



**ATHLON GENERAL PURCHASE CONDITIONS (Car related)  
August 2023.1**

**Article 1 – Definitions**

In these General Purchase Conditions, the following terms have the following meanings:

- 1.1 **ATHLON:** Athlon Car Lease International B.V., registered with the Chamber of Commerce under number 34066011, and/or one or more of its sister companies or subsidiaries and/or its affiliated enterprises;
- 1.2 **Contractor:** the natural persons and/or legal entities with whom ATHLON has agreed the supply of goods and/or services or who submit or have submitted a quotation to that end to ATHLON;
- 1.3 **Agreement:** every agreement entered into between ATHLON and the Contractor (also including: contracts for services of a species thereof, works contracts, custody agreements and temporary agency contracts) and every instruction and supplement thereto;
- 1.4 **Order:** the order for the supply of a good or goods.

**Article 2 - Applicability**

- 2.1 These General Purchase Conditions (hereinafter also: the or these 'Conditions') form part of every Agreement entered into between ATHLON and the Contractor.
- 2.2 Unless explicitly agreed otherwise in writing by the parties, these Conditions will also, after they have come to form part of any Agreement between ATHLON and the Contractor, form part of any and all agreements subsequently entered into between ATHLON and the Contractor, even where no reference was made to the applicability of these Conditions upon the conclusion of such Agreement subsequently entered into.
- 2.3 Any terms and conditions of the Contractor, also including any supplement to or extension of these conditions, shall not apply and are hereby explicitly rejected by ATHLON.
- 2.4 ATHLON reserves the right to amend these Conditions from time to time.
- 2.5 The 'BOVAG Voorwaarden Zakelijke Markt' (Netherlands Association of Motor Car, Garage and Allied Trades General Terms and Conditions for Commercial Parties) additionally apply to the Agreement, with the provisions on retention of title, right of retention and right of pledge prevailing at all times over these Conditions. Insofar as the provisions of these Conditions differ from the contents of the 'BOVAG Voorwaarden Zakelijke Markt', the provisions of these Conditions will prevail.

**Article 3 - Conclusion of Agreement and performance**

- 3.1 An Agreement is concluded upon, and not before, acceptance by ATHLON expressly and in writing of an offer by the Contractor, whether or not by means of placement of a written Order, or upon performance by ATHLON expressly of the Agreement.
- 3.2 Unless a term has been agreed in writing or orally, a quotation submitted by the Contractor shall be without obligation. Unless explicitly agreed otherwise in writing, a quotation shall be irrevocable once it has become an Order.
- 3.3 An Agreement on the basis of an offer made by ATHLON is concluded upon its acceptance by the Contractor expressly and in writing.

Athlon Car Lease Nederland B.V. – Stationsplein N-O 414 – 1117 CL Schiphol – PO Box 60250 – 1320 AH Almere, the Netherlands

T +31 (0)36 547 11 00 – [info@athlon.com](mailto:info@athlon.com) – [www.athlon.com](http://www.athlon.com)

IBAN NL41BNPA0227701771 – Swift BNPANL2A – BTW id.no. NL001448304B01 – Chamber of Commerce reg. no. 33136871



- 3.4 Every offer made by ATHLON shall be entirely without obligation, and may be withdrawn by ATHLON, promptly after acceptance (in writing) of the offer by the Contractor at the latest.
- 3.5 Any changes or addition to the Agreement must be agreed in writing between the parties.
- 3.6 The Contractor, including its personnel, will follow the instructions given by ATHLON or other persons or legal entities designated for that purpose by ATHLON when performing the Agreement. The Contractor shall immediately inform ATHLON in writing regarding any instructions given by ATHLON which the Contractor considers to be incorrect or inconsistent with the Agreement or ATHLON's intentions. This article should be read in the light of the subject of the Agreement.

#### **Article 4 - Prices**

- 4.1 All prices are fixed prices, with the exception of the private motor vehicle and motorcycle tax (BPM) due and other levies, charges and taxes, are stated in euros and are in accordance with the delivery referred to in article 8, excluding turnover tax (*omzetbelasting*), and include all direct and/or indirect costs, such as, but not confined to, travel time, travel and subsistence expenses, resource costs and wage costs incurred by the Contractor in connection with the performance of the Agreement, and insofar as relating to the supply of goods the costs of proper packaging, also including all other levies, charges and taxes due in relation to the performance of the Agreement by the Contractor.
- 4.2 The Contractor will only charge the rates agreed with ATHLON for the services supplied by it or, in the absence of any rate agreements, the rates usually charged by the Contractor, provided that they are reasonable and do not exceed what is generally charged in free commerce for the service in question or reasonable equivalent services. Price changes must be agreed in writing in advance.

