

# SPECIAL EQUIPMENT

a **mateco** division



**Insurance and damage  
coverage conditions**

## Insurance and damage coverage conditions on rental contracts

On rental transactions, the mandatory Third Party Liability as stated in article 10.1 of the “Fedecom General Hire Conditions 2017” is automatically insured by **mateco bv**. Insurance of the Third Party Liability of objects rented from **mateco bv** is included in the machinery insurance with **policy number 639208703**, taken out co-insured with MS Amlin Marine NV on behalf of MS Amlin Insurance SE with MS Amlin Marine NV as leader of a pool of insurers. Coverage of the Third Party Liability is based on the “Dutch Bourse Policy for Land-Based Equipment (NBPL 2014)” (article 4.2.2.). It should be noted that any damage to own property is not insured and therefore the provisions in article 4.3 of the “Dutch Bourse Policy for Land-Based Equipment (NBPL 2014)” do not apply. For the Third Party Liability insurance no additional fees will be charged.

**mateco bv** provides Comprehensive coverage, unless the tenant explicitly states not to require this. Regarding this comprehensive coverage, **mateco bv** applies the conditions of the “Dutch Bourse Policy for Land-Based Equipment (NBPL 2014)” (article 4.1.2). If no Comprehensive coverage use is required, the tenant must provide a statement showing the insurance of damage to the objects to be rented from **mateco bv**, prior to the rental agreement, unless agreed upon otherwise.

For Comprehensive coverage a charge of **10% of the gross rental price** is applicable.

### Sum Insured (per event):

€ 2.500.000	Third Party Liability for property damage
€ 7.500.000	Third Party Liability for bodily injury
€ 10.000.000	Third Party Liability (with regard to transport of hazardous materials)

### Policy Excess in case of damage (per event):

€ 5.500	Third Party Liability
€ 5.500	Comprehensive coverage (excluding fire/theft/loss)
€ 25.000	Fire/theft/loss

Article 7.4 of the “Dutch Bourse Policy for Land-Based Equipment (NBPL 2014)” does not apply when the tenant has taken out external Comprehensive coverage himself.

### **Who are insured?**

For both the W.A.(M.) coverage and the Comprehensive coverage, the insurance is only in effect if the rented property is used by someone who belongs to the circle of insured persons. That is primarily the tenant. If and insofar as the tenant has given them permission for use, his employees and others who work for him, such as temporary workers, seconded persons or self-employed persons, are also insured. The tenant's subcontractor is equated with the tenant, provided that the rented property is used for the performance of work commissioned by the tenant. Use in violation of the rental agreement, use by a person who does not fall under the circle of insured persons described above or use on the basis of subletting without the prior written consent of **mateco** is not insured and damage as a result of this is for the account of the tenant.

### **What to do in case of damage?**

In case of damage the tenant must take all necessary action in order to limit the damage as much as possible. Any damage must immediately be reported to **mateco bv**, both by telephone as well as in writing. In case of theft/vandalism the tenant must report this to the police immediately on behalf of **mateco bv** and present a copy of the police report to **mateco bv**.

Any damage suffered by **mateco bv** as a result not fulfilling these obligations by the tenant will be borne by the tenant.

The “Fedecom General Hire Conditions 2017” apply to all rental transactions of **mateco bv**. Regarding liability and insurance we explicitly point to the conditions as stated in the “Fedecom General Hire Conditions 2017” (article 7 Use, articles 10, 11 and 12 Liability/Insurance).

No rights can be derived from this overview. The policy conditions are also available on

<https://www.special-equipment.eu/en/media-centre/>

In cases of dispute the Dutch version will apply.

# Fedecom General Hire Conditions 2017

## Clause 1: Applicability

- These conditions apply to all hire agreements entered into between the Lender and Hirer.
- These conditions may only be used by members of the Koninklijke Metaalunie branchegroep FEDECOM.
- The Lender is the FEDECOM member using these conditions. The contractual party is referred to as the Hirer.

## Clause 2: Offers

All offers are without obligation.

## Clause 3: Hire and hire price

- The hire agreement is entered into for the term and at the hire price as stated in the hire agreement.
- Unless another additional price arrangement has been agreed in the hire agreement concluded by the parties, a change in the maximum number of operating hours stipulated in the hire agreement can be reason to change the hire price in the interim.
- The additional hours, established on the basis of the number of hours recorded on the counter attached to the Hired Item will, unless another additional price arrangement has been agreed, are calculated at an additional price stated in the agreement and will be payable with retroactive effect from the date of the change by the Hirer.
- If the hire lasts longer than one year, there will be an annual adjustment of the hire price on the basis of the change in the monthly price index figure in accordance with the consumer price index (CPI) all households (2006=100), published by Statistics Netherlands. The adjusted hire price is calculated on the basis of the following formula: the adjusted hire price is equal to the hire price on the commencement date of the (first) hire period multiplied by the index figure of the calendar month which lies four calendar months before the calendar month in which the hire price is adjusted, divided by the index figure of the calendar month which lies four calendar months before the calendar month in which the first hire period commenced.

## Clause 4: Payment

- If the hire period is longer than one month, invoicing will be on a monthly basis. The monthly amounts payable by the Hirer must be credited before the first of each month to the bank account number provided by the Lender. If the hire period is shorter, payment must be made when the Hired Item was made available to the Hirer.
- The deposit referred to in the agreement must be paid on commencement of the hire agreement. The deposit shall be refunded to the Hirer at the end of the agreed hire period provided the Hired Item, subject to deterioration due to normal wear and tear, has been transferred to the Lender in the condition in which it was made available to the Hirer.
- Irrespective of the agreed payment conditions the Hirer is obliged, at the request and at the discretion of the Lender, to provide sufficient security for payment. If the Hirer does not comply with this within the set term, the Hirer is immediately in default. In that event, the Lender is entitled to terminate the agreement and recoup any loss from the Hirer.
- The right of the Hirer to offset his claims on the Lender is excluded unless the Lender is bankrupt.
- The claim for full payment becomes immediately due and payable if:
  - a payment term has been exceeded;
  - the bankruptcy or a moratorium of the Hirer is petitioned;
  - the assets or accounts receivables of the Hirer are seized;
  - the Hirer's company is being dissolved or liquidated;
  - the Hirer (natural person) is admitted to a statutory debt restructuring scheme;
  - the Hirer (natural person) is placed under guardianship or dies.
- If payment has not taken place within the agreed payment term, the Hirer immediately owes the Lender interest. The interest is 12% per year, but is equal to the statutory interest if such is higher. In the interest calculation, a part of a month is deemed to be a full month.

