

TERMS AND CONDITIONS

1. DEFINITIONS

1.1 The definitions in this clause apply in this Agreement:

'Agreement' means the underlying terms and conditions together with the Order Document and hyperlinks specifically referring to these underlying terms and conditions and/or Order Document.

'Authorised Users' means natural persons or legal entities, which may include employees, agents and independent contractors of Customer who are authorised to access and use the Platform Service within the limits of this Agreement.

'Custom Authorities' means an authority or agency responsible for collecting tariffs and for controlling the flow of goods, including animals, transports, personal, and hazardous items, into and out of Belgium.

'Customer' means the legal entity specified in the Order Document.

'Customer Data' means the data provided by Customer to RxSeaport. This data is set out in the Data Sharing Rules. The Customer accepts that if it does not provide the data set out in the Data Sharing Rules, the Customer may not make use of all functionalities offered via the Platform Services

'Data Sharing Rules' means a number of rules which (i) set out the Customer Data that Customer must supply and (ii) the conditions and limitations under which other customers of the Platform Services may make use of the Customer Data.

'Documentation' means all manuals, instructions, specifications and other documents and materials that RxSeaport makes available during the term of the Agreement to Customer, and which may change from time to time in any medium, describing the functionality, components, features or requirements of the Platform Service. This documentation is provided as is. RX/SeaPort does not give any warranty in relation to the completeness or accuracy of this Documentation.

'Force Majeure Event' means an event, or series of related events, that is outside the reasonable control of the Party affected (including failures of the internet, underlying Platform hosting and platform service providers, or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, disputes affecting any third party, change to the law, disaster explosions, fires, flood, riots, terrorist attacks and wars).

Order Document means the document which contains the specific conditions. This Order Document shall form an integral part of the Agreement.

'Party/Parties' means Customer and/or RxSeaport

'Platform Service(s)' means the online access and availability and use of the platform and/or other web-based services as stated in this Agreement.

'Wizard' means the help feature of a Platform Services which guide Customer through and aid Customer with the functionalities and processes offered by and via the Platform Services. Although RxSeaport has made all reasonable efforts to make this Wizard as complete, accurate and up to date as possible, it is not possible to detail all of the functionalities and processes. The Wizard is provided 'as is'. RX/SeaPort does not give any warranty in relation to the completeness or accuracy of this Wizard

2. PROVISION OF THE PLATFORM SERVICES

2.1 RxSeaport is only bound by this Agreement after its written acceptance of the Order Document of the Customer. Acceptance that RxSeaport starts to execute the Agreement will be sufficient proof that Customer accepts the Agreement in full and will entitle RxSeaport to invoice the Platform Services.

2.2 Subject to Customer's compliance with the terms of this Agreement, RxSeaport shall provide the Platform Services to Customer. As part of the Platform Services RxSeaPort may, to the extent agreed upon in the Order Document, provide assistance with the onboarding of the Platform Services and/or provide assistance during the use of these Platform Services.. RxSeaport is entitled to invoice Customer for this assistance.

2.3 RxSeaport shall perform the Platform Services in a professional manner, using all reasonable skill and care. These Platform Services shall be performed by an appropriate number of suitable, qualified and experienced personnel.

2.4 Notwithstanding the foregoing, RxSeaport does not warrant that, given the current state of technique, the Customer's use of the Platform Services will be uninterrupted or error-free, nor that the Platform Services and Documentation or Wizard will meet the Customer's requirements, be compatible or work with any other goods, services or technologies which are not included in the Documentation or be free of harmful code or error free.

