 6.1 The following information ("PSA Data") will be considered confidential: (i) the existence, the subject matter and the contents of the Underlying Legal Relationship; and (ii) any information (in any form whatsoever, about PSA or about any other subject) which the Supplier obtains as a result of the Underlying Legal Relationship. In particular, confidential information will include (but not be limited to) data and information with respect to machines, installations or parts of machines or installations that are developed by the Supplier in cooperation with PSA or upon PSA's instruction.
- 6.2 The Supplier will keep all PSA Data confidential and will not disclose this information, in whole or in part, without the prior explicit written consent of PSA. The Supplier will ensure that its affiliated companies and the directors, employees, appointees and advisors of itself and of its affiliated companies will comply with this confidentiality obligation.
- 6.3 Nevertheless, the following actions do not qualify as a violation of the confidentiality obligations set out in clause 6.2: (i) disclosure by the Supplier in the event of a court procedure and/or arbitration procedure initiated by one party against the other, to the extent that disclosure is strictly necessary in the context of the procedure, and (ii) disclosure by the Supplier if and to the extent that this is strictly necessary for the Supplier in order to comply with its legal or regulatory obligations. In the latter case, the Supplier will consult with PSA, to the extent reasonably possible, before complying with this legal or regulatory obligation and will limit the disclosure to the minimum necessary.
- 6.4 The Supplier hereby authorises PSA to collect and use all data relating to and/or used by the Supplier in the context of the services provided to PSA during the performance of the Underlying Legal Relationship for the purpose of providing and managing its services, research, service improvement, security and risk management, or for compliance with legal and regulatory requirements. The Supplier explicitly acknowledges that PSA reserves all rights with regard to data collected or developed during the performance of the Underlying Legal Relationship.
- 6.5 The parties agree that all intellectual property rights relating to the PSA Data remain with PSA, and that all intellectual property rights relating to the confidential information or other data obtained by PSA from the Supplier or, if applicable, by virtue of the provision of services and/or the delivery of goods to which these Conditions apply, become the exclusive property of PSA.
- 6.6 The Supplier is expressly prohibited from commercially exploiting PSA Data.
- 6.7 Furthermore, the Supplier undertakes to:
- 6.7.1 handle all PSA Data and digital services to which it has access responsibly and in accordance with all applicable laws and regulations and use them only for the performance of the agreement with PSA in a manner consistent with the highest level of ethics and integrity;
  - 6.7.2 take all measures that a reasonable and prudent party may take to ensure that all PSA Data is protected at all times from unauthorized access or use by a third party or from misuse, damage or destruction by a party;
  - 6.7.3 implement protective measures for the PSA Data that are no less stringent than generally accepted industry standards, such as, but not limited to, security standards that are proportionate to the consequences and likelihood of unauthorized access to, or use, misuse or loss of, the Supplier's data; and
  - 6.7.4 taking into account clauses 6.7.1, 6.7.2. and 6.7.3, comply with any security regulations or procedures or instructions as indicated or specified by PSA in these Conditions, with respect to any aspect of the security of, or access to, PSA Data, PSA's material or premises.
- 6.8 If the Supplier has knowledge or should reasonably have had knowledge of an actual or suspect:
- 6.8.1 attempt made through the use of computer networks that results in an actual or potential adverse effect on the information system of the Supplier and/or PSA Data located on that system ("Cyber Incident"); or
  - 6.8.2 other unauthorized access or use by a third party or misuse, damage or destruction by any person ("Other Incident") of PSA Data,
- Supplier must: (i) notify PSA immediately in writing (and no longer than twelve hours after becoming aware of the Cyber Incident or Other Incident itself); (ii) comply with any guidelines deemed reasonable by industry as prepared by PSA in connection with the Cyber Incident or Other Incident; (iii) provide PSA, at its request, with evidence of how, when and by whom PSA's information system and/or PSA Data could have been compromised, as well as retain and protect that evidence for a period of up to twelve months; (iv) implement remediation strategies to reduce the impact of the Cyber Incident or Other Incident as well as minimize the likelihood or impact of a future similar incident; and (v) retain and protect the PSA Data (including, if necessary, returning to a backup or alternative site or taking any other action to restore the PSA Data).

