

GENERAL RENTAL CONDITIONS

adopted by the

**Vereniging van Fabrikanten van en Handelaren in Bouwmachines,
Magazijninrichtingen, Wegenbouwmachines en Transportmiddelen B.M.W.T.,
based in The Hague, deposited at the Court Registry of the District Court of The Hague
on 7 January 2009.**

Article 1

Definitions; Applicability

1.1 In these Conditions the following terms have the following meaning:

Lessor: the BMWT member who makes rental properties available and/or provides services in connection therewith.

Lessee: the Lessor's other party.

Rental Property: the property that the Lessee rents from the Lessor.

Rental Agreement: the agreement concluded between the Lessor and Lessee with regard to the rental of a Rental Property.

1.2 These Conditions apply to all offers, acceptances, contracts and other actions relating to the Lessor making a Rental Property available and providing services in connection therewith.

1.3 Deviations from and/or additions to the Conditions shall only be effective if they have been agreed in writing between the Lessor and the Lessee and, moreover, only apply to the Rental Agreement in which the deviating conditions are made. The applicability of any other general conditions or provisions is excluded, except insofar as such general conditions or provisions have been explicitly accepted by the Lessor in writing.

- 1.4 The Conditions also apply to other Rental Agreements, including follow-up or additional agreements to which the Lessee and the Lessor or their legal successor(s) are a party.

Article 2

Offers

- 2.1 Unless explicitly otherwise indicated, all of the Lessor's offers, in whatever form they are made, are without commitment. An offer of the Lessor without commitment can be revoked by the Lessor, even within 10 (ten) work days after the Lessor has received the Lessee's acceptance.
- 2.2 Quotes and specifications of the Lessor relating to size, capacity, performance of results shall only be approximates.
- 2.3 Insofar as the Lessee effects any performance and/or makes preparations to this effect, in the apparent expectation or assumption that a Rental Agreement will be or has been made, the Lessee does so at his own expense and risk.
- 2.4 Any real or alleged inaccuracies in the order confirmation must, subject to lapse of rights, be confirmed by the Lessee to the Lessor in writing within two working days of the confirmation.

Article 3

Hire Price and Security

- 3.1 All prices on the side of the Lessor are exclusive of VAT. The VAT owing shall be charged separately.

Insofar as the Lessor incurs costs in making the Rental Property available, e.g. transport costs, the Lessor can also separately charge these costs to the Lessee.

- 3.2 If it has been agreed that the Lessee shall pay a deposit, the Lessor can postpone making the Rental Property available until the deposit has been paid in full. The deposit shall be repaid to the Lessee after the end of the Rental Agreement, without compensation of interest and subject to set-off of any claims the Lessor has on the Lessee under whatever heading.

If in the Lessor's reasonable opinion the Lessee's financial position gives rise to such, the Lessee is obliged upon the Lessor's first request to immediately give security (additional or otherwise) to the satisfaction of the Lessor for the performance of the Lessee's obligations under the heading of the Rental Agreement. If the Lessee fails to give satisfactory security in due time, the Lessor is entitled to terminate the Rental Agreement with immediate effect without being bound to pay any compensation.

Article 4

Payment

- 4.1 The Lessee must pay the amounts that the Lessee owes the Lessor in time either in cash to the Lessor or by transfer to a bank or giro account designated by the Lessor. A payment by bank transfer shall only be deemed as having been made in time if the amount owing has been entered on the bank or giro account referred to in the preceding sentence at latest on the date agreed therefore.
- 4.2 If and insofar as (any part of) the hire price has not been received at the latest on the agreed date, the Lessor is entitled, without prejudice to his other rights under the law or contract and without any notice of default being required:
- (a) to charge interest of 1.5 % per month over (the unpaid part of) the hire price to the Lessee as of that date, whereby in the calculation of this amount part of a month shall be counted as a whole month and

(b) to postpone performance of the agreement, with regard to which the Lessee has defaulted on payment, as well as any other agreements with the Lessee.

If after a written reminder the Lessee fails to pay what he owes the Lessor in full within the stipulated term, the Lessor is furthermore entitled to dissolve the agreement with immediate effect.

The Lessor can furthermore charge the Lessee all costs which the Lessor incurs judicially or extrajudicially to protect his rights vis-à-vis the Lessee. The extrajudicial collection costs are a minimum of € 1250 per action which the Lessor has to take with regard to the Lessee.

