

## **1 CLAUSE 1 Definitions**

- 1.1. In these General Terms and Conditions of Rental 'Owner' means: the limited liability company Abird Industrial Services B.V. and/or Burki Lastechniek B.V. and/or Hef & Hijs Nederland B.V., all having their registered offices in Rotterdam, and/or every associated company which may declare that the General Terms & Conditions of Rental apply to any contract.
- 1.2. In these General Terms and Conditions of Rental 'Renter' means: the natural person, the legal person or the partnership who enters into or is negotiating a rental contract with the Owner with regard to things which are the property of the Owner.
- 1.3. In these General Terms and Conditions of Rental "Parties" means: Owner and Renter.
- 1.4. "Delivery" is understood to mean the time that the rented equipment is made available ex warehouse.
- 1.5. "Return collection" is understood to mean the time that the rented equipment is collected at the delivery warehouse.
- 1.6. In the event of a difference of interpretation or any difference of opinion about the explanation of the General Terms and Conditions of Rental which have been translated from the Dutch language, the Dutch explanation of the text shall apply.
- 1.7. Parties may not deviate from the provisions of Clause 6: any condition which conflicts with these provisions shall be invalid.

## **2 CLAUSE 2 Applicability**

- 2.1. These General Terms and Conditions of Rental shall apply to all the Owner's offers, deliveries of things, deliveries of services and rental contracts.
- 2.2. Publication of these General Terms and Conditions of Rental takes place inter alia on the (reverse side) of writing paper, quotations and order confirmations, invoices or on the internet.
- 2.3. Conditions which deviate from or are supplementary to these General Terms and Conditions of Rental shall only be binding if they have been agreed in writing, and shall only apply in a single case.
- 2.4. The application of the general terms and conditions of the Renter is hereby expressly excluded.
- 2.5. In the event that these General Terms and Conditions of Rental have also been drafted in a language other than the Dutch language, the Dutch text shall always prevail when a dispute arises.
- 2.6. The voidability or invalidity of any provision in the contract and/or these General Terms and Conditions of Rental shall not affect the validity of the remaining part of the contract and/or these General Terms and Conditions of Rental. The part which is void or invalid shall be replaced by that which is legally admissible and corresponds most closely to what the Parties would have agreed had they known of the invalidity or voidability.
- 2.7. If the Owner does not always require the strict observance of these General Terms and Conditions of Rental this does not mean that these General Terms and Conditions of Rental should not apply or that the Owner should lose the right to require the strict observance of these General Terms and Conditions of Rental in future cases, whether similar or not.

## **3 CLAUSE 3 Offers**

- 3.1. Every offer given by the Owner is revocable, even when the offer stipulates a period of time for acceptance.
- 3.2. All the offers, quotations, estimates etc. made by the Owner, both singly and in price lists, verbally, in writing, through the telephone, by telefax, on the internet, by email or in any other way, are without obligation and can therefore be revoked by the Owner, even directly after an offer has been accepted by the Renter.
- 3.3. All the information and/or specifications provided in an offer, quotation etc. are given purely by way of indication and are only binding on the Owner if that has been expressly confirmed in those words in writing.
- 3.4. If a quotation etc. given by the Owner is not accepted by the Renter in writing within 14 days or the indicated period and is

confirmed by the Owner or a written rental contract is signed by both Parties, it shall lapse.

