

General Terms & Conditions of Lease for Machines Leased from JENZ GmbH

1. General

(1) These terms and conditions of lease apply exclusively with respect to entrepreneurs, legal entities under public law or special funds under public law within the meaning of Section 310 (1) BGB (Bürgerliches Gesetzbuch [German Civil Code]).

(2) We lease machinery exclusively on the basis of these General Terms & Conditions of Lease (hereafter also: "Terms and Conditions of Lease"). These Terms & Conditions of Lease therefore apply to all future leases, even if they are not expressly agreed again. These Terms & Conditions of Lease shall be considered to have been accepted at the latest on receipt of the leased equipment. The terms and conditions of the lessee or third parties do not apply, even if we do not specifically reject their validity in individual cases. Even if we refer to a letter which contains the terms and conditions of the lessee or a third parties or which makes reference to them, this shall not constitute consent to the validity of those terms and conditions.

(3) Leased equipment within the meaning of these Terms & Conditions is every item of equipment surrendered to the lessee in fulfilment of a lease agreement.

(4) If the lessee purchases the leased equipment, our General Terms & Conditions of Sale shall apply to the purchase. They shall also apply when we supply replacement and/or wearing parts to the lessee for the leased equipment as part of the lease.

2. Offer, Conclusion of Contract & Equivalent Leased Equipment

(1) Our offers are subject to confirmation and non-binding. We may accept orders within 6 weeks of receipt. The agreement shall only be considered to be concluded with legal effect when a written lease agreement, which exclusively governs the scope of the performance obligations, has been signed by us and the lessee. Our employees are not authorised to make oral collateral agreements or give oral assurances that go beyond the content of the written agreement.

(2) We are entitled to surrender leased equipment that is functionally equivalent to the lessee instead of the leased equipment of the order.

3. Term of Lease

(1) The lease period shall begin on the day that the leased equipment is made available for collection by the lessee or leaves our premises for dispatch to the lessee. If the leased equipment we have made available is not collected or delivery is not requested by the lessee on the agreed day, we shall be entitled to withdraw from or terminate the agreement – including with immediate effect – and lease the leased equipment elsewhere, to the extent permitted by law. The minimum lease period is one day.

(2) The lease period shall end on proper return of the leased equipment at our premises or a different agreed location, provided that the lessee gives us written notice of return of the leased equipment at least one week in advance ("return period"), but it shall not end in any case before expiry of the agreed lease period.

(3) The statutory notice period shall apply to us, which is at least equal to the return period applicable to the lessee. The right of both parties to terminate the agreement for cause remains unaffected.

4. Delivery and Return of the Leased Equipment, Transport & Transport Costs

(1) The leased equipment in undamaged, cleaned, operational and fully fuelled condition is held ready by us for collection by the lessee or dispatch. The lessee must inspect the leased equipment for road safety, operability and any defects on delivery. If the lessee also intends to use the leased equipment on public roads, the lessee must check in particular whether the leased equipment has the necessary equipment for this purpose and the applicable accompanying documents. The lessee shall confirm the condition of the accepted leased equipment and the scope of accessories on the certificate of delivery. Claims by the lessee for obvious defects are excluded if the lessee does not note the defect on the certificate of delivery.

(2) On expiry of the lease period, the lessee is obliged to return the leased equipment to us during our normal business hours in a proper, cleaned, operational, fully fuelled and complete condition, including all delivered keys and papers, unless we have declared our agreement to return of the leased equipment at a different time or at a different location. The lessee must inform us in full of any damage to/defects in the leased equipment on return of the leased equipment. If third parties (forwarding agents) transport the leased equipment back to us, the lessee must inform us of any damage to/defects in the leased equipment in writing.

(3) If the lessee does not return the leased equipment to us once the right of use has ended, we shall be entitled, but not obliged, to collect the leased equipment and, for this purpose, to access the place at which the leased equipment is stored or used. The lessee waives any claims that could arise in its favour from infringement of property rights. This shall also apply if the lessee does not meet a demand for surrender or there is a risk of loss/deterioration of the leased equipment.

