

GENERAL CONDITIONS OF DELIVERY OF PORTBASE

We advise you to read these General Conditions carefully.

Thank you for your request to become a Customer of Portbase, the Port Community System of the Dutch ports. By becoming a Customer, you benefit from efficiency, cost savings and convenience, while making use of our Services, which promote efficiency in the Dutch ports and contribute to the improvement of logistical planning in the transport chain.

You may enter into an agreement with Portbase by electronically signing and submitting the Application Form, including attachments, online on our Website. The Application Form must be signed by an authorised representative of your company. The agreement between you and Portbase will come into effect as soon as Portbase has received your Application Form.

You can only enter into an Agreement with us if you are acting in the exercise of a profession and business. Portbase does not provide Services to consumers.

These General Conditions apply to the Agreement between you and Portbase. By signing and submitting your Application Form, you declare that you have read and understood our General Conditions and agree to the contents thereof.

Via our Website, you can download the Application Form and these General Conditions and save and/or print them, if desired.

During the term of the agreement, you may extend and/or restrict the use of our Services through our Website. These General Conditions are also applicable to any new Services that you may purchase during the term of the Agreement.

1. Definitions

Capitalized terms have the following meanings in these General Terms and Conditions, including the introduction above.

- **“Application Form”**: the online application form, which must be completed by an authorised representative of the Customer and signed electronically. The application form may contain additional conditions for the Service concerned.
- **“Account”**: the account of the Customer with which the Customer can use the Services.
- **“General Conditions”**: these general terms of delivery.
- **“Administrator”**: the person or persons appointed by the Customer to act as its representative in the performance of the Agreement and authorised to use the Account in accordance with the provisions of these General Conditions.
- **“Data”**: Customer data and Portbase data.
- **“User”**: any natural person authorised by the Customer to use the Services via the Account.
- **“Intellectual Property Rights”**: all intellectual property rights and related rights, such as copyright, trademark, patent, design, trade name, database and neighbouring rights, as well as rights to know-how and performances on a par with such rights.
- **“Login Data”**: the unique (user) name and password to prevent unauthorised access to the Services.
- **“Customer”**: the party with whom Portbase has concluded an Agreement.
- **“Customer Data”**: data originating from the Customer that are processed by the Customer within the framework of the Service(s).
- **“Agreement”**: the agreement concluded between Portbase and the Customer concerning the Services to be provided by Portbase to the Customer, of which at least these General Conditions and the Application Form case form part.
- **“Party”**: Portbase or the Customer.
- **“Parties”**: Portbase and the Customer.
- **“Portbase”**: Portbase B.V., established in Rotterdam at the Blaak 16, 3011 TA Rotterdam, the Netherlands, registered with the Chamber of Commerce under number 24338021.

- **“Portbase Data”**: data originating from Portbase and/or third parties engaged by Portbase and/or data enriched by Portbase which is processed by Portbase when making the Service(s) available.
- **“Services”**: any services selected by the Customer on the Application Form.
- **“Website”**: the Portbase website accessible through the following URL <http://www.pcs.portbase.com>.
- **“Working Days”**: each day from 08.00 - 18.00 CET, excluding Saturdays, Sundays and nationally recognised public holidays.

2. Applicability

- 2.1 These General Conditions apply to all Agreements and to all (legal) acts between Portbase and the Customer.
- 2.2 The General Conditions shall also apply to each use by the Customer of the website www.portbase.com.
- 2.3 The applicability of other general terms and conditions is expressly excluded.
- 2.4 Portbase is entitled to amend or replace these General Conditions. Portbase shall inform the Customer thereof at least sixty calendar days before the date of entry into force. If a Customer does not agree with the change and/or replacement of the General Conditions, Portbase must have received written notice thereof five Working Days before the relevant change and/or replacement takes effect. The Parties shall then discuss the Customer's objections and decide to amend the Agreement in the context of the amended or replacement version of the General Conditions or to terminate the Agreement, without prejudice to Portbase's right to terminate the Agreement under Article 15 of these General Conditions. As long as the Parties have not yet reached agreement or the Agreement is still in force following a decision to terminate, the General Conditions shall continue to apply instead of the amended or replacement version of the General Conditions.

