

General Terms of Rental Agreements for Renting Work Platforms, Construction Machinery and Equipment and Industrial Machinery (dated: 24.03.2022)

1. General – Scope and conclusion of contract

1.1 The present General Terms of Rental Agreements of the Lessor apply to all offers and rental agreements for the hiring of work platforms, construction machinery and equipment and industrial machines; the application of the General Terms & Conditions of the Lessee is hereby expressly rejected.

1.2 Should one of the following provisions be or become ineffective, then the provision which comes as close as possible to the economic intent intended in a manner permitted by law is deemed to be agreed. The effectiveness of the remaining provisions shall remain unaffected thereby.

1.3 These General Terms of Rental Agreements also apply to all future contracts regarding the hiring of movable objects with the same Lessee, insofar as the Lessee is an entrepreneur pursuant to clause 1.6.

1.4 Individual agreements made separately with the Lessee (including collateral agreements, supplements and amendments) take priority over these Terms of Rental Agreements in each case. Only agreements made in writing shall apply.

1.5 Any legally relevant declarations and notifications which are to be submitted by the Lessee to the Lessor following conclusion of the contract must be provided in text form in order to be valid.

1.6 The underlying rental agreement, as well as these General Terms of Rental Agreement, apply to both a consumer (hereinafter referred to as "consumer") and an entrepreneur, a legal entity under public law or a legal entity with special funds under public law pursuant to § 310 para. 1 sentence 1 BGB (German Civil Code) (hereinafter referred to as "entrepreneur").

1.7 All offers of the Lessor are non-binding and subject to availability.

Also in the online shop:

1.8 The offers in the online shop constitute a non-binding invitation to submit a request to hire the respective technical equipment. The potential Lessee makes an offer to conclude a rental agreement. When the potential Lessee directs an order to the Lessor, the Lessor sends a message confirming receipt of the order and listing its details (order confirmation).

1.9 If the offer from the potential Lessee is accepted and the rental agreement is concluded, the Lessor sends the Lessee an order confirmation of acceptance of the offer and clarification of the contractual terms.

2. Essential contractual obligations of Lessor and Lessee

2.1 The Lessor undertakes to hand over the rental item to the Lessee for the agreed rental period. Upon handover other operating and service instructions are handed over together with the vehicle papers and the instruction manual. The Lessor also undertakes to hand over the load capacity tables and support pressure tables of the rental item required for the assessment of use to the Lessee, also to disclose any dimensions, weights, axle loads and wheel pressures, if they exceed the legally permissible building and operating regulations of §§ 32, 34 ff StVZO.

2.2 The Lessee is obligated to take note of the full content of all documentation presented before commissioning and observe the instructions and notices contained therein. In addition, the Lessee shall brief personnel/employees they have appointed, as well as any family members, about the instructions and notices, as well as the documentation they have received, and document the briefing in writing. Should the Lessee fail to honour the aforementioned obligations, they shall be liable for all damage caused thereby.

2.3 The Lessee undertakes to only use the rental item for its intended purpose, particularly to carefully follow the relevant accident prevention and health and safety regulations, as well as road traffic regulations, also with regard to loading and transporting the rental item, to pay the rent as agreed, to properly handle the rental item and upon expiry of the rental period to return the rental item with a full tank and in a clean condition.

2.4 The Lessee shall immediately inform the Lessor upon request about the respective location and operation site of the rental item, as well as each intended change of location or operation site. Before use the Lessee shall also enquire about obstacles in the swivel range such as buildings, facilities, neighbouring machines, underground soil risks, such as ducts, manhole covers, underground car parks, poss. weight restrictions of road structures or floors, as well as current-carrying installations and lines, and inform the operating personnel of such risks and hazardous situations before use. The checklists of the Federal Institute for Occupational Safety and Health (BAUA) No. 1: Construction site inspection and No. 2: Construction site equipment must be observed by the Lessee.

2.5 If the Lessee wants to use the rental item in a dangerous work environment, e.g., locks, water construction sites and during floods, in salt mines or for sandblasting, concrete, plastering and painting work or for use with hazardous substances (e.g. asbestos, insecticides, etc.), the prior written consent of the Lessor must be obtained beforehand. In all these cases the Lessee is obligated to cover, plan or otherwise protect the rental

item during use as far as possible. Upon termination of the rental agreement the Lessee shall clean/decontaminate the rental item appropriately and professionally and bear all arising costs, also the costs for downtimes of the rental item.