## Clause 5: Delivery

- The Hired Item is delivered to the Hirer at the location indicated in the hire agreement. The costs of delivery and collection are for the account of the Hirer. From the moment of delivery, the Hired Item and the use of the Hired Item is for the account and at the risk of the Hirer.
- The Hirer is responsible for any assembly and disassembly of the Hired Item.
- At the time of delivery, the Lender, or a third party to be indicated by the Lender, shall prepare a report on the condition of the Hired Item. In the event of a dispute, this report shall serve as evidence for the condition of the Hired Item at the time of delivery of the Hired Item to the Hirer by the Lender.
- If the Hired Item is not available on time, the Hirer is in any event not entitled to compensation.

## Clause 6: Ownership

- All that is fitted or affixed to the Hired Item by or on behalf of the Hirer making it a part of the Hired Item becomes the property of the Lender.
- The Lender is also deemed to be the owner of the Hired Item for tax purposes. The Hirer shall not present himself in respect of the Hired Item as the owner, and shall refrain from making claims on Dutch Tax investment facilities.
- The Hired Item cannot be sold, pledged or otherwise encumbered by the Hirer. It is the parties' intention for this to have effect under property law. In addition, the Hirer is not authorised to sub-hire the Hired Item to third parties or give it in (partial) use, unless the Lender has given its express written permission for this.
- The Hirer is obliged to notify the receiver in bankruptcy, the administrator, the seizing bailiff, the lessee or any other claiming the surrender of the Hired Item or a part thereof immediately of the existence of the ownership right of the Lender and to notify the receiver of this within 24 hours. Pending the instructions of the Lender, the Hirer must take suitable measures at his expense to protect the Hired Item and the interests of the Lender.
- The costs of the measures to be incurred by the Lender in this event are for the account of the Hirer.
- The Lender is entitled to affix a mark to the Hired Item clearly showing the ownership right of the Lender to third parties. The Hirer may not remove this mark during the term of the hire agreement.

## Clause 7: Use

- On delivery, the Hired Item is deemed to correspond with the choice of and the intended use by the Hirer, be in a sound condition and have been delivered with all required accessories and materials.
- The Hirer shall look after the Hired Item with proper care, secure it efficiently and only use it in accordance with its purpose, all this with due observance of the operating and handling instructions.
- The Hirer undertakes only to allow people of 18 years old or above to use the Hired Item, who have the required skill to operate the Hired Item. These people must meet all the requirements imposed by law on the use. They must also have demonstrable experience: for example, they must have all the certificates required for the use.
- The Hirer will not use the Hired Item outside the location stipulated in the hire agreement.
- Without the prior written permission of the Lender, the Hirer is not permitted to drive the Hired Item on the public roads (as referred to in the Dutch Road Act).
- When not in use, the Hirer is required to keep the Hired Item in a dry place locked against vandals. During this time the ignition key must be removed. Failure to comply with this clause will result in an immediately due and payable penalty of € 2500.00 for each day on which the non-compliance continues. The above does not prejudice the right to full compensation for loss.
- The Hirer is obliged to notify the Lender immediately if the Hirer observes any defect or damage to the Hired Item. The Hirer is fully liable for any loss the Lender suffers as a result of the failure of the Hirer to comply with this duty to report.
- If the Hirer is unable to use the Hired Item, this is for the Hirer's account and does not affect the Hirer's payment obligation(s) except if, in the view of the Lender, the impediment is of an unreasonably long duration or is the result of circumstances which can be attributed to the Lender.

## Clause 8: Inspection and maintenance

- The Hirer undertakes to make the Hired Item available for inspection at the request of the Lender and free of charge. The Hirer gives the Lender permission in advance to enter the buildings and sites of the Hirer to inspect or repossess the Hired Item.
- The Hirer:
  - will provide the Hired Object with fuel, charge any batteries and have the Hired Item regularly cleaned at its own expense;
  - will inspect the Hired Item daily in accordance with the instructions and inasmuch as is applicable check:
    - the levels of lubricating oil, hydraulic oil, coolant, anti-freeze and brake fluid, all other lubricants and liquids in the appropriate reservoirs and compartments. Where needed the Hirer will top up these reservoirs;
    - the tyre pressure and the condition of the tyres. Where needed the Hirer will pump up the tyres to the prescribed pressure;
    - the functioning of the operating hours counter;
    - the condition of the warning and detection systems, pipes, hoses, cooling systems, light and lubrication systems, etc.;
    - the general and safe functioning of the Hired Item and any equipment connected to or belonging to the Hired Item.
  - will report deviations to the Lender without delay;
  - will inspect the water level of the traction battery each week and, if needed, will top this up with distilled water after charging.
- Unless agreed otherwise, the Hirer will bear the cost of repairing or replacing punctured or worn tyres. The Lender will arrange for repair or replacement.
- The Hirer will make the Hired Item available in a cleaned condition and continuously, cost free, in a suitable place for the regular maintenance to be carried out by the Lender, or for any malfunctions to be rectified.
- Any repairs may only be carried out by the Hirer or third parties with the express, prior consent of the Lender. If the Lender has not given consent, the costs of the repairs are for the Hirer, without prejudice to the right of the Lender, in the event of damage, to claim full compensation.
- The maintenance of the Hired Item, except that mentioned in paragraph 2 of this clause, is for the Lender's account.
- The maintenance mentioned in the previous paragraph of this clause, resolving any malfunctions or repair work will be done by the Lender on working days (Mon. to Fri.) and during regular working hours (7.30 a.m. to 5 p.m.). If this work takes place on days other than these days and at other times, the additional costs related to this, such as overtime, allowances for work done in the weekend and on public holidays etc. will be at the Hirer's account. The Lender will draw up a separate invoice for these additional costs, which, unless it has explicitly been agreed otherwise, the Hirer must pay together with the next hire instalment or, if this is earlier, within 30 days of the invoice date.

