

## **Special Terms and Conditions of Rental for Vehicles of HKL BAUMASCHINEN GmbH (HKL)**

### **I. General, scope of application**

1. These Special Terms and Conditions of Rental for Vehicles (hereinafter referred to as the "**Special Terms for Vehicles**") apply to all current and future rentals of vehicles (lorries, flatbed trucks, tipper vehicles, vans, off-road vehicles, cars) between HKL and the lessee. These Special Terms for Vehicles do not apply to tractors or any type of trailer (transport trailers, towed working machines, construction trailers, etc.). For the rent of tractors and trailers (with the exception of construction trailers) HKL's General Terms and Conditions of Rental apply exclusively. In addition to the General Terms and Conditions of Rental, HKL's Special Terms and Conditions of Rental for Room Systems apply to construction trailers.
2. Unless otherwise stipulated in these Special Terms for Vehicles, HKL's General Terms and Conditions of Rental shall apply. Insofar as HKL refers separately to some selected provisions of the General Terms and Conditions of Rental in these Special Terms for Vehicles, this does not exclude the supplementary validity of the remaining provisions of the General Terms and Conditions of Rental.

### **II. Vehicle handover and return**

HKL provides the lessee with a roadworthy and technically faultless vehicle together with accessories for use within the Federal Republic of Germany (hereinafter: "**Contract Territory**"). Clause IV. paragraph 1, sentence 1 and paragraph 2 of the General Terms and Conditions of Rental shall apply accordingly. The lessee shall confirm the roadworthiness and technical faultlessness in a handover report. Clause IV. 5 of the General Terms and Conditions of Rental shall apply mutatis mutandis to the return of the vehicle.

### **III. Rent**

1. The rent owed by the lessee is determined as a calendar day's rent (hereinafter: "**Daily Rent**") on the basis of HKL's currently valid graduated rental price list. If weekend days (Sat. - Sun.) or public holidays fall within the rental period, the Daily Rent is not owed for these days, provided the lessee does not use the vehicle on these days. If the lessee also uses the vehicle on weekend days or public holidays, the Daily Rent is also owed on these days in accordance with HKL's applicable graduated rental price list.
2. On each day on which the Daily Rent charge is due in accordance with paragraph 1 above (hereinafter: "**Rental Day**"), the lessee may use the vehicle with a certain number of free kilometres, the amount of which results from the rental agreement. If the lessee exceeds the number of free kilometres agreed for one Rental Day, the lessee will be charged for the additional kilometres driven in accordance with HKL's current price list.
3. In addition to the rent, the lessee shall bear all costs for antifreeze, fuel and operating materials, cleaning as well as charges for a limitation of liability (cf. Clause VIII. 3.) incurred during the rental period of the vehicle.

### **IV. Authorised to drive**

1. The vehicle may only be driven by the lessee, his/her employed professional drivers and the drivers registered in the rental agreement within the Contract Territory.
2. The vehicle may only be driven by drivers who are at least 21 years old and have been in possession of a driving licence valid in the Federal Republic of Germany for driving a vehicle in the relevant vehicle category for at least three years.

### **V. Use of the vehicle**

1. The lessee may only use the vehicle in a manner customary for the traffic and within the Contract Territory. During the rental period, the lessee shall handle the vehicle with care and observe all regulations, laws and technical rules applicable to its use. In particular, the lessee shall ensure that the tachograph or the digital tachograph of the vehicle is used properly, that the legally permissible driving times are observed and that the transport and accompanying documents are carried. The lessee may transport persons and goods at his/her own risk in accordance with the intended use of the rented vehicle and the statutory provisions, taking into account the permissible load of the vehicle.
2. The lessee must inform HKL immediately of any intended use of the vehicle on weekend days or public holidays. Clause VII. 6. of HKL's General Terms and Conditions of Rental shall apply in addition.
3. The vehicle must not be used,
  - a) for the carriage of passengers against payment, except in the case of lorries or vans within the scope of the statutory provisions;
  - b) for towing, in connection with motor sports and for racing or test drives;
  - c) if the driver's ability to drive is impaired, especially under the influence of alcohol, drugs (e.g. medication) or illness