- 4.3 A payment of the Lessee shall first be put toward any interest owing, thereafter toward costs which the Lessor has made in connection with default of the Lessee with regard to the Rental Agreement, and only then shall it be put toward the hire instalments owing, whereby the first due instalment shall have precedence over the last due instalment. The foregoing applies insofar as the Lessor does not stipulate otherwise.
- 4.4 Unless explicitly otherwise agreed in writing, the Lessee is not permitted to apply any discount, deduction or set-off to a payment. Moreover, the Lessee is not entitled to suspend its payment obligations in case of any shortcoming on the side of the Lessor.

Article 5

Making the Rental Property available and acceptance of the Rental Property

- 5.1 Unless explicitly otherwise agreed in writing, the Lessor shall make the Rental Property available to the Lessee at the agreed time at the building site, storage facility or warehouse of the Lessor specified by the Lessor. The Lessor shall not be in default vis-à-vis the Lessee with regard to making the Rental Property available until after the Lessee, after the end of the original term, has given the Lessor writing notice,

setting out a reasonable term, to still make the Rental Property available and the Lessor again fails to do so. When determining such reasonable terms, all circumstances must be taken into account.

- 5.2 If the Lessee does not take the Rental Property at the agreed time and this is not attributable to the Lessor, the Lessee shall be in default.

Without prejudice to his right to compensation of all costs and loss in connection with the first non-acceptance, the Lessor is entitled to dissolve the Rental Agreement without judicial intervention with immediate effect, if the Lessee fails to take the Rental Property before or on the second date of which the Lessor has given the Lessee notice.

- 5.3 When taking the Rental Property into receipt or immediately thereafter, the Lessee must carefully inspect the Rental Property as to fitness, soundness and wholeness. If the Lessee discovers defects or shortcomings in this respect, he must report such to the Lessor in writing at latest within three work days after discovery.

Defects which the Lessee has not discovered in time because he failed to carefully inspect the Rental Property upon or immediately after receipt as to fitness, soundness and wholeness or defects of which the Lessee did not give the Lessor written notice in due time, cannot form grounds for a reduction of the hire price, dissolution of the Rental Agreement or compensation of loss.

Article 6

Use

- 6.1 The Lessee is obliged to use the Rental Property as a good Lessee, which entails, inter alia:

- (a) that the Lessee shall only use the Rental Property for the purpose for which it has been hired and within that framework for the purpose for which it is suited;

- (b) that the Lessee shall use the Rental Property in accordance with the instructions which the Lessor gives to him by means of instruction books and the like or otherwise;
 - (c) that the Lessee shall continually inspect the Rental Property as to its proper working and, insofar as not otherwise agreed, timely execute the necessary daily maintenance to retain the good working of the Rental Property, in accordance with the manufacturer's specifications, if available;
 - (d) that the Lessee shall take all reasonable measures to prevent damage to and/or loss of the Rental Property;
 - (e) that the Lessee shall not move or relocate the Rental Property from the location where the Rental Property is intended to be used on the basis of the Rental Agreement, until after the Lessor has granted consent therefore.
- 6.2 If a permit is necessary for the use of the Rental Property, unless explicitly otherwise agreed the Lessee shall ensure that he obtained the permit in due time.
- 6.3 The Lessee is prohibited from making the Rental Property available to third parties on the basis of a Rental Agreement, sub-Rental Agreement, agreement for use or otherwise without the Lessor's prior written consent.
- 6.4 If the Lessor wishes to have the disposition of the Rental Property for inspection, maintenance or repair, the Lessee shall immediately fully cooperate in this respect after receiving a request to this effect, which shall entail, inter alia, that the Lessee, upon request, shall make a suitable and safe workplace available in accordance with the applicable health and safety and environmental regulations, if necessary also outside of the Lessee's normal working hours.

Article 7

Attachment; claims of third parties

7.1 If the Rental Property is attached (or is at risk of being attached), or third parties enforce claims against the Rental Property, the Lessee is obliged to immediately give the Lessor notice thereof. The Lessee must furthermore act in accordance with the Lessor's instructions.

The Lessor is entitled to make equivalent replacement Rental Property available to the Lessee.

7.2 If Rental Property belonging to the Lessor is attached because of attachment measures against the Lessee and this entails costs for the Lessor, the Lessee is bound to indemnify the Lessor against all costs ensuing from the attachment.

