

?????? ?? ?????????? (?????? ????)

?? 10?? ??????? 2013 (*)

«???? ?????? ??? – ??? 13, ?, ??? 20 – ???????? ?????? – ???????? ?????? ???
????????????? – ???????? ?????? – ?????????????? ??? ?????????? – ???????? ???
?? ?????????? ?????? ?????????????? ??? ?????????? ??? – ?????????? ???
????????? ??? ?????? – ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ??? ?? ??? ?????? ?? ?? ?????????????? ?????? ? ?????? ??? ?????? ???
????? ???»

???? ?????? C?622/11,

? ?????????? ?????? ?????????????? ?????????? ??? ?????? 267 ???,
????????????? ??? ?? Hoge Raad der Nederlanden (????? ????) ?? ??????? ??? 28?
????????? 2011, ? ?????? ?????? ??? ?????????? ??? 5 ?????????? 2011, ??? ??????
??? ????

Staatssecretaris van Financiën

????

Pactor Vastgoed BV,

? ?????????? (?????? ????),

????????? ??? ??? R. Silva de Lapuerta (?????????), ?????? ???????, ?. ??????, J.-C. Bonichot, A. Arabadjiev ??? J. L. da Cruz Vilaça, ???????,

?????? ??????????: M. Wathélet

?????????: M. Aleksejev, ?????????? ??????????,

?????? ??? ?????? ??? ?????? ?????????? ??? ?????? ??? ??' ?????????? ??? ?????????? ???
18?? ??????? 2013,

????????? ??? ?????? ??? ?????????? ??? ??????:

- ? Pactor Vastgoed BV, ?????????????? ??? ??? M. van de Leur, belastingadviseur,
- ? ?????????? ????????, ?????????????? ??? ??? J. Langer ??? ??? C. Wissels ??? M. Bulterman,
- ? ????????, ?????????? ??? E. Creedon, ?????????? ??? ??? C. Toland, BL,
- ? ?????????? ????????, ?????????? ??? M. Pere,
- ? ?????????? ????????, ?????????? ??? G. Wils ??? ??? L. Lozano Palacios,

????? ?????? ??? ?????? ??????????? ??? ??????? ??? ?????????? ??? ?????? ?? ???????????
??? 30?? ??? 2013,

?????? ??? ???????

???????

1 H ?????? ?????????????? ?????????? ?????? ??? ??????? ??? ?????? 20 ??? ???
?????? 77/388/E?? ??? ??????????, ??? 17?? ????? 1977, ??? ?????????? ???
????????? ??? ?????? ?????, ??? ??????? ?? ??? ????? ?????? ?????? ?????? – ???
????? ??? ????? ?????????? ????: ?????????? ?????????? ??? (?? ????. ????. 09/001, ?. 49),
???? ?????????????? ?? ??? ?????? 95/7/?? ??? ??????????, ??? 10?? ?????? 1995
(?? L 102, ?. 18, ??? ????: ??? ?????).

2 ? ?????? ??? ?????????? ??? ??????? ??????? ??? Staatssecretaris van
Financiën (????????? ??????????) ??? ??? Pactor Vastgoed BV (??? ????: Pactor Vastgoed)
?????? ?? ?????????? ?????? ??? ?????? ?????? (??? ????: ???) ??? ?????? ???
????????? ???.

?? ?????? ???????

?? ?????? ??? ???????

3 ?? ????? 4, ?????????? 3, ??? ????? ??????? ??????:

«?? ?????? ??? ?????? ??? ??????? ?? ??????? ?????? ?? ?????????? ??? ?????? ???
????????????? ?????????????? ??' ??????? ?????? ?????? ?????????? ??? ?????????????? ???
????????? 2 ??????????????, ??? ?????? ??? ??? ??? ?????? ??????:

?) ?????? ?????? ?????? ? ?????? ?????? ??? ?????? ??? ?????????? ??? ??????, ???
????????????? ??? ??? ?????? ?????????? ?? ?????? ?? ?????? ??? ?????? ?????????? ??
????????? ??? ?????????? ?????? ?????? ??? ?????? ??? ?????????? ??? ??? ?????? ??????????
????????? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ??????.