(4) Delivery shall be ex works Petershagen (EXW in accordance with INCOTERMS 2010). The lessee is solely responsible for transport of the leased equipment. We or a forwarding agent appointed by us shall only transport the leased equipment at the lessee's expense and risk following prior written agreement with us. The following also applies:

- All specified dates must be considered approximate only.

- The lessee must provide sufficient personnel to load and unload at the place of use; the lessee shall be charged for idle times.
- If we transport the leased equipment back, binding inspection on return (acceptance) for any damage shall only take place after the leased equipment has returned to us. - If third parties (forwarding agents) perform return transport, they and/or their agents are in no case entitled to perform inspection on return (acceptance) or otherwise to make legally binding declarations to our detriment. The lessee, however, is obliged to inform our transport personnel or the forwarding agent of any damage/defects when the leased equipment is handed over for return transport.

5. Rent

(1) The rent owed by the lessee shall be calculated as a charge per calendar day or charge per operating hour, depending on what has been agreed. The basic rent is based on a normal shift time of up to 8 operating hours per day, up to 5 days at 8 operating hours per week or up to 120 operating hours per month. If the lessee exceeds these operating times (which requires our prior written consent), we shall charge ⅓ of the applicable daily rate in addition for each further operating hour, subject to agreement otherwise. Operation for less than the operating times under sentence 2 shall not reduce the rent.

(2) The basic rent must be paid by the lessee even if the leased equipment cannot be used as a consequence of force majeure (weather, strike, regulatory action). It remains open to the lessee to prove that we have suffered no or less loss from loss of rent.

(3) All prices specified by us are plus any applicable statutory VAT.

(4) If the leased equipment is only returned after expiry of the agreed lease period, we are entitled to demand compensation of the loss that has occurred as a result, if the lessee is at fault.

(5) The rent is exclusively the lessee's consideration for the opportunity to use the leased equipment. We shall invoice the lessee separately for all other costs for transport, assembly, mounting, fuel and operating materials, cleaning and insurance (see Clause 13) of the leased equipment.

6. Payment Terms, Offsetting & Right of Retention

(1) The rent and the anticipated additional costs are calculated in advance and are due for payment on receipt of the invoice within one week and without deduction strictly net plus any applicable statutory VAT. After expiry of the lease period, we shall issue a separate invoice for the additional costs that have in fact been incurred. We only accept bills of exchange and checks following separate agreement and only as conditional payment.

(2) Payments by the lessee are credited exclusively in accordance with Section 366 BGB.

(3) We are entitled, without specifying a cause, to demand a deposit of up to three month's rent for the leased equipment prior to the start of the lease period. No interest shall be applied. The deposit shall become due for repayment on return of the leased equipment, whereby we shall be entitled to offset against outstanding claims in our favour under the lease agreement up to the maximum of those claims.

(4) The lessee is only entitled to offset/make reductions against undisputed or legally established claims. Claims for repayment of the lessee in accordance with Section 812 BGB remain unaffected.

(5) The lessee is only entitled to exercise a right to refuse performance or a right of retention with regard to our claims to an extent that is reasonably proportionate to its counterclaims. The right of retention may furthermore only be exercised if the lessee's counterclaim is based on the same contractual relationship with us.

7. Late Payment & Damages for Delay

(1) If the lessee fall into arrears with a payment in part or in whole for longer than one week, allows a check to be protested or if an application for the initiation of insolvency proceedings is made on its assets, then, without prejudice to other rights, we shall be entitled to:

- collect the leased equipment after notifying the lessee and, for this purpose, to access the place at which the leased equipment is used or stored. The lessee waives any claims that could arise in its favour from infringement of property rights.
- make all claims under a financing or repayment agreement due immediately, to the extent that delay/protest affects obligations of the lessee under such agreements; and
- retain all goods and services under contracts that have not yet or have not yet fully been fulfilled.

