

Conditions of Damage waiver and Theft/fire waiver for damage to or loss of hired property (“Rental Protection Plan”)



The General Conditions of Boels Rental Ltd. are applicable to the rental agreement specified on the front of this document. These General Conditions are handed over to the customer before or at the same time that the hire contract is signed. The General Conditions can also be consulted at www.boels.co.uk. An additional copy will be sent upon request.

In line with the General Rental Terms and Conditions, the renting party is liable for all damage to/by/in connection with the hired item(s).

The customer may, by means of a percentage surcharge added to the hire rate, partially limit their contractual liability for sudden and unforeseen damage to, or theft of, hired items through one or both of the schemes (waivers) below. Any other (co-)liable parties and/or third parties, including insurers, cannot derive any rights from these waivers. The waivers contain a limitation of the (right to) recourse from/by the lender. If agreed, in the event of inconsistency, the waivers' provisions will prevail over the provisions of the general terms and conditions of hire, which also remain in force additionally.

Any additional exceptions or instructions for prevention which are indicated on the front of the hire contract are a supplement to and are part of the exclusions for the Damage waiver and Theft/fire waiver.

The following is understood as the limited recourse or right to recourse: limitation of recourse to the excess previously specified per item.

Replacement cost is the actual cost to replace an item at its pre-loss condition

Where the text reads 'lender', the following is understood: Boels Rental Ltd. and/or affiliated companies.

In the event of damage or theft, the customer must refer to the waiver(s) in writing and substantiate its/their applicability in writing using valid and convincing evidence.

GENERAL CONDITIONS FOR A. DAMAGE WAIVER AND B. THEFT/FIRE WAIVER.

I. Who does the Damage waiver scheme apply to?

To the party hiring items from the lender. The Theft/fire waiver is not available for consumers/cash customers.

II. What is the waivers duration?

It applies during the agreed hire period, in line with the lender's general terms and conditions. Except if other conditions or exceptions apply, limitation of recourse is only applied if a. a valid hire contract is drawn up, and signed by the customer before the hire period commences, and b. the customer has demonstrably complied with all duties arising from the hire contract and from the lender's general terms and conditions.

III. For which damage is recourse limited?

Recourse for damage concerns material damage to or the replacement value of rental items, including the related expenses for: (emergency) repairs, expert assessment, storage, transport, assessment of the damages, repatriation, damage prevention and legal & non-legal expenses, loss of profits (loss of rent), etc., as long as these costs are based on written instructions from the lender. Recourse for expenses to assess the damage are only limited if the damage assessment is performed by the lender's Technical Department.

IV. Where does the waiver apply?

These schemes apply to incidents of damage occurring within the United Kingdom only.

V. How is the damage assessed?

The damage will be assessed by the lender's technical department. Should the customer fail within seven working days of receipt of the damage statement provided by the lender or, should this be lacking, within seven working days of receipt of the (damage) invoice, to lodge a notice of objection, then the customer will be deemed to have agreed to the damage assessment performed by the lender's technical department. If the customer wishes to have a re-assessment by the same expert or an assessment by another assessor acting on his/her behalf and for his/her own expenses, within five working days after the discovery of the incident of damage the customer must have another assessment carried out by the same expert or appoint another assessor and inform the lender. If the customer does not inform the lender, the lender may assume that a new assessment by the same assessor or by another assessor appointed by the customer will not take place.

VI. Which obligations apply in the event of damage?

As soon as the customer finds out about an incident of damage or should have reasonably known about it, the customer is obliged to:

- immediately inform the lender of the event;
- render every assistance in the settlement of the claim, and more particularly to follow the lender's instructions, submit/hand over the requested information and documents, (including a fully completed and signed damage form with a description of the circumstances) and to refrain from acts that could harm the lender's interests;
- if the lender's technical department is unable to repair the item then the repair estimate must be approved in writing by the lender beforehand;
- if the object is stolen or involved in any other crime resulting in damage, the customer must immediately file a police report and submit a copy of the police report to the lender. The lender will not limit recourse if one or more of these conditions are not, or are incompletely met.

VII. General exclusions for both waivers

Recourse from/by the lender is not limited if the damage and/

or theft occurred due to, was caused by, aggravated by or appeared during:

- armed conflict, civil war, uprising, civil disturbance, terrorism, strikes, riots or mutiny, earthquake, floods, volcanic eruption or nuclear reactions, regardless of how these occurred;
- an intentional act or recklessness on the part of the customer and/or his/her staff and/or assistants;
- insufficient care and/or negligent use, acts or omissions by the customer and/or his/her staff and/or assistants; Moreover, recourse by the lender is not limited:
- if the customer has sub-let the hired items to third parties (not being employees of the customer) or otherwise allowed third parties to use them without obtaining prior written permission from the lender;
- in the event that a specific exclusion mentioned in the contract applies;
- if preventative measures and other instructions printed on the hire contract or in the product instructions have not demonstrably been followed by the customer;
- if the customer uses the hired items, has used them, has had others use them or allowed others to use them for purposes other than those the hired items are intended for;
- in respect of an incident of damage the customer may derive rights from any insurance policy or other arrangement or could have derived rights from it if the Damage waiver and/or Theft/fire waiver had not existed.

