



**Riwal Poland Sp. z o.o.**  
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GENERAL TERMS AND CONDITIONS OF INTERNATIONAL RENTAL OF RIWAL POLAND Sp. z o.o. Version of 05.2020

## 1. DEFINITIONS

1.1. In these General Terms and Conditions, capitalized terms have the following meanings:

- a. Agreement: any agreement under which and/or orders under which the Renter rents Equipment to the Rentee.
- b. Dispute: any dispute arising in connection with these General Terms or any Agreement or subsequent agreements arising therefrom, including disputes regarding the existence, validity and/or termination.
- c. Equipment: any aerial platforms, power generators, car lifts, scaffolding, containers, spare parts and all other products of the Renter.
- d. The EU Motor Insurance Directive: Directive 2009/103/EC of the European Parliament and of the Council of 16<sup>th</sup> of September 2009 on third-party liability insurance for damage caused by the use of motor vehicles and the enforcement of the obligation to insure against such liability.
- e. General conditions: these general conditions of the Renter.
- f. Rentee: Party requesting, ordering, renting and/or receiving Equipment rented by the Renter.
- g. Renter: entity renting the Equipment in accordance with the Agreement.
- h. Parties: jointly means the Renter and the Rentee.
- i. Website: means the Renter or Rentee, as the case may be.
- j. Permitted countries: means the countries in which Riwal is based, including and/or other countries, if the Renter agrees.
- k. Countries subject to sanctions are: countries listed as sanctioned by official bodies such as, inter alia, the United Nations, the European Union and individual countries.

## 2. APPLICABILITY

- 2.1. These General Terms and Conditions apply to all Agreements as well as to all inquiries, quotations, offers, instructions, orders, order confirmations and other transactions between the Parties in relation to the renting of Equipment by the Rentee.
- 2.2. The Agreement and the General Conditions constitute the entire and only agreement and understanding between the Parties with respect to its subject. All references to the application of the Rentee's general conditions are expressly abolished by the Rentee and the Renter.

## 3. OFFER AND ACCEPTANCE

- 3.1. All offers and proposals submitted by the Renter are non-binding and may be canceled at any time, unless the Renter specifies otherwise in writing. All prices in the offers and proposals submitted by the Renter will be expressed in EUR or in other currencies, provided that the Renter agrees.
- 3.2. Agreements will be binding only if they are explicitly accepted by the Renter, which acceptance is confirmed by the written confirmation of the Renter or by signing the Agreement by the Renter.

## 4. TERM

- 4.1. The agreement is concluded for a definite period of time and in exchange for the rent in accordance with the arrangements or conditions contained in the Agreement or in accordance with other written arrangements.

## 5. RENT AND PAYMENT

- 5.1. The rental is based on the use of Equipment in units of the number of hours per day and the number of days per week, which in turn results in the number of working hours of equipment per week. If the Equipment is used for more than 40 (forty) working hours per week (or proportionally if the Equipment is rented for a shorter period), the agreed Rent will be increased proportionally.
- 5.2. The rent is due throughout the duration of the Agreement.
- 5.3. The rent will be paid by the Rentee within the period specified on the rental agreement to the Renter's bank account. All payments made by the Renter and all payments made to the Renter under the Agreement will be made in EUR or in another currency agreed by the Renter in writing.
- 5.4. The rent does not include daily repairs, storage, fuel, taxes/stamp duties, hydraulic oil and/or lubricants.
- 5.5. The Rentee is not entitled to withhold, deduct or write off any payments from or towards the amounts due to the Renter.
- 5.6. Rental prices may be unilaterally changed by the Renter if the costs (including transport costs) of the Renter increase due to changes in law or changes or delays caused by the Rentee.

## 6. INTEREST AND COSTS

- 6.1. If the Rentee does not pay the amount due on the agreed date of payment in accordance with point 5.3, the Renter is entitled to send the Rentee a notice of default and if he does not receive any payment from the Rentee within 7 (seven) days after the date of the above mentioned delay notification, all claims for the payment of the appropriate outstanding amount will be immediately due and fully paid by the Rentee. In addition, the Rentee is obliged to pay the Renter an interest of 1.5% (one and a half percent) per month in relation to the outstanding amount up to the full payment date, irrespective of any other rights the Renter is entitled under the Agreement, these General Terms or applicable law.
- 6.2. Any (out-of-court or other) costs incurred by the Renter in connection with the collection of all amounts due (including but not limited to legal costs, damages and/or penalties) shall be borne by the Rentee.