## Clause 9: Impracticability of the hire agreement

- The Lender is entitled to suspend the performance of its obligations if, due to circumstances which could not be anticipated when entering into the agreement and which are outside the Lender's control, the Lender is temporarily unable to comply with its obligations.
- Circumstances which cannot be anticipated by the Lender and which are outside its control include the circumstances that suppliers of the Lender fail to comply with their obligations or fail to comply with them on time, weather, earthquakes, fire, loss or theft of the items to be hired, road blockades, strikes or work interruptions, import restrictions or trade restrictions.
- The Lender is no longer entitled to suspension if the temporary inability to perform has lasted longer than six months. The agreement can only be terminated after this term and exclusively for the part of the obligations not yet performed. In that event, the parties are not entitled to compensation of the loss suffered or to be suffered as the result of the termination.

## Clause 10: Insurance of the Hired Item

- The Lender will take out the Compulsory Motor Vehicle Insurance (WAM) for the Hired Item.
- In addition to the insurance mentioned in paragraph 1 of this clause, the Hirer is required to adequately insure the Hired Item against the risks related to the use of the Hired Item, unless:
  - The Lender and Hirer have agreed in writing that the Lender will take out or has already taken out fire, theft and damage ("casco") insurance, work material insurance or some other insurance suitable for the Hired Item and the work performed with it.
- If there is intent or gross negligence on the part of the Hirer, the Lender can recover any loss it has incurred from the Hirer on grounds of its statutory obligation to insure.
- In all cases where the Lender must make a claim on the insurance taken out by the Lender, the Hirer is obliged to pay the excess on the basis of the policy conditions to the Lender.

## Clause 11: Liability of the Hirer

- The Hirer is liable towards the Lender for all damage to the Hired Item, which includes damage due to loss of the item, embezzlement, theft, disposal and total destruction, insofar as this damage is not compensated by any insurance taken out by the Lender.
- In the event of damage, the Lender will arrange for the Hired Item to be repaired or replaced and the cost will be for the Hirer's account.
- The Hirer is liable for all loss, however named and however caused, inflicted or arisen due to the (use of the) Hired Item.
- The Hirer indemnifies the Lender fully against claims by third parties for compensation relating to the (use of the) Hired Item.
- In the event of damage to or caused by or with the Hired Item, the Hirer must notify the Lender of this immediately in writing. The Hirer is fully liable for any loss the Lender suffers as a result of the failure of the Hirer to comply with this duty to report.
- The Hirer is obliged to take all possible measures to limit the damage to or loss in connection with the Hired Item.

## Clause 12: Liability of the Lender

- In the event of an attributable failure, the Lender is obliged to as yet comply with its contractual obligations. The obligation of the Lender to pay compensation - on whatever statutory basis - is limited to the loss for which the Lender is insured pursuant to an insurance taken out by the Lender or taken out on its behalf, but is never higher than the amount paid out by this insurance in the relevant case.
- For whatever reason, the Lender cannot rely on the restriction included in paragraph 1 of this clause, the obligation to pay compensation is limited to the amount that the Lender has charged in the current agreement (exclusive of VAT).
- Not eligible for compensation is:
  - Consequential loss, including business interruption loss, production loss and loss of profit;
  - Damage due to load or burden;
  - Loss caused by an intentional act or willful recklessness of auxiliary persons or non-managerial staff of the Lender;
  - Damage to goods in or under its care, custody or control.If possible and desired, the Hirer can take out insurance against such damage.

## Clause 13: Termination of the agreement

- An agreement entered into for a fixed period terminates by operation of law as soon as the fixed term has expired. A fixed term agreement cannot be terminated in the interim.
- If the agreed hire period expires without the hire agreement having actually ended in the form of the return of the Hired Item, the agreement is tacitly continued for an indefinite period of time and under the same conditions.
- An agreement concluded or renewed for an indefinite term can be terminated by given notice. Termination of the agreement for an indefinite period of time must be by registered letter with due observance of the notice periods mentioned below:
  - Termination during the first six months of the agreement, counted from the commencement of the hire agreement or the date of renewal for an indefinite term: a one week notice period;
  - Termination during the second six months of the agreement: a two week notice period;
  - Termination after one year: a one month notice period.

