
CLOSE TO OUR CUSTOMERS**General Terms and Conditions of Hire****1. Scope**

1.1 All offers to hire machines shall be made exclusively on the basis of these General Terms and Conditions of Hire. Conflicting or deviating terms and conditions of a Lessee shall not be accepted. This shall apply even if the Lessor delivers the machine to the Lessee without restriction with knowledge of the Lessee's conflicting or deviating terms and conditions. Deviations from these Terms and Conditions of Hire shall only be valid when confirmed by the Lessor in writing.

1.2 These Terms and Conditions of Hire shall also apply to all future transactions of the same kind with the same Lessee, without specific further agreement being required.

1.3 Services involving on-site installation are additionally subject to the Lessor's Terms and Conditions of Repair and Installation.

2. Offer and conclusion of agreement

2.1 The Lessor's offers are always subject to confirmation, unless expressly otherwise stated. Cost estimates are non-binding. Unless otherwise agreed, first offers or cost estimates shall be provided free of charge. The Lessor reserves the right to charge a reasonable fee for further offers or cost estimates as well as for draft works if no rental agreement comes into existence.

2.2 A rental agreement shall come into existence only upon written confirmation by the Lessor. Any changes, amendments or side agreements shall also require written confirmation by the Lessor.

2.3 The documents relating to the offer, including but not limited to illustrations, drawings, and details on weight and measurements, are approximations only, unless they are expressly marked as binding by the Lessor.

2.4 The Lessor reserves all ownership and copyrights to illustrations, drawings, cost estimates, calculations and other documents, which shall not be disclosed to any third party without the Lessor's express prior written consent. They are to be returned to the Lessor without delay

(i) if no rental agreement comes into existence, or

(ii) as soon as the rental agreement has been executed in full.

2.5 Where the Lessor lends the machine (e.g. for demonstration purposes or as an interim measure), the provisions of the rental agreement shall apply *mutatis mutandis*.

3. Rental period

3.1 Unless otherwise agreed, the rental period shall start upon delivery to the Lessee (see clause 8.1). If the parties have not agreed on an end date, the Lessee and the Lessor shall agree on a basic rental period on a daily, weekly or monthly basis starting on the delivery or on the agreed date. Unless otherwise agreed, the basic rental period shall be one month.

3.2 In the event the machine has not been returned to the Lessor after expiry of the basic rental period, the rental agreement shall be extended automatically by a period which corresponds to the basic rental period, unless such agreement is terminated in good time before expiry of the basic rental period or any subsequently extended rental period. Notice of termination shall be deemed to have been given in good time if it is received by the Lessor not later than three working days before the end of the rental period if the basic rental period has been agreed on a daily basis, not later than one week before the end of the rental period if the basic rental period has been agreed on a weekly basis, and not later than one month before the end of the rental period if the basic rental period has been agreed on a monthly basis.

3.3 Notice of termination must be given in writing without the necessity to specify reasons.

3.4 At the end of the rental relationship, the Lessee must promptly return the machine in a proper condition, e.g. in particular clean and workable. The machine is to be returned completely, e.g. including all add-ons and components, cleaned and undamaged.

3.5 Any defects in or damage to the machine which go beyond normal wear and tear, and/or have arisen through incorrect use, shall be the responsibility of the Lessee.

3.6 In the event the Lessee continues to use the machine after termination of the agreement by giving notice of termination, the rental relationship shall not be regarded as having been extended. A tacit extension of the rental relationship shall not apply. If the

Lessee fails to return the machine at the end of the rental relationship, the Lessor may request the agreed rent for the duration of the failure to return as compensation or, in case no rent was agreed, at a usual market rental rate. The Lessee waives any right of retention for whatever reason.

3.7 If the Lessee defaults on payment, the Lessor shall be entitled to claim default interest. The default interest rate per annum amounts to eight percentage points above the basic rate. The basic rate changes every 1st January and 1st July of a year by the percentage by which the reference basic rate has increased or decreased since the last change in the basic rate. The reference base is the interest rate for the most recent principal financing transaction of the European Central Bank before the first calendar day of the relevant half year. The Lessor may assert higher default damage if proof is provided. However, the Lessee is entitled to prove that the damage incurred as a result of the default in payment was lower.

