

General Contractual Conditions for the Scaffolding and Formwork Business Area of Streif Baulogistik GmbH – lease conditions

As at: 01.11.2008

1. Scope and application

- 1.1 All our lease contracts are governed exclusively by these General Contractual Conditions for the Scaffolding and Formwork Business Area. These conditions are, without express declaration of such, recognised as definitive and binding for the entire duration of the business relationship.
- 1.2 The lessee's own terms and conditions are not binding on the lessor unless the lessor has expressly agreed to such terms and conditions.
- 1.3 Amendments, alterations or other supplementary agreements must be recorded in writing. The written form may not be replaced by the electronic form.
- 1.4 The lessor's written order confirmation is definitive for the leasing scope.
- 1.5 These General Contractual Conditions apply to businesspersons, public-law legal entities and public-law special assets under section 310.1 of the German Civil Code.
- 1.6 Unless otherwise agreed, all the lessor's offers are subject to change.

2. Commencement of lease period and condition of leased property

- 2.1 The lease period commences on the day of dispatch of the leased property to the lessee or when the lessee collects the leased property from our premises. If we are responsible for transporting the leased property, the lease period begins on the day when the leased property is handed over to the lessee.
- 2.2 Observance of the commencement of the lease period requires timely and correct fulfilment of any obligations to cooperate on the part of the lessee.
- 2.3 Partial deliveries are permissible provided the agreed lease period for the entire lease scope is not exceeded thereby.
- 2.4 As a basic principle, the leased property leased by the lessor has been used before. There is no entitlement to new equipment unless this is agreed in writing by the lessor when the contract is concluded. In respect of the condition of the leased property, the most recent datasheets and guidelines of the Güteschutzverbandes Betonschalungen e. V. apply both to the handover of the leased property to the lessee and to the return of the leased property to the lessor.
- 2.5 If the lessor is late in handing over the leased property, the lessee may claim compensation if it proves that it has suffered a loss. In the event of minor negligence on the part of the lessor, compensation will be limited to a maximum sum corresponding to the daily net lease price for each working day. After an appropriate deadline has been set, the lessee may withdraw from the contract if at such time the lessor is still behind schedule.

3. Transport of leased property

- 3.1 If transport is not expressly included in the lessor's scope of services, the lessee must collect the leased property from the lessor's premises. At the lessee's express wish, the lessor will transport the leased property to and from its premises at the lessee's risk and expense.
- 3.2 The lessee will arrange for immediate and appropriate loading and unloading of the leased property at the building site.
- 3.3 Risk passes to the lessee when the leased property is handed over to the haulier, carrier or collector.

3. Handover of leased property, notification of defects and lessor's liability

- 4.1 The lessor will hold the leased property in operational condition with the necessary documentation ready for dispatch or collection. The lessee is free to inspect the leased property before handover after consultation with the lessor and to notify any defects. The handover will be recorded in writing.
- 4.2 The lessee must examine the leased property after receipt immediately, and at the latest within two (2) working days, to ensure that it is complete and free of defects. The lessee must inform the lessor in writing of any missing or defective parts immediately but at the latest within three (3) working days of handover in respect of visible defects and within three (3) working days of having been identified in respect of non-visible defects. Notwithstanding this provision, however, each notice of defects must at all times be prepared before the leased property is used.
- 4.3 Obvious defects may no longer be considered if the lessor has not received a written notice of such defects within two (2) working days of risk transfer of the leased property.
- 4.4 Replacement of missing parts or remediation of visible defects requires that the lessee has duly complied with its obligations to examine the leased property and to notify defects under section 4.1 hereof.
- 4.5 The lessor must remedy promptly notified defects. The lessor may instead authorise the lessee, where the latter is in agreement, to have any necessary repairs undertaken on its own behalf or to undertake such repairs itself, in which case the lessor will bear any costs required.

4.6 If a defect or the incompleteness of the leased property is due to the lessee's service description or planning, the lessor is not liable for the defectiveness or incompleteness of the leased property.