## Clause 14: Termination

- The Lender is entitled to terminate the hire agreement without a notice of default or judicial intervention being required by means of a written, extrajudicial statement in, inter alia, the following circumstances:
  - If the Hirer fails to pay a hire instalment or another amount pursuant to the hire agreement to the Lender on time on the due date, irrespective of whether or not the Hirer has been issued with a notice of default;
  - If the Hirer fails to perform an obligation under the hire agreement or fails to perform it fully, in time or properly, or carries out an act which is contrary to the hire agreement;
  - If the Hirer, being a natural person, dies, is placed under guardianship or otherwise loses the unfettered control over his assets;
  - If the Hirer applies for a (provisional) moratorium, petitions his own bankruptcy or his bankruptcy is petitioned by another, he is declared bankrupt, he applies for the application of the Debt Management (Natural Persons) Act, [Wet schuldsanering natuurlijke personen (Wsnpp)] or this has been declared applicable to him;
  - If the Hirer, being a legal person or business, resolves to liquidate the legal person or business, fully or partially ceases the business or relocates the business to a different location than where the Hirer is based according to the hire agreement on signing, or the Hirer resolves to proceed to such a cessation or relocation;
  - If the insurance of the Hired Item is cancelled by insurers or the insurance policy is withdrawn or an existing insurance is not renewed and no adequate cover, at the discretion of the Lender, can be obtained from other insurance companies;
  - In the event of loss (including theft and embezzlement) of the Hired Item or total destruction of the Hired Item.
- In the events referred to in paragraph 1 of this clause, the Hirer owes the Lender an immediate lump sum compensation equal to all the instalments falling due and all due, but not yet paid, instalments including default interest as referred to in clause 4.6.
- If the hire agreement is for an indefinite period of time, the Hirer owes the Lender in the events referred to in paragraph 1 an immediate lump sum compensation equal to all the instalments falling due until the commencement date of the hire of the Hired Item by a subsequent hirer, provided the Lender makes all reasonable efforts to find a subsequent hirer as soon as possible, and all due, but not yet paid, instalments including default interest as referred to in clause 4.6.
- In the event of the termination of the hire agreement, the Hirer immediately loses the right to use the Hired Item and the provisions included in clause 16 apply mutatis mutandis as far as possible.
- The provisions in this clause do not affect the right of the Lender to claim, judicially or extra-judicially on the basis of the relevant sections of the Dutch Civil Code, full or partial performance or (partial) termination of the hire agreement and additional compensation.

## Clause 15: Return of the Hired Item

- At the end of the hire, the Hirer is obliged to return the Hired Item in good and original condition (subject to normal wear and tear) to the Lender in a manner and to a location to be indicated by the Lender.
- All costs relating to the return of the Hired Item to the Lender, including the costs of transport to a destination indicated by the Lender and the costs of (transport) insurance, are for the account of the Hirer.
- If in the view of the Lender, the Hired Item is not clean on collection, the Lender is entitled to clean the Hired Item (or have this done) for the account of the Hirer, provided the Lender has notified the Hirer within two working days after taking receipt of the Hired Item, that the Hired Item was not clean and shall be cleaned for the account of the Hirer.
- As long as the Hired Item has not been returned to the Lender to the satisfaction of the Lender, the Hirer is obliged, in addition to the payment obligations resting on the Hirer, to comply with all other obligations pursuant to the hire agreement.
- All costs to be incurred by the Lender after the return of the Hired Item due to the fact that the Hirer has failed to comply with any obligation pursuant to the hire agreement, including repair or maintenance obligations, are for the account of the Hirer.
- At the time of the return, the Lender, or a third party appointed by the Lender to this end, shall prepare a report on the condition of the Hired Item. In the event of a dispute, this report shall serve as evidence for the condition of the Hired Item at the time of the return of the Hired Item by the Hirer to the Lender. Any damage exceeding normal wear and tear shall be born by the Hirer.

## Clause 16: Bankruptcy or a moratorium of the Hirer

This agreement will end in the event of the bankruptcy or a moratorium of the Hirer. In that case, the receiver or the administrator will act in the Hirer's place. All remaining hire instalments will then become immediately due and payable. The receiver or administrator is required to prepare the Hired Item for collection by the Lender.

If the Lender agrees, the receiver or the administrator can also opt to continue this agreement. In that case, the receiver is required to pay all the outstanding hire instalments up until the remaining hire period.

## Clause 17: Transfer of rights and obligations (during sublease)

- The Lender is entitled to transfer its right and obligations under the agreement, as well as the ownership of the Hired Item, to a third party.
- The Hirer hereby approves such a transfer.
- The Lender might possess the Hired Item on the basis of a financing agreement concluded with a financier. In case the Lender fails to comply with the financing agreement, the Lender and the financier have agreed that the Lender will transfer all the rights that the Lender has under this hire agreement towards the Hirer, to the financier in advance. On signing this agreement, the Hirer accepts this and undertakes to fully cooperate with the financier at the financier's first request.

## Clause 18: Applicable law and competent court

- Dutch law applies.
- The Dutch court in the place of business of the Lender has jurisdiction to hear disputes. The Lender may depart from this jurisdiction rule and apply the statutory jurisdiction rules.

## DUTCH BOURSE POLICY FOR LAND-BASED EQUIPMENT 2014

<b>Article 1</b>	<b>Contingency .....</b>	<b>3</b>
<b>Article 2</b>	<b>Definitions .....</b>	<b>3</b>
2.1	Policyholder.....	3
2.2	Insured .....	3
2.3	W.A.M .....	3
2.4	Insured object .....	3
2.5	Occurrence .....	3
<b>Article 3</b>	<b>Territorial limits .....</b>	<b>3</b>
<b>Article 4</b>	<b>Extent of cover.....</b>	<b>3</b>
4.1	Damage to the insured object.....	3
4.2	Liability .....	4
4.3	Damage to other interests .....	5
<b>Article 5</b>	<b>Exclusions .....</b>	<b>5</b>
5.1	General.....	5
5.2	Damage to the insured object.....	6
5.3	Liability .....	6
5.4	Damage to other interests .....	7
<b>Article 6</b>	<b>Obligations of the policyholder and/or the insured parties in case of loss or damage .....</b>	<b>7</b>
<b>Article 7</b>	<b>Claim settlement.....</b>	<b>8</b>
<b>Article 8</b>	<b>Compensation.....</b>	<b>8</b>
8.1	Damage to the insured object.....	8
8.2	Liability .....	9
8.3	Damage to other interests .....	10
8.4	Automatic reinstatement following loss or damage.....	10
<b>Article 9</b>	<b>Limitation of legal claim .....</b>	<b>10</b>
<b>Article 10</b>	<b>Payment of premium and claims .....</b>	<b>10</b>
10.1	Definitions .....	10
10.2	Premium.....	11
10.3	Payment of claims and return of premium .....	11
<b>Article 11</b>	<b>Refunds of premium .....</b>	<b>12</b>
<b>Article 12</b>	<b>Changes to the insured object.....</b>	<b>12</b>

<b>Article 13</b>	<b>Trade and economic sanctions .....</b>	<b>12</b>
<b>Article 14</b>	<b>Termination of the insurance .....</b>	<b>13</b>
<b>Article 15</b>	<b>Applicable law and disputes .....</b>	<b>13</b>
<b>Article 16</b>	<b>Final provisions .....</b>	<b>13</b>

## ARTICLE 1 CONTINGENCY

This contract meets the contingency requirement as referred to in Section 7:925 of the Netherlands Civil Code, if and insofar as the loss or damage incurred by the insured or any third party in respect whereof a claim for indemnity is made against the insurer(s) or any insured party is the result of an occurrence regarding which it was uncertain to the parties at the time the insurance contract was concluded that loss or damage on the part of the insured or such third party had arisen or would arise therefrom under normal circumstances.