3. Handover of the rental item, default on the Lessor's part

3.1 The Lessor shall hand over the rental item to the Lessee in a proper and operational state with a full tank and with the necessary documents.

3.2 If the Lessor is behind schedule with the handover at the start of the rental period, then the Lessee can demand compensation if they can demonstrate that they suffered loss/damage as a result of the delay. Irrespective of clause 5.1, for minor negligence the compensation to be paid by the Lessor for each working day is limited to maximum 10% of the net individual order value. After setting an appropriate period of grace, the Lessee can withdraw from the contract if the Lessor is still in default at this time.

3.3 If the Lessee is an entrepreneur, the Lessor is also entitled in the event of a default to provide the Lessee with a functional and equivalent rental item to remedy the damage, insofar as this is acceptable to the Lessee.

4. Defects upon transfer of the rental item

4.1 The Lessee is entitled to inspect the rental item in good time before the commencement of the rental period and to notify any defects. The Lessee shall bear the costs of any examination or inspection.

4.2 If the Lessee is a consumer, the statutory provisions apply to defects upon handover of the rental item. If the Lessee is an entrepreneur, clauses 4.3 and 4.4 apply and the following also applies: Visible defects upon handover, which do not impair the intended use considerably, can no longer be the object of a complaint if they were not indicated to the Lessor immediately after examination in text form. Other defects already present upon handover must be notified in writing immediately after discovery.

4.3 The Lessor shall eliminate duly notified and justified defects which were present upon handover at their own expense. At the Lessor's discretion the Lessor may also allow the Lessee to remedy the defect; then the Lessor shall bear the necessary costs. The Lessor is also entitled to provide the Lessee with a functional and equivalent rental item if this is acceptable to the Lessee. In the case of significant impairments to the rental item, the payment obligation of the Lessee is postponed by the period set aside for the suitability for contractual use. For the period during which the suitability is impaired, the Lessee shall only pay an appropriately reduced rent. An insignificant reduction of suitability shall not be taken into account. Otherwise, § 536a Section 1 BGB (German Civil Code) applies, if the Lessor did not arrange a repair or an equivalent replacement within 24 hours.

4.4 If the Lessor misses a reasonable deadline set for the elimination of a defect present at handover without result, then the Lessee shall have the right to withdraw from the contract. The Lessee also has a right of withdrawal in other cases of failed elimination of a defect present at handover by the Lessor.

5. Limitation of liability of the Lessor

5.1 Further claims for compensation against the Lessor, particularly compensation for damages not incurred by the rental item itself, can only be asserted by the Lessee in the following cases

- intentional breach of duty by the Lessor;
- grossly negligent breach of duty by the Lessor or intentional or grossly negligent breach of duty by a legal representative or vicarious agent of the Lessor;
- culpable breach of essential contractual duties, as well as the achievement of the purpose of the contract is at risk, with regard to the foreseeable damages typical of the contract;
- damages arising from loss of life, physical injuries or damage to health which are based on a negligent breach of duty by the Lessor or deliberate or negligent breach of duty by a legal representative or vicarious agent of the Lessor
- if the Lessor is liable under product liability law for personal damages or material damage to objects in private use.

Otherwise, the liability for damages is ruled out. This applies particularly for the liability of the lessor for financial losses suffered by the lessee which causes material defects of the rental object arising or present at the time of conclusion of the rental agreement, unless (a) they are at fault or (b) they did not eliminate the defects without delay and the lessee suffers damage as a result thereof.

5.2 If the rental item cannot be used by the Lessee as per agreement and it is the fault of the Lessor due to complete or partial failure to implement suggestions and/or advice or a breach of other additional obligations from the contract, in particular instructions for servicing the rental item, then the provisions of clauses 4.3 and 4.4 (insofar as the Lessee is an entrepreneur), as well as clause 5.1 (for entrepreneurs or consumers as Lessee), apply accordingly with the exception of further claims from the Lessee.

6. Rental price and payment, assignment as security for the rent due

6.1 A daily working time of 8 hours underlies the calculation of the rent. Every hour started is charged. The billing is based on a five-day week (Monday to Friday). Work at weekends and on public holidays, overtime and additional shifts or shift operation must be notified to the Lessor; they are billed separately.

