

**GENERAL PAYMENT AND DELIVERY TERMS AND CONDITIONS OF:  
AVUTAS B.V., WITH ITS REGISTERED OFFICE AND BUSINESS ADDRESS IN NIEUWPOORT  
PART I GENERAL TERMS AND CONDITIONS**

**Article 1 Definitions**

In these General Terms and Conditions, the following definitions apply:

Supplier and/or Lessor : AVUTAS B.V., with its registered office and business address in Nieuwpoort, user of these General Terms and Conditions.

Client and/or Lessee: the company or professional organization which gives an order to the Supplier and/or Lessor for the purchase or renting of certain Products.

Products: all goods and services which have been or will be included by the Supplier in its product range for selling or renting out.

**Article 2 Applicability of these General Terms and Conditions**

2.1 These General Terms and Conditions apply to each proposal or offer and any Agreement between the Supplier/Lessor and the Client/Lessee, unless the parties have explicitly varied from these General Terms and Conditions in writing, or if provisions of a chapter of Part II (Rental Conditions) are applicable. These General Terms and Conditions also apply in all phases preceding the start of an Agreement and to services and activities which were performed by the Supplier prior to entering into the Agreement.

2.2 The Supplier reserves the right to add to and/or amend these General Terms and Conditions at all times.

2.3 Merely by placing an order and/or taking delivery of the goods, the other party accepts these General Terms and Conditions and is deemed to have agreed tacitly to the exclusive applicability of these General Terms and Conditions for every possible further order given by this party in person, by telephone, telegraph, fax, telex, or in any other manner, irrespective of a written confirmation.

2.4 The Supplier is not bound by the general terms and conditions as declared applicable by the Client, unless the Supplier has accepted those general terms and conditions explicitly and in writing. In the event that the Client declares its own general terms and conditions to be applicable in general to its orders and/or agreements, the General Terms and Conditions of the Supplier shall prevail, unless agreed otherwise by means of an arrangement confirmed in writing.

2.5 If one or more provisions of these General Terms and Conditions are null and void or are declared void, the other provisions of these General Terms and Conditions will remain fully in effect. Instead of the provisions which are void or have been declared void, provisions shall apply which approach the purpose and meaning of the original provisions as closely as possible.

2.6 Trade terms which are used in offers, order confirmations or otherwise, shall be interpreted in accordance with the International Rules for the Interpretation of Trade Terms (ICC Incoterms) as determined by the International Chamber of Commerce and valid at the time of entering into the Agreement.

**Article 3 Proposals and offers**

3.1 All proposals and offers of the Supplier are without engagement, unless explicitly stipulated otherwise in writing in the proposal or offer concerned.

3.2 Documents submitted by the Supplier to the Client are not binding on the Supplier.

3.3 The Supplier is not bound by deviations in the acceptance by the Client of the proposal/offer of the Supplier.

3.4 Promises and arrangements made orally by or with employees of the Supplier are not binding on the Supplier until after, and insofar as, they have been confirmed explicitly by the Supplier.

3.5 The Lessee carries the risk for a correct performance of the orders placed in person, by telephone or telegraph.

3.6 The Supplier has the right to have a credit rating regarding the client performed, on the basis of which the Supplier will be entitled to withdraw an offer already made.

3.7 If the Supplier has incurred costs for the purpose of making an offer, the Supplier is entitled to charge these to the Client if the Supplier has announced this in advance to the Client in writing.

3.8 In the event of a combined proposal/offer for multiple services, the Supplier is not obliged to perform part of the services against a corresponding part of the price given if the other part is rejected.

3.9 The agreement will come into effect by and at the time of sending an order confirmation or acceptance of a proposal/offer by the Client, or the written confirmation by the Supplier of an order, or by the actual commencing of the work and/or services by the Supplier.

3.10 If the correctness of this written order confirmation has not been contested within 8 days of the date as noted on the confirmation, it is binding upon the parties. This equally applies to coming into effect of additions, changes and/or further arrangements.

**Article 4 The Agreement and the performance thereof**

4.1 The obligation of the Supplier is a best efforts obligation, whereby the Supplier will adhere to the specific standards of expertise.