## **7 LIABILITY**

- 7.1 The Supplier will be liable for any direct or indirect damage, whatever its nature and however it arose or was incurred, of PSA and/or third parties (including persons whether or not in PSA's employment or used by PSA or otherwise involved), in accordance with applicable law.
- 7.2 PSA, its directors, employees, agents and/or subcontractors can never be held liable on extracontractual grounds as mentioned in article 6.3 of the Belgian Civil Code, except for claims concerning damages that result from an impairment of physical or psychological integrity or an intentional fault.

- 7.3 PSA will not, except for willful intent, gross error or deliberate gross recklessness of itself or its own employees, be liable for any damages or any injury, of whatever nature and regardless of whatever manner created or inflicted to the Supplier, to third parties involved by the Supplier in the performance of the agreement or third parties otherwise involved, to goods of the other party or such third parties, or to persons employed by the Supplier or such third parties. PSA will only be liable for proven consequential damages (including in any event costs for non-activity and loss of profit) of the Supplier or of the third parties referred to above, in the event that PSA's management had the direct intention to inflict such damages. The Supplier will indemnify PSA and hold it harmless against any and all claims for which PSA's liability is excluded by virtue of the above clauses.

## **8 INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS**

- 8.1 The rights to all the information (documents and specifications in whatever form, regardless of the manner in which these are used or stored), made available by PSA to the Supplier remain with PSA. The Supplier will return this information to PSA at its first request, but in any event after the delivery of the goods and/or providing of the services or after the termination of the agreement. The risk of the aforementioned information remains with the Supplier until the return of the information. The Supplier will verify the correctness and internal consistency of the information before starting to implement its obligations and report any deviations or defects to PSA. If the Supplier fails to do so, it will be liable for all damages and costs which PSA suffers or incurs as a consequence thereof.
- 8.2 The Supplier will clearly mark the information as PSA's property and will point out PSA's proprietary rights to third parties. The Supplier must inform PSA immediately if the information is seized or if in any other way, it is no longer at the Supplier's free disposal.
- 8.3 The Supplier will not use the information for any other purpose than the purpose for which it has been made available and will not reproduce it, in whole or in part, put it at the disposal of third parties or allow third parties to review it in any manner whatsoever.
- 8.4 The Supplier irrevocably and exclusively assigns all intellectual, industrial and other property rights (including copyrights, neighbouring rights, trademarks, trade names and logos, designs and model rights, patents, database rights and software, hereafter "**Rights**") in all creations, inventions or other works created, developed or arising in relation to the performance of any agreement governed by these Conditions (hereafter "**Specific Works**"), to PSA, which accepts, and this in the most extended manner (*i.e.* for all exploitation forms and modalities, including exploitation forms and modalities which were unknown at the time of acceptance of the offer of the Supplier by PSA), for the entire duration of the Right concerned and for the entire world.
- If the Supplier delivers any creations, inventions or other works in relation to the performance of any agreement, other than Specific Works, (hereafter the "**Non-Specific Works**"), which are protected by any Rights, the Supplier grants PSA a non-exclusive license to use the Non-Specific Works for the entire duration of the Right concerned and for the entire world.
- With regard to moral rights in copyright protected works, the Supplier waives the exercise of any paternity right in Specific and Non-Specific Works. In any case the Supplier will ensure that moral rights in these works are not exercised in a way which could prejudice PSA's commercial interests. The Supplier confirms that the indemnity for the assignment and/or waiver of Rights is deemed to be included in the remuneration (if any) paid to the Supplier. The indemnity for the license granted on Non-Specific Works, is also included in the remuneration (if any) paid to the Supplier, unless otherwise jointly agreed upon by PSA and the Supplier.
- 8.5 The Supplier warrants to PSA that the use of the goods and/or services provided and/or the works executed by the Supplier (including Specific and Non-Specific Works) does not constitute an infringement on any intellectual, industrial and other property rights of a third party and that the Supplier is entitled to assign the Rights in Specific Works and grant the license for Non-Specific Works pursuant to clause 8.4. The Supplier will accordingly indemnify PSA against claims by third parties who claim that the aforementioned use and/or the assignment and/or licensing of Rights infringes on their intellectual, industrial and other property rights and consequently bear any damages and costs of PSA in connection with these claims. The approval by PSA of any manufacturer's instructions, indications for use, drawings, designs, models and other notifications or information, that are provided by or on account of the Supplier, is without prejudice to the obligations of the Supplier under this clause and these Conditions.

