



GENERAL TERMS AND CONDITIONS MAMMOET (PURCHASE AND HIRE)

Deposited at the Chamber of Commerce in Rotterdam
April 2004

1. Preamble

These terms and conditions have been drawn up for use by the companies belonging to the Mammoet Group for their agreements with their suppliers and (sub)contractors.

2. Definitions

In these General Terms and Conditions Mammoet the following words have the following meanings respectively ascribed thereto:

- 2.1 "General Conditions": these General Terms and Conditions Mammoet (purchase and hire);
"Mammoet Group": the group of companies, domiciled both in the Netherlands and elsewhere, directly and/or indirectly affiliated with Mammoet Holding B.V., a company incorporated under Dutch law, with corporate seat and offices in the Netherlands, and any individual company belonging to that group;
- 2.3 "Mammoet": the company belonging to the Mammoet Group contracting with a Supplier, or wishing to do so;
- 2.4 "Supplier": the supplier, contractor, subcontractor and/or party selling, leasing and/or providing goods, equipment, personnel and/or services to Mammoet, or wishing to do so;
- 2.5 "Agreement": the specific agreement between Mammoet and the Supplier concerning goods, equipment, personnel and/or services (to be) sold, leased and/or provided to Mammoet or to its order, with any and all annexes and/or amendments and/or additions thereto;
- 2.6 "Goods": the goods, including equipment, (to be) sold, leased and/or provided by the Supplier under the Agreement;
- 2.7 "Services": the services (to be) provided by the Supplier under the Agreement;
- 2.8 "Personnel": the personnel (to be) provided by the Supplier under the Agreement;
- 2.9 "Undertaking": the total undertaking of the Supplier under the Agreement;
- 2.10 "Contract Period": the period of the Undertaking as agreed upon under the Agreement
- 2.11 "Variation Order": an order from Mammoet to the Supplier for amendments and/or additions to and/or extensions of the Undertaking and/or of the Contract Period;
- 2.12 "Project": the activities of Mammoet in respect of which Mammoet is entering into or has entered into the Agreement with the Supplier;
- 2.13 "Customer": the Customer of Mammoet, contracting Mammoet for the Project, or

wishing to do so;

- 2.14 "Location": the site where the Undertaking will be performed;
- 2.15 "Documentation": the drawings, (technical) specifications, designs, calculations, models, prototypes and other documents (to be) provided by Mammoet and/or the Mammoet Group and/or the Customer to the Supplier in respect of and/or in connection with the Undertaking;
- 2.16 "Contract Price": the price for the Undertaking, as agreed upon under the Agreement;
- 2.17 "Delay Compensation": the penalty due by the Supplier to Mammoet for any delay in the performance of the Undertaking;
- 2.18 "Party": Mammoet or the Supplier, as the case may be;
- 2.19 "Parties": Mammoet and the Supplier jointly.

3. Applicability

- 3.1 These General Conditions apply to each and every Agreement between Mammoet and a Supplier, and to all further agreements resulting therefrom or connected therewith, and to all (requests for) quotations, offers, letters of intent, orders, confirmations and other documents and acts made and/or done in preparation of and/or prior to and/or in connection with an Agreement.
- 3.2 No terms and conditions of whatever kind and of whatever name of the Supplier and/or referred to by the Supplier and/or customarily in use (for the services rendered) by the Supplier are applicable and any such terms and conditions are hereby explicitly rejected by Mammoet.
- 3.3 These General Conditions form an integral part of each Agreement. In case of conflict between the General Conditions and the contents of the Agreement, then the terms and conditions of the Agreement will prevail.
- 3.4 The most recent version of these General Conditions shall be applicable.

4. Orders and Agreement

- 4.1 All requests by Mammoet for quotations and offers are without engagement.
- 4.2 An Agreement will only come into force upon confirmation thereof in writing by Mammoet.
- 4.3 Each order and confirmation from Mammoet is given and each Agreement is concluded under the proviso that the Customer unconditionally grants the Project to Mammoet, including the Undertaking, and concludes the agreement thereon with Mammoet.
No Agreement will come into force and any concluded Agreement will be cancelled and dissolved with immediate effect, without the Supplier being entitled to any damages or compensation, if and when the Customer does not unconditionally grant the Project or the Undertaking to Mammoet and/or does not conclude the agreement thereon with Mammoet.
- 4.4 Moreover, no Agreement will come into force and any concluded Agreement will

be cancelled and dissolved with immediate effect, without the Supplier being entitled to any damages or compensation, if and when the Customer explicitly informs Mammoet that it does not approve of Mammoet engaging the Supplier.

- 4.5 No amendment and/or addition to the Agreement or to the General Conditions will be valid, unless agreed and confirmed in writing by Mammoet.
- 4.6 The Supplier will not submit quotations and/or offers to the Customer in respect of or in connection with the Project or any part thereof. The Supplier will not accept any orders from the Customer nor enter into any agreement with the Customer in respect of or in connection with the Project or any part thereof, including any amendment or addition to or extension of the Undertaking, without prior approval in writing from Mammoet.