## **4 CLAUSE 4 Contracts**

- 4.1. A rental contract comes into being between the Parties at the time that a quotation etc. is (provisionally) accepted by the Renter in writing and confirmed by the Owner in writing or at the time that a written rental contract is signed or at the time that the Owner makes the rental equipment available to the Renter.
- 4.2. Any subsequent supplementary agreements or modifications shall only bind the Owner if they have been expressly confirmed by the Owner in writing.
- 4.3. Agreements with persons without legal authority to represent the Owner or other of the Owner's intermediaries or persons shall only bind the Owner if these agreements have been confirmed by the Owner's management in writing.
- 4.4. The order confirmation given by the Owner is deemed to be a full and accurate reflection the rental contract, unless immediately otherwise indicated by fax.
- 4.5. The Owner is not liable for misunderstandings, delays or the inadequate communication of information and announcements resulting from the use of any means of communication between the Owner and Renter, or between the Renter and third parties, in so far as these relate to the relationship between the Owner and the Renter, unless there is malice or gross negligence on the part of the Owner.
- 4.6. If the Owner enters into a contract with one or more persons or legal persons then each of these persons or legal persons is jointly and severally liable for the performance of the their obligations to the Owner under that rental contract.
- 4.7. The Owner is entitled to call in third parties during the performance of the rental contract entered into with the Renter.
- 4.8. The Owner retains the right to dissolve the rental contract wholly or in part without judicial intervention, if an order of provisional attachment or garnishee is issued against the Renter, if the Renter applies for (provisional) suspension of payment, if a petition is filed for the Renter's bankruptcy or he himself files for bankruptcy, if the Renter applies to be admitted to the debt rescheduling scheme or if the Renter dies. If the rental contract is dissolved by the Owner on one of the abovementioned grounds, the Renter is automatically under an obligation to pay a fine of € 250 which is not subject to judicial moderation as compensation for the internal costs incurred and the loss of profit. Moreover the Renter shall compensate all the other costs incurred by the Owner in preparation for the performance of its obligations, as well as all the other damage suffered by the Owner. In so far as the Owner (on the basis of one of the abovementioned grounds) may dissolve the rental contract entered into by the Parties, it is not obliged to pay damage to the Renter for any reason.
- 4.9. The Renter shall assume all the risks in respect of the rental equipment during the rental period.
- 4.10. The Owner registers the personal and/or business details of the Renter. The Renter thereby gives permission to the Owner to divulge these details to third parties in cases where giving parties other than the Owner access to these details is useful and/or necessary for the performance of the assignment which is to be carried out or the maintenance of good relations.

## **5 CLAUSE 5 Time periods**

- 5.1. The nature of its company and its products means that the Owner is largely dependent on the performance of third parties (such as suppliers, carriers, other renters and bodies) and therefore cannot guarantee that the rental equipment can be made available to the Renter in its entirety and on time.
- 5.2. The periods of time given by the Owner are based as far as possible on the circumstances which apply at the time the rental contract is entered into. Nevertheless they are neither binding nor of the essence.
- 5.3. Failure of the Owner to meet the agreed periods of time does not entitle the Renter to dissolve the rental contract, unless the Owner remains in default for longer than 30 days, after having

been declared to be in default. The Owner is then not under an obligation to pay damages.

- 5.4. If the Owner cannot make the rental equipment available to the Renter on time, the Renter is not under an obligation to pay any rent until such time as the rental equipment is made available to the Renter.

## **6 CLAUSE 6 Availability of rental equipment**

- 6.1. Unless expressly otherwise agreed in writing, the rental equipment is rented from the warehouse at the branch of the Owner where the Renter ordered it, or from the warehouse of a branch to be indicated later by the Owner, which the Owner is free to choose. The risk passes to the Renter as soon as the rental equipment has left the Owner's warehouse or as soon as the rental equipment is set apart for the Renter and the Renter has been notified that the rental equipment is available to him. The Renter shall assume the risk of transportation.
- 6.2. Before the rental equipment is made available to the Renter, the Owner shall prepare a delivery report about the current state of the rental equipment. The delivery report shall be signed by the Owner and the Renter. Once the delivery report has been signed the Renter can no longer claim non-conformity.
- 6.3. The Renter shall take delivery of the rental equipment as soon as the Owner offers it. If the Renter fails to perform the abovementioned obligation, the Owner can, without prejudice to its power to require performance, dissolve the rental contract, in which case the Renter is automatically under an obligation to pay a fine of € 250 which is not subject to judicial moderation as compensation for the internal costs incurred. Moreover the Renter shall compensate all the other costs incurred by the Owner in preparation for the performance of its obligations, as well as all the other damage suffered by the Owner. In so far as the Owner may dissolve the rental contract entered into by the Parties, it is not obliged to pay damage to the Renter for any reason.
- 6.4. As soon as the rental equipment has been made available, the Renter must check that it meets the requirements, qualifications, and specifications which were notified to the Owner by the Renter, and/or meets the specifications, as the Renter so desires. If the rental equipment fails to comply with the desired specifications, the Renter shall notify the Owner of this in writing immediately after the rental equipment has been made available.
- 6.5. The Owner is not liable for the costs and/or damage resulting from defects which the Renter has discovered in the rental equipment, which defects can be traced back to the information that the Renter provided to the Owner about the items to be rented.
- 6.6. The assembly and dismantling of the material on hire shall be carried out by the Renter, unless and in so far as expressly otherwise provided or agreed.
- 6.7. The Owner shall carry out the necessary repairs to the rental equipment during the rental period, subject to the provisions of the following clauses.
- 6.8. If the Owner is going to carry out assembly, dismantling or repair work the Renter shall provide all the assistance that can reasonably be expected, and shall ensure that, in the opinion of the Owner, all the necessary help, platforms, hoists and trucks and other necessary materials are made available.
- 6.9. If the assembly, dismantling or repair of the rental material is carried out by the Owner, the following costs shall be borne by the Renter/principal:
- a. all the costs (wages, travel and accommodation expenses etc.) of the repairmen and/or other personnel of the Owner, together with all the costs that may be incurred should the Renter/principal fail to make it possible for the Owner to carry out the assembly, dismantling or repairs at the appointed time and/or to continue this without interruption.
  - b. the extra costs that may be incurred when the weather prevents work being carried out.
  - c. the cost of ancillary work including the materials necessary for this.