Article 8

Defects

8.1 Without prejudice to the provisions of 5.3, if during the Rental Agreement the Lessee discovers defects or shortcomings in or damage to the Rental Property, the Lessee must give the Lessor written notice thereof immediately and in any event within three working days. Defects, shortcomings or damage which were not notified in writing in time, cannot form a ground for reduction of the hire price, dissolution of the Rental Agreement or compensation of loss by the Lessor.

8.2 After discovering a defect or shortcoming in or damage to the Rental Property, the Lessee shall not continue the use thereof until after consultation with the Lessor. If the Lessee fails to seek (timely) consultation with the Lessor, then loss resulting from continued use shall be or remain at the Lessee's expense.

8.3 The Lessor shall, after the Lessee has reported a defect or shortcoming in or damage to the Rental Property and it has turned out that repair with an eye on the further use of the retention of the Rental Property is necessary, the defect, the shortcoming or the damage – in view of the nature of the defect, the shortcoming or the damage and the

available manpower and the available material – is eliminated as soon as possible by means of repair. Upon the Lessor's request the Lessee shall immediately make the Rental Property to be repaired available to the Lessor at a location specified by the Lessor. In no event shall the Lessee allow a third party to execute a repair without the Lessor's prior consent. The Lessor can make equivalent replacement Rental Property available to the Lessee, on a temporary or permanent basis.

The costs of the repair are at the Lessor's expense, except if and insofar as the Lessor demonstrates that the defect, the shortcoming or the damage is attributable to the Lessee.

The following shall in any event be attributed to the Lessee (i) use of the Rental Property which is contrary to what may be expected of a good lessee or (ii) actions or omissions of third parties for whom the Lessor legally has no responsibility.

8.4 If the Lessee cannot use the Rental Property at all for more than one (1) work day as the result of a defect or shortcoming in or damage to the Rental Property, which is not (partly) attributable to him, he is entitled to a reduction of the hire price in such sense that he does not owe any hire for the days that he cannot use the Rental Property at all after the aforementioned term.

8.5 If (i) after a written demand from the Lessee to this effect, whereby – in view of the nature of the defect, the shortcoming or the damage, the available manpower and the available material – a reasonable term is set for the repair, the Lessor fails to eliminate the defect, the shortcoming or the damage, (ii) because of the nature of the defect, the shortcoming or the damage it would be unreasonable to demand that the Lessee continue using the Rental Property, and (iii) the Lessor does not make any equivalent replacement Rental Property available, the Lessee is entitled to dissolve the Rental Agreement.

However, the Lessee is not entitled to demand dissolution as long as he has not given security which in the opinion of the Lessor is satisfactory for the payment of the costs of repair, if the Lessor has requested such on the basis of the provisions of 8.3, last sentence.

Article 9

Loss or destruction of the Rental Property

- 9.1 The Lessee must immediately report any whole or partial loss (loss of control) in a physical sense of the Rental Property to the Lessor after the discovery thereof and furthermore provide the Lessor with all cooperation which he requires in connection with the loss or destruction. The Rental Property shall be deemed destroyed if the costs of repair of damage to the Rental Property, in the opinion of the Lessor, exceed the market rental value of the Rental Property at that time.
- 9.2 Unless the Lessor makes equivalent replacement Rental Property available after reporting the loss or the destruction of the Rental Property, the Rental Agreement shall end in the event of loss or destruction of the Rental Property. However, if in the event of partial loss or partial destruction of the Rental Property the Lessee wishes to continue using the remaining part of the Rental Property, the Rental Agreement shall be continued at a reduced hire price. Unless the parties agree otherwise, the hire price shall be reduced in the same degree as that in which the market rental value of the entire Rental Property is reduced by the partial loss or destruction.
- 9.3 If the loss or the destruction is the result of a circumstance which is legally attributable to the Lessee – for example use of the Rental Property contrary to what may be expected of a good Lessee – loss which the Lessor suffers in consequence thereof is at the Lessee's expense. In case of loss of the Rental Property, compensation shall be calculated on the basis of replacement value.

