

**GENERAL TERMS DEWATERING OPERATIONS AS ADOPTED BY
THE VERENIGING VAN BOORONDERNEMERS EN BUIZENLEGGERS
(ASSOCIATION OF DRILLING CONTRACTORS AND PIPE LAYERS) "BOLEGBO"**

Filed on 31 December 1992 with the court registry of the District Court in Utrecht (document number 349/932).

CHAPTER 1. GENERAL CONDITIONS.

Article 1. Applicability.

These terms will apply to all offers and contracts between contractor and principal governed by these terms, in so far parties have not departed from these terms.

Article 2. Offers and Confirmations of Order.

2.1

Unless stated otherwise, all quotations submitted by contractor will be valid for thirty calendar days.

2.2

When an order is confirmed by contractor in writing then such confirmation will be deemed to reflect the contract accurately and fully, unless principal communicates his objections in writing within eight working days upon transmission.

Article 3. Prices.

3.1

Prices stated by contractor will be exclusive of VAT and based on the information supplied by principal.

3.2

Additional costs ensuing for contractor as a result of:

- a. differences in relation to the information supplied to contractor,
 - b. contingencies that cannot reasonably and in fairness be for account and risk of contractor,
 - c. permits for the work being and continuing to be overdue,
- will be for principal.

3.3

Unless contracted otherwise in writing, for account of principal will be in any event:

- a. all costs of discharging the pumped up water with the purpose of ensuring that the groundwater level in the building pit or building trench is not adversely affected, except in the event of return dewatering operations,
- b. all effluent charges, rents, sufferance fees and other similar fees and costs due,
- c. all usage charges and consumption charges for water,
- d. all costs for the permits required for execution of the work,
- e. all costs relating to polluted soil and/or groundwater.

3.4

Unless contracted otherwise, the following activities will not be included in the contract price:

- a. staking and levelling;
- b. additional dewatering and drainage works;
- c. moving or transporting excavated soil;
- d. earth moving, excavation or demolition work plus digging up and repairing pavements, plantings, et cetera;
- e. detecting, laying and digging up cables and pipes;
- f. installing bridges or supports for pipes, cables and pumps;
- g. egress facilities, realising permanent connections to the public sewage system and repairing and purging water conduits or sewage pipes onto which the pumped up water is discharged.

3.5

Prices stated by contractor will be based on the taxes, duties, wages, charges, equipment prices, raw material prices and energy rates and other costs valid on the date of the offer. If one or more of intended cost categories change(s) after the intended date then principal and contractor will be entitled upon consultation to increase or decrease the offered or contracted prices.

Article 4. Invoicing/payment.

4.1

Unless contracted otherwise, if the dewatering plant is installed entirely or almost entirely in one stage

(e.g. for building pits), invoicing will be as follows:

- a. 70% of the total contract price at start of dewatering period,
- b. 30% of the total contract price in monthly instalments.

4.2

When

- a. the work is performed in stages and is contracted on the basis of a lump sum,
 - b. the work is performed on the basis of unit prices,
 - c. the work is performed on a cost plus basis,
 - d. the equipment is made available on the basis of a price per time unit,
- the amount payable in such an event will be invoiced on a monthly basis.

4.3

Payment is to be made within thirty days upon invoice date.

4.4

Principal will be in a position to claim off-setting only if either his claim is acknowledged by contractor or the grounds for said claim can be established by simple means.

4.5

Every payment made by principal will be applied in the first instance to interest payments due by him and to the collection and/or administration costs incurred by contractor, and subsequently to the oldest outstanding bill.

Article 5. Overdue Payment.

5.1

If principal exceeds the contracted payment period then principal will be in default and contractor will be entitled to charge the statutory interest. Moreover, principal will owe costs reasonably incurred to obtain an out of court settlement, whereby contractor will use the collection rate of the calculation table used for lawyers' invoices by the *Nederlandse Orde van Advocaten* (Dutch Bar). If contractor entrusts collection to a lawyer then principal will pay the costs such lawyer will charge contractor.

5.2

If:

- a. principal is in default and/or
- b. contractor has cause to fear that principal will not, or on an untimely basis, satisfy his payment obligations then contractor, without being bound to any damages and without prejudice to all further rights attaching to him, will be entitled to:
 - a. demand advance payment or a surety;
 - b. suspend the performance of the contract in whole or in part;
 - c. revoke the contracted payment periods, whether or not in other contracts, making all (other) outstanding claims immediately claimable;
 - d. suspend his obligations from all other contracts with principal .

