



## GENERAL RENTAL CONDITIONS AERTSSEN MACHINERY SERVICES LTD

(Version 25/09/2021)

### Definitions

In these Aertssen Machinery Services General Rental Terms & Conditions, the terms and expressions used below have the following meaning:

**Agreement:** The agreement between the Lessor and the Lessee for the rental of the Equipment from the Lessor by the Lessee, as laid down in the Contractual Documents.

**Contractual Documents:** The documents as stipulated in Article 1(1) of the General Conditions, which govern the Agreement between the Parties.

**Daily report (timesheet):** Document issued by the Lessor listing the operated hours and Equipment used per day and that serves as a basis for the invoicing.

**Equipment:** The material, as defined in the Quotation and/or (L)PO, rented out to the Lessee by the Lessor, as well as the rented equipment following an amendment to the Agreement in accordance with Article 3(2) of the General Rental Terms & Conditions. Are considered as Equipment, among others: rigs (cranes, trucks, etc.), lifting accessories (man baskets, wooden plates, spreaders, etc.). This is not an exhaustive list.

**Lessee:** The client, the natural or legal person to whom the Lessor rents the Equipment.

**Lessor:** Aertssen Machinery Services Ltd.

**Load:** The goods and materials to hoist or move with the help of the Equipment.

**Operational Staff:** Staff assigned by Aertssen Machinery Services responsible for carrying out the following Services: the assembly, operation and dismantling of the Equipment at the Site and the occasional transport of the Equipment.

**Parties:** The Lessor and the Lessee.

**Local Purchase Order (PO/LPO):** an order confirmation, a document, issued by the Lessee, in which the latter confirms the acceptance of the Quotation as issued by the Lessor.

**Price:** The compensation for the rental and for the Services such as stipulated under Article 15 of these General Rental Terms & Conditions.

**Quotation:** The document, issued by the Lessor, which lays down the special conditions pertaining to the rental of the Equipment.

**Services:** The services that the Lessor performs for the Lessee, as defined i.e., in the Tender and/or Order Confirmation, e.g., the service and assembly and dismantling of the Equipment, preparing the lifting sketch, the lifting plan and lifting project, the services usually supplied by riggers and foremen, the occasional transport of Equipment, in exchange for the payment for these Services.

**Site:** The location(s) where the Lessee carries out works for which it wishes to use the Equipment, specified by the Lessee when applying for a Quotation.

**Variation/Modification Order:** Document issued by the Lessee containing a change and/or amendment to the services.

**Work:** The works carried out by the Lessee by means of or using the Equipment, included herein any improper use of the Equipment, in breach of the Contractual Documents by the Lessee.

### Article 1. Applicability General Rental Terms & Conditions

#### 1.1 Applicability

Subject to amended or supplementary provisions which have been accepted in writing by the Parties, the relation between the Lessor and the Lessee is governed exclusively by the following Contractual Documents:

- The Quotation and its attachments, if any.
- The General Rental Terms & Conditions.

- Instructions and regulations for the commissioning, maintenance and the (safe) operation of the Equipment.
- The lifting sketch / lifting plan / lifting project.
- The (L)PO and its attachments.

If a Contractual Document is not used in the contractual relationship between Parties, the next mentioned Contractual Document is deemed to take the order of precedence of this Contractual Document.

#### 1.2 Order of Contractual Documents

In the above enumeration, the Contractual Documents are listed hierarchically in order of importance, whereby the first mentioned Contractual Documents prevail over the Contractual Documents subsequently mentioned. The Contractual Documents are interpreted in relation to each other. If these General Rental Terms & Conditions refer to the Quotation, the provisions of the Quotation prevail over the provisions of the General Rental Terms and Conditions. The Quotation, General Rental Terms & Conditions, the Special Rental Terms & Conditions and its attachments, if any, the instructions and regulations and the lifting sketch/lifting plan plan/lifting project form the whole of the Agreement between the Lessor and the Lessee.

#### 1.3 Contractual Document

These General Rental Terms & Conditions constitute a Contractual Document and therefore apply to the conclusion, the content, the implementation, and the termination of the Agreement between the Parties, as well as to all other legal acts and legal ties between the Lessor and the Lessee as regards the object of the Agreement.

#### 1.4 Rights or Defence

The non-exercise by Aertssen Machinery Services of any right or defence granted to it in the General Rental Terms & Conditions can never be interpreted as a waiver of Aertssen's right or defence.

#### 1.5 Alternative Arrangements

It is only possible to derogate from these General Rental Terms & Conditions if and inasmuch as this is agreed explicitly and in writing between the Parties. The Agreement between the Parties laid down in the Contractual Documents replaces any written or oral contract or agreement between the Parties concerning the rental of the Equipment.

#### 1.6 Other Terms & Conditions

These General Rental Terms & Conditions are deemed to have been fully accepted by the Lessee. Merely by receiving the Equipment or by allowing the Equipment on the Site, the Lessee implicitly accepts irrevocably and unconditionally these Contractual Documents in any case.

Acceptance of these General Rental Terms & Conditions also implies that the Lessee renounces the application of its own conditions. If Aertssen Machinery Services were to accept any general conditions of the Lessee, which is only possible if this acceptance is explicit and not via a pre-printed clause on any document or e-mail (footer), or a specific agreement with the Lessee, these General Rental Conditions supplement the Client's terms & conditions or the specific agreement where these general terms and conditions provide for provisions that are less specific or not included in the Client's terms and conditions or the specific agreement, even if they explicitly state that the General Rental Conditions would not apply.

The acceptance of an order confirmation from the Lessee in no case implies an acceptance of any general terms and conditions of the Lessee.

## **Article 2. Agreement**

### **2.1 Quotation**

Every Quotation is based on a performance under normal circumstances and during normal working hours, unless explicitly stated otherwise. Each Quotation relates exclusively to the provision of services, and the scope thereof, as stated in the Quotation.

The Quotation does not include compensation for additional work and/or additional costs, unless explicitly stated otherwise.

Quotations issued by Aertssen Machinery Services and signed (L)POs based upon the Quotation are subject only to the availability of the necessary personnel/subcontractors and/or Equipment.

### **2.2 Deviation/Amendments**

In the event a (L)PO issued by the Lessee contains remarks that are not enclosed in the Quotation or deviate from what is quoted by the Lessor, these remarks are not deemed to be accepted nor approved of, even if the Lessor does not make a specific comment or refusal to these added elements.

If any deviation from the original Quotation and/or addition to the original Quotation are agreed between Parties, the Lessor shall confirm these by incorporating these deviations and/or additions either in the Quotation, issue an additional Quotation or confirm these by e-mail.

Any amendment and/or addition to the Agreement shall only have effect in so far as Aertssen Machinery Services has confirmed this in writing.

### **2.3 Validity**

Quotations issued by Aertssen Machinery Services are valid for one (1) week unless otherwise stated in the Quotation/PO.

### **2.4 Conclusion of Agreement**

An assignment only constitutes the Agreement after the (L)PO by Lessee is received by Aertssen Machinery Services. The information provided by the Client to Aertssen Machinery Services will be deemed to be useful, correct, and complete.

All additional assignments shall automatically take place under the same Terms & Conditions unless explicitly confirmed otherwise in writing by Aertssen Machinery Services.

### **2.5 Guarantee/Advance**

Aertssen Machinery Services may at any time request payment guarantees and / or advance payments and suspend the execution of the Agreement until those guarantees and / or advance payments have been given, without this giving rise to any form of compensation for the Client. The amount of the guarantee and / or advance payment can be indicated in the Quotation/PO. If circumstances arise later that justify a change in the guarantee and / or advance payment, Aertssen Machinery Services is entitled to adjust the amount of the advance payment and / or guarantee, without additional motivation.