## **9 SANCTIONS AND EXPORT CONTROLS**

- 9.1 For the purposes of this clause:
- 9.1.1 "**Applicable Laws**" means, as to any person, all applicable constitutions, treaties, laws, statutes, codes, ordinances, orders, decrees, rules and regulations binding upon such person or to which such a person, Goods or Services is subject. Including any requirement imposed by the International Maritime Organization, or any extra-territorial laws that apply by virtue of a nexus to any particular jurisdiction, including the corporate residence, place of incorporation or nationality.
- 9.1.2 "**Export Controls**" means any prohibition or restriction on the import or export of the Goods imposed by any state, country, supranational or international governmental organization or other governmental authority.
- 9.1.3 "**Person**" means any natural person, partnership, body corporate or other legal entity.
- 9.1.4 "**Prohibited Item**" means any cargo or item which is illegal or contraband under any Applicable Laws, subject to Export Controls or the import or export of which is prohibited or restructured under any Sanctions.
- 9.1.5 "**Prohibited Person**" means a Person on any list of individuals or entities with whom transactions are currently prohibited or restricted under any Sanctions.
- 9.1.6 "**Sanctions**" means any sanction, Export Controls, prohibition, or restriction imposed by any state, country, supranational or international governmental organization or other relevant governmental authority.
- 9.2 The Supplier warrants that it shall adhere with all Applicable Laws in relation to the Goods and procurement of Services to PSA and that:
- 9.2.1 the Goods (i) are lawful, do not contravene any Applicable Laws or Sanctions, (ii) do not include any Prohibited Items, and (iii) do not expose PSA to any loss, damage or expense, or risk thereof;
- 9.2.2 neither the Services nor any payment (or other transaction) relating to the Goods or Services, would or might expose PSA, its agents, or any of its subcontractors or any of their respective employees, servants, agents, insurers or re-insurers, to any Sanctions (or any risk thereof);
- 9.2.3 none of the Persons, within the meaning of Supplier, is a Prohibited Person or is, whether in part or in whole, owned or controlled by or is acting on behalf of a Prohibited Person, and the Supplier shall have performed all necessary denied party screenings of the Persons that may be involved in its transactions; and
- 9.2.4 if, in the sole opinion of PSA, any Goods are (or risk being) subject to any Sanctions or in breach of any Applicable Laws, PSA may (and the Supplier irrevocably authorizes PSA to do as such) at any time or place, reject, destroy, dispose of, abandon or render harmless such Goods, or release such Goods to the relevant governmental authority.
- 9.3 The Supplier represents, warrants and undertakes for itself and its subcontractors, affiliates, directors, managers, employees and contractors that during the period of the Underlying Legal Relationship:
- 9.3.1 they, or their legal or beneficial owners, are not Sanctioned Parties, or are not controlled by Sanctioned Parties;
- 9.3.2 to the best of its knowledge having made diligent inquiries, its performance of the Underlying Legal Relationship is and has not been in breach of any Sanctions.
- 9.4 The Supplier shall disclose promptly to PSA sufficient information in order to enable PSA to determine if there is any breach of this clause.

- 9.5 The Supplier shall indemnify PSA for any losses suffered by PSA as a result of any breach of this clause.
- 9.6 PSA may suspend the Underlying Legal Relationship with immediate effect and without liability if, in PSA's sole discretion, Supplier breaches any of the foregoing representations and warranties or PSA's continued performance of this Underlying Legal Relationship may breach or expose PSA to adverse consequences under Sanctions.