3.8 If the Lessor becomes aware of circumstances that call the Lessee's creditworthiness into question, then all deferred claims shall immediately fall due for payment. Furthermore, the Lessor may in such case request advance payment or the provision of security.

4. Rent and payment of rent

4.1 The rent shall be charged according to depending on the basic rental period agreed (clause 3.1), i.e. per day, week or month. The calculation of the rent is based on the normal monthly working hours, i.e. a maximum of 8 hours of use per day. If, on this basis, the calculated period of use is expected to be exceeded or is actually exceeded by more than 5%, the Lessor may adjust the rent according to the expected or actual period of use. The Lessee shall notify the Lessor without delay of the actual or expected additional use of the machine.

4.2 The rental price does not include the statutory value added tax. The parties endeavour to avoid any unnecessary expenses or infringements of tax or customs regulations. The Lessee is therefore obliged to provide all requisite information where necessary. The parties will strive in all cases where legally permissible to ensure that the Lessor receives the full rent without any deduction whatsoever. Charges, taxes or customs duties shall be borne by the Lessee.

4.3 The rent does not cover wear and tear of wearing parts. The Lessor is entitled to charge the Lessee the costs for wear and tear in accordance with the use of the machine.

The calculation of the costs for wear and tear of wearing parts shall be based on the data on wear and tear set out in checklists or comparable records providing information on the condition of the machine. The costs shall be calculated as a percentage, depending on the current selling price of the respective wearing parts plus any work time which may be incurred. Other costs for the operation and repair of the machine during the rental period shall be borne by the Lessee.

4.4 The Lessor shall issue rent invoices. The Lessor is entitled to issue partial invoices during the basic rental period. If the basic rental period has been agreed for days or weeks, the Lessor is entitled to invoice at weekly intervals. If the basic rental period is in weeks or months, the Lessor may issue partial invoices at monthly intervals. The amount of the partial invoices shall be determined proportionately.

4.5 The Lessor is entitled to request advance payments. If the Lessor requests an advance payment before delivering the machine for duration of the basic rental period, the Lessor may refuse to surrender the machine until receipt of the advance payment has been received.

4.6 The rent shall be payable, without any deduction, not later than 8 days from the date of invoice.

4.7 The Lessee shall not be entitled to offset, withhold or reduce the rent, unless any counterclaims are either not disputed by the Lessor or have been established by final and non-appealable judgement. The same shall apply in the case of an assertion of warranty claims.

4.8 Any fees under public law, premiums and other charges levied during the agreement due to the rent, possession or use of the

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machine, shall be borne by the Lessee. This shall also apply to investigations ordered by authorities. If any such claims are asserted against the Lessor or if the Lessor is required to make advance payments, the Lessee is obliged to reimburse the costs to the Lessor.

4.9 Delays in the delivery of the machine due to force majeure or other events which substantially impede or prevent delivery by the Lessor, such as war, terrorist attacks, import and export restrictions, strike, lockout or orders made by the authorities, even if they relate to the suppliers or sub-suppliers of the Lessor, shall not entitle the Lessee to terminate the rental agreement unless otherwise agreed. If possible, the Lessor shall inform the Lessee about the start, end and expected duration of the aforementioned circumstances.

4.10 The Lessor is not in default if the Lessor provides the Lessee with a replacement, in compliance with the agreed delivery date, for the time until the delivery of the actual machine, provided that such replacement meets the Lessee's technical and functional requirements in all material respects, and the Lessor bears all costs incurred for providing the replacement.

4.11 If the Lessor is in default and the Lessee suffers any damage as a consequence, the Lessee shall be entitled to request lump sum default compensation. Such compensation shall amount to 0.5 % of the value of that part of the entire delivery which cannot be used in time or according to the agreement due to the delay for each full week of delay, up to a maximum of 5 % of such value in total. Any additional claim for damages based on default shall be excluded.

