

Technical Traders' General Terms and Conditions for Machine Rental and Related Services

(prev. General Terms and Conditions of Rental and Service Delivery for Machine Rental Companies)

TK Konevuokraus 2008 EN

1. PARTIES AND SCOPE OF APPLICATION

These Terms and Conditions shall apply to contracts on the rental of movables such as working machines, scaffolding and protective structures used in construction work between machine rental companies (hereafter "Supplier") and those renting the goods (hereafter "Customer"), unless otherwise agreed in writing between the parties.

Where appropriate, these Terms and Conditions shall also apply to any planning, assembly, disassembly, service, maintenance, usage, transfer and other services provided by the Supplier to the Customer (regardless of whether provided for a charge or free of separate charge), unless otherwise agreed in writing between the parties.

These Terms and Conditions shall not affect any statutory rights under consumer legislation.

2. TERMS AND CONDITIONS OF RENTAL

2.1 Rental Goods

The Rental Goods shall be the goods agreed upon by the Supplier and the Customer (hereafter "Rental Goods") as and with any materials and accessories specified by the Supplier in writing on the entry into the Rental Contract. The Rental Goods shall not include any fuel or power, lubricants, daily maintenance, mould oil or acquisition of operating personnel, unless otherwise separately agreed in writing.

The Customer shall not have the right to transfer the Rental Goods to premises other than the operating site agreed upon. The Rental Goods may not be exported from the country without the prior written consent of the Supplier.

The Rental Contract shall cover normal one-shift use of the Rental Goods. Any use more extensive than this must be agreed upon separately.

2.2 Rental Period

The Rental Period shall commence on the date on which the Rental Goods are collected or they have been collectible as agreed from the Supplier's warehouse or on which they are dispatched to the Customer as agreed. The Rental Period shall end on the date on which the Rental Goods are returned in full to the Supplier. The above-mentioned collection and return days shall be included in the Rental Period.

However, due to the minimum Rental Period set by the Supplier for each group of Rental Goods, the Rental Period may be longer than that specified above.

2.3 Terms of Delivery

The Rental Goods shall be assigned to the Customer at the Supplier's Warehouse. If another location has been agreed for the assignment, unless otherwise agreed between the parties, the transportation shall take place at the Customer's risk.

2.4 Return of the Rental Goods

The Customer must return the Rental Goods to the Supplier immediately on the expiry of the Rental Period cleaned, packaged and otherwise in the same condition as they were when rented out.

The Rental Goods must be returned to the warehouse that they were rented from.

2.5 Assembly and Disassembly of the Rental Goods

The Customer shall be responsible for the assembly and disassembly of the Rental Goods, unless otherwise agreed in writing between the parties.

The assembly and disassembly work and their supervision must be carried out by qualified personnel. The Supplier shall not be responsible for the safety of any structures assembled using the Rental Goods by the Customer or a third party commissioned by the Customer. On request, the Supplier shall inform the Customer about the maximum loads permitted on structures constructed using the Rental Goods.

2.6 Use, Maintenance and Servicing of the Rental Goods

The Customer must study the safety and operating instructions regarding the Rental Goods. Where necessary, the Supplier will provide guidance in the use of the Rental Goods.

The Customer must use the Rental Goods with care and only for the normal purpose and in the conditions intended. The Customer must comply with the operating instructions of the Rental Goods and clean the Rental Goods after use.

The Customer shall be responsible for the appropriate care of the Rental Goods, and it must have the Rental Goods maintained by qualified persons.

The Customer shall be responsible for any servicing and maintenance of the Rental Goods as well as well as any related costs arising during the Rental Period.

The Customer may not repair the Rental Goods or have the Rental Goods repaired by a third party nor make any alterations to the Rental Goods without the prior written consent of the Supplier.

The Customer must monitor any burden caused by wind, snow or water on the Rental Goods and without delay take the necessary action required in the situation at its own expense.

The temperatures for various rental premises agreed in connection with the rental are normative and affected by outdoor weather conditions. The Customer shall define the need for heating. If natural conditions call for extra heating, the Customer shall be responsible for it.

The Customer shall be responsible for seeing to the performance of site inspections in accordance with safety and other regulations.

The above duties of the Customer shall remain valid throughout the Rental Period, including during assembly and disassembly and regardless of whether Section 3 below also applies to the Rental Contract.

3. TERMS OF SERVICE DELIVERY

3.1. General

In addition to the Rental Goods, the Supplier may offer the Customer planning, assembly and other supplementary services regarding rented structures. The following terms shall apply to such services.