2.5 RxSeaport shall maintain and support the Platform Service in accordance with the provisions set out in Annex 1.

3. ACCESS AND USE OF THE PLATFORM SERVICE

3.1 Subject to Customer's and its Authorised Users' compliance with the terms and conditions of this Agreement, Customer, exercisable by and through its Authorised Users will have the right to:

(a) access and use the Platform Services and underlying platform (to the extent technically possible), the Documentation and the Wizard, including in operation with other software, hardware, networks and services for Customer's normal business purpose;

(b) generate, print, copy, upload, download, store and otherwise process all visual, digital and other output, displays and content as may result from any access to or use of the Platform Service in accordance with the terms of the Agreement and in a format accepted by the platform underlying the Platform Services;

(c) to the extent that has been made available, access and use the Platform Service for all such non-production uses and application as may be necessary or useful for effective use of the Platform Service hereunder, including for purposes of analysis, configuration, integration, testing, training.

3.2 Customer shall be responsible for the compliance of its Authorised Users with the terms of this Agreement. Customer's access to the Platform Service may be limited to a number of Authorised Users set out in the Order Document.. If no specific number of Authorised Users is mentioned in the Order Document, the Parties agree to a fair usage principle.

3.3 Customer agrees that it shall not be provided with a software but shall be entitled to remotely access the platform for the purpose of obtaining the Platform Service.

3.4 Customer undertakes and warrants that it shall not and procure that the Authorised Users shall not:

(a) to the extent permitted by the applicable law, (attempt to) copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Platform Services and/or Documentation (as applicable) and/or Wizard in any form or media or by any means, save as may be expressly permitted under this Agreement; or

(b) except to the extent such restriction is prohibited under the applicable law (attempt to) reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Platform Services (including the underlying platform); or

(c) sell, rent, lease, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make use the Platform Services except as expressly permitted under this Agreement, or

3.5 In addition to the above, Customer and its Authorised Users may not, directly or indirectly:

(a) bypass or breach any security device or protection used for or contained in the Platform Service; or

(b) engage in any activity which interferes with or disrupts the Platform Service (including the performance thereof) and/or third party data contained therein;

(c) use the Platform Service to store or transmit infringing, libellous, or otherwise unlawful or tortious material, or store or transmit material in violation of third party privacy rights;

(d) use the Platform Service to store or transmit code, files, scripts, agents or programs intended to do harm, including any form of malware, for example, viruses, worms, time bombs and Trojan horses;

(e) attempt to gain unauthorised access to the Platform Service, its related systems and (electronic communication) networks or permit direct or indirect access to or use of the Platform Service in a way that circumvents a contractual usage limit;

(f) copy the Wizard, Documentation, Platform Service or any part thereof, feature, function or user interface thereof and/or access the Platform Service in order to build a competitive product or service.

3.6 The Platform Service may be subject to a usage limit. These usage limits will be set out in the Order Document.

3.7 If Customer becomes aware of any breach of this clause 3 (*Access, use and restrictions*), it shall promptly notify RxSeaport thereof

4. CUSTOMER DATA

4.1 Customer retains to have the exclusive ownership of all Customer Data. Customer grants all such rights and permissions in or related to Customer Data as are necessary or useful for RxSeaport to perform its obligations under this Agreement.

4.2 Customer shall be responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use the Customer Data.

4.3 Customer agrees that other customers of the Platform Services may make use of the Customer Data in accordance with the Data Sharing Rules.

4.4 Customer agrees that RxSeaport may provide and/or share certain Customer Data with the Custom Authorities pursuant to clause 5 (*Custom Authorities*) and provide certain Customer Data with other port community systems to the extent this is necessary to operate the platform underlying the Platform Services..

5. CUSTOM AUTHORITIES

5.1 Customer accepts that the Custom Authorities will have access to the platform underlying the Platform Services to the extent that this is legally required.

5.2 Customer hereby authorises RxSeaPort to provide certain Customer Data to the Custom Authorities on behalf of the Customer. The provided Customer Data will be limited to obtain the necessary permits or authorisations which are required within the platform underlying the Platform Services.

6. OBLIGATIONS OF CUSTOMER

6.1 Customer shall provide RxSeaport with all necessary information, documentation and co-operation as reasonably requested in order for RxSeaport to fulfil its obligations under this Agreement.