(2) We shall be entitled to demand 9 percentage points above the applicable base interest rate as damages for delay. Our right to demonstrate that we have suffered greater damage remains unaffected.

8. Transfer of Security

We may demand that the lessee transfers collateral security equal to 110% of the outstanding claim to secure current and future claims arising from the business re-

relationship if fulfilment of our claims is at risk as a result of the lessee's lack of funds.

9. Assignment of Security

(1) To secure current and future claims under the business relationship, the lessee assigns to us its current and future claims against customers for whom the lessee uses the leased equipment. Claims that are subject to extended retention of title of a supplier of the lessee shall transfer to us at the time at which they are no longer affected by the extended retention of title. We hereby accept such assignment. On request, the lessee shall provide us with a list of assigned claims, including the amount, due date and the address of the lessee's customer (third-party debtor).

(2) We shall be obliged to release our rights arising from the assignment for security as soon as all our claims against the lessee have been satisfied. We shall be obliged to release such rights in part as soon as the realisable value of assigned claims plus the realisable value of other security rights we hold exceeds the secured claims by more than 10%.

(3) For good cause, in particular if the lessee allows a cheque to be protested, an application is made to initiate insolvency proceedings over its assets or the lessee culpably fails to meet its payment obligations under the applicable legal relationship with us, we are entitled to disclose the assignment for security to the third-party debtors, to dispose of the assigned claims and to collect such claims from the lessee's customer.

(4) We shall only be entitled to disclose the assignment for security, dispose of or collect the claims assigned as security following prior warning and an appropriate grace period. The period must be of sufficient length for the lessee to be able to object or be able to pay the owed amounts. There shall be no requirement for a grace period in the event that the lessee suspends payment or there is an application for the initiation of insolvency proceedings over the lessee's assets.

10. Notice of Defects and Claims for Defects

(1) If the lessee does not provide us with written notice immediately of defects that occur during the lease period, the lessee's claims under Clause 4 (1) sentence 5 are excluded. Clause 4 (1) sentence 5 remains unaffected.

(2) We accept no liability if the lessee cannot use the leased equipment that has been made available in accordance with the agreement as anticipated by the lessee or for its planned purpose.

11. Obligations of the Lessee & Use of the Leased Equipment

(1) The lessee is responsible for operating the leased equipment in accordance with statutory provisions and occupational safety and accident prevention regulations. The lessee is obliged:

- to follow our use, servicing and maintenance recommendations and to read the operating instructions before first use;
- to use the leased equipment exclusively in a professional, proper, intended and customary manner;
- to protect the leased equipment against overloading;
- to store the leased equipment and all accessories safely – including after the end of the lease agreement – and, to the extent possible, to protect and safeguard the leased equipment against harmful weather conditions and unauthorised interference by third parties, in particular against theft, damage and unauthorised operation (duty to safeguard). The duty to safeguard the leased equipment applies until return of the leased equipment to us or, in the event we perform return transport, until the leased equipment is collected at the agreed collection location.
- to ensure proper and correct maintenance and servicing of the equipment, in particular via the required oil/water level checks and by supplying engine oil, lubricants etc.;
- to check the leased equipment for road safety before each use;
- to use the leased equipment exclusively with the attachments and accessories provided by us; the lessee is prohibited from making technical modifications, in particular additional components/retrofitted components/changes.

(2) The leased equipment must not be refuelled with biofuel, rapeseed oil or fuel oil, except as an admixture to normal fuel under statutory regulations. Only fuels approved by us may be used.

(3) The lessee must not use the leased equipment for an unintended purpose or other than is customary, as this may result in termination of the general operating permit for the leased equipment, as well as significant damage.

