

**CONDITIONS FOR THE USE OF FLOATING SHEERLEGS 1976**  
**(“BOKKENGEBRUIKVOORWAARDEN 1976”)**

Free translation of the “BOKKENGEBRUIKVOORWAARDEN 1976” as deposited in the “Griffie van de Arrondissementsrechtbank te Rotterdam, Amsterdam en te Middelburg” on January 1<sup>st</sup> 1977, and to which is referred to as “Bokkengebruikvoorwaarden 1976”

In all circumstances the wording of the original conditions is binding.

**Article 1.**

The operators of floating sheerlegs make their plant and their personnel available on the conditions mentioned below. The person placing the order for the sheerlegs confirms by his order that he is conversant with these conditions and agrees to their application. The conditions of the person placing the order shall never be applicable unless the operator has expressly agreed to this in advance in writing. The present conditions shall be applicable irrespective of whether the plant is made available against a remuneration on a time basis or against a fixed sum.

**Article 2.**

The remuneration that is payable to make a floating sheerlegs available shall be charged from the moment the sheerlegs commences the journey to the location where the work is to be executed, until the moment the sheerlegs has returned to its regular berth, unless the sheerlegs has sustained such damage as to make its return impossible. In the latter case the remuneration shall continue to be for the account of the person placing the order in all cases in which he, by virtue of the terms contained in these conditions or otherwise, shall be responsible for the damage caused and this until the moment that the operator no longer suffers any trading loss. In case a fixed sum has been agreed upon the minimum hourly tariff for day-working shall be owed for the sheerlegs in question over the number of days until the time as referred to in the preceding sentence. The reservation and cancellation costs shall be due according to the tariff quoted in the rates of the operator in question.

**Article 3.**

The operator shall not be liable for the non-or-off-schedule departure of the sheerlegs for whatever reason or for the non-or-off-schedule arrival of the sheerlegs at the location for which it was ordered, nor for the non-or-off-schedule commencement of the work or for the discontinuation thereof, not even when caused by the decision of the operator or his representative, that the departure of the sheerlegs, the continuation of the journey, or the commencement of the work is not warranted for reasons to his discretion. The operator or his representative shall at all times be competent to make a decision as referred to in the preceding sentence on the understanding that no objection may be made against him for the non-use of this competence. The sequence in which orders or works are completed shall also be left exclusively to the discretion of the operator or his representative.

**Article 4.**

All damage to the load (including any trading loss connected with such damage) shall be for the account and risk of the person placing the order, irrespective of the cause. Any damage caused by the load, directly or indirectly, shall be for the account and risk of the person placing the order, irrespective of whether it is a case of any preventive or delayed cause.

In case of doubt or unknown cause, the damage shall be assumed to have been caused by the load, unless and in so far as the person placing the order proves another cause, to the satisfaction of the operator. During the whole of the period taht work is being carried out with a sheerlegs, the personnel and plant involved shall be assumed to be under supervision of the person placing the order.

## **Article 5.**

The sheerlegs are made available without slings, shackles and similar fastenings. If the operator makes fastenings as described here available to the person placing the order (whether charged for or not, such as discretion of the operator), the use of these shall be completely at the risk of the person placing the order; this latter shall therefore be liable for any damage caused to, or as a result of the use of such equipment.

The use of this plant that cannot be counted as standard equipment of the sheerlegs, such as pile jetting installations, pumps, etc., and also the supply of extra steam shall be for the account and risk of the person placing the order, who in this matter will always be liable for separate payment.

## **Article 6.**

Personnel of the person placing the order, or of third parties, shall not be permitted to work on the sheerlegs. If contrary to the above permission has been given in a specific case for personnel of the person placing the order or of third parties to work on the sheerlegs, this permission shall never be able to override the remaining terms of these conditions and it shall be completely for the account and risk of the person placing the order.

