

# General Rental Conditions

adopted by the Dutch Association of Manufacturers of and Dealers in Construction Machinery, Warehouse Fitting, Road Building Machinery and Means of Transport ("BMWV"), with its registered office in The Hague. Filed with the Chamber of Commerce under number 40407394 dated 25-3-2020.

## Article 1 Definitions; scope

- 1.1 In these general rental conditions ("Terms and Conditions") the following definitions apply:  
Payment Obligation: the Rental Payment and all the Hirer's financial obligations to the Lender under the Rental Agreement.  
End date: the last day of the period of the Rental Agreement.  
Hirer: the Lender's counterparty.  
Rental Item: the item which the Lender makes available to the Hirer in return for the Rental Payment and which the Hirer keeps for the Lender.  
Rental Agreement: the agreement entered into between the Lender and the Hirer including the terms and conditions for the rental of a Rental Item.  
Rental Payment: the consideration due from the Hirer to the Lender under the Rental Agreement from the rental start date in euros, plus VAT.  
Parties: the Lender and the Hirer jointly.  
Lender: the BMWV member which provides Rental Items and/or related services.  
The definitions may be used in the singular or in the plural with no loss of meaning.  
1.2 The Terms and Conditions apply (to the exclusion of other terms and conditions) to the Rental Agreement, all offers, rental agreements, successive and/or supplementary rental (or other) agreements and other acts relating to the provision of a Rental Item by the Lender to the Hirer and any associated provision of services by the Lender, to which agreement(s) the Parties or their legal successors are party.  
1.3 Any variations and/or additions to the Terms and Conditions / Rental Agreement are valid only if they are agreed in writing between the Lender and the Hirer. They only apply to the Rental Agreement to which they relate.  
1.4 The applicability of other general terms and conditions or clauses is ruled out and expressly rejected by the Parties, unless such general terms and conditions or clauses are expressly accepted by the Lender in writing.  
1.5 In the event of any discrepancies and/or differences between the Dutch and English text of these Terms and Conditions the content of the Dutch text takes precedence.

## Article 2 Offers

- 2.1 Unless expressly stated otherwise, all offers issued by the Lender, in whatever form, are without obligation. An offer is valid for the period specified in it. If no period is specified, the offer is valid for a period of fourteen days and expires automatically at the end of this period (unless it is accepted). The Lender is entitled to withdraw the offer at any time, irrespective of the period for which it is valid. Withdrawal must take place in writing. The Lender may withdraw its offer within ten working days after the Lender has received the Hirer's acceptance of the offer.  
2.2 The Lender's statements and specifications concerning dimensions, capacity, performance or results are provided as an approximation only and do not bind the Lender in any way; the Hirer may not derive any rights from them.

## Article 3 Formation of the Rental Agreement

- 3.1 A Rental Agreement is formed by it being signed by the Lender and the Hirer.  
3.2 The last date on which a Party signs the Rental Agreement counts as the date of signing.  
3.3 In so far as, before the Rental Agreement is formed, the Hirer carries out any performance and / or makes preparations, in the apparent expectation or assumption that a Rental Agreement will be or has been formed, the Hirer does so at his own expense and risk.  
3.4 Any inaccuracies or alleged inaccuracies in the Rental Agreement must be communicated by the Hirer to the Lender in writing within two working days after the Hirer has signed the Rental Agreement, at the risk of any claim lapsing. By signing the Rental Agreement, the Hirer accepts its content.  
3.5 Any additional arrangements, commitments or notifications made by the Lender's employees do not bind the Lender, unless they are confirmed to the Hirer in writing by persons authorised by the Lender for this purpose.

## Article 4 Rental start date and rental period

- 4.1 The Rental Agreement takes effect on the rental start date, as indicated in the Rental Agreement. If no such start date is mentioned, the rental start date is the date on which the Rental Item is provided to the Hirer.  
4.2 The Hirer owes the Lender the Payment Obligation for the duration of the hire period, including days on which the Rental Item is delivered to the Hirer and returned to the Lender, Saturdays, Sundays and official public holidays.

## Article 5 Provision, acceptance of the Rental Item and the passing of risk

- 5.1 Unless expressly agreed otherwise in writing, the provision of the Rental Item by the Lender to the Hirer shall take place on the agreed date at the address indicated by the Hirer. The Rental Item will only be delivered by the Lender to the ground floor. A change to the indicated address to which the Rental Item is to be delivered must be communicated to the Lender in writing at least three working days before the delivery date. As soon as the Lender has confirmed this change of address in writing, the change of address is established. Any additional costs resulting from a change of address shall be borne by the Hirer.  
5.2 If the Rental Item is provided later due to an attributable failure by the Lender, the rental start date – where applicable – shall be taken as the time at which the Rental Item is provided.  
5.3 If the agreed date for provision has passed, the Lender shall not be in breach of contract until the Hirer has set another reasonable period for performance by registered post and the Lender has also allowed this period to elapse. In setting this reasonable period, all circumstances must be taken into account, with a reasonable period being at least two working days (commencing on the day after the day on which the written notice is served on the Lender). In no event shall the Lender be liable to pay damages.  
5.4 If the Hirer does not take receipt of the Rental Item on the agreed date, the Hirer shall be in breach of contract from that moment, notwithstanding the Hirer's obligation to settle the Payment Obligation from the rental start date (see Article 4.1 of the Terms and Conditions). In that case, the Lender shall be entitled to take back the Rental Item and charge the cost of this to the Hirer. The Lender shall also be entitled in that event to terminate the Rental Agreement with immediate effect without recourse to the court, notwithstanding the provisions of Article 12 of the Terms and Conditions.  
5.5 The Rental Item is considered to be provided to the Hirer in good condition and in accordance with the Rental Agreement. The condition of the Rental Item on the rental start date is recorded in an inspection report. Upon taking receipt of the Rental Item, or immediately after, the Hirer must inspect the Rental Item for correctness, soundness and completeness. If, in the course of this, the Hirer discovers any defects, he must notify the Lender of this in writing without delay, but at the latest within 24 hours after taking receipt of the Rental Item. Failing this the Hirer shall not, in any event, be entitled to claim any reduction in the Rental Payment, termination of the Rental Agreement or damages.  
5.6 The Rental Item shall be deemed to have been provided and the risk in it shall pass to the Hirer at the time of actual possession or at such time as the Rental Item is delivered to the agreed address.  
5.7 In so far as costs, such as transport costs, have to be incurred by the Lender for the provision of the Rental Item, the Hirer shall owe such costs to the Lender.

