

Responsible representation agreement under global number

Between,

Principal

The following information must be filled in by the Principal / general representative

_____ (name and legal form), whose registered office is situated at _____.

Entered in the _____,

Register of Companies under number _____,

VAT number _____

Represented by _____ of the on part.

hereinafter referred to as “the Principal”

And,

Customs representative/ Responsible representative

Any of the Belgian entities affiliated to Customs Support Group B.V. (KvK 24294906), including but not limited to [1] :

- **Customs Support Belgium BVBA (0834.398.750)**
Laar 179, 2180 Ekeren
- **Machtelynck Th. Et Fils NV (TMF) (0400.095.702)**
Afrikalaan 287, 9000 Gent
- **ECA NV (0466.862.186)**
Laar 179, 2180 Ekeren
- **Douaneagentschap Vandevyver (0476.434.306)**
Kuhlmannlaan 1, 9042 Gent

Hereinafter jointly and severally referred to as “the Responsible Representative”

[1] The list of Customs Support Group B.V. affiliated entities can be downloaded from the website:
<https://www.customssupport.com/downloads/>

The parties declare to have agreed as follows:

Article 1. Definition

Principal:

Any natural person or body corporate that will do only such acts as are specified in section 2, §1 of Royal Decree No. 31 of 2 April 2002 issued to implement the Belgian Value Added Tax Code, on Belgian territory, as specified in section 299 of the consolidated version of the Treaty establishing the European Economic Community [2], and whereby the Principal orders the Responsible Representative to represent him, in accordance with section 55 §3 of the Belgian Value Added Tax Code and Royal Decree No. 31 of 2 April 2002 issued to implement such Code.

The Principal confirms not to have already been identified in Belgium under an individual number (direct identification or identification with recognition of a Responsible Representative in accordance with section 55 §§ 1 and 2 of the VAT Code.

Responsible Representative:

any natural person or body corporate representing the Principal in accordance with section 55 paragraph 3,2° of the Belgian Value Added Tax Code and section 2 of Royal Decree No 31 of 2 April 2002 issued to implement such Code. The Responsible Representative hereby confirms to be competent to enter into Agreements, to be domiciled in Belgium and to be sufficiently solvent to fulfil the obligations imposed on tax subjects by the Belgian Value Added Tax Code or the implementation decrees concerned. The Principal confirms not to have already been identified in Belgium under an individual number (direct identification or identification with recognition of a Responsible Representative in accordance with section 55 §§ 1 and 2 of the VAT Code.

Article 2. Responsible Representative's Obligations

The Responsible Representative undertakes to perform his assignments in accordance with the provisions of Belgian Value Added Tax Code; the Circular 2020/C/50 on the VAT system of B2B intra-Community trade in goods dated 2.4.2020 and the Royal Decree no. 52 dated 11.12.2019. The Representative has to act in good faith.

In accordance with section 2, § 3 Royal Decree No 31 of 2 April 2002, the Responsible Representative is subrogated to all the Principal's rights granted to the Principal or to all obligations imposed on the Principal by or in pursuance but the Belgian Value Added Tax Code.

With due observance of the other provisions of this agreement and the applicable conditions, the Responsible Representative will fulfil all obligations related to keeping the books, drawing up and submitting declarations and listings, issuing and drawing up invoices and documents and paying the owed value added tax on the grounds of the submitted declarations and prove the VAT exemption as the case may be.

The representative must have included the intra-community deliveries performed by his principal, within the accounting, the regular VAT return and the intra-community submission of global VAT IDs. For each and every delivery executed for the client, the representative must be able to present an excerpt of the VIES system, which proves the VAT ID of the contracting party of the principal (or - if goods are transferred - the principal's VAT ID) under which the intra-community purchase in a member state other than Belgium is realized, was valid at the time of delivery (or - if extended - at the time of import subject to the application of tariff regulation no. 42, immediately preceding suchlike intra-community delivery). In exceptional cases, the VAT ID's validity may be otherwise verified retroactively by the representative.

The Responsible Representative represents the Principal with regard to such authorities as are competent to pursue the application of the Belgian Value Added Tax Code and the implementation decrees concerned

Article 3. Principal's Obligations

The Principal undertakes to order only the person mentioned in article 1 of this Agreement as his Responsible Representative to represent him in accordance with section 55 § 3 of the Belgian Value Added Tax Code and Royal Decree No 31 of 2 April 2002 issued to implement such Code. The Principal undertakes to limit himself to doing the following acts whereof a limitative enumeration hereinafter appears, with the Responsible Representative's intervention:

- the import of such goods as are not placed under the VAT entrepot regime, insofar as such import has taken place with the view to the next delivery of the same goods;

The Principal undertakes to provide the Responsible Representative with the VAT identification number of his/her co-contractor (or his/hers in the event of transfer), awarded in the member state of destination to the persons involved. The Principal also undertakes to deliver a copy of the sales invoice relating to the intra-Community delivery carried out by the Principal to the Responsible Representative. Finally, the Principal undertakes, both at the start and during the performance of the agreement, to deliver all documents, data and information to the Responsible Representative on time, which are needed to perform the commission and which show under which commercial relationship the transport took place.