- (e.g. epilepsy);
- d) in violation of traffic or other regulations in force at the place and time of use;
  - e) for journeys outside the territory of the Federal Republic of Germany;
  - f) on the fenced area of commercial airports/airfields, which are not accessible to public traffic;
  - g) for the transport of hazardous substances within the meaning of the Hazardous Goods Ordinance (GGVSEB).
4. Oil and water levels, tyre pressure, antifreeze and other additional fluids (e.g. AdBlue) must be checked regularly by the lessee during the rental period. If necessary, the lessee must top up the respective fluids - at his/her own expense - and adjust the tyre pressure in accordance with the manufacturer's specifications.
  5. HKL will hand over the vehicle to the lessee with a full tank of petrol. If the lessee does not return the vehicle to HKL with a full tank, HKL will charge a service fee for the refuelling. The amount of the service fee depends on the current price of fuel and can be requested by the lessee when the vehicle is handed over. Only the type of fuel specified in the operating manual of the vehicle may be refuelled. The lessee is liable to HKL for any damage and expenses incurred as a result of incorrect refuelling in accordance with Clause VIII.
  6. The lessee is strictly prohibited from tampering with the tachometer or odometer of the vehicle. The lessee must notify HKL immediately of any malfunction of the tachometer or odometer and obtain instructions from HKL in this regard. If the lessee uses the vehicle despite a malfunction of the tachometer / odometer for which he/she is responsible, of which he/she is aware or which he/she can recognise with due care, the rent owed by the lessee will be determined by the price per kilometre applicable in each case on the basis of HKL's price list and a distance of 900 km/per day. The lessee is entitled to prove that he/she has not used the vehicle or has only used it to a lesser extent.
  7. The lessee is solely responsible for any road tolls incurred when using the vehicle, for example on motorways, national roads, bridges and in tunnels. HKL is not obliged to inform the lessee of the incidence of such charges and/or their amount.

#### **VI. Parking the vehicle**

As long as the vehicle is not in use, the lessee must keep it locked and secured and ensure that the steering wheel lock is engaged, the handbrake is applied and a gear is engaged. When leaving the vehicle, the lessee must take the vehicle keys and documents and keep them inaccessible to unauthorised third parties. These obligations shall continue to apply after termination of the rental contract. Special legal or official regulations for parking - in particular for trucks - remain unaffected.

#### **VII. Obligations of the lessee in the event of accidents, theft or breakdowns**

1. In the event of any accident or damage to the vehicle by third parties (hereinafter collectively: "**Damage Event**"), the lessee must immediately call the police and ensure that the Damage Event, possible injuries to the parties involved and any material damage incurred are properly recorded by the police. The lessee shall take all measures necessary to minimise the damage and to preserve evidence. The lessee is prohibited from acknowledging claims against HKL with effect vis-à-vis third parties.
2. The lessee must notify HKL of a Damage Event immediately by telephone. In addition, the lessee is obliged to inform HKL in writing of all details of the Damage Event at the latest 24 hours after the Damage Event and - if the course of the Damage Event is known - to submit a sketch of the course of the Damage Event. The damage report must in particular contain - if known - the names and addresses of the persons involved and any witnesses as well as the registration numbers of any vehicles involved.
3. The lessee must report any theft of the vehicle, vehicle parts or accessories to the police without delay. The lessee must provide HKL with witnesses for the proper parking of the vehicle - if available - and make a corresponding sketch. Paragraph 2 above applies accordingly. If the vehicle is stolen, the lessee must return the vehicle keys and papers to HKL without delay.
4. The lessee is also obliged to assist HKL in the further processing and clarification of a Damage Event or theft.
5. In the event of a breakdown, the lessee must inform HKL immediately by telephone and obtain instructions from HKL in this regard. The commissioning of an authorised repairer by the lessee is only permissible with the prior consent of HKL, unless without such commissioning there is a risk of considerable damage and HKL's prior consent cannot be obtained in good time. Any costs incurred by the lessee will be reimbursed by HKL on presentation of the original invoice.
6. If the lessee culpably fails to fulfil his/her obligations under the above paragraphs 1 to 5 or fails to do so in good time, he/she must compensate HKL for any resulting damage. The limitation of liability in accordance with Clause VIII. No. 3 does not apply in this respect.

#### **VIII. Liability of the lessee, insurance**

The following provisions of this Clause VIII. of these Special Terms for Vehicles are conclusive, so that Clause XIV. of HKL's General Terms and Conditions of Rental no longer applies to the rental of vehicles:

1. From the time of handover until the proper return of the vehicle, the lessee shall be liable for any damage to or theft/loss of the vehicle (hereinafter collectively: "**Damage**"), including the vehicle parts and accessories, unless the lessee proves

that he/she is not responsible for the breach of duty. The lessee's liability shall also extend to any consequential damage resulting from a Damage, in particular depreciation, towing costs, expert fees, loss of rental income and pro rata administrative costs. The loss of rent shall amount to one Daily Rent for each day on which the vehicle is not available to HKL for rent. Any discounts according to HKL's graduated rental price list do not apply. The lessee is entitled to prove that HKL has not suffered any loss of rent or that the loss of rent was only minor.

