

**§ 1 General**

1. The following leasing conditions shall apply to any current and future lease agreements.

Any differing, interfering or complementary general terms and conditions shall not become an element of the agreement, not even if the lessor does know them, unless their validity has been expressly confirmed by the lessor in writing.

2. Our offers shall always be not binding. When placing an order in writing or orally, the lessee declares bindingly his wish to conclude a lease agreement. The lessor shall be entitled to accept the respective offer of a contract within a period of two weeks following its receipt. The agreement shall be concluded only upon the lessor's respective written order confirmation, unless an agreement has been otherwise entered into in writing.

**§ 2 Scope of performance/quality of performance, plans**

1. The lessor's performance shall comply with the agreement as far as the quantity, dimensions, quality, functions and any other characteristics are concerned; moreover, it shall comply with the technical and legal requirements, especially the standards, environmental protection regulations and accidental regulations.

2. As a matter of principle, the drafts, drawings, illustrations and schemes prepared by the lessor shall not be binding. They are just intended for providing the lessee with an overview of different systems and their possibilities of use.

The plans prepared by the lessor that are expressly designated as binding shall become the subject matter of the agreement only upon the lessee's written release. The lessor reserves the copyright and the right of use of any drawings, plans, illustrations, drafts and schemes prepared by the lessor.

**§ 3a Period of delivery, mounting and demounting**

1. In case a delivery date that has been expressly agreed upon could not be met as far as the leased object is concerned, the lessee shall be entitled to fix a reasonable deadline to the lessor and, upon its expiration, to withdraw from the agreement by means of a written declaration. Any claims for damages due to delay in delivery shall be excluded, unless the lessor acted deliberately or grossly negligent. The lessor shall not be answerable for delays in delivery due to force majeure or to events considerably complicating or making the delivery by the lessor impossible – in particular strike, lock-out, administrative orders, even in case they occur at the sellers suppliers or their subcontractors – not even in case the deadlines and dates have been bindingly agreed upon. These events shall authorize the lessor to extend the agreed period of delivery by the duration of the impediment plus a reasonable starting time, or to fully or partially withdraw from the agreement with regard to the part of the delivery that has not been fulfilled yet.

Upon the occurrence of the said circumstances, the lessor shall notify the lessee thereof immediately in writing. Only in this case he shall be entitled to invoke the mentioned circumstances.

2. The dates of mounting and demounting shall be communicated by the lessor in time. The lessee shall provide the staff required for mounting and demounting as well as for loading and unloading in accordance with the schedule. In case the requested personnel is not or only partially available at the agreed date, the lessor reserves the right to invoice additional costs.

**§ 3b Building permit**

The lessee shall obtain any possibly required building permit. The lessee shall guarantee the load-bearing capacity of the subsoil in the mounting area. Before the lessee starts to use the leased object, the leased object has to be accepted by the authority that is competent for the lessee. To the extent required, the lessor shall provide a test book (structural analysis) with regard to the final acceptance of the completed structure. It shall be used only for submission to the authority performing the acceptance. The test book shall contain an originally verified static calculation with the test report of a testing authority competent for structural analysis, a realization permit and, if applicable, a transfer permit as well as forms for the final acceptance of the completed structure. The lessee shall comply with any requirements determined on the occasion of the final acceptance of the completed structure. The charges of the final acceptance of the completed structure shall be borne by the lessee.

**§ 4 Price**

1. The contractually agreed prices are to be understood plus the respective legal value-added tax.

The rental fees are based on the cost structure of the day of the order confirmation. Any additional costs, for which the lessor has to provide evidence, or any changes in rate, also of those of the transport industry, shall require a new negotiation of the contracting parties as to the adjustment of the rental fees.

2. The lessee undertakes to pay the rental fee according to the contractual agreement

and – unless otherwise expressly agreed upon – in the following way: 1/3 of the rental fees shall be paid upon delivery, another third upon the completion of mounting and the rest at the latest upon completion of demounting; without any deductions.

Upon expiration of the mentioned deadlines, the lessee shall be delayed in payment. During his delay in performance, the lessee shall pay interests on the debt of a rate exceeding the basic interest rate by 8 %. The lessor expressly reserves the right to give evidence of and to put forward greater damages that have been caused by the delayed performance.

3. In case the customer cancels an order, Nüssli (Deutschland) GmbH shall be entitled to claim from him flat-rate damages amounting to 40% of the agreed remuneration. If the customer gives evidence of a smaller damage or if Nüssli (Deutschland) GmbH gives evidence of a greater damage, the respectively proved damage shall be compensated.

4. The lessee shall be entitled to offset only in case the counterclaims he puts forward have been finally determined or acknowledged by the lessor. The lessor shall be entitled to exercise the right of retention only in case his counterclaim is based on the same contractual relationship.

5. In case of a failure to observe the terms of payment or the payment plan, the lessor is entitled to shut the rented property for use or even dismount parts thereof, if necessary. In no case, the lessor can be held liable for the consequences of such closing or making unusable of the rented property.

**§ 5 Use during rental period**

The lessee shall be entitled to use the leased object only for the contractually agreed purpose and only during the agreed period of time.

The lessee guarantees the careful use of the leased object. He shall be fully liable as of the arrival of the leased object, i.e. its disassembled components, for theft and damages of any kind causing an impairment of value and that are beyond normal use or wear. Moreover, the lessee undertakes to ensure a sufficient and reliable supervision of the leased object from its arrival at his site to its removal during daytime and especially during night time.

The lessee is not allowed to put the mounted property into operation before it has been released in writing by the lessor.

**§ 6 Warranty**

1. The lessee shall check the leased object immediately upon its take-over for completeness and faultlessness and shall communicate obvious defaults within a period of four days in writing. In case he does not comply with this duty, the leased object shall be considered as delivered and taken over in accordance with the agreement.

In case the customer lodges a complaint, the lessor shall comply with his warranties, at his discretion, by rework or a substitute delivery. In case the additional fulfilment fails, the lessee shall be, as a matter of principal, entitled to ask, at his discretion, for the reduction of the rental fee or the rescission of the lease agreement. In case of a minor contractual defect, especially in case of minor defects, however, the lessee shall not be entitled to withdraw from the agreement.

Any liability of the lessor for any consequential damage (e.g. lost profit, loss due to interruption of operation) not caused intentionally or by gross negligence is contracted out. Any fault of the lessor must be proven by the lessee.

The lessor does not assume any liability for the workers provided by the lessee or operator (including any accidents and their consequences). This shall not be applicable as far as, diverging from No. 2 of the General Terms and Conditions of Business, such workers become active in the mounting of the rented materials and the mounting has been contractually agreed to be a duty of the lessor.

**§ 7 Final provisions**

The place of fulfilment as far as delivery and performance and payment are concerned, and the exclusive place of jurisdiction shall be the lessor's domicile. The lessor shall be entitled to proceed against the lessee as well at his legal place of jurisdiction. As to the rest, the laws of the Federal Republic of Germany shall apply.

Any modifications and amendments of the agreement need to be done in writing in order to be legally valid.

Any possible invalidity of individual provisions of the present general terms and conditions shall not affect the validity of the remaining clauses. In the event an individual clause is invalid, it shall be replaced by a new one coming next to the economic purpose of the invalid clause.