The Principal shall be responsible for the completeness, correctness, validity, authenticity, timeliness and the proper use of the documents put at the Responsible Representative's disposal by him.

By signing this Agreement, the Principal confirms to have taken note of the fact that in accordance with section 55 § 4, paragraph 2 of the same Belgian Value Added Tax Code, the Responsible Representative is jointly and severally liable together with the Principal to pay the value added tax, interests and fines owed by the Principal, by virtue of the Belgian Value Added Tax Code and the implementation decrees concerned.

By signing this Agreement, the Principal confirms to have taken note of the fact that in accordance with section 55 § 4, paragraph 2 of the same Belgian Value Added Tax Code, the Responsible Representative is jointly and severally liable together with the Principal to pay the value added tax, interests and fines owed by the Principal, by virtue of the Belgian Value Added Tax Code and the implementation decrees concerned. The principal confirms the knowledge of the Circular 2020/C/50 regarding the VAT system of B2B intra-Community trade in goods dated 2.4.2020 ; the Royal Decree no.52 dated 11.12.2019 and article 45bis of the Implementing Regulation EU 2018/1912 dated 4.12.2018. The Circular contains the conditions for the exoneration of the joint liability for the Representative.

The Circular also provides for a referral to the two legally rebuttable presumptions based on which it is possible to prove that the goods have been sent or transported from Belgium to another member state. A first presumption provides for the submission of the destination document as specified by article 3, par 2 & 3 of the Royal Decree no. 52 dated 11.12.2019.

The second presumption provides for the submission of the documents as provided in article 45b of Implementing Regulation EU 2018/1912 dated 4.12.2018. This latter presumption makes a distinction between the situation where the shipment or the transport is carried out on behalf of the buyer and the situation where it is carried out by the seller. The documents that need to be transferred by the Client to the Responsible Representative are listed per presumption in appendix 1.

Artikel 4. Duration of the agreement / Termination of the agreement

Unless otherwise agreed, the Responsible Representative binds himself for the periods wherein acts are performed by the Principal in Belgium as set forth in article 4, paragraph 1 of this Agreement.

The Responsible Representative's assignment shall commence from the signature of this Agreement unless this Agreement is signed before he is recognised as Responsible Representative, in which case it shall commence from such recognition.

The Agreement can be terminated reciprocally subject to 3 months' notice being given, reckoning from the day after the day the registered letter was sent.

The Agreement can be terminated immediately if the Principal does not fulfil his obligations as specified in this Agreement as well as in the event of any shortcoming or infringement of any obligation set forth in the Belgian Value Added Tax Code or the implementation decrees concerned, which together with reasons of bankruptcy, apparent insolvency, delay in the payment of invoices and expired security, is accepted by the Principal as unilateral grounds of termination without notice, without prejudice to the Principal's obligation to hold the Responsible Representative unconditionally harmless also after the termination of this Agreement and to fulfil each claim made against the latter by the public authorities or third parties.

In the event of decease, withdrawal of his recognition by the public administration or in the event of a fact resulting in the Responsible Representative's incapacity, the Principal shall take care of his immediate replacement so that the Responsible Representative's removal is acceptable to the public authorities. As long as this is not done, the Principal shall abstain from any such acts as are specified in section 2 § 1 of Royal Decree No 31 of the 2 April 2002 issued to implement the Belgian Value Added Tax Code.

Article 5. Payment

Any amounts or fees charged by the Responsible Representative shall be payable cash at the registered office within eight days from the date of invoice. Any protest against the invoicing or against any services and amounts charged must have been received by the Responsible Representative in writing within 8 days from the date of invoice.

Any debt not paid on the due date shall be increased by compensatory interests at the legal interest rates increased by fixed damages equal to 10% of the debt, to cover the economic and administrative losses, without previous notice of default, without prejudice to the Responsible Representative's right to prove that the existence of higher losses.

Article 6. Liability and Indemnification

The Responsible Representative shall perform his assignment with reasonable care, dedication and perception, and he shall answer for the normal professional performance of the assignment entrusted to him. He shall act in accordance with the stipulations of Circular 2020/C/50.

The Responsible Representative shall not be supposed to examine the correctness of the information given by the Customer or the authenticity or regularity of the documents furnished by the Customer. Such information shall be accepted in good faith.

The Principal shall irrevocably and unconditionally indemnify the Responsible Representative and in such sense he shall be responsible towards the latter for inter alia:

- All and any costs, expenses, duties, taxes, levies, interests and fines whatsoever and qualified by whosoever to the extent whereof the Responsible Representative is sued by the public authorities or third parties, for which reason whatsoever, directly or indirectly claimed in connection with the work performed by order of the Principal, unless the Principal shows that such claims were directly caused by a fault for which only the Responsible Representative is responsible, and for which Responsible Representative is liable towards the Principal on the basis of the agreement and the applicable conditions.
- Any costs, expenses, duties, taxes, levies, interests and fines whatsoever and qualified by whosoever to the extent whereof the Responsible Representative is sued in such case as wherein the only liability rests on the Responsible Representative under any statutory provisions or regulations for the payment of taxes, interests, fines, duties and debts, whereby the competent authorities can invoke securities and sureties given by or on behalf of the Responsible Representative.

