

General terms and conditions

1. General / Conclusion of contract:

- 1.1 Quotations are always subject to change; changes in price and interim leasing are reserved. Price quotations exclude statutory VAT.
- 1.2 Without separate written agreement, the lessee is not entitled to claim that a specific piece of equipment is made available to him. The designation of a specific piece of equipment in the contract confirmation is not an agreement in the aforementioned sense, but only a note for internal purposes.
- 1.3 The lessee is obligated to disclose the location of the rental object.
- 1.4 Without prior written agreement from GERKEN, the lessee is not entitled to cede the rental object to third parties.

2. Rental time / Deposit / Delay / Delivery / Return / Liability:

- 2.1 Delivery times are non-binding as a matter of principle. Fixed dates must be expressly agreed separately in writing.
- 2.2 Should GERKEN be late with the delivery of the rental object and there is no fixed date in accordance with 2.1., then GERKEN is only liable, in the case of minor negligence, for the contractually typical, reasonably foreseeable damage; the amount of which is limited to three times the value of the agreed daily rent for each day of delay. Should GERKEN still not fulfil its contractual obligation despite an extension period, then the lessee can withdraw from the contract. The withdrawal does not exclude termination by GERKEN.
- 2.3 The rent is calculated on the basis of a maximum of 8 hours per day in a 5 day week (Monday – Friday). Should the rental object be used over and above and/or on Saturday, Sunday as well as on public holidays in effect at the site of use, then the subsequent billing of this time is reserved.
- 2.4 Agreements on a different period of use require written confirmation from GERKEN.
- 2.5 Should the rental object not be accepted by the lessee, then this applies as termination of the contract if no fixed rental time is agreed upon, but only an expected rental duration. The lessee is obligated to pay the agreed rent plus additional costs and VAT up until the expiration of the period of notice (Clause 2.9), but at least for one day. GERKEN is entitled, but not obligated, to keep the rental property elsewhere. Rental fees obtained in this way are credited in favour of the lessee against his liabilities.
- 2.6 At the same time as the delivery of the rental object, a handover certificate is also filled out and signed by both parties. The condition of the rental object at the moment of handover is binding for both parties. The lessee bears the burden of proof for the presence of non documented, visible and/or detectable damages or defects upon delivery.
- 2.7 Should defects arise after delivery of the rental object, these must be reported immediately in writing. In the event of technical defects the piece of equipment is to be decommissioned immediately.
- 2.8 Termination before beginning of the rental relationship is excluded if there is no major reason which is the fault of the contractual party against the termination. Should no fixed rental time be agreed, then the period of cancellation is: 1 day if the rent is measured in days; 2 days if the rent is measured in weeks, and 1 week if the rent is measured in months.
- 2.9 The lessee is obligated to return the rental object to the lessor, at the place of provision, by 17:00 at the latest and in a clean condition. Agreements to the contrary must be undertaken in writing.
- 2.10 Upon return of the object, a return certificate is completed and signed by both parties. On this certificate the following is stated: the time of return and the condition of the rental object and in particular, any damages determined upon return are to be documented for purposes of evidence. The lessee bears the burden of proof for the incorrectness of the return certificate.
- 2.11 In the event of delayed return, the lessee is obligated to pay an indemnity to the amount of the agreed rental fee for each day which has been started plus additional costs and VAT. Should there be a delay with the return, then he must furthermore pay a contractual penalty to the amount of 80 % of the agreed rental fee plus any additional costs. § 546 of the BGB (German Civil Code) applies.
- 2.12 If the rental object is returned for a reason, for which GERKEN is not responsible, before the agreed end of the rental contact, then the lessee is obligated to pay the agreed rent plus additional costs and VAT up to the end of the contract. Clauses 2.5., Numbers 3 and 4 apply for this.

3. Operating personnel / Liability of the lessee:

- 3.1 The persons intended for the operating of the rental object must be of at least 18 years old and – in so far as necessary for the operating of the rental object – in possession of a valid driver's license which is to be presented upon request.
- 3.2 Upon delivery of the operating instructions, maintenance and safety notices must also be handed over to the lessee. The German Accident Prevention Provisions are available on the business premises for inspection. The lessee must only commission the rental object under consideration of the maintenance and safety notices.
- 3.3 If the rental object is leased out by operating personnel, the operating obliges only this personnel, who must not be called upon for other work.
- 3.4 GERKEN only takes liability for damages caused by operating personnel – with the exception of statutory liability cases – if the operating personnel have not been selected appropriately. In general, the lessee takes liability.

