

**SMALS DREDGING B.V. – GENERAL TERMS AND  
CONDITIONS GOVERNING SALES, DELIVERY AND  
PAYMENT FOR CARRYING OUT HYDRAULIC AND  
DREDGING WORK**

Version:  
November 2020

Article 1. Scope of application and definitions

1.1 The following terms bear the meaning assigned to them below for the purposes of these general terms and conditions governing sales, delivery, and payment (the '**Terms and Conditions**')

**Civil Code:** the Dutch Civil Code;

**Day(s):** calendar day(s);

**Other Party:** any party other than Smals Dredging;

**Services:** any services which Smals Dredging provides.

**Documentation:** any documentation concerning Products and/or Services supplied by Smals Dredging;

**Client:** any natural person and/or legal entity with whom or which Smals Dredging conducts negotiations concerning the conclusion of an Agreement in relation to a Product and/or Service, or concludes or has concluded an Agreement in relation to a Product and/or Service;

**Agreement:** an agreement between Smals Dredging and a Client pursuant to which Smals Dredging supplies Products and/or Services based on a title of any nature whatsoever;

**Product:** any item which Smals Dredging supplies;

**In Writing/Written:** by letter or email;

**Smals Dredging:** the private company with limited liability, Smals Dredging B.V., incorporated under the law of the Netherlands, which has its registered office in Cuijk, the Netherlands, and which is registered with the Chamber of Commerce under Number 08124001 and/or the private company with limited liability (Gesellschaft mit beschränkter Haftung), Smals Dredging GmbH, incorporated under the law of Germany, which has its registered office at Kallerstrasse 2a in (49846) Hoogstede, Federal Republic of Germany, and/or the private limited company, Smals Dredging UK Ltd., which is incorporated under British law and which has its registered office at Crown Chambers, Bridge Street in Salisbury, Wiltshire (SP1 2LZ), United Kingdom.

Where a definition is assigned to any of the words above in the plural, it shall also be deemed to include the singular and vice versa.

1.2 These Terms and Conditions shall govern all quotations, notices confirming assignments, Agreements, and negotiations concerning the latter, in respect of which Smals Dredging acts as a contractor, subcontractor, seller and/or supplier of a Product and/or Service, in particular, as a party that performs hydraulic and dredging work in the broadest sense of the term. In the event that there is any conflict between these Terms and Conditions, and an Agreement, the latter shall prevail.

1.3 Any arrangements or procedures which derogate from these Terms and Conditions shall only apply provided that they are agreed to with Smals Dredging In Writing or a person within the latter who is authorised to do so confirms them, and for the rest they shall not in any way affect these Terms and Conditions.

1.4 The application of any terms and conditions employed by a Client is explicitly precluded.

1.5 In the event that one (1) or more provision(s) or part thereof of these Terms and Conditions is or are void, nullified or otherwise inapplicable, the remaining provisions shall continue to apply in full. As far as possible action shall be taken in line with the void, nullified or inapplicable provision as the case may be. In such a case the parties shall enter into consultation with each other as soon as possible in order to remedy the deficiency that has arisen.

1.6 Smals Dredging shall be entitled to amend these Terms and Conditions unilaterally. In the event that Smals Dredging exercises its power to make such amendments, the amended Terms and Conditions shall apply after Smals Dredging has sent them to the relevant Client.

Article 2. Quotations and conclusion of an agreement

2.1 All quotations issued by Smals Dredging:

- are solely intended for the Client in question;
- may not be disseminated;
- shall apply in their entirety;
- may not be accepted piecemeal;
- shall be entirely free of obligation; and
- may always be revoked.