The Principal undertakes to pay such amounts at the Responsible Representative's first request without prejudice to the latter's right to claim such amounts back from the Responsible Representative afterwards if the claims relating to such amounts are proved at law by the Principal to have been caused only by a fault or omission for which only the Responsible Representative is responsible pursuant to this Agreement.

Article 7. Guarantee and payment of guarantee

The Principal undertakes to pay all and any amounts in principal, interests and costs for which the Responsible Representative is sued by the public authorities or third parties regardless of any dispute or defence, to him or directly to the public authorities, at the Responsible Representative's first request.

The Responsible Representative is supposed to pay such amounts to the public authorities or to the third party concerned.

Should such payment be made on account of guarantee, the Principal shall be supposed to stipulate this explicitly in writing.

The Principal undertakes to provide an abstract bank guarantee in favour of the Responsible Representative at the latter's first written request or in favour of a third party designated by the Responsible Representative, which guarantee is such as to irrevocably and unconditionally satisfy all claims in principal, interests and costs of the public authorities or third parties, they might formulate in connection with the fulfilment of any obligation under this Agreement, with regard to or against the Responsible Representative.

The Responsible Representative shall have the autonomous and sovereign right of decision to judge the opportunity of any dispute according to the extent of the guarantee and the cover in principal, interests and costs.

After the regularisation of the findings made during an inspection by the competent authorities in accordance with the Belgian Value Added Tax Code whereby the Liable Representative is released from his liability, the guarantee may be terminated or reduced with the Responsible Representative's approval. The bank guarantee shall at all times be callable at the Responsible Representative's first written Request.

The Responsible Representative may at all times ask the Principal to extend the Guarantee given. The Principal undertakes to extend such guarantee within a term of 30 days after it is called.

Article 8. Prescription

The liabilities and guarantees under this Agreement shall become prescribed between the Parties hereto after a period of 10 years reckoning from the termination thereof, but in the event of any proceedings between the Parties hereto or towards the Public Authorities or third parties they shall be suspended to 6 months after the final and binding judgment on such dispute.

Artikel 9. Jurisdiction and Administration of Justice

This Agreement shall be governed only by the laws of Belgium.

The nullity or revocation of one clause of this Agreement shall not entail the nullity or revocation of the Agreement.

All and any such disputes between the contracting parties as may arise from this Agreement shall fall within the exclusive jurisdiction of the Courts of the place of the Responsible Representative's registered office, without prejudice to the Responsible Representative's right to bring the dispute before another Court himself.

Each Party hereto acknowledges having received one original copy.

The Principal
Please sign here

The Responsible Representative
Please sign here

Date _____

Place _____

Date _____

Place _____

Appendix 1. Documents to be transferred per presumption

1. Presumption 1 (based on article 3, par 2 & 3 of Royal Decree no. 52 dated 11.12.2019)
 - 1.1 The destination documents as specified in article 4 of Royal Decree no. 52 dated 11.12.2019 which were delivered during a period of maximum three consecutive calendar months to the same customer.
 - 1.2 The invoice relating to the transport if the transport is carried out on behalf of the supplier.
2. Presumption 2 (based on article 45bis of Implementing Regulation EU 2018/1912 dated 4.12.2018)
 - 2.1 Shipment or transport on behalf of the seller 0The Client provides the following to the Responsible Representative:
 - 2.1.A. Two non-contradictory category 1 pieces of documentary evidence, i.e.:
 - A signed CMR waybill
 - A bill of lading
 - An invoice for the air cargo transport of the goods
 - An invoice of the carrier of the goods

OR

- 2.1.B One non-contradictory category 1 piece of documentary evidence (see supra), together with one non-contradictory category 2 piece of documentary evidence, i.e.
 - An insurance document for the shipment or the transport of the goods or bank documents which support the payment of the shipment or the transport
 - The official documents issued by a public body, such as a notary public, in which the arrival of the goods in the member state of destination is confirmed;
 - A warehouse keeper's receipt issued in the member state of destination confirming the storage of the goods in the member state.

2.2 Shipment or transport is carried out on behalf of the buyer. The Client provides the following to the Responsible Representative:

2.2.A. a written statement of the buyer in which he confirms that he sent or transported the goods on his behalf, and which specifies the member state of destination. The data that need to be specified in the written statement have been listed in article 45bis 1 b) of the Implementing Regulation.

AND

2.2.B. At least two documents as referred to in 2.1. or one document as referred to in 2.1A together with one document as referred to in 2.1.B.

Appendix 2. Belgian Freight Forwarding Conditions – Standard Trading Conditions