- 6.10. In the event that the Owner repairs the rental equipment and these repairs fall under the technical malfunctions described in Clause 14, the costs referred to the preceding paragraph shall not be borne by the Renter/principal, unless these costs come about as a result of the failure of the Renter/ principal to make it possible for the Owner to carry out the repairs at the appointed time and/or to continue them without interruption.

## **7 CLAUSE 7 Prices**

- 7.1. The agreed rental prices do not include VAT.
- 7.2. Unless otherwise agreed in writing, the rental price of the generators is based on weekly prices of not more than 50 operating hours per week, assuming 5 workdays of 10 hours. The semi-continuous rate applies between 51 and 100 operating hours, and the continuous rate applies above 101 operating hours. The applicable price rates will be made available to the Renter.
- Unless otherwise agreed in writing, the rental price of the compressors is based on weekly prices of 40 hours per week, assuming 5 workdays of 8 hours. In the event that this operating regime is exceeded, the continuous rate shall apply.
- 7.3. The Renter shall warn the Owner immediately if the hour meter does not work or does not work properly. The Renter shall check that the hour meter is working properly at least once every 4 hours. If the Renter fails to do this, the Owner shall be entitled to charge the continuous rate.
- 7.4. The Renter shall advise the Owner whether he uses the rental equipment semi-continuously or continuously.
- 7.5. Any transport costs, delivery costs and all the other costs incurred in connection with the delivery or supply of the rental equipment, as well as insurance costs, fuel, oil etc. are not included in the rental price, unless otherwise agreed in writing.
- 7.6. The agreed rental prices are based on cost determining factors at the time of the offer. The Owner retains the right to pass on to the Renter changes which have occurred in these cost determining factors after the date of the offer or the order confirmation, over which the Owner cannot reasonably exercise control, such as increases in excises, National Insurance contributions, insurance premiums, toll rates, delivery and transport costs or sales tax, up to a maximum of 25% of the agreed prices.
- 7.7. The cost of supplements and/or modifications to the contract shall be borne by the Renter.

## **8 CLAUSE 8 Payment**

- 8.1. Payment of the rental price and, if applicable, other amounts owed to the Owner by the Renter, must be paid within the period of time stated on the invoice. Payment must always be made unconditionally, without discount, deduction, set-off, withholding or deferral, for any reason. The Renter shall not have an attachment issued on his own behalf.
- 8.2. Complaints about any of the Owner's invoices must be notified to the Owner in writing, giving reasons, within 8 days of the date on the invoice, failure to do so means that the Renter shall be deemed to have accepted the invoice as correct.
- 8.3. If the Renter fails to pay the outstanding amounts to the Owner within the applicable period of time the Renter is by operation of law in default. Failure to pay one single invoice before the due date means that the Owner is legally entitled to demand immediate payment of the outstanding total of all the other invoices, including those which are not yet due. Moreover as a result of his failure to pay, as described above, the Renter forfeits all rights to any permissible discounts.
- 8.4. During his default the Renter shall be obliged to pay interest of 1 % per month or part month on the outstanding claims.
- 8.5. In the event of extrajudicial debt collection, in addition to the principal and late payment interest, the Renter is also under an obligation to pay the debt collection costs that the Owner has actually incurred. The extrajudicial debt collection costs amount to at least 15% on the first € 5,000.00 (with a minimum of € 250.00), 10% on the excess up to € 10,000.00, 8% on the

excess up to € 20,000.00, 5% on the excess up to € 60,000.00 and 3% on the excess above € 60,000.00.