3.2 Duties of the Parties

Unless otherwise specified by the parties, their duties shall be divided as follows:

The supplier shall be responsible for

- performing the services that have been agreed upon separately in writing between the parties.

The Customer shall be responsible for

the issues below as necessitated by the intended work:

- applying for official permissions regardless of who is responsible for performing the work
- appointing or acquiring rest facilities in accordance with applicable regulations
- supplying electricity for the assembly site
- arranging lighting
- bordering off the working area for the duration of the assembly and
- all other measures related to the assembly, planning, use and disassembly of the Rental Goods that have not been agreed upon separately to be performed by the Supplier or to remain the responsibility of the Supplier.

The Customer must see to the measures it is responsible for in good time in order to enable performance by the Supplier of hoisting, assembly, storage, etc, without hindrance within the schedule agreed upon. Otherwise, the Supplier shall, in addition to the price quoted, have the right to charge the Customer for the extra work in accordance with the Supplier's price list for work.

3.3 Inspections

If the Supplier delivers the Rental Goods to the Customer with assembly included, the following joint inspections shall be carried out in connection with the assembly and disassembly work agreed upon:

- The initial inspection shall take place on the site before work commences.
- The delivery inspection shall take place when the assembly work is completed.
- The return inspection shall take place before the disassembly of the structures.
- The final inspection shall take place when the Rental Goods have been returned to the Supplier.

3.4 Transfer of possession and Liability

Where the Supplier and the Customer have agreed on the renting of the Rental Goods with assembly included, the possession of and liability for the items rented shall transfer to the Customer to the extent and in the order that the assembly work performed by the Supplier is found to have proceeded in the inspections carried out in connection with each phase of work.

The Customer shall be liable for any damage to or loss of the Rental Goods for the period that the Rental Goods or any part thereof is on the assembly site. However, the Customer shall not be liable for damage to the Rental Goods that can be proven to be due to the Supplier's own negligence.

If the Customer has not ordered the Rental Goods with assembly included, the possession of and liability for the Rental Goods shall transfer as specified under Subsection 2.3.

4. TERMS AND CONDITIONS APPLIED TO BOTH RENTAL AND SERVICE DELIVERY

4.1 Rent and Service Charges

The Customer shall be obliged to pay rent for the entire Rental Period specified in Subsection 2.2 above.

Furthermore, the Customer shall be obliged to pay an additional charge for any extra shifts of work as referred to in Subsection 2.2 above.

Unless otherwise agreed between the Supplier and the Customer, the rent and the charges for the services referred to in Section 3 above shall be in accordance with the Supplier's price list.

4.2 The Supplier's Instructions

The Customer shall be obliged to comply with all of the safety and other instructions provided by the Supplier regarding the structures. The Customer must not alter or move any erected structures without the Supplier's express written consent. The Supplier shall not be liable for any loss or damage caused by the structures having been altered or moved or loaded against instructions.

4.3 Complaints

On receiving the Rental Goods, the Customer shall be obliged to inspect the quantity, quality and condition of the Rental Goods. If the Rental Goods give cause for complaint, the Customer must immediately notify the Supplier thereof. Any rent refund shall be calculated from the moment the Supplier receives the said notification.

Where the Supplier has undertaken to deliver the Rental Goods with assembly included, the Supplier shall deliver them as inspected and in working order. Any complaints about items delivered or work performed must be made by the Customer to the Supplier without delay and, where a joint inspection by the parties takes place, in connection with such inspection.

4.4 The Customer's Liabilities

The Customer shall be liable to compensate for any Rental Goods destroyed or lost during the Rental Period or otherwise not returned at the replacement-as-new value. The Customer shall be liable to compensate the Supplier for any damage to the Rental Goods as well as for any costs arising from careless or incorrect use or insufficient maintenance during the Rental Period.

If the Customer fails to return the Rental Goods to the Supplier cleaned and in the condition they were in when delivered by the Supplier to the Customer, the Supplier shall have the right to charge the Customer for the costs arising from the cleaning and repair of the Rental Goods (including material costs for operating material and wear parts). The Supplier shall, however, be responsible for any repair costs arising from normal wear and tear of the Rental Goods.

The Customer shall be solely liable for any damage and costs to the Customer or a third party arising from the use or assembly of the Rental Goods by the Customer or a third party or the assembly site, and the Supplier shall not be liable for these.

