

## **Article 1 - Scope**

1.1. These General Terms and Conditions ("**GTC**") define the conditions under which A&M performs its Services and/or delivers its Products ordered by the Customer through an Offer, Agreement, the NextGen Portal, by email or on site at A&M's registered office.

1.2. By creating a customer profile, paying a deposit and/or the full invoice, and/or placing an Order in person, via the NextGen Portal or by email, the Customer acknowledges having prior knowledge of the GTC and having accepted their application.

The GTC can also be accessed at any time on the A&M website and downloaded on a durable medium, i.e. in PDF format. The current version of the GTC is available at <https://www.anm.be/>.

1.3. Unless otherwise expressly agreed and accepted in writing by A&M, the GTC shall apply exclusively to all Offers, Orders, Order Confirmations and Agreements, to the exclusion of the Customer's general and/or special terms and conditions.

1.4. A&M shall reserve the right to amend its GTC at any time by notifying the Customer. Notification (of amendments) to the GTC can be done by means of a notice with hyperlink to the GTC on the NextGen Portal or by mailing with or sending out an Offer, Order Confirmation, Agreement or invoice. The GTC in force at the time of the Order shall continue to apply to this Order and to the related Agreement. The new version of these GTC will apply to future Orders and Agreements. Under no circumstances can the application of the new GTC be refused on condition that the amendments to the GTC:

- (i) are solely for the benefit of the Customer;
- (ii) are purely administrative in nature and have no negative impact on the Customer;
- (iii) are directly imposed by or by virtue of any legislation; or
- (iv) result from a price adjustment in accordance with Article 8.4;
- (v) result from a price review in accordance with Article 8.7.

Amendments to the GTC shall enter into force one (1) month after their notification.

1.5. In case of conflict between the contents of these GTC and the Order Confirmation or the special terms and conditions of the Agreement between the Customer and A&M, the Order Confirmation or the special terms and conditions between the Customer and A&M shall prevail. In case of conflict between the contents of the Order Confirmation and the special terms of the Agreement between the Customer and A&M, the Order Confirmation shall prevail.

1.6. The Products and Services offered by

A&M are exclusively intended for companies within the meaning of Article I.1, 1° of the Code of Economic Law. A&M may not offer its Products or Services to consumers for private purposes, except in exceptional cases expressly authorised by A&M.

1.7. If an Agreement is concluded in writing, it is concluded on the date of the (digital) written dispatch of the Order Confirmation or by the signing of the Agreement by A&M.

## **Article 2 - Definitions**

**A&M:** A&M NV having its registered office at 2800 Mechelen, Raghenoplein 17, registered in the Register of Legal Persons in Antwerp, Mechelen division, under the number 0435271563 and with VAT number BE0435271563; e-mail: [info@anm.be](mailto:info@anm.be); telephone: +32 15 45 10 10

**GTC:** the general terms and conditions of A&M.

**Order:** the order placed by a Customer. To be binding on A&M, an Order must be confirmed by A&M.

**Car Services:** the Products and Services offered by A&M that secure or better equip vehicles by means of parking systems, alarms, tow bars, GPS and multimedia systems, etc.

**Device Services:** IT hardware and/or smartphones offered by A&M through a formula chosen by the Customer such as Choose Your Own Device, Corporate Owned Device, Bring Your Own Device or a Company Webshop.

**Services:** the services offered and provided by A&M under the Agreement.

**Digital Workspace Services:** the Services and digital tools and technologies offered by A&M to its Customers to create, manage and optimise a digital working environment.

**User:** the appointee and/or employee of the Customer who creates a user account on the NextGen Portal.

**Customer:** the contractor of A&M, the recipient of the Services or the Products.

**Managed Services:** the Services offered by A&M in the context of data reporting and data management.

**NextGen Portal:** the online portal of A&M where A&M among other things, offers its Products, where the Customer can order the Products in turn, where the Customer can manage its SIM fleet and the Customer can create service tickets. **Offer:** the proposal made by A&M describing its Services and/or its Products.

**Order Confirmation:** a confirmation of an Order by A&M.

**Agreement:** an agreement entered into between A&M and the Customer relating to the Order of the Services or Products.

**Party(ies):** the Customer and/or A&M.

**Product(s):** (hardware) products, licences and/or packages, as well as products additionally supplied within the framework of the Services provided by A&M for the

Customer.

*Proximus Services*: the Services and Products offered by A&M within the framework of its cooperation with Proximus.

*SPOC*: the Customer's authorised representative on A&M's NextGen Portal.

*SSO or Single Sign On*: an authentication method that allows a Customer to access multiple, interconnected applications or services with a single set of login credentials, without having to log in again for each individual application.

*Website*: the website of A&M: <https://www.anm.be/>

*Workshop*: the workshop of A&M located at 2800 Mechelen, Motstraat 72 bus 10 where the Repair Centre of A&M is located and repairs to the Products supplied by A&M and the Car Services are carried out by A&M.