**SMALS DREDGING B.V. – GENERAL TERMS AND  
CONDITIONS GOVERNING SALES, DELIVERY AND  
PAYMENT FOR CARRYING OUT HYDRAULIC AND  
DREDGING WORK**

Version:  
November 2020

- 2.2 Unless otherwise agreed, a quotation issued by Smals Dredging shall always be valid for no more than forty-five (45) days.
- 2.3 An offer shall be based on any information which the relevant Client supplies to Smals Dredging. A Client shall supply Smals Dredging with, amongst other things but not only, drawings and other details concerning (and information about) the condition of the soil, the location, cables, pipes, conduits and weights. A Client shall warrant that any data and information which they supply to Smals Dredging is accurate, timely, complete, and reliable. Should such information appear to be incomplete or inaccurate at any time, Smals Dredging shall be entitled to cancel the relevant Agreement or to raise the price of any Product and/or Service unilaterally, and the Client concerned shall be liable for any costs incurred or losses suffered as a result. A Client shall indemnify Smals Dredging against any claim made by another party which directly or indirectly relates to the provision of incomplete or inaccurate information, and shall compensate Smals Dredging for any loss which the latter suffers as a result of such a claim.
- 2.4 Where an Agreement is concluded In Writing, it shall be deemed to have been entered into on the Day on which Smals Dredging signs it or on which the latter sends a Written order confirmation notice to the relevant Client. In the latter case a Written order confirmation notice issued by Smals Dredging shall be deemed to constitute an accurate and comprehensive record of the Agreement which Smals Dredging and the relevant Client have concluded with each other.
- 2.5 In the absence of Smals Dredging's Written confirmation of an order, the Agreement concerned shall be deemed to have been concluded at such time as Smals Dredging starts to execute it as provided for in Article 5.2 of the Terms and Conditions. In that case Smals Dredging's quotation shall be deemed to constitute the relevant Client's order and an accurate record of the Agreement between Smals Dredging and that Client.
- 2.6 Any additional arrangements that are subsequently made or amendments that are effected shall only be binding on Smals Dredging, provided that the latter confirms them In Writing within fourteen (14) Days and the relevant Client does not then lodge a Written objection within three (3) Days after such confirmation.
- 2.7 In the event that a Client does not consent to a quotation issued by Smals Dredging, the latter may charge the Client for the costs involved. Smals Dredging shall only avail itself of this opportunity provided that it can show that it has had to incur expenses for the purposes of issuing such quotation. Should Smals Dredging avail itself of this opportunity, it shall notify the relevant Client of this before issuing a quotation.
- 2.8 A Client shall not be permitted to cancel all or part of their Agreement with Smals Dredging. A partial cancellation is deemed to mean that the scope of the relevant Services, including but not confined to a reduction of the volume of any dredging materials, will be diminished. Should a Client nevertheless proceed with full or partial cancellation, Smals Dredging shall remain entitled to charge the Client for the entire amount involved in the relevant Agreement and Smals Dredging shall remain entitled to recover any loss suffered as a result of such cancellation from the Client.
- 2.9 When entering into an Agreement, Smals Dredging shall not under any circumstances be bound by any prices, discounts, margins and/or conditions previously agreed with the relevant Client which derogate from these Terms and Conditions.
- 2.10 Smals Dredging shall enter into any Agreement subject to the suspensive condition that it is entitled to verify the relevant Client's creditworthiness in connection with their financial compliance with the Agreement. Should Smals Dredging have reasonable grounds to conclude that a Client is not creditworthy (or not appropriately so), Smals Dredging shall be entitled to suspend its obligations temporarily. In the event that such suspension occurs, Smals Dredging shall give notice of this In Writing immediately and shall offer the Client the opportunity to tender security.

Article 3. Execution of an Agreement

**SMALS DREDGING B.V. – GENERAL TERMS AND  
CONDITIONS GOVERNING SALES, DELIVERY AND  
PAYMENT FOR CARRYING OUT HYDRAULIC AND  
DREDGING WORK**

