

RENTAL TERMS & CONDITIONS

Toolmatic



1. Applicability of these conditions

Boels Verhuur B.V., Dr. Nolenslaan 140, 6136 GV Sittard – the Netherlands, hereinafter also referred to as "lessor", is user of these Toolmatic Rental Terms and Conditions (RTC) and therefore contractor. These conditions apply to all offers made by lessor and all agreements to which lessor is a party, unless the parties have explicitly agreed otherwise in writing. Terms and conditions of lessees, buyers and other contracting parties, hereinafter referred to as: 'lessee', do not apply, even if explicitly referred to by lessee in his/its correspondence and documents.

2. Formation of the lease

The rental contract concerning the lease of the item will be concluded at such time as lessee and lessor have signed the lease contract and will commence depending on which of the following is the case:

In the case of collection, at such time as lessee takes receipt of the leased item at lessor;

In the case of delivery, at such time as the leased item is loaded by lessor.

3. Availability and return

3.1. Lessee must collect the leased item from lessor and return it to lessor at the end of the lease term, unless the parties have explicitly agreed that lessor will be responsible for bringing and/or returning the leased item.

3.2. On conclusion of the lease contract, delivery or return of the leased item, lessor has the right to require that lessee or the person claiming to act on behalf of lessee provide valid proof of identity. If lessee is not a natural person, lessor will only conclude the lease contract after it has been shown, in addition to the collector's proof of identity, a written work order sheet of the company in question and after it has received a certified extract from the Commercial Register dating back no more than three months.

4. Delivery period

In so far as periods or dates have been agreed during or on which the leased item is to be made available or delivered to lessee, these must be explicitly stated overleaf. Unless explicitly stated otherwise, delivery periods are for information purposes only. Lessor can only be in default after having been given notice of default, in which a reasonable period for compliance has been granted. Lessor reserves the right in this respect to deliver an alternative, suitable for the same purposes and with at least the same power. If lessor is culpably in default, he will be liable to pay lessee a fixed amount by way of compensation. This fixed compensation means that the loss to be compensated by lessor will be no more than the rent for the agreed lease term, with a minimum of 1,00 Euro and a maximum of 100 EUR.

5. Checking

Lessee must check the leased item visually prior to putting it into use. In the event of any defects, shortcomings or other complaints, lessee must contact lessor immediately. By putting the leased item into use, the absence of externally visible defects is agreed between the parties.

6. Rent

The rent, as described in the price list of lessor, is inclusive of VAT but exclusive of fuel, oil, any transport and damage waiver (see Art. 12).

7. Deposit

The deposit will be determined in proportion to the agreed lease term in combination with the value of the leased item. If lessee desires an extension of the lease contract, lessee must pay a new deposit no later than on the day of the extension. If lessee fails to pay a deposit within the specified time, lessor may terminate the lease contract unilaterally, without prejudice to lessor's right to compensation. The deposit may not be considered by lessee to be an advance payment of the rent due. On termination of the lease contract, lessor may set off the amounts due by lessee against the deposit. Unless otherwise agreed in writing, the lessee is obliged to pay a deposit for each leased item at the day of signing of the lease contract. The deposit will be returned when it has been established that lessee has complied with all of his/its obligations.

8. Obligations of lessee

Lessee is obliged to use the leased item properly and only in accordance with the terms of this lease contract. In particular, lessee is obliged:

- to handle the leased item in accordance with the safety and operating instructions provided on delivery;
- to use the leased item solely for those purposes for which it is intended;
- not to sublease or re-lease the leased item and/or make it available to third parties without lessor's written permission;
- to reject claims to the leased item made by third parties and to indemnify lessor against any such claims;
- to grant lessor access to the leased item at all times;
- not to make any changes to the leased item;
- to ensure that the leased item will not be accessible to unauthorised parties;
- at the end of the lease term, to return the leased item clean and in good condition to lessor;
- to pay any and all charges, taxes and fines ensuing from the use of the leased item by lessee or third parties.

9. Liability of lessor

9.1. Lessor guarantees that the leased item meets the usual requirements and standards which may reasonably be imposed on it.

9.2. In the event that the leased item fails to comply with the provisions of Article 9.1, lessor will, at lessor's option, replace or repair the leased item, free of charge, within a reasonable period after it has been returned with a specification of the complaint. Lessor is not liable for damages caused by the lessee by using the leased item in the manner that is inconsistent with the lease contract, with the users' manual, with the RTC or the purpose and the specification of the leased item.

Any other or further liability of lessor is excluded, except in the event of personal injury or damage or loss which is the direct result of an intentional act or gross negligence on the part of lessor (subjective liability). Lessor will never be liable for any consequential damage or loss, by whatever name, which do not arise from the lease contract. Lessee will indemnify lessor against any claims by third parties on account of damage or loss in connection with the leased item. Lessor's third-party liability will in any case be limited to the amount for which it is insured or ought in all reasonableness to have been insured.

9.3. Lessee is obliged to take all such measures, within reasonable limits, which can or could have prevented or limited the damage or loss.