### **2.6 Execution of the Agreement**

Aertssen Machinery Services reserves the right to have all, or part of the services carried out by subcontractors. Aertssen Machinery Services is responsible for the performance of the Agreement by its subcontractors, to the same extent that it itself would be liable.

Aertssen Machinery Services reserves the right to refuse assignments.

### **2.7 Publicity**

Aertssen Machinery Services is always entitled to take photos, videos, films, and visual material of its work delivered for the Lessee and to use and distribute them for publicity purposes, as well as to refer to the Lessee, unless this is explicitly forbidden by any law and/or excluded in writing by the Lessee.

## **Article 3. Object of Rental**

### **3.1 Equipment**

The Lessor rents the Equipment to the Lessee as described in the Quotation. The Equipment is supplied with lifting equipment and accessories only as described in the Quotation.

### **3.2 Supplementary Equipment**

At any time during the performance of the Agreement, the Lessee is entitled to ask to hire additional Equipment or materials from the Lessor. The Lessee shall submit a request to the Lessor to that effect. The additional assignment shall take place under the same conditions, unless confirmed differently in writing by the Lessor.

The Lessor can also provide several services to the Lessee, such as defined i.e., in the Agreement and/or Quotation.

### **3.3 Advice**

The Lessee acknowledges and accepts that possible advice on this point or any other contribution of whatever nature from the Lessor is provided without recognition of responsibility. Such advice in no way detracts from the Lessee's exclusive liability.

## **Article 4. Equipment**

### **4.1. Choice of Equipment**

The Lessee is solely responsible for the choice of Equipment and Services and for the suitability of the Equipment and Services to its objectives, and particularly for the handling of Load.

### **4.2 Necessary preparations**

The Lessee itself must prepare beforehand the procedures, the material and all the work necessary for the installation and use of the Equipment and the implementation of its Work. This falls under the Lessee's exclusive liability.

In all instances, the Lessee must ensure the following, among other things:

- obtain the mandatory safety regulations.
- obtain the administrative obligations of whatever nature, which includes environmental licences, all the permits required for the assembly, use, operation and dismantling of the Equipment. When the works take place on public domain (roads, parking lots, etc) the Lessor can only start the works if a valid permit is presented to the Lessor and the necessary road signalling is in place accordingly.
- the suitability of the Site, in accordance with Article 6.2 of these General Rental Terms & Conditions, and particularly for:
  - the responsibility to issue a plan that indicates where all cables and pipes are located and making these plans available to the Lessor.
  - checking for underground wells and/or pipes or (height) obstructions. If they exist, this must be confirmed in writing by the Lessee to the Lessor in good time and the Lessee is obliged to report high-voltage power lines.
  - creating a suitable access road to the Site of the Equipment.
  - creating enough space for setting up the Equipment so that the work can be carried out in a safe and smooth manner.
  - the permission, the establishment and enforcement during the rental period of all necessary traffic diversions, road signalling, the demarcation of the unloading, working, and loading areas, and parking prohibitions.
  - The presence of the necessary Equipment and the required safety facilities.
- the swift transfer of all the correct useful data to allow the Lessor to carry out the Work in compliance and, where appropriate, generate the lifting sketch, lifting plan and lifting project.
- the review, approval, signing and return of the lifting sketch, lifting plan and lifting project.

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- granting all the guarantees in favour of third parties because of the implementation of the Agreement.
- the timely procurement and enforcement of all the necessary permits for the transport of the Equipment if the latter is supplied to the Lessee by making it available at the Lessor's premises or Depots.
- timely provide the Lessor with correct and sufficient information on all the specific characteristics, properties and requirements of the Load, Work, and the Site.
- timely provide a suitable assistant crane, unless otherwise stated in the Quotation.

If the Equipment is supplied to the Lessee by making it available at the Lessor's premises or Depots, the Lessee must also prepare beforehand the procedures, the material and perform all the work necessary for the transport of the Equipment.

In particular: Even if the Lessor provides services on the Site, the Lessee specifically assumes the responsibility to make all requests regarding the suitability of the subsoil in time, under his own responsibility, and to provide this information to the Lessor. The suitability of the subsoil includes (all plans in connection with) the location of cables, pipes and if useful and/or necessary to carry out the necessary probes.

If the Lessee does not or not fully comply with this obligation, the Lessor accepts no liability whatsoever for the consequences of the absence of this information. If the Lessor does not receive any plans and/or information from the Lessee, the Lessor is entitled to assume that no application(s) had to be made and/or that no matters stood in the way of the suitability of the Site.

The Lessee shall indemnify and hold harmless the Lessor for any claim and/or damage, in the broadest sense of the word, to which the Lessor is held by third parties due to a breach of these provisions.

**Article 5. Permits**

The Lessee must guarantee to obtain all permits in accordance with Article 4.2.

However, if the Lessee requests the Lessor to apply for permits in its name and at its expense for works that take place on public property (roadway, parking, etc.), this service is a best-efforts commitment. If the permit is not granted or if the issuance of the permit is delayed, the Lessor will not be liable for any damage to the Lessee.

**Article 6. Supply of Equipment by the Lessor**

**6.1 Time and Location of the Supply of the Equipment**

The Equipment shall be supplied to the Site, unless otherwise agreed in the Contractual Documents. The Equipment shall be supplied at the time stipulated in the Quotation and/or (L)PO.

The Lessee must ensure that its representative is present to receive the Equipment at the location and time agreed for the delivery.

In the event of a delay on the part of the Lessee, the Lessor is entitled to recover in full of the Lessee all ancillary costs, such as the costs of additional preparatory acts, which will then be carried out at the Lessee's risk, as well as compensation for immobilisation of the Equipment and personnel and for the disruption of the planning. This list is not exhaustive. The Lessee who fails to take delivery of the Equipment shall nevertheless remain bound by the Agreement.

If no representative of the Lessee is present to receive the Equipment and the Lessee has indicated that the Lessor is already required or permitted to set up the Equipment or should or may start up the Work, the responsibility thereof shall be borne exclusively by the Lessee.

If there is no representative present and the Lessee has not informed the Lessor, the Lessor has the choice to either refuse to deliver the Equipment and to charge the Lessee for any additional costs arising therefrom or to leave the Equipment at the Lessee's risk and expense, assuming that the Equipment has been left in perfect condition.

The risk in respect of the Equipment is deemed to have passed to the Lessee at the time when it was made available or at the time when it was unloaded at the agreed location.

**6.2 Site Requirements**

The Lessee is solely responsible for the unimpeded access of the Equipment to the Site.

It is the exclusive responsibility of the Lessee to ensure that the Site is safely accessible and passable with vehicles for the Equipment and the complementary (transport) equipment. The subsoil should be sufficiently firm and stable to enable the transport, the safe installation, and the use of the Equipment. If the above requirements are not met, the Lessor is entitled to suspend the delivery and possible installation of the Equipment until such requirements are fulfilled. The costs generated by the inaccessibility or impassability at the time of delivering the Equipment to the Site shall be recovered from the Lessee. This time is counted in the determination of the rental period and the Lessor will be entitled to claim in full of the Lessee any additional costs resulting from this delay, such as (non-exhaustive list) the costs for additional preparatory works as well as the damages for immobilisation of Equipment and staff, for loss of profit and for disturbing the planning.

Materials (wooden plates and steel plates, etc.) which may be supplied by the Lessor in this context in no way diminish the Lessee's obligations as defined in the Contractual Documents.

