

Article 1. Definitions

In these General Terms & Conditions, the following definitions apply:

T&C:	These general terms & conditions of hire
VT:	Aanneming- en Verhuurbedrijf Van Tunen B.V.
Days:	All calendar days
Machine(s):	Hydraulic excavators, shovels, bulldozers, dump trucks and other heavy machinery, tools, machines and/or materials hired out by VT to a Hirer under the Agreement
Hirer:	Anyone who concludes an Agreement with VT, as referred to in article 2
Agreement:	Any agreement referred to in article 2

Article 2. Applicability

These T&C apply to all Hire Agreements entered into by VT, insofar as VT is the lessor under such agreements.

Article 3. Hire period and hire prices

- 3.1 The hire agreement is entered into for periods of days, weeks and/or months, unless otherwise agreed upon.
- 3.2 If the Hirer does not use the Machine, this shall be for the Hirer's risk and shall not, therefore, affect the Hirer's payment obligations, unless the Hirer is unable to use the Machine for an unreasonably long period, which shall be at VT's discretion, or is unable to use it due to a circumstance for which VT can be blamed.
- 3.3 Hire prices are the prices exclusive of VAT and additional costs (like transport, assembly and dismantling) incurred by VT, according to the VT applicable price lists. Different rates apply to specially equipped Machines, continuous shift services, Saturdays, Sundays and public holidays.
- 3.4 The hire price payable by the Hirer is calculated from the day on which the Machine is hired out, up to and including the end date, being the day on which the Machine is returned or collected pursuant to article 6.1.
- 3.5 If the hire of a Machine is cancelled earlier than agreed upon, the hire price for the shorter period shall be due, without any price discount for the previously agreed upon, longer hire period.

Article 4. Start of Agreement

- 4.1 Delivery, assembly and dismantling shall take place by making the Machine available to the Hirer at a location clearly described by the Hirer. The Hirer and VT shall agree upon commencement of the Agreement whether the Machine is to be delivered and collected by VT, or whether the Hirer itself will make arrangements for this. The costs of delivery and collection and assembly and dismantling of the Machine shall be borne by the Hirer.
- 4.2 The Hirer guarantees that the location mentioned in paragraph 1 is easily accessible to the relevant means of transport. If the Machine cannot be delivered due to insufficient access to this location, VT shall have the right to charge the Hirer for the journey made, and the lost hire.
- 4.3 The Hirer shall decide in consultation with VT the exact location where the Machine is to be positioned.
- 4.4 VT is entitled to deliver a different Machine to that hired by the Hirer, provided said different Machine is deemed to be suitable for use by the Hirer. VT is not liable for any damage arising from characteristics specific to the different Machine. The Hirer shall at all times allow VT to exchange the delivered Machine for the agreed Machine at a later date.
- 4.5 The Hirer shall sign the in-survey/receipt report, which is to be handed over upon delivery, to acknowledge accurate and full delivery and the condition of the Machine. If delivery takes place in the Hirer's absence, an in-survey/receipt report will be left with the Machine. The Hirer must inspect the Machine based on this report and report any discrepancies directly to VT, by telephone. If the Hirer does not sign and return the in-survey/receipt report before work commences, the Hirer automatically declares itself in agreement with the correct delivery and condition of the Machine, and with the content of the in-survey/receipt report.