(4) The lessee must inform us immediately of malfunctions, accidents, damage, defects, loss and/or destruction of the leased equipment and incidental inspections or necessary repair work and, after consultation, make the leased equipment available at our premises for work to be performed by us or allow such work to be performed at its premises. The lessee must immediately shut down the leased equipment and inform us if there are safety concerns. The lessee must provide a written statement in this regard on our request. Repair, overhaul and maintenance work and any repairs shall be performed by us only. The lessee must inform the police of theft or damage to the property by a third party immediately (at the latest, two calendar days after discovery). The lessee must take all measures necessary to minimise damage and preserve evidence in the event of loss or damage. The lessee must also support us at all times to the best of its ability during further handling and clarification of a

claim. Any culpable breach by the lessee of these obligations and the obligations under insurance law will jeopardise any potential insurance claim (see Clause 13).

(5) The lessee undertakes to have the leased equipment operated by technically trained personnel only, who are familiar with how to handle the leased equipment properly or equipment of a similar nature and who have all the permits and approvals necessary under public law – in particular the necessary driver's licence, if applicable. The lessee declares that the lessee or the persons employed by the lessee have the knowledge and skills required to operate the leased equipment properly. We shall not owe the lessee advice on how to use and operate the leased equipment, other than by way of providing the operating instructions as customary.

(6) The use of the leased equipment abroad and any transfer of use to third parties is not permitted without our express prior written consent. The lessee hereby assigns its claims against third parties from a permissible or impermissible transfer of use to us as conditional payment. We hereby accept such assignment. The lessee must reimburse any costs and expenses that arise for us as a result of pursuing and asserting claims against such third parties.

(7) If a third party asserts rights in the leased property by seizure, confiscation or similar, the lessee must inform such third parties immediately of our ownership and the existing lease agreement, label the leased equipment as our property and inform us immediately of the situation.

(8) As the lessee is exclusively responsible for transporting the leased equipment, we accept no liability for proper loading of the leased equipment on a transport vehicle of the lessee or of a third party under instruction by the lessee. The lessee, as driver of the transport vehicle or as customer of a driver of the transport vehicle, is responsible for proper loading, even if we have contributed. In this regard, our employees shall act as the lessee's performing agents (Section 278 BGB). The lessee is therefore responsible in particular for the load, tools and equipment (accessories) being secured during transport by road in accordance with VDI guidelines 2700 and 2701 (Securing of loads on road vehicles) and for the straps used to secure the load complying with the above VDI guidelines.

(9) We shall be entitled to view and inspect the leased equipment at any time, either ourselves or via a representative. The lessee is obliged to permit us to inspect the leased equipment in every way. The lessee must inform us of any change to the storage location and/or place of use of the leased equipment.

(10) If the lessee uses our personnel to fulfil its obligations and for support, the lessee exempts us from all claims by its customer or a third party that arise from such use.

12. Lessee's Liability

(1) From delivery until the applicable leased equipment has been returned to us within the meaning of Clause 4, the lessee shall be liable for all damage to the leased equipment or theft/loss of the leased equipment for which it is responsible (hereafter, summarised as "damage"). Outward and return transport shall be at the lessee's risk. This shall also be the case if transport is at the lessee's cost, but performed by us or a forwarding agent instructed by us. Furthermore, the lessee shall be liable for any consequential damage to us arising from such damage, in particular towing costs, expert fees, loss of rent and proportionate administrative costs. Damages for loss of rent shall be calculated as one day's rent (charge per day) for each day that the leased equipment is not available to us to be leased.

(2) The lessee's liability extends to the leased equipment and all delivered accessory parts.

(3) The lessee shall be liable on a fault basis in particular:

- in the event of loss or destruction of the leased equipment, to pay damages equal to the replacement price of a similar item of equipment; such liability to pay damages shall also apply if the extent of damage is equivalent to total loss in economic terms;
- in the event of damage to the equipment, to pay the costs to rectify the damage, plus any applicable decrease in value;
- to pay the outstanding rent until the planned end of the lease agreement;
- for other items of damage, in particular including consequential costs such as towing charges, disposal costs, expert fees, loss of rent as a result of delayed provision of an expert report for whatever reason, the costs of re-applying for a device-specific general operating permit and proportionate administrative costs, whereby for administrative costs the lessee may provide evidence that we have suffered no or lesser loss.

