

General Terms and Conditions of Hire

- 1. Application and scope**
- 1.1. The hire of equipment offered by Humbert Baulegistik GmbH is subject exclusively to the individually negotiated contractual agreements as well as these General Terms and Conditions of Hire. By concluding the first contract under the following terms and conditions, the Hirer recognizes the validity of those terms and conditions for the entire duration of the business relationship between the parties. This applies in particular to all follow-up transactions, including those concluded orally or over the telephone.
- 1.2. The Owner shall not be bound by any of the Hirer's own conditions unless the Owner expressly agrees to them.
- 1.3. Any supplements, deviations or other ancillary agreements shall be recorded in writing.
- 1.4. Pursuant to Section 310(1) of the German Civil Code (BGB), these General Terms and Conditions of Hire shall apply to companies, legal entities under public law or special funds under public law.
- 1.5. Unless otherwise agreed, all offers made by the Owner are subject to change.
- 1.6. If the Owner is also to provide assembly services for the Hirer under the hire contract, the General Terms and Conditions of Assembly shall apply to those services.
- 2. Start of the hire period**
- 2.1. The hire period shall commence upon handover of the hire equipment to the Hirer or at the agreed handover time at the Owner's premises if the Hirer carries out the transport itself.
- 2.2. If a group of devices (e.g. a cable ramp) is hired, the functional readiness of the entire unit shall only be deemed to be the start of the hire period if the Owner is contracted with its assembly. If the Hirer orders accessories or elements that are not functional on their own but have been ordered to supplement other units, the start of the hire period shall be deemed to be the agreement in accordance with Item 2.1, regardless of their independent functionality.
- 2.3. If the Owner is in default with the handover of the hire equipment, the Hirer can demand compensation if it can be proven that it has incurred a loss. In the event of slight negligence on the part of the Owner, the compensation shall be limited to a maximum of the daily net hire charge for each working day. After setting an appropriate deadline, the Hirer can withdraw from the contract if the Owner is still behind schedule at that point in time.
- 3. Handover of the hire equipment, notification of defects and liability of the Owner**
- 3.1. The Owner shall deliver the hire equipment in a ready-to-operate condition with the necessary documents for shipment or have it ready for collection. The Hirer must ensure that the hire equipment is loaded and unloaded promptly and properly on the construction site. The Hirer is free to inspect the hire equipment in consultation with the Owner and to report any defects before accepting the handover. The handover shall be documented (e.g. by means of a delivery note).
- 3.2. Complaints about obvious defects shall no longer be accepted if the Owner does not receive a written notification of defects within two working days of the transfer of risk of the hire equipment.
- 3.3. The Owner shall remedy any defects that are notified in good time. Instead, the Owner may authorize the Hirer, with the Hirer's consent, to have the necessary repairs carried out in the Hirer's own name or to carry them out itself. In this case, the Owner shall bear the necessary costs.
- 3.4. Claims for damages against the Owner, in particular compensation for damages that have not occurred to the hire equipment itself, can only be asserted by the Hirer in the event of
 - intent,
 - gross negligence on the part of the Owner/the agents or executive employees of the Owner,
 - culpable injury to life, body, health,
 - defects that were fraudulently concealed by the Owner or whose absence the Owner has guaranteed, insofar as liability exists under the Product Liability Act (ProdHaftG) for personal injury or property damage to privately used items.In the event of culpable violation of essential contractual obligations, the Owner shall also be liable for gross negligence of non-executive employees and for slight negligence, in the latter case limited to reasonably foreseeable damage typical for the contract. Otherwise, liability is excluded.
- 3.5. The Hirer undertakes to use only professionally trained personnel who fulfill any existing legal requirements for the use of the hire equipment. It is the responsibility of the Hirer to ensure that its specialist staff are familiar with the hire equipment and that it is handled in compliance with all safety precautions. If the Hirer and its specialist staff are not familiar with the hire equipment, the Hirer's staff can be instructed at the Owner's premises.
- 3.6. The Hirer shall be liable for any damage to the hire equipment, other items or persons that can be attributed to culpable behavior on the part of the Hirer or its vicarious agents.
- 3.7. If the hire equipment is hired together with operating personnel, the operating personnel may only be deployed to operate the hire equipment and not for other work. The Owner shall only be liable for damage caused by the operating personnel if it has not selected the operating personnel properly. Otherwise, the Hirer shall be liable.
- 4. Hire invoice and hire payment**
- 4.1. The agreed hire fee assumes eight hours of use of the hire equipment per working day. In the case of weekly use, it assumes five or – depending on the agreement – seven working days and in the case of monthly use it is based on the number of days in the corresponding month and the agreed number of days of use per week (five or seven). The Owner must be notified of any use beyond this normal duration of use. An additional hire fee shall be payable for such use, the amount of which shall be 100% of the agreed hire payment for normal use of the hire equipment, unless the parties to the contract have agreed otherwise.