6.2 In addition to the other obligations set out in this Agreement, Customer shall:

- (a) only use the Platform Services in accordance with the terms of this Agreement;
- (b) only use the Platform Services in compliance with all to Customer applicable laws and regulations.
- (c) ensure that its hardware, software, network connectivity and systems comply with the relevant specifications set out in the Documentation, or as the case may be, in the Wizard;
- (d) be responsible for procuring and maintaining its network connections and telecommunication links from its systems to the Platform Service;
- (e) implement the necessary precautions to prevent the introduction and proliferation of a virus into Platform Service.

7. INTELLECTUAL PROPERTY RIGHTS

7.1 All ownership rights, intellectual property rights and other propriety rights relating to the Platform Service (including the underlying platform), Wizard and Documentation, including any amendments or additions thereto, belong to RxSeaport, third party licensors and/or is open source software. This Agreement does not entail an assignment of any intellectual property right to Customer.

7.2 To the extent that RxSeaport would make use of third party software or open source software, Customer agrees that this third party software or open source software will be subject to its own terms and conditions which will be an integral part of this Agreement. In relation to those licenses given by third parties or via open source, Customer cannot obtain more rights than those incorporated in the third party terms or open source license. These terms will prevail over all other conditions in this Agreement in respect to these licenses. If and insofar the aforementioned terms would - for any reason not apply or in the event these terms are declared inapplicable, the provisions of this Agreement will apply in full.

8. PROVISION OF FEEDBACK

8.1 During the course of this Agreement, Customer shall provide, and RxSeaport may solicit, Customer's input regarding the Platform Services, including, without limitation, comments or suggestions regarding the usability, possible creation, modification, correction, improvement or enhancement of the Platform Services based on Customer's use of the Platform Services (collectively "Feedback"). The modalities and periodicity

of the provision of Customer's Feedback shall be agreed between the Parties.

8.2 To the extent that the Feedback does not contain any Confidential Information of Customer, Customer grants RxSeaport a worldwide, non- exclusive, perpetual, irrevocable, royalty free fully-paid right to: (a) make, use, copy, modify, and create derivative works of, the Feedback for the sole purpose of improving or modifying the Platform Services; and (b) sublicense to third parties the foregoing rights, including without limitation the right to sublicense to further third parties. It being understood however that RxSeaport shall never disclose the origin of the Feedback to any third party, and no attribution to Customer shall be given for any Feedback provided.

9. CHARGES AND PAYMENT

9.1 Unless otherwise agreed between the Parties, the fees for the Platform Services are set out in the Order Document.

9.2 RxSeaport shall be entitled to annually index the Platform Services fee in January based on the following formula:

$$P1 = P0 (0,2 + 0,8S1/S0)$$

Whereby:

P1 = the adjusted price;
P0 = the price in year n-1;
S1 = the Agoria index for wages of the month October preceding year n;
S0 = the Agoria index for wages of the month October preceding year n-1;
Year n = the contractual year for which the price adjustment will be applicable;
Year n-1 = the contract year preceding year n

9.3 Invoices will take the applicable VAT regulations into account.

9.4 Unless otherwise agreed in the Order Document, the invoices are payable thirty (30) calendar days after the date of invoice. Absence of a written contest of an invoice within ten (10) working days if its dispatch will imply the irrevocable acceptance of that invoice and the therein mentioned Platform Services.

9.5 If Customer fails to make any payment due to RxSeaport under this Agreement by the due date for payment, then RxSeaport shall automatically and without reminder be entitled to a conventional late payment interest fee equal to the interest rate stipulated in the Belgian late payment act ('Wet Betalingsachterstand') and may charge fixed amount of damages equal to 15% of the unpaid and due amount.