## 7. DELIVERY

- 7.1. The equipment will be delivered by the Renter to the Rentee at the time and place agreed in the Agreement.
- 7.2. All dates specified by the Renter for the delivery of Equipment are indicative and non-binding.
- 7.3. If the agreed place where the Renter is to deliver the Equipment is not available or is not easily accessible, the Equipment will be delivered as close as possible to the said location address. Subsequent transport to the agreed place will be made by the Rentee at his risk and cost.
- 7.4. The risk and costs of using the rented property are transferred to the Rentee at the time of delivery.
- 7.5. These costs and risks will expire upon determining that there is no damage after renting at the Renter's branch and inspection after rental at the Renter's. If such damage occurs, the Rentee bears the cost of removing it.



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## **8. OWNERSHIP AND SUBRENTAL**

- 8.1. The Rentor maintains (exclusive) ownership of the Equipment at all times.
- 8.2. The Rentee cannot and will not have any authority or right to sell, establish a mortgage, pledge, suspend or exercise any right to retain or otherwise dispose of in any way, or charge the Rentor's legal title to the Equipment.
- 8.3. The Rentee cannot and will not be entitled to sublease the Equipment, unless agreed in writing with the Rentor.
- 8.4. If third parties seize the Equipment that is subject to retention of title or wish to establish or assert any right to such Equipment, the Rentee shall promptly (i) inform the Rentor in writing, (ii) provide the Rentor with a copy of the available documents regarding such Equipment and (iii) inform such third party in writing that the Rentor is the owner of such Equipment.

## **9. USE, MAINTENANCE AND INSPECTION**

- 9.1. The Rentee will use the Equipment in a cautious and proper manner, consistent with its nature and purpose, in accordance with all instructions, recommendations and/or (general guidelines or detailed instructions in) manufacturer's or Rentor's instructions, and in accordance with all the requirements of any applicable regulations regarding possession, use and maintenance of such Equipment. The Rentee undertakes to comply with health and safety regulations appropriate for the country in which the equipment is operated.
- 9.2. The Rentee has all obligations arising from environmental protection regulations.
- 9.3. The Rentee is responsible for the regular daily maintenance of the Equipment, as described in the relevant service manual, which is provided to the Rentee together with the delivery of the Equipment, e.g. replenishment of lubricants and fluids in accordance with the manufacturer's or the Rentor's instructions and recommendations. The Rentee requires the prior consent of the Rentor to perform any repairs of the Equipment that do not qualify as regular daily maintenance.
- 9.4. The Rentee will ensure that only properly trained and qualified operators and mechanics will use, operate or repair and service the Equipment and that the Equipment will be used within its safety limits and will be professionally maintained.
- 9.5. The Rentee may not use or move the Equipment outside the address indicated in the lease agreement and categorically may not use the machine in one of the countries subject to sanctions.
- 9.6. Changing the place of work of the Equipment is possible only after obtaining the written approval of the Rentor.
- 9.7. The Rentee may not change or modify the Equipment or its appearance without the express written consent of the Rentor.
- 9.8. At the first request, the Rentee will provide the Rentor (a) with a detailed list of locations where the Equipment is stored or used, and (b) access to the rooms where the Equipment is used to control, service or collect the Equipment.
- 9.9. The Rentee agrees to make the rented property available for inspection at the Rentor's request. The Rentee agrees to allow the Rentor to enter the Rentee's buildings and premises, in which the rented property is located, for the purpose of inspecting, servicing or taking over the property.
- 9.10. The costs of regular maintenance or repair of rented property are borne by the Rentor. The Rentee will return the rented Equipment to the Rentor in good and clean condition for regular maintenance or repair by the Rentor. The Rentee will give the rented property to the Rentor's disposal to a workshop where the Lessor can carry out maintenance and/or repair.