The Lessee expressly acknowledges that the Lessor is not bound to perform a prior examination of the state of the Site. The supply, installation and use of the Equipment or commencement of the Work by Operational Staff does not constitute acceptance of the condition of the Site.

**Article 7. Good Condition of Equipment**

Upon its arrival at the Site, the Equipment is in good condition and is free of any defects in accordance with the Contractual Documents and applicable laws and regulations, is fully operational and is suitable for immediate use.

**Article 8. Preservation and Use of Equipment**

**8.1 Custodian**

The Lessee is regarded as the custodian of the Equipment from the time that the Equipment is made available. This is either when the Lessee collects the Equipment from the Lessor's Depot or the place where the Equipment is made available or when the Equipment is delivered to the Site. The Equipment may not be removed from the Site or from the place where the Lessor has brought it. The Lessee undertakes to use the Equipment and to allow it to be used only for the purpose for which it is normally intended. The Lessee will at least use the Equipment and allow it to be used in accordance with due diligence

In the exceptional event that the rented Equipment is operated by the Lessee, the rented Equipment must be operated by qualified persons who are familiar with the operation of the Equipment and hold the necessary training certificates. The Lessee is obliged to provide the Lessor immediately upon Lessor's request, with these certificates.

The Lessee will store and guard the Equipment with due care. This means, among other things, that the Lessee will store the Equipment under lock and key in locked and adequately secured premises. The Lessee will closely monitor the condition and operational state of the Equipment and inform the Lessor immediately in the event of any problem.

**8.2 Load**

The Lessee is responsible for bringing the load under the crane hook, hoisting it, and picking it up. The Load must be capable of being manipulated by the Equipment and to apply enough and solid attachment points to the Load.

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To that effect, the Lessee appoints competent foremen and ensures that he is adequately insured.

**8.3 Safety Instructions**

The work must be carried out in accordance with the basic safety instructions. The Lessee guarantees compliance with all applicable laws and regulations relating to the Equipment and the execution of the Work.

**8.4 Interruption of Use of Equipment**

The Lessor always has the right to interrupt and prohibit the assembly or use of the Equipment due to a situation of Force Majeure and/or unforeseen circumstances which impede its safe and proper use.

**8.5 Instructions and Regulations**

If the Lessor is not required to perform Services on the Site, the Lessee shall, upon delivery of the Equipment, be given all necessary instructions and regulations for the commissioning, maintenance, safe service, and operation of the Equipment. If this is not the case upon delivery of the Equipment, the Lessee must expressly request these instructions and regulations from the Lessor in writing.

The Lessor may never invoke the fact of not having been informed of the above instructions and regulations. The Lessee will keep and use the Equipment in accordance with the instructions and regulations, in accordance with the specific requirements inherent to the Equipment which the Lessee has or should have knowledge of.

**8.6 Sublet**

The Lessee may not sublet all or part of the Equipment itself, except authorized in writing beforehand by the Lessor. This consent does not imply any waiver or limitation of the Lessor's rights arising from the Contractual Documents and applicable laws and regulations.

The Lessee who subrentals the Equipment with the prior written consent of the Lessor, in turn, prohibits the subrental of the Equipment by the sublessee without the prior written consent of both the Lessee and the Lessor. The sublessee to whom the Lessee subrentals the Equipment must meet the same conditions as the Lessee under the Contractual Documents. The Lessee shall impose the same obligations on the sublessee as the ones it itself has under the Contractual Documents.

The Lessee remains wholly liable for the execution of the Agreement in accordance with the Contractual Documents whenever it subrentals all or part of the Equipment to third parties.

**8.7 Marks**

The Lessee expressly refrains from any action because of which the (advertising) texts, images and marks affixed by the Lessor to the Equipment are removed, not made visible or concealed. The Lessee is not permitted to affix (advertising) texts, images, names, or marks to the Equipment without the prior written consent of the Lessor.

**Article 9. Ownership Equipment**

The Equipment remains the property of the Lessor.

The Lessee shall warrant the Lessor against all precautionary claims on the Equipment by third parties, its creditors', as well as against all precautionary and executive measures by third parties on the Equipment. The Lessee shall notify the Lessor immediately in writing of any substantive claim and precautionary or executive measures by third parties on the Equipment. The Lessee shall in such cases also inform the third-party making the substantive claims or proceeding to seize the Equipment of the fact that the Equipment is owned by the Lessor.

**Article 10. Damage, Breakdown, and Repairs**

**10.1 Obligation to report Damage**

The Lessee shall carefully monitor the state and the operational condition of the Equipment and immediately notify the Lessor in this respect by telephone in case of a problem, defect, malfunction, breakdown, or

accident, or when the operation of any part of the Equipment does not meet the reasonable requirements which may be placed on the Equipment.

This notification must be followed within forty-eight (48) hours by a written confirmation by fax or e-mail, accompanied by a detailed description of the problem, defect, malfunction, damage, or abnormality.

**10.2 Repairs and regular Maintenance**

The Lessee is expressly forbidden to perform or have performed any repairs on the Equipment, unless approved beforehand in writing by the Lessor. Should the Lessee, in violation of this provision, nonetheless perform or have performed repairs, it shall be solely responsible for the additional costs and damages caused in respect of the Lessor. If the repair has been carried out properly and correctly, yet without the Lessor's prior written authorisation, the costs of this repair shall be borne entirely by the Lessee.

All repairs on the Equipment due to failure, non-operation or damage resulting from a latent defect, normal use or normal wear and tear of the Equipment, shall be performed by the Lessor. Where appropriate the costs of the spare parts and repair shall be borne by the Lessor. The Lessor is entitled to carry out these repairs and routine maintenance during the rental period and even on the Site.

All repairs due to failure, non-operation or damage resulting from a cause other than those described in this preceding paragraph, shall be the Lessee's responsibility. These repairs, included therein relocation costs of its staff and the cost of spare parts, shall be executed by the Lessor during the rental period and even on the Site, and invoiced at the usual rate, as communicated to the Lessee prior to the repair.

**10.3 Impact on the Rental Period and Price**

The rental period shall be suspended for the time required to perform the repair due to failure, non-operation or damage resulting from a latent defect, the normal use or normal wear and tear of the Equipment, provided that the repair can in no way be attributed, in whole or in part, to a fault or shortcoming on the Lessee's part.

Repairs due to failure, non-operation or damage resulting from a cause other than a hidden defect, the normal use or normal wear and tear of this Equipment shall not give rise to the suspension of the rental period during the time required for these repairs.

The Lessee is not entitled to compensation due to downtime or for alteration or disruption of the planning of the work at the Site because of repairs, maintenance, or any kind of testing and/or arising from any cause whatsoever. Similarly, the Lessee may not claim compensation for any consequential damage.

Only if the Equipment does not meet the agreed quality requirements, the Rental will be extended by the period during which the Lessee has been unable to use the Equipment.

All the Equipment is deemed to be rented separately. Failure or stoppage of or damage to a specific Equipment that leads to any loss in productivity of any other Equipment that is fully operational, cannot lead to any reduction in the Fee for the latter Equipment or in the Service Fee for the Services which should be performed with the help of this Equipment.

**Article 11. Operational Staff**

**11.1. Qualified Staff**

Unless explicitly otherwise agreed, the Equipment is always rented with a crane operator. The Lessor can provide other Operational Staff upon the explicit request of Lessee.

The Operational Staff or the personnel delivering the Equipment at the Site shall follow the Lessee's instructions at the Site, to the extent that these instructions are indispensable for the correct execution of the works.