9.6 Customer is not entitled to settle or suspend any payment.

10. CONFIDENTIALITY

10.1 Each Party (the 'Receiving Party') understands that the other Party (the 'Disclosing Party') has disclosed

or may disclose confidential and/or proprietary materials relating to the Disclosing Party's business (hereinafter referred to as 'Confidential Information' of the Disclosing Party). Such information includes, without limitation, information consisting of or relating to the Disclosing Party's technology, trade secrets, know-how, business operations, plans, strategies, customers and pricing, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations, and/or which the Receiving Party knows or reasonably should know the Disclosing Party considers confidential or proprietary.

10.2 The term 'Confidential Information' does not include any information that: (a) is or becomes generally available to the public (other than as a result of its disclosure by the receiving Party in breach of this clause), (b) was available to the receiving Party on a non-confidential basis before disclosure by the disclosing Party, (c) was, is or becomes, available to the receiving Party on a non-confidential basis from a person who, to the receiving Party's knowledge, is not bound by a confidentiality agreement with the disclosing Party or otherwise prohibited from disclosing the information to the receiving Party, (d) was known to the receiving Party before the information was disclosed to it by the disclosing Party, (e) the parties agree in writing is not confidential or may be disclosed; or (f) is developed by or for the receiving Party independently of the information disclosed by the disclosing Party.

10.3 A Party may disclose the confidential information to the extent required by law, by any governmental or other regulatory authority, or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other Party as much notice of the disclosure as possible.

10.4 Each Party hereby undertakes to:

(a) keep the Confidential Information secret and not disclose it, in whole or in part, to any person other than (i) with the prior written consent of the Disclosing Party or (ii) its employees, directors, subcontractors and consultants who have a direct need to know such Confidential Information for the sole purposes complying with its obligations under this Agreement. The Receiving Party shall ensure that these persons are bound by confidentiality obligations which are not less stringent than those set out in this Agreement;

(b) to use the Confidential Information solely for in relation to this Agreement and to refrain from using such Confidential Information in any manner which could prejudice the Disclosing Party; and

(c) to use the same degree of care and means that it utilizes to protect its own information of a similar nature, but in any event not less than reasonable care and means, to ensure the confidentiality of such Confidential Information and avoid a third party to use or have access to the Confidential Information;

10.5 Notwithstanding anything else in this Agreement, RxSeaport shall have the right to collect and analyse data and other information relating to the use and

performance of various aspects the Services, included but not limited to Customer Data. RxSeaport will be free to (a) use such information and data during and after the term hereof to improve and enhance the Platform Services and for other development, diagnostic and corrective purposes in connection with the Platform Services and other RxSeaport offerings, and (b) disclose such data in aggregate provided that such information does not directly or indirectly identify Customer's Confidential Information or Customer Data.

10.6 The provision of this clause 10 shall survive the expiration or termination of this Agreement for a period of five (5) years.

11. PROCESSING OF PERSONAL DATA

11.1 As part of the performance of its obligations under this Agreement, RxSeaport may be required to process personal data on behalf of Customer in accordance with regulation (EU) 2016/679 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 (General Data Protection Regulation).

11.2 Customer shall ensure that the personal data that it supplies or discloses to RxSeaport has been obtained fairly and lawfully and that it has, to the extent necessary, obtained all necessary approvals of those whose personal data is being processed. Customer shall not provide RxSeaport with access to sensitive personal data that impose specific data security obligations for the processing of such data unless specifically agreed between the Parties in writing.

11.3 When personal data is being processed, the Parties rights and obligations are set out in Annex 2. These rights and obligations form an integral part of this Agreement.

12. LIABILITY

12.1 The liability which RxSeaport may incur in relation with this Agreement derives from a reasonable effort obligation (*inspanningsverbintenis / obligation de moyen*) and Customer will have to provide proper proof of such liability. Given the nature of the Platform Services, Customer recognises and accepts that it is impossible to ensure that Platform Services will be free from flaws or errors.

12.2 Neither Party can limit its liability (i) for wilful misconduct or fraud, (ii) for death or personal injury, , (iii) which cannot be excluded or limited under applicable law or (iv) damages resulting from a breach of clause 3 (*Access and Use of the Platform Service*).