## ARTICLE 2 DEFINITIONS

Within the context of these conditions the following terms are understood to mean:

### 2.1 POLICYHOLDER

The party with whom the insurance contract has been concluded and who is mentioned as such on the schedule;

### 2.2 INSURED

Any party who may derive rights from this insurance contract by virtue of the policy;

### 2.3 W.A.M

Motor Insurance Liability Act [*Wet Aansprakelijkheidsverzekering Motorrijtuigen*];

### 2.4 INSURED OBJECT

The insured object described on the schedule complete with its equipment and accessories;

### 2.5 OCCURRENCE

An event or series of events arising from one single cause.

## ARTICLE 3 TERRITORIAL LIMITS

The insurance provides cover within the territorial limits specified on the schedule.

## ARTICLE 4 EXTENT OF COVER

### 4.1 DAMAGE TO THE INSURED OBJECT

#### 4.1.1 Standard

The insurer(s) compensate loss of or damage to the insured object or any part thereof:

- a. resulting from an external cause, as well as

- b. due to fire, explosion, collision, contact, bumping, skidding, overturning, landing in the water or going off the road as a result of the very nature or an inherent defect of the insured object.

#### **4.1.2 Comprehensive**

The insurer(s) compensate loss of or damage to the insured object or any part thereof as a result of:

- a. an external cause;
- b. the very nature or an inherent defect of the insured object.

## **4.2 LIABILITY**

### **4.2.1 Standard**

- 4.2.1.1 Even if one or more of the insurer(s) has/have been admitted as authorised insurer(s) in accordance with article 2 under 5 of the W.A.M., they do not cover the liability as referred to in 4.2.1.2 in said capacity.

Concluding this insurance contract does therefore not constitute any compliance with or performance of any obligation to take out insurance under the aforementioned Act.

- 4.2.1.2 The insurer(s) compensate the consequences of the liability of:

- a. the policyholder, the owner, the proprietor, the holder or the driver of the insured object;
- b. the parties being transported by the insured object;
- c. the employer of the persons referred to under a. and b., if such employer is liable in said capacity for damage to interests (including animals), as well as for the consequential loss, caused with or by:
  - a.a. the insured object;
  - b.b. interests situated on or in, or falling or fallen from the insured object;
  - c.c. trailers or other objects without their own propulsion that are coupled to the insured object or have been or become disconnected therefrom after coupling, as long as they have not come to a standstill outside traffic.

### **4.2.2 Comprehensive**

- 4.2.2.1 If this insurance covers the liability as referred to in 4.2.2.2., then the insurance is deemed to meet the requirements laid down in or pursuant to the W.A.M., without regard to any wording in this policy providing otherwise.

- 4.2.2.2 The insurer(s) compensate the consequences of the liability of:

- a. the policyholder, the owner, the proprietor, the holder or the driver of the insured object;
- b. the parties being transported by the insured object;
- c. the employer of the persons referred to under a and b, if such employer is liable in said capacity for bodily injury and damage to interests (including animals), as well as for the consequential loss, caused with or by:
  - a.a. the insured object;
  - b.b. interests situated on or in, or falling or fallen from the insured object;

- c.c. trailers or other objects without their own propulsion that are coupled to the insured object or have been or become disconnected therefrom after coupling, as long as they have not come to a standstill outside traffic.

#### 4.2.3 Costs of Litigation and Legal Interest

If this insurance covers the liability as referred to in 4.2.1 or 4.2.2, the insurer(s) also compensate:

- a. the costs:
  - any insured party may be ordered to pay in respect of any legal action taken by them with the consent or at the request of insurer(s), and the cost of legal assistance provided on the instruction of insurer(s);
  - the insurer(s) may be ordered to pay in respect of any legal proceedings instituted against them by the injured party;
- b. the legal interest on the claim amount covered under the policy payable by any insured party.

#### 4.2.4 Security

If on account of a loss or damage covered under this policy, a restriction of freedom has been imposed on any insured party or the insured object has been attached to guarantee the rights of any injured party, the insurer(s) will provide security on behalf of the insured if the restriction of freedom or the attachment may thereby be lifted.

The insured is obliged to authorise the insurer(s) in writing to withdraw the amount deposited by them as soon as it has been released and to lend his full assistance in order to obtain repayment.

### 4.3 DAMAGE TO OTHER INTERESTS

Contrary to the provisions of article 5.3.d., the insurer(s) compensate the loss of or damage to interests (including animals) belonging to or in use by the policyholder, the owner or the bona fide holder, as well as the consequential loss, caused by the insured object or any interest situated thereon or therein, if and insofar as such loss or damage is not covered under any other policy.

## ARTICLE 5 EXCLUSIONS

### 5.1 GENERAL

5.1.1 Excluded from the insurance is loss or damage caused by, manifesting itself during or arising from:

5.1.1.a Nuclear reactions, regardless how the reaction has arisen. A nuclear reaction is understood to mean any nuclear reaction in which energy is released such as nuclear fusion, nuclear fission, artificial and natural radioactivity.

This exclusion does not apply to loss or damage caused by radioactive nuclides existing outside a nuclear facility which are used or designated to be used for industrial, commercial, agricultural, medical or scientific purposes, provided that a licence for the production, use, storage and disposal of radioactive substances has been issued by the authorities.

