

## **General Terms and Conditions for the Rental of Machines**

### **1 Scope of application**

1.1 These General Terms and Conditions for the Rental of Machinery apply to all offers and rental agreements for the rental of machinery and other movable property.

1.2 These terms and conditions apply exclusively; we do not recognise any terms and conditions of the hirer that conflict with or deviate from our terms and conditions unless we have expressly agreed to their validity in writing. Even if we execute the rental agreement without reservation in the knowledge that the tenant's terms and conditions deviate from or conflict with our terms and conditions, this does not constitute consent - these terms and conditions shall also apply in this case.

1.3 Individual agreements made with the Lessee in individual cases (including collateral agreements, supplements and amendments) shall take precedence over these Terms and Conditions.

1.4 Legally relevant declarations and notifications to be made to us by the Hirer after conclusion of the contract, such as deadlines, cancellation notices, reminders, must be made in writing.

### **2 Offer and conclusion of contract**

2.1 Unless otherwise stated, all our offers are non-binding.

2.2 Orders placed by the hirer can be accepted by us within two weeks by written order confirmation (also by fax and e-mail) or by handing over the rental object.

2.3 The information on performance, dimensions, weights and the like contained in catalogues, brochures, Internet presentations, circulars, advertisements, illustrations and price lists are non-binding unless they expressly become part of the contract.

### **3. handover of the rental item, default**

3.1 The Lessor shall keep the rental item ready for collection in an operational condition or, if agreed, shall dispatch it.

3.2 The Lessee shall inform the Lessor of the exact location where the rental item is to be used. The Hirer must also inform the Rental Firm immediately of any change of location.

3.3 Rental equipment may only be operated by competent persons.

3.4 The Hirer undertakes to strictly observe the road traffic regulations, the accident prevention regulations and the health and safety regulations as well as the other relevant laws and guidelines. The Hirer is responsible for securing the load when transporting the rental equipment himself.

3.5 If the Hirer is an entrepreneur, a legal entity under public law or a special fund under public law pursuant to Section 310 (1) sentence 1 BGB (hereinafter referred to as "company"), it is obliged to inspect the rental item for road safety, operational capability and any defects upon handover.

3.6 If the Rental Firm is in default with the handover of the rental item, the Hirer may demand compensation for default if it has suffered demonstrable damage as a result. Notwithstanding clause 10.3, the compensation for delay to be paid by the Lessor in the event of slight negligence shall be limited to a maximum of twice the daily net rental price for each working day.

3.7 The Lessor or its authorised representatives shall have the right to inspect the rented item at any time in order to ascertain its presence and condition.

## **4 Dispatch and return of the rental item**

4.1 Shipment, if agreed, or delivery shall be at the expense and risk of the Hirer. The Lessee shall return the rented item to the Lessor's storage location at its own expense and risk. If the rented item is collected by the Lessor, the Lessee must keep it packed or palletised and ready for transport in an unobstructed location.

4.2 Consumed fuel and other operating materials as well as missing accessories shall be borne by the Hirer and will be invoiced. Necessary cleaning costs shall be charged at cost, disposal of dirt at a flat rate; the Hirer shall be entitled to prove that no damage or less damage has been incurred.

## **5 Rental period**

5.1 The rental agreement concluded for a specific rental period ends at the end of the agreed rental period and cannot be terminated by ordinary notice.

5.2 The time spent on maintenance and care work carried out by the Lessee during the rental period shall be counted as part of the rental period. The time spent on inspection and repair work for which the Hirer is not responsible shall not be counted towards the rental period.

## **6 Assembly**

6.1 Unless otherwise agreed, the assembly and disassembly of the rental items shall be carried out by the Lessee on its own responsibility.

6.2 In the event of a deviating agreement, the personnel provided shall be charged at the agreed hourly rate. The travelling time shall be regarded as working time.

## **7 Prices, offsetting, right of retention**

7.1 Fuel and operating materials are not included in the rental price.

7.2 The rental fee shall be calculated on a daily basis or, in the case of rental of blasting systems in combination with a compressor, on the basis of the actual operating hours. These are read off the device after the hire period.

7.3 If the Tenant is a company, the Tenant shall only have a right of set-off and retention on the basis of counterclaims that have been legally established or are undisputed or are ready for judgement in pending legal proceedings.

## **8 Advance rental payments, interim settlements, deposit**

8.1 The Landlord is entitled at any time to demand advance rent payments, interim settlements and a rent deposit; the rent deposit is non-interest-bearing vis-à-vis a company.

8.2 The Lessee assigns to the Lessor any claims it may have against third parties on whose behalf it uses the rented property in the amount of the rental price. The Lessor accepts the assignment.