?? ?????? ??? ?????? ??? ??????? ?? ?????????? ??? ?????? ???????, ??? ??? ?????????? ???
?????? ???????????, ??? ??? ??????? ??? ?????????? ??? ?????????? ??????? ??????????
????? ??? ?????? ?????????? ??? ??????? ??? ??? ?????? ??? ?????? ??? ?????? ?????????? ?
?? ??????? ??? ?????????? ??? ??????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
????????????? ??? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????.

?? “?????” ?????? ??? ??????? ??? ??????? ??? ??????? ??? ??????? ?? ?? ??? ???????

[...]».

4 ?? ????? 13, ?, ??? ?????? ?????? ??? ?? ????:

«?? ??? ?????????? ??? ?????? ?????????? ??? ???????, ?? ?????? ??? ???????????, ??? ???
????????? ??? ?????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????? ???
????????????? ??? ?????? ??? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ??? ???????????,
????????? ??? ???????:

[...]

?) ??? ?????????? ??????? ? ?????? ?????? ??? ?? ?????????????? ?? ??? ????? ????????,
????? ??? ?????????????? ??? ?? ?????? 4, ?????????? 3, [?????????] ???

?) ??? ?????????? ?? ?????????????? ???????, ??? ?? ?????????????? ??? ?????? 4,
????????? 3, [?????????] ??, ??????? ??? ??????????..»

5 ??? ?? ????? 13, ?, ??? ?? ??? ??????????:

«?? ??? ?????? ?? ?????? ?????????? ?? ?????????? ?????? ?????????????? ??? ?????? ?????? ?????????? ?????????????? :

[...]

?) ??? ?????????????? ??????? ??? ?, [?????????] ??, ?? ??? ??.

?? ?????? ??? ?????????? ?? ?????????? ??? ??????? ??? ?? ?????? ?????????????? ????????,
????????? ?? ??? ?????? ?????????? ?????? ??? ??????????..»

6 ?? ????? 17, ?????????? 2, ?????????? ??, ??? ?????? ???????, ??? ?????? ??? ?? ?????
??? 28??, ??????:

«????? ?? ?????? ??? ?? ?????? ? ?? ?????????? ?????????????????? ??? ??? ?????????????? ???
????????????? ?????? ???, ? ?????????? ??? ?????? ?????? ?????? ?????? ??? ?????????? ???
????, ??? ??? ?????? ?????? ?????? ??????:

?) ??? ?????????? ? ?????????????? ??? ?????????? ??? ?????? [??] ??? ?? ?????? ??? ??
????????????? ? ?????????? ?? ??? ?????????? ??? ??? ??? ?????????? ??? ??? ??????????????
? ?????????? ?? ??? ?????????? ??? ?????? ?????????? ??? ?????? ????.»

7 ?? ????? 20 ??? ?????? ??????? ??????:

«1. ??? ?????? ?????????????? ??????? ?????????? ?? ?????????????? ??? ?????? ?????? ??????????????
??? ?? ?????? ????, ????:

?) ??? ? ?????? ?????? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ??? ??
????????? ? ?????????? ??? ??????

?) ???, ??? ? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ?????????? ???
????????? ??? ? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????? ? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????????? ? ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 5, ?????????? 6.
?????????, ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????.

[...]

3. ?? ?????????? ?????????? ??? ?????? ?? ?????? ??? ?????????? ??? ?????????? ??? ?????????????? ??
????? ?????????? ?????????? ??? ?? ??? ?????? ?????????????? ??? ??? ?????????? ??? ??????
??? ?????????? ?????????????? ???, ?????? ?? ??? ?????? ??? ?????? ??? ?????????? ?????????????? ? ?

?????????? ?????????????? ??? ??????????? ?? ?? ?????????? ??? ???????????????, ???
????????? ??? ???? ?????? ? ?????????? ??? ?? ??? ?????? ???????????????, ?? ?? ??????????
?? ??????????????, ??? ?????????????? ??? ?? ??? ?????? ? ?????????? ??? ??????????????. ?
????????????? ??? ?????? ??? ??? ?????? ??? ?????? ??? ?????????????? ??? ?????? ??? ??????
?????????????.