Version:  
November 2020

- 3.1 A Client shall ensure that any location where Smals Dredging provides Services or is at any rate required to do so is comprehensively outfitted in accordance with Smals Dredging's instructions. In this respect a Client shall ensure, amongst other things but not confined to the following, that sufficient space and options are available for the installation by Smals Dredging of pipes and cables on and around the route of the conduit and for the construction of supply roads to the location where Smals Dredging is required to provide Services.
- 3.2 A Client shall ensure that there is sufficient opportunity for the supply, storage and/or removal of building materials and equipment;
- 3.3 The execution period must be a consecutive period of time determined in consultation.
- 3.4 Such Services may be provided for no less than fifty-five (55) hours a week (from 7 am to 7 pm on Mondays to Fridays).
- 3.5 Where the Services comprise dredging work, an independent measuring service appointed by Smals Dredging and the relevant Client in joint consultation with each other shall be required to carry out initial and subsequent measurements before and immediately after the completion of the Services at that Client's expense.
- 3.6 The relevant Client shall be responsible for the requisite permits, licences, exemptions, consents and registrations. A Client shall be responsible for complying with the requisite permits, licences and/or exemptions. Smals Dredging shall not accept any liability in this respect.
- 3.7 A Client shall take out Construction All Risk (CAR) insurance as is customary in the industry, which shall cover, amongst other things but not confined to, specific project risks, such as the instability of the seabed within the dredging and/or dumping zone or the fact that it is subject to shearing. A Client shall allow Smals Dredging to inspect the relevant insurance policy or policies in response to a Written request.
- 3.8 A Client shall consent to Smals Dredging leaving any of its dredgers and pipes required for the purposes of the relevant Services at the location following the termination of those Services until Smals Dredging is able to transport them to a new location. Should this appear to be impossible, the fee stipulated in the relevant Agreement shall apply in the case of demobilisation.

Article 4. Fees

- 4.1 All fees quoted by Smals Dredging or agreed to with the latter are expressed in euros exclusive of VAT (in so far as is applicable). Any other expenses (including the costs involved in the mobilisation and demobilisation of equipment, harbour mooring and piloting fees, any other similar costs, and any tax, levy, or exercise, import or other duty payable pursuant to the law) shall not be included in any price and shall be borne by the relevant Client. Furthermore, a Client shall bear any foreign exchange risk where payment is made in a currency other than the euro and the date on which the relevant Agreement is concluded shall serve as the reference date.
- 4.2 Any fuel price variation may be set off against the fee quoted by or agreed to with Smals Dredging.
- 4.3 Any fee quoted by or agreed to with Smals Dredging shall be based on the free supply of any equipment required to facilitate mobilisation, demobilisation, and day-to-day activities, including but not confined to the relocation of anchors, diesel bunkering, and bringing wearing parts on board.
- 4.4 The fees shall be based on the provision of Services during the time stipulated in Article 3.4 of these Terms and Conditions. In this respect allowances have been made for a delay of two and a half (2.5) hours a week because of physical pollution, amongst other things but not confined to this. In the event that there is a delay of more than two and a half (2.5) hours a week, Smals Dredging shall be entitled to charge the relevant Client for any costs pertaining to staff and equipment which is occasioned as a result.

**SMALS DREDGING B.V. – GENERAL TERMS AND  
CONDITIONS GOVERNING SALES, DELIVERY AND  
PAYMENT FOR CARRYING OUT HYDRAULIC AND  
DREDGING WORK**

Version:  
November 2020

- 4.5 Any price or fee quoted by Smals Dredging shall be indexed. In this respect Smals Dredging may decide that labour costs and fuel expenses are to be indexed on a monthly basis in accordance with the index figures published by CROW, with the date of the quotation serving as the reference date and having regard to the proportion of the price accounted for by those labour costs and fuel expenses. By way of an alternative, Smals Dredging may decide in favour of indexing each year based on the consumer price index (CPI) published by Statistics Netherlands [Centraal Bureau voor de Statistiek], with the date on which the relevant Agreement is concluded serving as the reference date.
- 4.6 Subject to the provisions of Article 4.5 of these Terms and Conditions, Smals Dredging shall be entitled to change the price of a Product and/or Service unilaterally in the event that it is reasonably required to do so due to government measures, amended quality and/or safety regulations, a judicial ruling or other unforeseen circumstances. Under no circumstances shall such a change in price confer entitlement on a Client to cancel an Agreement.
- 4.7 All of the prices cited by Smals Dredging in an Agreement are subject to typing and calculation errors.