### **Article 3 - NextGen Portal**

3.1 As part of the Proximus Services, the Managed Services, the Device Services, a cafeteria plan and the Digital Workspace Services, in order to place Orders on the NextGen Portal, the Customer - employer must appoint a SPOC. The Customer must appoint a SPOC as its representative, authorised to legally bind the Customer. The SPOC may grant access to Users within the Customer's account on the NextGen Portal.

3.2 The Customer and, where applicable, the User must complete the registration process to access the NextGen Portal. During registration, the Customer must set login details via SSO or the Customer and/or User receives a login from A&M where the Customer and, where applicable, the User must set a password of their choice. All information, requested on the electronic registration form, including company, address, contact, and payment details and the SPOC, must be provided correctly and completely. During registration, the Customer or User may not impersonate another person or entity or use a name or company name without the required authorisation.

3.3 If registration or profile data changes during the term of an Agreement, the Customer or User is obliged to correct it immediately. If incorrect or incomplete data lead to costs (e.g. incorrect bookings due to incorrect account details), the Customer must reimburse these costs.

3.4 The registration, user account, SPOC account and related login details are not transferable. A&M shall accept no responsibility for the completeness and correctness of registration and profile data. A&M shall reserve the right to change the identity of the

Customer and shall verify the data provided upon registration. The Customer shall authorise A&M to pre-emptively use all registration and profile data to verify the completeness and correctness of such Customer data (including any updates).

3.5 The Customer and User shall keep their username and password secure and confidential and ensure that they are not disclosed to third parties.

3.6 The Customer is solely responsible and liable for the appointment of a SPOC who may approve and accept for the Customer the applications (from the Users) to purchase the Products or the Services. Under the Proximus Services, Managed Services, Device Services, a cafeteria plan and Digital Workspace Services, no applications other than those approved by the SPOC shall be considered by A&M.

3.7. The Customer accepts that its Users must be natural persons who are linked to the Customer throughout the term of the Agreement by an employment contract of fixed or indefinite duration. If this condition is no longer met, the Customer must notify A&M so that A&M can deactivate access to NextGen Portal for the relevant User.

3.8. The Customer is solely responsible and liable for any use (authorised or otherwise) of his account, username and password. A&M may rely on all communications it receives from the Customer's account being made on the Customer's behalf. The Customer shall notify A&M as soon as possible if it suspects unauthorised access to the Customer's account or any other unauthorised use. The Customer shall be fully responsible for all damages and costs arising from the use of its account, except where the unauthorised use of the Customer's account was caused by an intentional fault of A&M.

3.9. The Customer must ensure that its Users comply with all the obligations stated in the Agreement. The Customer shall be liable for any breaches of these GTC by the Users.

3.10. The Services may include advice and recommendations but all decisions regarding the implementation thereof are the responsibility of and are made by the Customer.

3.11. The Customer shall accept and will ensure that it has obtained or will obtain from all its Users all consents required under applicable data protection legislation to allow the information to be processed by A&M and/or its subcontractors for the purposes of performing the Services and supplying the Products. The Customer

shall indemnify A&M against any related claims by the Users.

#### **Article 4 - Temporary blocking of the account**

4.1. In case the Customer breaches its Agreement with A&M, A&M may, at its sole discretion, block, in whole or in part, the Customer's and Users' access to the NextGen Portal.

4.2. In the case of temporary blocking, access rights shall be reactivated as soon as the suspension period has expired or the reason for blocking has been removed. The Customer shall be informed by e-mail of the blocking or reactivation of its access rights.

#### **Article 5 - Purchase of Products via the NextGen Portal**

With the activation of the user account by A&M, the Customer shall acquire the right to request the Products and Services offered by A&M via the NextGen Portal which will be submitted to the Customer's SPOC for approval.

#### **Article 6 - Offer and Agreement**

6.1. Offers shall be made in good faith but only approximately and serve only as information. Offers shall expire one (1) month after the offer date, unless otherwise agreed in writing.

6.2. Changes to the original Offer by the Customer shall only be binding upon agreement by A&M.

6.3. An Offer shall constitute an indivisible whole and the price of the Services and Products included therein cannot be taken into account for a partial order, unless the Offer expressly states otherwise.

6.4. Only the provisions and information contained in an Agreement (i.e. an accepted Offer or Order) shall bind A&M. Information in brochures, price lists and prices on the NextGen Portal shall not be binding and may be changed by A&M without notice. A&M shall reserve the right to make changes to the structure of the NextGen Portal or its content as part of technical improvements. Obvious typesetting, spelling, printing, calculation and/or typing errors on the NextGen Portal, in catalogues or price lists of the Products or Services shall not bind A&M and cannot be invoked by the Customer. Unless otherwise stipulated in the Offer, the Agreement shall come into existence and shall commence: either (i) at the time when the Offer signed by Customer is received by A&M and co-signed by A&M, or (ii) at the time when A&M commences the performance of the Service(s) and/or the delivery of the Products upon written request by the Customer.

6.5. The offer price shall only apply to the Products

and Services as stated in the Offer.

6.6. Unless otherwise agreed in writing between the Parties, an Order shall not be processed until full payment has been made. The Order shall not result in an Agreement until a written confirmation has been sent by A&M.