?????????, ?? ?????? ??? ???????, ??? ?????????? ??? ???????????, ?? ??? ??????????
????????????? ??? ???? ?????? ?????? ?????????????? ??? ?????? ??? ?????????????? ?? ?? ???
????? ?????????? ?????????????? ??? ?????????? ??? ?????? ??? ?????? ?????????? ?? ?????????? ???
????????????? ???.

4. ??? ??? ?????????? ??? ?????????? 2 ??? 3, ?? ?????? ??? ??????????:

[...]

- ?? ?????????? ??? ?????????? ???, ??? ?? ?????????????? ?? ?????????????? ??
????????? ?????????????? ?????????????? ??? ?????????????? ??? ?????????????? ???,
- ?? ?????????? ?????????????? ?????????????? ??????????.

[...]»

8 ?? ????? 21 ??? ????? ??????, ?? ?????? ?????????? «????????? ??? ????? ?????? ???
??? ??????», ??????:

«? [??] ??????????:

1. ??? ?????????? ??????????:

?) ??? ??? ?????????? ???, ? ?????? ?????????????? ??? ?????????????? ??? ?????? [...]
????? ?? ?????? ??? ?????????? ?? ?????? ??? ??????, ??? ?????? ??? ?????????? ???
????, ?? ?????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????

[...]».

9 ?? ????? 27, ?????????? 1, ??? ?????? ?????? ??? ?????? ??? ?????:

«?? ?????????? ???????, ??????? ??? ???????????, ?? ?????????? ??????????, ?? ??? ??????????
????? ?? ?????? ???????, ??? ?????????????? ??? ?????? ??? ?????????? ???, ??? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ?????????? ??? ??????????
????????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???.

10 ?? ????? 1 ??? ?????????? 88/498/???, ??? ??????????, ??? 19?? ??????? 1988, ???
????????? ??? ?????????? ??? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????????? ??? ?? ???
21, ?????????? 1, ?????????? ?, ??? ?????? ?????? 77/388 (?? L 269, ?. 54), ? ??????
????????? ??? ?????? 27, ?????????? 1, ??? ?????? ??? ??????, ?????? ???, ??? ??????
??? ?????? ??? ?????????? ??? ?????? 13, B, ?????? ??? ??? ??, ??? ?? ??? ??????????
????????? ??? ?????? ??? ?????? ??? ??????, ??? ?????????? ??? ?? ??? ?????? 21, ??????????
1, ?????????? ?, ??? ?????? ??????, ?? ??????????, ??? ?????? ??? ?????? ??? ??????????
??? ?????????? ??? ?????? ?????????? ??? ?? ??? ?????? 13, ?, ?????????? ?, ??? ??????
????????? ??? ?????????? ??? ?????? ??? ??? ???.

11 ?? ??????? 88/498 ???????????, ??? 1?? ?????????? 2008, ?? ??? ?????? 2006/69/??
??? ???????????, ??? 24?? ??????? 2006, ??? ??????????? ??? ??????? 77/388 ??? ?????
????????? ??? ????? ?? ??????????? ?? ??????????? ?? ?????????? ?? ?????????? ?? ?????
????????????? ??? ????? ?? ??????????? ?? ????? ?????? ?? ?????????? ?? ?????????? ?? ?????
??? ??? ??? ?????????? ?????????? ?????????? ?????????? ?????????? (?? L 221, ?. 9).

?? ?????????? ??????

12 ?? ????? 1 ??? ????? ??? ????? ?????? ?????? (Wet op de omzetbelasting), ???
28?? ??????? 1968 (*Staatsblad* 1968, ??. 329), ??? ?? ????? ??? ??? ?????? ???
??? ??????? ??? ?????? ?????? (???. ??: ?????? ?? 1968), ??????:

«1. ??? ??? ??????????? ??? ?? ??????????? ?? ?????????? ??????????, ??????????????? ???
?????:

?) ?? ??????? ??????? ??? ??????????? ??? ?? ??????????? ?? ??????????, ??????????????:

1) ??? ??????????? ??????? ? ??????? ??????? ??? ?? ??????????? ???????, ? ??????
????????????????? ??? ?? ?????? ??????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??
??? ?? ?????? ?????? ???????????, ?????? ?? ??????????? ??????? ?? ?????? ?? ???????????