## Article 6 Payment Obligation

- 6.1 The Hirer is obliged to fulfil the Payment Obligation to the Lender in full on the agreed date and in the agreed manner, either in cash to the Lender, or by transfer to a bank or giro account to be specified by the Lender. A giro payment shall only be deemed to have been made on time if the amount owed is transferred to the bank or giro account referred to in the previous sentence on the agreed date.  
6.2 If and in so far as the Lender has not received the Payment Obligation in full by the agreed due date, the Hirer shall automatically be in default. The Hirer shall then owe the Lender a penalty, payable immediately, of 1.5% of the unpaid amount per calendar month, starting from the due date of the Payment Obligation, with part of a month counting as a full month, without prejudice to the Lender's other rights, for example to claim damages, under the law or the Rental Agreement and without the need for any notice of default. In that case, the Lender shall also be entitled to suspend its obligations under the Rental Agreement, and any other agreements with the Hirer. This penalty shall be calculated on the total outstanding balance of Payment Obligations due in the month in question.  
6.3 If the Hirer fails, even after a written reminder from the Lender, to settle the amount owed by him to the Lender in full within the further period granted to him, the Lender shall also be entitled to terminate the Rental Agreement with immediate effect. The provisions of Article 12 of the Terms and Conditions apply in full.  
6.4 The Lender may pass on to the Hirer all costs and extrajudicial costs incurred by it, in or out of court, for the collection of the unpaid Payment Obligation. The extrajudicial collection costs that apply between the Parties are set in advance at a minimum of 15% of the outstanding Payment Obligation, being a minimum of €300,-.  
6.5 Any payment by the Hirer shall first be set off against costs due, then against interest owed, and only after this against the principal, the first due date taking precedence over the most recent due date.  
6.6 Unless expressly agreed otherwise in writing, the Hirer is not permitted to suspend the Payment Obligation. Nor is it permitted to apply to a payment any discount, deduction or set-off against a claim the Hirer has against the Lender.  
6.7 The Lender must have received the Payment Obligation for the first rental period from the Hirer before the Lender provides the Rental Item to the Hirer.  
6.8 All prices set by the Lender are exclusive of VAT. The VAT due is invoiced separately.  
6.9 Indexation  
6.9.1 The Rental Payment is adjusted on 1 January every year based on the change to the monthly price index figure according to the consumer price index (CPI) all households series, published by Statistics Netherlands (CBS). The "All households (most recent base year)" applies. The first adjustment takes place after the Rental Agreement has been in place for one year and then on 1 January of each subsequent year.  
6.9.2 The adjusted Rental Payment is calculated according to the following formula: the adjusted Rental Payment is equal to the Rental Payment applying on the adjustment date, multiplied by the index figure for the calendar month four months before the calendar month in which the Rental Payment is adjusted, divided by the index figure for the calendar month sixteen calendar months before the calendar month in which the Rental Payment is adjusted.  
6.9.3 The Rental Payment will not be adjusted if the indexation of the Rental Payment leads to a lower Rental Payment than the one that most recently applied. The most recently applicable Rental Payment remains unadjusted until, on subsequent indexation, the index figure for the calendar month four calendar months before the calendar month in which the Rental Payment is adjusted is higher than the index figure for the calendar month four calendar months before the calendar month in which the most recent adjustment of the Rental Payment took place. The index figures for the calendar months referred to in the previous sentence are then used for the adjustment of the Rental Payment.  
6.9.4 An indexed Rental Payment is due and payable even if the Hirer has not been notified separately of the adjustment.  
6.9.5 Should the CPI cease to exist, the Parties shall use an indexation method that resembles it as closely as possible.

## Article 7 Security

- 7.1 The Hirer shall provide the Lender with security (to be determined by the Lender) at the latter's first request to guarantee due fulfilment of its obligations under the Rental Agreement. Such security must be provided in full in a manner indicated by the Lender, or provided to the Lender, before the Lender provides the Rental Item to the Hirer. Failing this, the Lender is entitled to suspend its obligation to provide the Rental Item until the security has been provided in full. Such suspension does not affect the rental start date or the Payment Obligation.  
7.2 If, in the opinion of the Lender, the Hirer's financial position requires this, the Hirer is obliged to provide additional security (to be specified by the Lender) to the Lender's satisfaction, immediately upon being requested to do so by the Lender (or to provide proper security, in so far as the Hirer did not need to provide any security on the rental start date) for the fulfilment of the Hirer's obligations under the Rental Agreement.  
7.3 If the Lender has claimed the security, the Hirer shall settle the security once more with due haste upon the Lender's request. The Lender is not obliged to claim the security during the term of the Rental Agreement.  
7.4 If the Hirer fails to provide (or settle) sufficient security in good time, the Lender is entitled to terminate the Rental Agreement with immediate effect (without observing a notice period) without being liable for any damages; termination does not affect the Lender's claims to damages and expenses.  
7.5 The security shall be returned to the Hirer at the end of the Rental Agreement, after the Hirer has returned the Rental Item to the Lender, offsetting the security against any claims the Lender has against the Hirer under the Rental Agreement. The Lender shall not pay any interest on the security provided.