6.7. A&M shall reserve the right to request additional information from the Customer, to suspend, cancel or refuse the Order submitted by the Customer, in particular in the event that the information provided by the Customer proves to be manifestly incorrect or incomplete, where there is a dispute regarding a payment of a previous Order or a deposit, or on the basis of any other justifiable reason.

6.8. The Customer and its Users must provide a correct e-mail address, correct billing information and, if applicable, a correct delivery address. Any exchange with A&M may take place using this e-mail address, unless otherwise agreed.

6.9. Any cancellation or reduction of an Order by the Customer shall constitute a breach of its contractual obligations.

6.10. In the event of partial or total cancellation of an Order by the Customer, the Customer must reimburse A&M for all costs and services already incurred pursuant to the Services already performed and Products delivered which have not yet been invoiced at the time of cancellation. In addition, any partial or total cancellation of an Order by the Customer shall give rise to the payment by the Customer of a flat-rate compensation of 30% of the price of the Order, without prejudice to A&M's right to demonstrate and claim its (additional) actual damages should they be higher.

6.11. A custom-made or personalised customer-specific Order cannot be cancelled under any circumstances and, consequently, the Customer shall owe the full amount of the Order to A&M.

6.12. A cancellation of an Order of a delivered Product that is not returned in its original sealed packaging and original condition to A&M shall not be possible under any circumstances.

#### **Article 7 -Products**

7.1. The Offer on the NextGen Portal shall always be valid while stocks last and may be amended at any time by A&M. A&M cannot be held liable for the unavailability of any Product.

7.2. All Products exhibited, photographs and images with any descriptions used or made available by A&M are purely indicative and shall broadly correspond to the Products and Services offered. A&M cannot be held liable if any image or feature differs (slightly) from the actual Products.

**Article 8 - Price**

8.1. Unless stated otherwise, prices shall be in euros and shall exclude VAT, administration, transport, delivery and installation costs. All legal charges and taxes linked to the purchase and/or delivery of the Products or Services shall be borne by the Customer.

8.2. A&M's Offers shall be based on the prices of hardware, materials, fees, commissions, wages, quantities ordered, etc. applicable on the day the Offer is made.

8.3. A&M may adjust its prices (on the NextGen Portal) at any time (without prejudice to Orders already placed).

8.4. A&M shall reserve the right to adjust its prices if between the Agreement and the date of delivery of the Products there is an increase of more than 10% in operating costs (being production or delivery costs, supplier costs, rental costs, personnel costs, inflation, import duties, taxes, transport costs, raw material and material prices, fuel costs, production costs and energy prices, etc.). The Customer shall be deemed to accept the price adjustment, unless the Customer informs A&M within two (2) weeks of the notification that it objects. The Order shall be automatically cancelled pursuant to a timely objection. Neither Party shall pay any compensation to the other Party as a result of such cancellation.

8.5. Promotions on Products or Services shall only be valid under the conditions indicated and as long as they are displayed on the NextGen Portal.

8.6. If A&M's Offer includes a price list for hardware, software or maintenance, these prices shall not be guaranteed for the entire duration of the Agreement, unless explicitly agreed otherwise. Prices may be adjusted by A&M's suppliers, which may be passed on to the Customer by A&M in the invoice after notification to the Customer.

8.7. In the absence of price adjustment for the provision of the Services or the Products, the prices, costs and rates may be indexed at least annually based on the formula below:

$$P1 = P0 * (0.2 + 0.8 * S1/S0)$$

P1 = new Price (applicable at annual adjustment)

P0 = Price applicable at the beginning of the contractual period preceding the entry into force of the price review (i.e. the Original Price)

S0 = the wage index agreed in Joint Committees PC218 and PC149.01, plus the social charges applicable one (1) month prior to the conclusion of the Agreement in the case of the first indexation, or (2) the last price review or (3) the last indexation.

S1 = the wage index agreed in Joint Committees PC218 and PC149.01, plus the

social charges applicable one (1) month prior to the indexation on the annual price review.

8.8. Any additional Services and/or Products not defined in the Offer shall be additionally charged on the basis of the prices and rates (multiplied by the effectively realised hours for such services) and this in accordance with the rates and prices in force at the time the additional Services and/or Products are delivered or deemed to be delivered.

**Article 9 - Invoicing and payment terms**

9.1. Payments must be made within the payment period specified by A&M and in euros. A&M shall be entitled at all times - at A&M's discretion - to invoice at and/or per Order or Delivery.

9.2. Unless otherwise stipulated, invoices shall be paid within thirty (30) calendar days from invoice date.

9.3. In the event of non-payment on the due date of the invoice, default interest equal to ten (10)% per annum or the interest rate determined by the Law of 2 August 2002 on combating late payment in commercial transactions, whichever is higher than ten (10)% per annum, shall be payable ipso jure from the due date and without prior notice of default to the Customer. In addition, the unpaid balance shall be subject to liquidated damages of ten (10)% on the outstanding amount.