## **10 PERSONAL DATA PROTECTION**

- 10.1 Parties recognize and accept that if a party processes personal data as defined in Regulation EU 2016/679 of the European Parliament and the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the "GDPR") relating to any of the other party's directors, employees, or agents of the other party, it shall do so in strict adherence to the GDPR.
- 10.2 Furthermore, both Parties warrant and undertake that they will duly observe all relevant obligations imposed upon it by applicable data protection laws, regulations and best practices in this respect, whereby the GDPR shall be considered the lowest standard.
- 10.3 Any such processing activities will be limited to the Underlying Legal Relationship, or as specifically authorized by PSA in writing. In this respect, Supplier expressly represents and warrants that it shall take suitable technical and organizational measures to protect and secure personal data. More specifically, Supplier shall protect personal data against destruction, whether inattentive or deliberate, loss, forgery, unauthorized disclosure or access and against any form of unlawful processing. Supplier shall provide PSA with a description of the security measures taken, prove that the systems used by Supplier for automatic processing of, inter alia, personal data are in accordance with the requirements for consultation and updates of the personal data by the subject as defined in the applicable data protection law(s) and, more in particular, the GDPR, in case personal data is processed by Supplier, such processing shall be done in accordance with the provisions of the agreement to which these Conditions apply. Supplier confirms that the processing of such personal data by Supplier shall be fully in accordance with the applicable data protection laws in the countries where personal data is being processed and it shall restrict data access to persons requiring such access to perform the tasks allotted to them by Supplier in performance of the Underlying Legal Relationship. Supplier shall explicitly inform its staff, and any persons working under its control, of the provisions of the applicable data protection laws on privacy protection in relation to the processing of personal data.
- 10.4 The disclosure by Supplier of personal data to third parties, by whatever means, shall be prohibited, except where it is imposed by, or by virtue of, the law, or in case the prior written and informed approval has been obtained from PSA. Supplier shall ensure that all its staff and persons authorised to process personal data have committed themselves to obligations of confidentiality no less onerous than those set out in clause 6, or are under an appropriate statutory obligation of confidentiality.
- 10.5 Supplier shall, unless and to the extent prohibited by applicable law, give PSA written notice as soon as possible upon becoming aware of any breach of this clause or of any applicable data protection law, and in no event later than twenty-four hours after the occurrence of such event. Supplier shall take all steps necessary to investigate and prevent its recurrence. PSA shall determine (in accordance with applicable data protection law) whether and when to notify any data subjects or data protection authorities regarding a breach. In such case, PSA may, without prejudice to its other rights and remedies, immediately suspend the transfer of any personal data to Supplier, require Supplier to immediately return all personal data at no cost to PSA and perform a root cause analysis of the breach and its direct and indirect consequences. Supplier shall, at its own initiative but in close consultation with PSA, take any and all appropriate measures in order to minimize the impact such a breach may have upon PSA.
- 10.6 Supplier acknowledges that the obligations of this clause are essential and that any violation thereof could seriously harm PSA's interests and reputation, and may moreover have a significant (financial) impact on PSA and its subsidiaries and affiliates. Therefore, Supplier shall be liable for any damages attributable to any failure on its part to comply with the provisions of this clause and/or applicable law (including in particular the GDPR), irrespective of the limitations of liability set forth in the Underlying Legal Relationship.