5. Subcontracting and assignment

- 5.1 The Supplier shall not, without prior approval in writing from Mammoet, subcontract the Undertaking or any part thereof to a third party and/or to assign and/or transfer any of its obligations under the Agreement to a third party.
- 5.2 In case of any subcontracting and/or assignment and/or transfer by the Supplier to a third party, the Supplier shall always impose upon such third party all duties and obligations of the Supplier under these General Conditions and under the subcontracted and/or assigned and/or transferred part of the Agreement and will make these General Conditions equally applicable to the Agreement with such third party.
- 5.3 In all events the Supplier itself will remain fully responsible and liable for the performance of any third party to which the Supplier has subcontracted and/or assigned and/or transferred any part of the Undertaking and/or any part of its obligations under the Agreement and/or which the Supplier has (otherwise) instructed.
- 5.4 The Supplier shall not, without prior approval in writing from Mammoet, assign and/or transfer and/or pledge any of its rights under the Agreement to a third party.
- 5.5 In case of subcontracting and/or assignment and/or transfer of rights and/or obligations this does not effect the performance and/or the liability and/or any other obligation of the Supplier under the Agreement.

6. Contract Price

- 6.1 All prices quoted by the Supplier in its quotations and offers will be valid and may not be changed during the term of validity of the quotation and/or offer.
- 6.2 The Contract Price includes – unless explicitly agreed otherwise in writing – any and all costs of all supporting documents and manuals, packaging, transport, loading and unloading, assembling and dismantling, mobilisation and demobilisation.

- sation, fuel and lubricants, insurance, permits, protection, guarding and security, surveillance, and costs for any locally prescribed obligations, in respect of and in connection with the Undertaking.
- 6.3 The Contract Price includes the costs of compliance with any and all obligations of the Supplier under the Agreement and under these General Conditions, irrespective of whether the respective provision explicitly specifies that the costs of fulfilment of such obligations are for the account of the Supplier.
- 6.4 With the exception of VAT, insofar as applicable, the Contract Price includes any and all taxes, charges, fines and/or penalties levied by government and/or other authorities in respect of and/or in connection with the Undertaking.
- 6.5 Any and all taxes, charges, fines and/or penalties as referred to in clause 6.4 hereof are and will be for the account of the Supplier, whether payable by Mammoet or the Supplier. If and insofar as such taxes, charges, fines and/or penalties have been charged to and/or paid by Mammoet, the Supplier will reimburse Mammoet in full therefor.
- 6.6 The Contract Price is a fixed price. It may only be adjusted if and insofar as the Agreement explicitly sets out the circumstances which may lead to adjustment and the terms and method of calculation of any adjustment. Otherwise, the Supplier is not in any way entitled to increase the Contract Price, for whatever reason.
- 6.7 The Contract Price includes the price for any and all amendments, additions and/or extensions of the Undertaking and/or the Contract Period, unless explicitly agreed otherwise in writing following a Variation Order in accordance with paragraph 7 of these General Conditions. The Supplier may not charge additionally for any items and/or services not included in the Agreement.
- 6.8 The provisions of this paragraph 6 also apply to the compensation, if any, for Variation Orders.
- 7. Variation Orders**
- 7.1 Mammoet may, at any time, present a Variation Order in writing to the Supplier. The Supplier may not refuse to execute a Variation Order, unless there are serious reasons for such refusal.
- 7.2 If, in Mammoet's opinion, the Variation Order leads to additional work for which the Supplier should be compensated additionally, the Variation Order will contain Mammoet's proposal for such compensation.
- 7.3 The Supplier shall notify Mammoet in writing within 5 (five) working days after remittance of the Variation Order if:
- it does not agree to the compensation offered, stating the compensation it believes to be appropriate; or
 - it wishes to refuse the Variation Order, stating the serious reasons it believes it has therefor.
- Failing such notification, the Supplier will be deemed to have accepted the Variation Order, notwithstanding the provision of clause 7.6 hereof.
- 7.4 The Supplier will be obliged to fulfil the Variation Order, unless it has notified Mammoet in accordance with and within the period stated in clause 7.3 hereof and no subsequent agreement between Mammoet and the Supplier has been reached.
- 7.5 If Mammoet receives a notification from the Supplier in accordance with and within the period stated in clause 7.3 hereof, and no subsequent agreement between Parties has been reached within 5 (five) working days after remittance of the Supplier's notification, Mammoet will be entitled to give the order to a third party, notwithstanding Mammoet's right to claim damages if the Supplier had no serious reasons for its refusal and/or if the compensation requested by the Supplier is unreasonable.