These technical and practical instructions relate exclusively to:

- planning of the works to be executed.

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- the circumstances, procedures, and work methods of the Client, considering the access to the location and/or facilities of the Client, needed to execute the works.
- the specific characteristics, properties and requirements of the Work and the Site.
- access to the locations and/or facilities of the Lessee/Client, necessary for the performance of the assignment
- the use of material, facilities and/or infrastructure of the Client, needed to execute the works.
- all matters concerning safety and health, for the execution of the works.

These instructions do not in the least imply any undermining of the employer's authority of the Lessor and do not in any way affect the liability of the Lessee/Client.

The Lessee is at all times liable for the correctness, accurateness and completeness of its instructions. The Lessor can never be liable for the content and/or execution of Lessee's instructions even if the Lessor ought to know that the instructions given are incomplete and/or not correct.

With regard to safety issues the crane operator ultimately has the last word and can overrule instructions by the Lessee that are contrary to safety.

**11.2 Authority Personnel**

The personnel of the Lessee always remain under the authority, management, supervision, and responsibility of the Lessee and can at no time be considered as an employee or appointee of the Lessor. The Lessor shall in no way be entitled to exercise any authority over the personnel of the Lessee/Client that is normally vested in an employer.

**11.3 Contact Person**

To allow the Lessor to give instructions, the Lessee appoints a person as a contact person for the Lessor. This central contact person then takes care of the instructions to Lessors Operational Staff regarding the correct provision of services. In the event of the inaccessibility or absence of this person, the Client/ Lessee shall immediately inform the Lessor thereof and the Lessee shall appoint a replacement contact person.

**11.4 Sanction**

The Lessee shall ensure that the subcontractor it appoints designates its own responsible person on Site.

If the Lessee fails to comply with the provisions of this Article, and without prejudice to the other provisions of these General Rental Terms & Conditions, the Lessor will be entitled to pass on any damage, including but not limited to all damage, penalties, costs, losses of any nature whatsoever as a result of this non-compliance, to the Lessee, who will compensate the Lessor in full, without prejudice to all other rights and remedies available to the Lessor under these General Rental Terms & Conditions or by law.

Violation by the Lessee of the obligations described in this Article always entitles the Lessor to terminate all agreements concluded between the Parties regarding the provision of services and the rental of the crane with immediate effect, without the Lessor being obliged to pay any compensation.

**Article 12. Requirements Site**

**12.1 Access**

The Lessee is responsible for the timely request, provision, and maintenance of all access requirements to the Site for this staff, such as an access badge, safety instructions and notification procedures. This list is not exhaustive.

**12.2 Safety**

The Lessee will ensure that working conditions at the Site, about health and safety, are in full compliance with applicable laws and regulations in this respect. It is the Lessee's responsibility to timely notify and to keep the involved prevention advisor informed.

**12.3 Sanctions**

In case the Lessee fails to comply with the provisions of this Article, and without prejudice to the other provisions of these General Rental Terms & Conditions, the Lessor shall be entitled to charge all damage, including but not limited to all damage, fines, costs, disadvantages of whatever nature as a consequence of such non-compliance that is incurred due to the Lessee, who shall compensate such damage in full, without prejudice to the other rights and remedies made available to the Lessor enjoys in accordance with these General Terms & Conditions and/or the law.

**Article 13. Rental Period**

**13.1 Term of Rental**

The Parties determine a term of the rental in the Quotation and/or (L)PO. This period is only indicative. The Price remains due for the entire rental period.

**13.2 Beginning of Rental Period**

The Rental period starts at the moment the Equipment is made available to the Lessee, starting at the moment when the Equipment leaves the premises or Depot of the Lessor or the place where they were last located and is on its way to the Lessee's Site. The Lessor's recording of the time is considered as proof.

It is the independent decision of the Lessor to determine the most suitable itinerary for the Equipment, considering the permits, block times and other (legal) provisions.

**13.3 End of the Rental Period**

The rental period ends when the Equipment is returned to the Depot or to any other location to be determined unilaterally by the Lessor, regardless of whether the Equipment is not, not yet or no longer operational or used by the Lessee. The time registration recorded by the Lessor serves as proof. However, the rental period cannot be shorter than the minimum rental period specified in the Quotation or (L)PO. However, it may be longer than that included in the Quotation and/or Confirmation of Order. In any case, the Lessor can never be held liable for an incorrect estimate of the required rental period stated in the Quotation and/or Order Confirmation.

**13.4 Cancellation by the Lessee**

The Lessee can only cancel an order for rental of Equipment or transport of Equipment before sending a L(PO) without any cancellation costs or charges if the following requirements are met:

- rental of a crane equal to or smaller than 200 tons:  
cancellation must be made no later than 2:00 p.m. three (3) calendar days before the day on which the Lessor was to deliver the Equipment
- rental of a crane of more than 200 tons:  
cancellation must be made no later than 2:00 p.m. seven (7) calendar days before the day on which the Lessor was to deliver the Equipment
- transport:  
cancellation must be made no later than 2:00 p.m. one (1) calendar day before the day on which the Lessor was to transport the Equipment.

If these cancellation terms are not respected, the Lessee will owe the full rental Price as determined on the basis of the indicative rental period

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stated in the Quotation, including the costs arising from the cancellation, unless the Quotation stipulates otherwise.

The cancellation must be made in writing. The date of receipt of this writing by the Lessor shall count as the date of cancellation.

**13.5 Cancellation by the Lessor**

The Lessor reserves the right to cancel the order at any reasonable duration prior to the agreed starting time/date for any valid reason. The same will be communicated in writing prior to the agreed starting time/date.

**13.6 Extension/Modification Rental Term**

Extension or modification of the rental period mentioned in the (L)PO or Quotation is only possible with the explicit consent of the Lessor in writing. In the absence of agreement, the Lessee is obliged to return or bring back the Equipment at the end of the rental period provided for in the Quotation or (L)PO.

It is the responsibility of the Lessee, if applicable, to provide the Lessor with an amended Order Confirmation/Variation/Modification Order or any document that confirms Lessee's request for an extension prior to the extension of the initial rental term. If the Lessor grants an extension of the rental term, but the Lessee failed to provide its formal documentation, this lack of Lessee's documentation can never be held against the Lessor. The Lessor acts in good faith and is entitled to payment for the extension.

**13.7 Suspension of Rental**

The Rental period can never be suspended due to standstill, Force Majeure, or unforeseen circumstances.

**Article 14. Return and Check of the Equipment**

**14.1 Return of Equipment**

The Lessee is obliged to compensate the Lessor for any damage to the Equipment that is not caused by normal use or normal wear and tear, and for all damages not attributable to the Lessor.

If the Lessor must perform Services on the Site, the Operational Staff shall report the differences in the state and condition of the Equipment compared to when it was delivered on the Site.

Should the Lessor not provide Services at the Site, the return shall in principle take place at the same location as the delivery at the start of the rental. If the Equipment was delivered to the Site or another location outside the Lessor's premises or Depots, the Lessor shall collect the Equipment from there. If the Equipment was delivered to the Lessee at the Lessor's premises or Depots, the Lessee shall return the Equipment to the relevant premises or Depot.

**14.2 Check of Equipment**

Rented Equipment will be checked on the Lessor's premises after return. The mere taking of the rented Equipment by (the carrier of) the Lessor or (the carrier of) the third-party Lessor cannot be regarded as such an inspection.