Article 5. Supply and terms of delivery

- 5.1 A delivery time and/or execution period quoted by Smals Dredging in relation to a Product and/or Service shall be deemed to be an estimate. Such delivery time and/or execution period shall merely be indicative and may under no circumstances be deemed to constitute a material deadline within the meaning of Section 6:83(a) of the Dutch Civil Code. In the event that it fails to meet such time, Smals Dredging shall notify the relevant Client of a new delivery time and/or execution period. In the event of a failure to meet a delivery time and/or comply with an execution period, the relevant Client shall not be entitled to compensation or cancellation except in the case of a wilful act or omission, or gross negligence on the part of Smals Dredging.

- 5.2 A delivery time and/or execution period for a Product and/or Service shall only apply once agreement is reached on all of the commercial or technical details, all of the requisite drawings, information, permits, exemptions and the like are in Smals Dredging's possession, the requisite equipment is available, and no other obstacles (physical or otherwise) beyond Smals Dredging's control apply before the relevant work commences.
- 5.3 Smals Dredging shall cite any measurements, quantities, dimensions, and similar details in good faith. Nevertheless, such information shall not be binding. Any discrepancy between a consignment and the margins that are customary in the industry must be accepted and shall not confer on a Client entitlement to replacement, repair, compensation, cancellation or any other right.

Article 6. Invoicing and payment

- 6.1 Smals Dredging shall employ the following invoicing system:
- a. an invoice shall be issued for any mobilisation fee before the relevant equipment is delivered;
  - b. an invoice shall be issued for any demobilisation or disassembly fee immediately upon completion of the relevant Services;
  - c. an invoice shall be issued for Services every two (2) weeks based on pre-agreed instalments or the progress of production based on interim assessments and/or a production measurement in the case of the relevant dredging equipment. In either case Smals Dredging shall draw up a final settlement bill immediately after the independent measurement referred to in Article 3.5 of these Terms and Conditions.
  - d. In the event that a cost-plus pricing method has been agreed on, Smals Dredging shall draw up weekly reports (based on the progress of production) and shall submit them to the relevant Client. Amongst other things, the time spent and materials used shall be recorded in such weekly reports.

**SMALS DREDGING B.V. – GENERAL TERMS AND  
CONDITIONS GOVERNING SALES, DELIVERY AND  
PAYMENT FOR CARRYING OUT HYDRAULIC AND  
DREDGING WORK**

Version:  
November 2020

- 6.2 The term of payment in the case of an invoice issued by Smals Dredging shall be thirty (30) Days after the relevant invoice date. This deadline for payment shall be material within the meaning of Section 6:83 of the Civil Code. This means that a Client shall immediately be in default without the need for prior notice of default, should they fail to meet a deadline for payment of thirty (30) Days.
- 6.3 A Client shall be required to pay an amount for which Smals Dredging has issued an invoice into a bank account designated by Smals Dredging in the absence of any withholding, discount and/or setoff, and shall never be entitled to suspend their financial obligations.
- 6.4 In the event of a failure to meet the deadline for payment stipulated in Article 6.2 of these Terms and Conditions, any discount granted to the relevant Client shall cease to apply, Smals Dredging shall be entitled to charge a contractually stipulated interest rate of one per cent (1%) per month without prior notice of default, and Smals Dredging shall be entitled to all judicial and extrajudicial expenses which need to be incurred in order to collect payment for any invoice. The extrajudicial expenses to which Smals Dredging is entitled shall be set at fifteen per cent (15%) of the value of the outstanding amount. In the event that any extrajudicial expenses which Smals Dredging has incurred actually amount to more than fifteen per cent (15%) of the value of the outstanding amount, Smals Dredging shall be entitled to charge the relevant Client for the extrajudicial debt collection costs which have actually been incurred.
- 6.5 Where an Agreement is concluded with multiple Clients, each of them shall be severally liable for their financial and other obligations towards Smals Dredging pursuant to that Agreement.
- 6.6 In the event that a Client is liquidated, dissolved, goes bankrupt or is granted a moratorium on payments, all of Smals Dredging's claims against them shall fall due immediately (irrespective of the relevant term of payment).
- 6.7 Any complaint concerning an invoice must be submitted to Smals Dredging In Writing within eight (8) Days after the relevant invoice date. After that period a complaint shall no longer be considered and the relevant Client shall be deemed to have exhausted their right to file a claim. A complaint concerning an invoice shall not affect the relevant Client's duty to pay the invoice concerned.
- 6.8 Apart from the power to effect setoff as provided for in law, Smals Dredging shall be entitled to set off its claims against and debts payable to a Client against any amount which the latter owes Smals Dredging on any grounds whatsoever or which it may owe at any point in time.
- 6.9 By way of additional security for any payment that is to be effected, when first asked to do so by Smals Dredging a Client shall effect payment in advance or present an appropriate bank guarantee from a reputable Dutch banking institution when first requested to do so by Smals Dredging. As long as the Client fails to do so, Smals Dredging shall be entitled to suspend compliance with its obligations and, should the Client concerned also be in default after receiving a letter of demand, to cancel that part of the Agreement which has not yet been executed by means of a Written declaration and to seek compensation from the Client.

