

GENERAL TERMS AND CONDITIONS FOR THE USE OF THE PUBLIC APPLICATION OF THE INSOLVENCY REGISTER – February 2021

1. **Definitions and purpose**

1.1 For the purposes of these General Terms and Conditions, the terms below have the following meanings:

- the "Law": Book XX "Insolvency of Enterprises", in the Economic Law Code, including all additional legislation and implementing decrees, as well as the conditions and modalities of collection within the context of the Central Register of Solvency;
- the 'Register': the computerised database referred to as 'Central Register of Solvency' or 'RegSol', as defined by the Law;
- the "Administrator": the administrator of the Register, i.e. l'Ordre des barreaux francophones et germanophone and the Orde van Vlaamse Balies;
- the "Users": the magistrates, including members of the public prosecutor's office, registrars, support staff, examining magistrates and delegated judges, insolvency officers, debtors in bankruptcy and third parties referred to in the Law;
- the "Account Administrator": the person appointed by the account as responsible for the management, within his organisation, of the access to the public area by his appointees, in the broadest sense of the word.
- the "Parties": the Administrator on the one hand and each User on the other hand.

1.2 The purpose of these Rules is to determine the terms of use of the Register by the Users and to establish the agreement that arises - and results - from the use of the Register between the Parties.

1.3 By visiting the Register, the User agrees to these General Terms and Conditions and accepts them without reservation.

2. **Description of the Register**

2.1 The Register enables the Users, among other things, to:

- Consult the documents provided for by the Law and its implementing decrees, relating to an insolvency file, electronically and online;
- File, sign or, as the case may be, exchange, electronically and online, proceedings, including judgments, petitions, orders and records relating to an insolvency file;

More generally, the Register contains all data and documents relating to insolvency files, i.e. all outstanding bankruptcies and judicial reorganisation proceedings opened after 01 May 2018, to the extent that they have not been closed. The Register is the authentic source for all deeds and particulars contained therein.

2.2. The Register operates and is managed by the Administrator according to the principles of continuity, changeability and equality of public services.

2.3. The Register is normally accessible to the Users at the Internet address www.regsol.be, according to the conditions described in article 3. The Administrator may make the Register accessible via other addresses according to the needs of the service.

2.4. Two separate parts of the Register are accessible depending on the capacity of the Users:

- a public part for debtors, creditors and third parties providing legal assistance on a professional basis, and third parties/interested parties, in so far as they have obtained authorisation in accordance with the applicable legal provisions;
- a private section for magistrates, registrars, public prosecutors, support staff, insolvency officers, examining magistrates and delegated judges, acting within the context of their statutory duties.

3. Provisions on access to the Register

3.1 The Register is only accessible to Users who have computer equipment and an adequate internet connection.

3.2 The equipment and material resources as well as the necessary connections to access the Register are the sole responsibility of the Users.

3.3 The Register can be accessed by creating a personal account specific to each User. For this purpose, each User must have at least one means of authentication supported by the Register, as indicated on the Register's website. If the User provides an e-mail address when creating the account, the User must ensure that this e-mail address is and remains effectively accessible to him or her for the entire period in which the User uses the Register, and that the User consults the e-mail address on a regular basis, as required for the careful management of the insolvency file. The User will change the e-mail address when necessary to enable continuous and efficient communication. The User accepts the legal validity of correspondence by e-mail, and must take all necessary steps to ensure that e-mails from the Administrator and/or the Register are not blocked or filtered.

3.4 Insofar as an Account-administrator has been appointed for access to several files by several of his appointees, he manages his own access and that of his appointees under his own exclusive responsibility. The Administrator does not guarantee the correct addition or removal of users within an account. The Administrator declines all responsibility in case of misuse of accounts by the appointees and/or the Account-administrator, without prejudice to the Administrator's possibility to recover the costs and damage caused as a result of the misuse at the Account-administrator's expense.

- 3.5 The Users are solely responsible for the security of their means of authentication, including but not limited to the choice of an e-mail address, PIN code, password and/or smart card, and for ensuring their confidentiality and accessibility. The Administrator will be entitled to attribute any use of the Users' account to the Users personally and/or to the company or organisation they indicate to represent. The Administrator disclaims all responsibility in case of Register malfunction or misuse of accounts resulting from incorrect information provided by the Users when creating their personal account, or from any mismanagement by the Users of their account, in particular but not limited to the sharing of e-mail addresses or passwords with third parties, the use of an account in the name and on behalf of a company or organisation after the User(s) no longer have power of representation, negligence in the transfer of specific files when a User is no longer entitled to manage it personally, or to choose a trivial or easily guessed password, or a password already used on other websites.
- 3.6. The Administrator shall use IT techniques that provide an appropriate level of security in relation to the Register, and in particular:
- ensure the origin of the access by means of appropriate security techniques;
 - ensure the confidentiality of access;
 - allow the User to be unambiguously identified and authenticated and the time of access to be unambiguously determined;
 - register a proof of access or log in the Register;
 - register or log the following data in the Register: the User's identity, the date and time of access; the bankruptcy file in that is accessed, the case number and the court before which the case is pending; the modalities of access with the type of action; and
 - report system failures and record the times at which system failures prevent access and systematically make these periods available to interested parties.
- 3.7. The Users accept that these measures are appropriate, and will in turn take appropriate measures to ensure the security and confidentiality of the systems they use to access the Register, including by installing the necessary updates, using virus scanners, firewalls and other security software, and ensuring the confidentiality and accessibility of their account. If a User suspects that an unauthorised person has obtained his/her access data to his/her personal account or data accessible as a result thereof, he/she will notify the Administrator as soon as possible.
The Users accept the use of cookies by the Register to personalise the user interface.