## Article 8 Use

- 8.1 The Hirer is obliged to use the Rental Item as befits a good hirer, meaning, among other things, that the Hirer shall, at his own expense and risk:  
a) only use the Rental Item for the agreed purpose, or (where no such purpose is agreed) only use the Rental Item for the purpose for which it is intended by its nature;  
b) use the Rental Item in accordance with the guidance given to him by the Lender by means of instructions or in some other manner. The Hirer warrants that all persons operating or using the Rental Item are competent to do so and possess any qualifications, certificates, driving licences, etc. required for this (by law or otherwise);  
c) inspect the Rental Item on a regular basis to ensure that it is in good working order and, unless agreed otherwise, carry out the necessary day-to-day maintenance in a timely manner to keep it in good working order, all in accordance with the manufacturer's specifications, if available; 'day-to-day maintenance' means those activities which the Lender has instructed the Hirer to carry out; in the absence of such instruction, this means carrying-out simple activities which are necessary to ensure the proper functioning of the Rental Item (for example: lubricating, bleeding, checking the oil level and topping up with oil, cleaning); see also the provisions of Article 8.5 below;  
d) take all reasonable measures to prevent damage to and / or loss and / or theft of the Rental Item;  
e) promptly pay all charges, taxes and fines arising from the use of the Rental Item by the Hirer or third parties;

## Jungheinrich Nederland BV

H.A. Lorentzweg 3 · 2408 AS Alphen aan den Rijn · PO Box 231 · 2400 AE Alphen aan den Rijn (NL) · Phone+31 (0)172 44 67 89 · Fax 0172 43 85 74 · info@jungheinrich.nl · www.jungheinrich.nl

ABN AMRO · IBAN NL59 ABNA 0233 9569 99 · BIC ABNANL2A · VAT NL003439975B01 · CoC 28028730

- f) insure the Rental Item adequately and keep it insured for the entire period during which it is in his possession;
- g) return the Rental Item to the Lender on the End Date, in accordance with the instructions contained in the Terms and Conditions.
- 8.2 The Hirer is not allowed to relocate the Rental Item or to move it from the location in which it is intended to be used on the basis of the Rental Agreement. Where no location is mentioned in the Rental Agreement, the delivery address is the location in which the Rental Item is to be used. The Hirer is only permitted to use the Rental Item at a different location than the agreed location with the Lender's prior written permission.
- 8.3 The Hirer is not permitted to make changes to the Rental Item without the Lender's written permission.
- 8.4 If any licence / exemption / permission is required from the government or another source for the use of the Rental Item, the Hirer shall, unless expressly agreed otherwise, ensure that the licence / exemption / permission is obtained in good time and maintained for the duration of the Rental Agreement. The costs associated with this are for the Hirer's account.
- 8.5 Division of maintenance: except for the day-to-day maintenance (see Article 8.1), the Lender shall carry out all other maintenance on the Rental Item (including repairs, rectification of defects and inspections). If the Lender wishes to take possession of the Rental Item in order to carry out any maintenance task, the Hirer shall immediately cooperate in full with this following a request by the Lender to this end. Such cooperation includes the Hirer making a suitable, safe workspace available for this purpose on request (at the location in which the Rental Item is situated) in accordance with the applicable occupational health and safety and environmental regulations, including outside the Hirer's usual working hours if necessary.
- 8.6 The Hirer is forbidden from making the Rental Item available to third parties by renting it out, sub-renting it, for use or for any other means without the Lender's prior written permission.
- 8.7 The Hirer shall bear all costs associated with the (use of the) Rental Item, except for those costs which have been agreed otherwise between the Parties in writing.
- 8.8 Where the Parties have agreed on advance payments for cost items (whether or not in relation to services to be rendered by the Lender) payable by the Hirer, the Lender shall pass on the actual costs to the Hirer by the end of the term of the Rental Agreement (or at such earlier point as the Lender passes on the actual costs to the Hirer), less the advance payments already made by the Hirer.
- 8.9 Should the Lender wish to inspect the Rental Item, the Hirer shall cooperate with this upon the Lender's request.
- 8.10 The Hirer is not permitted to suspend any obligation under the Rental Agreement.
- 8.11 The Hirer waives any right of retention.