- 7.6 Mammoet is entitled to request the Supplier in writing that the Supplier explicitly informs Mammoet in writing whether the Supplier accepts the Variation Order. In the event thereof the Supplier is obliged to react in writing within 5 (five) working days after remittance of Mammoet's request. Failing an acceptance in writing by the Supplier within that period, clause 7.5 hereof will be equally applicable.
- 7.7 Mammoet is also entitled to present a Variation Order leading to less work. In the event thereof the Contract Price will be reduced with an amount equivalent to the reduction of the work. Mammoet may inform the Supplier on such reduction of the Contract Price in the Variation Order, but is not obliged to do so. In the event that Mammoet does inform the Supplier on the reduction of the Contract Price, the Supplier will be deemed to have accepted the reduction if it does not notify Mammoet of any disagreement thereon within 5 (five) working days after remittance of the Variation Order.
- 7.8 The provisions of this paragraph 7 are without prejudice to Mammoet's right to issue instructions to the Supplier in respect of the execution of the Undertaking and any part thereof.
- 8. Documentation and information**
- 8.1 All Documentation is and shall remain the property of Mammoet and/or the Mammoet Group and/or the Customer and all intellectual property rights therein are and shall remain vested in Mammoet and/or the Mammoet Group and/or the Customer.
- 8.2 The Documentation may not be copied and/or reproduced and/or provided to third parties in whatever manner and must be returned by the Supplier to Mammoet at Mammoet's first request and ultimately upon the termination of the Undertaking.
- 8.3 The Supplier shall keep the Documentation and any information received from Mammoet and/or the Mammoet Group and/or the Customer strictly confidential, and shall use the Documentation and information solely in respect of the execution of its obligations under the Agreement.
- 8.4 All drawings, (technical) specifications, designs, calculations, models, prototypes and other documents and inventions (to be) produced and/or developed by the Supplier for the Undertaking, by order of Mammoet and/or in conjunction with Mammoet and/or otherwise, shall be the property of Mammoet and all intellectual property rights therein shall be vested in Mammoet. Insofar as necessary the Supplier will cooperate in the registration of such rights in the name of Mammoet or of another company in the Mammoet Group. Clauses 8.2 and 8.3 hereof are equally applicable to this property and these intellectual property rights.
- 9. Purchase of Goods**
- 9.1 If the Undertaking includes the purchase of Goods by Mammoet from the Supplier, the following will apply in addition to the other provisions of these General Conditions.
- 9.2 The Goods will be completely in conformity with the agreed specifications, including, but not limited to, any and all drawings, designs, calculations, models, prototypes and other documents.
- 9.3 The Goods will be new and unused and of good quality, free of any defects, and fit for the purpose for which they are intended.
- 9.4 The Goods will be completely in conformity with all requirements in respect of safety, environment and health, and will be fully in accordance with the required standards and fully meet the applicable regulatory requirements.
- 9.5 The Goods will be delivered together with all documents and manuals relating thereto, including but not limited to any and all product information.
- 9.6 Unless explicitly agreed otherwise in writing, the Goods will be delivered "DDP" (Delivered Duty Paid) at the location specified in the Agreement or – if no such location has been specified – at the Location or at the premises of Mammoet, at Mammoet's option. Delivery will take place during normal working hours.
- 9.7 Partial delivery is not permitted, unless explicitly agreed otherwise in writing.
- 9.8 All property in and title to the Goods shall pass to Mammoet immediately upon delivery at the location as set out in clause 9.6 hereof. However, if payment by Mammoet is made before delivery, the property in and title to the Goods shall pass to Mammoet upon the first payment instalment made by Mammoet.
- 9.9 If, at any moment prior to delivery, Goods are incorporated in, combined with or connected to property (including, but not limited to, equipment, goods and software) of Mammoet or the Mammoet Group, the property in and title to the Goods shall pass to Mammoet at that moment.
- 9.10 The Goods will be delivered and the property in and title to the Goods shall pass to Mammoet free of any liens, pledges and/or other encumbrances. No retention of title by the Supplier will apply.
- 9.11 The risk for and in the Goods shall only pass to Mammoet after completion of the Undertaking and inspection and acceptance of the Supplier's performance by Mammoet.
- 10. Lease of Goods**
- 10.1 If the Undertaking includes the lease and/or provision of Goods by the Supplier to Mammoet, the following will apply in addition to the other provisions