Article 7. Complaints

- 7.1 Any complaint concerning a visible defect must be reported to Smals Dredging In Writing stating the grounds for it immediately after being discovered but by no later than within seven (7) Days after the relevant Product has been delivered and/or Service has been provided under penalty of foregoing entitlement to do so. Any complaint concerning a hidden defect must be reported to Smals Dredging In Writing stating the grounds for it immediately after being discovered but by no later than within seven (7) Days after being discovered under penalty of foregoing entitlement to do so.
- 7.2 A legal claim must be filed within one (1) year after the timely submission of a complaint

**SMALS DREDGING B.V. – GENERAL TERMS AND  
CONDITIONS GOVERNING SALES, DELIVERY AND  
PAYMENT FOR CARRYING OUT HYDRAULIC AND  
DREDGING WORK**

Version:  
November 2020

under penalty of foregoing entitlement to do so.

- 7.3 In the event that a complaint is deemed to be unfounded, Smals Dredging, acting at its discretion and without having a duty to provide any further compensation, may elect to remedy the situation or to issue a credit note for no more than the relevant invoice value.

Article 8. Liability

- 8.1 Except in the absence of a wilful act or omission, or gross negligence, under no circumstances shall Smals Dredging be liable in relation to a Client and/or any Other Party for any loss on any grounds whatsoever which has been caused by Smals Dredging or by any person or equipment which Smals Dredging has employed for the purposes of executing the relevant Agreement.
- 8.2 Subject to the provisions of the foregoing clause, Smals Dredging shall at any rate not be liable for any:
- decline of the water level in the area of the work site;
  - excessive noise in the relevant area;
  - slope instability and/or failure;
  - environmental pollution which may occur due to polluted silt or materials in the soil in the broadest sense of the term;
  - indirect loss, such as consequential loss, loss due to a delay, or loss of earnings or turnover.
- 8.3 Subject to the provisions of the foregoing clauses, in each case Smals Dredging's overall liability shall be confined to no more than the amount that its insurer actually pays out in the relevant case. In so far as its insurer does not proceed with a payout or no insurance has been taken out for any reason whatsoever, under no circumstances shall the overall compensation exceed 10% of the total contract fee which Smals Dredging has charged in the case of the Agreement pursuant to which such loss has been suffered.
- 8.4 A Client shall have a duty to indemnify Smals Dredging or to hold it harmless with respect to any claim filed by some Other Party which is

directly or indirectly related to Products and/or Services (or their use), and the Client shall compensate Smals Dredging for any loss that the latter suffers as a result of such claim.