5. Duties of the Lessee

5.1 The Lessee is obliged:

- to protect the machine from overuse of any kind and to ensure its correct use, particularly by trained personnel;
- to have the machine serviced and maintained at the Lessee's expense and at regular intervals either by the Lessor or by a third party commissioned by the Lessor;
- to follow the service, maintenance, and operating instructions of the Lessor and/or of the manufacturer of the machine;
- to ensure that inspections are carried out by the Lessor or by a third party commissioned by the Lessor at regular intervals as specified by the manufacturer (for example in a machine service record) at the Lessee's expense;
- to ensure the machine's operability for the duration of the rental period by having the necessary repair work done by the Lessor or a third party commissioned by the Lessor in a due and proper manner using original spare parts at the Lessee's expense – this provision applies to wearing parts accordingly - and
- to observe and comply with all laws and regulations in connection with the possession, use or maintenance of the machine.

The Lessee shall indemnify the Lessor against any third party claims that may arise from culpable non-compliance with these duties.

5.2 Upon request, the Lessee shall grant the Lessor or the Lessor's agents access to the machine at any time during normal working hours and upon prior agreement in order to check the use and operability of the machine. Any costs that are directly or indirectly incurred by either party in this connection shall be borne by such party itself.

6. Sub-letting

6.1 The Lessee may only sub-let the machine to a third party, assign rights under this Agreement or grant rights to the machine of any kind with the Lessor's prior written consent.

6.2 The Lessee shall be responsible for any fault of a third party which it authorised to use the machine to the same extent as for its own faults and shall accept such fault.

6.3 The Sub-lessee shall be advised that it may acquire the machine only with the consent of the owner (Lessor). On signing the sub-lease agreement, the Sub-lessee shall confirm in writing knowledge of the ownership relationships and requirements of consent by the Lessor for any intended acquisition of the machine. The Lessee shall immediately notify the Lessor in case of the termination of the sublease.

7. Pledging of the machine or similar

7.1 In the event of acts of authorities, confiscations, pledges or similar, irrespective of whether they are initiated at the instigation of an authority or of a private person, the Lessee shall immediately inform the authority or other party about the ownership relationships verbally and in writing and also notify the Lessor without delay, providing all necessary documents.

7.2 The Lessee shall immediately notify the Lessor if a compulsory sale or compulsory administration is filed with respect to the property on which the machine is located.

7.3 The Lessee shall bear the costs for any measures to rectify any such interventions.

8. Transfer of risk

8.1 The delivery shall be made on the date of the contractually agreed delivery or on the date of the actual delivery, whichever comes first. When the machine is delivered, a checklist or a handover document shall be prepared in order to determine the condition of the machine. The Lessee undertakes to cooperate in preparing and completing the documents on delivery. For this purpose, the Lessee or an authorized employee or a third party shall be present when deliveries are made. If this is not the case, the machine shall be deemed to have been handed over as recorded by the Lessor.

8.2 Upon delivery, the risk of loss or damage to the machine shall pass to the Lessee. Delivery shall be deemed to have been made even if the Lessee is in default of acceptance according to §293 BGB (German Civil Code).

The place of delivery (place of performance) is always the premises of the Lessor, irrespective of whether the machine is shipped by the Lessor, brought to the Lessee's premises or its place of use by the Lessor or a third party commissioned by the Lessor or is collected by the Lessee itself or by a third party commissioned by it.

If the machine is located at a different place before the start of the rental period or transfer (for example at the premises or place of use of a previous lessee or at the manufacturer) and if it is shipped or transported from there by the Lessor or an affiliated company or by a third party commissioned by them to the Lessee for use or if the Lessee or a third party commissioned by it collects the machine at such place, this place shall be equivalent to the Lessor's premises.

8.3 The Lessee shall bear the costs of commissioning and maintenance work arising from any damage that occurs after the risk has been transferred to the Lessee. This shall also apply in the event of theft or other loss as well as destruction or significant deterioration which makes repair uneconomical. In this case, the Lessee shall reimburse the Lessor the fair value of the lost machine.