**14.3 Determination of Damage**

In the event of damage being determined, the Client will be informed of this and will be offered the opportunity to attend a contradictory expertise. If the Lessee wishes to be present at the inspection, he must indicate this when entering into the Agreement, so that an appointment can be made for the time of the inspection (within 24 hours after return).

**Article 15. Price**

**15.1 Rental Price**

The Rental Price is the fee for renting the Equipment and is stated in the Quotation and/or (L)PO.

Unless expressly agreed otherwise, the Rental Price includes:

- oil, greases and lubricants.

The Rental Price is exclusive, unless expressly agreed otherwise, of:

- VAT.
- Cost of insurance as provided in Article 23 of these General Rental Terms & Conditions.
- Costs for site specific permits or police escorts.
- Costs for assistant crane.
- FAT.
- (internal) mobilization and demobilization.
- Possible import and export costs as well as other costs, charges, taxes or duties related to the transfer/delivery of the Equipment to the Site concerned.
- the insurance of the Equipment during transport for non-automobile transport.
- transport costs in the case of non-automobile Equipment.
- Overtime and weekend work charges, unless otherwise agreed.
- other costs, charges, taxes, or duties which are claimed by any government or other authority in connection with the performance of the Agreement, even if these were not yet known or applicable at the time of the Quotation/ (L)PO.
- transport costs in the case of non-automobile equipment.

The Price is calculated on the Equipment, either per hour or per day, multiplied by the rental period.

**15.2 Timesheet issued by Lessor**

The Lessor administrates the performed hours and services by issuance of daily reports/timesheets.

Lessor shall always report the minimal hours per day (except for the Fridays and Public holidays), even if the operated hours were less, unless explicitly otherwise agreed.

The timesheet drawn up by the Lessor will be presented daily to Lessee's representatives for signature.

Only authorized representatives of the Lessee are allowed to sign the timesheets. The Lessor acts in good faith and is not obliged to verify the authorization of the signatory. If an unauthorized representative signed the daily report/timesheet, these timesheets cannot be revoked, nor can this be held against the Lessor and suspend payment of the services.

If timesheets are refused to be signed without any valuable and motivated reason, reason which should be noted on the daily report/timesheet, the Lessor is entitled to suspend the performance of services, until such issue is resolved satisfactorily and such without any obligation to compensation for delays or other to the Lessee.

If timesheets are only signed by the Client under the condition that Lessor only reports operated hours or zero hours ("Bad weather days"), Lessor will anyhow apply the pricing and invoicing as agreed between parties. The Lessee cannot derive any rights from the structure of these daily reports/timesheets.

The daily report/timesheet issued by the Lessor are - signed or not - the basis for invoicing. All remarks of the Lessee should preferably be reported immediately by telephone and/or e-mail to the Lessor, such within eight (8) calendar days after the daily report/timesheet has been drawn up. After these eight (8) days comments are no longer admissible.

The Lessee is never allowed to make changes to the daily reports/timesheets issued by the Lessor, cross out text etc. or manipulate the document in any way.

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Payment shall be made on any confirmed bank account mentioned on the Aertssen Machinery Services' Tax Invoice.

**15.3 Timesheet issued by Lessee**

Lessor will at all times issue daily timesheets to administrate the performed services, even if parties agree that the Client can present its own timesheets.

In the event of differences and/or discrepancies in the registration of operated hours, Lessor's daily report/timesheet shall always have precedence over Client's timesheet and serve - signed or not – as the only basis for invoicing.

**15.4 Price for Services**

The Service Price is the fee for the Services and is stated in the Quotation and/or (L)PO. The Service Price is exclusive of VAT.

If all or part of the Service Price is expressed in a price per day, week, or month, this or the corresponding part is calculated at this rate, multiplied by the rental period of the Equipment with which the Service is provided.

**15.5 Supplementary Costs**

The price for the rent and the services is calculated based upon a normal execution during regular working hours per day and/or week and under normal (working) conditions, i.e., it must be possible to carry out the work continuously and sequentially.

Aertssen Machinery Services will be entitled to charge additional costs for additional performance due to abnormal circumstances, working hours and difficulties, foreseeable or unforeseeable or incorrect/incomplete details to be provided by the Lessee.

**15.6 Price revision**

Aertssen Machinery Services is entitled to implement price changes which are independent of Aertssen Machinery Services or its subcontractors and which relate to imposed collective labour agreements, legislative changes and changed costs in material, transport, and wages.

If the cost price of one or more elements of the Contract rises after the date of conclusion of the Contract, the Contractor will be entitled to increase the Contract Price accordingly.

**Article 16. Payment Conditions****16.1 Acceptance of Invoice**

The daily report/timesheet issued by the Lessor are - signed or not - the basis for invoicing and are added to the invoice. Upon receipt of the invoice the Lessee has a maximum of three (3) calendar days to protest the invoice but limited to matters that are not related to the daily reports/timesheets, failing which the invoice shall be deemed to be irrevocably and without reservation accepted by the Lessee.

Complaints made three (3) calendar days or later after receipt of the invoice by the Lessee are no longer admissible.

If a part of the invoice is challenged, the objection must clearly indicate which part of the invoice is challenged and to what amount this query relates. Since the invoice remains fully due and payable, regardless of the objection, the Lessee undertakes to pay at once, in the case of a partial objection, at least the uncontested amount or the amount corresponding to the uncontested part, in accordance with the General Rental Terms & Conditions, without this provision undermining in any way the chargeability and the collectability of the other parts and amounts and the applicability of the General Rental Terms & Conditions in this matter.

**16.2 Partial Payment**

Partial payments are first allocated to the collection costs, then to the indemnity clause, the interest due and finally to the outstanding principal sum, with priority being given to the oldest outstanding principal sum.

**16.3 Term**

The invoices of Aertssen Machinery Services are payable within thirty (30) days of the invoice date, unless otherwise agreed.

**16.4 Late Payment**

In the event of failure to pay on the invoice due date:

- all amounts due to Aertssen Machinery Services, also the amounts that have not yet expired are legally immediately due and payable without any notice of default.
- any delay in payment shall automatically and without notice give rise to the application of an interest rate of 1% per month from the due date, to be capitalised automatically and immediately, without notice.
- any delay in payment shall automatically and without notice also give rise to a fixed compensation of 10% on the outstanding balance to be paid, with a minimum of USD 125. The award of this reasonable compensation of 10% does not exclude payment of any litigation costs nor of any other proven recovery costs.
- Aertssen Machinery Services is no longer obliged to (further) execution and can suspend all services immediately and without prior notice, without any compensation for the Client.
- all permitted payment terms expire, and Aertssen Machinery Services may decide to execute the Agreement only further under the strict condition that the Price due is fully settled before delivery is made and/or services are provided.

**16.5 Lien**

The Lessee expressly waives any lien that it could exert, irrespective of the motives and out of which legal relationship between the Parties this lien should have arisen.

**16.6 Set-off**

The Lessee expressly waives its right to set-off in respect of the Lessor. The Lessee is therefore never permitted to compensate the Lessor's invoices with claims that he would have against the Lessor, even if these are related to the Agreement nor if these are certain, definite, and due.

**16.7 Cash Discount**

Unless prior permission in writing is granted by Aertssen Machinery Services; the Lessee shall never be entitled to pay with a cash discount.

**Article 17. Liability Lessee****17.1 Indemnification**

The Lessee is liable for any errors, defects, flaws, miscalculations, omissions, negligence, delays, and other contractual faults attributable to it. The Lessee shall reimburse fully the entire loss and any other adverse effects, whether foreseeable, which the Lessor or third parties have undergone or suffered, and which are directly or indirectly based upon such errors, defects, flaws, miscalculations, omissions, negligence, delays, and other contractual faults. In particular, the Lessor shall not be liable for any damage not attributable to it.