#### Article 9 Defects

- 9.1 Notwithstanding the provisions of Article 5.5 of the Terms and Conditions, the Hirer must, if he discovers defects (such as damage, faults, service messages, malfunctions or non-functioning, theft/loss) in the Rental Item during the term of the Rental Agreement, notify the Lender of this in writing without delay and in any case within twenty-four hours after the discovery. Defects which are not reported in a timely manner in writing shall not provide cause for a reduction in the Rental Payment, termination of the Rental Agreement and / or the Lender compensating the Hirer's damage.
- 9.2 Following the discovery of a defect in the Rental Item:
- a) the Hirer shall cease using it until he has consulted the Lender and obtained the latter's written permission;
- b) if the Hirer continues to use the Rental Item without having obtained the Lender's prior written permission to do so, any loss to be suffered by the Hirer / third parties due to such continued use shall be at the Hirer's expense and risk.
- 9.3 After the Hirer has notified the Lender of a defect in the Rental Item and where its repair is warranted for the further use or preservation of the Rental Item, the Lender shall rectify the defect by repairing it as swiftly as possible (taking into account the nature of the defect, the available manpower and materials). The Hirer shall make the Rental Item to be repaired available to the Lender when so requested by the Lender at a place to be indicated by the Lender. The Hirer shall on no account allow repairs or other work to be carried out on the Rental Item by a third party without the Lender's prior written permission.
- 9.4 The repair costs and the loss suffered by the Lender as a result of a defect shall be at the Hirer's expense, unless and to the extent that the Hirer proves that the defect is not attributable to him. The defect and the associated loss shall in any event be attributed to the Hirer when the defect to the Rental Item occurred: 1) during the period in which the Hirer has the Rental Item in his possession and / or ii) when the Rental Item is used in a manner contrary to what is expected of a good hirer and / or iii) as a result of an act or omission on the part of a third party or third parties for whom the Lender does not have legal responsibility.
- 9.5 Once the Hirer has notified the Lender of a defect in the Rental Item and the Lender has confirmed to the Hirer in writing that the defect is not attributable to him, the following shall apply: if, as a result of this defect, the Hirer is completely unable to use the Rental Item (following notification) for more than three working days and no replacement equipment is available, the Hirer is entitled to a reduction in the Rental Payment in the sense that he will not owe any Rental Payment after the fourth working day for the days on which he is completely unable to use the Rental Item and no replacement equipment is available.
- 9.6 If (i) the Lender has not managed to eliminate the defect reported by the Hirer and (ii) due to the nature of the defect, the Hirer cannot reasonably be expected to continue to use the Rental Item and (iii) no equivalent replacement Rental Item is available, the Parties are entitled to terminate the Rental Agreement, notwithstanding the provisions of Article 12.4 of the Terms and Conditions in so far as the defect is attributable to the Hirer.

#### Article 10 Theft / loss

- 10.1 In the event of the theft/loss of the Rental Item, the Hirer is obliged to report this to the police and supply the Lender with a copy of the official report.
- 10.2 In so far as this is reasonably possible, following the report of the theft / loss of the Rental Item the Lender shall provide the Hirer with an equivalent replacement Rental Item.

#### Article 11 End of the Rental Agreement

- 11.1 If the Rental Agreement is entered into for a fixed period, the Rental Agreement shall end automatically on the End Date, without further notice. In other cases, the Rental Agreement may be terminated from a date agreed for the Rental Payment, in which case the Hirer and the Lender must observe a notice period of at least one month.
- 11.2 At the end of the Rental Agreement (on the End Date), the Hirer must return the Rental Item to the Lender, in accordance of the provisions of this article. Towards the end of the term of the Rental Agreement, the Hirer shall contact the Lender to agree when the Lender will collect the Rental Item from the location at which the Rental Item is situated. The Hirer shall make the Rental Item available to the Lender by the End Date at the latest, unless the Parties agree otherwise in writing. Until the Rental Item is collected by the Lender, the Hirer remains responsible for the Rental Item.
- 11.3 The Lender reserves the right to arrange a prior inspection.
- 11.4 Unless expressly agreed otherwise in writing, the Hirer shall return the Rental Item to the Lender cleaned and - apart from normal wear and tear of the Rental Item - in its original condition (as recorded in the inspection report, see Article 5.5 of the Terms and Conditions, or, in the absence of an inspection report, in good condition) by making the Rental Item available to the Lender on the End Date.
- 11.5 Any modifications made by the Hirer to the Rental Item must be reversed by the Hirer at his own expense and risk (without leaving any damage). If the Hirer does not reverse these modifications, the Hirer shall be deemed to have declined to do so. The Lender shall proceed to reverse those modification at the Hirer's expense.
- 11.6 If the Hirer keeps the Rental Item after the End Date without the Lender's permission, the Hirer is in breach of contract from that point on without the need for any notice or warning from the Lender. From the End Date to the time at which the Hirer actually makes the Rental Item available to the Lender:

- a) the Hirer shall owe the Lender a fee, for each day that the Lender does not have the Rental Item, equal to the daily Rental Payment for the Rental Item currently applied by the Lender (which daily rental payment shall never be less than the most recently applicable Rental Payment per day), without prejudice to the Lender's right to compensation from the Hirer for other loss and expense. Part of a day shall be treated as a whole day;
- b) the Hirer shall owe the Lender a financial penalty of three percent of the purchase price that is applicable on the End Date (exclusive of VAT), (based on the price on the End Date) for the purchase by the Lender of an equivalent item (in terms of value) to the Rental Item, for each day following the breach of contract that the Hirer fails to fulfil the obligation to make the Rental Item available to the Lender at the agreed location or the location indicated by the Lender and on the agreed date or the date indicated by the Lender, until such time as the Rental Item is returned to the Lender.
- The Lender shall then be entitled, and is hereby expressly authorised by the Hirer, to enter the location at which the Rental Item is situated in order to take possession of it. The costs associated with this are also for the Hirer's account.
- 11.7 If, following the return of the Rental Item to the Lender, it emerges that the Rental Item is not in the agreed condition as delivered, the Hirer is liable for the resulting loss and expense for the Lender.