4.2 The Supplier is entitled at all times, both before Products are delivered as well as when the delivery of Products is continued, to request security or advance payment from the Client for the purpose of timely fulfilment of its obligations. If this advance payment is not made or the security is not provided in accordance with the Supplier's reasonable request, the Supplier is entitled to dissolve the agreement by means of a single written statement without court intervention, and without prejudice to the Supplier's right to compensation if grounds thereto exist, while the Client will not be entitled to exercise any claim for damages.

4.3 Additionally, the Supplier is entitled to suspend the delivery of Products if and for as long as the Client has not complied, not fully complied, not properly complied or has not complied in time with any obligation arising from the agreement towards the Supplier. In the event that the Client, despite having been warned by the Supplier in this respect, fails to remedy its failure to comply with the agreement immediately, the Supplier is entitled to dissolve the Agreement with immediate effect by means of a private letter, while not being obliged to compensate any damage on the part of the Client.

4.4 All additions, amendments or further arrangements in the agreement will only be valid if these have been agreed upon in writing.

4.5 The goods shall be sold and delivered with due observance of the usual tolerance of proportions, quantities and weights, unless explicitly agreed otherwise.

4.6 The Supplier is not liable for errors of any kind whatsoever in pictures, measurements, weight, quality, prices and/or official lists.

4.7 The Client can only cancel an agreement already entered into with the prior written consent of the Supplier. If the Supplier agrees to the cancellation, the Client owes the Supplier a compensation of at least 25% of what the Client would have had to pay to the Supplier upon execution of the agreement, without prejudice to the right of the Supplier to full compensation of costs and damage.

**Article 5 Delivery / delivery dates**

5.1 Delivery shall take place in accordance with that which has been agreed upon in writing. Further provisions as regards place and manner of delivery shall be determined in the agreement. Unless agreed otherwise, loading upon delivery and unloading upon return are at the risk of the

Supplier, while transport to and from the delivery location, including loading and unloading on this location, shall be at the expense and risk of the Client.

5.2 If, upon expiry of the rental agreement, the Supplier requests that the rental material is delivered to a different location than originally agreed, the Client is obliged to comply. In that event, the Supplier shall compensate the Client for the costs of this transport insofar as these exceed the costs which would have been incurred upon transport to the originally agreed location.

5.3 If any transport of the Products is taken care of or arranged by the Supplier at the instruction of the Client, the Supplier will not be liable in any way whatsoever to the Client for errors and/or damage caused by the Supplier or the carrier engaged by the Supplier.

5.4 The Client undertakes to ensure that any necessary permits are obtained from the competent authorities if the Products need to be transported along public roads.

5.5 The delivery dates stated are approximate and are subject to unforeseen circumstances. Unless stated and/or agreed otherwise, the Supplier does not undertake any obligation as regards the delivery date, and overdue delivery due to whatever cause does not entitle the Client to damages or dissolution of the agreement.

5.6 If delivery cannot take place at the agreed time or within the agreed term, the Supplier is entitled to make partial deliveries and to apply a subsequent delivery term of three months. This term will commence on the day of receipt of the written notice of default of the Client, but no sooner than the day following the expiry of the agreed delivery date.

5.7 The Supplier is entitled to make partial deliveries, which can be invoiced separately. In that event, the Client is obliged to pay in accordance with the provisions of Article 11 of these General Terms and Conditions.

Article

## **6 Manner and place of delivery; obligation to collect**

6.1 If the goods, irrespective of the agreed manner of transportation, are available for collection by the Client and the Supplier informs the Client of this, the Client is obliged to collect these immediately. Failure to fulfil this obligation entitles the Supplier to either store the goods and keep them stored at the risk and expense of the Client and to charge the Client for this, while payment cannot be refused on the basis of the fact that collection has not taken place yet, or to dissolve the agreement without court intervention, and without prejudice to the right of the Supplier to compensation of damage and costs.

6.2 If the agreement is dissolved due to not taking possession of Products, damage is also deemed to include the loss of profit incurred by the Supplier.

6.3 The Client is obliged to unload as fast as possible at the agreed delivery location, which unloading takes place at the risk and expense of the Client. Upon failure to comply with this obligation, the provisions of paragraph 1 apply equally.

## **Article 7 Complaints and warranties**

7.1 The Products must be inspected by the Client for visible defects upon delivery.

7.2 Complaints regarding visible defects will only be accepted by the Supplier if these are submitted to the Supplier directly and in writing within 2 (two) working days after discovery, but within one month at most after receipt of the Products or after the Products have been made available. Complaints with regard to other defects can only be submitted to the Supplier directly in writing, stating reasons, and will be accepted by the Supplier only if these are received by the Supplier within 8 (eight) working days after discovery or the availability of the Products, but at most within one year after delivery. Having made a complaint with regard to a defect in the Products delivered, the Products must be kept ready for inspection by the Supplier for a period of at least 10 working days. During this period, the Products may not be used.