#### **Article 5 - Delivery term**

- 5.1 The Contractor will endeavour to comply with the delivery date stated in the Order or Agreement or, in the case of services, the date of supply and/or completion stated in the Agreement.
- 5.2 Only if a deadline for delivery is explicitly agreed, such as, for instance, through the addition of the words 'at the latest' or 'by no later than' (*uiterlijk*) or other words to that effect, will this be considered as an expressly agreed delivery term.
- 5.3 The mere exceeding of an agreed delivery deadline, without corresponding prior consent in writing by ATHLON, will cause the Contractor to be in default without notice of default being required, and ATHLON reserves the right in all cases to terminate the delivery or order in full or in part by giving notice of termination or to cancel (*ontbinden*) the Agreement (for that specific vehicle) at no cost and without liability, without notice of default or judicial intervention being required and without prejudice to ATHLON's other rights vis-a-vis the Contractor.

#### **Article 6 - Testing and inspection**

- 6.1 The Contractor shall carry out final testing in accordance with ATHLON's quality requirements of all goods to be supplied. In case of concrete indications of fraud, ATHLON will be entitled to have random checks of this final testing carried out by an external and independent party. The Contractor will allow ATHLON access to and within the Contractor's organisation for this purpose on first demand by ATHLON. Any testing carried out will be notified to the Contractor. The associated costs will be borne by the party found to be in error.
- 6.2 The goods to be delivered may be inspected by or on behalf of ATHLON. However, ATHLON is under no obligation to do so, notwithstanding any provisions in that regard stipulated by the



Contractor in the order confirmation or a similar document, or on documents accompanying the delivery. Any inspection that is carried out by or on behalf of ATHLON will take place at the agreed place of delivery, unless another location has been agreed in writing.

- 6.3 The Contractor may have a countercheck carried out, with the associated costs being borne by the party found to be in error. If ATHLON or a testing body acting on its behalf rejects the goods or does not approve them on testing and the countercheck does not find otherwise, the Contractor will take back the goods at its own expense and risk. The Contractor will remedy the shortcomings or defects within a reasonable period of time and will re-submit the goods for inspection/testing. Unless explicitly agreed otherwise in writing, rejection will not result in any extension of the delivery period.
- 6.4 Inspection and testing before, during or after delivery of the goods does not constitute delivery, nor acceptance of delivery, nor the passing of risk.
- 6.5 Mandatory statutory inspections and testing, such as, but not confined to, periodic vehicle inspection (APK), are in principle for ATHLON's account. The costs of other inspections, testing and checks, as well as repeat inspections and suchlike, are to be borne by the party found to be in error.
- 6.6 Without prejudice to the provisions in articles 6.1 to 6.5, inclusive, the Contractor shall notify every change, of whatever nature and scale, in the composition or the characteristics of the goods to be supplied to ATHLON in writing prior to delivery. In the event this notification is received by ATHLON after the Agreement has been concluded, ATHLON will be entitled to terminate the Agreement and consequently to cancel the delivery, or, at its option, to cancel (*ontbinden*) the Agreement, without being obliged to compensate any loss or damage, for whatever reason or of whatever nature.
- 6.7 Visible defects must be reported (complaint) immediately after their discovery. Non-visible defects are covered by the warranty. Acceptance by ATHLON of the delivered goods does not impair or prejudice any claim, including monetary claims, ATHLON may have vis-a-vis the Contractor.
- 6.8 The Contractor shall respond within five (5) working days to a complaint submitted by ATHLON as referred to in article 6.7 above and shall inform ATHLON how and within what reasonable term the complaint will be handled. ATHLON reserves the right to demand a shorter handling time if that is considered necessary by ATHLON. The Contractor undertakes in such case to give priority to dealing with the complaint reasonably and to ATHLON's satisfaction.

#### **Article 7 - Packaging**

- 7.1 The goods to be delivered must be packaged and marked in accordance with ATHLON's instructions.
- 7.2 Goods that are delivered in damaged packaging may be refused, in their entirety or in part, by ATHLON.
- 7.3 Loaned packaging may be returned to the Contractor at the Contractor's expense, if it is not collected by the Contractor.
- 7.4 The Contractor is liable for loss or damage arising due to or in connection with the fact that the packaging does not comply with the provisions in paragraph 1 above.

