

# GENERAL TERMS FOR LEASING WITH OPERATOR

## RECITAL CLAUSES

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1. These general terms shall apply to all contracts for the leasing of lifting equipment with an operator concluded between the LESSOR and the LESSEE, who acknowledges and accepts the aforesaid terms unreservedly.
2. The parties agree that any other document issued by the LESSEE, namely its general terms of sale, shall never be binding upon the LESSOR.
3. The LESSOR shall reserve the right to supplement these general leasing terms with specific terms which shall prevail in the event of any contradiction.
4. Where the LESSEE is not the user of the leased equipment, it undertakes to have these general terms for leasing signed by the user of the equipment. The LESSEE and the user shall be jointly liable for execution of these terms and specifically for payment of invoices.

## ARTICLE 1 – TYPE OF CONTRACT

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Any order placed by the LESSEE shall constitute a leasing contract for material items within the meaning of articles 1709 and 1713 and following of the [French] Civil Code.

## ARTICLE 2 – ORDER

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- 2.1. Prior to the order, the LESSEE shall be required to pass on the characteristics and minimum performance of the desired equipment and the maximum working configurations to which it shall be subjected.
- 2.2. The LESSEE shall be required to submit a written order for the chosen equipment (by mail, fax, email, etc.) to the LESSOR. The absence of any written order shall release the LESSOR from any and all liability regarding late or inadequate provision of equipment.
- 2.3. Notwithstanding cases of *force majeure* and any stipulations set out in specific terms, no postponement (or stand-by) or cancellation of an order shall be authorised without the written agreement of the LESSOR. Failing this, a penalty equal to at least half of the arranged price shall be payable, and all costs incurred must under all circumstances be reimbursed.
- 2.4. In the event of proven harm resulting from delay in the execution of an order attributable solely to the LESSOR, the LESSEE may apply penalties of a compensatory nature in the amount of 0.1% of the ex-VAT value of the order per calendar day of delay with an upper limit set at 5% of the ex-VAT value of the order.

## ARTICLE 3 – PROVISION OF EQUIPMENT

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- 3.1. The equipment provided to the LESSEE and received by the same shall be deemed to be in good working order, well-presented and well-maintained, and to possess the characteristics required by the LESSEE. The LESSOR undertakes to provide periodic inspection reports upon request by the LESSEE.
- 3.2. The equipment shall be provided to the LESSEE at the premises of the LESSOR, or in any other place specified on the order. Provision shall end upon return of the equipment to the

premises of the LESSOR or to any other place specified on the order.

3.3. The LESSOR shall not be held liable for any delays in the provision of equipment due to any causes beyond its control namely bad weather, changes to regulations, transportation delays or delays in the return of previous leased equipment, *force majeure*, industrial action, and any of their repercussions on the LESSOR and/or any third parties, and shall not therefore be liable for payment of any compensation in this regard.

3.4. The LESSEE shall be under an obligation to sign-off on delivery of the equipment with which it is provided. In the absence of any signature or specification of any reservations, the equipment shall be deemed to have been delivered in perfect condition, particularly as regards its operation.

## ARTICLE 4 – USE OF THE EQUIPMENT

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4.1. The LESSEE undertakes to use the equipment as would a "reasonable person" in accordance with its designated use and with current regulations and to return the same at the end of the lease in the condition in which it was received when provided, notwithstanding normal wear and tear associated with its use. The LESSEE undertakes to comply with the usage for which the equipment was leased to it and not to overwork it beyond its capabilities.

4.2. The LESSOR shall undertake everyday upkeep of the equipment: inspection of oil, water and other fluid levels, fuel, recharging of batteries, checking of tyre pressure, etc.

The LESSEE shall not be authorised to make any changes, customisations or alterations to the equipment leased.

4.3. The LESSEE shall not sub-lease or lend the equipment leased without the express, written consent of the LESSOR.

4.4. The LESSEE shall be solely liable for the usage and setting in place of its accessories and equipment (such as slings, hooks, pulleys, straps, winches, etc.), and for the setting in place and use of any equipment and/or accessories provided by the LESSOR.