9.4. A&M shall reserve the right to demand the payment of an advance prior to the Delivery and to suspend the performance of its obligations as long as this advance remains unpaid.

9.5. Failure to make payment on the due date of any invoice shall result in the cancellation of any extension of payment that would have been allowed for other deliveries of Products or Services and shall make all non-due invoices immediately due and payable.

9.6. A&M shall reserve the right, in the event of non-payment on the due date of any amount owed by the Customer, to suspend, without judicial intervention or prior notice, the execution of any Order and/or Delivery, irrespective of the nature and level of execution, until full payment has been made and without prejudice to its right to terminate the Agreement pursuant to Article 17.6 of the GTC at the expense of the Customer.

**Article 10 - Delivery terms**

10.1. The Products specified in the Agreement shall be made available to the Customer at the location specified in the Agreement. In the absence of a specifically stated location in the Agreement, delivery shall be deemed to take place at the registered office of A&M.

10.2. Unless otherwise agreed, the installation of Products shall be the responsibility of the Customer.

10.3. The time of delivery is only approximate and shall not bind A&M. Under no circumstances shall any delay entitle the Customer to rescind or fail to perform the Agreement, refuse delivery, claim damages or the like, or set off any other invoice due to A&M.

10.4. The delivery period shall be extended by the duration of the delay incurred by A&M as a result of the Customer's failure to fulfil any obligation arising from the Agreement, or failure to make any contribution expected from the Customer in the performance of the Agreement.

10.5. The delivery period depends, inter alia, on the timely delivery of the Products by A&M's suppliers. In the event of a delay due to non-delivery or late delivery of Products by A&M's suppliers to A&M, the delivery period shall also be extended.

10.6. Changes to the Order at the Customer's request shall automatically result in the expiry of the initially proposed delivery period.

10.7. A&M cannot be liable for non-conforming shipments caused by the Customer including shipments where the destination address is incomplete or incorrect due to incomplete and/or incorrect information received from the Customer.

#### **Article 11 - Retention of title and transfer of risk**

11.1. The Customer shall become the owner of the Products supplied by A&M at the time it has fulfilled all payment obligations towards A&M, including those arising from all other agreements with A&M. All Products delivered by A&M, even if incorporated, shall remain the property of A&M until full payment of the price, i.e. the principal amount plus any interest, costs and taxes.

11.2. The provisions of Article 11.1 shall be without prejudice to the transfer of risk. From delivery of the Products or Services, the Customer shall bear all risks pursuant to, inter alia, force majeure, damage, loss and destruction. The risk of loss, destruction or damage of Products entrusted to A&M shall remain at all times at the expense of the Customer.

11.3. Article 11 shall apply in case of any kind of concurrence, such as in case of cessation of the Customer's business, payment delays, bankruptcy or any other similar procedure.

11.4. A&M shall reserve the right, where appropriate, to reclaim from the Customer, or whoever may be in possession of such Products, the Products delivered or installed and not yet paid for, without prior notice. A&M cannot be held liable for any damages in connection

with taking/claiming back Products owned by A&M.

11.5. As long as full payment has not been made, the Customer shall not be entitled to apply, use, sell, pledge or encumber the Products delivered as a means of payment with any other security right, this under penalty of additional liquidated damages equal to half of the price of the Products delivered, without prejudice to A&M's right to claim the damage actually suffered by it.

11.6. If the Customer enters into any form of financing to pay the price of the Products, this shall be only for informational purposes for A&M and under no circumstances shall imply any condition precedent under which the Agreement would have been concluded.

11.7. The Customer shall undertake to immediately notify A&M of any attachment allegedly levied by a third party on the Products delivered but not paid for.

11.8. If, in spite of this retention of title, the Customer nevertheless proceeds to disposal to a third party, then in application of Article

5:179 of the Civil Code all claims arising from this sale shall automatically and without notice of default be transferred to A&M as holder of the retention of title, this as security for payment in full by the customer.

11.9. As long as the price has not been paid in full, the Customer shall undertake to keep the Products not used by him in recognisable and good condition, also under penalty of damages as stipulated in Article 11.5. The Customer shall be obliged to cooperate in any measures that A&M may take to protect its Products and/or rights.

11.10. The Customer shall undertake to inform A&M if the Products delivered are stored in premises that are not its property and shall, at A&M's first request, disclose the identity of the owner of the premises and write to the latter by registered letter with a view to notifying them that the underlying Products delivered are not its property.

11.11. In the event of full or partial non-payment, A&M shall have a lien by operation of law, by way of security, on the products made available to A&M by the customer which are still in A&M's possession.

#### **Article 12 - Intellectual property - Licence(s) for software packages**

The Customer shall expressly acknowledge that all intellectual property rights to information, communications or other expressions relating to the Products, Services and/or the NextGen Portal belong to A&M, its suppliers or other right holders. A&M shall reserve the right to use lessons and skills developed during the performance of the Agreement. If the Customer becomes a licensee of a software package,

the Customer shall only acquire a non-transferable and non-exclusive right to use the software for its own use, according to the publisher's licence terms available on the publisher's website or provided by A&M on request. By accepting the Offer, the Customer shall acknowledge to have read and accepted all the publisher's licence terms. Without prejudice to the copyrights that may protect the software and/or its documentation, the Customer shall undertake not to (i) reproduce itself, or through third parties, in any way or form, in whole or in part, other than a single back-up copy for operational security and/or documentation, (ii) translate or transcribe or adapt the software and/or documentation into another language.