Contractor will be entitled to adopting abovementioned measures only in so far the (imminent) non-performance on the part of principal justified these measures.

Article 6. Force Majeure.

6.1

Non-performance of the contract on the part of contractor will not be attributable to him if intended non-performance cannot be attributed to culpability on his part, nor by virtue of the law, under the contract or in the context of accepted commercial dealings.

6.2

A force majeure situation will in any event be:

- a. when contractor fails to realise timely or due delivery of a performance with significant impact on the performance to be delivered by him;
- b. strikes;
- c. disruptions of traffic;
- d. government measures that prevent contractor from timely or duly fulfilling his obligations.

6.3

If delay of the performance due to a force majeure situation does not exceed one month then either party

will – with the exclusion of all further rights – be competent to dissolve the contract by law, without the contractor being bound to any damages incurred by principal or third parties.

6.4

All activities performed until the moment of suspension or dissolution as well as all obligations relating to the work entered into by contractor will be paid for by principal to contractor in so far reasonable and fair.

Article 7. Liability.

7.1

Contractor will be liable for damage incurred by principal only if this damage can be directly and solely attributed to contractor.

7.2

Eligible for damages as stated in article 7.1 will be only damage events for which contractor is insured or should reasonably, allowing for accepted branch practices, have been insured.

7.3

Contractor will not be liable for damage caused intentionally or as the result of gross culpability on the part of auxiliary persons made available by contractor.

7.4

Any damage to be compensated by contractor will be moderated if the contract price payable by principal bears no proportion to the damage incurred by principal.

7.5

Contractor will not be liable for any nuisance, damage or costs caused to the property of principal or third parties, if said damage or costs result from:

- a. electrical power failure;
- b. lowering groundwater level;
- c. failure to clearly mark underground pipes, cables, foundations, et cetera;
- d. theft or damage events with respect to equipment and installations owned by contractor, also when such events occur at night and during days and hours off;
- e. defective equipment, parts made available by principal;
- f. improper execution of activities by third parties engaged for the work by principal.

7.6

If principal provides operation and maintenance of contractor's installations then principal will be responsible for all damage events caused to contractor's installations and equipment as well as for all resulting damage events caused to principal, to contractor and to third parties.

7.7

Damage caused to the dewatering installation resulting from inappropriate use of the equipment by principal or third parties will be compensated to contractor.

Article 8. Insurance.

If principal is a co-insured party in an insurance taken out by principal then, in the context of the principal/contractor relationship, contractor's "deductible" per event or series of events ensuing from one and the same cause shall never exceed 1% of the contract price, such up to a maximum of € 2,268.90.

Article 9. Differences.

If circumstances contractor was not aware of, nor reasonably should have been aware of, before signing the contract necessitate changes in the execution of the dewatering operations then any costs plus a reasonable surcharge will be for account of principal.

Article 10. Period Overrun.

10.1

A contracted performance period will be deemed to comprise the number of workable working days as intended in clause 8, sub-clause 2, UAV '89. When the contracted performance period includes workable working days then the performance period will be extended accordingly, without contractor being liable for any penalty sum and/or damages.

10.2

When a contracted performance period is exceeded due to contractor's fault then contractor will never be bound to pay more than a penalty sum or damages up to a maximum of 0.3 % of the contracted price per workable working day up to 10% of the contracted price for all partial delays combined. Principal will

hold harmless contractor against liability of third parties regarding a period overrun by contractor.

10.3

The contracted performance period will never be considered a deadline, unless explicitly contracted otherwise. In the event of a period overrun, principal will therefore first need to notify contractor in writing of the default.

10.4

When the activities of contractor as a result of any cause beyond the control of contractor cannot be performed in the most efficient sequence as determined by contractor then principal will be bound to compensate contractor's costs and damage events, whereby contractor will also be entitled to a corresponding period extension.

Article 11. Applicable Law.

11.1

All contracts to be concluded by contractor, also when execution of the work occurs outside the Netherlands, shall be subject to the laws of the Netherlands and these terms.

11.2

The provisions in article 12 shall equally apply when principal has its registered office outside the Netherlands. In such an event contractor will also be competent to bring a dispute before the competent court in the residence or seat of principal or before a foreign court.

Article 12. Disputes.

