

DRAFT FOR DISCUSSION PURPOSES ONLY

## LETTER OF INTENT

Purchaser

attn. [\_\_\_\_\_]

[\_\_\_\_\_]

[\_\_\_\_\_]

[\_\_\_\_\_]

[\_\_Date\_\_]

Dear Sirs,

Further to the discussions regarding the possible purchase and transfer of shares of [\_\_\_\_\_] B.V., established at [\_\_\_\_\_] , The Netherlands (hereinafter: "B.V."), and all rights of [\_\_\_\_\_] (hereinafter: "[\_\_\_\_\_]") but strictly limited to the activities in the Netherlands (hereinafter: "Target"), we inform you as follows.

The Parties discussed the possibility of [\_\_\_\_\_] B.V. (hereinafter: "Purchaser") acquiring the Target. The purpose of this letter of intent is to lay down and confirm the results of the abovementioned discussions, with due observance of the signed declaration dated [\_\_\_\_\_] , our intention to continue the negotiations on the possible acquisition referred to above, and to commit both of us to the next steps in the acquisition process.

The Parties wish to confirm the results of their discussions hereof. In part A, numbers 1 up to and including 11, we have set forth the main principles and conditions with respect to this possible acquisition. In part B numbers 12 up to and including 16 a description is set forth of arrangements which are legally enforceable rights and obligations.

### A. PRINCIPLES AND CONDITIONS

#### 1. Purchase Price

The purchase price at the amount of [\_\_\_\_\_] ([\_\_\_\_\_] )

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of the full and unencumbered ownership in the share capital of the B.V. and all unencumbered rights, rights and obligations pertaining thereto, and all business activities strictly limited to the territory of the Netherlands hereinafter referred to, is based upon:

- our offer as contained in our letter to you dated [\_\_\_\_\_] and the conditions contained therein;
- among which the condition that the shareholder's equity amounts at least to [\_\_\_\_\_] and that the figures on which the shareholder's equity are based, are derived from accounts that have been drawn in a way consistent with the annual accounts of the Target in the years [\_\_\_\_\_];
- [\_\_\_\_\_].

The Parties will fully cooperate in order to perform all actions necessary for the aforementioned purchase of the Target and its business. The Business will be transferred to Purchaser, as a 'going concern'.

It is presumed that all information made available by you on behalf of you is correct and complete. Purchaser is relying on the accuracy and completeness of all information supplied to us by you or on behalf of you.

After completion of the due diligence investigation on [\_\_\_\_\_], we shall make a final offer in writing ("Final Offer") for the purchase of the Target not later then [\_\_\_\_\_] at 12:00 a.m. The purchase price shall be based on the conditions as set forth in our letter to you of [\_\_\_\_\_] and subject to the results of the due diligence investigation as described in number 12 of this letter of intent. In case the due diligence investigation investigation results in different facts, information and or circumstances regarding the subject matter hereof than the facts and/ or assumptions we based our offer on and which according to us might influence the value of Target's business, we will be entitled, at our discretion, to start negotiations in order to adjust the purchase price or end the negotiations. Such facts, information and/or circumstances will in any case comprise of, without being restricted to: the existence of disproportionate or excessive debts, debts not made known to us, securities, obligations, encumbrances and liens, and/or claims of third parties, including the tax authorities or industrial association for social insurance, and the tax consequences

arising from the 16th standard terms and conditions (regarding a fiscal unity).

## **2 Payment of Purchase Price**

If the Parties will come to a final transfer agreement, the terms and conditions of the payment of the purchase price will be laid down in this agreement by the Parties, provided that the purchase price agreed upon will be paid on the date of transfer of the Target.

## **3 Agreement / Representations and Warranties**

Upon receipt of the Final Offer and under the terms and conditions as described in this letter of intent you and us have to discuss the text of the transfer-agreement including the representations and warranties normally required by Purchaser with regard to this kind of transaction. All drafts and the final version of the agreement and all documentation related thereto will be drafted by our advisors/ consultants.

The representations and warranties will in any case be made in respect of all relevant aspects of the Target, such as but not restricted to:

- the legal status of the Target;
- full disclosure and correctness of the annual reports and other financial information which have been drawn up in conformity with a permanent course of conduct;
- taxes, social premiums, pension plans, employees and labour conditions;
- lack of extra ordinary transactions, debts and the like outside the ordinary course of business;
- your good and marketable title to the assets;
- compliance with environment laws/ regulations;
- disputes submitted or to be submitted;
- permits, exemptions necessary regarding the Target's business;
- compliance with Working Conditions Act.