2) ??? ???????????, ?????? ?? ??????? ??? ??????????? ??? ??????????? ?? ??????? 1, ?? ??????? ???
????????????? ?? ??????? ??? ??????? ?? ?????? ??????? ??????? ??????? ? ?????? ?? ??????
????????? ?????????? ?? ?????? ??????? ?? ?????? 15, ??? ?? ??????????? ?? ?
????????? ?? ?????? ?????????? ?? ?????? ??????? ?? ?????? ??????? ?? ?????? ?? ?????? ??????
????????? ?? ?????? ??????? ??????? ?? ?????? ??????????? ?? ?????? ?? ?????????? ??????? ??
????????????? ?? ?? ??????????? ?? ??????????? ?? ?????? ?????????? ?? ?????? ?? ?????? ??????? ??

[...]».

13 ?? ????? 12a ??? ????? ?????? ??????:

«?? ??????????? ??? ?????? ??? ??????????? ??? ??????? 11, ?????????? 1, ????????? a,
?????? 2, ?????? ??????? ??? ?? ?????? ?????? ?????? ?????? ?? ?????????? ??? ?????????????? ?? ???????
??? ??????? ?? ?????? ??????? ?????? ?????? ??? ?????? 15 ?????? ? ?????? ??????
????????? ?????????? ?? ?????? ? ?????? ??????? ?? ?????? ?? ?????? ?????????? ?????, ??? ??????
??? ?????? ?? ?????? ?????? ??? ?????? 15 ?????? ?? ?????? ?? ?????? ?? ?????? ??????????
????????? ?? ?????????? ??????? ??? ?????? ?????? ?????? ??? ?????? ?? ?????? ?? ?????? ??????
?????????»

14 ?? ????? 12, ?????????? 5, ??? ?? ??? ????? ?????? ??????:

«?? ??????????? ??? ?????? ?? ?????????? ?? ?????????? ?????????? ??? ??????? ?? ??????? ???
?????? ?? ?????????? ?? ?? ?????? ?? ?????????? ???, ?? ?????, ??? ?? ??????????????
????????? ?? ?????????? ???, ?????????????? ??? ?????????? ??? ?? ?????? ?? ?????? ?? ?????? ?? ??????????
????????? ?? ??????????»

15 ??? ?? ????? 24ba, ?????????? 1, ??????? a, ??? ??????????? ??????????? ???
1968 ??? ?? ?????? ?????? ?????? (Uitvoeringsbesluit omzetbelasting 1968):

«1. ??????? ?? ?????????? ??? ?? ?????????? ??? ?? ?????? 12, ?????????? 5, ??? [?????
?? 1968], ?? ?????????? ????:

a) ??????? ? ???????? ??? ???????? ?????????? ???' ?????????? ??? ?????? 11,
????????? 1, ??????? a, ?????? 2, ??? [????? ?? 1968]».

? ??????? ?? ?????? ?????? ??? ?? ?????????????? ??????

16 ??? 5 ?????????? 2000, ??? ???????? (??? ????: ??????????) ??????? ??
?????? ?? Pactor Vastgoed, ? ????, ?? ??????? ?? ??? ??????????, ??????, ??? ??
?????? 11, ?????????? 1, ??????? a, ?????? 2, ??? ????? ?? 1968, ?? ?????????? ??
????????? ???.

17 ? ?? ??? ????? ?????????????? ????. ????? ?????????? ?? ??? ?????? ????? ?? ??????? ?????? ?????? ?????????
????????? ??? ?????? ?? ?????????? ????. ????? ?????? ?????? ?? ?????? ?????? ?? ??????
??? ?? ???? ?? ???? ??????.

18 ??? ??? ??????? ??? 2000, ? Pactor Vastgoed ?????????? ?? ?? ??? ??????. ? ??????
????? ????. ?????????? ??? ???.