- of these General Conditions.
- 10.2 The Goods will be completely in conformity with the agreed specifications, including, but not limited to, any and all drawings, designs, calculations, models, prototypes and other documents.
- 10.3 The Goods will be of good quality, in good working order, properly serviced and in good maintenance, free of any defects, and fit for the purpose for which they are intended.
- 10.4 The Goods will be completely in conformity with all requirements in respect of safety, environment and health, will be fully in accordance with the required standards and fully meet the applicable regulatory requirements.
- 10.5 The Goods will be delivered together with all documents and manuals relating thereto, including but not limited to any and all instructions in respect of use, safety, environment and health.
- 10.6 Unless explicitly agreed otherwise in writing, the Goods will be delivered "DDP" (Delivered Duty Paid) at the location specified in the Agreement or – if no such location has been specified – at the Location or at the premises of Mammoet, at Mammoet's option. Delivery will take place during normal working hours.
- 10.7 The risk for and in the Goods shall remain with the Supplier at all times.
- 10.8 The Supplier shall ensure that and is fully responsible that the Goods will be completely in conformity with the requirements set out in clause 10.2 through to 10.4 hereof during the full Contract Period. If necessary during the Contract Period, the Supplier will, at its cost, take care of repair and maintenance of the Goods.
- 10.9 At the end of the Contract Period, or immediately upon termination of the Undertaking if that is earlier, the Supplier shall immediately – at its cost - collect the Goods at the location, where the Goods are at that moment, or at such other location as to be directed by Mammoet.
- 11. Provision of Personnel**
- 11.1 If the Undertaking includes the provision of Personnel by the Supplier to Mammoet, the following will apply in addition to the other provisions of these General Conditions.
- 11.2 The Supplier will ensure that the Personnel has the qualifications and fits the requirements as specified in the Agreement and is fully qualified to do the work.
- 11.3 The Supplier is fully responsible for all acts and omissions of the Personnel, whether in the Supplier's employment or not.
- 11.4 The Supplier shall ensure that and is responsible that the Personnel fully adheres to all and any rules, regulations, prescriptions and precautions in respect of safety, environment, health and working conditions and that the Personnel acts in accordance with Mammoet's instructions.
- 11.5 The Supplier shall not engage Personnel, that is not in Supplier's employment, without prior approval in writing from Mammoet.
- 11.6 If Personnel is not qualified in accordance with clause 11.2 hereof or if Personnel acts contrary to the provision of clause 11.4 hereof, or if the Customer is dissatisfied with Personnel, all to the complete discretion of Mammoet and/or the Customer, Mammoet is entitled to demand that such Personnel is removed. The Supplier shall then ensure that and is responsible that such Personnel is removed and shall immediately replace such Personnel by other Personnel, fully complying with the requirements of this paragraph 11. All costs involved are for the account of the Supplier.
- 11.7 Personnel is obliged to identify itself and to show identification papers at the Location, upon demand.
- 11.8 The Supplier is obliged to provide Mammoet with all particulars in respect of the Personnel, upon Mammoet's first request, especially including but not limited to names and tax/social security numbers.
- 11.9 The Supplier will ensure that and is responsible for fulfilling all its payment obligations in respect of the Personnel, especially including but not limited to the payment of salary and of all and any taxes and social security premiums and pension premiums.
- 11.10 Nothing in the Agreement and/or in the execution thereof, and nothing in the relationship between Parties, can be deemed to construe an employment or other relationship of persons, employed by or contracted by the Supplier, with Mammoet.
- 12. General obligations of Supplier**
- 12.1 Unless explicitly agreed otherwise in writing, it is the obligation of the Supplier to perform a specific result as agreed and detailed in the Agreement.
- 12.2 The Supplier shall ensure that it is fully aware of and shall comply with all laws, regulations, ordinances and/or other regulatory requirements and instructions of governments and/or other authorities in respect of and/or in connection with the Undertaking.
- 12.3 The Supplier shall comply with all and any rules, regulations, prescriptions and precautions in respect of safety, environment, health and working conditions. The Supplier shall itself provide all the necessary materials and clothing to ensure such compliance.
- 12.4 The Supplier is responsible for providing and shall provide all permits, licences and other permissions necessary for the Undertaking.
- 12.5 The Supplier will only use materials which are completely in compliance with clauses 9.3 and 9.4 of these General Conditions. The Supplier shall only use (auxiliary) equipment which completely complies with the requirements specified in clauses 10.3 and 10.4 of these General Conditions.
- 12.6 The Supplier shall at all times act in accordance with Mammoet's instructions.
- 12.7 The Supplier shall ensure that the presence of the Supplier and/or the Personnel at the Location does not in any way frustrate, impede or disturb the progress of the activities of Mammoet and/or the Customer.
- 12.8 At the end of the Contract Period, or upon termination of the Undertaking if that is earlier, the Supplier shall immediately – at its cost – remove all materials, including industrial and chemical waste, from the Location, in accordance with all applicable rules and regulations.
- 12.9 The Supplier shall, upon Mammoet's first request, supply to Mammoet particulars and/or proof of its registration with the trade registry, tax authorities and social security authorities, and/or proof of compliance with its obligations under this paragraph 12. The Supplier is obliged to inform Mammoet on any changes in respect of the foregoing.
- 12.10 The Supplier shall provide Mammoet with any information requested by Mammoet or reasonably required in respect of the performance of the Undertaking, including but not limited to any and all drawings, designs, calculations, models, prototypes, manuals, certificates of quality, certificates of origin, customs certificates, proof of payment and other documents.
- 12.11 Mammoet is at all times entitled to request the Supplier to supply adequate security (financial or otherwise) for its present and future obligations under the Agreement and/or these General Conditions.
- 13. Reporting and complaints by Supplier**
- 13.1 The Supplier is obliged to check any and all Documentation and information, materials, goods and/or equipment it may receive from Mammoet in respect of the Undertaking immediately upon receipt. Any inaccuracy and/or incompleteness and/or defect and/or other irregularity must be reported in writing by the Supplier to Mammoet immediately after receipt, failing which the Supplier will be deemed to have received the Documentation and information and/or materials, goods and/or equipment in proper condition, accurate, complete, without defects and without any other irregularities.
- 13.2 In addition to the provision of clause 13.1 hereof, the Supplier is obliged to report in writing to Mammoet each and every defect of and/or damage to Documentation and/or goods and/or materials and/or equipment provided to the Supplier and/or under supervision to the Supplier immediately after such defect and/or damage has been observed by or reported to the Supplier. Failure to do so makes the Supplier liable to Mammoet for all costs and damages incurred by Mammoet due to such failure.
- 13.3 The Supplier is obliged to report in writing to Mammoet immediately any accident in which Personnel is involved.
- 13.4 During the performance of the Undertaking the Supplier will regularly report in writing to Mammoet on the progress in the performance and will – at Mammoet's first request – supply any such information on the progress as required by Mammoet.
- 14. Time and delay**
- 14.1 All times, time schedules or periods for the performance by the Supplier, contained in the Agreement, a Variation Order, or otherwise agreed in writing between Parties, shall be of essence and binding upon the Supplier.
- 14.2 If and as soon as the Supplier knows or reasonably expects that the commence-