Insofar as a third party is liable for the incurred loss or damage pursuant to the law, the exclusion remains in full force and effect.

Law is understood to mean the Nuclear Accidents Liability Act [*Wet Aansprakelijkheid Kernongevallen*], being the special statutory regulation of liability with regard to nuclear energy.

Nuclear facility is understood to mean a nuclear facility within the meaning of said Act.

5.1.1.b A chemical, biological, biochemical or electromagnetic weapon.

5.1.2 Excluded from this insurance is loss or damage caused by:

- *armed conflict*: any situation in which states or other organised parties combat each other, or at least the one the other, with the use of military force. Armed conflict is deemed to include the armed action by a Peacekeeping Force of the United Nations;
- *civil war*: a more or less organised violent struggle between inhabitants of the same state in which a significant part of the inhabitants of that state are involved;
- *insurrection*: organised violent resistance within a state directed against the public authorities;
- civil commotion: more or less organised violent acts occurring at various locations within a state;
- *riots*: a more or less organised local violent movement directed against the public authorities;
- *mutiny*: a more or less organised violent movement of members of any armed force directed against the authority under which they resort;
- *confiscation*: seizure by any Dutch or foreign authorities;

5.1.3 arisen whilst the insured object was used for purposes other than those specified on the schedule.

## 5.2 DAMAGE TO THE INSURED OBJECT

Excluded from the cover described in article 4.1 is loss or damage:

- a. caused by a wilful act or recklessness of the policyholder/insured;
- b. that is a result of inadequate maintenance and/or insufficient care of the insured object attributable to the policyholder;
- c. to pneumatic tires, unless due to the same cause other damage to the insured object has arisen as well;
- d. consisting of the cost of repair of normal wear and tear.

## 5.3 LIABILITY

Excluded from the cover described in article 4.2 is the liability:

- a. of the person who drives or operates the insured object or who is thereon or therein without the explicit or implied authorisation of someone who has authorising power;
- b. of the mala fide proprietor or the mala fide holder;
- c. of any insured party for loss or damage which to him is the intended or inevitable consequence of his act or failure to act;

- d. for claims due to loss of or damage to interests (including animals) owned by the policyholder, the owner or the holder of the insured object, as well as the consequential loss, unless such loss or damage qualifies for compensation under the provisions of article 4.3;
- e. for claims due to loss of or damage to interests transported by the insured object (also during loading and unloading thereof) and loss of or damage to trailers or other objects that are coupled to the insured object or have been or become disconnected therefrom after coupling, as long as they have not come to a standstill outside traffic;
- f. regardless how it arose, for death of or bodily injury and/or property damage, as well as the consequential loss, incurred by the driver of the insured object.

#### 5.4 DAMAGE TO OTHER INTERESTS

Excluded from the cover described in article 4.3 is:

loss or damage caused by a wilful act or recklessness of the insured party incurring such loss or damage.

### ARTICLE 6 OBLIGATIONS OF THE POLICYHOLDER AND/OR THE INSURED PARTIES IN CASE OF LOSS OR DAMAGE

- 6.1
  - a. As soon as the policyholder or the insured is aware or should have been aware of an occurrence that may give rise to a liability to pay indemnity on the part of the insurer(s), they are obliged to notify the insurer(s) as soon as is reasonably possible of such occurrence.
  - b. The policyholder and the insured are obliged to provide the insurer(s) within a reasonable period with all information and documents which are of relevance to insurer(s) in order to assess their liability to pay indemnity.
  - c. The policyholder and the insured are obliged to cooperate fully and to refrain from doing anything that may prejudice the interests of the insurer(s).
  - d. The policyholder and the insured are obliged to take measures to prevent or minimise loss or damage as referred to in Section 7:957 of the Netherlands Civil Code.
  - e. In the event of (attempted) theft or any other criminal offence, the policyholder or the insured is obliged to report it to the police and any other relevant party within 24 hours.
  - f. In the event of loss or damage incurred by a third party, the policyholder or the insured is obliged to refrain from admitting any guilt or making any promise to any payment.
- 6.2 In case of non-compliance by the policyholder or the insured with any of the obligations as referred to in article 6.1, the insurer(s) have the right to reduce the payment of compensation by the loss they incur as a result thereof.
- 6.3 All right to make a claim is forfeited if the policyholder or the insured failed to comply with any of the obligations referred to under a. through d. of this article with the intention to mislead the insurer(s), unless such misleading does not justify the forfeiture of rights.

## ARTICLE 7 CLAIM SETTLEMENT

- 7.1 Claims are either assessed by mutual agreement or by an expert to be appointed and paid by the insurer(s).
- The insured has the right to appoint an expert - at his own expense - as well. The two experts appoint a third expert who will in case of a difference in assessments render a binding award within the limits of their assessments.
- The insurer(s) and the insured each bear half of the fee of such third expert.
- 7.2 In the event of damage to third-party interests (including animals), the insurer(s) have the right to reach settlements with and indemnify injured parties directly. They will do so with due regard for the interests of insured parties.
- Should the damages be awarded in periodic payments and the value thereof exceed the sum insured, taking into account any other payment, then either the duration or the amount of said payments will be proportionally reduced, at the insured's option.
- 7.3 In the event of the insurer(s) being liable to indemnify any injured party under the W.A.M. or any similar foreign law in respect of a claim they could refuse towards an insured party under other statutory provisions or the policy conditions, they are entitled to recover the amount payable by them - increased by the related costs incurred by them - from said insured party.
- 7.4 Save in the event of a wilful act or recklessness of the party who caused the loss or damage, the insurer(s) will not recover any amount of indemnity paid by virtue of articles 4.1 and 4.3 from:
- a. the policyholder, the owner, the bona fide proprietor or the bona fide holder;
  - b. the person who drives or operates the insured object or who is thereon or therein with the explicit or implied authorisation of someone who has authorising power;
  - c. the employer of the persons referred to under a. and b., if such employer is liable in said capacity for the loss or damage.