12.3 Subject to clause 12.2, each Party shall only be liable for direct damages and either Party's total aggregated liability whether in tort or arising out of or in connection with this Agreement is limited per contract year to one hundred per cent (100 %) of the aggregated fees paid and payable under the Order Document during such contract year (or an estimate thereof based on the charges during the month preceding the first claim

multiplied by twelve (12) for claims arising during the first contract year).

12.4 Subject to clause 12.2 (*Liability*), neither Party shall be liable for indirect damages, such as, but not limited to loss of profits, loss of goodwill, loss of revenue, loss of anticipated savings, loss or corruption of data, loss of chances. RxSeaport shall not be responsible for (i) losses resulting from Customer's use of any Customer Data or content which is generated via the Platform Services or (ii) incurred damages or imposed penalties by any action of the Custom Authorities .

13. TERM

13.1 Unless otherwise agreed between the Parties in the Order Document, this Agreement is made and entered into for a period of 1 year as from the signing of the Order Document.

13.2 Unless otherwise agreed between the Parties in the Order Document, the term of this Agreement shall automatically extend for a period of twelve (12) months ('Extended Term') at the end of the Initial Term and at the end of each Extend Term, unless either Party gives written notice to the other Party, no later than three (3) months before the end of the Initial Term or the relevant Extended Term, to terminate this agreement at the end of the Initial Term or the relevant Extended Term, as the case may be.

14. TERMINATION

14.1 Without prejudice to that Party's right to claim for damages, each Party shall have the right to immediately terminate this Agreement upon giving written notice to the other Party:

(a) if the non-terminating Party commits a material breach of the Agreement and has failed to cure such breach within thirty (30) days following a request in writing from the notifying Party to do so. Prolongation of the remedial period will however not be refused unreasonably if the non-terminating Party has commenced to remedy and continues to do so in all reasonableness and fairness;

(b) if the other Party files a petition in bankruptcy, has an involuntary petition on bankruptcy filed against him which is not challenged in ninety (90) days, becomes insolvent or has a significant portion of its assets attached.

14.2 In addition to the above RxSeaport is entitled to terminate the agreement in the event of any charges not being paid for two (2) months after being due.

15. CONSEQUENCES OF TERMINATION / EXPIRATION

15.1 Expiration or termination of this Agreement, for any reason, shall not affect the accrued rights, remedies, obligations or liabilities of the Parties existing at termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.

15.2 On expiration or termination of this Agreement, for any reason, and unless otherwise agreed between the Parties:

(a) all user rights of Customer and the Authorised Users in respect of the Platform Services granted under this Agreement shall immediately terminate;

(b) Customer shall pay all charges due or to become due up until termination or expiration

16. SUSPENSION

16.1 RxSeaport may suspend the Platform Services in the event of:

(a) any charges not being paid for one (1) months after being due;

(b) RxSeaport becomes aware of what it deems a credible claim that the Customer and/or the Authorised User's use of the Platform Services violates any applicable law;

(c) Customer's and/or the Authorised User's use of the Platform services in violation of this Agreement or interfering with the normal operation of the Platform Services;

(d) the security of platform underlying the Platform Service being compromised;

(e) RxSeaport being entitled hereunder to terminate the Agreement for cause, or as otherwise set out in this Agreement;

16.2 In each event of suspension as set out above, RxSeaport shall use reasonable efforts to give Customer an advance forty eight (48) hours' notice, unless RxSeaport reasonably determines that giving a shorter notice is necessary or no notice is possible to protect the interests of RxSeaport, the Customer, the Authorised Users and/or of a third party.

17. FORCE MAJEURE

17.1 If a Force Majeure Event gives rise to a failure or delay in either Party performing any obligation under this Agreement (other than any obligation to make a payment), that obligation will be suspended for the duration of the Force Majeure Event.