6.2 Unless otherwise agreed, all prices are exclusive of the statutory value added tax.

6.3 The Lessor is entitled to demand a reasonable advance payment of the rental price or security (deposit) from the Lessee at any time.

6.4 If the Lessee is an entrepreneur, the Lessee is only entitled to withhold payments or offset payments with counterclaims if their counterclaims are undisputed, legally binding or ready for decision in any proceeding pending at law.

6.5 If the Lessee is in default of the payment of an amount due longer than 14 calendar days after a written reminder, then the Lessor is entitled to collect or otherwise dispose of the rental item following notification without recourse to the courts at the expense of the Lessee, who must facilitate access to the rental item and removal. The claims to which the Lessor is entitled shall remain unaffected thereby; however, the amounts which the Lessor obtained within the agreed contractual period such as from another rental are offset after deducting the costs of the return and re-rental.

6.6 If the Lessee is an entrepreneur, the amounts due are received in a current account with regard to a current account for a reservation of title agreed between the contracting parties for deliveries.

6.7 The Lessor is entitled at any time to demand a reasonable non-interest-bearing (if the Lessee is an entrepreneur) or interest-bearing (if the Lessee is a consumer) deposit as security.

6.8 The Lessee assigns their claims against their customer on whose behalf the rental item is used to the Lessor amounting to the agreed rental price less any deposit received. The Lessor accepts the assignment. If the value of the securities due to us exceed our receivables by more than 20%, then we are obligated at the request of the Lessee to release securities to the amount of the exceeding value at our discretion. We only disclose the assignment if payment is not received following a reminder or if we receive knowledge in another way of payment difficulties experienced by the Lessee.

6.9 If the Lessee falls behind with the payment of the preceding invoice, then all benefits and payment terms of other invoices are forfeited, no matter if these have already been received or are received at a later date. Such outstanding invoices must be settled immediately irrespective of a later due date recorded thereon.

7. Idle period or lay-up clause

7.1 If activities at the place of work for which the equipment is hired are suspended due to circumstances for which neither the Lessee nor their customer is responsible (e.g. frost, flood, strike, civil unrest, war events, official orders or other unforeseeable events [epidemics or pandemics]) on at least 10 consecutive days, then this time is deemed to be an idle period or lay-up from the 11th calendar day.

7.2 The rental term agreed at a certain time is extended by the idle period or lay-up. Apart from that, § 313 BGB (German Civil Code) applies.

7.3 The Lessee shall pay the agreed percentage of monthly rent agreed corresponding to the duration of the idle period or lay-up calculated according to a shift time of 8 hours per working day; unless otherwise agreed, the standard percentage of 75% applies; if the Lessee is a consumer, they are free to provide evidence that this rate was not incurred or not incurred to this extent.

7.4 The Lessee shall immediately inform the Lessor in writing of the cessation of activities and their resumption and shall prove the idle period or lay-up by means of documentation upon request.

8. Maintenance obligation of the Lessee

8.1 The Lessee is obligated

a) to protect the rental item against overuse in any manner;
b) to perform the daily visual inspection and function check of the rental item according to the rules in the instruction manual and the relevant accident prevention regulations before commencement of machine use; To report any defects immediately to the Lessor and top up operating fluids (e.g. battery water, engine oil) with the corresponding resources or if necessary inform mateco Service.

c) to notify any necessary inspection and repair work in good time and have such work implemented by the Lessor. The Lessor shall bear the costs if the Lessee and their auxiliaries can demonstrate that they have shown every reasonable care.

8.2 The Lessor is entitled to survey the rental item at any time and, following prior agreement with the Lessee, examine it or have it examined by an authorised representative. The Lessee is obligated to facilitate the survey for the Lessor or their authorised representative in every way. The Lessor shall bear the costs of the examination or inspection.