VIII. Negligent use, acts or omissions

Negligent use, acts or omissions include but are not limited to the following: use by non-certified or (legally) unqualified/unauthorised persons, not refilling on time or using the wrong oil, lubricants, fuel, anti-freeze, incorrect or non-existent use of props, over-stressing or overloading, transport of trailers and/or other equipment which can be joined to a motor vehicle by a driver who does not have the correct driving licence category for the vehicle combination, performance of repairs, turning off (safety) notifications and/or other systems or sub-systems, tilting due to an excessive inclination, handling contrary to the lender's and/or manufacturer's instructions and/or instructions printed on the hire contract, incorrect or unsuitable transport, vertical transport, causing "overhead" damages (e.g. by collision with bridges, viaducts) during transport and/or road use, not taking adequate measures to prevent leaving behind residual concrete, mortar, paint or spray, not taking adequate measures to prevent damage in the event of forecast storm, hail, frost or (other) extreme weather conditions, not or not demonstrably following the specific written use and/or preventative instructions set forth in or by virtue of the contract or the accompanying risk sheet, acting contrary to a legal obligation or (local) by-law.

IX. Ownership of rental items

All hired items remain the property of the lender, regardless of any application of the Damage waiver or the Theft/fire waiver. Invoicing and/or payment for damage or excess expressly does not include any transfer of ownership. Payment must be made in full, but this payment does not lead to ownership of the hired items.

X. Aspects included in the waivers

The lender may make the entering into the Damage waiver and/or the Theft/fire waiver a condition for entering into a hire contract. The lender may, at any time, and without stating any reasons, refuse to include the Damage waiver and/or the Theft/fire waiver.

XI. Fees

The waivers will never give rise to the making of any payment or provide any compensation or refund to the customer.

SPECIFIC CONDITIONS FOR A. THE DAMAGE WAIVER SCHEME

A.1. What is the scope of the Damage waiver?

Pursuant to the Damage waiver scheme, the lender limits recourse (under the conditions referred to earlier and hereafter) for material damage to the hired items from the customer.

A.2. Which items does the Damage waiver apply to?

For items stated in contracts where surcharge for 'Total Damage waiver (A)' is indicated after the summary of items and the following is indicated afterwards on the same line in the 'number' column: '1.00' and where a percentage is also indicated afterwards and on the same line as the item in question in the column "%DW(A) + %TF(B)".

A.3. What are the specific exclusions?

The lender does not limit its recourse where:

- the damage is caused by or results from fire, theft or partial theft, a break-in, loss, misappropriation, disappearance, quarantine or government seizure;
- the event is damage to tyres;
- with regard to cleaning costs and/or damage due to dirtiness;
- if a general exclusion applies (see VII and VIII).

A.4. Excess for Damage waiver scheme

An excess applies per event and per item in respect of the Damage waiver scheme. The hire contract states the relevant excess category (1 through 6) for each rented item, if the Damage waiver scheme applies to it. The Damage waiver scheme table can be used to determine the appropriate excess for each category of hired item.

Excess for each category in the Damage waiver (A)	
Category	Excess
1	£ 20
2	£ 150
3	£ 350
4	£ 650
5	£ 1,000
6	£ 1,500

Different excess may be agreed in writing in framework agreements or pricing agreements.

If no excess category is stated in the contract for a particular item even though the scheme clearly applies to the item in question then Category 6 excess applies.

SPECIFIC CONDITIONS FOR B. THEFT/FIRE WAIVER

B.1. What is the scope of the Theft/fire waiver?

Pursuant to Theft/fire waiver, the lender limits recourse (under the conditions referred to earlier and hereafter) from the customer for sudden and unforeseen material damage to or loss of the hired items and additional cost/damage caused by fire, a break-in or theft after a break-in.

B.2. Which items does the scheme apply to?

For items stated in contracts where surcharge for 'Total Theft/fire waiver (B)' is indicated after the summary of items and the following is indicated afterwards on the same line in the 'number' column: "1.00" and where a percentage is also indicated afterwards and on the same line as the item in question in the column "%DW(A) + %TF(B)".

B.3. What are the specific exclusions?

The limitation of recourse by the lender for damage due to fire or damage due to theft does not occur if:

- the damage is caused by or results from loss, a difference in inventory, misappropriation, disappearance, quarantine or government seizure;
- a general exclusion applies (see VII and VIII);
- the additional conditions have not been satisfied (see B.4.).

B.4. Additional terms and conditions for theft cover

In addition to the general and specific exceptions, recourse from the customer in the event of theft is not limited if it cannot be demonstrated that all the conditions and circumstances below are met:

- outside working hours, the hired item must be stored or placed in an enclosed space or if this is physically impossible, either in a secured area or in an outdoor area or building site enclosed by solid closed fencing;
- in the event of a break-in to a building, a container, a shed or fencing. A break-in will only be accepted if there are clearly visible external traces of a break-in. An additional condition applies with regard to hand tools, (light mass) generators, compressors and dismantled scaffolding and accessories: the lender may only limit recourse in the event of theft after a break-in to a properly closed building or a properly closed section of a building, which is not a container, site hut or workmen's shelter;
- where possible, machines must be secured by a lock and may only be placed on a trailer during transport. Locks must be used visibly, if all the locks handed over to the customer cannot be returned immediately, it will be deemed that the customer has not fulfilled this condition;
- trailers and other machines with a coupler serving as transport behind a motor vehicle, if they are not in an enclosed area but placed in a fenced off outdoor area, must at least be chained to immovable property and also be secured with a coupler lock.

B.5. Excesses for Theft/fire waiver

An excess applies per event and per item in respect of the Theft/fire waiver. The hire contract states the (excess) category (1 to 6 inclusive) that each hired item is classified, if the Theft/fire waiver applies to it. The Theft/fire waiver excess table can be used to determine the excess for each category of hired item.

Excess per category in the Theft/fire waiver (B)	
Category	Excess
1	15% of replacement value
2	15% of replacement value
3	15% of replacement value
4	15% of replacement value
5	15% of replacement value
6	15% of replacement value

Different excess may be agreed in writing in framework agreements or pricing agreements.