10. Damage, Loss

a. Damage to the leased item occurring during the lease term must be reported to lessor immediately after discovery but within at the most 48 hours of it having occurred. Lessee will be liable for any damage to or defect of (parts of) the leased item, whatever the cause or circumstances, occurring in the period between the date on which the leased item was taken receipt of by lessee and the date on which it was returned to lessor. Lessee undertakes to compensate lessor for any damage caused to the leased item, at current market value, i.e. the new-for-old value of an identical or similar leased item after deducting depreciation based on the age or hours of operation of the leased item or, if lower, the costs involved in repairing the leased item. The same applies in the case of damage to parts and/or accessories of the leased item. In addition, lessee will remain liable for any other damage or loss suffered by lessor as a result.

b. In the case of lost items for which lessor has already charged lessee the current market value but which are later found and returned by lessee, lessee will pay an amount equal to the rent for the number of days lessee was in possession of the leased item. This will be deducted by lessor from the compensation based on the current market value to be paid back to lessee.

c. Lessee will be held liable, irrespective of whether lessee is to blame for the loss or theft of the leased item, parts and/or accessories or for rendering the leased item, parts and/or accessories unusable or valueless. Lessee is obliged to take preventive measures to prevent theft of the leased item in view of the fact that lessee is obliged to return the leased item, which obligation will not cease, not even by chance or third-party intervention.

11. Loss assessment

Lessee declares in advance that he/it agrees that, in the event that the estimated amount of the damage or loss involving the leased item a loss assessment will be carried out by lessor, in order to establish the cause and extent of the damage or loss, repair costs and cleaning costs. The costs incurred by lessor in connection with the loss assessment, as well as the costs of a loss assessment carried out by a firm of loss adjusters, will be payable in full by lessee, unless Article 12 applies.

The extent of the damage or loss thus established will then be regarded by the parties as definite. The amount of damages hereby specified is only binding on the lessee who is a businessman (i.e. a sole proprietor or a company). In case the lessee is a natural person – consumer, the contracting parties shall try to reach an agreement. Lessor is otherwise entitled to let the expert opinion be prepared at the expenses of the lessee.

12. Damage waiver - liability transfer

The rental price includes a damage waiver (not including normal wear and tear) to the leased item as provided for in Article 11, subject to the following conditions

- no compensation will then be claimed from lessee in the event of damage to the leased item caused during the lease term laid down in the contract, with the exception of damage or loss caused by theft, misappropriation, loss, defects;
- damage or loss as a result of an intentional act, wilful recklessness, incompetent and/or negligent acts or omissions;
- damage exclusively to pneumatic tyres

Damage waiver is agreed separately on conclusion of the lease contract.

13. Termination of the lease contract and return of the leased item

13.1. The lease contract may be terminated at any time by the parties with immediate effect i.g. on the date of delivery of the termination notice to the other party. Termination by lessee is only possible if the leased item is returned to lessor at the same time and the rent due for the remaining lease term, as agreed in the lease contract, is paid.
Termination by lessor is only possible if lessee fails to comply

with the lease contract or RTC, if a petition for bankruptcy was filed against the lessee or the bankruptcy order was announced on the assets of the lessee or the bankruptcy order on the assets of the lessee was refused due to lack of assets, if the lessee is in liquidation, if lessee has been closed down or wound up or, in the event that lessee is a natural person, if lessee has been placed under guardianship, without a court ruling being required and without prejudice to lessor's right to payment of damages, interest and costs.

13.2. At the end of the lease term, the leased item must be made available to lessor in the same condition in which it was provided and completely cleaned. Should it become apparent when the leased item is returned that it has any defects, is damaged, has not or unsatisfactorily been cleaned, lessor will be authorised to charge lessee for the cleaning and/or repair costs - or the replacement value of the leased item if this is lower.

Even if lessee was not present (if the leased item was returned by a third party), the inspection by lessor will be binding.

13.3. If the leased item is not returned to lessor immediately after expiry of the lease term, lessee will be in default by operation of law. Lessee will in that case be liable to pay lessor compensation, consisting of twice the rent for each day that lessee fails to return the item to lessor after expiry of the aforementioned period, with the maximum compensation being the new-for-old value of the leased item.

13.4. Lessee can never become the owner of the leased item. If lessee for whatever reason fails to return the leased item to lessor or fails to have it returned, lessee must pay lessor the replacement value of the leased item, without prejudice to lessee's obligation to pay the rent.

14. Payment

All payments will be in cash on return of the leased item, with the exception of the deposit, which must be paid in advance either in cash or by card. In the event that payment is not made or is late, lessee will be in default by operation of law and lessor will, without any notice of default being required, be entitled to the statutory interest and also to payment of all the legal and other costs payable in respect of the collection of the debt, with the minimum being 15% of the principal.

The period for raising objections to the costs charged will expire 10 days after the invoice date.

15. Data protection

Personal data transferred to the lessor is saved and used exclusively for the purposes of fulfilling our contractual relationships and, if required, is passed on to involved cooperation partners/agents as part of fulfilling the contract should this be necessary. The Hirer has the right to have personal data deleted at any time.

16. Scope

In the unlikely event that one of the rental terms and conditions of this lease were to prove legally invalid, this will not affect the validity and applicability of the other rental terms and conditions. This legally invalid rental term or condition will be deemed to have been replaced by a rental term or condition which is valid and which approaches the aim and purpose of the invalid term or condition as closely as possible.

17. Disputes

17.1 Any disputes arising as a result of or ensuing from an agreement concluded with a branch of lessor will be settled by the competent court in the defendant's place of business or residence. With regard to an agreement concluded with a branch of lessor in Finland, every dispute in connection with the leased item shall be finally resolved by a Dutch court having local jurisdiction.

The legal relations which are not regulated by this RTC are governed by the respective provisions of the Dutch law.

17.2 The parties will only appeal to the courts after they have endeavoured to settle a dispute between themselves.

Lessee declares that it has taken note of the aforementioned GTC and agrees to the contents.

These RTC become valid and effective on 01.03.2018 for an indefinite period.

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