#### **Article 8 - Delivery**

- 8.1 All deliveries are to be made within the agreed term (insofar as possible) and at the place agreed between the parties, during ATHLON's normal business hours and in accordance with ATHLON's

Athlon Car Lease Nederland B.V. – Stationsplein N-O 414 – 1117 CL Schiphol – PO Box 60250 – 1320 AH Almere, the Netherlands

T +31 (0)36 547 11 00 – [info@athlon.com](mailto:info@athlon.com) – [www.athlon.com](http://www.athlon.com)

IBAN NL41BNPA0227701771 – Swift BNPANL2A – BTW id.no. NL001448304B01 – Chamber of Commerce reg. no. 33136871



instructions. The respective order number must be stated on the delivery note accompanying the delivery.

- 8.2 Unless explicitly agreed otherwise in writing, all deliveries shall be DDP (Delivery Duty Paid).
- 8.3 Any and all documents related to or connected with the respective delivery or service, including, but not confined to, certificates and packing lists, must be handed to ATHLON no later than at the time of delivery or completion of the order or, where possible, should be forwarded in advance to ATHLON. Further (written) agreements will be made regarding the certificate of conformity in connection with the practical implementation of EU Regulation 2018/858, which came into force on 1 September 2020.
- 8.4 The Contractor shall inform ATHLON promptly in writing of any circumstance that may cause a delay in delivery, stating the cause of the delay, the measures it has taken or intends to take and the probable length of the delay. Failure by the Contractor to do so will render it incapable of relying on or invoking these circumstances at a later time. ATHLON will then inform the Contractor whether the time can be put back, or the delivery period can be extended, in which case a new time or a new delivery period will be agreed in writing. The foregoing is without prejudice to any other rights vested in ATHLON and obligations on the part of the Contractor. This article will be specified or fulfilled through the messages posted in the digital order platform employed/used by the parties.

#### **Article 9 - Transfer of ownership and passing of risk**

- 9.1 In case of delivery of goods, including in connection with maintenance, replacement of parts or otherwise, ownership of the good delivered or to be delivered transfers to ATHLON at the time of payment.
- 9.2 In case of deliveries that are made in the context of fulfilling a works contract, the risk of the good or goods delivered passes to ATHLON at the time of completion and delivery of the work.
- 9.3 In all other cases, the risk of the delivered good or goods passes to ATHLON at the time ATHLON takes receipt of the delivered good or goods. The Contractor will confirm after delivery that the delivery to ATHLON has been completed, after which the Contractor will send the signed receipt form to ATHLON as proof of delivery.
- 9.4 In the event ATHLON rejects the delivery or does not approve it upon testing or inspection, the risk of the delivery concerned remains with the Contractor. In the event ATHLON invokes the right to cancel (*recht van ontbinding*) the Agreement or to have goods replaced, the risk will once again lie with the Contractor from the moment ATHLON invokes this right.

#### **Article 10 - Invoicing and payment**

- 10.1 Invoicing by the Contractor takes place by means of a properly itemised invoice, specifying at least the following details and including the following attachments:
- the address where the work was performed or the delivered good or goods was/were actually delivered;
  - an overview of the work performed or a specification of the good or goods delivered;
  - the date on which the work was performed or the delivered good or goods was/were actually delivered, the number of hours worked, the hourly wage costs and the materials used (stating unit prices);
  - a work slip or job sheet signed off on behalf of ATHLON or reference/order number/purchase order number and, where applicable, supplier number;

Athlon Car Lease Nederland B.V. – Stationsplein N-O 414 – 1117 CL Schiphol – PO Box 60250 – 1320 AH Almere, the Netherlands

T +31 (0)36 547 11 00 – [info@athlon.com](mailto:info@athlon.com) – [www.athlon.com](http://www.athlon.com)

IBAN NL41BNPA0227701771 – Swift BNPANL2A – BTW id.no. NL001448304B01 – Chamber of Commerce reg. no. 33136871



- and should be made to the billing address notified by ATHLON.