ment or continuation of the Undertaking will be delayed, the Supplier shall immediately inform Mammoet thereon in writing, setting out the expected period of delay and the circumstances leading to such delay.

- 14.3 In the event that the commencement or continuation of the Undertaking is delayed due to circumstances for which the Supplier is responsible, which includes every circumstance - other than Force Majeure - occurring on the side of the Supplier, the Supplier will be in default, without any notice of default being required.
- 14.4 In the event that the commencement or continuation of the Undertaking and/or the performance by the Supplier is delayed due to default of the Supplier as referred to in clause 14.3 hereof, the Supplier will be due to Mammoet the Delay Compensation set out in the Agreement or otherwise agreed in writing as from the date that the performance of the Supplier was due, notwithstanding Mammoet's right to all damages sustained and to be sustained by Mammoet due to such delay. Such damages include, but are not limited to, any and all delay compensations and/or penalties due by Mammoet to the Customer.
- 14.5 If no specific Delay Compensation has been agreed upon between Parties in writing, the Delay Compensation per day will be equal to the Contract Price divided by the Contract Period in working days.
- 14.6 In the event that the commencement or continuation of the Undertaking is delayed, due to circumstances for which Mammoet or the Customer is responsible, the Supplier will have no other remedy than termination of the Agreement in accordance with paragraph 24 of these General Conditions.

15. Inspection

- 15.1 Mammoet is at all times entitled to inspect the performance by the Supplier or to have an inspection thereof take place by a third party. Such inspection can take place at any location, including but not limited to the premises of the Supplier, during storage or transport and/or at the Location.
- 15.2 The Supplier shall cooperate fully with any such inspection and will be obliged to allow Mammoet or its instructed third party to enter any place necessary to conduct such inspection. The Supplier will provide Mammoet or its instructed third party with any information requested or reasonably required in respect of such inspection, including but not limited to the documents referred to in clauses 12.9 and 12.10 of these General Conditions.
- 15.3 Inspection (with or without any comments, rejection of approval) by Mammoet or by its instructed third party does not constitute any acceptance and does not relieve the Supplier of its obligations under the Agreement, including its obligations to perform its own inspections and tests.
- 15.4 If at any moment it is found that the Supplier's performance (including but not limited to the Goods sold and/or leased and/or materials provided) does not meet the specifications, standards, quality

and/or quantity required by the Agreement and/or these General Conditions, then Mammoet will be entitled to refuse and reject such performance and order the Supplier to immediately replace the faulty performance (by a proper performance, including the replacement by other goods and/or materials), notwithstanding Mammoet's other rights and remedies under the Agreement and these General Conditions.

- 15.5 If at any moment it is found that the Supplier is acting contrary to and/or not complying with any of its obligations under the Agreement and/or these General Conditions, then Mammoet will be entitled to order the Supplier to immediately comply with the respective obligations and to repair whatever damage has been done, notwithstanding Mammoet's other rights and remedies under the Agreement and these General Conditions.

16. Completion and Acceptance

- 16.1 The sale of Goods by the Supplier to Mammoet will be considered to be completed upon delivery of the Goods in accordance with paragraph 9 of these General Conditions and subsequent inspection and acceptance of the Goods by Mammoet.
- 16.2 Any other undertaking will be considered to be completed upon receipt by Mammoet of a notice of completion in writing from the Supplier and subsequent inspection and acceptance of the Supplier's performance by Mammoet.
- 16.3 Mammoet is entitled to require that the Supplier performs trials and acceptance tests in the presence of Mammoet or a third party instructed by Mammoet and to provide Mammoet with a written report on the results thereof, prior to Mammoet's inspection and acceptance. Such trials and tests will be carried out in accordance with general practice in the appropriate branch of industry in the Netherlands or, at Mammoet's discretion, in the country of delivery and/or performance. All costs for the trials and acceptance tests will be for the account of the Supplier.
- 16.4 The Supplier shall cooperate fully with Mammoet's inspection after notification of completion and will be obliged to allow Mammoet or its instructed third party to enter any place necessary to conduct such inspection. The Supplier will provide Mammoet or its instructed third party with any information requested or reasonably required in respect of such inspection, including but not limited to the documents referred to in clauses 12.9 and 12.10 of these General Conditions.
- 16.5 Mammoet may provisionally or conditionally accept the Supplier's performance, setting out which conditions still have to be fulfilled and/or which items still need to be taken care of and/or which performance still has to be completed.
- 16.6 Any acceptance by Mammoet - whether provisional or conditional or complete - does not relieve the Supplier of its obligations under the Agreement and/or these General Conditions, nor of its guarantee obligations. Notwithstanding any acceptance, Mammoet will remain

fully entitled to any claim, right or remedy in respect of any default, non-performance, incomplete performance, delay in the performance and/or underperformance by the Supplier and/or in respect of any guarantee obligation of the Supplier, irrespective of whether Mammoet has or could have found same prior to or upon acceptance.