- 4.2. Subject to Item 4, the hire fee shall also be payable if the normal shift or usage time is not fully utilized or if five or seven working days a week or the number of days in the respective month are not reached.
- 4.3. Unless otherwise agreed, the hire fee shall be payable, without any deduction, upon presentation of a corresponding invoice within 14 days of the invoice date.
- 4.4. The Hirer shall only have a right of retention or a right of set-off with counterclaims of the Hirer that are undisputed by the Owner or have been upheld in a court of law.
- 4.5. If the Hirer reduces the invoice amount or pays a reduced invoice amount (excluding the deduction of a discount) without having reached a written agreement with the Owner in advance, the Owner reserves the right to charge a flat-rate processing fee of up to 10% of the original net invoice amount to clarify the matter.
- 4.6. All prices are net plus the statutory value added tax applicable on the day of invoicing.
- 5. Stop-work clause**
- 5.1. If work on the site for which the hire equipment has been hired is suspended for at least six consecutive days due to circumstances for which neither the Hirer nor the Hirer's client is responsible (e.g. frost, flooding, strikes, civil unrest, war, official orders), this period shall be deemed to be a stop-work period from the seventh day onwards.
- 5.2. At the request of the Hirer, a reduction in the hire fee can be agreed for the stop-work period.
- 5.3. The Hirer shall notify the Owner in writing without delay both when work is suspended and before it is resumed, and shall provide evidence of the stop-work period in the form of documents if requested.
- 6. Additional costs**
- In particular, the agreed monthly hire fee does not include any costs for loading and unloading, assembly, dismantling and transport for delivery and return, as well as operating and energy costs, provision of operating materials, official permits and personnel.
- 7. The Hirer's maintenance obligation**
- 7.1. The Hirer is obliged, at its own expense, to:
 - protect the hire equipment from overuse in any way, observing the statutory provisions;
 - carry out the proper and professional maintenance and care of the hire equipment in accordance with the manufacturer's operating and maintenance instructions.
- 7.2. The Hirer shall have the necessary repair work carried out by the Owner, unless the Owner expressly agrees to a different method of remedying the damage.
- 7.3. The Owner is entitled to inspect the hire equipment at any time and, after prior consultation with the Hirer, to examine it itself or have it examined by an authorized agent. The Hirer is obliged to facilitate the inspection for the Owner in every way within normal working hours. The costs of the inspection shall be borne by the Owner.
- 8. End of the hire period**
- 8.1. Unless otherwise agreed, the return delivery must be made no later than on the last day of the scheduled hire period; otherwise the hire period shall end on the day on which the hire equipment, together with all parts necessary for its operation, arrives at the Owner's premises or at another agreed destination, in proper and contractually compliant condition, or is handed over to the Owner there, but no earlier than upon expiry of the agreed hire period.
- 8.2. If the Owner is to carry out the removal of a piece of hire equipment, the Hirer shall notify the Owner of the intended return in writing in advance within a reasonable period of time.
- 9. Return of the hire equipment**
- 9.1. The return delivery shall be made by the Hirer to the place of dispatch where the equipment was originally delivered/collected, unless otherwise agreed.
- 9.2. If the Owner wishes the return delivery to be made to a different location, it shall notify the Hirer of this in good time.
- 9.3. The Hirer shall return the hire equipment in a complete, undamaged, operational, fueled and cleaned condition or have this carried out by the Owner in return for reimbursement of costs.
- 9.4. In any case, the Hirer shall return the hire equipment that was provided to it for use under the contract. The burden of proof that the returned equipment is the hire equipment and not the Hirer's own property or that of a third party lies with the Hirer.
- 10. Violation of the maintenance obligation**
- 10.1. If the hire equipment is returned in a condition that indicates that the Hirer has not fulfilled its maintenance obligation as specified in Item 7, the Hirer shall be liable to pay compensation for the period of time necessary for the Owner to carry out the necessary repair work. This shall be at least equal to the originally agreed hire fee less expenses saved. The Hirer is entitled to prove that the Owner has incurred less damage.
- 10.2. The costs of remedying the defects and damage for which the Hirer is responsible and which were not caused by wear and tear or normal use shall be borne by the Hirer. The Hirer shall bear the burden of proof for the existence of defects and damage already present at the time of handover to the Hirer at the beginning of the hire period.
- 10.3. The Hirer has the right to demand the involvement of an independent expert. The costs of the expert opinion shall be covered by the Hirer.