Article 5. Usage

- 5.1 As soon as the Machine has been placed at the Hirer's disposal, Hirer shall be fully responsible and liable for the hired Machine, and its use shall be for Hirer account and risk. The Hirer will treat the Machine with due care and will secure it in an effective manner.
- 5.2 The Hirer will use the Machine in an expert manner, solely in accordance with the purpose for which it was designed for. If certain risks are associated with use of the Machine by the Hirer, the Hirer must inform VT of this, in writing, before the commencement of the Agreement.
- 5.3 During the hire period, the Hirer must observe all relevant safety regulations and other government regulations. The Hirer indemnifies VT against all damage resulting from failure by the Hirer to observe such regulations. The Hirer must arrange permits, driver's licences etc. needed in order to use the Machine. Any associated costs shall be borne by the Hirer.
- 5.4 The Hirer is not permitted:
- to transport the Machine to a different location or use it for a different activity;
 - to undertake repairs to the Machine or to affix replacement parts and/or make other changes to the Machine, without the explicit, prior written permission of VT and subject to the provisions of article 5.5 and 5.6;
 - to sublet, pledge, or encumber the Machine or place it at the disposal of a third party in any other manner;
 - to change or remove the stickers on the Machine without the written permission of VT.
- 5.5 The Hirer will provide fuel for the Machine, possibly charge up the batteries, and regularly clean the Machine.
- 5.6 Each day, the Hirer will:
- inspect the Machine to ensure it is working properly;
 - check the level of lubricant, coolant, antifreeze, battery water, hydraulic oil, brake fluid and any other fluids, and top them up if necessary, in accordance with the requirements;
 - check the condition and pressure of the tyres. If necessary, the Hirer will adjust the tyres to the prescribed pressure;
 - inspect the condition of the Machine's various fluid systems, such as tubes and connections.
- 5.7 If the Machine is stolen, or if damage, imminent damage or any defect is observed on the

Machine, the Hirer must inform VT at once. In the event of theft, the Hirer is obliged to immediately report this to the police. If VT suffers any damage as a consequence of non-fulfilment of this reporting obligation, the Hirer shall be liable for said damage.

- 5.8 The Hirer is obliged, at the request of VT, to make the Machine available for inspection and/or non-routine maintenance. The Hirer gives VT prior permission to enter the buildings and land of the Hirer or the buildings and land where the Machine is located.
- 5.9 If an Agreement has been concluded with several Hirers, all obligations arising from the Agreement on the part of the Hirers shall be jointly and severally borne by the Hirers.
- 5.10 The Hirer is obliged to allow VT to display advertising, illuminated advertising, markings or other elements on the Machine. The Hirer may only display advertising, illuminated advertising, markings or other elements on the Machine, for the duration of the Agreement, with VT's prior, written permission; any advertising fees payable for this shall be borne by the Hirer.
- 5.11 During the term of the Agreement, any charges levied locally on projections over public land shall be at the Hirer's expense.

Article 6. End of Agreement

- 6.1 Unless otherwise agreed, the Hirer must give notice to VT to cancel the hire of the Machine no later than fourteen (14) working days before the end of the Agreement, or at such earlier time as the Hirer wishes to return the Machine. If the Hirer gives notice to cancel the hire on the day on which the Machine is collected or returned, VT shall have the right to charge an extra day of hire. The Agreement shall not end until the time at which the Machine is back at VT's premises, and the Hirer has handed the Machine over to VT.
- 6.2 The Hirer will clearly describe and notify the location where VT is to dismantle and collect the Machine, and keep the Machine in a transport-ready state. The Hirer must ensure that this location is easily accessible to the relevant means of transport. If the location is not easily accessible and the Machine consequently cannot be collected, VT shall have the right to charge the Hirer for the journey made, and the lost hire.
- 6.3 The Hirer will return the Machine clean, with fully-charged battery and/or a full tank of fuel. When the Agreement ends, an out-survey inspection shall take place and VT will prepare an out-survey/inspection report, of which the Hirer will be given a copy should there be any discrepancies compared with the condition of the Machine at the time of its delivery. If the Hirer does not fulfil these obligations, or the Machine is otherwise not in order, the additional costs necessarily incurred by VT shall be borne by the Hirer.
- 6.4 If it is not possible for VT to collect the Machine immediately, the Hirer must arrange for the Machine to be kept at the collection location for a reasonable period. Any associated costs shall be borne by the Hirer. None of this shall affect the hire price.

Article 7. Obligations of VT

- 7.1 Without prejudice to the provisions of article 10, VT guarantees to the Hirer the soundness and good quality of the Machine as hired out by VT. If VT has hired the Machine from a third party, this guarantee shall never be more extensive than said third party's guarantee obligation towards VT, and the recourse offered by said third party.
- 7.2 Upon Hirer's request, VT shall give the Hirer advice on the Machine to be hired. All advice given by VT to the Hirer is given and implemented to the best of its ability. VT is not liable for the consequences of the advice given.
- 7.3 If the Hirer informs VT of an observed defect or damage affecting the Machine, VT will deal at once with the defect or damage and attempt to carry out the repair as swiftly as possible. In the event of careless or incorrect use, intent and/or negligence on the Hirer's part, the related repair costs shall be borne by the Hirer and Article 3.2 shall apply.