Article 10

Return after end of the Rental Agreement

- 10.1 At the end of the Rental Agreement the Lessee must inform the Lessor that the Rental Property is once again at the Lessor's disposal. After this notice the Lessor shall see to it that the Rental Property is retrieved from the Lessee within a reasonable term. In the period between the notice and the retrieval of the Rental Property, the Lessee remains responsible for the care of the Rental Property.
- 10.2 Unless explicitly otherwise agreed in writing, the Lessee shall return the Rental Property cleaned and – aside from normal wear and tear of the Rental Property when using the Rental Property in accordance with what may be expected of a good Lessee - in the original condition to the Lessor by making the Rental Property available to the Lessor at the place where the Lessor has made the Rental Property available to the Lessee for the performance of the Rental Agreement. The Lessee shall make the Rental Property available no later than on the day when the Rental Agreement ends due to the expiry of the agreed hire period or otherwise.
- 10.3 Furthermore the Lessee shall return to the Lessor, in the manner and at the time described in Article 10.1, the parts of the Rental Property which might have become separated during the hire period, inter alia as a result of maintenance carried out by the Lessee.
- 10.4 All items fitted to or on the Rental Property at the instructions of the Lessee will become the property of the Lessor, who shall not owe the Lessee any compensation for such, without prejudice to the right of the Lessor to remove any such items at the Lessee's costs.
- 10.5 If the Lessee does not make the Rental Property available at the relevant time and place, the Lessee shall be in default without any notice of default or reminder being required on the part of the Lessor. In such case the Lessee shall forfeit a penalty in the amount of, if not otherwise agreed, three (3) % of the price (exclusive of VAT) for purchase of the same or equivalent rental property, for every day that the Lessee

defaults on the performance of the obligation to make the Rental Property available at the relevant place and time.

In addition to the penalty the Lessor is entitled to full compensation of all loss which the Lessor suffers as a result of the default by the Lessee on the performance of the obligation to make the Rental Property available at the relevant place and time.

Furthermore, the Lessor is entitled and explicitly authorised by the Lessee to enter the site where the Rental Property is located in order to take control of the Rental Property. The costs connected therewith are also at the Lessee's expense.

10.6 If after the return it turns out that the Rental Property has been damaged or has not been cleaned, the Lessee is liable for the loss and costs arising for the Lessor in consequence thereof. This latter sentence applies unless the Lessee demonstrates that the damage or lack of cleaning is the result of circumstances which are not attributable to the Lessee.

10.7 The Lessee shall fully cooperate with the Lessor to enable the latter to regain possession of the Rental Property.

Article 11

Dissolution of the Rental Agreement

11.1 The Lessor is entitled to dissolve the Rental Agreement with immediate effect without requiring legal intervention or notice of default if:

- (a) the Lessee fails to fulfil one or more of its obligations under the Rental Agreement or these conditions;
- (b) a petition has been presented for a moratorium or bankruptcy with regard to the Lessee;
- (c) (any part of) the Lessee's assets have been attached;
- (d) the Lessee's business is (to a significant extent) halted, closed down or liquidated;

- (e) the Lessee vacates his site or establishment (to a significant extent) without prior written notice or apparently permanently leaves it;
- (f) or any other circumstance arises which can cause reasonable doubt on the part of the Lessor regarding the performance of the Lessee of his obligations under the heading of the Rental Agreement.

11.2 The Lessor is not liable for loss as a result of the dissolution of the Rental Agreement as referred to in 11.1.

11.3 All costs ensuing from dissolution, as referred to under 11.1, shall be at the expense of the Lessee. Upon dissolution, all existing claims of the Lessor will become immediately due.

Article 12

Lessor's liability for damage

12.1 Without prejudice to the provisions elsewhere in these Conditions, the following provisions apply with regard to the Lessor's liability to the Lessee for damage under the heading of or in connection with (a) Rental Agreement(s) between the Lessor and the Lessee that:

- a. the Lessor cannot be held liable for loss of income and costs connected with interruption, halting and/or recommencement of a business or a project or part of a business or project;
- b. the Lessor shall only be liable for a total amount of € 25,000 for other loss than that set out under a. Any compensation owed by the Lessor to the Lessee will at no time exceed the amount paid out by the Lessor's liability insurance for the matter in question.

The limits set out under a. and b. do not apply if the Lessee demonstrates that the loss for which the Lessee holds the Lessor liable is the result of intent or gross negligence

of directors (under the articles of association) or managerial staff of the Lessor equivalent thereto.