## **11 MISCELLANEOUS**

- 11.1 If one or more of the provisions of these Conditions and/or of Underlying Legal Relationship is declared to be invalid, illegal or unenforceable under any applicable law, such invalidity, illegality of unenforceability shall not in any way affect the remaining provisions. In this event, the Supplier and PSA shall use their best efforts to immediately and in good faith negotiate a legally valid provision replacing the invalid, illegal or unenforceable provision.
- 11.2 The Supplier may not assign its rights or obligations under these Conditions and/or any Underlying Legal Relationship (by merger, split-up, contribution of a universality or a branch of activities, transfer of a universality or a branch of activities or any similar corporate restructuring, either under Belgian law or under any other law, or otherwise) without PSA's prior written consent. The Supplier may not subcontract the execution of its obligations, in whole or in part, to third parties without PSA's prior written consent. If PSA grants such consent, the Supplier will in any event be fully liable for the actions and/or negligence of such third parties, including when they have acted with wilful intent ("*met opzet*") or maliciously ("*met bedrog*"), without prejudice to any right of PSA to seek recourse against these third parties.
- 11.3 If the Supplier is or has been involved in any M&A activity (i.e. (i) the Supplier merges with a third party, (ii) the Supplier, itself or with an affiliated company, directly or indirectly acquires control over a third party, or (iii) control over a Supplier is directly or indirectly acquired by a third party) then the terms of these Conditions and/or of the Underlying Legal Relationship will not in any way be invoked to the benefit of such third party without the prior written consent of PSA.
- 11.4 The relationship between the parties shall in no event be considered a partnership, a joint venture or any other association between the parties, nor shall one party be considered the agent or employee of the other.
- 11.5 PSA reserves the right to change the Conditions in order to bring them in accordance with any changes in its commercial policy and the economic and legal necessities. The new Conditions will enter into force fourteen days after being notified to the Supplier, unless the Supplier opposes to them in writing and motivation within the same fourteen days. Changes will apply to offers already made and agreements already concluded.
- 11.6 The Supplier will at all times be responsible to comply with all relevant legal and regulatory obligations. The Supplier will also at all times sign and comply with any agreements or other documents required for PSA to satisfy its legal and regulatory obligations, including but not limited to agreements in connection with safety on temporary or mobile construction sites and agreements in connection with the lease of personnel.
- 11.7 The Supplier represents and warrants that (i) it is a corporation duly incorporated and validly existing under the laws of its country of incorporation and has full power, authority and legal right to carry on its business and to enter into any agreement, offer or other document to which these Conditions are applicable and (ii) any provision of the Underlying Legal Relationship does not and will not conflict with any law, regulation, judgement, order, authorisation, agreement or obligation applicable to it or with any agreement to which it is a party.
- 11.8 The Supplier will provide such services, carry out such works and/or deliver such goods as becomes necessary due to any defects to the services provided, works carried out and/or goods delivered within the shortest possible time, but in any event, not later than three working days following the day on which PSA reports the defect to the Supplier. If the Supplier fails to do so, PSA will be entitled to provide the services, carry out the works and/or deliver the goods itself (or to have any of this done by a third party supplier) at the Supplier's expense and risk.
- 11.9 The Supplier acknowledges that in entering into its agreement with PSA, it has not relied on any express or implied representation, warranty or other assurance (except those specifically set out in writing in the agreement) made by or on behalf of PSA before the entering into of the agreement.



11.10 The Supplier shall use reasonable efforts to comply with applicable environmental, social and governance ("ESG") laws and regulations. The Supplier shall respond diligently to requests of information regarding ESG matters received from PSA.

11.11 The Supplier shall respect and as far as practicable, commit to implementing an internationally recognized standard within the areas of anti-corruption and anti-bribery. The Supplier acknowledges it has read and has full knowledge of PSA's Supplier Code of Conduct (the "**Supplier Code**"), which is published at <https://www.globalpsa.com/>. The Supplier Code reflects PSA's ethical and business principles and offers guidance on what is expected of PSA's suppliers. The Supplier shall respect the Supplier Code and agrees to comply with the Code during the Underlying Legal Relationship with PSA.

## **12 APPLICABLE LAW - JURISDICTION**

12.1 These Conditions and the Underlying Legal Relationship shall be governed by and construed in accordance with Belgian law.

12.2 Any litigation between the parties shall be submitted to the exclusive jurisdiction of the courts of Antwerp, Belgium.

## **PROVIDING OF SERVICES**

### **13 GENERAL**

13.1 Clauses 13 up to and including 17 apply to the extent that the relationship between PSA and the Supplier pertains to services provided to PSA by or through the Supplier. In the event of conflict between clauses 13 up to and including 17 and other clauses of these Conditions, clauses 13 up to and including 17 will prevail.

### **14 PERFORMANCE**

14.1 The Supplier will carry out the assignment within the agreed period in accordance with a schedule approved in writing by PSA. If the Supplier exceeds this period, it is in default without any notice being required. The Supplier will inform PSA in due time of the progress and will give a timely advance notification of any threat of exceeding the deadline. Such an advance notification does not release the Supplier from its liability in the event it actually exceeds the deadline. When, in the opinion of the Supplier, the agreed works have been completed, it will inform PSA thereof in writing. Within fourteen days after receipt of this notification, PSA will notify the Supplier whether or not it accepts the works. The taking in operation or use of the works by PSA will not be considered as acceptance thereof. Accepting the works does not invalidate PSA's rights regarding defects, regardless of whether PSA has discovered such defects or reasonably could have discovered these during the acceptance term and has not notified these to the Supplier.

14.2 If the Supplier exceeds a deadline, it will pay PSA liquidated damages in the amount of 0.5% (per day of delay) of the total price agreed for executing the assignment. These liquidated damages will be due as of law and by the mere fact of exceeding the deadline, without any prior notice of default from PSA being required.