3. Communications

- 3.1 Each communication between Portbase and the Customer can take place electronically. In the event that these General Conditions state that communication must be in writing, this will also include email, except insofar as explicitly stated otherwise in these General Conditions, the Agreement and/or in the law.
- 3.2 Electronic communication received and/or stored by Portbase shall serve as proof, unless the Customer can prove otherwise.
- 3.3 Electronic communications shall be deemed to have been received on the day of transmission, unless the recipient proves otherwise. If the communication has not been received as a result of delivery and/or access problems on the part of the addressee or a third party engaged by the addressee, this shall be at the risk of the addressee.

4. Conclusion of the Agreement

- 4.1 Unless a separate written agreement is concluded with the Customer, the Agreement will be concluded upon receipt of the Application Form by Portbase.
- 4.2 Article 6:227(1) Dutch Civil Code (information obligation electronic commerce) and Article 6:227c Dutch Civil Code (further regulations electronic commerce) do not apply to the conclusion of the Agreement.

5. Services

- 5.1 During the term of the Agreement Portbase shall make every effort to provide the Services to the Customer with due care, where appropriate in accordance with agreements and procedures laid down in writing with the Customer. Portbase shall provide the Administrator with one or more sets of Login Data, which will allow the User(s) to access the Services.
- 5.2 Portbase does not guarantee that the Services will operate without fault or interruption, but shall endeavour to resolve errors and interruptions as soon as possible.
- 5.3 Portbase has the right, at its own discretion, to make changes to the Services provided that it informs the Customer about this within a reasonable period of time and the Services are not substantially altered.