(4) The lessee shall be liable for the operational risk associated with the leased equipment, unless such risk is a result of a defect in the leased equipment that was already present prior to delivery. Clause 4 (1) sentence 5 remains unaffected. The lessee must indemnify us on first request against claims for damages or other claims by third parties owed by the lessee that are asserted against us. This shall apply in particular if a claim on the basis of a breach of public law for which the lessee is responsible – in particular a breach of road traffic regulations – is brought against us for reimbursement of the costs of substitute performance, the payment of a fine or other fees and charges caused by the lessee as a result of operating the leased equipment.

(5) If the leased equipment is insured via us in accordance with Clause 13 (1), any liability of the lessee to pay damages shall be limited to the excess specified in clause 13. However, this shall only apply to insured risks and damage within the

meaning of ABMG 2008 and to the extent that the insurer has an obligation to assume liability. Particular reference is made to the obligations in Clause 11 (4) in this regard.

13. Insurance Cover

(1) Unless agreed otherwise in writing, the applicable leased equipment is covered by our insurance in accordance with the “General conditions for machinery and hull insurance for mobile or portable devices” (ABMG) in the applicable version of the non-binding announcement by the Gesamtverband der Deutschen Versicherungswirtschaft e.V. (GDV) on payment of an additional fee; inclusion only covers property, risks and damage that are treated as insured under the ABMG, but not such property, risks and damage only described as “may be additionally insured”. The fee to be paid by the lessee for inclusion in cover is defined in our offer. The lessee must pay the full daily fee for each whole or partial calendar day from the day that the lease begins up to and including the day that the leased equipment is returned. The lessee is obliged to inform us of such uses of the equipment on conclusion of contract.

If the applicable leased equipment is covered by our insurance in accordance with the ABMG in the applicable version from the GDV, the lessee’s liability to us for damage to leased equipment that falls within the scope of the ABMG and is caused by simple negligence is limited to the excess in the insurance policy. The lessee shall bear unlimited liability, however, for damage caused intentionally by it or its representatives. If the lessee or its representatives cause damage to the leased equipment as a result of gross negligence, the lessee’s liability for damage within the scope of the ABMG shall be in proportion to the severity of fault. The lessee’s liability for damage caused intentionally or as a result of gross negligence is therefore not limited to the excess.

The lessee shall have unlimited liability to us in all cases of damage to the leased equipment not covered by the ABMG and for which the lessee is responsible. For example, there is no limitation of the lessee’s liability under the ABMG for damage to tyres on leased equipment, unless the tyre damage is a consequence (consequential damage) of material damage to other parts of the insured leased equipment, the cause of which is insured under the ABMG. There is similarly no limitation of liability for damage that occurs during transport of leased equipment that is not performed by us or a forwarding agent instructed by us or damage that occurs during transfer of the leased equipment for use to a third party that is impermissible in accordance with Clause 11 (6).

The above limitations of the lessee’s liability for simple negligence (limited to the excess) or gross negligence (liability proportionate to severity of fault) shall not apply if the lessee does not meet its obligations properly in accordance with Clause 11 (4) in the event of damage to the leased equipment.

We are entitled at our choice either to have damaged leased equipment repaired at our own expense or to report the damage to our applicable insurer for claim settlement.

(2) If the applicable leased equipment, in deviation from Clause 13 (1), has not been included in the insurance we have taken out in accordance with the ABMG, by way of written agreement with the lessee, the lessee shall be obliged to insure such leased equipment at its own expense on our behalf as beneficiary of the insurance policy, for the duration of the lease period. The insurance cover must meet the “General conditions for machinery and hull insurance for mobile or portable devices” (ABMG) in the applicable version of the non-binding announcement by the Gesamtverband der Deutschen Versicherungswirtschaft e.V. (GDV). If the lessee does not meet this obligation, the lessee must compensate us for all damage that results from breach of this obligation. If the lessee has an obligation to self-insure in accordance with the above paragraph, it is noted here for clarification that the lessee – irrespective of the existence of any insurance policy taken out by the lessee – shall be liable to us in full for each instance of damage to the leased equipment, for which the lessee is responsible. The limitations of liability for simple and gross negligence under Clause 13 (1) then also shall not apply between us.