8.4 The Lessee shall cease to bear the risk as soon as the machine has been returned to the Lessor's premises due to or following the end of this Agreement (date of the actual return).

For the return of the machine, the place of delivery shall also be the Lessor's premises, irrespective of whether the machine is shipped by the Lessee, brought to the Lessor's premises by the Lessee or a third party commissioned by the Lessee or collected by the Lessor itself or by a third party commissioned by the Lessor.

If the Lessee ships or transfers the machine to a different place (for example to the place of use of a subsequent Lessee or to a purchaser) on prior instruction of the Lessor or if the machine is collected by the Lessor or a third party commissioned by the Lessor from the Lessee and brought to a place other than the Lessor's premises, this place shall be equivalent to the Lessor's premises.

8.5 If shipping is delayed or omitted due to circumstances not attributable to the Lessor, the risk shall pass to the Lessee as from the date of notification of readiness for shipping or acceptance.

8.6 If the Lessee is in default of delivery or infringes any other obligations to cooperate, the Lessor shall be entitled to request compensation for the damage incurred, including any additional expenses, in particular the costs incurred by the delayed acceptance of delivery.

9. Liability of the Lessee

9.1 The Lessee shall be liable for the operational risk associated with the machine.

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9.2 If third parties claim damages from the Lessor or from a company affiliated with the Lessor due to personal injury or damage to property – irrespective of the legal reason – based on the operational risk associated with the rented machine the Lessee shall indemnify the Lessor within their internal relationship against all such claims and costs.

9.3 In the event of a claim of any kind whatsoever the Lessee shall be obliged to immediately notify the Lessor about the circumstances, extent and parties involved and to provide the Lessor with all requisite information.

10. Liability for defects and compensation of damages by the Lessor

For all claims for damages asserted by the Lessee which are not governed by this Agreement – irrespective of the underlying legal foundation – and in particular claims for compensation which do not relate to the machine itself, the Lessor shall be liable only:

- in the case of wilful intent;
- in the case of gross negligence by the Lessor's corporate organs or executive employees;
- in the case of culpable injury to life, body or health;
- in the case of defects which the Lessor has fraudulently concealed or the absence of which the Lessor has warranted as part of a separate guarantee; or
- in the case of defects to the rented machine to the extent that the Lessor is liable under the Product Liability Act for personal injury and damage to property which is used privately.

In the case of culpable infringement of material contractual obligations, the Lessor shall also be liable for gross negligence of non-executive employees and for slight negligence, though in the latter case liability shall be limited to typical and reasonably foreseeable damage.

All further claims, in particular liability for consequential damage, shall be excluded.

11 Machine and business liability insurance

11.1 The machine and its operation must be covered by insurance.

11.2 The machine insurance may be taken out by the Lessee or by the Lessor after agreement.

In the event that the parties agree that the Lessee should insure the machine, or if the parties have not made any agreement, the Lessee shall be obliged to take out a machine insurance (including the risk of transportation) at the replacement value, including all ancillary costs, in favour of the Lessor for the duration of the rental period or for the duration of use covering all risks including fire, natural hazards, vandalism, theft, transportation etc.

The Lessee assigns its current and future rights and claims against its machine insurer arising out of the insurance policies for which it has assumed the burden of insurance here and now to the Lessor. The Lessor hereby accepts the assignment.

The insurance of the Lessor must contain the following provisions which the insurer must confirm:

- The policyholder/Lessee is not authorised to dispose of the rights to which the Lessor is entitled under the insurance policy in its own name. The Lessor is solely entitled to dispose of these rights, in particular to accept compensation, even if it is not in possession of the insurance policy.
- The policyholder may not cancel the insurance, may not reduce the amount of the premium and must continue it in an unaltered form unless the Lessor has agreed to a different procedure in writing and the policyholder has submitted this declaration of consent to the insurance company, which must have been effected at least one month before expiry to be valid. The Lessor is entitled but not obliged to pay the due insurance premium.

11.3 The following applies to business liability insurance:

The Lessee undertakes to insure the operating risk associated with the machine in all events at its own cost (liability insurance).