**17.2 Load**

The Lessee is fully liable for all damages directly or indirectly caused by an erroneous statement in relation to the weight of the Load, or by the fact that the Load was not properly picked up or unloaded.

**17.3 Transport Equipment**

If the Lessor is not required to provide Services at the Site and if the Equipment is supplied by placing it at the Lessee's disposal in the Lessor's premises or Depots, the Lessee, if he carries out the transport of the Equipment, shall also be fully responsible for the transport of the Equipment and its return to this place of delivery, in addition to its usual responsibility regarding the further transportation of the Equipment after delivery.

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**17.4 Storage of the Equipment**

Throughout the whole rental period, the risk attached to the Equipment lies with the Lessee and the Lessee, as custodian of the Equipment, is liable for any damage to the Equipment. The Lessee shall reimburse the Lessor for any damage to or loss of the Equipment, regardless of the cause.

**17.5 Damage, Theft, and Loss**

The Lessee is responsible for all damage, theft, loss, or destruction of the Equipment and must report any loss in accordance with the provisions of Article 10(1) of these General Rental Terms & Conditions.

In the event of theft/disappearance of the rented Equipment, the Lessee is also obliged to report the theft to the Police no later than twenty-four (24) hours after the discovery of the theft. The Lessee is also obliged to submit a police report (or a copy of the police report) to the Lessor.

If the Lessee does not comply with the provisions of this paragraph, any right to bring action or recourse against the Lessor will lapse definitively and irrevocably regarding this claim.

**17.6 Indemnity**

The Lessee expressly acknowledges that the Lessor can never be held liable towards it and will never have to indemnify the Lessee should third parties lodge a claim against the latter in connection with the Work and the goods which are lifted using the Equipment, or for damages that the Lessee should suffer were it the object of such a third-party claim, even if the Equipment was used in accordance with the provisions of the Agreement as set forth in the Contractual Documents.

The Lessee shall hold the Lessor and his employees harmless against any third-party claims for damages that may be caused to third parties by the Equipment or the use thereof during the rental period including any transport, installation, and assembly thereof.

Should the Lessor be held liable by a third party for issues that may be related to the Equipment, the Operational Staff, the Services, the Work, or the completed works, buildings and structures which were erected with the help of or using the Equipment, the Lessee shall, upon the Lessor's first request, voluntarily intervene as a party in this dispute, whether the dispute is pending before a court or an arbitration, and even if there already is an ongoing dispute between the Lessor and the Lessee.

The Lessee shall also hold the Lessor, the companies affiliated with the Lessor and their respective directors, representatives, employees, servants, or agents, harmless against all third-party claims arising from damage caused by contractual breach on the Lessee's part, its employees or the Equipment used on the Site.

**17.7 Waiver Claims**

The Lessee shall also waive all claims against the Lessor because of downtime or reduced productivity of the Equipment, including due to Force Majeure as defined in Article 21 of the General Rental Terms & Conditions.

**Article 18. Contractual Shortcoming Lessee****18.1. Contractual Shortcoming**

The Lessee is among others deemed to have come short of its contractual obligations in the following circumstances:

- If the Lessee fails to keep, maintain, or use the Equipment or part thereof, including any installation or assembly thereof, in accordance with the provisions of the Agreement as set forth in the Contractual Documents or fails to meet any other requirements imposed expressly or according to commercial usage, whereby even the slightest contractual fault is considered.
- If the Lessee fails to comply with the payment terms as stipulated in Article 16 of the General Terms & Conditions.
- If the Lessee fails to fulfil the insurance obligations as stipulated in Article 23 of these General Terms & Conditions.

- if the Lessee fails to fulfil one or more obligations contained in the Agreement.

**18.2 Notice of Default - Motivated Defence**

Once the Lessee receives a notice of default from the Lessor, the Lessee, within five (5) calendar days from this notice, must communicate in writing to the Lessor its fully and properly motivated defence and invoke all relevant comments. In this document, the Lessee may offer to rectify its shortcomings.

In the absence of the Lessee's motivated defence in this sense and dispatched within five (5) calendar days from notification by the Lessor, the Lessee shall be irrefutably deemed to agree with the contents of the notification. This will be considered formal acceptance of non-compliance with its obligations.

**18.3 Taking back Equipment**

If the Lessee fails to fulfil one of its contractual obligations or to comply with all other requirements imposed on it, expressly or in accordance with commercial practice, including the slightest contractual default, with regard to the maintenance, use and custody of the Equipment, the Lessor is entitled to proceed immediately and without prior notice to, inter alia, take back all the Equipment, even the Equipment which the Lessee does keep, maintain and use correctly, or to remove it from the Site. To this end, the Lessee grants free access and full cooperation to the Lessor. The Lessee is obliged to compensate the Lessor for all direct or indirect costs and damages resulting from these measures.

**18.4 Liquidated Damages**

If the Lessor terminates the Agreement due to a contractual breach by the Lessee as set out in this Article, will by right and without formal notice be entitled to liquidated damages consisting of the costs of the measures taken and the amount of the full Price for the foreseen Rental period, subject to the right to higher damages if the Lessor can prove this, since the Parties acknowledge and record that the Lessor is definitively and irrevocably in breach of its obligations due to the circumstances justifying the unilateral termination.

In the event of damage to the Equipment, the full damage will be compensated as described in Article 18(5) of these General Rental Terms & Conditions.

**18.5 Damage to Equipment**

The Lessee is solely responsible for the proper, timely and full implementation of the Agreement in accordance with the Contractual Documents and the applicable laws and regulations, both in respect of the Lessor and of third parties, with the inclusion of the preservation, maintenance and use of the Equipment, including any installation and assembly thereof. It shall reimburse any damage to the Equipment arising directly or indirectly from its contractual shortcoming. It shall warrant the Lessor against any direct and indirect consequences if the Equipment, including its possible transportation, installation, and assembly, causes injuries to third parties, to the Lessor or its agents.

**Article 19. Explicit Dissolution Clause****19.1 Termination by both Parties****Notification Circumstances**

The affected Party shall immediately communicate in writing to the other Party of any fact or circumstance as described below which is likely to entitle the other Party to terminate the Agreement.

In such a case, the other Party reserves the right to declare the Agreement dissolved by operation of law, with immediate effect, without notice of default and without prior judicial intervention, in the event of:



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**Concurrence and apparent Incapacity**

In the event of death, application or claim for or determination of bankruptcy, appointment of a provisional administrator or legal representative, request for suspension or judicial restructuring, judicial reorganisation, declaration of incompetence, any similar situation or procedure, liquidation, custody or enforcement, or any other form of concurrence of creditors that affects one of the Parties or any other indication of manifest or imminent insolvency of one of the Parties' assets, the other Party has the right to terminate the Agreement. Such termination will be notified in writing to the other Party or its successors in title.

Where appropriate, the Lessor is entitled to take back his Equipment immediately without prior notice.

**19.2 Termination by Lessor**

The Lessor reserves the right to declare the Agreement dissolved by operation of law, with immediate effect, without notice of default and without prior judicial intervention, in the event of:

**a. Obligations stipulated in Article 11**

if the Lessee fails to fulfil one or more of the obligations contained in Article 11 of these General Rental Terms & Conditions.

**b. Obligations under Article 12**

if the Lessee fails to fulfil one or more of the obligations contained in Article 12 of the General Rental Terms & Conditions.

