

General Terms and Conditions of Lease TRINAC GmbH (Status: April 01, 2017)

1. Scope of Application

- 1.1 The present General Terms and Conditions of Lease shall apply to business people, legal entities under public law and to public assets under Section 310(1) German Civil Code.
- 1.2 All of the lease agreements of Lessor will be exclusively based on these General Terms and Conditions of Lease. These Terms and Conditions shall be considered recognized as decisive and binding without any express declaration on the total duration of the business relationship.
- 1.3 Lessee's own Terms & Conditions shall not be binding on Lessor except where Lessor has expressly agreed to such terms.
- 1.4 Where within the scope of the lease relationship Lessor is also to provide assembly services for Lessee, such services shall be governed by Lessor's General Conditions of Assembly and the requirements for the preparation of the construction site.

2. Offer, Technical Changes and Conclusion of Contract

- 2.1 Unless otherwise agreed, the offers made by Lessor are non-binding.
- 2.2 Additions, modifications, or other contractual subsidiary agreements must be in writing. This excludes the possibility of verbal subsidiary agreements. The written form can be ensured by fax; it cannot be replaced by electronic forms, in particular emails.
- 2.3 Illustrations of cranes in addition to accessories in brochures, online, or similar issued by Lessor are non-binding. They serve only the purpose of general information. Slight deviations from mass, weight, and performance information, which are usual in the industry and are the result of technical improvements are permitted.
- 2.4 Lessor will only issue guarantees in case of a special agreement. Any agreement of this kind must be in written form in order to be effective.
- 2.5 The written confirmation by Lessor is decisive with regards to the scope of the lease.
- 2.6 In any case, the conclusion of the agreement will take place on condition of a correct and timely self-delivery by Lessor unless Lessor is not responsible for the correct and timely self-delivery.

3. Rental Fees

- 3.1 All stated prices are net and do not include the statutory value-added tax that is applicable as of the date of invoicing. This will be invoiced at the rate that is applicable in accordance with the applicable tax regulations.
- 3.2 The monthly rental fee is considered as purely a machine rental fee. In particular, it will not include any costs for loading and unloading, assembly, disassembly, and transport in case of delivery and removal, neither will it include operating and energy costs, provision of operating materials, official permits, staff, or insurance costs.
- 3.3 The agreed rental fee will always and in any case relate to 30 calendar days.
- 3.4 The calculation of the rent is based on the 8-hour use of the leased property per working day, with weekly use of 5 working days and monthly use of 22 working days. Lessor shall be notified of any use above and beyond this specified use. In this event, an additional rent shall be payable, amounting to 65% of the rent agreed for customary use of the leased property unless otherwise agreed by the Contracting Parties. Where Lessee uses the leased property in excess of the usual use time and fails to notify Lessor of such, or makes false declarations with regard to the use time, he shall be

obligated to pay Lessor pro-rated additional rent of 100%.

4. Terms and Conditions of Payment/Credit Information

- 4.1 The rental fees must be paid each month in advance without any discount within 14 days after the receipt of a corresponding invoice unless otherwise agreed.
- 4.2 Bank drafts, checks, or bills of exchange will only be accepted in case of a special agreement and with all collection fees and discount charges taken into account and always only on account of payment.
- 4.3 Interest on arrears will be calculated in accordance with Section 288(2) Civil Code at a rate of 9% points above the base interest rate.
- 4.4 By entering into the agreement, Lessee authorizes Lessor to obtain information about its creditworthiness and ability to pay from credit institutions, credit insurers, etc.
- 4.5 In case of delayed payment on the part of Lessee or if Lessee's creditworthiness deteriorates, Lessor will be entitled to request security. If Lessee is in arrears with the payment of the rental fee by more than 14 days, Lessor may terminate the lease agreement without notice.