9. Liability of the Lessee for hiring with or without operating personnel

9.1. For hiring without operating personnel (machine rental only), at the end of the rental period the Lessee shall be liable for the proper return of the rental item in an undamaged state in accordance with legal regulations. During the rental term only staff who comply with the relevant statutory health and safety regulations and the accident prevention regulations of professional associations and in particular are qualified to operate the work equipment in accordance with TRBS 2111-Part (e.g. DGUV principle 308-008 Operators of lifting platforms, DGUV principle 308-003 Crane operator training and/or DGUV principle 308-009 Operators of telescopic machines) may be commissioned with the operation of the rental item. If necessary, the operators must also have a valid driving licence for driving on public roads. At the operation site the BetrSichV, particularly TRBS 2111-Part 1 for mobile work equipment and if necessary the building site regulation, must be observed.

9.2. For hiring of the rental item with operating personnel the obligations stated above in No. 9.1. with regard to provision of manpower apply to the Lessor. The Lessee may only employ the operating personnel of the Lessor within the framework of their scheduling and instruction authority solely for the operation of the rental item and not for other work. In the event of damage caused by the operating personnel, the Lessor is only liable if they did not properly select the operating personnel. Apart from that, the Lessee shall be liable in accordance with § 278 BGB (German Civil Code) according to the principles of the genuine temporary employment contract.

10. Termination of rental period and return of rental item

10.1 The Lessee is obligated to duly notify the Lessor beforehand of the intended return of the rental item (notification of availability).

10.2 The rental period ends on the day on which the rental item with all parts required for its commissioning arrives at the storage location of the Lessor or another agreed destination in a proper and contractually agreed state, at the earliest however upon expiry of the agreed rental period; clause 6.5 sentence 2 applies accordingly.

10.3 The Lessee shall return or have ready for collection the rental item with a full tank and ensure it is clean and safe to operate; clause 8.1 lit. b) and c) apply accordingly.

10.4 The rental item must be returned on time during normal business hours (7:00 - 18:00) of the Lessor so that the Lessor is able to check the rental item on the same day. In the case of a return of work platforms outside business hours without an arrangement, the Lessee shall be liable for any damage arising in the period between return and beginning of the opening times - even if the Lessee is not at fault.

11. Breach of maintenance obligation

11.1 If the rental item is returned in a condition which suggests that the Lessee has not met their intended maintenance obligation pursuant to clause 8, then the Lessee shall be obligated to pay contingency costs acc. to the list of construction equipment 2007 as compensation until such time as the maintenance work omitted in violation of the agreement has been completed. If the Lessee is a consumer this only applies if the breach of the maintenance obligation of the Lessee laid down in clause 8 was a culpable act. The Lessee reserves the right to furnish proof of the absence of damages or lower damages.

11.2 The scope of the defects and damages for which the Lessee is responsible must be notified to the Lessee and they must be given an opportunity to verify such defects or damages. The estimated costs of the repair work required to eliminate the defects and damages must be submitted to the Lessee by the Lessor where possible before the start of the repair work.

11.3 The proper return of the rental item is recognised by the Lessor if visible defects are not contested immediately upon timely return pursuant to clause 10.4 and otherwise in the case of other defects if they are not contested within 14 calendar days of arrival at the destination.

12. Other duties of the Lessee

12.1 The Lessee shall not transfer the rental item to a third party without the prior written consent of the Lessor or cede rights from this contract or confer any rights to the rental item. In the case of authorised re-rental of the rental item, the Lessee shall ensure that the rental device is only used in compliance with these rental terms.

12.2 If a third party asserts rights to the rental item through seizure, attachment or similar, then the Lessee is obligated to notify the Lessor immediately thereof in writing and beforehand verbally and to inform the third party immediately thereof through verifiable notification in text form.

12.3 The Lessee shall adopt suitable measures to protect against theft and unauthorised use of the rental item by third parties.

12.4 The Lessee shall inform the Lessor of all accidents and await their instructions. In the event of traffic accidents and suspected cases of criminal practice (e.g. theft, damage to property), the police must be consulted.

13. Termination

13.1

- a) Ordinary termination of the rental agreement concluded for a certain rental period shall not be possible for both contracting parties.
- b) The same shall apply to the minimum rental period within the framework of a rental agreement concluded for an indefinite period. Following expiry of the minimum rental period the Lessee has the right to terminate the rental agreement concluded for an indefinite period by observing a period of notice of one day.
- c) In the case of rental agreements for an indefinite period without a minimum rental period, the period of notice is
- one day, if the rental price is agreed per day
 - two days, if the rental price is agreed per week
 - one week, if the rental price is agreed per month

13.2 The Lessor is entitled to terminate the rental agreement following notification without observing a period of notice/for good cause and without giving notice

- a) in cases laid out in clause 6.5;
- b) if it is apparent to the Lessor following conclusion of the contract that the entitlement to receive payment of the rent is at risk due to the Lessee's inability to pay;
- c) if the Lessee uses the rental item or part of it for a purpose other than the intended purpose without the consent of the Lessor or takes it to another location outside the Federal Republic of Germany without the prior written consent of the Lessor;
- d) in cases of breaches of clause 8.1 and clause 12.1.