### **Article 13 - Obligations of the Parties**

A&M shall execute the Agreement with the utmost care. The Customer shall undertake to cooperate fully and in good faith to achieve the purpose of the Agreement. The Customer shall use reasonable endeavours to comply with any instruction and/or request from A&M to enable A&M to fulfil its obligations under this Agreement. The Customer shall provide all information available to the Customer that A&M may request in order to fulfil its obligations under this Agreement. Moreover, the Customer shall undertake to (i) provide A&M with the resources necessary for the performance of this Agreement, (ii) execute the contracts it has concluded with third parties regarding the scope of the Services so that A&M can provide the Services, (iii) study, integrate and, if necessary, pass on to its third-party suppliers the recommendations made to it by A&M, (iv) provide the necessary access to A&M's personnel to perform the Services at any of the Customer's premises during the contractually agreed working hours, (v) take the necessary measures to inform its personnel about the operation of this Agreement and the procedures to be followed.

### **Article 14 - Guarantee - repair or replacement - Return of Products**

14.1. As A&M is acting as an intermediary, the warranty in relation to Products shall be limited to the warranty provided by the manufacturers of underlying Products, with no additional warranty from A&M, unless mandatory applicable law would provide otherwise. A&M shall remind the Customer that the warranties on software support, maintenance and other warranties associated with the software and/or hardware as provided by the manufacturers or service providers of the underlying hardware

or software are excluded from the scope of these GTC. The Customer should consult the general terms and conditions of these manufacturers or service suppliers for this purpose.

14.2. The fitting services of A&M's Car Services shall be subject to a warranty period of 12 months from the delivery of the fitting services.

14.3. Hardware repairs carried out by A&M shall be subject to a warranty period of three (3) months in case the same defect - despite a previous repair - recurs.

14.4. A&M shall not guarantee to the Customer the absence of faults in any third-party software made available to the Customer by A&M or sold to the Customer by A&M, nor does it commit to performance targets for the software in terms of response time and software quality. All software shall be subject to the terms of use of the applicable licence agreement, the terms of which are determined by the third-party software supplier. It is the Customer's responsibility to satisfy himself that the applicable licence is valid and appropriate for its use of the relevant software. A&M shall give no warranty in this respect and shall accept no liability, unless mandatory applicable law would provide otherwise.

14.5. The warranty provided by A&M shall not apply to defects or damage resulting from:

- (i) a link to a software product or third-party products or products provided by the Customer;
- (ii) a malfunction (defect, fault, incompatibility) in a software product;
- (iii) failure to meet environmental specifications or power supply;
- (iv) broken glass;
- (v) wear (including abnormal or excessive wear);
- (vi) an accident or intent;
- (vii) water damage, lightning strikes or natural disasters;
- (viii) an installation of the Products not in accordance with the manufacturer's prescribed standards (unless the installation was carried out by A&M);
- (ix) circumstances arising after risk has passed to the Customer, such as faulty maintenance, faulty care, faulty repair by the Customer, modifications/repairs carried out without the written consent of A&M, improper use of the Products contrary to manufacturer's instructions;
- (x) impacts, falls or oxidation;
- (xi) defects arising from materials supplied by the Customer or a design stipulated or specified by the Customer; or
- (xii) any other exclusion in the manufacturer's terms and conditions.

14.6. Products cannot be returned without the written consent of A&M, with transport and restocking costs being borne by the Customer, unless compelling



applicable regulations provide otherwise.

14.7. A request for repair of Products is made through the A&M Repair Centre: <https://anm.be/repair> or via the NextGen Portal (in particular for repair of electronic business equipment such as smartphones, laptops, computers, etc.) or via [carservices@anm.be](mailto:carservices@anm.be) (in particular for Car Services).

14.8. The Customer and/or the User shall be responsible for preparing the allegedly defective Products for shipment and repair and this in accordance with A&M's instructions when requesting the repair. A&M cannot be held liable for the total or partial destruction of the Product or the additional damage arising during shipment due to defective packaging and/or failure to comply with A&M's instructions during the request for repair.

14.9. In case the defect is out of warranty (period), A&M shall prepare a quotation stating the cost of the repair or spare part. After approval of the quotation by the Customer, the defective Product shall be repaired and/or replaced in accordance with the quotation and the repair and/or replacement costs shall be invoiced to the Customer. Quotations must always be answered within thirty (30) calendar days from the quotation date. If the quotation is not answered within this period, A&M may destroy the unrepaired Product without further consequences. If the Product is returned unrepaired, the transport and examination costs shall always be borne by the Customer.