17. Invoicing

- 17.1 No invoice may be presented to Mammoet prior to completion of the relevant part of the Supplier's performance, unless explicitly agreed otherwise in writing.
- 17.2 All invoices must contain a specification and any such particulars as may be required by Mammoet, including but not limited to particulars in respect of tax obligations and tax payment accounts (as referred to in clause 18.3 of these General Conditions).
- 17.3 Each invoice must be accompanied by such documents as may be required by Mammoet, including but not limited to acknowledgements of delivery/receipt, working orders signed for completion and letters/protocols of acceptance.
- 17.4 Mammoet will not accept invoices which have not been presented to Mammoet in accordance with clauses 17.2 and 17.3 hereof. It will either return such invoices or keep such invoices on hold pending proper completion in accordance with the foregoing.
- 17.5 Each and every invoice must be presented to Mammoet within 3 (three) months after completion. The Supplier will not be entitled to any payment of invoices presented to Mammoet after that date and all rights to payment shall expire as per that date.

18. Payment

- 18.1 Payment will only take place after acceptance of the respective performance by Mammoet and after approval by Mammoet of the Supplier's invoice, presented to Mammoet in accordance with the provisions of paragraph 17 of these General Conditions.
- 18.2 Provided that Mammoet approves the invoice, payment will take place 60 (sixty) days after receipt by Mammoet of the Supplier's invoice, presented to Mammoet in accordance with paragraph 17 of these General Conditions. This period will only start running as from the date that the presentation of the invoice has been fully and properly taken care of.
- 18.3 Mammoet is entitled to pay the appropriate part of an invoice into a separate blocked account (in the Netherlands "G-account"), in respect of the Supplier's tax and social security obligations for which Mammoet may be held liable, in accordance with the applicable laws and regulatory rules, if any.
- 18.4 Mammoet is entitled to set off any claim it has on the Supplier - including but not limited to claims for Delay Compensation, costs, penalties and damages - against payment of the invoices of the Supplier and/or against any other amount Mammoet might be due to the Supplier by virtue of the Agreement and/or these General Conditions and/or any other agreement between Mammoet and the