**c. Dissolution for non-payment**

The Lessor reserves the right to dissolve the Agreement with immediate effect if, despite a written notice of default observing a period of at least five (5) calendar days, the Lessee fails to settle the outstanding invoices in whole or in part. If the non-payment is a consequence of circumstances as defined under Article 19(1), the Lessee is immediately in breach and the Agreement can be terminated without this written notice of default.

**d. Repeated Failure to comply with substantial obligations**

If the Lessee repeatedly fails to fulfil its substantial obligations, the Lessor may, without prejudice to its right to compensation for damage as described in Article 18(4) of these General Rental Conditions, terminate the Agreement after it has given the Lessee a reasonable period in writing and the Lessee has not yet fulfilled its obligations at the end of that period.

**e. Lack of timely, regular, and lawful Defense**

If the Lessee is in default in the performance of the Agreement, as set out in Article 18(2) of these General Rental Conditions, and if the Lessee has not informed the Lessor in good time, regularly and lawfully or has not sufficiently remedied its breach within five (5) calendar days after the breach has been established. The Lessor will notify the Lessee by registered mail that it is making use of this option.

**19.3 Termination by the Lessee**

The Lessee has the right to terminate the Agreement with the Lessor in the event of Lessor's culpable fault, gross negligence, willful misconduct, deception, or fraud on the part of the Lessor. If the Lessee wishes to exercise its right of dissolution, it must inform the Lessor thereof by registered letter within a reasonable period after it became aware of the circumstance that gave rise to the dissolution.

**19.4 Compensation**

In the event of dissolution by the Lessor, the Lessor reserves the right to claim compensation by operation of law and without notice of default for all demonstrable costs, interest, and damage it has suffered, and all

claims of the Lessor against the Lessee become immediately due and payable.

In the event of dissolution by the Lessee, the Lessee reserves the right to claim compensation in accordance with the stipulations in Article 20(2).

**Article 20. Liability Lessor****20.1 Liability**

The Lessor shall, except in the event of Force Majeure, only be liable for damage resulting from its proven fault or that of its employees and/or its subcontractors.

The Lessor shall stipulate all statutory and contractual rights that it may invoke to defend its own liability, also for the benefit of all those - including both subordinates and non-subordinates - who are involved in the performance of the Agreement and for whom it is liable by law.

**20.2 Exclusion of liability**

The Lessor and/or its subcontractors / suppliers are never liable for indirect or immaterial damage, such as, but not limited to, loss of income, loss of profit and consequential damage.

The Lessor is not liable for downtime or reduced productivity of the Equipment, including due to Force Majeure.

**20.3 Limited Liability Equipment**

With regard to the Equipment, the Lessor is liable in the following events and this to the following limitations:

- If the Equipment does not comply with the agreed quality requirements or the Equipment, Lessor's liability will be limited to the replacement of the Equipment by similar Equipment within a reasonable timeframe.
- If the crane operator is not available due to illness or absent due to other reasons, Lessor's liability will be limited to the replacement of another crane operator within a reasonable timeframe.

**20.4 Limited Liability**

The Lessor's liability is expressly limited to direct damage to property and personal injury to persons of the Lessee, caused by a demonstrable defect in the Equipment and/or by an attributable fault, intent and/or gross negligence on the part of the Lessor. However, if the damage could have occurred without the Lessor's fault, the Lessor's liability is excluded.

If the Lessor's liability for damage has been established by all legal means, the Lessor's liability is limited to the amount paid out, if applicable, under the liability insurance taken out by the Lessor in this respect. In any event, the Lessor's liability will in all cases be limited to the amount effectively and effectively reimbursed within the framework of its civil liability policy, with an absolute maximum of EUR 1,500,000, the lower of these limits being applicable. The Lessee acknowledges to know and accept the contents thereof including the general and special policy conditions. This insurance policy is available for consultation at the Lessor's office. An insurance certificate will be provided to the Lessee upon first request.

The Lessee agrees to respect the confidentiality of this document. The Lessor explicitly exonerates himself for any damage exceeding the amount paid out by the insurance.

The Lessor shall be entitled to have the damage assessed by an independent expert from the sector to be appointed by the Lessor.

The Lessee must immediately report any claim for damages pursuant to its obligation to report (cf. Article 10(1) of the General Rental Terms & Conditions) and confirm it in writing to the Lessor within forty-eight (48) hours of its determination.

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In the event of failure to comply with the aforementioned terms, the right to compensation on the part of the Lessee will lapse automatically and by operation of law.

**20.5 Burden of Proof**

In any case, the burden of proof of (the extent of) the damage lies with the Lessee.

**20.6 Prescription**

Without prejudice to the applicable statutory limitation periods, any claim against the Lessor shall lapse one (1) year after the discovery of damage, shortages and/or defects, or in the event of a dispute in this respect, one (1) year after the invoice date, unless the law provides for a shorter period.

**20.7 Waiver of Recourse**

The Lessee, as well as its insurers, waive any recourse against the Lessor to obtain compensation for the financial consequences of any indirect and/or immaterial damage claim by the Lessee, the Lessee's personnel or third parties and indemnify the Lessor and its insurers against any claim made by third parties concerning the aforementioned damage.

**Article 21. Force Majeure****21.1 Definition**

The Parties may only release themselves from their contractual obligations by invoking "Force Majeure".

Force Majeure means the occurrence of an event or circumstance that prevents a Party from performing one or more of its contractual obligations under the contract, if and to the extent that the Party affected by the impediment proves:

- that such impediment is beyond its reasonable control; and
- that it could not reasonably have provided against before entering the contract; and
- which, having arisen, such party could not reasonably have avoided or overcome.
- which is not substantially attributable to the other Party.

Are never considered Force Majeure:

- the bankruptcy of the Lessee or of its Client/Principal.
- a strike or lock-out of the personnel of the Lessee or his Client.

**21.2** Where an affected Party fails to perform one or more of its contractual obligations because of default by a third party whom it has engaged to perform the whole or part of the contract, the contracting Party may invoke Force Majeure only to the extent that all requirements of Article 21(1) a-c are met for both the affected Party and the third party.

**21.3** In the absence of proof to the contrary, the following events are deemed to satisfy all conditions of Article 21(1) and the affected Party only must prove that all conditions of Article 21(1) are satisfied to qualify Force Majeure:

- war (whether declared or not), hostilities, invasion, act of foreign enemies, extensive military mobilisation.
- civil war, riot, rebellion and revolution, military or usurped power, insurrection, act of terrorism, sabotage, or piracy.
- currency and trade restriction, embargo, sanction.
- act of authority whether lawful or unlawful, compliance with any law or governmental order.
- expropriation, seizure of works, requisition, nationalisation.
- pandemic, epidemic, natural disaster, or extreme natural events.
- bad weather conditions, heavy winds, gusts.
- technical failures, malfunctioning of Equipment.
- explosion, fire, destruction of Equipment, prolonged break-down of transport, telecommunication, information system or energy.

- calamities.

Where it has been demonstrated that the damage could have been caused by one or more of the events mentioned above, it shall be presumed that it was or is the cause thereof.

These circumstances and causes have only been cited as examples without any restrictive character.

**21.4** The affected Party shall give notice of the event without delay to the other Party, with a maximum of fourteen (14) days.

**21.5** A Party justifiably invoking Force Majeure is relieved from its obligation to fulfil its contractual obligations and from any liability in damages or from any other contractual compensation for breach of contract, from the moment the impediment causes impossibility to perform, provided that the notice thereof is given without delay. If notice thereof is not given without delay, the relief is effective from the time at which notice thereof reaches the other Party.