#### Article 12 Termination of the Rental Agreement

- 12.1 Notwithstanding the provisions of the law and the other provisions of the Terms and Conditions, the Lender is authorised to terminate the Rental Agreement with immediate effect, without notice or recourse to the courts, if and when:
- a) the Hirer fails to fulfil one or more of his obligations under the Rental Agreement or the Terms and Conditions;
- b) an application for a suspension of payments or bankruptcy/insolvency is filed with respect to the Hirer;
- c) all or some of the Hirer's assets are attached;
- d) the Hirer's business is (largely) shut down, stopped or liquidated;
- e) the Hirer (largely) vacates or permanently leaves his site or premises without prior written notification;
- f) or another circumstance occurs which may give rise to reasonable doubt on the Lender's part as to the Hirer's due fulfilment of his obligations under the Rental Agreement;
- g) a circumstance mentioned in Article 16 of the Terms and Conditions arises.
- 12.2 The Lender is not liable for the loss suffered by the Hirer as a result of the termination of the Rental Agreement as referred to in Article 12.1.
- 12.3 All costs arising from the termination, as referred to in Article 12.1, shall be borne by the Hirer. Following the termination, all existing claims the Lender has against the Hirer become immediately due and payable.
- 12.4 At the time of termination, the Hirer immediately owes the Lender the whole of the remaining Payment Obligation under the Rental Agreement (from the moment of termination to the End Date). If the Rental Agreement is open-ended at the time of termination, the Payment Obligation that becomes due immediately is equivalent to the most recently applicable Payment Obligation of 12 months. This does not affect the Lender's entitlement to compensation for loss and other expenses.
- 12.5 The provisions of Article 12.1 do not affect the other statutory and other rights the Lender has in the event of (an application for) a suspension of payments or bankruptcy/insolvency of the Hirer. The costs associated with the exercise of these rights shall be borne by the Hirer. The Hirer shall notify the Lender immediately of any attachment applying to the Hirer or (an application for) a suspension of payments or bankruptcy/insolvency of the Hirer. The Hirer shall ensure that it is made clear at all times that the Rental Item is the legal property of the Lender.

#### Article 13 The Lender's liability for loss/damage

- 13.1 As regards any liability the Lender has for loss/damage suffered by the Hirer as a result of or in connection with a Rental Agreement or Rental Agreements between the Lender and the Hirer:
- a) the Lender is not liable for consequential or financial loss, including the rental/purchase of a replacement item, loss of turnover and/or profits, loss due to delay and/or costs associated with the interruption, shutdown and/or resumption of all or part of the Hirer's business or one of the Hirer's plants;
- b) the Lender can only be held liable for loss/damage other than that mentioned in (a) in total up to a maximum sum of €25,000 per event. The Lender's liability is limited in any event to a maximum of the sum paid out under the relevant insurance taken out by the Lender.
- 13.2 If an event occurs which results or can reasonably be expected to result in loss/damage for the Hirer, for which the Lender may be liable, the Hirer must notify the Lender of this event in writing with due speed, but in any event within ten days after the event. If the Hirer fails to provide this written notification, his right to compensation for the event concerned shall lapse. All claims for compensation of loss/damage by the Hirer against the Lender shall lapse twelve months after the event which has caused the loss/damage, unless the loss/damage is reported to the Lender in a timely manner as set out in the previous paragraph.
- 13.3 The Hirer shall indemnify the Lender against all third-party claims relating to Rental Items hired by the Hirer from the Lender, unless the Hirer proves that such claims relate to loss/damage for which the Lender would be liable to the Hirer by virtue of the provisions of Articles 13.1 and 13.2 of the Terms and Conditions had the Hirer held the Lender liable for such loss. This indemnity also covers costs necessarily incurred by the Lender in relation to a third-party claim.

#### Article 14 Joint and several liability

- 14.1 If the Hirer and / or his legal successor comprise(s) more than one legal and/or natural person, each of these legal and/or natural persons are jointly and severally liable with respect to the Lender by the obligations under the Rental Agreement.

#### Article 15 Transfer of rights and obligations

- 15.1 The Hirer may only transfer rights or obligations under the Rental Agreement to or have them accepted by a third party with the Lender's prior written permission. The Lender may grant permission subject to certain conditions.
- 15.2 The Lender is entitled to transfer the ownership of the Rental Item and the rights and obligations under the Rental Agreement entered into with the Hirer to a third party. The Hirer hereby gives his explicit consent in advance to the rights and obligations under the Rental Agreement and the Terms and Conditions and the ownership of the Rental Item being transferred to a third party.
- 15.3 In the event of the death of the Hirer, the Rental Agreement shall terminate automatically one month after the death. In that case, the provisions of Article 11 of the Terms and Conditions apply.
- 15.4 The Hirer is obliged to notify the Lender in writing of any planned relevant change to his organisation. Such notification must reach the Lender in good time so that the Lender can take appropriate measures.

#### Article 16 Force majeure

- 16.1 If, during the performance of the Rental Agreement, it emerges that it is not possible to perform it due to circumstances which the Lender was unaware of or due to force majeure, the Lender is entitled to demand that the Rental Agreement be amended to enable performance, unless performance will never be possible due to force majeure. If the Lender is prevented by force majeure from performing the Rental Agreement, the Lender is entitled to suspend performance of the Rental Agreement and consequently will not be bound by any delivery period. The Hirer may not rely on any right to compensation for loss, costs or interest on this basis.