19 ???. ????????, ? Pactor Vastgoed ?????? ?? ????. ????? ???. ?? ????????, ????. ????.
 ???. ????????. ????. 2000. ? ????????. ????. ????????. ????. ????.

20 ??????????? ??? ? ???????? ??? ???? Pactor Vastgoed ??? ?????? ??? ???????????
??? ?????? 11, ?????????? 1, ??????? a, ?????? 2, ??? ?????? ?? 1968 ??? ???, ???
???????, ? ??????? ??? ?????? ?? ?????????? ??? ???, ?? ?????????? ??????????
?????, ????? ?? ?????? 12a ??? ????? ?????, ?????????? ?? ?????????? ?????? ??? ??
????? ??? ??????? ?????, ??? ??? ?????? ??? ??? 1? ?????????? ??? ??? 31
????????? 2000, ??? ??? ?????????? ??? ??? ??? ?????? ??? ?????? ??? ?????? ???
????????????? ??? ?????????? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? Pactor Vastgoed.

21 ? Pactor Vastgoed ??????? ?????????? ??????? ?? ?????????????? ?????
??????????.

22 ??????? ??????????? ??? ??????????? ?????? ??????????, ? Pactor Vastgoed ??????
?????? ??? Rechtbank te 's-Gravenhage ??????? ??? ?????????????? ??? ????? ??????????.

24 O Staatssecretaris van Financiën ?????????? ??????? ?? ?????????? ?????????????? ??????
????????????? ?? ?????????? ??? Gerechtshof te 's-Gravenhage.

25 ???.?????? ???.?? Hoge Raad der Nederlanden ????????.?? ????????????.??
???????????.?? ???.?? ??????.?? ???????????.?? ??????????.?? ???????????.?? ???????:

«???? ?????????? ??? ? ??????? ?????????? ??????? ??? ?? ?????????????? ??????? ?? ??
????? 20 ??? ?????? ??????? ??? ??? ?????? ??? ?? ??? ?????? ??? ?????????? ??????? ??
?????????? ?? ??? ? ? ?????, ?????????? ? ??? ?????? ?????? ??? ?????????? ? ??????? ?? ???
???? ??? ??? ?????? ?????? ??? ??? ?????????? ?????? ??? ??? ??? ?????? ?????? ?????? ???
??????, ??? ?????????? [...] ??? ?????? ? ?????? ?????? ?? ??? ?????? ??? ?????? ??? ??
???? ?????????? ??? ?????!»

??? ??? ?????????????? ??????????

26 ?? ?? ??????? ??, ?? ?????? ?????????????? ?????? ??? ?????? ?? ?????????????? ?? ?
????? ?????? ?????????????? ??? ???? ?????? ??? ?????? ?????????? ?????, ??????????
?????? ?? ?????????????? ??? ?????? ?????? ???, ??? ?????? ?????????? ??? ????
????? ??? ?????? ?????? ?????? ?????? ?????? ?????.

27 ???' ????, ????, ?? ?????????? ??? ?? ?????????? ??? ?? ?????? ???, ????, ????
??? ?????????????? ??? ?? ?????? 13, ?, ????, ????, ????, ???, ???, ???, ???,
????????? ? ????, ????, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???,
????????? ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???,
13, ?, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???,
????, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???,
????, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???,
????, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???,
????, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???,
????, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???,
????, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???, ???.

28 ?????? ??? ?????? ??? ?????????? ??? ?????????????? ?? ?????????? ??? ?????????? ???
????? ?????? ??? ?????????? ??? ?????????? ??? ?????? ?????? Pactor
Vastgoed, ? ??? ??? ??? ?????? ??? ?????????? ???.

29 ? ?????? ??? ?????? ??? ?????? ??? ?? ?????? ?? ?? ?????????? ?????????? ???
????????? ?? ?????????? ??? Pactor Vastgoed ?? ??? ?? ?????????? ??? ???
????????? ??? ?????????? ??? ??? ??? ??? ?????? ? ?????????? ?????? ??? ???
??? ??? ?????? ?????? ??? ?? ??? ?????? ???, ?? ??? ?????? ??? ?????????? ??? Pactor
Vastgoed.