At the moment of transfer of the shares and limited partnership, or signature of the agreement, you will offer us sufficient security under the form of a bank guarantee or reservation of the purchase price to be paid upon a special blocked account (escrow)

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regarding the full and correct fulfilment of the representations and warranties to be rendered.

### **4 Closing date**

In case the abovementioned agreement will be concluded between you and us, the Parties will use their best endeavours to transfer the Target and consummate this transaction as soon as possible after closing and signing of the agreement. If the Parties come to an agreement, the transfer of the shares and limited partnership of the Target will be considered to be executed as of [\_\_\_\_\_] or any date thereafter agreed upon by the Parties.

### **5 Conditions subsequent**

The agreement referred to above will be entered into, subject to the non-fulfilment of the condition subsequent mentioned below, in which case all which has already been agreed upon will be dissolved:

- if necessary, the approval required of the competent competition authorities in The Netherlands and/or the relevant European Countries and or the European Committee is withheld.

The agreement referred to above will be entered into under the suspensive condition:

- that the Works Council of the Target and the relevant Labour Union does not advice affirmatively under the Dutch Works Council Act.

The Parties will undertake that the procedures based on the applicable national legislation of the relevant countries will be followed as soon as possible in order to obtain in due course the necessary approval.

### **6 Tradename / brand name**

At the completion of this transaction the Target shall within the framework of the business activities performed by us hold legal title to the [\_\_\_\_\_] brand and

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trade name, her logo and know-how related thereto, it being understood that the rights to the brand and trade name regarding [\_\_\_\_\_] are excluded.

**7 Real Estate**

At the completion of the transaction the Target shall have full legal and economic unencumbered title to the real estate at [\_\_\_\_\_] , at [\_\_\_\_\_] , The Netherlands. The Parties will fully cooperate in order to perform all actions necessary for the transfer of the real estate.

**8 Managers/ employees**

[managing director/ supervisory director] will at the request of Purchaser be dismissed by a shareholder's resolution as of Closing Date and will sign a non-competition declaration, wherein [he/ each of them] declares that for a period of [\_\_\_] years following the date of termination of the management agreement(s), such person will not enter into or be involved in whatever way, whether direct or indirect, a business similar to or competitive with the present or future business and/or activities of the Target's Business (production, installation, development and sale) related to internal transportation systems. Furthermore they shall keep confidential any and all information of a secret or confidential nature of the Target and its business.

And/ or

[managing director] will enter into a management agreement with us or a company belonging to the group of company's of which Purchaser B.V. forms a part (hereinafter: "Purchaser-group"), as managers of the Target's business upon the terms and conditions to be agreed upon provided that they will be available, at our request, for regular meetings of Purchaser's board of management or any other relevant manager board of a company belonging to the Purchaser-group with the purpose to maintain employees with a key position within the Target's business.

[managing director] will at the date of closing of the transfer agreement(s) sign a non-competition declaration, wherein each declares that for a period of [\_\_\_] years following the date of termination of the management agreement(s), such person will not enter

into or be involved in whatever way, whether direct or indirect, a business similar to or competitive with the present or future business and/or activities of the Target's Business (production, installation, development and sale). Furthermore they shall keep confidential any and all information of a secret or confidential nature of the Target and its business.

## **9 Profit/ dividend**

You will declare that the profit of the Target as of [\_\_\_\_\_], is for our account and represent and warrant that no distribution of dividend or reserves or otherwise will be declared or have been declared nor distributed and no other payments or amounts however mentioned have been declared, made or distributed out of the profits or reserves of the Target in whatever form as from [\_\_\_\_\_] as a consequence of which the amounts of equity as laid down under number 1 would be decreased.

## **10 Conduct of Business/ customer portfolio**

You and us (including but not limited to managing directors, supervisory directors whether or not they are to resign) shall use their best endeavours to preserve the value of the present and future customer portfolio of the Target and arrange for the continuity of the present and future agreements between customers and business acquaintances and the Target also after the Closing Date. The tangible and intangible customer portfolio and all copies thereof will be transferred by you to the Target, in as far as in your possession. You and your representatives will refrain from any conduct which is or may be detriment of the good name, standing and reputation of the Target.