4.5. The LESSEE undertakes to comply with current regulations regarding health and safety associated with the lease. Specifically, the LESSEE shall be obliged to incorporate prevention measures specific to the equipment in the Prevention Plan (PP) or the Specific Safety and Health Protection Plan (SSHPP).

4.6. The mere fact that a representative of the LESSOR has made an on-site visit to assist the LESSEE in order to determine which equipment is best suited to future working conditions shall not engage the liability of the LESSOR, and the LESSEE shall remain solely liable in respect thereof.

4.7. The LESSEE shall be solely liable for determining the location at which it shall operate the leased equipment, and also for routes across the site in order to reach the point of operation and then return therefrom. The LESSEE shall in particular conduct a prior inspection of the soil and sub-soil (pressure, state, resistance, composition, etc.) for which it shall remain solely liable.

4.8. Prior to using the equipment, the LESSEE shall take the necessary steps to ensure that usage is totally safe in the area of installation and operation of the equipment and specifically shall disconnect all power cables and signal all conduits and potentially hazardous elements.

4.9. The LESSEE shall ensure that a head of manoeuvres is constantly present, from the arrival of the equipment until its departure.

4.10. The LESSEE shall take all requisite measures to ensure that environmental regulations are complied with.

4.11. The LESSEE shall not use the leased equipment to lift persons, which is not a designated use of the equipment.

## **ARTICLE 5 – EQUIPMENT REPAIR**

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In the event of breakdown, malfunction or deterioration of the equipment, the LESSEE undertakes to turn it off immediately and to inform the LESSOR without delay, or otherwise shall risk invalidating any guarantee and/or insurance cover.

Repairs may only be carried out by the LESSOR or by a person expressly designated by the same. The contract shall be suspended during repair in respect of leasing costs but shall remain in effect for all other obligations.

## **ARTICLE 6 – LEASING PRICING**

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Leasing pricing shall include: equipment, fuel, lubricant, normal maintenance of the equipment, potential operating personnel and additional associated costs such as administrative or insurance costs.

They shall not include any other additional costs whatsoever (particularly, tolls, site visits, permission applications, signage costs, etc.) in respect of which the LESSEE shall remain liable.

## **ARTICLE 7 – PAYMENT - SETTLEMENT**

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7.1. The deadline for payment shall be 30 days from the date of issuance of the invoice (L.441-6 of the [French] Commercial Code).

7.2. In the event of non-compliance with this payment deadline, the LESSEE shall automatically be required to pay late payment interest at the legal rate of interest applied by the European Central Bank for its most recent refinancing operation plus 10 percentage points and a penalty charge of Eur 40 for recovery costs. Moreover, the LESSOR shall reserve the right to suspend any new leasing until full payment of the outstanding receivable has been made.

7.3. Non-payment of an invoice when it falls due shall render all other not yet outstanding amounts payable immediately.

## **ARTICLE 8 – DOWNTIME**

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8.1. During the course of the lease, should the equipment be damaged for whatever reason such that repair is required, the lease shall be prolonged for the duration of the equipment downtime until it has been fully repaired. In this case, the downtime compensation payable to the LESSOR by the LESSEE shall be calculated based on the lease price agreed minus thirty percent.

8.2. Where it is not possible for the LESSEE to use the equipment leased for climatic reasons duly recognised by an official or professional body, the LESSEE shall be eligible, from the second day of downtime, to a reduction of thirty percent on

the lease price on a prorated basis for the period during equipment downtime due to bad weather.

## **ARTICLE 9 – LIABILITY**

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### **9.1. Liability of the LESSEE**

9.1.1. Upon provision of the equipment and/or its accessories, material and legal custody over the same shall be transferred to the LESSEE who shall bear all risk in respect thereof.

9.1.2. For the full duration of the lease, the LESSEE shall be deemed to be liable for all physical injury, material and consequential harm both in respect of the LESSOR and of third parties.