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- The Customer shall comply with all additional instructions regarding the use of the Services which may be prescribed by Portbase from time to time, unless this cannot reasonably be expected of the Customer.
- 5.4 The Customer is responsible for assessing whether the Services are suitable for the purposes intended by the Customer and is responsible for the presence and proper functioning of the hardware, software and Internet and/or telecommunication facilities required for the Customer to make use of the Services. In the event that any changes to the hardware, software and internet and/or telecommunication facilities in question are necessary for the use of the Services, Portbase shall notify the Customer thereof by means of the release calendar made available to all Customers on a quarterly basis.
- 5.5 If the Customer wishes to change the number of Services, the Administrator shall request this on the Application Form. The Application Form contains, where applicable, the general conditions applicable to the new Services. The application will be accepted, and thus the Agreement amended, following confirmation by Portbase. This confirmation may be given online or by making the amended and/or new Services available.
- 5.6 Portbase reserves the right to temporarily shut down the Services for the purpose of maintaining, modifying or improving the Services and/or related systems and/or remedying any malfunctions.
- 5.7 To the extent possible Portbase shall schedule such shutdowns outside Working Days, shall limit the shutdown period to a minimum and shall inform the Customer thereof within a reasonable period of at least one week in advance, unless the shutdown could not be foreseen by Portbase. Portbase shall not be liable for damage resulting from a shutdown as referred to in this article, provided that it makes sufficient efforts to ensure that the shutdown does not continue any longer than necessary.
- 5.8 Portbase may, at its discretion, engage third parties in making the Services available.
- 6. Account, Administrator and User**
- 6.1 The Customer may appoint one or more persons as Administrator for the management of its Account. The Customer may grant its Administrator the (limited) right of access to its Account. The Customer or its Administrator may also appoint one or more persons as User of its Account. The User(s) will thereby be granted a (limited) right of access to the Account of the Customer.
- 6.2 If the Customer wishes to replace the Administrator, it shall submit a new Application Form to Portbase in writing.
- 6.3 The Customer guarantees Portbase that each Administrator and User shall comply in a timely and complete manner with the provisions of these General Conditions and any additional security instructions that may be required by Portbase from time to time, provided that the instructions are reasonable, proportionate to the purpose, that the purpose cannot be achieved by any other less far-reaching manner and that they have been communicated by Portbase within a reasonable period of time.
- 7. Login Data**
- 7.1 The Login Data provided to the Administrator and User are strictly personal. The Customer shall ensure that only the Administrator or User designated for this purpose shall use the relevant Login Data and that these are not provided and/or made available to third parties.
- 7.2 As soon as the Customer knows or has reason to suspect that (parts of) the Login Data have been provided and/or made available to third parties, the Customer shall immediately change its password and, as far as possible, take other effective measures to terminate the unauthorised use of the Services.
- 7.3 The Customer guarantees Portbase that it will have the Administrator deny a User access to the Customer's Account if, for whatever reason, the User concerned is no longer entitled to access the Customer's Account.
- 7.4 The Customer guarantees Portbase that it will inform Portbase within a reasonable period of time if an Administrator is no longer entitled to access the Customer's Account for any reason whatsoever. Portbase shall subsequently cancel the Login Data and the access to the Customer's Account for the relevant Administrator.
- 7.5 As soon as Portbase becomes aware or reasonably suspects that a Customer, Administrator and/or User has acted and/or is acting contrary to the provisions of this article, it shall be entitled to take all measures which it deems advisable in order to terminate the situation and/or to limit damage resulting therefrom (including immediate suspension or blocking of the Customer, Administrator and/or User's access to and use of the Services). Portbase shall not be liable for damage resulting from measures as referred to in the preceding sentence, provided that Portbase has informed the Customer in advance of the measures to be taken, unless Portbase cannot reasonably be required to do so.
- 8. Data and Intellectual Property Rights**
- 8.1 Portbase is not and will not become the owner of the Customer Data. The Customer remains the owner of its Customer Data and Portbase shall only use the Customer Data for making the Service(s) available to the Customer, for internal analysis and improvement of the existing Services and the internal development of new Services, unless the Parties agree otherwise.
- 8.2 Portbase is not responsible for the content of the Customer Data in anyway and the Customer guarantees Portbase that it is entitled to process the Customer Data.
- 8.3 The Customer is not and will not become the owner of the Portbase Data. Portbase or third parties hired by Portbase remain the owner of the Portbase Data and the Customer shall only use the Portbase Data insofar as necessary for the use of the Service(s) made available by Portbase to the Customer, unless the Parties agree otherwise.
- 8.4 The Customer is not responsible for the content of the Portbase Data in anyway.
- 8.5 The Agreement does not alter the rights to their respective Data that Parties may exercise.
- 8.6 All Intellectual Property Rights in respect of the Services are held by Portbase or its licensors. Portbase hereby grants a non-exclusive and non-transferable right of (sub)use, exclusively for the term of the Agreement.
- 8.7 The Parties shall not transfer any Intellectual Property Rights in connection with this Agreement and/or the use of the Services.
- 8.8 If and to the extent that Intellectual Property Rights can be exercised in respect of the Customer Data sent by the Customer with the Services, these shall remain with the Customer or its licensors.
- 8.9 If and to the extent that Intellectual Property Rights can be exercised in respect of the Portbase Data processed for the Services, these shall remain with Portbase or its licensors.
- 8.10 Portbase shall indemnify the Customer against legal claims by third parties based on infringement of the Intellectual Property Rights of the third parties concerned by the Customer's use of the Services provided by Portbase, except insofar as the infringement is caused by the Customer's failure to comply with its obligations under the Agreement.
- 8.11 The Customer shall indemnify Portbase against legal claims by third parties based on infringement of the Intellectual Property Rights of the third party concerned by Portbase's use of the Data made available by the Customer, except insofar as the infringement is caused by Portbase's failure to comply with its obligations under the Agreement.
- 8.12 The aforementioned indemnification is subject to the condition that the indemnified Party promptly informs the indemnifying Party in writing of the third party's claim and leaves it to the indemnifying Party to settle the claim, including any settlement.
- 9. Fee**
- 9.1 The Customer shall owe Portbase a fee for the use of the Services, unless the Parties have agreed otherwise in the Agreement.