## **10. DAMAGE, DEFECTS, LOSSES AND NOTIFICATIONS**

- 10.1. The Rentee will notify the Rentor of any damage, failure or defect in writing within 24 (twenty-four) hours of delivery.
- 10.2. In the absence of a written notification to the Rentor about damage or defect when the Equipment is delivered within the above-mentioned 24 (twenty-four hour) period, it is considered that the Equipment was delivered without damage or defects.
- 10.3. In the event of misappropriation, theft or any other loss of Equipment, the Rentee shall notify the Rentor in writing within 24 (twenty-four) hours and shall immediately inform the police. A copy of the police report will be immediately forwarded to the Rentor.
- 10.4. In the event of a defect or failure of the Equipment during the term of the Agreement and if such failure or defect cannot be attributed to the Rentee, the Rentor will repair or replace the Equipment (as it deems appropriate).

## **11. LIABILITY AND INSURANCE**

### **11.1. RENTEE'S LIABILITY**

- 11.1.1. The Rentor shall not be liable to the Rentee, anyone operating or managing the Equipment or third parties at any time for accidental, indirect or consequential damages.
- 11.1.2. The Rentor is not liable to the Rentee if the failure to fulfill his obligations is caused by force majeure, negligence, intentional intent or recklessness of the Rentee, the lack of timely instructions or relevant information from the Rentee or other reasons beyond the control of the Rentor.
- 11.1.3. The Rentor is liable only for damage to the property of the Rentee and other people caused by a demonstrable defect in the supplied Equipment, which can be attributed to the Rentor and which was already present before the delivery of Equipment to the Rentee, as a result of which the Equipment does not work properly or damage caused by intentional or gross negligence of the Rentor.
- 11.1.4. The Rentor's liability is limited to EUR 1,000,000, unless the Rentor agrees otherwise in writing.

### **11.2. RENTEE'S LIABILITY**

- 11.2.1. The Rentee is liable to the Rentor and protects and releases him from any liability for any damage to the Equipment, including, but not limited to, damage resulting from misuse, destruction, theft, embezzlement, fire and other causes, as well as all claims, including all related costs, and any damages that may be claimed or recovered from the Rentor or arising in connection with the Agreement or these General Terms or related to them.
- 11.2.2. In the event of embezzlement, theft or any other loss of Equipment, or if the Equipment cannot be repaired, the Rentee shall be liable for damages to the Rentor, which damages will be (i) the current (or replacement) price of such damaged Equipment plus replacement costs, or (ii) if the damaged Equipment is no longer up-to-date, the current (or replacement) price of the equivalent equipment plus replacement costs, regardless of other damages of the Rentor.

### **11.3. LIABILITY FOR DAMAGE TO THIRD PARTIES (IN RELATION TO THE USE OF MOTOR VEHICLES)**

- 11.3.1. The Rentee is liable for damages caused to third parties by the Equipment during the period specified in the Agreement.
- 11.3.2. In the case of Equipment qualifying as motor vehicles, the Rentor has taken out civil liability insurance for motor vehicles in accordance with EU Motor Insurance Directive and/or equivalent local laws. The insurance covers only damage caused to third parties as a result of road accidents that occurred in countries where Riwal has offices.
- 11.3.2.1. The Rentor and his insurer reserve all rights to pursue claims from the Rentee against third parties that have been compensated, but which are not covered by civil liability insurance, for example, but not exclusively, in the event that: The driver was under the influence of alcohol or drugs during road accident;
- 11.3.2.2. the driver was not entitled to drive according to any competent authority.

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#### 11.4. CIVIL LIABILITY INSURANCE

11.4.1. The Rentee, at his own expense, buys insurance for the rented Equipment, which covers liability to third parties for events that do not qualify as described in Article 11.3.2.

11.4.2. The Rentee will, at his own expense, maintain the Equipment at all times - not qualifying as a motor vehicle - duly insured in accordance with applicable regulations, including in respect of all liability (e.g. product liability) and/or risk caused by and/or in connection with the use of the Equipment, from the time the Equipment is delivered and until the Equipment is returned in accordance with these General Conditions.

#### 11.5. LIABILITY FOR DAMAGE TO THE EQUIPMENT

The Rentee may cover his liability for damage to the Equipment as follows:

- a. The Rentee may at his own expense take out insurance, which covers damage to the Equipment from the time the Equipment is delivered and until the Equipment is returned in accordance with these General Terms.
- b. The Rentee may partially purchase liability for damage to the Equipment for an additional payment, in relation to which the Lessor waives the right to claim damages from the Rentee, except for the agreed deduction. The commitment purchase program and cancellation of recourse are subject to the conditions set out in Article 12.