7.3 By submitting a complaint, the payment obligation of the Client with regard to the items in dispute is not suspended. Any legal claims must be instituted, at the risk of forfeiting these, within at most one year after timely submitting a complaint.

7.4 Quality requirements or quality standards of goods to be delivered by the Supplier must have been agreed upon explicitly. Small or, within the sector, usual or technically unavoidable deviations and differences in quality, colour, size or degree of finish do not constitute grounds for submitting a complaint.

7.5 The warranty obligation of the Supplier shall not reach beyond the quality stipulations and standards expressly agreed upon. The warranty period for goods delivered is one year from the delivery date.

7.6 After processing and/or onward supply of Products by or by way of the Client, submitting complaints is no longer possible.

7.7 Complaints about invoices must be submitted in writing and directly to the Supplier within 8 (eight) working days after the invoice date.

7.8 After expiry of the terms mentioned, the Client is deemed to have accepted the delivered goods or the invoice irrevocably and unconditionally. From that time on, complaints will no longer be accepted by the Supplier.

7.9 If the Supplier deems the complaint justified, the Supplier will make replacement Products available within a reasonable period of time against return of the Products already received, or will credit the Client wholly or partially as regards the Products concerned, such at the discretion of the Supplier, while this will not entitle the Client to additionally exercise any rights to any kind of compensation whatsoever.

7.10 Submitting a complaint does not release the Client from its payment obligations towards the Supplier.

7.11 The warranty, if any, of the Supplier shall not apply if:

- (a) And as long as the Client is in default towards the Supplier;
- (b) The goods have been exposed to abnormal circumstances or have been treated in a negligent or incompetent manner;
- (c) The goods have been stored longer than usual and this has most likely caused a loss of quality;
- (d) The Supplier has not been given the opportunity to inspect a defect within ten days after its discovery.

7.12

The Supplier does not guarantee or can never be considered to have guaranteed that the Products are suitable for the purpose for which the Client wishes to treat or process these, to use these or to have these used. Samples are provided by way of indication only.

## **Article 8 Inspection**

8.1 The weight and quality specifications as supplied by or on behalf of the Supplier are binding on the Client as regards the quantity and quality of the Products delivered, unless the Client proves that the specifications as stated by or on behalf of the Supplier are incorrect.

8.2 The Client is entitled at all times to be present at the time of determining the quantity and quality of the Products, or to arrange to be represented at that occasion. If the Client wishes to exercise this right, the Client will notify the Supplier of this within at most 3 (three) days after order confirmation, so that the Supplier may inform the Client in time.

## **Article 9 Retention of title**

9.1 All goods delivered shall remain the exclusive property of the Supplier until the time when the Client has complied with all obligations arising from or connected to agreements whereby the Supplier has undertaken to supply, including debts regarding penalties, interest and costs. Until that time, the Client is obliged to store the goods delivered by the Supplier separate from other goods and clearly marked as being property of the Supplier, as well as to insure these goods correctly and keep them insured.

9.2 As long as the abovementioned obligations have not been complied with, the Client is not entitled to dispose of the goods concerned or to establish a right of pledge or non possessory pledge on the goods concerned.

9.3 At the time when the Client has complied with all its obligations towards the Supplier as referred to in paragraph 1 of this Article, the Supplier shall transfer the ownership of the goods delivered to the Client, subject to establishment of a right of pledge for the benefit of the Supplier at first request of the Supplier with regard to other claims of the Supplier against the Client. The Client shall cooperate at first request of the Supplier in actions required in that respect.

9.4 If the Supplier, pursuant to paragraph 1, claims back as its property the goods subject to retention of title and thereto takes back these goods or delivers these by means of *traditio longa manu* to a third party, the claim of the Supplier against the Client regarding these goods up to the total amount due and payable by the Client to the Supplier, will be reduced with the market value of the goods at the time these are taken back.

9.5 The market value is at any rate equal to the purchase price realized by the private sale or public sale of the goods taken back to third parties, all this at the discretion of the Supplier.