14.10. Recovery periods shall also be indicative.

14.11. When the Products are repaired, the data stored therein will be permanently erased. The Customer and/or the User alone shall be responsible and liable for the preservation of the aforementioned data or their reinstallation, to the exclusion of any liability of A&M in that regard.

14.12. In the event that the defective Product is equipped with a memory card and/or SIM card, the User and/or the Customer must remove these cards and keep them themselves at the time of handing over the Product. A&M shall not be liable for the loss or reproduction of data stored in or by such cards and/or electronic devices.

## **Article 15 - Complaints**

15.1. Complaints regarding invoicing must be substantiated and sent by registered mail within eight (8) calendar days after receipt of the invoice. If this is not complied with, the invoicing shall be deemed accepted. Under no circumstances can a complaint justify a delay or suspension of payment.

15.2. Complaints regarding non-delivery must be substantiated within five (5) working days of the Products being dispatched at

<https://anm.be/repair> or via the NextGen Portal, failing which delivery of the Products shall be deemed accepted and compliant.

15.3. Complaints regarding visible defects on delivery of the Products or Services must be reported within two (2) working days after delivery of the Products or Services, stating the reason, at <https://anm.be/repair> or via the NextGen Portal, failing which delivery of the Products or Services shall be deemed accepted and compliant.

15.4. Complaints regarding hidden defects in the Products or in relation to the Services provided by A&M must be notified to A&M within five (5) calendar days of their discovery, stating the reason, by registered letter and no later than one year after the delivery of the Products or Services.

15.5. In the event of a dispute between the Parties, regardless of the cause of the dispute, there can be no compensation between the damages claimed by the Customer and the undisputed invoices.

15.6. If the complaint is found to be well-founded, A&M's liability shall be limited, at A&M's option, to repair or replacement of the Products or Services delivered and this in accordance with Articles 14 and 16 of these GTC.

## **Article 16 - Liability - Insurance**

16.1. A&M shall use commercially reasonable efforts to maintain continuity of the Services and the delivery of the Products, but shall not be liable for any suspension, interruption, temporary unavailability or fault that occurs in the Services or the delivery of the Products for any reason.

16.2. The liability of A&M can only be invoked in case of serious or intentional fault.

16.3. A&M shall in no event be liable for indirect or consequential damage, loss of (business) opportunities, loss of savings, loss of or damage to goodwill, image loss, loss of profits, loss of turnover, loss of data, suffered (directly or indirectly) by the Customer or third parties.

16.4. In accordance with Articles 14.11 and 14.12, A&M cannot under any circumstances be liable for the loss of data and customer data.

16.5. A&M shall in no way be liable for the loss of any of the Customer's goods that may have been left in the vehicle during an installation and/or repair to a vehicle.

16.6. In any event, the total liability of A&M in respect of all claims arising in connection with the Agreement shall be limited to the annual amount excluding VAT of the Agreement and shall not exceed five hundred thousand (500,000) euros. Any damages or penalties paid by A&M to the Customer under the GTC shall be deductible from the limit of liability set out in this article.

16.7. Nothing in these GTC or any Agreement shall exclude the

liability of A&M for (a) death or personal injury caused by A&M's negligence; (b) fraud or fraudulent misrepresentation; or (c) any other liability which cannot be excluded under applicable law.

16.8. A&M shall declare that it holds liability insurance and shall undertake to produce a certificate of insurance upon written request from the Customer.

16.9. With regard to the use and application of licences, the Customer shall be solely responsible for compliance with the licence conditions and in particular the number of users. A&M shall bear no responsibility in this regard.

16.10. A&M shall not be liable for the non-performance of its obligations, nor liable to pay any damages, to the extent that they result from:

(i) any breach, unlawful act, wrongful default or non-performance by the Customer, its officers, agents, employees, suppliers, subcontractors or contractors of the Customer's obligations;

(ii) the correction or modification of the Services or the Products by any person other than A&M;

(iii) failures or breakdowns of hardware, software or services provided by the Customer or a third party over which A&M has no control;

(iv) the use of the Services or the Products by the Customer in a manner inconsistent with the instructions or specifications expressly indicated by A&M or with the normal use that can reasonably be expected of him, or the use of the Services or the Products in combination with hardware or software not recommended, supplied or approved by A&M;

(v) any disruptive element which cannot be attributed to A&M (such as, but not limited to, attacks, viruses, processing errors, manipulations of any kind on the infrastructures provided, etc.) and which originate either from the Customer's internal network which is not the responsibility of A&M and which has an impact on the Services and the Products, or from a network which is not the responsibility of A&M (typically the Internet); and (vi) force majeure.

16.11. To the maximum extent permitted by applicable law, the extra-contractual liability of A&M, its directors and employees for damages of any kind shall be excluded.

16.12. If the Customer uses SSO to access the Services or the NextGen Portal, the Customer shall acknowledge that the authentication and access management in that case is entirely its own responsibility. A&M shall not be liable for any damage, loss or security incidents arising from the

use of SSO, including but not limited to unauthorised access, data breaches or misuse of accounts.