14.3 If liquidated damages are provided with regard to exceeding the time limit (in these Conditions or the Underlying Legal Relationship), this is without prejudice to the fact that the Supplier must indemnify PSA in full for any damages incurred by it, even if such indemnification exceeds the amount of the liquidated damages.

14.4 If and to the extent that the work is performed on the premises of PSA, such work will be carried out within the applicable working times at that place, unless agreed otherwise. At PSA's first request, the Supplier will perform the work outside these working times. Travel time and waiting time do not count as working time and can only be charged to PSA if there is an express written arrangement to this effect between PSA and the Supplier.

14.5 Except with PSA's written consent, the Supplier is not authorised to outsource the work (in whole or in part) to third parties, whether or not subcontractors. In the event of such consent as well as in the event that PSA has prescribed involvement of certain third parties, the Supplier continues even then to be fully liable for the performance of the assignment. Actions and failures/shortcomings of the third parties referred to in this clause or their personnel apply if they were actions or failures/shortcomings of the Supplier itself.

14.6 The Supplier will at its own expense ensure that the permits, exemptions, approvals and decisions necessary for the performance of the works and/or employment of personnel, are in place.

14.7 Supply and removal of materials and of any waste, rubble, packaging materials and surplus resulting from the work activities will be carried out by the Supplier and for its own account and in the manner prescribed by law.

14.8 At all times, PSA is entitled to terminate or suspend the implementation of the agreement in whole or in part, without the Supplier being entitled to any compensation other than the payment of the work actually performed at that time or otherwise of a pro-rata part of the agreed contract price.

### **15 INSTRUCTIONS**

15.1 In the performance of the work on the premises and in the buildings of PSA, the Supplier and its personnel will strictly comply with the instructions concerning operations, safety, health and well being applicable within PSA, as well as with any instructions and guidelines which are provided by PSA at the terminal, in particular with respect to the transport and storage of materials and equipment and the access to the premises and buildings, among others, pursuant to the ISPS regulations.

15.2 By entering the premises and buildings of PSA, the Supplier declares that it and its employees have taken knowledge of the above-mentioned instructions at the terminal and have accepted them.

### **16 WARRANTY**

16.1 The Supplier guarantees that the intended result including operational suitability will be achieved and that PSA's requirements in that respect will be complied with. Furthermore, the Supplier guarantees the suitability and good quality of designs, drawings, guidelines, materials and suchlike that have been advised, prescribed or furnished by it or on its behalf.

16.2 If the works consist of advising, the Supplier guarantees the correctness and soundness thereof.

16.3 The Supplier guarantees that the work will at all times be performed in accordance with all legislative provisions and other provisions laid down by any authorities, in particular in respect of the payment of social security contributions and taxes, safety, environment and hygiene or otherwise, applying in accordance with applicable law and at the place where the work is performed. All costs of measures (including remediation measures) appropriate in order to continue to comply or start to comply with these provisions, and all penalties and/or damages resulting from the non-compliance with these provisions, will always be borne by the Supplier, even if they are in first instance paid by PSA.

### **17 EXTRA AND LESS WORK**

17.1 PSA is permitted to change the assignment at all times. In that case, the agreed remuneration will be adjusted in proportion to the extra or less work to be carried out and any other possible costs or saving of costs.

17.2 Extra work will only be permitted and may only be charged if PSA has made a separate written Order for that extra work.

**SUPPLY OF GOODS****18 GENERAL**

- 18.1 Clauses 18 up to and including 22 apply to the extent that the relationship between PSA and the Supplier pertains to goods supplied (pursuant to a sale or otherwise) to PSA by or through the Supplier. In the event of conflict between clauses 18 up to and including 22 and other clauses from these Conditions, clauses 18 up to and including 22 will prevail.