4. Guarantee / Liability / Limitations to liability / Obligations:

- 4.1 If the lessee has reported an equipment defect immediately, GERKEN will remove the defect at its own discretion or make an equivalent replacement piece of equipment available. In the event of defects which fundamentally impair the usability of the rental object, the lessee is exempted from his rental payment obligations for the duration of the repair. Furthermore, GERKEN takes no responsibility for damages which occur to the lessee as a result of a defect which is not initially the fault of the lessor, insofar as further liability is not determined under Clause 4.2/4.3.
- 4.2 In the event of culpable breach of fundamental contractual obligations, GERKEN takes only responsibility – with the exception of bodily injury, in the event of intent or gross negligence from the managing director or executive – for contractually typical, reasonably foreseeable damages. In general, the lessee can only demand compensation if the damages are due to wilful intent or gross negligence by the GERKEN managing director or executive.
- 4.3 The aforementioned regulations do not apply in cases in which, in accordance with the German product liability law, liability is taken for persons or property damage to privately used objects in the event of defects of the rental object. They are also not valid for defects of features which are explicitly insured, if aim of the insurance is to protect the lessee from consequential damages.
- 4.4 In accordance with the legal provisions, third-party insurance exists for vehicles/equipment permitted to travel on the road. Damage to the leased platform is not covered by the insurance. Third-party insurance does not exist for vehicles/equipment not permitted to travel on the road.
- 4.5 The lessee has the possibility to limit his liability towards GERKEN for damages to the rental object. Specific conditions for this apply.
- 4.6 Should the lessee not return the rental object in a condition in accordance with the contract (e.g. not cleaned, with residues of colour or concrete or damaged), then the lessee must bear the costs for cleaning and/or repair. For the duration of the repair and/or cleaning work, the lessee must pay a fixed indemnity to the amount of 120 % of the time-proportionate rental price paid by him. The lessee reserves the right to prove of lack of damage or of minor damage.
- 4.7 The lessee is not entitled, to have repair work carried out on the rental object himself or by third parties.
- 4.8 The police are to be rung in the event of an accident or loss of the rental object. GERKEN is to be informed immediately of each case of damage.

5. Conditions of payment / GERKEN's Right to recall:

- 5.1 The agreed rental fee plus additional costs and VAT is to be paid in advance and is due immediately after billing. Should the billing only take place after return of the rental object, then the rent is deferred up until then.
- 5.2 GERKEN is entitled to issue interim bills.
- 5.3 If the lessee is a week in arrears with the payment of a bill which is due, GERKEN may terminate the rental agreement without prior notice of termination and collect the rental object with one day's notice, without legal assistance and at the cost of the lessee and use the rental object elsewhere. The lessee has to make access to the rental object and its removal possible.
- 5.4 The aforementioned regulation is applicable correspondingly after conclusion of the contract if the lessee does not fulfil his obligation to return the rental object.

6. Offset and assignment ban:

6.1 The lessee cannot offset claims against the rental claims or other claims from GERKEN, with the exception of claims which are legally binding or indisputable, neither can he assert a right to retention.

6.2 The assignment of claims from this contract by the lessee to third parties is excluded.

7. Place of jurisdiction / applicable law:

7.1 For all disputes arising from the contractual relationship – also for bills or cheques receivable – the suit is to be filed at the Düsseldorf Amtsgericht or Landgericht (Düsseldorf local or regional court), if the lessee is a business man, a legal entity under public law or a public law special fund. GERKEN is however also entitled to file a suit at the registered office of the lessee.

7.2 Only the law of the Federal Republic of Germany is applicable in this contract.

Conditions for exemption from Liability Gerken GmbH

In consideration of 4.5 of the General Terms and Conditions of Business, the lessee and authorised drivers are exempted by GERKEN from the following risks. This includes damage to the work platform due to:

- Operating error.
- Accidents: that is, an incident that involves a direct, sudden, external mechanical force and wilful and malicious activities by external persons. This includes pure brake and operating damage and breakages.
- Direct effects on the working platform due to storms, hail, lightning or flooding. A storm is considered as an air movement due to weather of wind strength of at least force 8. Included are damages which are caused when these forces of nature launch objects onto or against the work platform.
- A collision of the working platform when it is moving with game animals in the sense of §2 Paragraph 1 No. 1 of the Bundesjagdgesetzes (German Federal Hunting Law).

Breakages to the glazing of the work platform and damages to the cabling due to a short circuit are included. Damage/deterioration of tyres is only included if it occurs due to an incident that has also caused other damages to the work platform which are covered by the insurance protection. Damages which occur due to:

- action of the driver caused by the above mentioned forces of nature are not included in the liability exemption.

The exemption from liability does not include damages which arise from intentional behaviour. In the event of grossly negligent behaviour by the lessee/driver, GERKEN is entitled to reduce the exemption from liability in an amount corresponding to the severity of the fault. Grossly negligent can be understood, in particular, as the following:

- if the maximum clearance height of bridges, underpasses, tunnels or similar is not respected,
- if the work platform is not moved with the outriggers fully lowered and stored,
- if the work platform is commissioned on a surface which does not have a sufficient load bearing capacity,
- if the work platform is used contrary to provisions, e.g. for load lifting, or if the maximum lifting capacity is exceeded,
- if the work platform is not operated by instructed personnel,
- if the work platform has been run or operated by a person who is not in a fit state to do so due to intoxicants (alcohol, drugs or medication).

Soiling of the platform with colour, colour spray or other residual substances such as concrete, as well as damage due to welding work or similar are not included in the exemption to liability. The lessee must provide an appropriate covering for the work platform, if necessary.

The lessee must inform GERKEN immediately in case of damage and provide all necessary information about the course of events of this case of damage. In the event of an accident, the police are also to be called in. In the event of a violation of these obligations, exemption from liability may be lost.

The excess per case of damage amounts to between 1,000.00 and 4,000.00 Euro by agreement.

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