Should the Customer fail to fulfil the contractual terms and conditions for its part, the Customer shall be liable to compensate for any loss or damage to the Supplier arising thereof and the Supplier shall have the right to invoice the Customer for any costs incurred to the Supplier, including for both direct and indirect loss or damage.

4.5 Restriction of the Supplier's Liability

4.5.1. The Supplier's liability for direct loss or damage

The Supplier shall only be liable for direct loss or damage incurred to the Customer due to the following causes under the Supplier's responsibility:

- delay in or prevention of the delivery of the Rental Goods
- error in planning or assembly
- breakage of the Rental Goods

The Customer must prove the direct loss or damage incurred and the amount of the damage.

4.5.2. Supplier's liability for indirect loss or damage and purpose of use

The Supplier shall not be liable for any indirect loss or damage to the Customer such as compensation for damage paid to others, contractual penalties or damages caused to any other property.

The Supplier shall not be liable for whether the Rental Goods are suited for the purpose intended by the Customer or not.

4.5.3. Quantitative restriction of the Supplier's liability

The Supplier's liability for compensation shall not exceed the amount of rent agreed for the Rental Goods and/or the service charge. The above shall not, however, restrict the liability if the loss or damage is due to the Supplier's gross negligence or intent.

4.5.4. Damages caused by forces of nature

The Customer shall to the best of its ability take care that exceptional forces of nature do not cause damage to the Rental Goods. The Supplier shall not be liable for damages caused to the Rental Goods by exceptional forces of nature such as storm (average wind velocity at least 21 meters per second), flood, hard rain or flash of lightning.

As to insuring the Rental Goods, see section 4.6.

4.5.5. Responsibility of plans

Any plans drawn up by the Supplier require the renting of the equipment needed to implement the plan from the Supplier. The Supplier shall not be responsible for any plans if the Customer does not rent the Rental Goods required by the plans for itself.

4.6 Insurance

The Rental Goods are not insured by the Supplier. Should the Customer wish to have insurance cover, the Customer must take out an appropriate insurance policy on the Rental Goods for the entire Rental Period, including any transportation.

If the Supplier performs the delivery or dispatch of the Rental Goods on behalf of the Customer, the Supplier shall have the right to demand that a cargo insurance be taken out on the Rental Goods by the Customer.

4.7 Breach of Contract

Should the Customer fail to pay any rent due or otherwise essentially violate the contractual terms and conditions, the Supplier shall have the right to immediately cancel the contract and repossess the Rental Goods without consulting the Customer. The Supplier shall have the same right if the Customer's activities or financial situation prove such that there is a weighty reason to presume that the Customer will default on its payment obligation or otherwise fail to fulfil an essential part of its contractual obligation. The Customer shall be liable to compensate for any costs, loss or damage arising from the cancellation of the contract to the Supplier.

The Customer shall not have the right to refrain from the payment of rent even if it considers that it has receivables from the Supplier.

4.8 Force Majeure

The Supplier shall not, however, be required to fulfil the contract if delivery of the Rental Goods of a part thereof is prevented by a natural obstacle, fire, mechanical breakdown or similar malfunction, strike, lockout, war, mobilisation, prohibition on imports or exports, lack of transport, discontinuation of production, traffic disruption or similar obstacle that is outside the Supplier's control. Neither is the Supplier required to fulfil the contract when this would require sacrifices by the Supplier that are unreasonable compared to the resulting benefit to the Customer.

The Supplier is not required to compensate the Customer for any loss resulting from failure to fulfil the contract, and the Supplier may also terminate the contract.

4.9 Assignment of the Rental Contract

The Customer shall not have the right to assign the Rental Contract nor assign the Rental Goods wholly or in part to a third party without the Supplier's written consent.

4.10 Investigation Costs

Should the Customer clearly unjustifiably claim for compensation from the Supplier under the contract, the Customer shall be liable for any costs incurred by the Supplier due to unjustified investigations.

4.11 Disputes

Any disputes arising from contracts between the parties shall be settled by the lower court of the Supplier's domicile or, should the Supplier so require, by the lower court of the Customer's domicile. If the Customer is a consumer, the Customer shall have the right to take the matter to the lower court of the Customer's domicile.

4.12 Default Register

Pursuant to Decision No 2/932/2003 of the Finnish Data Protection Board, the Supplier shall have the right to register in cases of misconduct or default (where the Customer fails to return the Rental Goods in time or pay the rent or part thereof) information in accordance with the permit decision valid in its sector's specific default register. Those registered have on their part the right to have an entry included in the register if the rent receivable is contested.