30 ?? ??????????, ?????????????? ??? ? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ?? ??? ??? ?????????? ??? ??? ?????? ??? ?????????? ?????????? ???
?? ?????? ?????????? ??? ??? ?????????? ??? ?????? ??? ???.

31 ?????? ?????? ??? ??????????, ??? ?????? ?? ?????? ??? ?????????? ?????? ??? ?? ???
??? ?????? ??? ?????? ??? ?????????? ??? ??? ?????? ??? ?????? 13, ?, ?????? ???, ??? 20,
????????? 1, ??? ?????? ???, ??? ?????? ??? ?????? ??? ?????????? ??? ??? ?????? ???
????? ??? ? ?????? ??? ?????? ??? ?????????? ??? ??? ??? ?????? ??? ?????? ???.

32 ??????, ? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????
????????? ??? ?????????????? ??? ?????? ??? ?????? «?????» ??? ??? ??????
??? ?????????? ???, ???, ??? ?????? ??? ?????? 21 ??? ?? ??? ?????? ???, ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??? ?????? ??? ?????? ???.

33 ?? ??????????, ?????? ?? ?????????? ??? ?????? ?????????? ??? ??? ??? ??????
????????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ?? ??? ?????? ?????? ??? (???. ?????????? ??? 18?? ?????????? 2012, C?234/11,
TETS Haskovo, ??? 30, ??? ?? 29?? ?????? 2012, C?257/11, Gran Via Moine?ti, ???
39).

34 ??????, ???? ?? ?????????? ??? ?????????? ???, ?? ?????? ??? ? ?????? ???
????????? ?????? ?? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????
??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????

???? ??????????? ???. ?????? ?????? . ????????, ?? ??? ???? ?????? ???????, ? ?? ??? ???? ??????
????? ??? ???? ?? ??????????? ?????? ??? ?????? ?????? ?????? ??? ??????????? ???????????
??? ?????????????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?? ?????????? ??????? ?
????????? ??? ?????? ?? ?????? ?????????? ?? ?????? ?????? (?. ?????? ??? 15??
????????? 2005, C?63/04, Centralan Property, ?. I?11087, ????? 57, ??? ??????????????????
????????? TETS Haskovo, ????? 31, ??? Gran Via Moine?ti, ????? 38).

35 ??? ???? ?? ????? 20, ?????????? 1, ??????? ?, ?? ???? ???????, ? ???????
????????????? ?????? ?????????? ?? ?????????? ?????? ?????? ?????? ?????? ?????? ???
????????? ??? ?????? ?????????? ?? ?????? ?????????? ?????? ?????? ?????? ??? ????.

36 ? ??????? ??? ?????? ?? ?????? ?? ?????????? ??? ??? ?????? ???, ?? ??????????
????????????? ?????? ??? ?????? ?????? ?? ?????????? ??? ?????? ?????? ???, ?? ??????????
????????? ??? ?????? ?????? ?? ?????????? ??? ?????? ??? ?????? ?????? ??? ????.

37 ??????? ???????, ??? ???? ?????? ?? ?????????? ?????? ?????????? ??? ???????
????????? ??? ???? ?????? ??????? ?? ?????????? ??? ?????????? ?????? ?????? ?????????? ???
????? ??? ???? ?????? ??? ?????? ??? ?????? ?????? ? ? ?????? ???, ?? ???
????????? ?? ??? ?????? ?????????? ??? ?????? 34 ?????? ??? ??? ??? ???? ?????? ??? ????.
??????.

38 ??? ?????? ???, ?????????????? ??? ?? ?????? 21, ?????????? 1, ?????????? ?, ??
????????? ??? ???? ?????? ??? ??? ?????????? ?????? ? ?????????? ??? ?????? ?????????? ???
??? ?????? ?????? ? ?????? ?????????? ?? ?????????? ?????? (?. ?????? ??? 3??
????????? 2004, C?395/02, Transport Service, ?????? 2004, ?. I?1991, ????? 23). ???????,
????? ? ?????? ?????????? ?????????? ??? ?????? 66 ??? 68 ??? ?????????? ???, ?? ???
????? ?????????? ?????????? ??? ?????????? ??? ?????? ?????? ?? ?????????? ??? ????
????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ??? ????.