- 10.2 Unless ATHLON, after receiving the delivered goods or after the services have been supplied, complains about the quality or quantity of the goods or services supplied, payment for aftersales will be made within thirty (30) days after receipt of the invoice, provided that the invoice meets the requirements listed in article 10.1.
- 10.3 If the invoice does not meet the requirements set out in article 10.1 or the documents referred to are not correctly or completely filled in, this may result in a delay in payment of the invoiced amount, without this delay entitling the Contractor to cancel (*ontbinden*) the Agreement or granting it any right to (additional) compensation. Any deadlines for payment specified on the part of the Contractor will in such case not constitute strict deadlines within the meaning of Section 6:83(a) of the Dutch Civil Code.
- 10.4 The right to payment for services that have been supplied or goods that have been delivered in relation to aftersales will expire if they are not invoiced to ATHLON within sixteen (16) weeks after the work was carried out or the delivery took place.

## **Article 11 - Warranty, outsourcing and sustainability**

### *General*

- 11.1 The Contractor will adhere to the "Responsible Sourcing Standards" of Mercedes-Benz, ATHLON's parent company, which can be found on the Mercedes Benz Supplier portal (<https://supplier.mercedes-benz.com/portal/sustainability>). In addition, Contractor shall successfully complete the Compliance Awareness Module (CAM) for Sales Business Partners and Suppliers on [https://compliance-awareness-module.com/index\\_en.php](https://compliance-awareness-module.com/index_en.php).

### *Delivery of goods*

- 11.2 The Contractor warrants that all the goods supplied and that will be supplied by it conform to the Agreement and are suitable for the use that ATHLON or, in the event of onward supply by ATHLON to third parties (including customers of ATHLON), such third parties intend for them, and declares that it is aware of such use.
- 11.3 The Contractor will supply the goods as specified, whether or not accompanied by a drawing and/or model. The vehicle is to be delivered at all times with a full tank of fuel at current pump prices. The fuel costs should be listed separately on the invoice to ATHLON, unless they are covered (partially or otherwise) by the preparation fee. In the case of an EV or PHEV, the vehicle should be at least 90% charged, as well as have a full tank, where applicable. The vehicle's odometer reading should be no more than 50km (fifty kilometres) on delivery.
- 11.4 The Contractor shall, on first demand by ATHLON and at its own expense, remedy all faults and defects in the delivered good or goods and/or replace the delivered good or goods or parts thereof, at ATHLON's option, which become apparent within 18 months of the delivered good or goods being taken into use or no more than 24 months after delivery of the good or goods, unless ATHLON or the third parties referred to above might reasonably expect that the fault or defect concerned will not occur during a longer period than the aforementioned periods, in which case the aforementioned obligation to remedy will extend to this longer period.
- 11.5 Unless explicitly agreed otherwise in writing, the Contractor shall provide for remedy and/or replacement within a reasonable term after the demand referred to in paragraph 4.
- 11.6 The Contractor will comply with the standards defined in the most recent MBST (see Mercedes-Benz Supplier Portal, Mercedes-Benz Special Terms,



<https://docmaster.supplier.daimler.com/DMPublic/en>) and Mercedes-Benz Group AG's obligations relating to sustainability and environmental protection.