- 8.6. The legal costs shall not be confined to the legal fees to be recovered, and shall be borne in full by the Renter, if he is found to be entirely or predominantly at fault.
- 8.7. Failure to pay one single invoice on the due date means that the Owner is legally entitled to demand immediate payment of the outstanding total of all the other invoices, including those which are not yet due. Moreover non-payment means that the Renter forfeits all rights to any permissible discounts.
- 8.8. In the event of non-payment the Owner is entitled to have the rental equipment removed at the Renter's expense. The Renter shall cooperate fully with this. The Renter renounces in advance any rights of retention concerning the rental equipment and shall not have an attachment issued over the rental equipment.
- 8.9. If the Owner so requests, either prior to or during the rental contract, the Renter shall pay the rental price wholly or partly in advance, or shall provide security for the performance of his obligations, for example in the form of a deposit or a bank guarantee. The Renter is not entitled to set-off any amount against the deposit or bank guarantee. If the deposit or bank guarantee is used, the Renter shall make up the deficit as soon as the Owner so requests. The Owner is not obliged to pay any interest on a deposit.
- 8.10. In the event that the Owner sells fuels for the rental generators and/or compressors, payment shall be made within 14 days after the date on the invoice. In the event that this 14 day payment period expires the Owner retains the right to halt the delivery of fuels. In so far as appropriate the Standard Terms and Conditions of Sale of the Owner shall apply, with the exception of the payment period stipulated therein.

## **9 CLAUSE 9 Security**

- 9.1. The Owner can still, before proceeding with the performance of the rental contract, without giving further reasons require the Renter to provide adequate security for the performance of his payment obligations, for example by the payment of a deposit or by the giving of a bank guarantee.
- 9.2. The Renter shall provide the required security within the desired period of time. Expiry of the abovementioned period of time places the Renter in default; a default notice is not required for this. Before the security has been provided and if the Renter is in default as regards the providing of security, the Owner can suspend performance, while it can also dissolve the contract without judicial intervention. In the latter case the Renter shall automatically be under an obligation to pay the Owner a fine € 250 which is not subject to judicial intervention as compensation for the internal costs incurred. Moreover the Renter shall pay all the other costs incurred by the Owner in preparation for the performance of its obligations, as well as all the other damage the Owner has suffered. In so far as the Owner can (on the abovementioned ground) dissolve the rental contract entered into by the Parties, it is not obliged to pay damage to the Renter for any reason.
- 9.3. In so far as the security provided to the Owner by the Renter is used, the Owner can once again require the Renter to provide sufficient security for the performance of his payment obligations.

## **10 CLAUSE 10 Purpose and use**

- 10.1. The Renter shall use the rental equipment as befits a responsible renter and shall use the rental equipment solely for its intended purpose.
- 10.2. The Renter shall use the rental equipment in accordance with the directions and/or the Owner's instructions and/or the user's manual etc. The Renter shall be liable for all the damage resulting from the complete or partial failure to follow or observe those directions and/or the Owner's instructions and/or the user's manual etc.

## **11 CLAUSE 11 Ownership and status of the rental equipment / accession**

- 11.1. The rental equipment is and remains the property of the Owner. The Renter is therefore not entitled to alienate, dispose of, pledge or in any way encumber the rental equipment.
- 11.2. The Renter may not allow third parties to use the rental equipment wholly or in part nor may he sublease it to third parties without the prior written consent of the Owner. If the Renter acts in a way which conflicts with the abovementioned obligation, the Renter shall be liable to pay a fine of € 250 per day or part of a day that the breach continues, without prejudice to the Owner's right to seek performance or dissolution on the grounds of attributable breach, as well as damages.
- 11.3. The Renter is not at liberty to change the nature, purpose or composition of the rental equipment. Nor is the Renter entitled to add things to or remove things from the rental equipment without the prior written consent of the Owner. The Owner can attach conditions to the giving of its consent. After consent has been obtained from or on behalf of the Owner, everything which is installed on or fixed to the rental equipment in any other way consequently becomes the property of the Owner. The Renter is therefore not allowed to dismantle this without the Owner's prior written consent.
- 11.4. In so far as the law permits the Parties hereby exclude any obligation on the part of the Owner to pay compensation for the things that the Renter has touched and/or the modifications he has made to the rental equipment (with the approval of the Owner).