12.1

Both contractor and principal will be competent to bring any disputes and claims ensuing from a contract between contractor and principal, or ensuing from resulting contracts, either before the regular competent court or before a panel of arbitration to be appointed in accordance with the articles and bylaws of the *Raad van Arbitrage voor de Bouwbedrijven in Nederland* (Arbitration Council for Construction Companies in the Netherlands), which panel of arbitration will rule in line with the articles and bylaws of the *Raad* (Council).

12.2

If either party has brought a claim before one of the institutions mentioned in sub-clause 1 of this article then the respondent will cease to be entitled to select the other institution to seek a ruling of the dispute in question.

CHAPTER II. TECHNICAL CLAUSES.

Article 13. Work Site.

13.1

The work site will be made available to contractor:

- a. level and accessible, without any obstacles over, on or in the ground that can hinder or impede the execution of the work; any obstacles, foreign objects or substances that can delay or hamper the progress of the work shall be removed for account and risk of principal;
- b. navigable for contractor's trucks and equipment; if the substrate needs upgrading, or if placement of dragline boards or plates is needed to ensure proper execution of the work then such will be provided, installed and removed by or for account of principal.

13.2

Any damage to contractor's equipment resulting from the failure to remove or improperly removing underground obstacles will be compensated by principal to contractor.

13.3

Unless contracted otherwise, principal will ensure for own account:

- a. availability of sufficient operational water at no more than 80 meters from the drill sites;
- b. egress point(s) for the pumped up water at no more than 80 meters from the pump stations.

Article 14. Dewatering Period.

14.1

The dewatering period will start at the moment that the first water extraction occurs as per principal's instructions, and in any event at the moment that the installation is ready to proceed with water extraction.

14.2

The dewatering period will end at the moment that the entire installation can be removed as per principal's instructions.

14.3

Principal will be bound to inform contractor of the moment intended in sub-clause 2 at least three working days in advance.

Article 15. Facilities.

15.1

Without any payment being demanded from contractor or his personnel, contractor's personnel will be allowed to make use of on-site canteen and washing and toilet facilities, when and where available. If facilities as defined above are required by site management or the competent authorities then these will be provided for account of principal.

15.2

Requisite areas for storage of materials and placement of shacks and vehicles will be provided by principal, without any costs for contractor in this respect, on or in the immediate vicinity of the work site.

15.3

As required by prevailing circumstances, traffic signs, site fencing, site lighting, surveillance and security will be provided by principal, whereby relevant costs will not be passed on to contractor.

15.4

When a telephone alarm is in place, principal will provide a telephone connection next to the alarm point free of charge.

Article 16. Electricity and Fuels.

Contractor will have at his disposal, free of charge, at locations on the building site to be agreed:

- a. all requisite electrical power and current to earth connections of adequate capacity and meeting the requirements and regulations of the power supplying company and the competent authorities;
- b. the electrical power and the fuels required to operate the dewatering installation.

Article 17. Operation and Maintenance.

17.1

If the contract calls for principal to provide operation and day to day maintenance of the dewatering installation(s) then he will for this purpose make available sufficient numbers of qualified personnel and ensure that the operations involved are performed with the greatest care. The provisions in article 7.6 shall apply.

17.2

If not contracted otherwise, operation and maintenance shall specifically involve:

- a. ensuring regular oil changes of engines;
- b. maintaining the level of coolants and lubricants;
- c. checking the operation of any heating elements;
- d. checking the condition of batteries;
- e. keeping pumps, engines and electrical switching equipment free of sand;
- f. making regular test runs of any standby installation(s);
- g. diagnosing and reporting faults as well as performing simple repairs;
- h. performing soundings and other readings, as required by site management or as deemed required by contractor, to monitor proper working order of the dewatering installation(s);
- i. preventing frost damage.

17.3

If principal holds the view that he does not possess the expertise to perform the activities described in subsection 2 of this article, he will notify contractor of this view in writing.

17.4

If contractor provides operation and maintenance of the dewatering installation(s) by providing a maintenance technician for whom accommodations on or in the immediate vicinity of the work site will be arranged, then the connections to and the supply of gas, water, electricity, telephone and the sewage system benefiting said accommodations will be provided to contractor free-of-charge.

17.5

The costs for repairs due to normal wear will be for account of contractor.

Adopted by resolution of 1 December 1992 of the General Meeting of the *Vereniging van Boorondernemers en Buizenleggers* (Association of Drilling Contractors and Pipe Layers) "Bolegbo", with its registered office in Soest.
Effective as from 1 January 1993.