*Supply of services general; outsourcing*

- 11.7 In case of the supply of services, the Contractor will at a minimum take care to ensure that the Agreement is fulfilled to a high standard. In doing so, the Contractor shall ensure it observes the standards of a professional and competent Contractor.
- 11.8 The Contractor warrants that all the services will be carried out by it in the most cost-efficient manner possible, using the correct materials.
- 11.9 The Contractor warrants that all the services will be carried out in accordance with the applicable legal (safety and environmental) regulations (see Mercedes-Benz Supplier Portal, Mercedes-Benz Special Terms, <https://docmaster.supplier.daimler.com/DMPublic/en>) and Mercedes-Benz Group AG's obligations relating to sustainability and environmental protection. The Contractor warrants in this regard that in performing the Agreement optimum care for the environment will be observed and that minimum use will be made of substances and materials that have a potential impact on the environment, and that they will be stored in a safe and responsible manner. Materials with a potential environmental impact or which are no longer used will be removed and disposed of by the Contractor at its own expense and in a responsible manner.
- 11.10 The Contractor will provide identity documents, (residence, work and any other) permits and certificates of conduct relating to itself and its personnel at ATHLON's first request, failing which the persons concerned may be refused access to ATHLON's land and buildings. In case of reasonable doubt, ATHLON may ask the Contractor to carry out a background check and to inform ATHLON of the results in writing.
- 11.11 The Contractor must be adequately insured and remain so in order to ensure cover for any and all risks related to the performance of the Agreement. The Contractor warrants that third parties engaged by it are insured in a corresponding manner.
- 11.12 Unless otherwise agreed, the Contractor is prohibited from transferring or outsourcing the performance of the Agreement in whole or in part to third parties, including, but not confined to, businesses belonging to the Contractor, or to make use of third parties who have been made available or hired in.
- 11.13 Even where outsourcing to third parties has been agreed, the Contractor remains responsible and liable for the preparation, organisation, coordination and performance of the Agreement by such third parties.
- 11.14 The Contractor will always ensure a designated contact is provided within its organisation for ATHLON on a continuous basis throughout the term of the Agreement.
- 11.15 The Contractor shall adhere to the working hours and planning arrangements of ATHLON and, when carrying out the work, shall conduct itself in such a way that no disruption is caused to the work undertaken by ATHLON or third parties. This provision applies reciprocally.
- 11.16 In the event of absence or evident incompetence for the contract on the part of the Contractor, its personnel and/or third parties engaged by it, as well as in the event of complaints by ATHLON regarding the performance of the Agreement, the Contractor will ensure immediate and adequate replacement of the person or persons concerned.
- 11.17 In the event of illness, the Contractor will ensure immediate and adequate replacement of the person or persons concerned.



- 11.18 Acts performed by ATHLON in connection with performance, such as signing off timesheets, will never constitute the approval by ATHLON referred to in article 6 of these Conditions of any service supplied by the Contractor, even if otherwise indicated by the timesheet. This provision applies reciprocally and should be read in the light of the subject of the Agreement.
- 11.19 The Contractor shall inform ATHLON adequately and in a timely manner during the term of the Agreement of all changes in and affecting its organisation that are of relevance to ATHLON, including, but not confined to, changes in the personnel to be deployed and suppliers and/or materials to be used that are directly involved in the performance of the Agreement.
- 11.20 The Contractor indemnifies ATHLON against all statutory payments and deductions that it is required to make, including, but not confined to, payments in connection with the Wages and Salaries Tax and National Insurance Contributions (Liability of Subcontractors) Act (*Wet Ketenaansprakelijkheid*). ATHLON is also authorised to make these payments and deductions directly to the competent authorities or to deposit the corresponding amounts in the Contractor's guarantee account (*G-rekening*), in which case the Contractor will deposit the part of the invoices of its subcontractors, if any, relating to statutory payments or deductions in guarantee accounts (*G-rekeningen*) of its subcontractors, or, where such has been agreed between them, it will pay the corresponding amounts directly to the authorities concerned and will ensure that the subcontractors in question will pay their own subcontractors in a similar way.

*Supply of services: maintenance and contracting work*

- 11.21 All the parts to be replaced in connection with the maintenance performed by the Contractor must be new and provided with a manufacturer's warranty or a warranty issued by the importer.
- 11.22 The Contractor warrants the correct performance of the maintenance carried out by it and/or execution of the work as well as the materials used in connection with the performance of the foregoing for a period of twelve (12) months, calculated from the date on which the equipment concerned is taken into operation again by ATHLON, unless the manufacturer or supplier or the aforementioned materials has provided a longer warranty on them, in which case the warranty provided by the Contractor will have at least this longer term.
- 11.23 The warranty provided under articles 11.20 and 11.21 includes the correct performance within a reasonable term of maintenance initially performed improperly. ATHLON will inform the Contractor in writing in the event the maintenance was improperly performed. If, in ATHLON's reasonable opinion, the corrective maintenance to be carried out by the Contractor is no longer possible or worthwhile, ATHLON will be entitled to alternative and additional compensation.

*Remedy or replacement by third parties if immediately required*

- 11.24 In the event that faults or defects detected in goods or parts of goods that have been supplied or improperly performed services require immediate remedy or replacement in ATHLON's opinion, and the Contractor is unable to carry out such remedy immediately or is unable to provide for replacement immediately, ATHLON may have the remedy or replacement carried out or arrange for it to be provided by a third party at the Contractor's expense.
- 11.25 The same also applies in case of non-performance of the obligation to remedy faults, defects or improperly performed services as referred to in the preceding paragraphs of this article by the Contractor.
- 11.26 The Contractor shall pay the third party's costs associated with the remedy or replacement to ATHLON within thirty (30) calendar days after ATHLON has sent an itemised invoice, without the Contractor having any right of set-off.