11.4 Before the machine is handed over, the Lessee shall prove – by presentation of a suitable insurance certificate or certificates – that the rented machine is covered by business liability insurance for the duration of the rental agreement and, where the Lessee has committed to taking out machine insurance, is covered by machine insurance. The requisite insurance certificate or certificates must

contain all necessary details on the type, scope and duration of the respective insurance.

Failure to submit insurance certificates or the submission of incomplete insurance certificates upon the handover of the machine shall entitle the Lessor to retain the machine until such time as the requisite insurance certificates have been provided. If the Lessor does not exercise its right of retention, the Lessee shall submit to the Lessor the requisite insurance certificate(s) without delay and not later than 10 working days after handover of the rented machine. If the insurance certificate(s) are not submitted, the Lessor is entitled to take out the requisite insurance at the Lessee's expense. In the intervening time until insurance certificate(s) have been submitted or the requisite insurance policies have been taken out by the Lessor, the Lessee shall be liable – subject to clause 10 of these Terms and Conditions of Hire – for all damages, including without limitation consequential damages, arising for any reason whatsoever associated with the lack of insurance cover although such cover has been agreed.

In the event of retention, the Lessor is entitled to request the agreed rent at the beginning of the rental period.

11.5 Any deductibles due under the respective insurance policies shall be borne by the Lessee in the case of a claim, irrespective of whether the insurance was taken out by the Lessee or the Lessor.

11.6 If the rented machine has been subjected to a criminal act (theft, possibly also of spare parts, embezzlement, criminal damage to property or similar), the Lessee shall promptly file a complaint with the competent authority (public prosecutor office, police) and notify the Lessor immediately. If the return of the machine is impossible due to the criminal act (particularly in the case of theft or embezzlement), and if no insurance cover exists in whole or in part – for whatever reason –, the Lessee shall also be liable if it is without fault and shall reimburse the Lessor with the fair value of the machine at the time of theft or embezzlement. The fair value shall be equal to the amount which the Lessor must pay to purchase an equivalent machine.

12. Termination without notice

The Lessor shall be entitled to terminate the Agreement without notice if:

- the Lessee defaults on a rental payment or any other specially agreed payment in whole or in part for longer than five banking days;
- the Lessee fails to satisfy the obligations set out in clause 5;
- the Lessee sub-lets the machine to a third party without the Lessor's prior written consent (clause 6);
- the Lessee assigns rights from this Agreement to a third party or grants third parties rights to the machine, in either case without the permission of the Lessor;
- the Lessee modifies the machine within the meaning of clause 13 without the consent of the Lessor; or
- material circumstances become known which fundamentally call into question the Lessee's ability to fulfil the rental agreement, such as discontinuation of payments, bill protests, enforcement measures or insolvency.

13. Modifications to the machine

Modifications to the machine, in particular attaching, installing and removing parts, must not be made without the consent of the Lessor. If changes have been made with the Lessor's consent, the Lessee shall at its own expense restore the machine to its original condition at the end of the rental agreement.

14. Statute of limitations

All claims which the Lessee may have for whatever reason shall fall under the statute of limitations within twelve months. The statutory period shall apply to claims for damages set out in clause 10.

15. Rights to software / data protection

15.1 If the machine contains software, the Lessee is granted a non-exclusive right to use the delivered software, including its documentation, for application on the machine intended for this purpose. Using the software in more than one system is prohibited.

15.2 The Lessee may reproduce, revise or translate the software or convert the object code into the source code only to the extent permitted by law. The Lessee undertakes not to remove or change

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any manufacturer information, in particular copyright notes, without the Lessor's express prior approval.

15.3 All other rights to the software and any related documentation, including copies thereof, shall remain with the Lessor or software provider. The granting of sub-licences or any passing-on to third parties in any other form is prohibited.