**19 DELIVERY**

- 19.1 Unless otherwise agreed, deliveries will be carried out "Delivery Duty Paid" (DDP, Incoterms, ref. clause 4) to PSA's warehouses, furnished with an accompanying way bill mentioning PSA's order number and per order a delivery note in twofold. The delivery term starts at the time when the agreement is concluded and is of the essence. If the Supplier exceeds the delivery term, it is in default without any notice being required. The Supplier will give PSA a timely and adequate advance notice of the delivery and of any threat of exceeding of the delivery term.
- 19.2 If the Supplier does not deliver in time, it will pay PSA liquidated damages in the amount of 0.5% (per day of delay) of the total price agreed for the supply of the goods. These liquidated damages will be due as of law and by the mere fact of exceeding the deadline, without any prior notice of default from PSA being required.
- 19.3 If liquidated damages are provided with regard to exceeding the delivery term (in these Conditions or in the Underlying Legal Relationship), this is without prejudice to the fact that the Supplier must indemnify PSA in full for any damages incurred by it, even if such indemnification exceeds the amount of the liquidated damages.
- 19.4 If PSA is reasonably not able to accept the goods offered for delivery, the Supplier will during a period of time to be agreed store the goods for its own account and at its own risk.
- 19.5 Goods delivered will, if applicable in PSA's judgment, be packed in such a way that a storage period of minimum two years is possible.
- 19.6 Partial delivery and delivery of more or less than the agreed quantities is permitted solely if and insofar PSA's order expressly mentions this. The risk with regard to any excess quantity of goods which are stored with PSA, will continue to be vested in the Supplier until agreement has been reached on what must be done with this. All costs resulting from the storage of more than the agreed quantities will be for the account of the Supplier.
- 19.7 Unless expressly agreed otherwise, PSA will never be held to purchase or take certain minimum quantities from the Supplier, and the Supplier's prices will never depend upon PSA purchasing or taking such minimum quantities.

**20 DOCUMENTATION, COMPONENTS AND TOOLS**

- 20.1 All drawings, CE marks, instruction manuals, software, components, tools and users rights, necessary for the maintenance, repair, use and/or resale or re-delivery of the goods, will also be included in the delivery to PSA and, insofar these have been specifically manufactured in connection with the Order furnished by PSA, the title thereof will be transferred to PSA.

**21 QUALITY CONTROL**

- 21.1 PSA is not bound to conduct a quality control. The Supplier can never invoke the fact that no such control was conducted in order to ward off any claim in whole or in part as defence against PSA.
- 21.2 Unless otherwise agreed, the Supplier will inspect and test the goods to be delivered to PSA before their use and to report all irregularities before delivery to PSA.
- 21.3 PSA is at all times entitled to inspect, approve and/or test the goods, or to have this done, irrespective of the place where the goods are located.

**22 WARRANTY**

- 22.1 The Supplier warrants that the goods to be delivered are each free and clear of any liens and encumbrances, included but not limited to any mover's lien ("*retentierecht*"), pledge ("*pand*") or property retention ("*eigendomsvoorbehoud*") and will indemnify PSA at first request for any damages that result from any breach of this warranty.
- 22.2 The Supplier guarantees that the goods to be delivered and the documentation pertaining thereto, comply with the agreed specifications, properties, requirements or, if nothing has been agreed in that respect, that the specifications, properties and requirements comply with the standard requirements for the trade of these goods, or at least are customary. The Supplier also guarantees that the goods and the documentation pertaining thereto will comply with all provisions prescribed by law and by government authorities in the country of destination.
- 22.3 The Supplier also guarantees that the goods are entirely suitable for the purpose for which they are designated and can be used and treated as such, and that the goods will be of a good and consistent quality and will at all times be free of construction, material and manufacturing defects.
- 22.4 If the goods or the documentation pertaining thereto should be rejected by PSA or by an authority competent in that respect, in whole or in part, during the use, at or after delivery or if it be determined in another manner that these do not comply with the specifications, properties or requirements laid down, the Supplier will, at the option of PSA, (i) adjust the product to the satisfaction of PSA in order to comply with the specifications, properties and requirements, (ii) refund the payment already made and/or (iii) still deliver goods and/or documentation which comply with the specifications, properties and requirements to be laid down, without prejudice to any other rights of PSA.
- 22.5 PSA is entitled to send back rejected goods and/or documentation at the expense of the Supplier or to keep them in custody for the account and risk of the Supplier. If the goods and/or documentation are stored with PSA, the Supplier will collect these from PSA within two days after being requested thereto by PSA, failure of which entitles PSA to conduct freely such action therewith.