#### Jungheinrich Nederland BV

H.A. Lorentzweg 3 · 2408 AS Alphen aan den Rijn · PO Box 231 · 2400 AE Alphen aan den Rijn (NL) · Phone +31 (0)172 44 67 89 · Fax 0172 43 85 74 · info@jungheinrich.nl · www.jungheinrich.nl

16.2 As far as the Lender is concerned, force majeure includes any circumstance beyond the Lender's control which prevents the timely or other performance by the Lender of the Rental Agreement, temporarily or permanently, or renders this particularly onerous. Such circumstances include: strikes, lightning strikes and/or working to rule and lockouts, sit-ins, downtime due to machinery breakdown, disruption to the energy or water supply or fire, etc., import, export and manufacturing bans and other government measures, transport problems, failures by suppliers and agents, provided that no fault attaches to the Lender with regard to such circumstances. Force majeure also includes war, risk of war, mobilisation, insurrection, state of emergency, fire, accident or illness of staff and breakdown.

#### **Article 17 Attachment: third-party claims**

- 17.1 The Rental Item remains the property of the Lender at all times, regardless of the duration of the Rental Agreement.
- 17.2 All disposals, pledging or other encumbering of the Rental Item is prohibited without the Lender's express written permission.
- 17.3 If the Rental Item is attached (or likely to be attached), or third parties assert claims in relation to the Rental Item, the Hirer is obliged to inform the Lender of this in writing immediately. The Hirer must also follow the instructions issued by the Lender in this event.
- 17.4 If a Rental Item belonging to the Lender is also attached due to an attachment against the Hirer and this leads to expense for the Lender, the Hirer is obliged to indemnify the Lender for all costs arising from the attachment.

#### **Article 18 Applicable law, competent court, election of address for service**

- 18.1 The legal relationship(s) between the Hirer and the Lender, including the Rental Agreement, these Conditions and this jurisdiction clause, are governed solely by Dutch law.
- 18.2 Any and all disputes between the Hirer and the Lender arising from or relating to the legal relationship(s) between them, including the Rental Agreement and these Terms and Conditions and any disputes about the existence and the validity of the legal relationship(s) between the Hirer and the Lender, will be settled exclusively by the court in the jurisdiction where the Supplier has its principal establishment.
- 18.3 Election of address for service
- 18.3.1 As from the effective date referred to in Article 4.1 of the Terms and Conditions, all notifications (such as correspondence, writs and documents initiating legal proceedings) from the Lender to the Hirer in connection with the performance of the Rental Agreement will be addressed to the Hirer's visiting address listed in the Trade Register of the Chamber of Commerce.
- 18.3.2 If the Hirer changes his visiting address, he undertakes to notify the Lender of this in writing immediately and to state his new address for service.
- 18.3.3 If the Hirer changes his visiting address without notifying the Lender of a new address, the Hirer's previous address will be deemed to be his address for service.

#### **Article 19 Processing of personal data**

- 19.1 Where personal data have to be processed in connection with the performance of the Rental Agreement, they shall be processed with due care in accordance with the General Data Protection Regulation. By signing the Rental Agreement, the Hirer gives his explicit consent to the processing of his personal data for the purposes mentioned in Article 19.2 below.
- 19.2 The Hirer's personal data are processed by the Lender and / or its group companies for the following purposes: the performance of the Rental Agreement, (the planning of) maintenance, inspections and repairs, carrying out viewings and acquisitions, making payments and collecting claims including passing these on to third parties, handling disputes, enquiries or investigations, including judicial proceedings, (direct or indirect) exercise of control, internal management activities and the implementation or application of a law. For these purposes, where necessary, personal data are passed on by the Lender to third parties, such as the bank for payment purposes, maintenance companies carrying out maintenance (planned or in response to a complaint) and/or repairs and/or inspections (to whom names and contact details, including phone numbers, email addresses and information about the complaint may be passed on), debt collection agencies, bailiffs, lawyers and judicial bodies in connection with payment arrears or disputes, the tax authorities and other relevant authorities, and service Lenders such as IT firms, accountants and auditors. The Lender shall not pass on the Hirer's personal data outside the EU or an international organisation without requesting the Hirer's express written permission for this.
- 19.3 When the processing of personal data is no longer necessary, the personal data will be deleted. The personal data will be retained as long as at least necessary.
- 19.4 The Hirer has the right to request the Lender to allow him access to his personal data and/or to request it to edit, supplement or correct or protect them. In addition, the Hirer has the right to withdraw his consent at any time. The Hirer has the right to file a complaint with the Dutch Data Protection Authority regarding the data processing.

#### **Article 20 Concluding provisions**

- 20.1 Should any part of the Rental Agreement or the Terms and Conditions become invalid or voidable, this shall not affect the validity of the remainder of the Rental Agreement and the Terms and Conditions. The invalid or void part shall then be replaced, in accordance with the provisions of Article 3:42 of the Dutch Civil Code, as agreed, by what the Parties would have agreed had they been aware of the invalidity or voidability.
- 20.2 Headings of articles are intended solely to improve readability. No right may be derived from the headings of articles.