## **Article 17 - Duration - Termination**

17.1. Unless otherwise agreed, the Agreement shall be entered into for the duration as stipulated in the Agreement.

17.2. In case of a specified duration stated in the Agreement, the initial duration shall be extended for successive periods of one (1) year. If one of the Parties does not wish to extend the Agreement, it must notify the other Party in writing no later than three (3) months before the end of the original term or the current extension.

17.3. In case of an indefinite term stated in the Agreement, each of the Parties may terminate the Agreement subject to three (3) months' notice. The notice period shall start on the first day of the month following the month in which the notice was given by Notification.

17.4. If such termination occurs, the Parties shall (subject to the provisions below) continue to honour their commitments under this Agreement during the notice period.

17.5. To the extent that a Party would observe too short a notice period, the Party terminating shall pay a substitute notice fee to the other Party corresponding to the fee pro rata the remaining period of the notice period, which shall be calculated on the basis of the Services and Products invoiced by A&M during the last twelve (12) months or if this Agreement is terminated during the first twelve (12) months, on the basis of the Services and Products invoiced prior to the termination.

17.6. A&M and the Customer shall be entitled to terminate the Agreement at any time, without judicial intervention, with immediate effect and without giving rise to any (termination) fee in the event of

(i) exceptional circumstances, which make any further professional cooperation between A&M and the Customer permanently and immediately impossible; or

(ii) serious breach of contractual obligations.

A&M and the Customer shall agree that circumstances under Article 17.6 include the following:

- if the Customer is in arrears with payments;
- in case of judicial reorganisation, cessation of payments, bankruptcy and/or manifest insolvency and/or a liquidation or similar procedure of one of the Parties;
- dissolution of one of the Parties;



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- when A&M's confidence in the creditworthiness of the Customer is shaken by acts of judicial execution at its expense and/or demonstrable other events that call into question and/or render impossible the confidence in the proper performance of the Customer's obligations;
- force majeure, which persists for a continuous period of more than three (3) months following the time when the Party facing force majeure notifies the other Party in writing;
- theft, fraud, gross or wilful misconduct or fraud or embezzlement on account of any of the Parties;
- any sustained or repeated severe negligence in the performance of the obligations under this Agreement arising from obligations that have not been remedied within a period of fifteen (15) calendar days following a notice of default or written reminder.

17.7. If the Customer terminates the Agreement irregularly or prematurely or in case of a serious default on the part of the Customer, the Customer shall be liable to reimburse A&M for all costs already incurred, Services performed and Products delivered. The foregoing may be increased by administrative costs, reasonable lawyers' fees, court costs, costs associated with the dissolution of an agreement with third parties and compensation for damages suffered by A&M including lost profits, which shall be assessed at a flat rate of 30% of the total amount of the underlying Agreement, and this without prejudice to its right to demonstrate and claim its (additional) actual damages suffered should they be higher. Any advance paid shall accrue to A&M in the event of termination by the Customer, but the advance shall be offset against the above.

### Article 18 - Personal data and dates

18.1. The parties shall process personal data received as a result of the performance of the Agreement. Each Party shall guarantee the other Party's compliance with applicable legal and regulatory obligations regarding the protection of personal data, such as the General Data Protection Regulation (EU) 2016/679 of the European Parliament and the Council of 27 April 2016. All data shall be handled in accordance with A&M's privacy statement, available at <https://www.anm.be/privacyverklaring>.

18.2. Except in case of mandatory regulations and as A&M acts as an intermediary between manufacturer and customer -

seller of, inter alia, hardware products and related software products or other services that (may) generate data, A&M shall not be responsible for the development, operation, software, security, data processing, data exchange or interoperability associated with the use of the Products. A&M shall also not be a data controller for the data generated by these products, unless expressly agreed otherwise in writing in another agreement.

Pursuant to the EU Data Act (Regulation (EU) 2023/2854) and other applicable regulations, A&M shall make available to the Customer the (pre-contractual) information provided to A&M by the manufacturer regarding the data usage of these products via a hyperlink on its website: <https://www.anm.be/dataact>, a link which is also included in A&M's offer. This information shall include:

- (i) the categories of data generated by the Products;
- (ii) how and by whom these data are collected, processed and shared;
- (iii) the purposes of data processing;
- (iv) the identity and access rights of affected parties;
- (v) the conditions on data portability, preservation and interoperability.

The Customer shall acknowledge and accept that this (pre-contractual) information is made available validly and lawfully via the hyperlink on the website: <https://www.anm.be/dataact> and that perusal thereof shall be deemed sufficient. The Customer shall acknowledge that this information, together with any subsequent manufacturer updates, is validly provided as soon as it is available via the aforementioned website page.

The content of the (pre-contractual) information shall be prepared and provided solely by the manufacturer. A&M shall bear no substantive responsibility for the accuracy, completeness, legality, conformity or timeliness of this information. Any claims relating to content, data processing or data-related risks should be addressed directly to the manufacturer.

The Customer shall acknowledge that use of the Products implies acceptance of this information and the conditions associated with data use.