4.7 Compensation claims against the lessor, particularly with regard to the compensation of damage that has not been sustained by the leased property itself, may be made by the lessee only in the following cases:

- wilful intent,
- gross negligence on the part of the owner or of the lessor's management bodies or senior executives,
- culpable injury to life, limb and health,
- defects that are deliberately concealed by the lessor or whose absence has been guaranteed by the lessor,
- insofar as liability applies under the Product Liability Law to personal or material losses with regard to privately used objects.

In the event of culpable breach of major contractual obligations the lessor will also be liable for the gross negligence of non-executive employees and for minor negligence, the latter case being limited, however, to losses that are typical for this type of contract and are reasonably foreseeable.

In all other instances liability is excluded.

5. Calculation of rent and payment

- 5.1 The agreed rent corresponds at all times and in every month to thirty (30) calendar days.
- 5.2 The minimum lease period is one month unless otherwise agreed.
- 5.3 It is not possible to reduce the lease period because of the weather.
- 5.4 Unless otherwise agreed, the rent must be paid in full monthly in advance on presentation of an appropriate invoice within fourteen (14) calendar days of receipt of invoice.
- 5.5 The lessee may withhold or offset payments only if it has counterclaims that are undisputed by the lessor or are legally binding.
- 5.6 All prices stated are net and subject to VAT at the rate valid on the invoice issue date.

6. Incidental costs

The agreed monthly rent does not in particular include any costs for consignment or loading, assembly, disassembly and transport for incoming and return delivery, operating and energy costs, presentation of work materials to customs, official licences or personnel.

7. Lessee's maintenance obligation

- 7.1 The lessee will at its own expense:
 - a) protect the leased property in every way from overuse, observing legal regulations,
 - b) undertake the proper technical maintenance and care of the leased property in accordance with the manufacturer's operating and maintenance guidelines.
- 7.2 The lessee will have any necessary maintenance work undertaken by the lessor unless the lessor has expressly determined some other means of remedy.
- 7.3 The lessor may inspect the leased property at any time and, after prior consultation with the lessee, examine the leased property itself or have it examined by an agent. The lessee must accommodate such examinations by the lessor in every way during normal working hours. The costs of such examination are borne by the lessor.

8. Termination of lease period

- 8.1 Unless otherwise agreed, the leased property must be returned on the last day of the agreed lease period at the latest; otherwise the lease period will end on the day when the leased property with all its required parts are received at the lessor's premises or at some other agreed place in full working order, but at the earliest on expiry of the agreed lease period.
- 8.2 If repairs are needed the lease period is extended by the number of days required for such repairs.
- 8.3 The lessee must give the lessor two weeks' notice in writing of its intention to return the leased property.

9. Return delivery of leased property

- 9.1 Unless otherwise agreed, the lessee will return the leased property to the place from which it was dispatched.
- 9.2 If the lessor wishes return delivery to another place, it must inform the lessee accordingly in good time and bear any additional costs incurred.
- 9.3 The lessee must return the leased property in a complete, undamaged, operating and cleaned condition or have the leased property restored to such condition by the lessor at the lessee's expense.
- 9.4 The lessee must in any case return the leased property that was transferred to it for use under this contract. In this respect it is for the lessee to prove that the equipment returned is the leased property and not property belonging to the lessor or any third party.

General Contractual Conditions for the Scaffolding and Formwork Business Area of Streif Baulegistik GmbH – lease conditions

As at: 01.11.2008

10. Breach of maintenance obligation

- 10.1 If the leased property is returned in a condition that reveals that the lessee has failed to comply with its maintenance obligation stipulated in section 7 hereinabove, it shall be liable to pay compensation for the period required by the lessor to undertake the necessary maintenance work, amounting to the rent that would be due for such period. The rent will be reduced by the amount of the lessor's saved expenses. The lessee is entitled to prove that the lessor has incurred a lesser loss.
- 10.2 The lessor must inform the lessee in writing of the extent of defects and damage for which the latter is responsible and give the lessee the opportunity to make its own investigations. The lessor must provide a quotation for the cost of the work required to remedy defects before commencement of such work.
- 10.3 The lessee has the right to call in an independent expert. The costs of any expert report are borne by the lessee.