## ARTICLE 8 COMPENSATION

### 8.1 DAMAGE TO THE INSURED OBJECT

- 8.1.1 In the event of loss or damage as described in article 4.1, the insurer(s) compensate:

**in case of loss:**

the pre-loss value of the insured object up to and not exceeding the amount stated on the schedule under

- 1.a. for loss or damage as described in article 4.1.1;
- 1.b. for loss or damage as described in article 4.1.2;

**in case of damage:**

the cost of repair, reduced by:

- a reasonable deduction for normal wear and tear;
- the value of any remainders.

The amount payable as indemnity will never exceed the amount that would have been paid in case of loss.

8.1.2 The insurer(s) have the right to defer payment of the cost of repair as long as the damage has not been properly repaired.

The insurer(s) must be given the opportunity to inspect the repair.

8.1.3 The insurer(s) will not invoke underinsurance.

8.1.4 In addition to the loss or damage described in 8.1.1, the insurer(s) compensate the following costs:

- a. the costs of measures that are taken by or on behalf of the policyholder or any insured party and are reasonably required in order to avert the imminent risk of loss or damage for which - once occurred - an insured party would be liable and which is covered under the policy, or to minimise such loss or damage. In this context costs of measures are deemed to include damage to interests that are employed as part of the measures herein referred to.
- b. the costs of the necessary protection or the transport of the insured object to the nearest appropriate repairer due to an insured loss or damage;
- c. the costs of debris removal due to an insured loss or damage, whether compulsory or deemed reasonably necessary by the policyholder following the loss of the insured object or any damage comparable thereto;
- d. general average contribution;  
and such in respect of each and every section up to and not exceeding the amount stated on the schedule under:
  - 1.a for loss or damage as described in article 4.1.1;
  - 1.b for loss or damage as described in article 4.1.2.
- e. the costs reasonably incurred to assess the loss or damage.

## 8.2 LIABILITY

### 8.2.1 Standard

The insurer(s) compensate the loss or damage as referred to in article 4.2.1 in respect of any one occurrence for all insured parties collectively up to and not exceeding the sum insured stated on the schedule under 2.a.

### 8.2.2 Comprehensive

The insurer(s) compensate the loss or damage as referred to in article 4.2.2 in respect of any one occurrence for all insured parties collectively up to and not exceeding the sum insured stated on the schedule under 2.b.

With respect to occurrences taking place in a country within the territorial limits where the locally applicable statutory provisions pertaining to compulsory insurance of motor vehicle liability require a higher limit of liability, such higher limit of liability will apply as sum insured.

### **8.2.3 Costs of Litigation and Legal Interest**

The costs and interest referred to in article 4.2.3 are paid in in excess of the sum insured stated on the schedule under 2.a. or 2.b.

### **8.2.4 Security**

The insurer (s) provide the security referred to in article 4.2.4 up to and not exceeding the pre-loss value of the object.

## **8.3 DAMAGE TO OTHER INTERESTS**

The insurer(s) compensate the loss or damage described in article 4.3 up to and not exceeding the amount stated on the schedule under 3.

## **8.4 AUTOMATIC REINSTATEMENT FOLLOWING LOSS OR DAMAGE**

Irrespective of the amount that has been or will be paid by the insurer(s), the insurance for the insured object remains effective for the full sums insured during the entire period of insurance.

## **ARTICLE 9 LIMITATION OF LEGAL CLAIM**

- 9.1 Any legal claim against the insurer(s) to pay indemnity becomes prescribed by the lapse of three years after the start of the day following the one on which the party entitled to the payment first had knowledge of the claimability thereof.
- 9.2 The limitation period is interrupted by a written notification whereby payment of indemnity is claimed. A new limitation period of three years becomes effective at the start of the day following the one on which the insurer(s) either admitted the claim or explicitly notified to have refused the claim.
- 9.3 In case of insurance against liability, the limitation period is, contrary to the provisions of article 9.2, first sentence, interrupted by each negotiation between the insurer(s) and the party entitled to the payment or the injured party. In that case a new limitation period of three years becomes effective at the start of the day following the one on which the insurer(s) either admitted the claim or explicitly notified the party with whom they have been negotiating and, if this is another, the party entitled to the payment that they cease the negotiations.

## **ARTICLE 10 PAYMENT OS PREMIUM AND CLAIMS**

### **10.1 DEFINITIONS**

- 10.1.1 For the application of this article "premium" is deemed to include any other amount payable in connection with this insurance.

- 10.1.2 For the application of this article "insured" is deemed to include the policyholder as well as any other party who owes the premium.

## 10.2 PREMIUM

- 10.2.1 The broker undertakes to pay the premium to the insurer(s) as if the broker were indebted at the moment the premium becomes payable by the insured under the insurance contract. Unless expressly agreed otherwise, the broker will pay the premium by crediting the current account of the insurer(s) for the premium payable by the insured under the insurance contract, at which point the insured will be discharged towards the insurer(s).
- 10.2.2 The insured is obliged to pay the premium to the broker. In the event that the insurance contract has been concluded through a second intermediary and the insured has paid the premium to said second intermediary, the insured will not be discharged towards the broker by said payment until the second intermediary has paid the premium to the broker.
- 10.2.3 Without prejudice to the insured's liability to pay the premium due to the broker, the insurance will only be effective for the period for which the premium has been paid to the broker, as well as for the period for which the broker has granted the insured credit. This will be interpreted to mean that the insured is deemed to have been granted credit, unless this has been cancelled in writing.
- 10.2.4 Upon conclusion of this insurance contract the broker has been irrevocably authorised by the insured to release the insurer(s) from their obligations under the insurance contract prematurely if the insured or, in case this insurance contract has been concluded through a second intermediary, said second intermediary fails to pay the premium to the broker.

The broker will not release the insurer(s) from their obligations without prior written notice of such intention to the insured.