#### 12. LIABILITY PURCHASE SCHEME

- 12.1. The Rentee may (partly) take responsibility for damage to the Equipment for an additional fee equal to the percentage of the rental fee, in relation to which the Rentor partially waives the right to recourse (in order to claim damage from the Rentee).
- 12.2. The purchase program is subject to an additional fee in relation to our rental price (excluding VAT). The Rentor may unilaterally increase the percentage or interrupt the liability purchase program in the event of the Rentee's frivolous or malicious behavior.
- 12.3. The liability purchase program is deductible. Part of the damage that the Rentee must pay from his own account is set out in art. 12.7.

#### 12.4. SCOPE

The purchase of liability applies if:

- 12.4.1. damage or destruction of the Equipment is accidental, sudden and unpredictable and occurred during normal use, i.e. as intended and in accordance with all instructions for use and safety;
- 12.4.2. the Rentor has taken all reasonable measures and preventive actions to prevent theft or destruction of the Equipment, including, but not limited to, closing the Equipment, storing out of sight or under supervision (cameras) etc..

#### 12.5. EXCEPTIONS

The scope excludes:

- 12.5.1. Damage caused or related to non-compliance with the instructions for use and safety specified in Article 9 general conditions.
- 12.5.2. Damage caused or related to the Rentee's negligence or willful misconduct or that can be attributed to the Rentee.
- 12.5.3. Loss or damage of pneumatic tires.

#### 12.6. TERMS AND CONDITIONS OF DISCLAIMING THE RIGHT OF RECOURSE

The Rentor waives (partly) the right to claim damages from the Rentee only if all the following conditions are met:

- 12.6.1. The damage meets the insurance conditions specified in art. 12.4;
- 12.6.2. None of the exceptions specified in art. 12.5 is applicable;
- 12.6.3. The Rentee has repaid all amounts due to the Rentor, including rent, additional payment in accordance with art. 5, VAT, default interest, if applicable, at the time the damage occurred;
- 12.6.4. The Rentee has reported damage in accordance with art. 10;
- 12.6.5. The Rentee returned the Equipment in accordance with art. 13 General conditions;
- 12.6.6. The damages are covered by the land equipment insurance policy purchased by the Rentor. If the Rentor's Insurer does not compensate the Rentor for damage to the Equipment and if the damage is caused by negligence or willful misconduct of the Rentee, the Rentee becomes liable without limitation for compensating the Rentor for damage.

#### 12.7. OWN SHARE

The liabilities purchase program is subject to own share, as agreed.

#### 13. RETURN OF EQUIPMENT

- 13.1. After the expiry or termination of the agreement, the Rentor will pick up the Equipment at the place where the Equipment was delivered, and the Rentee will make sure that the Equipment is ready for collection.
- 13.2. Apart from normal wear and tear, the Equipment should be in the same condition as at the time of delivery. If the Equipment is not in the condition specified in the previous sentence, the Rentor shall immediately inform the Rentee together with a written notification about the costs of the required cleaning and/or repair of the Equipment. These costs will be reimbursed to the Rentor by the Rentee within 30 (thirty) days of the date of the written notification.
- 13.3. All Equipment that will not be returned to the Rentor for any reason, or damaged in any other way than repaired, will be paid for by the Rentee according to the current catalog price of the manufacturer (for new equipment) of the Equipment.
- 13.4. If (a) the Equipment is not or will not be returned to the Rentor in a timely manner for any reason, or (b) it is damaged beyond repair and the Rentee does not pay for the damages specified in this document, the rent will continue to be charged by the Rentor and will continue to be paid by the Rentee.

