

Rental General Terms and Conditions

of Böcker Maschinenwerke GmbH

August 2020

1. General - Scope of application

- 1.1. The present General Terms and Conditions of rental contracts of Boecker AG and its associate companies, hereinafter referred to as the lessor, apply to all offers and rental contracts for the rental of construction hoists, cranes, working platforms, furniture lifts, lifts and other equipment; the terms and conditions of rental contracts of the lessee are explicitly rejected.
- 1.2. These general terms and conditions of rental contracts shall also apply to future contracts for the rental of movable property with the same lessee.
Rental contracts are only concluded with persons of full legal age who are resident in the Federal Republic of Germany. To verify the identity of the lessee, the lessor requires the presentation of a valid identity document.
- 1.3. Individual agreements with the lessee (including collateral agreements, additions and amendments) made in individual cases shall in all cases take precedence over these rental contract conditions if they are recorded in writing in the rental contract.
- 1.4. Legal declarations and notifications which are to be given to the lessor after conclusion of the contract by the lessee require the written form in order to be valid.
- 1.5. Unless otherwise stated, all rental contract offers from the lessor are non-binding.
- 1.6. The underlying leasing contract as well as these general terms of rental contracts apply only to a company, legal entity under public law or public special fund.
- 1.7. If the lessee is a consumer (private individual), the supplements in Appendix A shall become effective.

2. General rights and obligations of lessors and lessees

- 2.1. The lessee entitles the lessor to obtain appropriate economic information by means of a declaration of intent to rent before the conclusion of the contract.
- 2.2. The lessor undertakes to provide the rented object to the lessee in rent for the agreed rental period.
- 2.3. The lessee undertakes to use the rented object only in accordance with the intended use, to carefully implement the relevant accident prevention and occupational safety regulations as well as road traffic regulations, particularly with regard to the loading and transport of the rented objects, to pay the rent as agreed, to handle the rented object properly and to clean it at the end of the rental period and to return it with the tank fully filled in the case of equipment with an internal combustion engine.
- 2.4. The lessee is obligated to notify the lessor immediately upon request of the respective location or application site of the rented object as well as any intended change of the location or place of use.

3. Transfer of the rented object, default of the lessor

- 3.1. The lessor undertakes to provide the rented object to the lessee in perfect operational condition with the tank fully filled and with the required documents.
- 3.2. If the lessor is in default with the transfer at the beginning of the rental period, the lessee is entitled to demand compensation if it is proven to have suffered damage due to the delay. Notwithstanding paragraph 5.1 in the case of slight negligence, the compensation to be paid by the lessor for each working day is limited to a maximum of the daily net rental price. After setting a reasonable period, the lessee is entitled to withdraw from the contract if the lessor is still in default at this time.
- 3.3. In the event of default, the lessor is also entitled to provide the lessee with a functionally equivalent rented object to the extent that this is reasonable for the lessee.

4. Defects at the transfer of the rented object

- 4.1. The lessee is entitled to inspect the rented object in good time before the beginning of the rental period and to notify any defects. The costs of an investigation shall be borne by the lessee.
- 4.2. Defects which are recognisable at the transfer, which do not significantly affect the intended use, can no longer be notified if they have not been notified immediately after the examination in writing to the lessor. Other deficiencies which are already present at the time of transfer are to be reported in writing immediately upon discovery.
- 4.3. The lessor undertakes to remedy defects, which were present at the time of transfer, at its own expense and in good time. At the discretion of the lessor, it may also have the remedial action carried out by the lessee; in this case the lessor shall bear the necessary costs. The lessor is also entitled to provide the lessee with a functionally equivalent rented object to the extent that this is reasonable for the lessee. The obligation to pay of the lessee shall be postponed in the event of substantial impairment of the rented object during the time which the suitability for the contractual use is not given. For the period during which the suitability is reduced, the lessee shall pay only a suitably reduced rent. A negligible reduction in suitability shall not be taken into account.
- 4.4. If the lessor allows a reasonable period of grace to pass unsuccessfully for the elimination of a defect of its fault present at the time of transfer, the lessee has the right of rescission. The right of rescission of the lessee also exists in other cases of the failure of the lessor to remedy a defect present at the time of the transfer.