39 ??????, ? ?????? ??? ?????? ?????? ?????? ?????? ?????????? ??? ?????????? ?? ?????? ??? ??
????????? ????. ?? ??????????, ?????????????? ???, ?????????? ???, ?????????? ??? ?????? ??? ?????????? ?
????????? ??????????, ? ?????????? ?? ?????? ??? ??????, ??? ??? ??? ?????????? ???
????, ?????????? ?????????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ??????, ??????????
??? ?????? ?? ??? ?????? ?????? ?????????? ??? ?????? ???, ??? ?????? ?? ?????????? ?? ?????????? ??
????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ????.
??????.

40 ???????, ?? ?????????? ?????????? ?????????? ???????, ??? ?? ?????????? ???
????? ???, ?? ?????????? ??? ??? ??? ??? ?? ?????????? ?????????? ??? ?????? ??? ??
??? ??????, ??? ??? ??? ?? ?????????? ??? ?????? ??? ?????? ???, ??? ?????????? ??? ??
????? 13, ?, ??????, ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????????? ???
??? ?????? ?? ??? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ??
????????? ?? ?????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ??? ??? ?? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??
????? ???.

41 ???????, ?? ??? ?????? ??????????, ?? ?????????? ??? ???? ?????? ??? ?????????? ???
? ?????????? ??? ??, ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????????? ?? ??????????.

42 ??? ?????? ??? ??? ?????? ?????? ?????? ?????? ?????????? ?????????? ??? ?????? ??????????
????????? ??? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ???

?????????? ????? ??? ??????????? ?????? ??? ??????????????? ??? ??????????? ??? ??? ??? ???
????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?? ???? ?????? ???
????? ?????????? ?? ?? ??? ?????? ?????? ??? ?? ?? ?????????????? ??? ??? ??? ?????? ???
????????????? ??????? ???, ?????????????? ???, ???, ??? ? ?????? ?????????? ?????????? ??????????
??? ?????? 89 ??? ?????????? ???, ???????, ??????? ?? ?? ?????? 13, ?, ?????? ??????,
??? ?????? ???????, ?? ?????? ??? ?????? ??? ?????? ?? ?????????? ?? ?????????????? ??? ?????? ???
?????????? ??????? ??? ?? ?????????? ??? ?????? ?????? ?????? ???, ??? ?????? ???
????????, ??? ?????? ?????? ??? ?????????? ??????, ?? ?????????? ?? ?????????? ??? ?????? ???
?????????? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ?????? ??? ?????? ??? ?????? ???
????? ??? ???.

43 ???????, ??? ? ??????? ?????????? ?????????? ?????????? ??? ?????? 84 ??? ?????? ??????? ??,
???? ??????? ??? ?????? ????? ? ??????? ?????? ??? ?????? ????? ?????? ?????? ? ??????????
????????? ??? ??? ?????????? ??? ?????????? ?????? ??? ?????????? ??? ?????? ?????? ??? ?????? ???
????????? ?????? ??? ?????? ?? ?????????? ??? ?????? ??? ?????? ??? ??? ?????? ??? ?????? ???
??? ?????????? ?????? ???.

44 ??????, ????, ?? ?????????? ?? ??????????? ?? ?????????????? ?? ?????????????? ?? ?????? ?? ?????? 12a ???
????? ??? 1968 ????? ???, ??????? ?? ???? ?????? 20, ?????????? 4, ??? ?????? ??????, ???
????????? ??? ?????????????? ?? ?????????? ?? ?????????????? ?????????????? ??????????????
????????????? ???, ??????, ??????, ??? ?????? ????? ?????? ??? ?? ?????????? ??? ??????????????
??? ??????????, ? ??????? ??? ?????????? ????? ?????? ??? ??????????, ? ??????
????????????? ?????? ??? ?????????? ??? ??? Pactor Vastgoed, ??????? ??? ??
????????? ??? ??? 5 ?????????? 2000 ???, ???????, ? ??? ?????? ?? ??? ?????? ??? ??
??? ?????? ? Pactor Vastgoed ??????? ??? ?????? ?? ??????? ???, ???????, ? ??????
???? ??? ??????? «????????????? ??????????» ??? ??? ?????? ??? ?? ??? ?????? 20,
????????? 4. ??? ??????, ? ?? ??? ?????? ??? ???????, ?????? ??? ?????????? ???,
?? ?????????? ?? ?????????? ??? ??? ?????? ??? ??????? ??? ?????????? ???
????????? ? ??? ?????????????? ??? ??? ?????? ??? ??????? ??? ?????? ??? ?? ???
????? ??? ?????? ??? ??????, ?????? ??? ?????? ??? ?????????? ??? ?? ??? ??????????
?? ???.