9.6 The Supplier will provide the Client with a credit invoice as regards the goods taken back, which the Client may set off against the outstanding claim of the Supplier.

#### **Article 10 Price/Price increase**

10.1 The prices stated by the Supplier are based on information possibly submitted at the time of the request and are exclusive of VAT.

10.2 If after the date of the agreement one or more cost price factors are increased – even if this occurs due to foreseeable circumstances – the Supplier is entitled to increase the price agreed upon accordingly, whereby the Client will not be entitled to compensation or dissolution of the agreement.

10.3 The Supplier is nevertheless entitled to alter its rates yearly at any time in accordance with the consumer price index figure (Consumer Price Index 'all households') valid at that time as determined by Statistics Netherlands (CBS); this does not entitle the Client to dissolve the Agreement.

#### **Article 11 Payment**

11.1 Payment of the invoice amount shall take place either, at the discretion of the Supplier, in cash upon delivery or by means of transfer into a bank account to be indicated by the Supplier, within 30 (thirty) days of the invoice date, without any right to discount or setoff, unless stated otherwise on the invoice. Payment arrangements varying therefrom must be agreed upon in writing. The right of the Client to set off its claims, if any, against the Supplier is explicitly excluded.

11.2 If payment has not taken place within the payment term as mentioned in the above, or if a moratorium, bankruptcy or debt rescheduling has been applied for or granted, in or out of court, the Client will be in default by operation of law and the Supplier will be entitled to charge the legal interest on the outstanding amount as from the due date without further demand or notice of default.

11.3 All extrajudicial costs to be incurred for the purpose of collection of the claim, including the costs of engaging a legal advisor, shall be at the expense of the Client. The extrajudicial collection costs amount to at least 15% of the amount payable by the Client, with a minimum of € 250.

11.4 Payments made by the Client will always serve first to settle all interest and costs due and will subsequently serve to settle invoices due and payable which have been outstanding for the longest time, even if the Client states that the payment relates to a later invoice, and will finally serve to settle payment of the capital sum and the accrued interest.

#### **Article 12 Termination of the Agreement**

12.1 The Client is deemed to be in default by operation of law in the event that the Client:

(a) Acts in violation of any provision of the agreement;

(b) Is declared bankrupt, applies for a moratorium, if any attachment is levied against the Client or if the Client becomes unable in any other way to comply with its obligations, or discontinues its business operations, or transfers control of these to a third party.

12.2 If an event as referred to in the previous paragraph occurs, the Supplier is entitled to terminate the agreement immediately in writing without notice of default or court intervention.

12.3 In the event as referred to sub a. in the first paragraph, the Supplier also has the option to, instead of dissolution, claim performance and payment of damages by the Client or to suspend its obligations under the agreement without being liable to pay any other compensation. The Client is obliged to compensate the damage incurred by the Supplier as a result of this, which also includes lost profit, interest and costs.

12.4 The Supplier will never be liable to pay any compensation in the context of this dissolution.

12.5 The provisions of the previous paragraphs do not affect the right of the Supplier:

To claim immediate payment in full of that which the Client is due pursuant to an agreement;

Or any other rights of the Supplier on the basis of failure of the Client as determined elsewhere in these Terms and Conditions or agreement.

#### **Article 13 Intellectual property / confidentiality**

13.1 The intellectual property rights on documents which have been provided by the Supplier remain vested in the Supplier. The documents concerned are exclusively meant for the use of the Client and may not, without prior written consent of the Supplier, be multiplied, made public or disclosed to third parties.

13.2 Both parties are obliged to maintain confidentiality with regard to all confidential information they have received from each other or from other sources within the context of the Agreement. Information is deemed to be confidential if this has been announced by a party or arises from the nature of the information.

13.3 If no Agreement comes into effect between the parties, the Client is obliged to return to the Supplier, at first request of the Supplier, all documents provided to the Client by the Supplier for the purpose of the offer.

#### **Article 14 Liability**

14.1 The Supplier is only liable for direct damage caused by an attributable failure of the Supplier or Products of the Supplier with due observance of the provisions of these General Terms and Conditions.

14.2 The Supplier is never liable to compensate damage, other than to persons or goods. Liability of the Supplier for indirect damage, which includes but is not limited to consequential loss, lost turnover, lost profit, lost savings and loss due to business interruption, is excluded.