The other Party may suspend the performance of its obligations, if applicable, from the date of the notice.

**21.6** If the consequences of the Force Majeure invoked are temporary, the consequences set out above shall apply only for the period during which the invoked impediment prevents the affected Party from fulfilling its contractual obligations. The affected Party must inform the other Party as soon as the impediment no longer prevents the fulfilment of its contractual obligations. The temporary impediment shall not constitute a reason for non-performance of the Agreement but shall merely suspend it.

The affected Party shall immediately inform the other Party as soon as the impediment no longer impedes the performance of its obligations.

The affected Party is obliged to take all reasonable measures to mitigate the effect of the event invoked in the performance of the contract.

**21.7** If the duration of the impediment invoked has the effect of substantially depriving the contracting Parties of what they were reasonably entitled to expect under the Agreement, either Party has the right to terminate the contract by notification within a reasonable period to the other Party. Unless otherwise agreed, the Parties expressly agree that the contract may be terminated by either Party if the duration of the impediment exceeds sixty (60) days.

**21.8** Any costs arising from such reported Force Majeure situation shall be borne solely by the affected Party.

**Article 22. Unforeseen Circumstances**

By unforeseen circumstances is meant:

events of such a nature as to give rise to a contractual imbalance, which the Parties did not intend and of which the other Party cannot reasonably expect the Agreement to be maintained unchanged.

**22.1** Even if a Party to a contract is bound to perform its contractual duties if events have rendered performance more onerous than could reasonably have been anticipated at the time of the conclusion of the contract, if a Party can prove that:

- a change in circumstances renders performance of the contract excessively onerous, such that performance can no longer reasonably be required as a result of an event beyond its reasonable control, which it could not reasonably have foreseen or been expected to take into account when concluding the Contract; and that
- that change is beyond the debtor's control; and that
- the debtor has not assumed such risk.

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the Parties are bound, within a reasonable time of the invocation of this Clause, to negotiate alternative contractual terms which reasonably allow to overcome the consequences of the event.

The Parties shall continue to honour their commitments during the renegotiations.

If the renegotiations are rejected or fail within a reasonable period of time, the court may, at the request of one of the parties, either amend the contract to bring it into line with what the parties would reasonably have agreed upon at the time of the conclusion of the contract if they had taken into account the change of circumstances, or terminate the contract in whole or in part at a date which may not precede the change of circumstances and according to modalities determined by the court.

**Article 23. Insurances****23.1 Minimal Insurances**

Unless otherwise specified in the Quotation and/or PO, the Lessee shall contract the following insurance covers as a minimum:

- An All-Risks Insurance on the handled goods (hook insurance).
- A public liability insurance covering third-party claims.
  - This insurance covers, in addition to the usual insurances, the liability of the Lessee as incidental ordering Party of the Operational Staff.
  - The coverage of this policy is also expanded to damage caused to third parties by any fixed or movable building site and hoisting equipment and other apparatuses, irrespective of their technical (lifting) capacity/limitations.
  - The 'traffic risk' in this policy should also be ensured if the Equipment rented does not bear registration plates.

Where the Lessor is not supposed to perform Services at the Site, the Lessee is obliged to subscribe at least the following additional insurance policies for the entire rental period:

- An insurance to cover the rented Equipment.
- A transport insurance for non-automotive Equipment.

If Equipment is stored (temporarily) at the Lessor, this will take place at the Lessee's own risk and responsibility and the Lessee will adequately insure this Equipment.

**23.2 Waiver**

The policies subscribed by the Lessee contain a clause waiving recourse against the Lessor and the companies affiliated with the Lessor and their respective directors, their representatives, employees, servants, agents, or Subcontractors.

The exemption and the unsecured risks are borne by the Lessee.

**23.3 Submitting Insurance Policies**

At the Lessor's simple request, the Lessee must submit to the Lessor an insurance certificate for the statutory insurance covers and the insurance covers which are described in this Article, stating that the policies were subscribed, and the premiums paid. The Lessor shall be notified immediately, directly and in writing by the insurer and the Lessee whenever the insurance covers are modified, suspended, abolished, or terminated.

**Article 24. Confidentiality**

The Lessor and his personnel shall in accordance with good industry practice and to the extent possible:

- not use or reproduce Lessee's data in whole or in part in any form except as expressly permitted by the Lessee in accordance with the Agreement.
- if the Lessor stores any of Lessee's data, keep such data physically and technically separate from the data of its other customers and identify it as confidential information.

- ensure that no data is transferred, transported, or transmitted outside of Abu Dhabi without the prior written consent of the Lessee.
- apply appropriate security procedures and take all precautions necessary to preserve the integrity of Lessee's data.
- ensure that no unauthorised third party obtains access to any of Lessee's data and/or any information forming part of or being used in connection with the Agreement for any reason, including, without limitation, because of any act or omission of the Lessor or its personnel.
- ensure that it and its personnel do not deliberately or negligently corrupt, erase or otherwise alter Lessee's data.
- not disclose passwords supplied by the Lessee to access Lessee's computers or data to any person other than the Lessor's personnel who need such passwords to perform the Works; and
- take all reasonable steps to avoid a breach of this Article and, in case of a breach or suspected breach, immediately notify the Lessee of such breach or suspected breach and take all steps to prevent it from occurring or reoccurring (as the case may be) and mitigate it.

**24.1 Corrupted Data**

If any of Lessee's data is corrupted, lost, degraded, or otherwise altered due to an act or omission of the Lessor or Lessor's personnel, or if the Lessor otherwise fails to fulfil its obligations in respect of confidentiality of the data, the Lessee may, at the cost and expense of the Lessor:

- require the Lessor to restore (or procure the restoration of) Lessee's data as soon as practicable and, in any case, within five (5) days of the Lessee requiring the Lessor to do so; or
- itself restore (or procure the restoration of) the Lessee's data.

Except as set out in this Article, the Lessor shall not acquire any right, title, or interest in or to the Lessee's data, and nothing shall give rise to any obligation to convey such rights.

**Article 25. Disputes****25.1 Applicable law**

The Agreements concluded by Aertssen Machinery Services and all other obligations of Aertssen Machinery Services are exclusively governed by UAE law excluding the provisions dealing with international private law or other rules that have declared applicable the law of another jurisdiction outside the UAE.

**25.2 Dispute Resolution**

The Parties shall attempt in good faith to amicably settle any dispute, controversy or claim arising out of or in connection with the conclusion, validity, effect, interpretation, performance, termination, or dissolution of the Agreement and/or any non-contractual obligations arising out of or in connection with the Agreement.

If the dispute is not settled amicably within sixty (60) days from the date the dispute is first notified in writing to the other Party, such dispute shall be referred to by any Party to the competent Court.

**25.3 Competent Court**

All disputes relating to the conclusion, validity, interpretation and/or performance or termination of the Agreements shall be subject to the exclusive jurisdiction and venue of the Courts of Abu Dhabi, UAE.

**Article 26. Nullity**

Should one or more provisions of the applicable clauses, be declared illegal, invalid, void, or unenforceable, in whole or in part, for whichever reason, this illegality, invalidity, nullity or unenforceability shall not affect the other clauses. Where appropriate, the Parties shall negotiate to the best of their ability and in good faith to replace this provision with a legal, valid, not null and void and enforceable provision with a similar economic effect.

**Aertssen Machinery Services Ltd. Abu Dhabi**

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**Article 27. Transfer of the Agreement**

The Lessee is forbidden to transfer in whole or in part to third parties the rights and obligations which it holds because of the Agreement, without the Lessor's prior written consent.