Article 9. Force majeure

- 9.1 In the event that Smals Dredging is prevented from executing all or part of an Agreement due to *force majeure*, the deadline by when it is required to comply with its obligations shall be extended. Furthermore, in the case of *force majeure* Smals Dredging shall be entitled to suspend the execution of an Agreement or, acting at its own discretion, to treat the relevant Agreement as having been fully or partly rescinded in the absence of any judicial intervention. In the event that Smals Dredging exercises its right to suspension or rescission, it shall inform the relevant Client of this but shall not have a duty to pay compensation.
- 9.2 Where Smals Dredging has partly complied with its obligations before relying on suspension or rescission (due to *force majeure*), it shall be entitled to issue an invoice for a proportionate amount and the relevant Client shall have a duty to pay that invoice in accordance with the provisions of Article 6 of these Terms and Conditions.
- 9.3 *Force majeure* is deemed to refer to the following, amongst other things, but is not confined to same:
- i) a malfunction of internet and/or telecommunications facilities;
  - ii) a strike, fire, breakdown of machinery or any other disruption of business affecting Smals Dredging or any Other Party on whom Smals Dredging depends for the purposes of executing an Agreement;
  - iii) a disruption of transport, travel restrictions or any other occurrence beyond Smals Dredging's control, such as war, a natural or nuclear disaster, a national emergency, terrorism (or acts of terrorism) and its consequences, a blockade, insurrection, economic disruption, an epidemic, pandemic, health risks and their consequences;
  - iv) a delay or non-compliance on the part of some Other Party on whom Smals Dredging depends for the purposes of executing the relevant Agreement;

**SMALS DREDGING B.V. – GENERAL TERMS AND  
CONDITIONS GOVERNING SALES, DELIVERY AND  
PAYMENT FOR CARRYING OUT HYDRAULIC AND  
DREDGING WORK**

Version:  
November 2020

- v) an energy supply disruption;
- vi) abnormal or other weather conditions;
- vii) sickness; and
- viii) government measures.

Dredging's entitlement to seek full compensation.

Article 10. Intellectual property

- 10.1 Any intellectual property rights to Smals Dredging's Products, Services and Documentation shall be vested in Smals Dredging and/or some Other Party. A Client shall acknowledge such rights and warrant that they will refrain from any infringement thereof. In the event that Smals Dredging develops any Product, Service and/or Documentation at a Client's behest, the intellectual property rights to same shall be vested in Smals Dredging.

Article 11. Non-disclosure

- 11.1 A Client and their staff (whether on temporary assignment or otherwise), as well as any business that they engage and its personnel (whether on temporary assignment or otherwise) shall have a duty not to disclose any information which the Client knows or may reasonably be expected to know is confidential and to use it solely for the purposes of executing the relevant Agreement.
- 11.2 A Client shall not disclose or replicate any of the information referred to in this Article 11 of these Terms and Conditions except after receiving Written consent from Smals Dredging.
- 11.3 In the event that a Client is required to disclose technical data or Documentation to any Other Party for the purposes of executing an Agreement, they shall have a duty to impose a duty of non-disclosure identical to that set out in this article on such other party after receiving Written consent from Smals Dredging for this purpose.
- 11.4 In the event that a Client breaches one (1) or more provisions of this Article 11 of these Terms and Conditions, they shall forfeit a penalty amounting to EUR 10,000.00 in the case of each breach, which shall fall due immediately in the absence of any further notice of default and subject to Smals

Article 12. Suspension and cancellation

- 12.1 In the event that a Client fails to comply with any obligation arising for them pursuant to an Agreement or these Terms and Conditions, or to do so properly or on time, or in the event that Smals Dredging may reasonably expect the Client to fail to comply with any of their obligations towards it, Smals Dredging shall be entitled to suspend the further execution of the Agreement concerned by means of a Written notice to this effect without having a duty to provide any compensation but subject to any other rights that it has. In such a case any claim which Smals Dredging has against the relevant Client shall fall due in its entirety with immediate effect.

- 12.2 In the event that:
- a Client is declared bankrupt;
  - a Client is admitted to a legally stipulated debt rescheduling procedure for natural persons;
  - a Client themselves files for bankruptcy or applies for a moratorium on payments or admission to a legally stipulated debt rescheduling procedure for natural persons;
  - a Client proceeds to surrender their assets;
  - the assets (or part thereof) of a Client are attached;
  - a Client is placed in the care of a guardian;
  - a Client loses the power of disposal over their assets or part thereof in some other way;
  - a Client proceeds to shut down or transfer their business or part of it, which is deemed to include the contribution of part of their business to a company which is to be established or which already exists;
  - a Client proceeds to amend the objects of their business;
  - a Client dies; or
  - a Client fails to comply with any obligation which they have pursuant to an Agreement or these Terms and Conditions;

**SMALS DREDGING B.V. – GENERAL TERMS AND  
CONDITIONS GOVERNING SALES, DELIVERY AND  
PAYMENT FOR CARRYING OUT HYDRAULIC AND  
DREDGING WORK**

Version:  
November 2020

Smals Dredging shall be entitled to cancel all or part of the Agreement with immediate effect and without any further notice of default or judicial intervention by means of a Written notice to this effect subject to any other rights it may have.