## **12 CLAUSE 12 Garnishment**

- 12.1. The Renter of the rental material declares that he is familiar with and in so far as is necessary agrees that the ownership of the rental equipment can (come to) vest in third parties or that the rental equipment can be (or become) pledged to a third party, as security for the payment of all that which this third party has or at any time may have to claim from the Owner under a rental contract and/or a financial lease agreement or for any reason.
- 12.2. Notwithstanding the existence of the present rental contract the Renter shall hand over the rental equipment to the third party as soon as so requested, without the Renter being able to invoke any right of retention, if and when the third party as owner or pledgee claims delivery of the rental equipment on the grounds that the Owner has failed to perform its obligations to the third party. As a result of this claim the present rental contract shall be dissolved by operation of law with immediate effect. The delivery referred to above shall be made at the office of the third party or at a location indicated by the third party.
- 12.3. If the third party is the owner of the rental material (or has acquired ownership as the former pledgee) and the third party is desirous of continuing the rental contract, the Renter shall enter into a rental contract with the third party for the remaining term of the present rental contract and under identical conditions as soon as the third party so requests.
- 12.4. In so far as the present rental contract comes into existence before the abovementioned rental contract and /or financial lease agreement between the Owner and the third party as owner, Article 7:226 of the Dutch Civil Code shall not apply to the parties. In that case, the present rental contract between the Owner and the Renter remains in force even after the sale of the rental equipment to the third party by the Owner, followed by the abovementioned rental contract and/or financial lease agreement between the Owner and the third party.
- 12.5. Neither the Renter nor the Owner can revoke the third party clause included in paragraphs 1 to 4 above.

## **13 CLAUSE 13 Obligations of the renter**

- 13.1. The Renter shall be responsible for the daily and periodic maintenance of the rental equipment, which includes but is not limited to:
  - a. the topping up of fuel;
  - b. the daily check and any topping up of the lubricant;
  - c. the daily check and any topping up of the compressor oil;



- d. the daily check and any topping up of the cooling-water;
  - e. the daily check and any topping up of the distilled battery water;
  - f. the daily check and cleaning of coolers, in connection with the external conditions;
  - g. the daily check of the fan belts and adjusting their tension if necessary;
  - h. checking the pneumatic tyres and making any necessary adjustments to the pressure;
  - i. checking if the drain valves in the compressor's water separator are free or obstructed;
  - j. changing the lubricant at least once every 400 hours;
  - k. carrying out any minor repairs, such as bleeding and starting up;
  - l. in the case of cold water machines, maintaining the required level of clean water and clean surroundings;
  - m. a visual inspection of the general state of the rental equipment.
- 13.2. The Renter shall be liable for any damage suffered by the Owner as a result of his failure to perform the abovementioned maintenance obligations or other daily and periodic maintenance obligations. The Owner shall not be liable for damage which occurs as a result of the Renter's refusal to carry out or have carried out the daily/periodic maintenance.
- 13.3. The Renter shall fully insure the rental equipment with a reputable insurance company and keep it insured until such time as it is returned to the Owner. The rights of the Renter in relation to the insurer under this insurance policy are hereby transferred in advance to the Owner by the Renter by way of assignment; the Renter shall hand over the policy to the Owner once it has been received and furthermore undertakes to make all the insurance premium receipts available for inspection by the Owner as soon as so requested.
- 13.4. In the event of the alienation, disposal, theft or disappearance of the rental equipment the Renter shall file a report with the police as soon as possible and immediately afterwards hand over a copy of the police report to the Owner. The agreed rental price must continue to be paid up to the date on which the Renter receives the compensation from his insurance company and payment thereof is made to the Owner.
- 13.5. Unless the Owner has given its prior consent in writing, the Renter shall not use the rental equipment at sea, on vessels and/or outside the Netherlands. If the Renter acts in a manner which conflicts with the abovementioned obligation, the Renter shall be liable to pay a fine of € 250 per day or part of a day that the breach continues, without prejudice to the Owner's right to seek performance or dissolution on the grounds of attributable damage, as well as damages.
- 13.6. The Renter undertakes that he will immediately inform the Owner of any attachment or garnishee over his movable or immovable property or on the rental equipment, or any part thereof, of an application for the (provisional) suspension of payments, of a petition for or a declaration of his bankruptcy, of an application for admission to the debt rescheduling scheme, and that he will also make the rental contract immediately available for inspection by the bailiff who seizes the property, the receiver or administrator.