5. Offsetting, Assignment, and Right of Retention

- 5.1 Lessee will have no right to withhold payments or offset them against counterclaims unless it's counterclaims are undisputed or have been legally determined; in addition, Lessee will have the right to withhold the rental fee if a counterclaim results from the same lease relationship.
- 5.2 Lessee assigns its claims to payment for work from its client for the fulfillment of its obligation to pay rental fees to Lessor on account of payment. Lessor will only disclose the assignment to the client, if Lessee is in arrears by more than two months with the rental fees or assembly/disassembly costs have not been settled. Lessee must submit – generally only after she payment is in arrears – its claims for compensation for work/invoices against the client, on whose construction site the cranes are in use. The client must be informed of this assignment when the agreement is entered into.
- 5.3 If Lessee is in arrears with the payment of more than one month of rental fees, Lessor can stop the use of the crane and prohibit further use until the complete settlement of the outstanding amount, without the obligation of Lessee to pay rent lapsing.
- 5.4 Lessee may not assign or pledge its receivables against the client in question – without the approval of Lessor – to a third party. Neither may it agree on a prohibition of assignment with its client Lessee must inform Lessor immediately of any pledging or any other impairment to the security rights by the parties. Lessee is to surrender to Lessor any and all documents necessary for an intervention. Any intervention costs incurred by Lessor are to be borne by Lessee.

6. Start of the Lease Period

- 6.1 The lease period will begin when the crane is made available or transferred at the contractually agreed time and place. If Lessee collects the crane, the agreed date of handover will be decisive, even if Lessee corrects the crane later. If the crane is handed over after the place of use, the lease period will begin at the time of the handing over of functioning crane, generally documented by means of a handover protocol or after the instruction has been given on the operation of the crane, if this is performed. If Lessee is already using the crane, the lease period will begin on the contractually agreed handover date.

- 6.2 If attachments are missing that do not have a negative effect on the functioning of the crane, the separate price of the attachment (e.g. crane spotlight pp.) the rental fee will be deducted from the rental price.
- 6.3 If the crane is not taken over within 14 days after the notification of provision – Lessor can terminate the agreement and lease the crane elsewhere. Lessee must pay Lessor the lost profits minus the earnings from the further leasing.
- 6.4 Where Lessor delays in handing over the leased property, Lessee may claim compensation where it is proven that he has suffered a loss. In the event of minor negligence on the part of Lessor, the compensation shall be limited to a maximum sum corresponding to the daily net rental price for each working day. After an appropriate deadline has been set, Lessee may withdraw from the Contract if, at such time, Lessor is still behind schedule.
- 6.5 Lessee shall be entitled to inspect the leased property at Lessor's premises during an agreed appointment in due time prior to acceptance and to indicate any defects. The handover will be performed including the necessary documentation (crane broke book form law they have unloading of the lease item, instruction manual, maintenance requirements, etc.). Lessee must ensure the immediate and correct loading and unloading of the lease item/crane on the construction site. It is responsible for the manufacture of a rotating tower crane foundation with sufficient dimensions or a rotating tower crane platform, as well as crane track foundations in accordance with the manufacturer's specifications. The static proof of stability of the crane depending on the forces and moments to be named must be created independently by Lessee and provided to Lessor at least 3 days before the planned handover date.
- 6.6 Lessor must guarantee a stable and internal access route to leave rotating tower crane location – including the installation space for the truck mounted crane and the provision of test weights. Lessor will state the loads to be used.

7. Handover of the Lease Item

- 7.1 Lessee undertakes to deploy only professionally trained personnel. It is Lessee's obligation to ensure that members of its specialist staff are aware of how to use the leased crane and that all security precautions are taken, as described in detail under item 15 of these General Terms and Conditions of Lease. If the proof is not provided, the crane cannot be released. Lessor will instruct Lessee on the use of the crane. A record will be kept of the instruction.
- 7.2 If the lease item is released with operating staff in the operating staff may only be used for the operation of the lease item, not for other work. In case of damage that is caused by a crane driver who has been provided, Lessor will only be liable if it failed to select the operating staff properly. Otherwise, Lessee will be liable.

8. Defects

- 8.1 The handover protocol documents a complete functional inspection. Defects that impair the functionality of the crane/lease item will be rectified immediately. Other defects will be rectified within the maintenance cycle.
- 8.2 Lessee must report defects that have occurred during use, within three days and give Lessor the opportunity to rectify these defects. If no notification of the defect is provided and this results in damage to the lease item, Lessee will be responsible for the costs of the resulting repair.
- 8.3 Defect notifications must be made in writing. The notification can be performed telegraphically or by fax. If the defect notification is performed verbally or via telephone, Lessee must confirm the notification within

the three calendar days in writing. The date of receipt by Lessor will be decisive with regard to compliance with the deadline for the defect notification or its written confirmation.