4. Data retention period

4.1. The registered data added by the User to the Register will be kept by the Administrator for thirty (30) years from the date of (the judgment of) the closure of the insolvency file, unless otherwise provided by law. At the end of this period, the data will be transferred to the State Archives and removed from the Register.

5. Financial conditions

- 5.1 In the cases determined by the King and in the manner prescribed by him, the use of the Register leads to the collection of a fee by the Administrator.
- 5.2 On 1 January each year, the amount of the fees is automatically adjusted to the evolution of the consumer price index according to the following formula: the new amount is equal to the basic amount multiplied by the new index and divided by the starting index. The starting index shall be that of the month of December of the year during which the amount of the fee is determined. The new index shall be that for December of the year preceding the first of January of the year in which the adjustment is made.
- 5.3 The collection of the fees by the Administrator takes place via electronic debit notes. The Users accept that these electronic debit notes may be transmitted by e-mail, and accept them as original, without further transmission of a paper version.
- 5.4 Without prejudice to any form of immediate and prior payment of the fees as required by the Administrator, all debit notes are payable within fifteen (15) calendar days from the date of dispatch by the Administrator. Any unpaid amounts on the due date will be increased ipso jure and without prior notice - and the User will be liable for this - by daily interest on arrears calculated on the basis of the legal interest plus 4%, as well as a fixed fee of €50 to compensate for the administrative costs of the payment reminders. In the event of legal collection, the Administrator may in any case claim the legal procedure expenses even if he has to give up the aforementioned fee for this.

6. Guarantees

- 6.1 The Administrator endeavours to ensure the proper operation of the Register to the best of his ability.
- 6.2 To the extent permitted by the applicable legislation, the Administrator does not guarantee an uninterrupted operation of the Register or error-free user experience. The Administrator does not guarantee any verification of the accuracy of the data that third parties (including Users) enter in the Register. Users are responsible for the correctness and the updating of the data they enter in the Register and will inform the Administrator without delay if they discover the existence of objectively incorrect data in the Register.
- 6.3 Users undertake not to enter into the Register any data that are inaccurate, untrue or misleading, or that contain viruses, bugs or any other flaws, as well as files that

may affect the Register, including by accessing files or acting with regard to files any way to which they are not entitled according to the Law.

- 6.4 The Administrator takes care of additional developments, beyond the requirements imposed by the Law. The development of such functionalities can only be considered by the User as a means of managing his files more efficiently, without the Administrator committing himself to a specific and permanent result. The Administrator reserves the right to shut down these functionalities if he is unable to continue to guarantee their correct operation. In this respect, the Administrator undertakes to inform the User in a timely and adequate manner.
- 6.5 Users are responsible for the correctness and updating of the data they enter in the Register.

7. Responsibility and liability

- 7.1 To the extent permitted by the applicable legislation and with the exception of fraud, the Administrator disclaims any liability - and the User indemnifies him
- For any indirect damages, including but not limited to, loss of profit, loss of income, savings, loss of opportunity for profit or to avoid loss, loss of business, clients and data as well as claims of third parties as a result of any malfunction of the Register, even hidden, and of any fault, even gross negligence, attributable to the Administrator as well as for any general costs related to the use of the Register by the Users, as well as for any liability for direct damages, i.e. other than those described above, if this liability were to exceed €1,500. The Administrator will be liable to pay damages and interest, where applicable, but only for this amount.
- 7.2 The Administrator does not check the content of the Register and is not liable for the data uploaded or entered into the Register by the Users. The Users are solely responsible for the accuracy of the data and files entered in the Register, on pain of prosecution for forgery.
- 7.3 Despite all the measures adopted to guarantee the efficient operation of the Register, the Administrator shall not be liable for the malfunctions of the Register that originate from the maintenance of the Register, nor for disruptions of electrical charges or of the connection between the servers on which the Register is managed and the computer equipment of the Users. The Administrator may also not be held liable for any malfunction, incorrect setting or failure in the configuration of the Users' IT systems.