- 11. Further obligations of the Hirer**
- 11.1. The Hirer must take all appropriate and necessary measures to secure the hire equipment.
- 11.2. The Hirer may not transfer the hire equipment to a third party, nor may the Hirer transfer rights arising from this contract or grant rights of any kind to the hire equipment.
- 11.3. Should a third party assert rights to the hire equipment by means of confiscation, attachment or similar, the Hirer is obliged to notify the Owner immediately and to inform the third party of this by registered letter.
- 11.4. The Hirer shall inform the Owner of any accident immediately and await instructions. The police shall be called in the event of a traffic accident or theft. No acknowledgement of opposing claims shall be made.
- 11.5. Should the Hirer be culpable of violating the above provisions of Item 11, the Hirer shall be obliged to compensate the Owner for all resulting damages.
- 12. Insurance**
- 12.1. The hire equipment is generally not insured; motor vehicles are only covered by liability insurance.
- 12.2. When renting out construction machinery and equipment, the Owner reserves the right to charge the Hirer an additional machine breakdown insurance policy amounting to 10% of the agreed hire fee. The Hirer has the option of proving that they themselves have a corresponding insurance policy that covers any damage to hire equipment to the same extent as the Owner's insurance. In this case, the Owner may refrain from charging its machine breakdown insurance.
- 12.3. The Hirer is obliged to notify its public liability insurer of the use of the hire equipment and to obtain confirmation that third-party liability claims for damages related to the use of the hire equipment are also covered by the insurance in the event that the third-party claims are directed against the Owner. Upon request, the Hirer shall provide the Owner with written confirmation from its public liability insurer.
- 12.4. The Hirer shall report all damage caused to the hire equipment to the Owner and, where necessary, to its insurer.
- 13. Termination of the hire contract**
- 13.1. The hire contract concluded for a specific hire period cannot be terminated by either party. The right to terminate the contract without notice for good cause remains unaffected.
- 13.2. If the Hirer does not accept the hire equipment at the agreed time of handover, this shall be deemed to be a termination of the hire contract. The Hirer is obliged to pay the pro-rata hire fee for one day, including additional costs.
- 13.3. In particular, the Owner is entitled to terminate the hire contract without notice if:
 - the Hirer uses the hire equipment or a part of it for a purpose other than the intended purpose without the Owner's consent, or
 - the Hirer uses the hire equipment other than for the construction project (place of use) specified in the hire contract in accordance with Item 11.5, or
 - insolvency proceedings have been instituted against the Hirer's assets, or
 - the Hirer is more than 14 calendar days in arrears with the payment of the hire fee.
- 13.4. The Hirer may terminate the contract without notice if the use of the hire equipment is not possible for more than five consecutive working days for reasons for which the Owner is responsible.
- 13.5. Should the Hirer terminate the hire contract prematurely, the minimum notice periods as per Item 8.2 must be observed. Further provisions shall be mutually agreed between the Hirer and the Owner.
- 14. Loss of the hire equipment**
- If the Hirer is unable to comply with its obligation to return the hire equipment in accordance with Items 9.3 and 9.4, it shall be liable for damages.
- 15. Security interests**
- The Hirer shall assign to the Owner, as security or fulfillment, all current and future claims arising from the contracts for work and services with its clients with regard to all construction sites on which the hire equipment has been used. The Owner hereby accepts the declarations of assignment from the Hirer. At the request of the Owner, the Hirer shall provide evidence of these claims individually and notify its clients of the assignment that has taken place, with the request to only pay the Owner up to the amount of the outstanding claims. The Owner is entitled to also notify the clients of the assignment itself and collect the claim at any time. The Owner will not, however, make use of these powers and will not collect the claims as long as the Hirer meets its payment obligations. In the event that the Hirer collects claims that have been assigned to the Owner, the Hirer hereby assigns to the Owner its respective residual claim in the amount of this claim. The right to surrender the collected amounts remains unaffected. The Hirer may not assign or pledge its claims against the respective client to third parties without the consent of the Owner, nor may it agree a prohibition of assignment with its client. The Hirer shall notify the Owner immediately of any attachment or any other impairment of the Owner's rights by third parties. The Hirer shall hand over to the Owner all documents necessary for an intervention and bear the intervention costs incurred by the Owner.
- 16. Place of jurisdiction**
- If the Hirer is a merchant, a legal entity under public law or a special fund under public law, the place of performance and exclusive place of jurisdiction, also for lawsuits concerning documents and bills of exchange, for all current and future claims arising from the business relationship shall be, at the Owner's discretion, the Owner's head office in Dorsten.
- 17. Other provisions**
- German law shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods. Should any individual provisions of these terms and conditions be invalid, the remaining provisions shall remain unaffected.