(3) The lessee’s third-party liability risk from use of the leased equipment is in principle not insured. Third-party insurance cover exists only in exceptional cases, where required by law. If there is no third-party insurance cover for the leased equipment, the lessee must take out third-party liability insurance against the risks that arise from use of the leased equipment. If the lessee does not meet this obligation, the lessee must compensate us for the damage that results from such breach of obligation.

(4) As a precautionary measure, the lessee assigns any claims under the property insurance in accordance with Clause 13 (2) to us. The lessee also assigns third-party insurance claims in accordance with Clause 13 (3) to us, to the extent that we are liable to third parties for damage arising from operation of the leased equipment by the lessee. We hereby accept the above assignments.

(5) All insurance policies we have taken out and the inclusion of the leased equipment in the insurance we have taken out in accordance with the ABMG as per Clause 13 (1) are valid exclusively for use of the leased equipment in Europe (geographical definition). Clause 11 (6) sentence 1 remains unaffected.

14. Our Liability

(1) Claims by the customer for damages and reimbursement of expenses, on whatever

legal basis, in particular for breach of obligations under the contract or in tort, are limited in accordance with this Clause 14.

(2) We are not liable in the event of simple negligence on the part of our executive bodies, legal representatives, employees or other vicarious agents, unless it constitutes a breach of material contractual obligations. Material contractual obligations include the obligation of timely delivery and installation of the delivery item free of defects of title as well as such material defects which impair its functionality or usability more than just insignificantly, as well as advisory, protection and custodial obligations which are intended to enable the customer to use the delivery item in accordance with the contract or which are intended to protect life and limb of the customer’s personnel or to protect its property from considerable damage.

(3) Insofar as we are liable for damages on the merits pursuant to Clause 14 (2), this liability shall be limited to damage that is typically foreseeable under the contract; claims for lost profit, expenses not incurred, from third party claims and for other indirect and consequential damages cannot be demanded. This, in turn, does not apply if a quality feature guaranteed by us is specifically intended to protect the customer against such damage.

(4) In the case of liability for simple negligence, our obligation to pay compensation for material damage and resulting further financial losses is limited to an amount of EUR 10,000,000 per case of damage, even if it involves a breach of material contractual obligations.

(5) Where our liability is excluded or limited, such provision also applies to our employees, workers, representatives and other agents.

(6) The limitations of this Clause 14 do not apply to our liability for guaranteed characteristics according to the Product Liability Act (Produkthaftungsgesetz), in cases of intent, gross negligence or due to death, physical injury or damage to health. The above provisions do not reverse the burden of proof to the customer’s detriment.

15. Closing Provisions

(1) Side agreements, amendments and supplements to the contract, including those relating to the early termination of the contract, require the written form.

(2) If the lessee is a merchant, a legal entity under public law or a special fund under public law, the place of performance is 32469 Petershagen and place of jurisdiction for all disputes arising from the contractual relationship, including cheques, bills of exchange and deeds, is the court with jurisdiction for our registered office. However, we shall also be entitled to bring an action against the lessee at its general place of jurisdiction.

(3) German law excluding the United Nations Convention on the International Sale of Goods (CISG) applies exclusively to all contracts between the parties.

(4) In the event of deviations between the German and a translated version of these terms and conditions, the German version shall always take priority.

(5) Where written form is required in these provisions for messages or declarations, the requirement of written form is also satisfied by fax or email.

(6) If any of the individual provisions of these terms and conditions are or become invalid or void, the validity of the remaining provisions shall be unaffected. Together with the lessee in good faith, within reason we shall replace any invalid provisions with provisions that come as close as possible to the economic purpose of the contract without thereby materially modifying the content of the contract. The same shall apply in the event that there is no express provision for circumstances requiring a provision between the parties.

All information as of: September 2020