14.3 The Supplier is never liable for the consequences of incorrectness of data supplied by or on behalf of the Client. The Supplier is never liable for damage caused by improper and/or incompetent use of Products of the Supplier by the Client.

14.4 Any liability is limited to the net invoice amount of the Products delivered by means of which or in connection to which the damage was caused or to which the damage was related, with a maximum of € 200,000.

14.5 The Supplier is not liable for damage if the Client does not hold the Supplier liable by means of a registered letter within fourteen days after discovery of the damage, and the Supplier, due to the Client's failure to send this letter within the term mentioned, becomes limited in its possibilities to start an investigation into the damage and its causes or to remedy these.

14.6 Irrespective of the abovementioned, all claims of the Client shall lapse if the Client fails to submit its claims or alleged claims to the Supplier in writing and stating reasons within one year after the Client's awareness or reasonable awareness of the facts on which the Client has based its claims.

14.7 The Client indemnifies the Supplier against claims of third parties with regard to damage related to Products delivered by the Supplier or which is related in any other way to the agreement entered into by the Client and the Supplier.

#### **Article 15 Force majeure**

15.1 Neither of the parties is obliged to comply with any obligation if this party is prevented from doing so as a result of force majeure. The foregoing does not affect the obligation of the parties to try inasmuch as possible to prevent and avoid force majeure situations. 10/17

15.2 In the event of force majeure, the parties are entitled, without court intervention, to either suspend the execution of the Agreement during a period of at most two months, or to dissolve the Agreement immediately, whereby no obligation comes into being to compensate damage.

15.3 If the Supplier, upon the occurring of force majeure, has already fulfilled part of its obligations or can only fulfil part of its obligations, the Supplier is entitled to invoice the part already fulfilled or the part which can be fulfilled separately.

#### **Article 16 Dispute resolution, choice of forum**

16.1

These General Terms and Conditions, the Agreement and any agreements arising from it are governed by Dutch law. The applicability of the Vienna Sales Convention (CISG) on contracts for the international sale of goods is explicitly excluded, just as any existing or future international regulation regarding purchase of movable tangible property of which the effect can be excluded by the parties.

16.2 All disputes arising between the parties in connection with these General Terms and Conditions, the Agreement and any agreements arising therefrom will be resolved by the competent Court in Dordrecht, unless another Court has jurisdiction pursuant to mandatory law.

#### **Article 17 Amendment and source of the General Terms and Conditions**

17.1 These General Terms and Conditions are filed with the Chamber of Commerce and Industry of the district in which the Supplier is registered.

17.2 If these General Terms and Conditions regarding sale and delivery have also been drawn up in a different language than Dutch, the Dutch text will always be binding in the event of differences.

### **PART II RENTAL CONDITIONS**

In addition to part I of the General Terms and Conditions, the following general terms and conditions shall apply in the event of an agreement to rent out material.

#### **Article 18 General obligations of the parties**

18.1 The Lessor undertakes to rent out to the Lessee the material as specified on the order confirmation (hereafter referred to as: rental material), and the Lessee undertakes to rent the rental material from the Lessor.

18.2 The Lessee undertakes to pay the agreed rent and all fees and costs arising from the rental agreement on time and to return the rental material after termination of the rental agreement, all this with due observance of the following provisions.

18.3 If more than one person or legal entity acts as Lessee, each of these Lessees is jointly and severally liable as regards the compliance with the obligations arising from the rental agreement.

#### **Article 19 Rental period**

19.1 The rent is entered into for a period of at least eight weeks, unless agreed otherwise.

19.2 The rent shall commence as from the agreed time of delivery, or as from an earlier date on which the rental material or part of the rental material is made available to the Lessee if so desired.

19.3 The rent ends after expiry of the set date, or later on the date on which the Lessor has received back all the rental material in its entirety, or after the granting of consent to repair damage and/or loss of weight. If the extent of the damage or loss is such that repair is impossible, the rental period shall end as soon as compensation in this respect has been received.

#### **Article 20 Rent and other fees**

20.1 The agreed rent is exclusive of VAT. If, after the date of the offer, one or more cost price factors are increased – even if this occurs due to foreseeable circumstances – the Lessor is entitled to increase the rent agreed upon accordingly.

20.1 The Lessor is nevertheless entitled to alter its rates yearly at any time in accordance with the consumer price index figure (Consumer Price Index 'all households') valid at that time as determined by Statistics Netherlands (CBS); this does not entitle the Lessee to dissolve the Agreement.