5. Liability limitation of the lessor

- 5.1. Further damage claims against the lessor, in particular compensation for damages which are not incurred on the rented object itself, can only be claimed by the lessee in the case of a
 - deliberate breach of duty by the lessor;
 - a grossly negligent breach of duty by the lessor or a deliberate or grossly negligent breach of duty by a legal representative or vicarious agent of the lessor;
 - the culpable violation of essential contractual obligations, insofar as the achievement of the purpose of the contract is endangered, with regard to the contract specific, foreseeable damage;
 - Damages from injury to life, limb or health which are based on a negligent breach of duty by the lessor or a deliberate or negligent breach of duty by a legal representative or vicarious agent of the lessor;
 - Falls der Vermieter nach Produkthaftungsgesetz für Personenschäden oder Sachschäden an privat genutzten Gegenständen haftet.Otherwise, liability for damages is excluded.

- 5.2. If, due to the fault of the lessor, the rented object can not be used by the lessee as a result of the failure or faulty execution of proposals and deliberations before or after the conclusion of the contract and other contractual subsidiary obligations in particular instructions for operation and maintenance of the rented object, the provisions of sections 4.3 and 4.4 as well as section 5.1 shall apply correspondingly to the exclusion of further claims by the lessee.

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

- 6.1. The calculation of the rent is based on a working time of up to 8 hours per day (daily rent per calendar day). Invoicing is based on a five day week (Monday to Friday). Weekend working, additional working hours and more difficult operations are to be reported to the lessor; they shall be charged additionally.
- 6.2. The agreed rental price is exclusively for the rental equipment. The Hirer shall pay all ancillary costs (in particular the costs for loading and unloading, transport, operating materials, cleaning, etc.) separately in each case.
- 6.3. Unless otherwise stated, all prices are exclusive of value added tax.
- 6.4. The lessor is entitled to demand from the lessee at any time an adequate or, if agreed, full advance payment of the rent.
- 6.5. The right to withhold payments or to offset against counterclaims is granted to the lessee insofar as the counterclaims are undisputed or legally ascertained or to the extent to which such counterclaims are decisive in a pending procedure and originate from the same contractual relationship.
- 6.6. If the lessee is in arrears with the payment of a due amount longer than 14 calendar days after written reminder, the lessor is entitled to collect the rented object and use it elsewhere after notification and without invocation of the court at the expense of the lessee, who is obligated to allow access to the rented object and facilitate its transport. Claims to which the lessor is entitled under the agreement remain unaffected; however any amounts which the lessor obtains during the agreed contractual period from renting the object of rental elsewhere shall be discounted, after first deducting the costs arising from collecting and re-renting the object of rental.
- 6.7. Amounts due shall be added to the current account subject to a reservation of title for deliveries agreed by the contract partners.
- 6.8. The lessor is entitled to demand a reasonable non interest bearing deposit as security from the lessee at any time.
- 6.9. It is possible for the lessee to pay the agreed rent and the deposit in cash or by bank transfer before the beginning of the rental period in accordance with the invoice of the lessor. The cash payment shall be confirmed for the lessee on the invoice by means of a signature. The deposit may be withheld, or partially or entirely offset in the circumstances described in sections 8, 9, 12, 13, 14 and 15.
- 6.10. The lessee assigns to the lessor at the agreed rental price, minus the deposit received, its claims against its client, for whose order the rented object is used. The lessor accepts the assignment.