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- 9.2 The fee that the Customer owes Portbase under the Agreement consists of a monthly advance payment on the annual payment due and charged retrospectively. The basis of the subsequent calculation will include the quantity of Services used by the Customer, the number of Users of the Services and/or the number of operations performed by the Customer. The fees and rates applied by Portbase are specified on the quotation provided by Portbase prior to the conclusion of the Agreement.
- 9.3 The amount of the fees and rates referred to in this article may be adjusted. Portbase shall inform the Customer in writing of any changed fees and rates no later than two (2) months prior to the change. If the Customer does not agree to the amended fees and rates and, in accordance with Article 15.2 of these General Conditions, terminates the Service(s) before the date on which the amended fees and rates come into effect, the old fees and rates shall continue to apply during the notice period.
- 9.4 In addition to the provisions of Article 9.3, Portbase is entitled to adjust its fees and rates annually as of 1 January on the basis of any increases in the CBS Consumer Price Index for the most recent October-September period. The intention to make an adjustment shall be made known as soon as possible and no later than 1 December of the previous year.
- 9.5 All fees and rates are exclusive of turnover tax (VAT) and other levies imposed by the government.

10. Payment and invoicing

- 10.1 Portbase shall monthly invoice the Customer for the fixed fees and/or the advance fee due on the basis of subsequent calculation.
- 10.2 In the event of a fee payable on the basis of subsequent calculation, Portbase shall provide the Customer with a final settlement no later than 31 March of the following calendar year. The final settlement shall be based on the actual use by the Customer of the Service(s).
- 10.3 If the Customer objects to the aforementioned final settlement, it shall notify Portbase thereof in writing within 1 calendar month, without prejudice to the Customer's obligation to pay the undisputed part of the final settlement. The Customer's right to contest the final settlement shall lapse after expiry of the aforementioned period.
- 10.4 All amounts owed by the Customer shall be collected by Portbase by means of direct debit, unless the Parties have expressly agreed otherwise.
- 10.5 The Customer hereby accepts that Portbase will send its invoices by electronic means.
- 10.6 If Portbase is unable to collect the amounts due within a reasonable period of time, Portbase shall be entitled (i) without any notice of default or notification being required, to charge statutory commercial interest pursuant to Article 6:119a Dutch Civil Code on the full amount owed from the due date until the date on which the amount owed was received by Portbase and (ii) after providing a notice of default to transfer the claim for collection to a third party. The Customer shall reimburse all costs incurred by Portbase and this third party in order to collect the amount owed, including, inter alia, the costs of legal assistance, litigation costs and extrajudicial costs, the latter with a minimum of 15 (fifteen) percent of the outstanding amount, except where (in the light of the amount of the outstanding sum) this would be unacceptable according to standards of reasonableness and fairness.

11. Data security and Privacy

- 11.1 Each Party shall implement appropriate technical and organisational measures to protect Data against loss or any form of unlawful access. While taking into account the available technology and the cost of implementation, these measures shall ensure an appropriate level of security with regard to the risks to which the Services and the nature of the Data to be protected are exposed.
- 11.2 When a Service contains personal data, the Parties shall, in accordance with applicable privacy laws and regulations, take measures to ensure appropriate technical and organisational security and processing of these personal data.

- 11.3 The Customer declares that it has read and agrees with the content of Portbase's *Privacy Statement* published on www.portbase.com. Portbase has the right to amend its Privacy Statement from time to time.

12. Confidentiality

- 12.1 If and insofar as confidential information of one Party becomes known to the other Party during the execution of the Agreement, including but not limited to Data, the receiving Party shall use this information for the performance of the Agreement and the Services only and shall limit access to that information to persons who require access thereto for that purpose. The Parties guarantee that these persons shall undertake not to disclose this confidential information.
- 12.2 Confidential information does not cover information that was already in the public domain at the time it became known, or information that the receiving Party has acquired from a third party who had no confidentiality obligation and was not required to observe secrecy.