A&M shall reserve the right, without prior individual notice, to update the website or available documentation if new or changed information is provided by the manufacturer. The Customer shall be expected to take note of these updates regularly. A&M shall not

be liable for changes arising solely from modifications made by the manufacturer.

A&M shall not be liable for any damages, data loss, data breaches, security incidents, usage restrictions or compliance issues arising from the Products, software or data processing by the manufacturer or third-party service providers. The liability of A&M shall in all cases be limited to its own performance as intermediary and this as defined in Article 16 of these GTC.

#### **Article 19 - Independent contractor - personnel**

For the purposes of the Agreement, the Parties shall act as independent contractors and have no right, power or authority to create any obligation, express or implied, on behalf of the other Party and have no authority to represent the other Party as an agent, except where specifically authorised to do so. The Services shall not constitute a partnership or joint venture between the Parties. The parties shall each handle their own administrative, accounting, tax and social management as well as the supervision and guidance of their own employees. The employees of A&M deployed to perform the Services shall remain under the authority of A&M.

#### **Article 20 - Non-recruitment of staff**

The Customer shall not, directly or indirectly, make any work proposal to any person employed or contracted by A&M to perform the Services or supply the Products, to employ them, under any status whatsoever, in Belgium unless the written consent of A&M has been obtained. This obligation shall be valid even if the request is made by that person. This obligation shall apply during the term of the Agreement and a period of twelve (12) months after its termination, regardless of the cause. If the Customer fails to comply with this obligation, it shall immediately indemnify A&M by paying to A&M compensation equal to twelve (12) months' gross salary (or other remuneration) of the person concerned, based on their last month's gross salary (or remuneration). In the event that any provision of this clause is deemed unlawful or unenforceable, a competent court shall have the power to limit or restate it to narrow its scope to what is legally applicable, respecting as much as possible the original intention of the Parties.

#### **Article 21 - Force majeure - hardship**

21.1 A&M shall not be liable for any loss or damage resulting from any delay, or failure to report a delay, in the performance of its obligations under the Agreement, under any circumstances, and consequently no compensation may be claimed from it, when it is due to force majeure, as defined in Article 5.226 of the Civil Code, including but not limited to natural disasters, pandemics, epidemics, the unavailability of energy resources, riots, war, acts of terrorism, sabotage, fire, strikes, blockades of telecommunications and energy supplies, labour difficulties, transport delays, delays in delivery or default of suppliers of A&M, attacks, break-ins, viruses and computer hacking, destruction of Products, legal or regulatory requirements restricting the freedom of action of A&M, removal or prohibition, temporarily or permanently, for whatever reason, of access to the Internet or telecommunications resources, beyond the control of the Parties. In the event of delay due to such cause, the performance period shall be extended by a period equal to the duration of the delay and the Customer shall not be entitled to refuse Delivery or otherwise be relieved of obligations due to the delay. If, due to such cause, scheduled performance is delayed for a period of more than three (3) months, each Party shall have the right to terminate the Agreement, unless the Parties agree to amend the Agreement in accordance with the circumstances of the case.

21.2. If an event that could not reasonably be predicted occurs after the conclusion of the Agreement, is not due to the negligence of any of the Parties, and substantially alters the contractual balance established by the Parties, the Parties shall negotiate in good faith and within a reasonable period of time to arrive at a fair distribution of the costs caused by this event. In the absence of agreement within a reasonable time, either Party may terminate the contractual relationship between them without any compensation or indemnity.

#### **Article 22 - Transfer of Subcontracts**

A&M shall reserve the right to subcontract all or part of the Agreement to a third party of its choice.

#### **Article 23 - Miscellaneous**

23.1. No amendment or modification to these GTC or any Agreement shall be effective or binding unless it is in writing and signed by the Customer and A&M.

23.2. No failure or delay by a Party in exercising any right or remedy provided under these GTC, under any Agreement or by law, shall constitute a waiver

of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of any such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

23.3. Should one or more provisions of the Agreement be wholly or partially void or unenforceable, such voidness or unenforceability shall not affect the validity or enforceability of the remaining provisions. The Parties shall agree that any void or unenforceable provision will be replaced by operation of law by a similar provision which shall have effect within the widest possible limits of what is permitted by law or may be moderated by the court within such limits.

23.4. The Agreement (including the GTC) constitutes the entire agreement between A&M and the Customer in respect of the Services and/or Products and supersedes all prior representations, agreements and other communications between the Parties to that effect.

23.5 All notices given under an Agreement must be in writing and may be delivered in person, by registered mail or by e-mail. Notices shall be deemed to have been served in case of personal delivery on the date of delivery, in case of registered delivery, three (3) calendar days after dispatch and if by e-mail on the day of dispatch or, if dispatched after 5 pm (local time of the sender) the next working day after dispatch.

#### **Article 24 - Disputes and jurisdiction**

All Agreements including GTC and any disputes arising therefrom or related thereto shall be governed by and construed in accordance with Belgian law.

Each Party shall irrevocably agree that the courts of the judicial district of Antwerp (Mechelen division) have exclusive jurisdiction to settle disputes arising out of or in connection with the Agreement, its subject matter or formation.