8.3 Even before full satisfaction of all secured claims, we are obliged to release the claims assigned to us in whole or in part at our discretion to the Lessee upon request, if and to the extent that the realisable value of all securities exceeds 10% of the secured claims not only temporarily.

## **9 Obligations of the lessee**

9.1 The Lessee is obliged to protect the rental item from overuse and misuse in every way and to carry out proper and professional maintenance and care of the rental item at its own expense.

9.2 If repair and inspection work is necessary, the Lessee must notify the Lessor of this in good time and then have it carried out by the Lessor without delay. The Lessor shall bear the costs for this, provided that the Lessee has demonstrably fulfilled his obligations.

9.3 In the event of seizures or other interventions by third parties in the rented item, the Hirer must inform the Rental Firm immediately in writing (in advance by telephone) and provide it with all documents necessary for an intervention and inform the third party of this immediately in writing.

9.4 The Hirer may not grant a third party any rights of use to the rented item, nor assign any rights arising from the rental agreement.

9.5 Repairs that become necessary due to normal wear and tear shall be carried out by the Rental Firm itself or by a company commissioned by it at its own expense. If the Hirer repairs the rented item himself without the prior consent of the Rental Firm, the repair costs shall be borne by the Hirer. The Hirer shall be liable for any resulting damage and

any loss of the manufacturer's warranty. The Lessee hereby assigns to the Lessor any existing warranty claims against the contractor commissioned; the Lessor accepts these.

All other repairs for which the Lessee is responsible must be carried out immediately by the Lessor or a company commissioned by the Lessor at the Lessee's own expense.

## **10 Defects and liability**

10.1 The Hirer shall be liable during the rental period and also in the event of the rental period being exceeded for any damage to the rented item for which it is responsible or the loss of the rented item, including parts and accessories, for which it is responsible. Furthermore, the Lessee shall be liable for any consequential costs incurred by the Lessor as a result of such damage.

10.2 If the Lessee is a company, obvious defects must be reported to the Lessor in writing within a preclusive period of 10 days after handover of the rental object, whereby the date of receipt by the Lessor is decisive. After expiry of this period, the Lessee shall not be entitled to any claims for damages or other claims against the Lessor due to these defects.

10.3 The Hirer may only assert further claims for damages against the Rental Firm, in particular compensation for damage not caused to the rented item itself, in the following cases: -  
in the event of an intentional breach of duty by the Lessor;  
- in the event of a grossly negligent breach of duty by the Lessor or in the event of an intentional or grossly negligent breach of duty by a legal representative or vicarious agent of the Lessor;  
- in the event of a culpable breach of essential contractual obligations insofar as the achievement of the purpose of the contract is jeopardised, with regard to the foreseeable damage typical of the contract; -  
in  
the event  
of damage resulting from injury to life, limb or health due to a negligent breach of duty by the landlord or an intentional or negligent breach of duty by a legal representative or vicarious agent of the landlord;  
- if the landlord is liable under the Product Liability Act for personal injury or property damage to privately used items.  
Otherwise, the Lessor's liability for damages is excluded.

10.4 If the rental object cannot be used by the Hirer in accordance with the rental agreement for reasons for which the Rental Firm is responsible, due to incorrect or omitted execution of consultations and other ancillary obligations - before or after conclusion of the contract - then Section 10.3 shall apply accordingly, to the exclusion of further claims by the Hirer.

10.5 If we are entitled to claim damages for non-fulfilment due to non-acceptance of the rental object, we may demand 20% of the agreed rental price from the Hirer as compensation without providing further evidence. This shall not affect the lessee's right to prove lower damages and our right to prove higher damages.

## **11. right of the landlord to terminate without notice**

The landlord may terminate the rental agreement without notice for good cause. Good cause shall be deemed to exist in particular if the Lessee

- fails to inform the Lessor of the place of use of the rental object upon request,

- is in default of payment of more than two rental instalments in whole or in part,
  - fails to protect the rental object from overuse or fails to maintain it properly
- This shall not affect other statutory grounds for termination by the Lessor.

## **12. purchase/hire purchase/takeover from rental**

The purchase or hire-purchase of a rental object is only possible if this has been agreed separately in writing between the Lessee and the Lessor.

## **13 Place of jurisdiction and place of fulfilment**

13.1 This contract and the legal relationship between the parties shall be governed by the law of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods.

13.2 The exclusive place of jurisdiction for all disputes arising directly or indirectly from the contract shall be our registered office if the Hirer is a merchant, a legal entity under public law or a special fund under public law. However, we may also take legal action in the court responsible for the hirer. The place of fulfilment is our registered office.