#### **14 CLAUSE 14 Malfunctions**

- 14.1. The Renter must immediately and certainly within two (2) workdays notify the owner of malfunctions in writing, with details of the serial number, and a further explanation of the malfunction and the location where the rental equipment can be found.
- 14.2. After a malfunction has occurred, the Renter shall cease to use the rental equipment unless the Owner has agreed otherwise in writing.
- 14.3. The Renter shall ensure that the rental equipment is easily available and accessible. Within the Netherlands the machine in question will, if possible, be repaired or replaced with other material by or on behalf of the Owner, at the location; if and in so far as the rental equipment is not at sea, on vessels, and/or outside the Netherlands, the Renter must bear the cost of having the rental equipment repaired by the Owner or a third party to be indicated by the Owner. In so far as necessary the

Renter must himself be responsible for replacing the rental equipment at his own expense.

- 14.4. In the event of malfunctions which last longer than one day after the malfunction has been notified to the Owner by the Renter in accordance with the provisions of paragraph 1 of this clause, and the Owner has been able to take cognisance of that notification, as a result of which the rental equipment cannot be used by the Renter, the Renter is not under an obligation to pay any rent for the period of time that the rental equipment is not able to be used by him.
- 14.5. The Owner shall determine whether the rental equipment is able to be used or not.
- 14.6. If the malfunctions have been caused by damage to the rental equipment and/or its improper or ignorant use or failure to perform the obligations of the Renter referred to in Clause 10 paragraph 2 and/or Clause 13 paragraph 1, the provisions of paragraph 4 of this Clause shall not apply.
- 14.7. Damage to the rental equipment, other than damage resulting from normal wear and tear during normal use, shall be for the expense of the Renter. Moreover the cost of the replacement/repair of damaged, missing or broken parts shall also be borne by the Renter. The agreed rental price must continue to be paid up to the date on which the Renter receives the compensation from his insurance company and payment thereof is made to Owner.

#### **15 CLAUSE 15 Checks**

- 15.1. The Owner is entitled at all times to carry out or have carried out a check on the maintenance and state of the rental equipment. The Owner is entitled to enter the Renter's premises in order to do this.

#### **16 CLAUSE 16 Termination**

- 16.1. If the rental contract has been entered into for a fixed term it can only be terminated before the end of that term by the Owner in writing, subject to a term of notice of 2 days.
- 16.2. If the rental contract has been entered into for an indefinite term, then it can be terminated by both parties by means of a registered letter on the first day of a calendar month, subject to a period of time of at least 2 days.

#### **17 CLAUSE 17 Return at end of rental contract**

- 17.1. Unless otherwise agreed in writing, the Renter shall return the rental equipment to the Owner cleaned - apart from the normal wear and tear occasioned by its proper use - in the original state by making the rental equipment available to the Owner in the warehouse of the branch of the Owner where the Owner made the rental equipment available to the Renter during the normal opening hours of that branch and no later than the day on which the rental contract ends by virtue of the expiry of the agreed rental period or otherwise.
- 17.2. Furthermore the Renter shall return to the Owner the parts of the rental equipment which may have become available during the rental period, as a result inter alia of maintenance carried out by the Renter, at the time and in the manner described in Clause 17 paragraph 1.
- 17.3. If the Renter fails to make the rental equipment available to the Owner at the appointed time and place, the Renter shall, without the need for a default summons, be in default. The Renter is then liable to pay a fine of € 250 per day or part of a day that the Renter remains in default by failing to make the rental equipment available to the Owner at the appointed time and place. In addition to this the Renter shall compensate all the damage suffered by the Owner. Furthermore the Owner is then entitled, and is hereby expressly authorised by the Renter, to enter the premises where the rental equipment is found, in order to take possession of the rental equipment. The costs associated with this shall be borne by the Renter.
- 17.4. If after its return it can be seen that the rental equipment is damaged and/or has not been cleaned, the Renter shall be

liable for the damage that the Owner suffers and/or will suffer as a result of this.