12.2 If an event arises from which loss ensues or can be reasonably expected to ensue for the Lessee, for which the Lessor may be held liable, the Lessee must give the Lessor written notice of that event with due speed, but in any event within 10 days after such event. If the Lessee fails to give timely written notice, his right to compensation for the event in question shall lapse.

All claims for compensation of loss which the Lessee has on the Lessor shall lapse twelve months after the event which caused the loss, except insofar as the matter concerns loss which was reported to the Lessor in time in accordance with the provisions of the preceding paragraph.

12.3 The Lessee indemnifies the Lessor against all claims of third parties connected with Rental Properties which the Lessor rents to the Lessee, except insofar as the Lessee demonstrates that those claims concern loss for which the Lessor would be liable to the Lessee, in accordance with the provisions of 12.1 and 12.2, if the Lessee were to hold the Lessor liable for this loss. This indemnification also encompasses the costs which the Lessor makes in connection with a claim of a third party.

Article 13

Insurance

13.1 If the Lessor makes the Rental Property available with insurance against damage, destruction and loss, without prejudice to the provisions elsewhere in these Conditions:

- a. the Lessee must care for the Rental Property as a "good custodian";
- b. the Lessee must immediately report damage to or destruction or loss of the Rental Property to the Lessor in writing;

c. the Lessee shall remain bound to compensate the Lessor for the loss which the Lessor suffers as a result of damage to or destruction and/or loss of the Rental Property,
if and insofar as the insurance taken out by the Lessor does not offer any cover, e.g. because of the 'excess' or because the damage to or destruction and/or loss of the Rental Property is caused by gross negligence of the Lessee, because the Lessee did not report the damage, destruction or loss to the Lessor in time, or because the insured sum is not sufficient to fully cover the loss resulting from damage to or loss of the Rental Property.

Article 14

Several liability

14.1 If the Lessee consists of more than one (legal) person at any time during the term of the Rental Agreement, each of these (legal) persons is severally liable to the Lessor for the obligations ensuing from the Rental Agreement.

Article 15

Transfer of rights and obligations

15.1 The Lessee can only transfer rights and obligations under the Rental Agreement or allow such rights and obligations to be taken over by a third party with the Lessor's prior written consent. The Lessor can make the consent subject to conditions.

15.2 The Lessor is entitled to transfer the ownership of the Rental Property and the rights and obligations under the Rental Agreement concluded with the Lessee to a third party. The Lessee explicitly agrees in advance that the rights and obligations under the Rental Agreement and these general conditions, as well as the ownership of the Rental Property, are transferred to a third party.

Article 16

Force majeure

- 16.1 If it appears during the term of the Rental Agreement that performance is not possible as a result of conditions unknown to the Lessor or through force majeure, the Lessor is entitled to demand that changes be made to the Rental agreement so that performance is possible, except when performance is ruled out completely due to force majeure. If the Lessor is prevented from fulfilling the Rental Agreement due to force majeure, the Lessor is entitled to suspend performance of the Rental Agreement without being bound to any delivery time. The preceding does not entitle the Lessee to claim any compensation of loss, costs or interest.
- 16.2 The Lessor can appeal to force majeure in case of any circumstances, beyond its control, of factual, legal or other nature that - whether or not foreseeable - prevent or seriously impede timely fulfilment of the Rental Agreement. Examples of such circumstances include: strikes, work to rule industrial actions and lock-outs, company blockades, production interruptions as a result of machine breakdown, disruptions in the supply of energy and water, fire, import, export and production bans and other government measures, transport impediments, failure on the part of suppliers and salary persons, all on condition that the Lessor has no blame for the circumstances in question. Force majeure shall also include war, risk of war, mobilisation, rioting, state of siege, fire, and availability of personnel due to accident or disease, disruption of operations.

Article 17

Applicable law and competent court

- 17.1 The Rental Agreement is governed exclusively by Dutch law. The applicability of the Vienna Convention is excluded.
- 17.2 All disputes which arise with regard to or in connection with the Rental Agreement, including disputes regarding the existence and validity of the agreement, shall be adjudicated by the competent court in the district of The Hague. [This does not prevent the parties from bringing a dispute to arbitration in mutual consultation, which arbitration panel shall in such case be appointed in accordance with the regulations laid down in the Articles of Association of the Arbitration Board for the Metal Production and Trade Industry in The Hague, which shall pronounce its judgment in accordance with the Articles of Association of said Board.]