7. Lay-up clause

- 7.1. If the work stops at the workplace for which the equipment is rented as a result of circumstances for which neither the lessee nor its client are responsible (such as frost, flood, strike, internal unrest, war events, governmental orders) on at least ten consecutive days, as from the 11th calendar day this time shall count as lay-up time.
- 7.2. The rental period agreed upon for a certain period of time is extended by the period of the lay-up time.
- 7.3. The lessee shall pay the agreed percentage of the agreed monthly rent for the period of lay-up time on the basis of a daily working shift of 8 hours, unless otherwise agreed, the commercially customary percentage of 75 % applies.
- 7.4. The lessee shall immediately notify the lessor in writing of the stopping of the works as well as of their resumption and provide documented proof of the lay-up period.

8. Maintenance obligation of the lessee

- 8.1. The lessee is obligated
 - a. to protect the rented object from any form of overuse;
 - b. to observe all relevant regulations and technical rules for the use;
 - c. to carry out the maintenance and care of the rented objects properly and professionally at its own expense;
 - d. to notify of necessary inspection and repair work in good time and to have it performed immediately by the lessor. The costs shall be borne by the lessor, if the lessee and its assistants have demonstrably observed all due diligence.
- 8.2. The lessor is entitled to inspect the rented object at any time and, upon prior agreement with the lessee, to investigate itself or to have it investigated by a vicarious agent. The lessee is obligated to facilitate the investigation of the lessor or the vicarious agent in any way. The costs of the investigation shall be borne by the lessee.

9. Conditions for the insurance of the rented object

- 9.1. In the case of loss or damage to the rented object caused by the lessee, the lessee shall be liable to pay compensation in the amount of the replacement value or the repair costs.
- 9.2. The lessor concludes an insurance against machine breakage, natural disasters and theft according to the General Conditions for the Machinery and Comprehensive Insurance of Mobile or Transportable Devices (ABMG 2012).
- 9.3. The third party liability risk of the lessee is not insured. Third party liability risk insurance cover exists only insofar as this is required by law. This is not the case in particular for work machines which due to their design do not reach a speed greater than 20 km/h.
- 9.4. The lessee undertakes to conclude insurance for other liability risks during the rental period. Otherwise, the lessee is liable for damages caused in full or in part by the lessee on all persons and buildings which are not part of the rented object.
- 9.5. Damage to tyres and wear damages are excluded from the limitation of liability pursuant to section 9.6.
- 9.6. As a rule, the co-payment of the lessee is EUR 2,000.00 per claim. This is defined in the rental contract and, if necessary, shall be paid as a deposit by the lessee before the start of the rental period.
- 9.7. Any liability for damages caused in full or in part by the lessee shall be limited to the above mentioned co-payment, insofar as they concern insured dangers and damages as defined by the ABMG 2012.
- 9.8. However, the lessee is unconditionally liable for deliberate or grossly negligent damage to the rented object. An additional limitation of liability is only considered if a surcharge is paid for further liability limitation. This shall be agreed in writing in the rental contract if required.
- 9.9. The limitation of liability does not apply if the lessee fails to fulfil its obligations to participate in the damage assessment. In the case of damage, this is especially the immediate written notification of the extent, the event and the party involved in the damage event. In the case of theft, damage caused by third parties or traffic accidents, the damage report is to be immediately filed with the police. The lessor must be provided with written proof of this. However, the limitation of liability shall remain unaffected if the lessee proves that he has not intentionally or grossly violated the aforementioned cooperation obligations.

10. Theft, embezzlement

- 10.1. Notwithstanding the aforementioned section 9.6, the co-payment of the lessee shall be 20 % of the replacement value of the rented object. This also applies to theft damage of individual parts of the rented object. Any liability for damages of the lessee for theft damages caused by the lessee shall be limited to the above mentioned co-payment, insofar as they concern insured dangers and damages as defined by the ABMG 2012. However, the lessee is unconditionally liable for deliberate or grossly negligent theft damage.