The own plant or auxiliary plant of the person placing the order, or third parties may be used exclusively for the account and risk of the person placing the order. It must be suitable for the purpose concerned, and this exclusively at the direction of the operator or his representative, without prejudice to the conditions of the preceding sentence.

## **Article 7.**

The operator shall not be responsible for advice given by his personnel regarding work carried out or to be carried out.

## **Article 8.**

In all cases in which the operator is not liable in view of these present conditions or otherwise, or in which any fact or any damage is for the account and/or risk of the person placing the order,

- a) the person placing the order shall safeguard the operator from claims by third parties;
- b) the liability, not only of the operator himself but also that of his personnel and plant, shall be expressly excluded;
- c) this exclusion from liability – with all rights connected therewith, such as that of safeguard and extinction of right – shall also apply in favour of his personnel and of parties interested in the plant who are assumed to have accepted these conditions;
- d) the release from liability shall apply expressly, even if it is a case of blame or negligence on the part of the operator or any person employed by him on the work;
- e) all this shall apply irrespective of the quality in which the operator acts;

## **Article 9.**

When these conditions speak of the plant or the personnel of the operator, this shall also include any plant obtained by him from third parties or any persons employed by him on the work are not in his service.

When these conditions speak of damage, this shall also include immaterial damage and also all material and immaterial consequential damage (in particular trading loss) connected with the event causing the damage, even when this is not indicated in so many words.

#### **Article 10.**

These conditions shall also be applicable when, in the execution of work, use is made of the sheerlegs without this latter having been ordered; the person by whom or on behalf of whom the order for the work has been issued shall be regarded as the person placing the order within the meaning of these conditions. If a sheerlegs has been ordered through an intermediary, this latter shall in addition to his principal be severally liable for the liabilities of the principal by virtue of these conditions.

#### **Article 11.**

The person placing the order shall soundly insure the risk to him pursuant of these General Conditions, in his name and for his account. The insurance agreement shall contain a condition, stating that the insured amounts shall be regarded as ceded to the operator in all cases where the operator suffers damage or is threatened to suffer damage, for which the person placing the order shall be liable, and where the operator prefers a direct payment of the insured amount to himself.

When these conditions are diverged from at any point, the operator shall never be liable to any objections in this respect. The operator shall be entitled but not obliged to take out an insurance as mentioned above, on behalf and for the account of the person placing the order, without prejudice any liability by the person placing the order.

#### **Article 12.**

Any claims on the operator shall become void by the simple expiry of six months from the creation of the claim, unless the same has been submitted in law before that date.

#### **Article 13.**

The operator's invoice must be paid within 30 days of date of invoice, without any deduction or mutual credit, from whatever cause. All due and payable claims of the operator shall, in case of non-payment, be liable from the due date to interest at an annual rate equal to the rate of discount for promissory notes of the Nederlandse Nank in force on the due date and increased by 4%.

All claims of the operator shall become immediately due in case of bankruptcy of, or a moratorium of the person placing the order if an attachment is made on any item of the person placing the order. Before the commencement or before the completion of the making available of the sheerlegs the operator shall already be entitled to request sound security for any outstanding bill and/or for payment of the current order and to suspend, interrupt or terminate his obligations in expectation thereof, without any liability on his part.

#### **Article 14.**

If the operator should not exercise any right to which he is entitled by virtue of these conditions, this shall not be regarded as any cessation of rights. A claim to any condition or any right does not exclude a claim on any other condition or right.

#### **Article 15.**

All disputes between person placing the order and the operator shall be in the first instance be taken before the district Court (Arrondissementsrechtbank) in Rotterdam, unless the operator prefers another forum. The relationship between the parties shall always be subject to Dutch Law.

#### **Article 16.**

The conditions which have been deposited with the Clerk's Offices of the District Courts of Rotterdam, Amsterdam and Middelburg on 1st January, 1977, shall be referred to as "Conditions for the use of floating sheerlegs 1976".