Article 13. Retention of title

- 13.1 Any Products that have been delivered shall remain the exclusive property of Smals Dredging until such time as all of the latter's claims against the Client concerned pursuant to both an Agreement and also any claim on the grounds that the Client had failed to comply with such Agreement have been paid to Smals Dredging.
- 13.2 As long as any Products which have been delivered are subject to retention of title in accordance with Article 13.1 of these Terms and Conditions, they may not be encumbered with any right. This prohibition shall be effective under property law as provided for in Section 3:83(2) of the Dutch Civil Code.
- 13.3 In the event that a Client fails to comply with their financial or other obligations on time, Smals Dredging shall be entitled to repossess those Products supplied subject to retention of title immediately without prior notice of default. A Client shall permit Smals Dredging to enter any place where such Products may be found and shall provide every assistance which Smals Dredging requires for that purpose.
- 13.4 A Client shall have a duty to exercise the requisite level of due care for the purposes of storing any Products which have been supplied subject to retention of title as Smals Dredging's recognisable property and to keep them appropriately insured against damage, loss and theft.
- 13.5 In so far as retention of title to any Products supplied by Smals Dredging is extinguished due to specification, accession or otherwise, the latter shall retain entitlement to any newly created asset being encumbered with a non-possessory pledge in favour of it. A Client shall be required to render every assistance for the purposes of encumbering it with such

a non-possessory pledge when first requested to do so by Smals Dredging.

Article 14. Processing of personal data

- 14.1 Smals Dredging may process the personal data of a Client (or their staff) for the purposes of executing an Agreement and maintaining its administrative records.
- 14.2 Smals Dredging shall process such personal data of a Client (or their staff) in accordance with the applicable privacy legislation. In this respect, Smals Dredging shall adopt appropriate technical and organisational measures to secure the processing of personal data. Smals Dredging may avail itself of the storage or other services provided by Other Parties for the purposes of executing an Agreement. In so far as Smals Dredging allows some Other Party or Parties to process personal data, it shall enter into an appropriate data processing agreement with such Other Party or Parties.
- 14.3 Where Smals Dredging processes personal data at a Client's behest for the purposes of executing an Agreement (for example, that of the Client's customers), the parties agree that the Client must be deemed to be the controller in this respect and Smals Dredging the processor. Should such a situation occur, the parties shall enter into a data processing agreement for that purpose. A Client shall warrant Smals Dredging that the nature, use and/or processing of data will occur in accordance with the applicable legislation and regulations, will not be unlawful, and will not infringe any right held by some Other Party. A Client shall indemnify Smals Dredging against any legal claim filed by some Other Party or Parties on any grounds whatsoever in connection with such processing of personal data.

Article 15. Governing law and competent court of law

- 15.1 These Terms and Conditions, and very Agreement between Smals Dredging and a Client shall be solely governed and construed in accordance with the law of the Netherlands.
- 15.2 Any dispute which arises pursuant to these Terms and Conditions or an Agreement which



**SMALS DREDGING B.V. – GENERAL TERMS AND  
CONDITIONS GOVERNING SALES, DELIVERY AND  
PAYMENT FOR CARRYING OUT HYDRAULIC AND  
DREDGING WORK**

Version:  
November 2020

Smals Dredging and a Client have concluded with each other shall be exclusively adjudicated by a competent judge of the District Court of Eastern Brabant having its seat in 's-Hertogenbosch, subject to the proviso that Smals Dredging shall be entitled to file a claim against a Client before any other judicial tribunal which enjoys jurisdiction to consider such a claim pursuant to the relevant legislation.