13. Liability

- 13.1 In making the Services available Portbase shall exercise the utmost care and shall be liable for any damage suffered by the Customer as a result of an attributable shortcoming on the part of Portbase in the execution of the Agreement or by a wrongful act committed by Portbase towards the Customer, but only within the limitations set out in these General Conditions.
- 13.2 The total liability of each Party for all claims in connection with a Service, on any ground whatsoever, shall be limited to direct damage up to the maximum amount paid for the Service concerned during twelve (12) months before the damage occurred. Portbase accepts no liability for Services provided free of charge by Portbase.
- 13.3 Neither Party shall be liable for indirect damage, consequential damage, loss of profit, missed savings, reduced goodwill, damage due to business interruption, damage as a result of claims from the other Party's customers, mutilation or loss of Data and/or other information, damage related to the use of goods, materials or software of third parties prescribed by the other Party, damage related to the use of suppliers prescribed by the Customer to Portbase and all forms of damage other than those referred to in Article 13.1, for whatever reason.
- 13.4 The right to compensation is subject to the condition that within five (5) Working Days after the day on which a Party has discovered or should reasonably have discovered the damage this Party shall notify the Party causing damage and - insofar as required by law - give notice of default, granting the latter Party a reasonable period of time in which to comply and take such measures as required to limit the damage as much as possible.
- 13.5 The limitations and exclusions of liability contained in these General Conditions shall cease to apply if and insofar as the damage is the result of intent or gross negligence on the part of the Party causing damage or its managers. In addition, the limitations and exclusions of liability contained in these General Conditions do not apply to the indemnities also included in these General Conditions.
- 13.6 Portbase accepts no liability for any damage incurred and/or to be incurred by the Customer as a result of Customer's failure, in the event of a calamity, to follow or follow properly the applicable backup procedure prescribed by Portbase or by another competent authority. The backup procedures of Portbase can be accessed on www.portbase.com/backupprocedures.
- 13.7 The provisions of this article shall also apply to all legal entities and persons engaged by Portbase in the performance of the Agreement and/or to all legal entities and persons who make data available to Portbase for the performance of the Services.

14. Force majeure

- 14.1 Without prejudice to Portbase's obligation to act as befits a professional contractor in the performance of the Agreement, neither Party shall be obliged to fulfil any obligations, other than obligations to pay money, if it is prevented from doing so as a result of force majeure. Force majeure

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14.2 includes fire, explosion, power outage, earthquake, flooding, very severe storms, strikes, embargo, terrorism (including cyber terrorism), natural disasters, acts or omissions by Internet traffic services, acts or negligence by regulatory government bodies (including the implementation of laws and regulations or other government actions affecting the provision of the Services).

15. Term and termination

- 15.1 The Agreement is entered into for an indefinite period of time and can only be terminated in the manner as stipulated in these General Conditions.
- 15.2 Either Party may terminate the Agreement by the end of the calendar month subject to a notice period of three (3) months. Notice of termination shall be given in writing.
- 15.3 In the event of (preliminary) suspension of payments, bankruptcy, discontinuation or liquidation of a Party's business, the other Party shall be entitled to terminate this Agreement with immediate effect in whole or in part without the other Party being liable for any compensation.
- 15.4 In the event of a termination as referred to in this article, all claims of the terminating Party against the other Party shall be immediately due and payable in full. The other Party shall be obliged to take the necessary measures to enable the terminating Party to enforce its rights.
- 15.5 In the event of termination as referred to in this article, the provisions of Articles 3, 5.2, 7, 8, 11, 12, 13, 14, 15 and 16 shall remain in force for as long as the Party concerned can reasonably assert their existence.

16. Final provisions

- 16.1 The Agreement is governed exclusively by Dutch law. The provision relating to general terms and conditions in the Dutch Civil Code does not apply in relation to Customers from outside the Netherlands. The applicability of the Vienna Sales Convention 1980 (CISG) is expressly excluded.
- 16.2 The joint provisions of the Agreement determine the legal relationship between the Parties and replace all agreements or statements previously made by Portbase with respect to the Services. This is considered to be an agreement of evidence.
- 16.3 If any provision of the Agreement is declared null and void, voidable or otherwise unenforceable, the other provisions of the Agreement shall remain in full force.
- 16.4 In the event of any conflict between the provisions of these General Conditions and any other part of the Agreement, the provisions of these General Conditions shall prevail, unless the Parties expressly deviate from these General Conditions by reference to this article.
- 16.5 Any disputes arising in connection with this Agreement, including disputes concerning its existence and validity, shall be settled by the competent court in Rotterdam, unless Portbase elects to enforce compliance with the Agreement in the jurisdiction where the Customer's head office is located.
- 16.6 The General Conditions shall be available in Dutch, English, German, French, and Italian. The Dutch version shall prevail in the event of any incompatibility between the Dutch version and a version in another language.

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