8. Malfunctions

- 8.1 In the event of malfunctions in the Register, the access rights to the Register in the context of the Law may be exercised in the form of non-electronic access, notifications, deposits and declarations to the addressee designated by the Law.

- 8.2 As soon as the malfunction of the Register has ended, the User, if applicable in collaboration with the Administrator, shall update the Register whereby the actions performed during the period of malfunction are recorded with the date of the action.
- 8.3 In case the Register malfunctions, the User who requested access will be informed by the Administrator (if applicable, by a message on the login screen).
- 8.4 The electronically logged registration by the Administrator of the general and specific operation of the Register, including its defects, shall serve as evidence between the Parties, including with regard to the registration of the data and their content.

9. Intellectual property

- 9.1 The Users are and remain the holders of, if applicable, all the information and data they place in the Register, for which they are also responsible.
- 9.2 The Administrator is and remains the owner of the intellectual property rights on all hardware, software and documentation made available to the Users in connection with the use of the Register.
- 9.3 These General Terms and Conditions do not grant the Users any intellectual property rights on the Register, its components or the data and information that were not entered in the Register by them, and their temporary availability cannot be considered as any transfer of intellectual property rights for the benefit of the Users.
- 9.4 The Administrator only grants a non-exclusive, personal and non-transferable right to use the Register temporarily, limited to what is necessary for access to, and use of, the Register. Such right ends automatically after the termination of the use of the Register by the Users.
- 9.5 The Users undertake not to use the Register, its components or the data and information not entered into the Register by them, in a way that could constitute an infringement of the Administrator's intellectual property rights. The Users undertake not to use the Register, its components and the data and information contained therein, either live or by means of print screens, in the context of tutorials, seminars and/or lesson series, without the Administrator's express consent.

10. Data protection

- 10.1 The Administrator acts, as laid down by the Law, as controller of the personal data in the Register, and will only process the data for the purposes laid down by the Law. Users are only entitled to process data in the Register as laid down in the Law. The Users and the Administrator shall respect the confidentiality of the data contained in the Register. Article 458 of the Penal Code applies to them. The administrator refers to the privacy declaration https://www.regsol.be/Downloads/Privacy_EN.pdf resumed on the site <https://www.regsol.be/>
- 10.2 The Users are responsible for protecting their personal account and for all activities

that take place under their account. If a User suspects that an unauthorised person has obtained his/her access data to his/her personal account or data accessible as a result thereof, he/she will notify the Administrator as soon as possible.

- 10.3 Without prejudice to Article 10.1, the Administrator may make public information from insolvency proceedings and decisions, i.e. the information, publication or posting of which is provided for in the Law in any way or which is taken up in a court judgment, and the Law provides for the judgment in a public hearing, available to third parties, including in return for payment and without prejudice to the provisions on the protection of privacy.

11. Protection of Privacy

- 11.1 The Administrator complies with its obligations as data controller within the meaning of the Protection of privacy Act. Personal data will only be processed to the extent necessary to comply with the Law or other applicable legislation, and to safeguard the Administrator's legitimate interests. The Users agree that the Administrator may entrust the processing of personal data to third parties, provided that the Administrator ensures compliance with the applicable regulations and with these Rules.

- 11.2 If Users choose to make use of electronic payments, their personal data will additionally be processed by a third party, under the conditions and for the purposes that this third party, as controller, will be made known to the Users.

- 11.3 Each time a debt, data or a document is loaded in the Register, a message containing at least the following information is proposed to the User:

- a statement that the debt, the data or the document will be kept in the Register;
- a statement that the following persons have access to the registered data solely for the purposes of proof by or by virtue of the Law, each in respect of the following: the magistrates, registrars, the public prosecutor, support staff, liquidators, examining magistrates, bankrupt entities, creditors, third parties providing professional legal assistance, the administrator and the person appointed for data protection in the performance of his duties;
- The statement that the registered data will be kept for thirty years from the ruling of the closure of the bankruptcy and transfer to the State Archives after expiry of that period;
- The statement that the Orde van Vlaamse Balies and the Ordre des barreaux francophones et germanophone are responsible for the processing of the personal data as referred to in the Belgian protection of privacy Act of 8 December 1992 with regard to the processing of personal data; and
- a statement that, in accordance with the legislation on the protection of privacy with regard to the processing of personal data, the individuals concerned have the right to access the registered data.

12. Changes to the Register

The Administrator may at any time be required to adapt the Register in accordance with legal or regulatory evolutions.

13. Final provisions

These Rules are governed exclusively by Belgian law.

In the event of a dispute or litigation relating to these Rules or the legal relations between the Parties in relation to the Register, the Commercial Tribunals and the Courts of Brussels in their jurisdiction shall have exclusive jurisdiction to take cognisance thereof.

The Administrator may amend these Rules from time to time; the amended version shall enter into force and bind the Parties, including their existing agreements, 10 days after the publication of the amendment on the website of the Register, unless a shorter period is laid down by the Law.

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