17.2 A Party that becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in that Party performing any obligation under this Agreement, must: (a) promptly notify the other; and (b) inform the other of the period for which it is estimated that such failure or delay will continue.

17.3 A Party whose performance of its obligations under this Agreement is affected by a Force Majeure Event must take reasonable steps to mitigate the effects of the Force Majeure Event.

18. MISCELLANEOUS

18.1 **Entire Agreement** - This Agreement (including any hyperlinks) contains the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes and replaces all prior agreements or understandings, whether written or oral, with respect to the same subject matter that are still in force between the Parties.

18.2 **Notices** – Any notices given under this Agreement will be sent by certified or registered mail, return receipt requested, or by recognized delivery service providing traceability, to the Party to be notified at its address set in the Order Document.

18.3 **Order of precedence** – In the event of a conflict between the terms and conditions of any of the foregoing documents, the conflict shall be resolved based on the following order of precedence: (i) the Order Document, (ii) the Annexes (iii) underlying document. For avoidance of doubt, the Parties expressly acknowledge and agree that any additional terms such as purchase or invoice terms shall not apply even if these terms say differently.

18.4 **Subcontracting** – RxSeaport is entitled to use subcontractors for the performance of its obligations under this Agreement, provided that such subcontracting shall not diminish RxSeaport's liability under this Agreement.

18.5 **Survival of obligations** - All provisions of the Agreement which are expressly marked to survive the termination or expiration of the Agreement, as well as all provisions of the Agreement which aim to enforce or execute the Agreement after the termination or expiration of the Agreement, including without limitation accrued rights to payment, use restrictions, confidentiality obligations and limitations of liability shall survive the Agreement and remain in full force.

18.6 **Public announcements** - Neither Party shall issue or release any statement or other marketing materials relating to this Agreement or, unless expressly permitted under this Agreement, otherwise use the other party's trademarks or other indicia of source without the prior written consent of the other Party, provided, however, that RxSeaport may include Customer's name and/or logo in its lists of current and/or former customers in promotional and marketing materials.

18.7 **Non- solicitation** –During the term of the Agreement (and/or any prolongations thereof) and for a

period of one year after the termination or expiration of this Agreement, the Customer shall not (directly or indirectly) recruit or solicit (other than by general advertisement not directed specifically to any person or persons) for employment or engagement as an independent contractor or employee of RxSeaport

18.8 **No assignment** – Customer may not assign this Agreement in whole or in part without the prior written consent of the other RxSeaport.

18.9 **No waiver** – Any failure of either Party to insist upon or enforce performance by the other Party of any of the provision of this Agreement will not be interpreted or construed as a waiver of such Party's right to assert on or rely upon such provision, right or remedy in that or any other instance.

18.10 **Severability** – Whenever possible, the provisions of this Agreement shall be interpreted in such a manner as to be valid and enforceable under the applicable law. However, if one or more provisions of this Agreement are found to be invalid, illegal or unenforceable, in whole or in part, the remainder of such provision and of this Agreement shall remain in full force and effect as if such invalid, illegal or unenforceable provision had never been contained herein. Moreover, in such event, the Parties shall amend the invalid, illegal or unenforceable provision(s) or any part thereof and/or agree on a new provision, in such a way as to reflect insofar as possible the purpose of the invalid, illegal or unenforceable provision(s).

18.11 **Relationship between the Parties** – RxSeaport is entirely free and independent in performing the Platform Services and providing the Equipment. There is no hierarchical relationship between RxSeaport (or employees, agents or subcontractors) and Customer. Nothing in this Agreement shall be construed as a creation of partnership, joint venture, agency or otherwise between the Parties. Neither Party has the right to enter into an agreement in name of the other Party.

18.12 **Governing law and jurisdiction** - This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the Belgian laws. Each Party irrevocably agrees that the courts of Bruges (Belgium) shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation which cannot be settled in an amicable way.

Annexes:

- Annex 1: SLA
- Annex 2: DPA