**Article 12 – Transfer of rights and obligations**



- 12.1 The Contractor may not transfer its obligations under the Agreement to any third party.
- 12.2 ATHLON may transfer its rights and obligations pursuant to the Agreement with the Contractor to its affiliated enterprises by means of a written notification to that effect sent to the Contractor, without the Contractor's consent in this regard being required.

### **Article 13 - Liability**

- 13.1 The Contractor is liable for and will indemnify ATHLON against any and all loss or damage sustained by ATHLON arising from or related to an attributable failure on the part of the Contractor in the performance of any obligation arising from an Agreement entered into with the Contractor or resulting from a wrongful or unlawful act committed by the Contractor against ATHLON, its employees and subordinates or against third parties. The Contractor indemnifies ATHLON against any and all legal actions or claims, of whatever nature and on whatever basis, brought by third parties in connection with an application provided by or on behalf of the Contractor or manufacturer.
- 13.2 The Contractor will take out adequate insurance against the risk of materialisation of its potential liabilities arising from the Agreement or Agreements entered into with ATHLON and will renew this insurance during the term of the aforementioned Agreement or Agreements. The Contractor warrants that third parties engaged by it are insured in a corresponding manner.
- 13.3 In case of liability on the part of the Contractor as referred to in paragraph 1 above, the Contractor will also be liable for all judicial and extrajudicial costs reasonably incurred by ATHLON to obtain settlement of its claim, with ATHLON being entitled in any event to charge the Contractor 10% of the total claim, with a minimum of € 250.00, by way of extrajudicial costs, unless the actual extrajudicial costs are higher, and also with a view to encouraging proper performance by the Contractor.

### **Article 14 – Early termination**

- 14.1 ATHLON reserves the right, in the event of the supply of services by the Contractor, to cause the early termination of the relevant Agreement by giving notice of termination, without prejudice to ATHLON's right to cancel (*ontbinding*) the agreement.
- 14.2 Where appropriate, the Contractor will be entitled to payment of the agreed price for the services insofar as they have been supplied in accordance with the Agreement, as well as to the costs reasonably incurred by the Contractor prior to termination which are no longer reasonably capable of being waived or cancelled and which are not covered by the payment thus received.

### **Article 15 - Cancellation (*Ontbinding*)**

- 15.1 Without prejudice to all other rights ensuing from these Conditions, the Agreement and the law, ATHLON may cancel (*ontbinden*) the Agreement in full or in part, without recourse to the courts, in the event:
- the Contractor is declared bankrupt or granted a moratorium, or a petition for its bankruptcy or an application for a moratorium is filed;
  - the operations of the Contractor's undertaking are ceased or halted;
  - the permits necessary to enable the Contractor to perform the Agreement are revoked and/or refused by the competent authorities;
  - the Contractor's business assets, or part of the Contractor's business assets, and/or the materials intended for the performance of the Agreement are seized;





- the Contractor's enterprise is wound up.

This article applies reciprocally and in addition to the provisions in article 10 of this Agreement.

