



**GENERAL TERMS AND CONDITIONS OF SALE OF MAMMOET GROUP  
JUNE 2006**

**1. DEFINITIONS AND APPLICABILITY**

1. The following definitions apply to these General Terms and Conditions of Sale:
  - a. "Mammoet Group": the group of companies, domiciled both in the Netherlands and abroad, that are directly and/or indirectly affiliated with Mammoet Holding BV, a company incorporated under the laws of the Netherlands, and any individual company belonging to this group;
  - b. "Mammoet": the company, belonging to the Mammoet Group, which enters into an Agreement with a Buyer or has the intention of doing so;
  - c. "Buyer": any natural person or legal entity that has entered into an Agreement with Mammoet or that wishes to enter into an Agreement with Mammoet;
  - d. "Agreement": an agreement for the sale and supply of Products and the provision of services by Mammoet to the Buyer;
  - e. "Products": all products that Mammoet offers, sells or supplies, or has offered, sold or supplied, to the Buyer;
  - f. "Terms and Conditions of Sale": this general terms and conditions of sale;
  - g. "Consumer Purchase": an Agreement, within the meaning of these Terms and Conditions of Sale, that is concluded between Mammoet and a natural person not acting in a professional capacity or on behalf of a company;
2. All offers, orders and Agreements of Mammoet shall be subject to these Terms and Conditions of Sale, to the exclusion of any other general terms and conditions.
3. By accepting an offer or placing an order, the Buyer accepts the applicability of these Terms and Conditions of Sale.

**2. EXCLUSION OF PRECEDENT**

1. In the event that Mammoet has permitted deviations from these Terms and Conditions of Sale, be it for a long or short period, either tacitly or not, this does not affect its right hereafter to demand immediate and strict observance of these Terms and Conditions of Sale. Under no circumstances shall the Buyer



be able to assert any rights on the basis of the fact that Mammoet has failed to apply these terms and conditions, has applied them in a different way or has allowed any leniency in their application.

### **3. CONCLUSION OF AGREEMENTS**

1. All offers made in terms of content, performance, delivery times, availability and the like shall be non-binding, unless expressly stated otherwise by Mammoet in writing.
2. Mammoet is entitled to refuse orders or to attach special conditions to the delivery. If an order is not accepted, Mammoet shall notify the Buyer of this within thirty (30) working days of receiving the order.

### **4. CONCLUSION OF AGREEMENTS**

1. All prices quoted for the products and services offered are in euro, including VAT and excluding handling and shipping costs, taxes or other levies, unless otherwise stated or agreed in writing.

### **5. PAYMENT**

1. Payment must be made in advance prior to delivery of the Products. If it has been explicitly agreed in writing, payment may also be made in arrears, within 30 days of the invoice date.
2. The Buyer shall not rely upon any deductions, discounts or suspensions in respect of payment.
3. The Buyer is not entitled to offset payments.
4. In the event that payment has not been made within the agreed payment term, the Buyer shall be obliged to pay default interest at 1.5% per month on the amount outstanding with effect from the date on which payment ought to have been made.
5. In the event that payment is made after receiving notice from Mammoet by telephone or in writing, including but not restricted to notice via e-mail, the Buyer shall be obliged to pay and owe a sum of twenty-five euro (€ 25.00) in respect of administration costs.
6. In the event that the Buyer fails to make payment within the term stipulated when the notice was given, in addition to the administration costs referred to in Article 5.5, the Buyer must pay all expenses, including judicial and extrajudicial costs, incurred in respect of the collection of the amount due. The extrajudicial costs shall be set at a minimum of 15% of the total sum outstanding, without prejudice to Mammoet's right to claim the extrajudicial costs actually incurred instead of this minimum.



7. Payments made by the Buyer shall be used in the first instance to settle all interest amounts and/or costs owed and subsequently to settle the outstanding invoices, starting with the longest outstanding debts.

## **6. DELIVERY**

1. All orders accepted by Mammoet in writing shall be carried out without delay or at least within thirty (30) days. In the event that the delivery will be subject to a delay, whether it be due the product being (temporarily) out of stock, or for other reasons, or in the event that an order cannot be supplied or can only be supplied in part, then this will be announced on the Mammoet websites.
2. Delivery of the Order shall take place at the place and time at which the Order is ready for dispatch to the Buyer. Supply shall only take place after payment of the amount due has been made in advance, unless it has been expressly agreed that payment shall be made in arrears.
3. The delivery times stated are indicative and non-binding. Failure to meet the quoted delivery time shall not entitle the Buyer to compensation or to cancel the order or dissolve the Agreement.