# Rental Conditions of Jungheinrich Nederland B.V.

## General

1. These Rental Conditions of Jungheinrich Nederland B.V. (Jungheinrich) apply to the Rental Agreement. The General Rental Conditions adopted by the Dutch Association of Manufacturers of and Dealers in Construction Machinery, Warehouse Fitting, Road Building Machinery and Means of Transport ("BMWt"), based in The Hague, deposited at the Chamber of Commerce under number 40407394 on 25 March 2020 (hereinafter BMWt Rental Conditions) also apply to the Rental Agreement with the Hirer. The above conditions are available (and can be downloaded) via Jungheinrich Nederland B.V.'s website using the link: [www.jungheinrich.nl/leveringsvoorwaarden](http://www.jungheinrich.nl/leveringsvoorwaarden). Upon first request we will send you a copy of these conditions.

2. In the event of any conflict or inconsistency between the conditions mentioned under 1., the Rental Conditions of Jungheinrich Nederland B.V. shall prevail at all times over the BMWt Rental Conditions.

3. If and insofar as there is a(n) (international) Framework Agreement between Jungheinrich and your company in which the rental of forklift and warehouse trucks is regulated, the provisions therein shall prevail over these 'Rental Conditions of Jungheinrich Nederland B.V.' and the 'BMWt Rental Conditions'.

4. These Rental Conditions of Jungheinrich Nederland B.V. will come into effect as per 01-01-2023.

## 1. (Rental)prices and rates

1.1 All (rental) prices and rates mentioned in quotes and/or agreements are exclusive of: VAT, transport and fuel costs and are based on an average use of up to 100 hours per month. In case of additional use a settlement will follow afterwards.

1.2 Small (daily) maintenance work during use are not included in the rental price. The Hirer must perform this maintenance work to make sure that the Rental Item stays in good and workable condition. In addition to what is included in article 8.1c BMWt Rental Conditions, small (daily) maintenance is also understood as checking the brakes, the controls, the wheels, the (contents and condition of) the battery and the cleaning of any reach tracks, wheels and other contaminated parts of the vehicle.

## 2. Acceptance of the rental contract

2.1 The Rental Agreement is concluded by acceptance of the Lender's offer by the Hirer. After acceptance, the Hirer will receive a Rental Agreement that the Hirer must return to the Lender as soon as possible, signed by an authorized person from Hirer's organization.

2.2 If a purchase reference and/or purchase order (PO) number needs to be included on invoices and/or other correspondence from the Lender to the Hirer, the Hirer must inform the Lender of this at the latest upon acceptance/signature of the rental contract, failing which the Hirer can no longer invoke the absence of purchase references and/or P.O. numbers on invoices and/or other correspondence.

2.3 In the event of an order, the Lender is obliged to assess the creditworthiness of the Hirer. The Lender reserves the right to make different payment arrangements with the Hirer or to reject the rental order in response of the outcome of the assessment of the creditworthiness.

## 3. Invoicing and payment

3.1 Invoicing will take place at the end of the month or immediately after the rental period.

3.2 Payment within 14 calendar days after invoice date.

3.3 If concluded, the Hirer must have paid the first installment before the Lender will make the Rental Item available to the Hirer.

## 4. Indexation

4.1 The Lender reserves the right to index the rental price as of January of each year during the period of the Rental Agreement. This indexation depends on the developments within the Collective Labour Agreement for Metal & Technology, wage adjustments, increased commodity prices and CBS indices.

4.2 The rental price will not be changed if an indexation of the rental price leads to a lower rental price than the last applicable price.

4.3 An indexed rental price is due and payable, even if no separate notification is made to the Hirer of the adjustment.

4.4 The Lender reserves the right to index the transport costs incurred when collecting the Rental Item if the costs for the transportation of the Rental Item are higher than the costs that the Lender took into account at the beginning of the Rental Agreement.

## 5. Insurance

5.1 Civil Liability Insurance (Motor Vehicles) Act (Wet Aansprakelijkheidsverzekering Motorrijtuigen) hereinafter: 'W.A.(M)'

a. The Rental Item is insured for W.A.(M.) by Lender.

b. The excess for the Hirer is € 1,250.00 per claim for material damage and € 2,500.00 per claim for bodily injury.

c. The W.A.(M) insurance taken out by the Lender complies with the requirements of the Civil Liability Insurance (Motor Vehicles) Act.

d. The maximum W.A.(M)-cover is equal to the statutory minimum insured amounts for motor vehicle liability.

e. The W.A.(M) cover does not include:

(i) damage to buildings and/or goods that the Hirer possesses or of which the Hirer is the owner, user, Hirer, owner-occupant or tenant;

(ii) damage to the driver of the Rental Item;

(iii) damage as a result of improper (Dutch: 'oneigenlijk') use of the Rental Item;

(iv) damage caused by a driver who is not in the possession of a valid operating certificate at the time of the damage-causing event.

f. Risks not covered by the W.A.(M)-insurance (including the policy excesses stated under article 5.1 paragraph b) shall be at the risk and expense of the Hirer.

g. The Hirer shall report all damages to the Lender within 24 hours and subsequently confirm those damages in writing by means of the thereto designated claim form. The Lender and/or insurer reserves the right to not deal with damage reported too late in accordance with the previous sentence.

h. Reclamations and relevant documents shall be submitted by the Hirer to the claims department of the insurance broker. Payments shall, with due regard for policy conditions and policy excess, be made to the Lender directly, unless otherwise determined by the insurer.

i. The Lender shall be entitled to pass on any insurance premium increase and other insurance costs regarding the Rental Item to the Hirer by way of the rental. In the event that the insurer in view of the claims experience or for whatever other reason alters the premium and/or policy excess and/or policy conditions, that/those alteration(s) shall equally be applicable to the rental contract as from the moment at which alteration is affected.