- Supplier.
- 18.5 Mammoet is also entitled to set off any claim any other company in the Mammoet Group has on the Supplier against payment of the invoices of the Supplier and/or against any other amount Mammoet might be due to the Supplier by virtue of the Agreement and/or these General Conditions and/or any other agreement between Mammoet and the Supplier. The Supplier accepts joint and several entitlement for each company in the Mammoet Group, including Mammoet itself to payment by the Supplier, of claims of each other company in the Mammoet Group, including Mammoet itself.
- 18.6 The Supplier is not entitled to and herewith explicitly waives any right of retention or any right of postponement in respect of its obligations.
- 19. Guarantees**
- 19.1 The Supplier guarantees a delivery, performance and completion completely in conformity and in compliance with the Agreement and these General Conditions, especially including but not limited to the provisions of paragraphs 9, 10, 11 and 12 of these General Conditions.
- 19.2 The Supplier guarantees that the Goods and/or the performance by the Supplier do(es) not in any way infringe any intellectual property rights of any third party.
- 19.3 In case of breach of a guarantee obligation Mammoet will be entitled to order the Supplier to take care of either repair or replacement or additional performance or renewed completion, completely in conformity and in compliance with the Agreement and these General Conditions, notwithstanding Mammoet's other rights and remedies under the Agreement and these General Conditions. The Supplier's guarantee applies equally to such repaired, replacing, added or renewed performance.
- 19.4 If the Supplier has received a guarantee from its own suppliers, the Supplier will – at Mammoet's first request – be obliged to enforce such a guarantee at its own cost. If the Supplier fails to do so, then Mammoet will be entitled to execute such guarantee itself, in its own name or in the name of the Supplier, for the account of the Supplier, and the Supplier herewith transfers and assigns its rights under such guarantees to Mammoet for that purpose.
- 19.5 Mammoet does not accept any restriction by the Supplier of its guarantees to Mammoet in any way, either in substance or in time, and herewith explicitly rejects any such restrictions.
- 20. Insurance**
- 20.1 The Supplier shall, at its own cost, take out and maintain during the existence of the Agreement and the Undertaking an insurance adequately covering all risks in respect of the Undertaking, especially including its contractual and legal liability for any and all claims and damages, caused by and/or in respect of and/or in connection with the Undertaking and/or in respect of product liability for Goods delivered by the Supplier.
- 20.2 The Supplier's insurance as referred to in clause 20.1 hereof shall cover all claims, costs and damages, especially including but not limited to direct and indirect loss, physical loss and property damage, death and personal injury, and costs and interest.
- 20.3 The Supplier's insurance as referred to in clause 20.1 hereof shall cover all claims of any party in respect of and/or connected with the Undertaking, especially including but not limited to claims of and/or on behalf of Mammoet, the Mammoet Group, the Customer, subcontractors and other third parties, their employees and the Personnel.
- 20.4 The insurance policies, taken out in accordance with clauses 20.1, 20.2 and 20.3 hereof, shall state that Mammoet and its (other) subcontractors are co-insured and shall state that insurers waive any right of recourse against Mammoet and/or any of its officers and/or employees and/or subcontractors and/or agents and/or affiliated companies and/or the Customer.
- 20.5 The Supplier shall, moreover, at its own cost, take out and maintain during the existence of the Agreement and the Undertaking an insurance, adequately covering – insofar as not already included in an insurance as referred to in clause 20.1 hereof – each and every damage – especially including, but not limited to, death and personal injury – of Personnel. The provisions of clauses 20.1 through to 20.4 hereof are equally applicable.
- 20.6 The Supplier shall, upon request, supply to Mammoet sufficient proof of the existence of insurance (policies) in accordance with the provisions of this paragraph 20.
- 21. Liability and indemnification**
- 21.1 The Supplier is liable for any and all loss, costs and/or damages, of whatever nature, including but not limited to loss of profit, loss of use, loss of contacts and/or any other consequential and/or economic and/or indirect loss and/or damages, caused by default, non performance, incomplete performance, delay in the performance and/or underperformance by the Supplier in respect of its obligations under the Agreement and these General Conditions.
- 21.2 The Supplier is also liable for any and all loss, costs and/or damages, of whatever nature, as set out in clause 21.1 hereof, caused by the Personnel and/or any employee, agent, officer and/or subcontractor, if any, of the Supplier.
- 21.3 The Supplier is moreover liable for any and all loss, costs and/or damages, which is/are or should be covered by the Supplier's insurance.
- 21.4 The Supplier shall indemnify, defend and hold harmless Mammoet from and against all claims, demands, actions and proceedings asserted and/or instituted against Mammoet for any occurrence, loss, costs, penalties or damages, for which the Supplier is liable.
- 21.5 Mammoet has no liability to the Supplier, other than Mammoet's obligation to pay the Contract Price in accordance with paragraph 18 of these General Conditions.
- 21.6 The provisions of this paragraph 21 are also stipulated on behalf of the Mammoet Group and on behalf of the employees, officers, agents and (other) subcontractors of Mammoet and of the Mammoet Group.
- 22. Force Majeure**
- 22.1 Force Majeure shall be understood to refer to circumstances, conditions and/or events, which are beyond control of either Party, occurring in the absence of any fault or negligence of either Party and which can not be avoided or prevented through the adoption of reasonable measures, which temporarily or permanently prevent the performance of any obligation under the Agreement, such as strikes and labour-disturbances, mutinies, quarantines, epidemics, wars (whether declared or undeclared), acts of terrorism, blockades, embargo's, riots, civil disturbances, civil wars, fires, storms and/or other weather conditions and/or other acts of nature, provided that no cause has been given and no contribution has been made to said events.
- 22.2 Strikes and labour disturbances of Personnel shall not constitute a Force Majeure occurrence, but are an occurrence for which the Supplier is responsible.
- 22.3 In the event that the performance of obligations under the Agreement is temporarily prevented due to a Force Majeure occurrence, the Force Majeure occurrence will only have the effect of deferring the performance of those obligations, and shall not serve as an excuse for breaching the Agreement.
- 22.4 In the event that the performance of any of the Supplier's obligations under the Agreement is temporarily prevented due to a Force Majeure occurrence, Mammoet may temporarily suspend its own performance, especially payment obligations, or part thereof.
- 22.5 In the event that the performance of obligations under the Agreement is permanently prevented due to a Force Majeure occurrence, or is temporarily prevented due to a Force Majeure occurrence for a period anticipated to be at least 60 (sixty) days, then either Party is entitled to terminate the Agreement in accordance with paragraph 24 of these General Conditions.
- 23. Default**
- 23.1 The Supplier will be in default immediately upon any breach of any of its obligations under the Agreement and under these General Conditions, including but not limited to any non compliance of any of the provisions of these General Conditions and/or any non performance, incomplete performance, delay in the performance and/or underperformance by the Supplier in respect of its obligations under the Agreement and these General Conditions. The Supplier will be in default without any prior notification or notice of default being necessary.
- 23.2 In case of default by the Supplier Mammoet is entitled, at its option, to take any of the following measures:
- to refuse and reject Supplier's performance and to order Supplier to replace the faulty performance in accordance with paragraph 15.4 of these General Conditions; and/or
 - to order the Supplier to immediately comply with the respective obligations