15.4 The Lessor shall not be liable for software which is already installed or will be installed in the future (including any software upgrades or updates) if the Lessee uses the software improperly. In particular, an improper handling or use is deemed to have occurred if the Lessee or a third party:

- deletes, changes or otherwise influences any machine parameters of the rented machine without written consent of the Lessor, so that the functionality of the machine can be impaired;
- installs software (including a software upgrade or update) not authorised by the Lessor for the respective type of machine acquired by the Lessee; or
- installs software (including a software upgrade and update) authorised by the Lessor for the respective type of machine sold while the engine is running and does not observe the machine during the entire installation, upgrade or update process and fails to continuously monitor its behaviour and keep persons at a distance.

15.5 The Lessor is entitled to equip the machine with Fleet View and similar systems (e.g. WITOS or similar), which store machine data (e.g. on ongoing operations, standby times, etc.) and transmit them to the Lessor. The Lessor is entitled to analyse and process such data and use them without restrictions and without charge for internal purposes, unless the Lessee expressly objects. The data may be disclosed to third parties, e.g. for purposes of reference and comparison, if the data is anonymised or if the Lessee, upon request, expressly consents to the disclosure.

15.6 For the event that personnel data are stored within the scope of installation, upgrade or update, the following shall apply:

The Lessor ensures compliance with the statutory data protection regulations. In particular, as far as this is required for installing software, any provided personal data shall not be disclosed to any third party; rather, any such personal data shall be processed and used exclusively internally for performing the rental agreement. The data shall be deleted when no longer necessary. Should such deletion not be possible due to statutory retention periods, such data shall be blocked instead of deleted, in accordance with the applicable statutory regulations.

Where required by the statutory data protection regulations, the Lessee shall, prior to the conclusion of the respective agreement, obtain the necessary written consent of the person whose personal data are required for satisfying the Agreement.

16. Proprietary rights of third parties

16.1 The Lessor shall only be liable for infringement of third party rights resulting from the use of the machine by the Lessee in accordance with the rental agreement for the intended purpose.

16.2 If any third party asserts claims against the Lessee for infringements of its rights by the Lessee, the Lessee shall notify the Lessor without delay. The Lessor shall be entitled, without being obliged, to defend against the asserted claims at its own expense to the extent permitted by law. The Lessee is not entitled to acknowledge any third party claims before having given the Lessor reasonable opportunity to defend against third party rights by other means.

16.3 Clause 10 shall additionally apply with regard to any claims for damages and reimbursement of expenses.

17. Export control

17.1 Any delivery of the machine outside of the country in which the Lessor is domiciled shall be subject to the proviso that performance does not conflict with any national or international export control regulations, for example embargoes or other sanctions. The Lessee undertakes to provide all information and documents required for the export or transfer. Delays resulting from export controls or permission procedures shall set aside any delivery periods agreed. If necessary permissions are not granted, or if the

usage cannot be approved, the rental agreement shall be deemed as not concluded with regard to the subject matter concerned.

17.2 The Lessor is entitled to terminate the rental agreement without notice if termination on the part of the Lessor is required for compliance with national or international legal regulations.

17.3 In the event of a termination under clause 17.2, the assertion of any claim for damages or the assertion of other rights by the Lessee based on the termination shall be excluded.

17.4 The Lessee is not entitled to use or sub-let the machine abroad if this is contrary to national and international export control law.

18. Applicable law, place of jurisdiction, severability clause

18.1 The contractual relationship between the Lessor and the Lessee shall be exclusively subject to the laws of the country in which the Lessor has its registered office.

18.2 Exclusive place of jurisdiction for all disputes arising from the contractual relationship between the Lessor and the Lessee, including claims arising from bills of exchange and cheques, shall be the court competent for the Lessor's principal place of business. However, the Lessor may, at its discretion, also bring action against the Lessee at the latter's general place of jurisdiction.

18.3 If one or several provisions or parts of any provision of these Terms and Conditions of Hire are or become invalid for any reason whatsoever, this shall not affect the validity of the remaining provisions. The Lessee and the Lessor undertake to replace the invalid provisions or partial provisions by such legally valid provisions which most closely approximate the economic intent of the invalid provisions. The same shall apply for any unintentional gaps.

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