- 10.2. The limitation of liability does not apply if the lessee does not immediately notify the theft to the responsible police authority after the damage has been incurred and provides proof of this to the lessor. The limitation of liability shall remain unaffected if the lessee proves that he has not intentionally or grossly violated the aforementioned obligation to notify. The limitation of liability shall also be waived in all cases in which the insurer would not be obligated to pay the lessee if the lessee itself himself has taken out an insurance policy for the rented object in accordance with the aforementioned section 10.1.
- 10.3. The risk of embezzlement is not insured. In this case, there is therefore no possibility of limiting the liability of the lessee. The same applies in the case of the unauthorised transfer of rented objects to third parties.
- 10.4. The lessee declares in advance that the lessor, in the event that there is a construction insurance, as the co-insured party is entitled to claim from this construction insurance. The lessee is responsible for any possible co-payments.

11. Liability of the lessee when renting with operating personnel

When renting the rented objects with operating personnel, the operating personnel may only be used to operate the rented objects, not to perform other work. In the case of damage caused by the operating personnel, the lessor is only liable if it has not properly selected the operating personnel. Otherwise the lessee shall be liable.

12. Termination of the rental period and return of the rented object

- 12.1. The lessee is obligated to notify the lessor in advance of the intended return of the rented object (notification of availability).
- 12.2. The rental period ends on the day on which the rented object arrives at the storage site of the lessor or at another agreed destination with all the parts required for its commissioning in proper condition and according to the contract, although at the earliest on expiry of the agreed rental period; Section 6.5 of which the last half sentence applies accordingly.
- 12.3. The lessee shall return or make ready for collection the rented object in operational condition, in the case of equipment with an internal combustion engine with a fully fuelled tank and cleaned condition; Section 8.1 (b) and (c) shall apply correspondingly.
- 12.4. The return delivery is to be made during the normal business hours of the lessor at such a time that the lessor is in a position to examine the rented object on that same day.
- 12.5. If the lessee makes use of the service offered by the lessor, to bring the rented object back to the company premises outside business hours, the parties agree that the acceptance of the lessor shall be deemed to have been effected only on the next following working day. The risk of liability for damages/theft until then shall be borne by the lessee.

13. Violation of the maintenance obligation

- 13.1. If the rented object is returned in a state which demonstrates that the lessee has not complied with its maintenance obligation pursuant to section 8, the lessee shall pay a compensation in the amount of the rental price as compensation until the termination of the non-contractual repair work.
- 13.2. The extent of the defects and damages for which the lessee is liable must be communicated to the lessee and it must be given the opportunity to verify this notification. The estimated quantity of the costs of the repair work necessary to remedy the defects and damages shall be given to the lessee by the lessor, preferably before the start of the repair work.
- 13.3. The proper return of the rented object is recognised as valid by the lessor if recognisable defects in the case of timely return delivery pursuant to section 12.4 have not been immediately objected to and, in the case of other defects, not within 14 calendar days after arrival at the destination.

14. Further obligations of the lessee

- 14.1. The lessee is not allowed to assign the rented object to a third party without the prior written consent of the lessor or to assign rights from this contract or to grant rights of any kind to the rented object.
- 14.2. The lessee is not allowed to use the rented object without express permission for operations that cause premature wear and tear. This includes for example, sandblasting or work in contact with aggressive substances.
- 14.3. If a third party asserts rights to the rented object by confiscation, seizure or the like, the lessee is obligated to notify the lessor without delay in writing and in advance verbally, and to notify the third party without delay by means of a demonstrable written communication.
- 14.4. The lessee must take appropriate measures to secure against the theft of the rented object.
- 14.5. The lessee undertakes to inform the lessor of accidents and to wait for its instructions. The lessee must notify the lessor of all accidents, Der Mieter hat den Vermieter bei allen Unfällen zu unterrichten, make a damage assessment that is as complete as possible for the best possible preservation of evidence and await its instructions. In case of traffic accidents and in the case of suspected offences (such as theft, damage to property) the police shall be consulted.
- 14.6. The lessee is responsible for ensuring that the equipment rented by him is suitable for the purpose and use intended by him. The lessee shall also ensure
 - Free access to premises and rooms for delivery and removal as well as service work on site.
 - Procurement and organisation of all official permits and work to cordon off areas on site.
 - Safe on-site operation with regard to operational and weight restrictions, ground conditions, road conditions and the environment.
- 14.7. If the lessee culpably violates the aforementioned provisions 14.1 until 14.6, it shall be obligated to compensate the lessor for any loss which may arise therefrom.