- 10.2.5 In case of the insured being bankrupt or being granted a moratorium, the credit referred to under 10.2.3. is cancelled immediately and the insurer(s) are released from their obligations under the insurance contract as referred to under 10.2.4. These legal consequences take effect solely by the bankruptcy or moratorium being ordered without prior notice of default being required. The liquidator or administrator is authorised for a month after the date on which the bankruptcy or the moratorium was ordered, or, if this is later, until 14 days after the broker notified him of the credit being cancelled, the insurer(s) being released from their obligations and of the authority to arrange for cover to be reinstated, to arrange for cover to be reinstated, also in respect of any loss or damage occurred after the date of the bankruptcy or moratorium order, if and insofar as he has paid the total premium due.

## 10.3 PAYMENT OF CLAIMS AND RETURN OF PREMIUM

- 10.3.1 Unless the party entitled prefers a different manner and has given prior written notice thereof to the insurer(s), the broker will debit the current account of insurer(s) for any payable amount of indemnity and return of premium. The insurer(s) will thereby be discharged as soon as the payment of indemnity has been received by the party entitled or otherwise has been settled with said party in accordance with the law or any existing arrangement between said party and the broker. If the insurer(s) have paid the damages to the

broker and the latter defaults on payment thereof to the party entitled, the insurer(s) have the right to reclaim the damages from the broker if they are called upon by the party entitled to make a renewed payment. If the broker has paid the damages received from the insurer(s) to the second intermediary, but the latter defaults on payment thereof to the party entitled, the broker will have the right to reclaim the damages from said second intermediary if he is either called upon by the party entitled to make a direct payment or the insurer(s) reclaim said damages from the broker as provided for in this paragraph.

- 10.3.2 The broker will pay any amount of indemnity and return of premium to the party entitled thereto. However, the broker is only liable to pay the balance that remains after said amount of indemnity and return of premium have been set off against any receivables from the insured under any other insurance, whether due and payable or not, yet undisputed at the time the liability to pay arises. Nevertheless, such a setoff will not take place in case of insurances which have been made out to bearer or order, unless the policyholder is entitled to the payment of indemnity and in case of compulsory liability insurance. If the entitlement to payment of indemnity is subject to a pledge as referred to in Section 3:229 of the Netherlands Civil Code, or a benefit as referred to in Section 3:283 of the Netherlands Civil Code, as well as in case of a non-compulsory insurance against liability, the settlement will not extend beyond that which is payable by the policyholder in respect of the insurance under which the payment is made.

## ARTICLE 11 REFUNS OF PREMIUM

The policyholder is only entitled to a refund of premium if the insurance terminates other than at the expiry date pursuant to the provisions of articles 14.1., save in the event of a wilful act to mislead, or 14.2.a. In such case the premium will be refunded over the period for which premium has been paid but during which the insurer(s) do not run any risk, on return of a certificate of insurance as referred to in article 14 of the W.A.M. issued to the policyholder, if any.

## ARTICLE 12 CHANGES TO THE INSURED OBJECT

The insurance remains in full force and effect in the event of changes being made to the insured object.

The policyholder and/or the insured are obliged to notify the insurer(s) forthwith of any change in the aforementioned details, following which the premium and/or conditions may be revised with immediate effect.

The right to make a claim is forfeited if the policyholder or the insured failed to comply with said obligation and the insurer(s) would not have continued the insurance, at least not on the same conditions and/or at the same premium, had they had knowledge of the change in risk, unless there is no causal connection between the loss or damage and the change in risk.

In the event that the policyholder and the insurer(s) fail to reach an agreement on such revision, both the policyholder and the insurer(s) have the right to cancel the insurance prematurely subject to 2 months' notice at a pro rata return of premium, with the proviso that in any case the additional premium until the date of cancellation, to be calculated in fairness, will be payable.

## ARTICLE 13 TRADE AND ECONOMIC SANCTIONS

Insurer(s) are not bound to provide cover or indemnity under this insurance if this would constitute an infringement on sanction legislation or rules that prohibit insurer(s) from providing cover or indemnity under this insurance.

#### ARTICLE 14 TERMINATION OF THE INSURANCE

14.1 The insurer(s) and the policyholder have the right to cancel the insurance as at the premium due date subject to two months' notice.

If the policyholder has committed any act towards the insurer(s) with the intention to mislead them, the insurer(s) have the right to cancel the insurance with immediate effect without any return of premium being payable.

14.2 The insurance furthermore terminates:

- a. as soon as the insured object is sold or put out of operation permanently;
- b. in case of loss of the insured object or any damage comparable thereto in accordance with article 8.1.1.

#### ARTICLE 15 APPLICABLE LAW AND DISPUTES

15.1 This insurance contract is governed by the laws of the Netherlands.

15.2 Any dispute arising from or connected with the performance of this contract, is in the first instance subject to the jurisdiction of the competent court in Amsterdam or Rotterdam.

#### ARTICLE 16 FINAL PROVISIONS

16.1 If this insurance covers more than one object and the sum insured is subdivided among such objects, each object is deemed to be insured under a separate policy.

16.2 Notices and communications from the insurer(s) directed to the policyholder at his address last-known to the insurer(s) or at the address of the intermediary through whom this insurance contract has been placed, are deemed to have been duly made.

*The VNAB policy conditions and clauses are **not binding**. They merely serve as specimen which may be customised by alterations, additional provisions and/or clauses. VNAB market players are free to offer other policy conditions to their customers.*

*As market players are free to use them at their own discretion, the VNAB cannot assume any liability for the application or contents of the model conditions and clauses.*

*In case of any difference between the original Dutch wording of the model conditions and clauses and the English translation, the Dutch wording will prevail.*

*For previously published (older) conditions, please contact the VNAB.*

*The official title of these conditions is "Dutch Bourse Policy for Land-based Equipment 2014". The wording is available via the website of the Netherlands Insurance Exchange Association, [www.vnab.nl](http://www.vnab.nl)*