- 15.2 The cancellation of the Agreement does not discharge the Contractor from its obligations under the Agreement and/or these Conditions insofar as such obligations are intended, explicitly or by their nature, to continue to apply also beyond the end of the Agreement, such as obligations relating to confidentiality, liability, warranties, intellectual and industrial property, and transfer of rights and obligations.
- 15.3 Force majeure If the Contractor is unable to perform or fails to meet its obligation or obligations under the Agreement during a period of more than 20 (twenty) working days due to force majeure, ATHLON may cancel the Agreement (partially or otherwise) by registered letter, and insofar as required with immediate effect without prior notice of default being required, without recourse to the courts, without this resulting in or giving rise to any right to compensation or payment for the Contractor, for whatever reason or of whatever nature.
- 15.4 Force majeure will in any case not include: (technical) failures or malfunctions at the Contractor, lack of personnel, strikes, illness of personnel, unsuitability of goods or shortcomings on the part of third parties, and/or liquidity or solvency problems affecting the Contractor or its suppliers.
- 15.5 The Contractor will immediately inform ATHLON of any force majeure situation on the part of the Contractor and will provide evidence of the force majeure.
- 15.6 Default on the part of ATHLON The Contractor will inform ATHLON in writing without delay in the event ATHLON fails to fulfil, or fails to fulfil in a timely manner, obligations under the Agreement and default is considered to exist which has or may have an impact on the Contractor's ability to fulfil its own obligations under the Agreement.
- 15.7 In the event ATHLON fails to perform the Agreement, the Contractor will endeavour to avoid or minimise the adverse consequences of the failure for the performance of the Agreement and to continue the fulfilment of the obligations under the Agreement as correctly and effectively as possible. The demonstrably necessary additional costs incurred in this connection will be borne by ATHLON.
- 15.8 Only if the Contractor complies with the provisions in articles 15.6 and 15.7 can it put forward the circumstances referred to therein by way of excuse for any delay in the performance of the Agreement.
- 15.9 If the vehicle is not ready for delivery in accordance with the Order (e.g. if the vehicle has the wrong colour or it is lacking certain optional features or specifications) on the delivery date, it may not be delivered under any circumstance until the Contractor has contacted ATHLON's Order & Delivery department. The parties will cooperate in good faith in order to identify the cause of this shortcoming. If it is found that the shortcoming was caused by acts or omissions by, or is attributable to, the Contractor, manufacturer or importer, as a result of which the vehicle cannot be delivered before or on the delivery date in accordance with the Order, the Contractor will be in default without notice of default being required and ATHLON reserves the right in all cases to cancel the Agreement for that specific vehicle at no cost and without liability, without notice of default or judicial intervention being required and without prejudice to ATHLON's other rights vis-a-vis the Contractor.
- 15.10 The provisions in article 15.9 apply analogously to the cases in which the Contractor has discovered after delivery that the vehicle does not meet - the specifications of - the Order.

## Article 16 – Intellectual property

Athlon Car Lease Nederland B.V. – Stationsplein N-O 414 – 1117 CL Schiphol – PO Box 60250 – 1320 AH Almere, the Netherlands

T +31 (0)36 547 11 00 – [info@athlon.com](mailto:info@athlon.com) – [www.athlon.com](http://www.athlon.com)

IBAN NL41BNPA0227701771 – Swift BNPANL2A – BTW id.no. NL001448304B01 – Chamber of Commerce reg. no. 33136871



- 16.1 All resources made available to the Contractor by ATHLON, including, but not confined to, drawings, photographs, models, designs, sample copies, tools, moulds and templates, shall remain the (intellectual) property of ATHLON and must be returned to ATHLON immediately after the end of manufacture and/or after termination of the Agreement, or on first demand by ATHLON.
- 16.2 The Contractor may not use the materials referred to in article 16.1, nor may it allow them to be used by any third party, reproduce them or present them for inspection to any third party for any other purpose than the supply of the agreed service or services to ATHLON.
- 16.3 If works are created on ATHLON's instructions to which intellectual and/or industrial property rights are attached or in respect of which such rights may be created, such rights are transferred to ATHLON *nunc pro tunc*, and ATHLON accepts such rights.
- 16.4 The intellectual property rights or equivalent rights attached to the services supplied shall be vested solely in ATHLON without ATHLON paying any fee or other compensation for them other than the agreed price for the supply of the services in question. This also includes rights that are created in connection with the performance of any Agreement.

#### **Article 17 - Spare parts and stock**

- 17.1 The Contractor shall hold spare parts in stock for a period that is considered reasonable, according to generally prevailing opinion, for a good to be delivered or for services to be supplied.
- 17.2 The Contractor shall hold stocks of or for the good in question or services to be supplied such that ATHLON does not experience any delay or inconvenience in carrying out its work activities.

#### **Article 18 – Security**

- 18.1 The Contractor will, upon first request in that regard by ATHLON, provide sufficient security in respect of the fulfilment of its obligations under the Agreement entered into with ATHLON, by providing an irrevocable bank guarantee issued by a Dutch banking institution of good standing, or by providing other reasonably equivalent security.

#### **Article 19 – Secrecy**

- 19.1 The Contractor will keep secret all information from and about ATHLON which has come to its attention, whether or not directly, in connection with the conclusion and performance of the Agreement, unless ATHLON has given permission in writing for this information not to be treated as secret.
- 19.2 The Contractor will not provide to third parties any information which it has been informed is confidential or whose confidentiality it could reasonably be expected to have understood, unless ATHLON has given permission in writing for such disclosure.