2. The lessee is liable for all fees, charges, fines and caution notices, penalties and other costs due to the violation of public law regulations (e.g. the German Road Traffic Regulations (= StVO) for which he/she is responsible and which arise during the use of the vehicle and for which a claim is made against HKL and in this respect indemnifies HKL on first demand. Similarly, the lessee is obliged to indemnify HKL on first demand against any further claims by third parties based on Damage arising from or in connection with the operation or use of the vehicle - in particular due to injury to persons or damage to property, insofar as the lessee is responsible for this damage.
3. Contracts for the rental of a vehicle contain a limitation of liability in favour of the lessee for the amount of Damage to the vehicle for which the lessee is responsible. The scope of this limitation is governed by the provisions of this paragraph 3, paragraph 4 and the principles of comprehensive insurance based on the "General Terms and Conditions for Motor Vehicle Insurance" (AKB) as amended from time to time.  
For Damage Events covered by the limitation of liability, the lessee's liability towards HKL for Damage to the vehicle subject to the AKB is limited to an amount of Euro 2,500.00 per Damage Event (deductible) in the event of Damage caused by simple negligence.

However, the lessee shall be liable without limitation if he/she has **intentionally** caused the Damage to the vehicle or intentionally fails to comply with his/her obligations in the event of Damage to the vehicle in accordance with Clause VII. If the lessee has caused the Damage to the vehicle by **gross negligence** or has breached his/her obligations in accordance with clause VII. by gross negligence, the liability of the lessee for Damage subject to the AKB shall be assessed in proportion to the severity of the fault. The liability of the lessee in the event of intentional or grossly negligent causation of Damage is therefore not limited to the amount of Euro 2,500.00 (deductible).

If HKL's deductible under any existing insurance policy for the vehicle is lower than the deductible payable by the lessee under the above provisions, the deductible payable by the lessee in the specific Damage Event shall be reduced to HKL's deductible.

In the event of Damage to the vehicle that is not covered by the AKB, the lessee cannot invoke the limitation of liability against HKL. Therefore, for example, there is no limitation of liability for damaged or destroyed tyres on the rented vehicle unless there are other damages covered by the comprehensive insurance at the same time. Furthermore, the limitation of liability does not cover Damage and expenses caused by misfuelling of the vehicle or disregard of the lessee's refuelling obligation in accordance with Clause V.4.

4. The limitation of liability in accordance with paragraph 3 requires the lessee to pay a fee in accordance with HKL's valid price list. The fee shall be shown separately in the order form and shall be payable at the full daily rate for each calendar day or part thereof from the date of commencement of the rental until the date of return of the vehicle.
5. The vehicle is insured through HKL under the statutory vehicle liability insurance. The vehicle is not covered by a passenger accident insurance policy or cargo insurance policy.
6. Any insurance policies taken out by HKL and the above limitations of the lessee's liability apply exclusively to the use of the vehicle within the Contract Territory.

#### **IX. Repair and maintenance**

1. HKL shall bear the costs of the regular maintenance and inspections (main inspection, emission test) of the vehicle as well as the repairs attributable to normal wear and tear. However, the lessee is obliged to inform HKL without delay of any need to carry out inspections, repairs and/or legally prescribed examinations (main inspection, emission test) of the vehicle of which he/she becomes aware during the rental period.
2. Carrying out inspections, examinations and repairs is the sole responsibility of HKL. Any repairs carried out by the lessee himself/herself or by third parties commissioned by the lessee require the prior written consent of HKL. This does not apply if there is imminent danger, i.e. in particular in the case of emergency repairs to prevent consequential damage to the vehicle or to the property of third parties and in the case of environmental damage.

#### **X. Limitation**

The statutory provisions apply to the limitation period of claims between HKL and the lessee. If a Damage Event has been recorded by the police (cf. Clause VII.), the limitation period for any claims against the lessee shall not commence until HKL has had the opportunity to inspect the investigation file, but no later than six months after the vehicle has been returned to HKL. In the event that the file is inspected, HKL will notify the lessee without delay of the time at which the file is inspected.