20.2 If the rental material, for whatever reason, is not collected by the Lessee at the agreed time of delivery or cannot be delivered to the Lessee, the rent will nevertheless be payable with effect from the date as stated in the agreement.

20.3 If the rental material is returned before expiry of the agreed rental period, the rent on the entire agreed rental period will nevertheless be due.

20.4 Additionally, the Lessee owes a fee in accordance with the rate per weight unit as stated in the agreement for:

- (a) Costs of loading and unloading upon return delivery;
- (b) Costs of return with regard to using a crane, cleaning, measuring and sorting;
- (c) Insofar as agreed and applicable:

Additional costs of cleaning, etc.;

Costs of repair and loss of weight;

(d) Compensation of other damage or that which the Lessee owes otherwise pursuant to the agreement.

#### **Article 21 Liability**

21.1 Without prejudice to the provisions of Article 14 of the General Terms and Conditions, the Lessor is not liable to the Lessee for:

(a) Any kind of damage, direct or indirect, caused by any kind of defect of the rental material, visible or invisible, and the consequences thereof;

(b) Trading loss and consequential damage possibly incurred by the Lessee as a result of failure or a delay in the delivery;

(c) Damage as a result of oral or written advice given by the Lessor or its employees to the Lessee with regard to the application of certain steel sheet piling profiles and/or the manner of applying the sheet piling or the execution of work.

21.2 The Lessee is liable for all damage to the rental material or caused by the rental material, however or by whomever, including all damage and consequential damage resulting from delay and/or cessation, wholly or partially, of the company of the Lessor, irrespective of whether the Lessee can invoke force majeure.

21.3 The Lessee indemnifies the Lessor against all claims for compensation of damage caused to third parties during the rental period by the rental material upon using or storing or caused by the transportation thereof.

#### **Article 22 Force majeure**

22.1 The Lessor is not liable to the Lessee if a failure of the Lessor is caused by force majeure, which includes operational breakdowns and strikes at the Lessor or breach of contract by suppliers or carriers.

22.2 The Lessor undertakes to inform the Lessee as soon as possible about the occurrence of force majeure. If the force majeure situation, either

interrupted or not, has lasted more than thirty days, the parties have the right to cancel the agreement in writing. In that event, the Lessee will never be entitled in any way to compensation of any damage.

#### **Article 23 Inspection and quality**

23.1 The Lessor undertakes to make the rental material available in good condition. If the condition has not been specified explicitly in the agreement, the Lessee is entitled only to the type of condition which is in accordance with what is normal and customary when renting the materials concerned.

23.2 The Lessee has the right to inspect the rental material or to have this inspected at its own expense before commencement of the rent and/or during loading of the rental material.

23.3 In the event of rejection, the Lessor will, if possible, deliver replacement material.

23.4 If the Lessee does not make use of its right to inspection, the rental material is deemed to have been delivered in good condition and in accordance with the agreed proportions, specifications and weight as indicated on the loading bill which accompanies the rental material.

#### **Article 24 Maintenance and insurance obligation of the Lessee**

24.1 During the rental period, the rental material will be at the risk and expense of the Lessee from the time of loading for transportation up to and including the time of unloading upon return delivery, unless agreed otherwise.

24.2 The Lessee is obliged to return the rental material at the end of the rent in the same condition as when the Lessee received this material from the Lessor.

24.3 The obligation of the Lessee also includes:

- (a) Keeping the rental material in a correct and operational state at its own expense;
- (b) Decent surveillance of the rental material, also outside working hours;
- (c) Not to overburden the rental material in any way.

24.4 The Lessor is entitled to inspect the rental material as long as any part of the rental material is held by the Lessee. If the Lessor does not make use of this right, this does not prejudice claims to any compensation of damage.

24.5 The Lessee undertakes to take out full insurance for the rental material during the rental period against loss, theft and damage, amongst others by fire, including loading and unloading. This insurance must also include coverage against third party liability. The Lessee is obliged, upon request, to show the policy document and premium receipts for the insurance to the Lessor and to assign a possible claim on the insurance company regarding an insurance payment to the Lessor by way of security.

#### **Article 25 Location for use / soil pollution**

25.1 The Lessee is only entitled to use the rental material at the agreed location or locations. The Lessor reserves the right to declare the rental agreement to be dissolved immediately if the rental material is moved to another location. In the event of dissolution, the Lessor may nevertheless choose to enter into a new rental agreement with the Lessee with regard to a different location for the original rental material.