#### **Article 20 – Audits**

- 20.1 ATHLON and/or a supervisory authority may, in case of suspected serious shortcomings in relation to aftersales, carry out an audit at the Contractor. ATHLON and/or a supervisory authority may engage a third party to carry out the aforementioned audit on its behalf in order to measure and assess the Contractor's performance reliably.

An audit may only relate to the fulfilment of the Agreement as well as compliance with legislation and regulations and other facts or circumstances which may affect the (continued) performance of the Agreement.



20.2 Unless otherwise agreed prior to the audit, the costs for engaging the auditors and deploying staff of ATHLON and/or a supervisory authority as referred to in this article 20.2 will be borne by ATHLON. The Contractor will be responsible for its own costs at all times.

### **Article 21 – Compliance**

21.1 In case of any breach of the law by the Contractor or its employees or other parties employed by it, including, but not confined to, acts or omissions which may result in criminal liability, such as deceit, embezzlement, fraud including insolvency fraud, breach of competition law, bribery, bribe-taking or corruption, ATHLON may terminate or cancel (*ontbinden*) all agreements with the Contractor with immediate effect and may immediately break off all negotiations, pre-contractual and otherwise, without being liable for or being capable of being required to provide compensation of loss or damage and/or costs.

### **Article 22 – Applicable law, competent court and disputes**

22.1 All offers by and agreements with ATHLON shall be governed by and construed exclusively in accordance with Dutch law, to the exclusion of the Vienna Sales Convention.

22.2 The competent court in Amsterdam has exclusive competence over any dispute arising from or in connection with any Agreement to which these Conditions have been declared applicable, unless ATHLON opts to refer the dispute to the competent court in the Contractor's place of residence or domicile.

### **Article 23 – Translations**

23.1 If a translation is made of these Conditions and differences of interpretation should arise between the Dutch text and the text in the foreign language, the Dutch text will take precedence.

### **Article 24 – Personal data**

24.1 For the purposes of this article 24, the following terms have the following meanings: Personal Data: "any information relating to an identified or identifiable natural person"; Controller: "a party which determines the purposes and means of the processing of personal data"; Processor: "a party which processes personal data on behalf of a controller and is not under the direct control of that controller".

24.2 If the Contractor receives Personal Data of personnel, customers, suppliers or relations of ATHLON in its role as Controller in the course of fulfilling its obligations under an Agreement/Order, the Contractor will:

24.2.1 only process these Personal Data for the purpose of fulfilling the Order and in order to exercise legitimate business interests of itself as Controller related to the Agreement;

24.2.2 implement technical and organisational security measures which, taking into account the state of the art and the costs of implementing those measures, provide a level of protection appropriate to the sensitivity of the Personal Data and the risks associated with the processing of the Personal Data; and

24.2.3 otherwise comply with the applicable data protection legislation and regulations when processing the Personal Data.

24.3 If the Contractor receives Personal Data of personnel, customers, suppliers or relations of ATHLON in its role as Processor in the course of fulfilling the Agreement/Order, the Contractor will:



- 24.3.1 only process these Personal Data in accordance with and insofar as necessary for ATHLON's written instructions;
- 24.3.2 impose a duty of secrecy on personnel that may access the Personal Data;
- 24.3.3 implement technical and organisational security measures which, taking into account the state of the art and the costs of implementing those measures, provide a level of protection appropriate to the sensitivity of the Personal Data and the risks associated with the processing of the Personal Data;
- 24.3.4 only outsource the processing of Personal Data with the prior written authorisation of ATHLON;
- 24.3.5 not transfer Personal Data outside the European Economic Area;
- 24.3.6 enable ATHLON to meet and assist it with (i) its obligations in connection with the rights of individuals, including, but not confined to, the right of access, the right to rectification, the right to erasure and the right to data portability and (ii) its obligations in connection with the carrying out of data protection impact assessments;
- 24.3.7 inform ATHLON without delay and in any event within 24 hours of becoming aware thereof of a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to Personal Data;
- 24.3.8 on ATHLON's written instruction, erase or return all Personal Data on termination of the Agreement/Order;
- 24.3.9 provide ATHLON with all the information necessary to demonstrate compliance with this article 24.3, including cooperation in audits and inspections, unless such cooperation would breach applicable European data protection laws and regulations;
- 24.3.10 enter into a separate data processing agreement with ATHLON in respect of the data processing activities undertaken by the Contractor on behalf of ATHLON on first demand in writing by ATHLON and in conformity with ATHLON's reasonable model data processing agreement.