- 8.4 In case of a defect notification, Lessor will be entitled to rectify the defect or to provide a functionally equivalent lease item. Lessee must ensure that Lessor is able to perform any repairs without impediment. As long as it is not possible for Lessor to access the lease item, Lessee cannot assert any guarantee claim all claim to compensation for damages.
- 8.5 Lessor can authorize Lessee to have the necessary repairs performed on its behalf or to perform the repairs itself. Documentation/proof of the proper repair must be provided. In such event, any costs incurred shall be borne by Lessor.

9. Exclusions in Case of Defects

- 9.1 No guarantee is assumed in case of defects that result from any of the following:
- Unsuitable or incorrect use of the lease item,
 - Incorrect assembly or commissioning by Lessee or a third party not employed by Lessor for this purpose,
 - Incorrect, improper handling of the lease item, in particular failure of Lessee to comply with the obligations stipulated in these Gen Terms and Conditions of Lease;
 - Use of unsuitable operating materials.
- 9.2 The possibility of failures of the radio remote-control resulting from failures in radio communications or cancellation of the radio signal as a result reflections or other external circumstances that may relate to the area of radio communications is not excluded and Lessor will not be held responsible for these. This will not be considered and interruption in the radio control is.

10. Maintenance Obligations of Lessee

- 10.1 Lessee will be obligated to protect the lease item from overuse in all ways and to avoid any technical overloading of the lease item. Damage resulting from excess current or short-circuits must be avoided.
- 10.2 Lessee will be obligated,
- To perform the appropriate and professional maintenance and care of the lease item in accordance with the operating and maintenance instructions of the manufacturer,
 - Only to use cleaning agents, lubricants, and other operating materials, of good quality and as prescribed by the manufacturer,
 - Take responsibility for the performance and costs of repairs that result from external effects or improper handling of the lease item by Lessee itself or by a third party for which Lessee is responsible.
 - To manage the crane inspection book and handed over the time of the handover of the crane to Lessor.
- 10.3 Lessee must have necessary repairs performed by Lessor unless Lessor explicitly agrees to another form of rectification of the defect.
- 10.4 Lessor is entitled to inspect the leased property at any time and, with the agreement of Lessee, to examine it himself or have it examined by an agent. Lessee shall be obligated to accommodate such inspections by Lessor in every way during normal working hours. The costs of such examination shall be borne by Lessor. Lessor will be responsible for inspection costs insofar as Lessee is not responsible for defects that are found.

11. Liability of Lessor

- 11.1 If the lease item is lacking a guaranteed characteristic or if a defect is fraudulently concealed, Lessor will be liable in accordance with the statutory provisions.
- 11.2 Lessor will be liable in accordance with the statute provisions if Lessee asserts claims for compensation

- for damages that result from intent or gross negligence, including intent or gross negligence on the part of its representative or agent.
- 11.3 Lessor will be liable in accordance with the statutory provisions in case of culpable breach of significant contractual obligations including liability in case of gross negligence on the part of non-management employees and indicate of slight negligence, in the latter case however within the limits of reasonably foreseeable damages that are typical in this kind of contract.
 - 11.4 Lessor will be liable in accordance with the statutory provisions in case of damage resulting from injury to life, body, or health, which relates to a negligent breach of obligation on the part of Lessor or an intentional or negligent breach of obligation on the part of its representative or agent. The liability for compensation the damages is limited to the foreseeable damages that typically occur.
 - 11.5 Liability for damages as a result of defects in the lease item remains unaffected insofar as there is liability in accordance with product liability law for damage to persons or property regarding privately used items.
 - 11.6 Damage claims against Lessor, particularly with regard to the compensation of damage that has not been sustained by the leased property itself may only be made by Lessee in the following cases,
 - a.) deliberate action of Lessor,
 - b.) gross negligence on the part of the Owner/his organs or Lessor's executives,
 - c.) culpable injury to life, limb or health,
 - d.) defects which are deliberately concealed by Lessor or where he has given a guarantee that these do not exist,
 - e.) insofar as liability exists under the Product Liability Act for personal or material loss incurred by privately used objects.
 - 11.7 Any further liability for compensation for damages other than that provided for in the provisions of these General Terms and Conditions of Lease is excluded without consideration of the legal nature of the claim asserted.