## **7. FORCE MAJEURE**

1. Without prejudice to any other rights to which it is entitled, Mammoet shall be entitled in the event of force majeure, if it so decides, to suspend the performance of its obligations under the Agreement, or to dissolve the Agreement without judicial intervention, by notifying the Buyer of such in writing and without Mammoet being liable to pay any compensation.
2. Force majeure shall be taken to mean every failure that cannot be attributed to Mammoet because the fault does not lie with it and it cannot be blamed either by virtue of the law, legal act or generally accepted practice.

## **8. RETENTION OF TITLE**

1. The Products delivered shall remain the property of Mammoet until all sums owed by the Buyer to Mammoet, including the interest amounts and extrajudicial collection costs due, have been paid and received in full. The risk shall be transferred at the moment of supply of the order in accordance with the provisions of Article 6.2.
2. In the case of Consumer Purchase, contrary to the provisions of Article 8.1, the risk shall be transferred at the moment of delivery of the Products.



## **9. CLAIMS AND LIABILITY**

1. Upon their delivery, the Buyer is obliged to check whether the Products delivered comply with the Agreement.
2. In the event that the Buyer discovers that the Order does not comply with the Agreement, he or she must inform Mammoet of this within eight (8) days. Failure to do so shall result in the Buyer no longer being entitled to rely upon the fact that the Products delivered do not comply with the Agreement.
3. In the event that the Buyer demonstrates that the order does not comply with the Agreement, the Buyer shall be entitled to have the Products delivered either repaired or replaced, at the discretion of Mammoet.
4. In the case of Consumer Purchases via the websites of Mammoet, the Buyer is entitled to dissolve the Agreement without giving reasons for a period of seven (7) working days after delivery of the Products. In this case, the Buyer must return the order to Mammoet. Returns shall only be accepted if the order is returned in the same condition in which it was delivered to the Buyer and in the original packaging. The costs of returning the Products shall be borne by the Buyer. Mammoet shall only be obliged to return the payment minus the handling and shipping costs and all other demonstrable costs incurred.
5. Mammoet shall under no circumstances be liable for any loss of profit, loss of use, loss of contracts and/or for any other consequential damage and/or economic and/or indirect loss or damage and/or for multiple damage.

## **10. INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS**

1. The intellectual property rights that are attached to the Products supplied by Mammoet shall be fully and unconditionally respected by the Buyer.
2. Mammoet cannot guarantee that the Products supplied to the Buyer do not infringe any (unwritten) intellectual and/or industrial property rights of third parties.

## **11. APPLICABLE LAW AND JURISDICTION**

1. All rights, obligations, offers, orders and Agreements to which these Terms and Conditions of Sale apply, as well as these Terms and Conditions of Sale, shall exclusively be governed by the laws of the Netherlands.
2. The United Nations Convention on Contracts for the International Sale of Goods (CISG-Vienna, 11 April 1980) shall not apply to all rights, obligations, offers, orders and Agreements to which these Terms and Conditions of Sale apply, or these Terms and Conditions of Sale.



3. All disputes arising in connection with the order and/or Agreement, or any further agreements resulting therefrom, including disputes relating to the existence, validity and/or the termination thereof, shall be submitted to the exclusive jurisdiction of the District Court of Rotterdam, the Netherlands.

## 12. MISCELLANEOUS

1. If any provision or part of these Terms and Conditions of Sale or an Agreement is rendered void or unenforceable, for whatever reason, then it shall be void and unenforceable to that extent only and no further. Any such void or unenforceable part of the Agreement or the Terms and Conditions of Sale shall be (deemed to be) replaced by provisions that are neither void nor unenforceable and that differ as little as possible, in view of the aims of the Agreement and the Terms and Conditions of Sale and the relevant provisions, from the void and/or unenforceable provisions.
2. Mammoet is entitled to amend the Terms and Conditions of Sale. The Buyer shall be deemed to have accepted all changes if the Buyer has not made any objections to one or more of the amendments in writing within five (5) working days after notice of the amendments has been given by Mammoet on the website.
3. Mammoet shall not be liable for misunderstood, corrupted, delayed or improperly received orders and messages resulting from the use of the Internet or any other means of communication in the correspondence between the Buyer and Mammoet, or between Mammoet and third parties, in so far as these concern the relationship between the Buyer and Mammoet, unless and in so far as an intentional act or gross negligence on the part of Mammoet is involved.
4. Mammoet shall send a copy of these Terms and Conditions of Sale to the Buyer upon request. They can also be viewed on line at [www.mammoet.com](http://www.mammoet.com) amongst others.