- and to repair whatever damage has been done in accordance with paragraph 15.5 of these General Conditions; and/or
- c) to replace the faulty performance and/or to repair the damage itself or to have same done by a third party, at the Supplier's cost; and/or
- d) to temporarily suspend its own performance, especially payment obligations, or part thereof, in accordance with paragraph 24 of these General Conditions; and/or
- e) to cancel and/or terminate the Agreement with immediate effect in accordance with paragraph 24 of these General Conditions.
- 23.3 In case of default by the Supplier, the Supplier will in all events be obliged to pay to Mammoet all costs and expenses (including full legal expenses, both in and out of court) and all loss and damages incurred by Mammoet due to such default.
- 24. Suspension and termination**
- 24.1 Mammoet may suspend its performance, including its payment obligations, or part thereof, in the event of default or anticipated default by the Supplier, without any prior notification being necessary.
- 24.2 Mammoet is entitled to suspend the performance of the Supplier, without any prior notification being necessary, and without being obliged to pay any compensation to the Supplier, if the Customer suspends the performance of Mammoet.
- 24.3 Mammoet will be entitled to cancel and/or terminate the Agreement with immediate effect, without having to take the matter to court or arbitration, and without being obliged to pay any compensation to the Supplier, in the event of any of the following occurrences:
- a) in case of default or anticipated default by the Supplier, after having put the Supplier on notice with a notice period of 5 (five) working days, if the Supplier has failed to perform in accordance with the notice and within the time set;
- b) in the event that the Customer terminates or cancels its agreement with Mammoet, without any prior notification being necessary;
- c) if the Supplier goes into bankruptcy or liquidation, whether compulsory or voluntary, or requests or is granted (temporary) suspension of payment or otherwise has a receiver appointed over its business or assets, without any prior notification being necessary.
- 24.4 Mammoet will moreover, at its absolute discretion, be entitled to cancel and/or terminate the Agreement for the unfulfilled part of the Undertaking, or part thereof, with a notice period of 30 (thirty) days, without being obliged to pay any compensation to the Supplier. Upon such cancellation and/or termination Mammoet's sole obligation will be to pay – in accordance with paragraph 18 of these General Conditions – the amounts due and not previously paid to the Supplier for performance completed.
- 24.5 Other than as provided for in clause 24.6 hereof, the Supplier will not be entitled to terminate the Agreement unless the commencement or continuation of the Undertaking is delayed, due to circumstances for which Mammoet or the Customer is responsible, for a period of at least 60 (sixty) days.
- 24.6 Both Mammoet and the Supplier may terminate the Agreement in the event of a Force Majeure occurrence, which prevents the performance under the Agreement permanently or temporarily for a period anticipated to be at least 60 (sixty) days, with a notice period of 10 (ten) days. Such notice may only be given after the respective Force Majeure occurrence has continued for at least 30 (thirty) consecutive days.
- 24.7 Upon cancellation or termination of the Agreement the Supplier will immediately – at its cost – return to Mammoet, free of any defects and damages, all and any Documentation, equipment and other property of Mammoet, which the Supplier has in its possession and/or has received from Mammoet in connection with the Undertaking.
- 24.8 Notwithstanding the generality of paragraph 21.4 of these General Conditions, Mammoet will in no event – upon suspension, cancellation, termination or otherwise – be liable for any costs, expenses and/or damages especially including but not limited to loss of profit, loss of use, loss of contracts and/or any other consequential and/or economic and/or indirect loss and/or damages and/or for multiple damages and/or for punitive damages.
- 25. Confidentiality**
- 25.1 In addition to the confidentiality obligation of paragraph 8.3 of these General Conditions, the Supplier shall in general keep strictly confidential any and all information, know-how and documents of whatever nature in respect of and in connection with the Undertaking, the Project, Mammoet and the Mammoet Group, the Customer and the activities of the Customer in respect of which it is engaging Mammoet or wishes to do so.
- 25.2 The Supplier shall use such information, know-how and documents solely in respect of the execution of its obligations under the Agreement.
- 26. Applicable law and disputes**
- 26.1 The Agreement, and any further agreements resulting therefrom, including any question regarding the existence, validity or termination thereof, shall exclusively be governed by and construed in accordance with Dutch law.
- 26.2 Any disputes arising in connection with the Agreement, or any further agreements resulting therefrom, including any question regarding the existence, validity or termination thereof, shall be submitted to the exclusive jurisdiction of the District Court (Rechtbank) of Rotterdam, Netherlands, or at Mammoet's discretion – only in case of submission of a dispute by Mammoet against the Supplier – to the court having jurisdiction in the country of the place of domiciliation and/or business of the Supplier.
- 27. Extinction of rights**
- 27.1 Any and all rights of the Supplier shall expire if the Supplier has not brought an action against Mammoet within 6 (six) months after the end of the Contract Period, or termination of the Undertaking if that is earlier.
- 28. Miscellaneous**
- 28.1 Any agreement and/or approval and/or confirmation in writing from Mammoet as referred to in these General Conditions will only be valid and binding upon Mammoet if signed by an authorised representative of Mammoet.
- 28.2 If Mammoet does not exercise any right it might have under the Agreement, this shall not be construed as a waiver of such a right.
- 28.3 No waiver of any term of the Agreement or of the General Conditions by Mammoet shall be deemed to be a further or continuing waiver of any other term thereof.
- 28.4 Mammoet will be entitled to shorten periods of notification – for itself and/or for the Supplier – provided for in these General Conditions, in case of urgency and/or emergency.
- 28.5 The headings of these General Conditions are for convenience only and shall not effect the interpretation thereof.
- 28.6 If any provision or part of the Agreement or of these General Conditions is rendered void or unenforceable, for whatever reason, then it shall be void and unenforceable to that extent only and no further. Any such void or unenforceable part of the Agreement or of the General Conditions will be (deemed to be) replaced by provisions, which are neither void nor unenforceable and which differ as little as possible – in view of the aims of the Agreement and the General Conditions and the relevant provisions – from the void and/or unenforceable provisions.