## **B. RIGHTS AND OBLIGATIONS**

### **11 Disclosure and Due Diligence**

The parties hereto will agree that we will conduct a due diligence, commencing on [\_\_\_\_\_] for a period not exceeding a three weeks period, to investigate and evaluate the position of the Target's business in which will be focused on the relevant fiscal (tax position of the Target), financial (economical), environmental aspects, and

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legal aspects related to sales, employees, structure of Target, liabilities, important contracts, service and guarantees provided, purchase conditions, automation.

The due diligence will be focused on but not limited to the following issues:

- review of the feasibility of the budget [\_\_\_\_\_];
- review of the accuracy of the central costs as fixed by you at approximately [\_\_\_\_\_];
- research into the status of outstanding service notifications;
- assess the amount of the order book;
- review the turnover, margin, results and orders;
- further understanding of the personal costs per outlet and per department in the head office;
- currency and age of the trade stock;
- quality of middle management and management information;
- quality and level of automation;
- financial information with respect to the years [\_\_\_] up to and including [\_\_\_].

We and our representatives and consultants including [\_\_\_\_\_] will have access to the offices and business premises and other company accommodation of the Target in [\_\_\_\_\_], and all information necessary and pertaining to its Business, which will be reasonably requested by us and all information which you should reasonably deem of importance to us in the framework hereof, shall be handed to us, its representatives and/or its consultants by you and/ or the Target in order to conduct the investigation and evaluation among others with regard to the profitability, the continuity thereof, the completeness of the debts and order book of the Target's business. It will be permitted to us and/or our consultants to make copies of all information, which may be of importance in the framework of this investigation and the negotiations to be held.

During the due diligence we shall have the opportunity to interview [\_\_\_\_\_], managing directors, and all other upper and middle management of you and the Target. We and our representatives explicitly agree not to contact any employees or managers of the Target without your prior approval which approval shall not unreasonably be withheld.

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The due diligence shall be without prejudice to the obligation of Vendor to render effective representations and warranties to be agreed upon pertaining to all relevant aspects of the Business, which shall in any case include the warranty that the information contained in the reports of the due diligence investigation is complete and correct.

**12 Confidentiality**

You and I and our shareholders, officers, directors, advisors and agents shall maintain the confidentiality of the proposed transaction on the terms hereof and of the Confidentiality undertaking dated [\_\_\_\_\_]. Both Parties shall not issue any press release or public announcement concerning the proposed transaction or this letter. You and I and our shareholders, officers, directors, advisors and agents will at no time disclose, without each other's prior written consent, any of the contents of this letter to any person other than its employees and representatives required to effect the transaction. Unless and until the purchase of the Target is completed, any confidential information received by you or us as a result of these negotiations, concerning or relating to the Target, you and I, shall be held in confidence and shall not be disclosed except a required by law. If the transaction contemplated herein is not completed with this letter, you and/ or we shall return all data relating to the Target and/ or you and us to the other Party without retaining any copies thereof, and will continue to respect such confidence and will in no manner disclose information so obtained, except as required by law.

**13 Exclusivity and Timeschedule**

As soon as possible after signing this Letter of Intent, we will start its investigation as mentioned under 11 and the Parties will continue the negotiations pertaining to the subject matter of this letter, and the Parties strive for reaching an agreement related to the subject matter hereof as soon as possible. You declare and represent that at present you are not engaged in any such discussions or negotiations with third parties and shall refrain actively or passively, directly or indirectly form entering into discussions or negotiations with third parties pertaining to the subject matter.

In case before or at [\_\_\_\_\_] a transfer agreement shall not be concluded,

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both Parties will be free to cease the negotiations on the subject matter hereof and no other rights and obligations than those under the numbers will exist between the parties than those under number 12, 13, 14 and 15 resulting from this letter.

**14 Costs**

Each Party shall bear its own expenses, including professional fees, that in connection with the contemplated transaction are made and will be made

**15 Governing law and Venue**

This letter of intent and all rights and obligations and/or agreements resulting therefrom shall be construed in accordance with and governed by Dutch law.

Any claims, disputes, differences or questions arising out of this letter, which the parties cannot resolve amicably between themselves, shall be submitted to the exclusive jurisdiction of the competent (district) court of [\_\_\_\_\_], the Netherlands.

We trust to have correctly reflected our discussions herewith, and kindly request you to confirm this by signing and returning the enclosed copy hereof to us.

Sincerely Yours,  
Purchaser B.V.

\_\_\_\_\_  
Purchaser Nederland B.V  
By: [\_\_\_\_\_]

Agreed and accepted:

\_\_\_\_\_  
[\_\_\_\_\_]