15. Termination

- 15.1.
 - a. The rental contract concluded for a specific rental period is always non-terminable for both contracting parties.
 - b. The same applies to the minimum rental term within the framework of an indefinite rental agreement. After expiry of the minimum rental period, the lessee has the right to terminate the rental contract concluded for an undefined period with a notice period of one day.
 - c. In the case of rental contracts for an indefinite period without a minimum rental period, the period of notice is
 - one day, if a per day rental rate was agreed
 - two days, if a per week rental rate was agreed
 - one week, if a per month rental rate was agreed
- 15.2. The lessor is entitled to terminate the rental contract after notification without observing a notice period
 - a. in the case of section 6.6;
 - b. if after the conclusion of the contract it becomes clear to the lessor that the claim for rent payment is endangered by a lack of ability to pay on the part of the lessee;
 - c. if the lessee uses the rented object or any part thereof in an improper way without the consent of the lessor, or takes the rented object without the prior written consent of the lessor to another place outside the country of the lessor;
 - d. in cases of violations of section 8.1 and 15.1.

- 15.3. if the lessor makes use of its entitlement to terminate the contract pursuant to section 15.2, section 6.5 in connection with section 12 and 13 applies correspondingly.
- 15.4. The lessee may terminate the rental agreement after notification and without a period of notice, if the use of the rented object is not possible in the long term due to reasons for which the lessor is responsible.

16. Loss of the rented object

If it is impossible for the lessee to comply with its obligation pursuant to section 13.3 to return the rented object, due to culpable or technically imperative reasons, it shall be liable for damages.

17. GPS tracking and data collection

- 17.1. The lessee confirms that it has been informed by the lessor that the rented object may have a GPS positioning system installed, which can be activated by the lessor, enabling location data to be transmitted to the lessor.
- 17.2. The transmission of the location data serves to record machine operating conditions and technical remote monitoring as well as the elucidation of possible thefts. For this purpose, location, date, working times and other machine related information can be recorded.
- 17.3. The lessee gives its consent to the collection of the data by the GPS device as well as their transmission to the lessor.

18. Applicable law and place of jurisdiction

- 18.1. This contract is subject to the law of the Federal Republic of Germany.
- 18.2. The place of performance for all services arising from or in connection with the contract is the place of business of the lessor, the registered office of its branch or the registered office of its affiliated company which has concluded the contract.
- 18.3. If the lessee is a business person, a legal person of public law or a public special fund, exclusive jurisdiction for all disputes arising directly or indirectly from the contractual relationship is the place of business of the lessor or, according to the discretion of the lessor, the registered office of its subsidiary or branch which has concluded the contract. The lessor is also entitled to invoke the court competent for the lessee.
- 18.4. Should one or all of the aforementioned conditions be or become invalid or become ineffective or impracticable in their entirety or in part, the validity of the remaining agreements will not be affected thereby.

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Appendix A: Deviating conditions for renting to consumers (Individuals)

To section 1.6: Taking into account the deviations from this Appendix, the rental conditions shall also apply to consumers (private customers).

To section 2.2: In addition, the lessee undertakes to use the rented object exclusively for private purposes (pursuant to § 13 of the German Civil Code BGB).

To section 6.1: In addition, when renting at the weekend rate, the calculation of the rent is based on a working day of up to 8 hours per day. Additional working hours and more difficult operations are to be reported to the lessor; they shall be charged additionally.

To section 6.3: The lessee notes that the line item prices in the offers and rental contracts are to be understood as not including statutory VAT, and the gross price to be paid is shown in the totals field.

To section 6.10: Does not apply.

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