9.1.3. It is expressly agreed that the driving personnel made available to the LESSEE with the equipment leased shall be placed under the effective authority of the LESSEE, who shall have full control over operations and to whom the relationship of subordination shall be transferred. The latter shall acquire, upon provision of the equipment, the capacity of principal over the driving personnel.

### **9.2. Liability of the LESSOR**

9.2.1. The liability of the LESSOR may only be engaged for harm resulting from a hidden defect in the material leased. Execution by the driving personnel of instructions or of a task assigned by the LESSEE or its employee shall not under any circumstances engage the liability of the LESSOR.

9.2.2. The liability of the LESSOR may only be legitimately engaged provided that the harm and the originating causes thereof are stated on the work order or lease order and confirmed by recorded delivery mail within 48 hours following the harm occasioned.

9.2.3. By express agreement, the liability of the LESSOR for any and all causes, shall be limited to the material harm occasioned, up to the limit of the contract value, which may not exceed Eur 150,000 (One hundred and fifty thousand Euros). Satisfaction for harm shall consequently be limited to these amounts, and the LESSEE and its insurers shall waive any claims against the LESSOR and its insurers beyond these upper limits and conditions.

9.2.4. The LESSOR and its insurers shall not under any circumstances be held liable for any consequential harm, namely operating losses incurred by the LESSEE.

## **ARTICLE 10 – INSURANCE**

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10.1. The LESSEE acknowledges that it has taken out, at its own expense from one or more Companies known to be solvent, insurance policies providing cover for any civil liability that it may incur as a result of its professional activities and usage of the leased equipment, specifically covering the assets being handled and the equipment leased at its replacement value.

10.2. Prior to provision of any equipment, the LESSEE undertakes to certify to the LESSOR that it has taken out the policies cited in article 10.1. and that it has paid the premiums.

## **ARTICLE 11 – RESCISSION OF CONTRACT**

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11.1. The LESSOR shall reserve the right to rescind the lease without notice in the event of usage of the equipment that does not comply with the order or that contravenes safety regulations or in the case of non-compliance the obligation of the LESSEE to meet its insurance obligations.

11.2. In the event of failure by the LESSEE to meet its obligations in respect of the lease, namely non-payment of an instalment of the lease, the LESSOR shall furthermore be entitled to rescind the lease eight calendar days after sending a recorded delivery formal notice to remedy the situation that is not complied with.

11.3. The lease shall be rescinded automatically in the event of cessation of activity of the LESSOR for whatever reason.

11.4. In the event of rescission of the lease for whatever reason, the LESSEE shall make arrangements for the immediate return of the equipment to the LESSOR together with its accessories and technical documentation and to pay seventy percent of the agreed price of the lease.

## **ARTICLE 12 – RETURN OF EQUIPMENT**

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12.1. Upon expiry of the agreed term of the lease, the LESSEE shall make arrangements to enable return of the equipment to the LESSOR at the end of the leasing period in the condition in which it was provided together with its accessories, technical documentation and a certificate of compliance. Failing this, services to return equipment to condition and replace technical documentation shall be invoiced to the LESSEE upon return.

12.2. Any delay in return shall give rise to payment of a penalty at least equal to the previously fixed lease amount or to the amount that may have been set down in the specific terms for leasing.

## **ARTICLE 13 – LIMITATION**

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**Actions in respect of the contractual liability of the LESSEE against the LESSOR and vice versa, with the exception of recovery actions for outstanding amounts, shall be limited to one year from the day on which the event giving rise to the action occurred.**

## **ARTICLE 14 – APPLICABLE LAW - DISPUTES**

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14.1. All lease contracts shall be governed by French law.

14.2. In the event of any dispute or challenge pertaining to these general terms or to the lease contract and in the absence of an amicable settlement which the parties shall make every effort to reach first, the Commercial Court having jurisdiction over the head office of the LESSOR shall be solely competent, even in the event of proceedings involving third parties or multiple defendants.