#### 14. TERMINATION

14.1. The Agreement may be terminated by the Rentor without prior notice:

- a. if the Rentee becomes or is considered insolvent or unable to pay his debts;
- b. in the event of a petition or convening a meeting or adopting a resolution to dissolve the company or terminate the Rentee's business;
- c. if the Rentee enters the state of liquidation forcibly or settles with all its creditors;
- d. if the Rentee has appointed a trustee or administrator for all or part of his assets; or
- e. if the Rentee undertakes or becomes the object of any similar action as specified above in points (a) to (d) inclusive, in any jurisdiction;
- f. for the Rentee's breach of the Agreement, provided that the alleged breach has been notified in good time and the breach has not been remedied within 10 (ten) days of such notification;
- g. in the event of a change in the Rentee's control or management;

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h. if the Equipment is located or moved to one of the sanctioned countries.

i. in the event that in the reasoned opinion of the Rentor a significant adverse change occurs in relation to the Rentee.

14.2. In the event of early termination, the Rentor will charge the Rentee and the Rentee will pay the Rentor the agreed rent for the agreed period of the Agreement, which will be increased, if applicable, by additional costs incurred due to termination, such as transport costs, collection costs, etc.

14.3. Without prejudice to other provisions of these General Terms and Conditions, all the Rentee's obligations under the Agreement and these General Terms and Conditions shall apply for 4 (four) business days from the date of termination or expiry of the Agreement (including, without limitation, the obligations set out in Article 11).

14.4. After the expiry or termination of the Agreement, all rights and obligations of the Parties arising from this Agreement shall terminate, with the exception of (i) the Rentee's obligation to pay all amounts due or payable on or after the date of termination or expiry, (ii) any other obligations set out in these General Terms and Conditions or an Agreement that becomes effective after the date of termination or expiry, and (iii) the provisions of Art. 13 (return of equipment) and art. 17 (Applicable Law and Jurisdiction) of these General Terms and Conditions.

## 15. FORCE MAJEURE

15.1. The Rentor has the right to suspend his obligations and this will not be considered a violation if, due to circumstances beyond the control of the Rentor and/or changes in circumstances that could not reasonably be expected at the time the contract was concluded, the Rentor is not able to meet his obligations. Force majeure will in any case cover industrial activities; strikes; sabotage; government restrictions and measures; Accidents; difficulties in transport; power outages; delays in delivery by the Rentor's suppliers and contract partners.

15.2 The Rentor has the right to terminate all or part of the Agreement without judicial intervention by means of a written statement if the force majeure situation lasts more than one (1) month, without the obligation to pay compensation. The Rentee will not be entitled to terminate the Agreement, unless the force majeure situation lasts more than one (1) month, and the Rentee can demonstrate that earlier performance is essential for his business operation.

## 16. PENALTIES

16.1. For each violation of these General Terms and Conditions or the Agreement, the Rentee will pay the Rentor a fine of EUR 500 for each day on which the infringement continues, subject to a maximum of EUR 10,000 for the duration of the infringement.

16.2. The Rentor will be entitled to claim full compensation if the damage exceeds the penalty.

## 17. MISCELLANEOUS

17.1. Amendments to these General Conditions or the Agreement will be effective only if agreed in writing and signed by or on behalf of each Party.

17.2. Each of the provisions of these General Terms and Conditions and/or the Agreement may be separated. If any of these provisions is or becomes unlawful, invalid or unenforceable (in whole or in part) in any respect under the law of any jurisdiction:

a. This will not affect or violate the legality, validity or enforceability in this jurisdiction of the other provisions of these General Terms and/or Agreement (if these other provisions are not inseparably connected with an illegal, invalid or unenforceable provision), or this or any provisions of these General Terms and/or Agreement in any other jurisdiction; and

b. The Parties shall make reasonable efforts to negotiate in good faith to replace it with one or more provisions that are not illegal, invalid or unenforceable and which differ as little as possible from the provision being replaced, always taking into account the content and purpose of these General Terms and/or Agreement, as appropriate.

17.3. The Rentor may, with written notice to the Rentee, assign, transfer or otherwise dispose of any of its rights or obligations under any Agreement to any of its affiliates, to which the Rentee hereby agrees.

## 18. APPLICABLE LAW AND JURISDICTION

18.1. These General Terms and Conditions and any Agreements shall be governed solely by Dutch law and shall be interpreted in accordance with it.

18.2. All disputes will be settled only by the court competent for the seat of the Rentor. This Article 18.2 is included only for the benefit of the Rentor, so that the Rentor is never prevented from initiating the dispute proceeding in any other competent courts.