12. Shutdown Provisions

- 12.1 Where work at the workplace for which the leased property is let is shut down because of circumstances beyond the control of Lessee or Lessee's client (such as freeze, flooding, strike, riots and civil commotions, war, official orders) for a minimum of 6 successive days, such period shall be deemed shutdown time from the 7th day.
- 12.2 The lease period, which has been agreed for a defined term, may be extended with the approval of Lessor by the duration of the shutdown.
- 12.3 During such shutdown period, Lessee shall pay 63% of the corresponding rent agreed at this time.
- 12.4 Lessee shall immediately inform Lessor in writing of any suspension and resumption of work and shall provide documentary proof of any shutdown period on request.

13. Liability in Case of Loss

Lessee will be liable for loss of the lease item or part of it as a result of theft, burglary, or robbery and damages caused by third parties (e.g. vandalism, property damage). The item is in its possession and Lessee must therefore protect it from interference by third parties).

14. Insurance

- 14.1 Lessee must insure the radio remote-control, glass parts, etc. of the lease item after its expense against the following:
 - a.) Collision or crash,
 - b.) Frost, ice drifts, floods,
 - c.) Lost as a result of theft, burglary, or robbery,
 - d.) Property damage as a result of operating are ineptitude, intent, or intent on the part of the third party (e.g. vandalism, property damage, etc.).

- 14.2 Lessee must prove to Lessor upon request that it has obtained the aforementioned insurance and/or that it is still in place. In case of the occurrence of damage, Lessee assigns it claims against the insurance company at this stage to Lessor, who hereby accepts the assignment.
- 14.3 At the request of Lessor, Lessee can purchase this insurance insofar as it does not have any machine failure insurance that can be extended to include the lease item. Lessee will be responsible for the costs.
- 14.4 Lessee will be obligated to provide proof to its liability insurer of use of the lease item and to have confirmed that claims or liability on the part of the parties for damages connected with the use of the lease item are included in the insurance, including cases in which third-party claims are directed against Lessor. Upon Lessor's request, Lessee is to submit a written confirmation of Lessee's business liability insurance.
- 14.5 Lessee must report all damages caused to the lease item immediately to Lessor and, if necessary, to its liability insurer.

15. Operating Staff

- 15.1 If Lessor provides its own (leased) staff for the setup or removal or for the assembly and disassembly and/or commissioning of the lease item or provides crane professionals, the separate agreements between the contractual parties on the assembly of rotating tower cranes will apply in this respect (General Terms and Conditions of Assembly).
- 15.2 Lessor will generally not provide any operating staff. Lessee will be obligated to select, trained, and monitor its operating staff in accordance with the applicable regulations of the construction trade association for the operation of rotating tower cranes for superstructure work. Lessee will be obligated in this respect to comply with VDI guideline 2194 on the selection and training of crane drivers and the crane accident prevention regulations (BGVB 6).
- 15.3 The operating staff must comply with the applicable rules of technology, as well as the operating instructions of the machine manufacturer and any special operating instructions provided by Lessor.
- 15.4 The lifting capacity tables of the manufacturer and all applicable accident prevention provisions of the construction industry Association will apply in an exclusive and binding manner with regard to the operation of construction and rotating tower cranes including the accident prevention regulations for load handling attachments in hoist operations (VBG 9a), insofar as they relate to rotating tower cranes and the construction industry is says the regulations for selection, instruction and professional qualifications of crane drivers (BGG 922).

16. Termination of the Lease Period

- 16.1 Unless otherwise agreed, the leased property must returned be on the last day of the agreed lease period at latest. Otherwise, the lease period shall end on the day on which the leased property with all of the parts required for operation are received at Lessor's premises or at some other agreed place in full working order, but at earliest on expiry of the agreed lease period.
- 16.2 Lessee shall give Lessor two weeks' notice in writing of his intention to return the leased property.