13.3 If the Lessor makes use of their right of termination as set out in clause 13.2, clause 6.5 shall apply accordingly in conjunction with clauses 10 and 11.

13.4 The Lessee can terminate the rental agreement following notification without observing a period of notice if the use of the rental item is not possible in the longer term for reasons attributable to the Lessor.

14. Loss of the rental item

The Lessee is obligated to take appropriate measures against theft, fraud, vandalism or manipulation of the rental item. In the event of loss or damage to the rental item, the Lessee shall inform the Lessor and the competent police authorities immediately (without undue delay) and issue a loss report to the Lessor within 24 hours. A copy of the police report must be sent to the Lessor without any request being made.

15. Insurance cover

15.1 If expressly agreed and for payment of the premiums specified in the contract documents, the Lessee/authorised driver is co-insured with the agreed deductible:

- a) for vehicles for which registration is required in the legally required liability insurance in accordance with § 12 StVG in conjunction with PfIVG, as well as on the basis of the General Motor Vehicle Insurance Conditions (AKB). (see below No. 15.4)
- b) against unforeseeable damage to the insured rental item based on (here in particular Section A § 2, insured damage and risks) according to Section A.) § 3 Section 4 of the **General Conditions for Machines and Comprehensive Insurance for drivable and transportable equipment (ABMG)**, can be called up from our homepage – www.mateco.de – under "Downloads".

In addition to § 2 clause 4 of ABMG, regardless of contributory causes, there is **no insurance cover** for damages

- from improper refuelling with the wrong fuel
- from height-related collisions (bridges, trees, etc.)
- from failure of their obligation to inform and instruct as set out in clause 2.1
- after unauthorised re-rental or transfer of the equipment to an unauthorised operator or unqualified operator who has not received any instruction or briefing

15.2 If the Lessee does not take out any insurance policies suggested by the Lessor after explicit agreement, the Lessee shall waive any claims against the Lessor which would be covered under the insurance policy if the respective policy was concluded and/or any claims to defences which would become superfluous in the case of the insurance company's obligation to indemnify.

15.3 For self-insurance the Lessee undertakes to insure the rental item for its reinstatement value (at least € 500,000) incl. salvage costs, as well as risks resulting from becoming submerged and silting up, and to assign claims from the contracts they have concluded to the Lessor insofar as damage to the device and consequential damages are insured. The Lessor accepts the assignment. A copy of the insurance policy must be sent to the Lessor without any request being made.

15.4 The Lessee undertakes to independently respect the obligations from the insurance contracts, particularly from the **General Conditions for Motor**

Vehicle Insurance and the aforementioned ABMG. The Lessee has the following obligations in particular in the event of damage or loss:

- The damage or loss must be notified immediately to the Lessor in text form and if necessary the police must be informed thereof.
- The Lessee is obligated to avert the damage where possible or at least to limit the damage.
- The Lessee is obligated to help examine the cause of the loss/damage and extent.
- The Lessee shall leave the damage pattern unaltered until an inspection by the Lessor or their authorised representative, unless this is not acceptable to the Lessee.

The legal consequences of a breach of the duties incumbent on the Lessee are derived from the German Insurance Contract Act (VVG).

16. Applicable law and jurisdiction

16.1 This contract is governed by the law of the Federal Republic of Germany.

16.2 The place of performance for all services arising from or in connection with the contract is the registered office of the Lessor or the office of their subsidiary who concluded the contract.

16.3 If the Lessee is a merchant, legal entity under public law or a legal entity with special funds under public law, the sole place of jurisdiction for all disputes arising from the contractual relationship, directly or indirectly, is the registered address of the Lessor or, at their discretion, the office of their subsidiary who concluded the contract. However, the Lessor may also sue in the court responsible for the Lessee.