11. Lessee's other obligations

- 11.1 The lessee must take all appropriate and necessary measures to safeguard the leased property.
- 11.2 The lessee may not transfer the leased property, assign rights hereunder or grant any rights in the leased property in any way whatsoever to any third party.
- 11.3 If a third party asserts rights in the leased property through seizure, attachment, act of state, exercise of lien, distraint or similar, the lessee must immediately notify the lessor and advise the third party of same by registered letter.
- 11.4 The lessee must inform the lessor of any accidents immediately and await its instructions. In the case of traffic accidents and theft the police must be called in. Opposing claims will not be conceded.
- 11.5 The lessee must use the leased property transferred exclusively for the construction purpose (place of use) stipulated in the lease contract.
- 11.6 If the lessee culpably breaches the terms of section 11, it must compensate the lessor for all damages thus incurred.

12. Insurances

- 12.1 As a basic principle, the leased property is not insured.
- 12.2 If the lessee wishes to have insurance cover, this must be agreed separately.
- 12.3 In connection with its public liability cover, the lessee must advise its insurer of the deployment of the leased property and confirm that third-party claims for damages arising out of the use of the leased property are covered, also in the event that such third-party claims are directed at the lessor. At the lessor's request the lessee must furnish written confirmation of its public liability insurance cover.
- 12.4 The lessee must immediately inform the lessor and, if necessary, its liability insurer of any damage caused to the leased property.

13. Termination of lease contract

- 13.1 The lease contract is concluded for a specified lease period and may not be terminated by either party with notice. This does not affect the parties' right to terminate without notice for a compelling reason.
- 13.2 The lessor is in particular entitled to terminate the lease contract without notice
 - if the lessee uses the leased property or a part thereof for an unspecified purpose without the lessor's approval, or
 - if the lessee fails to use the leased property transferred for the construction project (place of use) stipulated in the lease contract in accordance with section 11.5 hereinabove, or
 - if insolvency proceedings are instituted against the lessee's assets, or
 - if the lessee is in arrears with payment of the rent by more than fourteen (14) calendar days.
- 13.3 The lessee may terminate the contract without notice if, for reasons for which the lessor is responsible, the leased property cannot be used for more than five (5) successive working days.
- 13.4 If the lessee terminates the lease relationship ahead of schedule, the minimum notice periods as per section 8.2 hereinabove must be observed. Any further arrangements must be mutually agreed by the lessor and the lessee.

14. Loss of leased property

If the lessee is culpably or for technically compelling reasons unable to comply with its obligations under sections 9.3 and 9.4 hereinabove to return the leased property, it must pay compensation.

15. Security rights

The lessee assigns to the lessor as security for fulfilment all present and future claims under the contracts for work and labour with its clients in respect of all building sites on which the leased property was used.

The lessor herewith accepts the lessee's declarations of assignment. At the lessor's request the lessee must provide proof of each of these claims and disclose the assignment made to its clients with a request to pay the outstanding claims up to the amount required only to the lessor. The lessor is also entitled itself to inform the clients

of the assignment and to recover the claims. The lessor will, however, not make use of these powers and recover the claims as long as the lessee complies with its payment obligations. If the lessee recovers parts of claims assigned to the lessor, the lessee herewith assigns to the lessor its respective residual claim in the amount of these parts of claims. This does not affect the right to hand back recovered amounts. The lessee may not assign or pledge its claims against the respective client without the lessor's consent, nor may it agree a covenant against assignment with its client. The lessee must immediately inform the lessor of any distraint or any other encroachment of our rights by third parties. The lessee must deliver to the lessor all documentation required for any intervention and reimburse the lessor in respect of any intervention costs incurred.

16. Place of jurisdiction

If the lessee is a businessperson, public-law legal entity or public special asset, the place of performance and sole place of jurisdiction, summary procedures included, for both parties and for all present and future claims arising out of the business relationship will at the lessor's discretion be either the place of the lessor's head office, Essen, or the place at which the lessor has a branch when the contract was concluded.

17. Other provisions

German law will apply to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.