17. Return of the Leased Property

- 17.1 Unless otherwise agreed, Lessee shall return the leased property to the place from which it was dispatched.
- 17.2 Where Lessor wishes return delivery to another place, he shall inform Lessee accordingly in good time and shall bear any additional costs incurred.
- 17.3 Lessee shall return the leased property in a complete, undamaged, operating and clean condition with a full

- fuel tank or shall have the leased property restored to this condition by Lessor at the former's expense.
- 17.4 The return obligation will extend to the crane control book/maintenance book.
- 17.5 In any case, Lessee must return the lease item that was handed over to it in accordance with this agreement for use. In this respect, Lessee will bear the burden of proof that the return material is the lease item and not an item belonging to Lessee or a third party.

18. Breach of the Maintenance Obligation

- 18.1 Damage for which Lessee is responsible, e.g. as a result of breach of the maintenance obligations, loss of parts, etc., must be documented by Lessor. This documentation will then be made available to Lessee. Lessee must be given an opportunity for verification. Lessor shall provide a quotation for the cost of the work required to remedy defects prior to commencement of such work.
- 18.2 Lessee shall be entitled to request the addition of an independent expert. The costs of any expert report shall be borne by Lessee, where the expert confirms the damage.
- 18.3 If the lease item/crane has been returned with defects, Lessee will be obligated to pay compensation for damage. This will also include the amount of rental income lost during this period. The obligation to pay rent fees will be reduced by the expenses saved by Lessor as a result. Lessee will be entitled to provide proof that Lessor has incurred lower damage.

19. Termination of the Lease Agreement

- 19.1 The lease agreement, which is concluded for a specified term, may not be terminated by either Party with notice. The right to termination without notice for good cause shall remain unaffected.
- 19.2 Lessor will be entitled in particular to terminate the lease agreement without notice if:
- a.) Lessor is in arrears with the payment of an amount that is equal to 2 monthly rental payments,
 - b.) Lessee does not use the lease item provided for the construction project stated in the lease agreement (place of use) and therefore the lease item is taken to another location without the approval of Lessor,
 - c.) If the assets duration of Lessee has significantly deteriorated or if an application for the initiation of insolvency proceedings with regard to the assets of Lessee had been rejected as a result of lack of volume, or Lessee has submitted an affidavit,
 - d.) Lessee has sub-leased the rental item or has allowed a third party to use it free of charge without the approval of Lessor,
 - e.) Lessee repeatedly breaches its obligations with regard to care and maintenance to a significant degree despite being reminded to do so,
 - f.) Lessee repeatedly employs operating staff for the operation of the lease item who are not sufficiently suitable and trained.
- 19.3 Lessor reserves the right to assert claims for compensation for damages.
- 19.4 If Lessee terminates the lease agreement prematurely without notice, the minimum free notification periods must be complied with and the removal and transportation must be prepared. Irrespective of termination without notice, Lessee will still be obligated to meet the necessary conditions for the removal of the crane and to provide Lessor with access to the crane.

20. Severability Clause

- 20.1 Where these Terms and Conditions of Purchasing do not contain a provision, the statutory provisions shall apply, unless the contractual parties have explicitly agreed otherwise in writing.
- 20.2 Should one or several provisions of these Terms and Conditions of Purchasing be ineffective or

unenforceable, the effectiveness of the remaining provisions shall remain unaffected. The ineffective/unenforceable provision shall be deemed replaced by such effective provision that most closely resembles the economic intent by the parties. The same shall apply in the event of gaps, if any.

21. Contract Language

The language of negotiation and of the contract is German. This also means that the processing of the contract verbally and in writing shall be performed in German.

22. Applicable Law

The laws of the Federal Republic of Germany shall apply in exclusion of the United Nations Convention of the International Sale of Goods and the conflict of laws provisions of private international law.

23. Legal Venue

Unless opposed by mandatory statutory provisions, legal venue for any and all claims under the respective contract is, at TRINAC's option, Essen, Germany.