## **18 CLAUSE 18 Liability**

- 18.1. The Renter shall take suitable timely measures in time to prevent and limit damage to the rental equipment. The Renter shall immediately inform the Owner if any such damage occurs or seems likely to occur.
- 18.2. The Renter shall be liable to the Owner for all the damage to the rental equipment, unless the Renter proves that this damage is not attributable to him, his personnel and (other) persons for whom the Renter is responsible, without prejudice to the provisions of Clause 13 regarding the Renter's obligations to maintain, repair or renew.
- 18.3. The Renter indemnifies the Owner against the fines or penalties which are imposed on the Owner as a result of acts or negligence on the part of the Renter. The Renter shall compensate the Owner for the costs incurred by the Owner while defending the claims for fines or penalties referred to here.
- 18.4. The Owner shall not be liable for any damage resulting from a default. Liability on the part of the Owner is also otherwise excluded. In the event of a default the Renter cannot lay claim to a reduction in the rental price, dissolution of the rental contract, suspension and settlement, subject to the entitlement to settlement in Article 7:206 paragraph 3 of the Dutch Civil Code. The Renter indemnifies the Owner against claims for damages by third parties and shall compensate the Owner for the costs that the Owner has incurred while defending these claims for damages.
- 18.5. The provisions of Clause 18 paragraph 4 shall not apply in the following circumstances:
  - if the damage or defect is the direct consequence of malice or conscious recklessness on the part of the Owner or of subordinate managers who belong to its management.
  - if the Owner knew of a defect at the time the rental contract was entered into and made no further agreement with the Renter about this.
  - if the Owner should have known of the defect at the time the rental contract was entered into and the Renter, also given his obligation to check as referred to in Clause 6 paragraph 4 could or ought to have been aware of this.
- 18.6. The Renter shall be liable for damage which is the result of modifications or additions which have been made by him or on his behalf. The Renter indemnifies the Owner against third party claims for damage caused by the modifications and facilities which have been made or added by the Renter.
- 18.7. The Renter shall assume the risk of theft, disappearance, loss or damage to the rental equipment during the rental period, also in so far as the rental equipment may actually be completely or partially under the control of a third party. The Renter shall, at his own expense, insure this risk with a reputable insurance company and keep it insured until such time as the rental equipment is returned to the Owner. The rights of the Renter in relation to the insurer under this insurance policy are hereby transferred in advance to the Owner by the Renter by way of assignment.

## **19 CLAUSE 19 Indemnity**

- 19.1. The Renter shall fully indemnify the Owner against all forms of liability to third parties caused by or relating to the equipment which could rest on the Owner, in so far as that liability does not rest on the Owner under these General Terms and Conditions of Rental.

## **20 CLAUSE 20 Force majeure**

- 20.1. Force majeure ("non-attributable failings") shall mean: an extraordinary event beyond the control of the Parties as a result of which the Renter cannot or can no longer reasonably expect the Owner to perform the rental contract.

- 20.2. Force majeure on the part of the Owner shall in any case include: strikes, the Owner's illness, transportation problems, fire, government measures, industrial malfunctions suffered by the Owner, problems with temporary personnel, involuntary malfunctions or hindrances as a result of which performance of the contract becomes more expensive and/or more troublesome, such as storm damage and/or other natural disasters, as well as breach of contract ("attributable failings") on the part of the other of the Owner's renters or the Owner's temporary personnel or of suppliers as a result of which the Owner cannot or can no longer perform its obligations to the Renter in good time.
- 20.3. If a situation of force majeure occurs, the Owner can suspend performance of the rental contract or dissolve the rental contract; the renter can also do this, but only after the Owner has failed to perform its obligations 30 days after a written default notice. If, in a case of force majeure the rental contract is dissolved the Owner is not under an obligation to pay any damages.
- 20.4. The Owner can demand payment for the work that it has carried out in performance of the rental contract in question before the event, which caused the force majeure, became apparent.
- 20.5. The Owner can also invoke force majeure if the event, which caused the force majeure, begins after the Owner should have completed performance.

## **21 CLAUSE 21 Legal claims, applicable law, disputes**

- 21.1. This contract shall be governed by the laws of the Netherlands
- 21.2. Any disputes which may arise between the Parties and which should properly be dealt with in the civil section of a district court ("solicitor's matters"), shall at first sight be decided exclusively by the (interim measures judge of the) District Court Rotterdam, sub-district sector, location Rotterdam, unless the Owner prefers to bring the matter before the district court where the Renter resides or has his registered office or the Parties agree to another form of dispute settlement.
- 21.3. Legal proceedings shall be conducted in the Dutch language.