25.2 Use of the rental material abroad is permitted only with the prior explicit written consent of the Lessor. All extra risks and costs arising from transport abroad and transport back as well as the use of the rental material abroad are at the expense of the Lessee.

25.3 Except with the prior explicit consent in writing of the Lessor, the Lessee is not entitled to use the rental material on locations where the soil and/or water or groundwater is chemically or otherwise polluted or contaminated.

25.4 If the rental material is used on chemically or otherwise polluted or contaminated soil and/or water or groundwater, the Lessee is obliged to ensure a complete cleansing of the rental material before return delivery. This obligation also applies if the Lessee did not become aware of the pollution until after commencement of the rent, or if this pollution was only discovered upon return delivery of the rental material.

25.5 The Lessee is liable for any damage caused to or caused by the rental material as a result of pollution or contamination, which includes additional cleaning costs, the costs of cleaning, removal or destruction of the pollution spread out in the soil and/or groundwater on the terrain on which the Lessor has stored the returned material, however and by whomever caused, including any damage and consequential damage due to delay and/or cessation of the operations, either wholly or partly, of the Lessor or third parties, and irrespective of whether the Lessee can invoke force majeure.

#### **Article 26 Return delivery**

26.1 The Lessee is obliged to return the rental material upon termination of the rent in the same condition and shovel clean. Additionally, after use on chemically or otherwise polluted or contaminated soil, the rental material must have been cleaned entirely. The return delivery must be accompanied by a specified written handing over statement of the Lessee.

26.2 The Lessee undertakes to notify the Lessor of a return delivery of the rental material at least two working days before the return delivery, whereby the Lessor will indicate the time and place of return delivery. If the Lessor fails to make any statement in this respect, the rental material must be returned at the storage premises of the Lessor. The receipt by the Lessor of the rental material upon return delivery by the Lessee does not affect claims of the Lessor regarding compensation of damage.

#### **Article 27 Costs of repair and loss of weight**

27.1 Damage to the rental material includes at any rate the costs of repair or loss of weight.

27.2 In this respect, costs of repair means all reparation costs to be incurred by the Lessor in order to bring the returned material back to a condition which is, in the opinion of the Lessor, similar to the condition before commencement of the rent.

27.3 In this respect, loss of weight means the difference between the weight of the rental material upon commencement of the rent and the weight, after possible reparation, of the returned material upon termination of the rent. The weight is determined by multiplying the total of the board lengths delivered by the theoretical weight of the profile concerned expressed in kilograms per running meter of board, as indicated in the most recent profile table, issued by the Dutch importer and/or producer of the steel sheet piling profiles/ profile steel concerned.

27.4 In the event of damage to the rental material, the Lessee is obliged to report this to the Lessor.

27.5 The Lessee is obliged to compensate the costs of repair to the Lessor on the basis of a specified statement to be issued by the Lessor.

The Lessee is obliged to compensate to the Lessor the loss of weight of the rental material, amongst which the loss of weight arisen as a result of repair, to be paid on the basis of the price valid at that time of a new steel sheet piling/steel profile. The value when new means the purchase price of the importer concerned for The Netherlands per weight unit of new steel sheet piling of the same profile or profiles and of the same manufacture and the same steel quality and length specification as that of the rental material.

#### **Article 28 Transfer, rights**

28.1 The Lessor remains owner of the rental material. The Lessee is obliged to store the goods delivered by the Lessor separate from other goods and clearly marked as being property of the Lessor, as well as to insure these goods properly and keep these insured.

28.2 The Lessee may not remove the mark, insofar as attached, which provides evidence, recognizable for third parties, of the property right of the Lessor.

28.3 The Lessee is obliged towards third parties, such as judgment creditors, to indicate the property right of the rental material of the Lessor as

soon as the risk may arise that a third party regards the rental material as property of the Lessee. In that event, the Lessee undertakes to inform the Lessor of this immediately.

28.4 Costs incurred to safeguard the rights of the Lessor towards third parties are at the expense of the Lessee.

28.5 The Lessee is not entitled to grant any right regarding the rental material to third parties, to sublet the rental material or to transfer its rights under this rental agreement wholly or partially to third parties without explicit prior consent in writing by the Lessor.



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TRADE & SERVICES