5.2 The Hirer is obliged to inform the Lender in writing beforehand if the Rental Item is going to be used: i) on the site of an airport or for work activities on or in the vicinity of aircraft and/or related objects; ii) for work activities involving (possible) exposure to asbestos or toxic substances. Upon return of the Rental Item the Hirer will provide a written declaration by a certified expert that the Rental Item is free from (any residue of) asbestos or toxic substances, in absence of which the Hirer will be held liable for all costs and damages involved with cleaning of the Rental Item.

## 5.3 All-Risk (Full Comprehensive) insurance

a. The Hirer is recommended to take out an All-Risk insurance against damages (Full Coverage insurance) for each Rental Item.

b. The Hirer indemnifies the Lender for any consequences of not taking out an All Risk insurance for the Rental Item.

c. The Hirer must report damage to the Rental Item in writing to the Lender within 24 hours.

5.4 In the event of damage to the Rental Item, the Lender is authorized to charge two (2) weeks additional rent, without prejudice to the Lender's right to claim full compensation from the Hirer in addition to the two weeks extra rent.

## 6. Delivery and Provision

6.1 The term specified in article 5.1 of the BMWt Rental Conditions amounts to five (5) working days, contrary to the term specified in the article.

6.2 The term specified in article 5.3 of the BMWt Rental Conditions amounts to five (5) working days, contrary to the term specified in the article.

## 7. Commissioning

Upon delivery of forklifts, Warehouse trucks and related equipment the Lender will provide brief user instructions. Assembly and disassembly of accessories provided by the Hirer and/or (RF)devices are not included, unless otherwise stated in the Lender's quote and/or the agreement. If necessary, these activities can be carried out on the basis of subsequent calculation at the applicable rates. Assembly materials to be supplied by Jungheinrich Nederland B.V. (such as mounting brackets, cabling, inverter) will be charged on the basis of purchase.

## 8. Use

Changing the connection of the rectifier(s) of the electric trucks to the mains supply must be carried out by a qualified person.

## 9. Aerial work platforms (AWP)

In the event of rental of aerial work platforms, the following provisions also apply, which in that case will prevail over the provisions of articles 1 to 7 and 9 of these terms and conditions:

9.1 The Hirer must ensure that only properly trained and experienced operators and technicians use, operate or carry out the daily maintenance of the Rental Item, and that the Rental Item is operated within the limits of safe operation in accordance with all applicable working conditions legislation and other applicable health and safety legislation.

9.2 The Hirer is obliged to inform the Lender immediately but no later than within 24 hours in writing if he discovers or could have discovered any defect or damage to the rented Rental Item.

9.3 The applicable excess of the W.A. (M) insurance is € 2,500.00 per claim.

9.4 Contrary to the notice period as referred to in Article 4 of these Rental Conditions, if no end date has been agreed for AWP's, the rent shall end after notification by the Lender, unless the Hirer has submitted a request for extension in good time and the Lender has agreed to it. Without such an agreement, the Hirer shall owe a daily fee equal to the fee for the agreed rental period up to and including the day on which the Lender has picked up the rented Rental Item.

9.5 All dates specified by the Lender for the delivery of the AWP's are indicative and non-binding. The Lender accepts no liability for damage and/or cost of any kind, in the event of a late delivery.

## 10. Load

The Lender accepts no liability for damage caused to the load. The Hirer is obliged to take out a load insurance.

## 11. Liability

The limitations of liability specified in article 13 of the BMWt Rental Conditions are not applicable in the event of intent (Dutch: 'opzet') or willful recklessness (Dutch: 'bewuste roekeloosheid') by the Lender's management or managerial subordinates belonging to the management;

## 12. End of Agreement

12.1 In all cases, a Rental Agreement with a term of less than six (6) months must be terminated with a notice period of at least one (1) working day and a Rental Agreement with a term of more than six (6) months must be terminated with a notice period of at least one (1) month.

12.2 If a Rental Agreement with a term of less than six (6) months is terminated earlier by the Hirer, the Lender is entitled to adjust the Rental Price with retroactive effect, as a higher price applies to rental agreements with a shorter term. This price increase becomes payable at the end of the Rental Agreement and can be charged by the Lender to the Hirer on one invoice at the end of the Rental Agreement. If the Rental Agreement runs longer than the agreed term, there will be no price adjustments.

12.3 At the end of the Rental Agreement, the Hirer will have the obligation to make sure that exactly the same Rental Item with the serial number that corresponds to the Rental Item with the serial number the Hirer has received upon commencement of the agreement, will be returned to the Lender at the end of the Rental Agreement of the relevant Rental Item.

12.4 The Hirer will contact the Lender to make an appointment to collect the Rental Item at the location of the Hirer unless the Hirer will return the Rental Item himself to a location designated by the Lender. Transport costs for the return of the Rental Item are at the expense of the Hirer.

## Jungheinrich Nederland BV

H.A. Lorentzweg 3 · 2408 AS Alphen aan den Rijn · PO Box 231 · 2400 AE Alphen aan den Rijn (NL) · Phone+31 (0)172 44 67 89 ·

Fax 0172 43 85 74 · [info@jungheinrich.nl](mailto:info@jungheinrich.nl) · [www.jungheinrich.nl](http://www.jungheinrich.nl)

ABN AMRO · IBAN NL59 ABNA 0233 9569 99 · BIC ABNANL2A · VAT NL003439975B01 · CoC 28028730