45 ??????, ??????????????? ??? ? ??????? 88/498, ?? ??? ????? ?????? ??? ?????????? ??? ?????????? ???
????? ?????? ?? ??????????, ??? ??????????? ??? ?? ?????? 21, ?????????? 1, ?????????? ?,
??? ?????? ???????, ??????? ?????????? ??? ?????????? ?????? ??? ??? ??? ?????? ???
????????????? ??? ?? ?????? 13, ?, ?????? ??????, ?????????? ??, ??? ?????? ??????
????????? ??????? ??? ??????????????, ??? ?????? ?? ?????? ?? ?????????? ??? ???
????????? ?????? ??? ?????????????? ?????? ?????? ??? ?????? ??? ?????????? ??? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ???, ???
????? ??? ?????????? ???????, ??? ? ?????? ??? ?????? ??? ?????? ???, ??? ? ?????? ???
?? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
?? ?????? ??? ?????????? ???, ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

46 ????? ????????, ????????, ???? ?????? ?? ?????????? ??? ?????? ??????, ? ???????
88/498 ??????? ?? ?????????? ??? ? ?????????? ???, ??? ???????, ? Pactor Vastgoed
??????????, ?? ?????????? ??? ????? ?? ?????????? ????????, ?????????? ??? ??? ? ??????
????? ??? ??????? ???????, ????? ?????? ?? ????? ?????? ??????? ??
????????????? ??? ??????? ??? Pactor Vastgoed ??? ?????? ??? ?????????? ???????
??? ?????????????? ??? ?????????? ??? ??? ? ????? ?????????????????? ??? ??? ???? ??????????
??? ??????? ?????????? ?? ??? ?????? ??? ??? ?????? ???, ?????? ??? ?????? ??????????
??? ??????? ??????????.

47 ??? ??? ??????? ??????, ??? ???????????? ??????? ?????? ?? ????? ? ??????? ???
? ??? ?????? ???????????? ???? ?? ?????? ??? ?????? ?????? ?????? ???, ???????????
?????? ??? ???????????? ???? ?????? ?????? ???, ??? ????? ?????????? ???? ???
????? ??? ?????? ???? ?????? ?????? ???? ?????? ????.

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48 ?????????? ??? ? ?????? ?????????? ???? ?? ??? ?????? ?????? ?????? ??? ?????? ????
??? ?????????? ?????????????? ???? ?????? ?????? ??? ?????? ?????? ???????????, ?' ????
?????????? ?? ?????? ???? ??? ?????????? ??????. ?? ?????? ??? ?????? ???????????
????? ?????? ?????????? ???? ??????????, ???? ???? ?? ??? ???????, ??? ??????????.

??? ??? ?????? ????, ?? ?????????? (??????? ????) ??????????:

? ???? ?????? 77/388/??? ??? ??????????, ??? 17? ??? 1977, ??? ?????????? -
??? ?????????? ??? ?????? ???, ??? ?????? ?? ??? ?????? ?????? ?????? ?????? -
????? ?????? ?????? ?????? ?????: ?????????? ?????????? ???, ???
????????????? ?? ??? ?????? 95/7/?? ??? ??????????, ??? 10? ?????? 1005,
????????????? ???? ?? ?????? ??? ?????? ??????, ?????????? ??????, ??? ??????
????????? ???? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????, ??? ??????

(?????????)

* ?????? ??????????: ? ????????.