Article 8. Dissolution

- 8.1 VT has the right, without the need for prior notice of default, to dissolve the Agreement by means of a written declaration to the Hirer in the event of:
- improper fulfilment by the Hirer of its obligations arising from the Agreement;
 - a petition for the bankruptcy of or a moratorium on payment by the Hirer;
 - confiscation of the Machine by third parties;
 - circumstances at the Hirer which substantially increase the risk to VT and/or may impede the normal course of the Agreement.
- 8.2 In the case of force majeure, VT shall have the right to wholly or partially dissolve the Agreement, without any judicial intervention, or to suspend its performance, without VT being obliged to pay any compensation.

Article 9. Payment

- 9.1 VT shall, at its discretion, invoice the hire cost to the Hirer weekly or monthly. All payments which must be made to VT pursuant to these T&C must be made within 30 days of the invoice date, without any setoff whatsoever, by credit to the account number quoted on the invoice, in the currency in which the invoice is issued.
- 9.2 If a down payment has been agreed between VT and the Hirer, this must have been made in full before the Machine is transported to the Hirer. The full amount of the down payment will be offset against the latest invoice from VT to the Hirer after the end of the agreement.
- 9.3 The Hirer is hereby informed that VT has taken out international credit insurance. Should the Hirer not pay an outstanding invoice within the agreed period, VT will transfer the case immediately to this credit insurer. All related costs shall be paid by the Hirer.

Article 10. Liability and Insurance

- 10.1 Unless a mandatory statutory provision requires VT to pay compensation, and except in cases involving intent or gross negligence on the part of VT, VT shall not be liable for:
- 10.2 damage due to late delivery and/or the equipment of an unsuitable Machine, or other actions;
- 10.3 damage caused by intent, culpability or negligence on the part of parties whose services VT engages in the performance of the Agreement, no matter who employs them;
- 10.4 damage caused by the tools and means of transport used by VT. In cases in which VT is liable, its liability shall be limited to the amount payable under the insurance taken out by VT.
- 10.5 While the Machine is under the Hirer's control, the Hirer shall be liable towards VT for all damage to the Machine, regardless of whether such damage is covered under any insurance. Damage also denotes loss, misappropriation, disposal, theft and total loss.
- 10.6 While the Machine is under the Hirer's control, the Hirer shall be liable for all damage caused by the Machine or its use, regardless of whether such damage is covered under any insurance.

- 10.7 The Hirer shall indemnify VT for the term of the Agreement against all claims by third parties for compensation in connection with the Machine or its use.
- 10.8 For as long as the Machine is in the Hirer's possession, if within Benelux, the Hirer shall be obliged to take out transport and all-risk (casco) insurance, based on the purchase value of the Machine with comprehensive all-risks cover, with VT as the co-insured.
- 10.9 For as long as the Machine is in the Hirer's possession, if outside Benelux, the Hirer shall be obliged to take out insurance for the Machine as per Article 10.5 and based on the purchase value of the Machine:
- General liability insurance. Including cover for damage to third parties caused by all fixed or mobile construction site machines or hoists and all other Machines, regardless of technical capacity/restrictions or lifting capacity/restrictions;
 - transport insurance for the Machine if the Machine is transported by the Hirer;
 - all-risk insurance (Casco insurance) for the Machine.
- 10.10 If the Hirer is going to place the Machine on a ship, pontoon, container or other floating object, the Hirer must take out special maritime insurance based on the purchase value of the machine.
- 10.11 Motor vehicle third-party and passenger liability insurance for the Machine as mentioned by VT in the addendum for the Machines. Any excess shall be paid by the Hirer.
- 10.12 At the Hirer's request, VT can arrange all-risk insurance as per the policy terms which are available for inspection at VT; in this case, the premium payable by the Hirer plus costs will be invoiced to the Hirer along with the hire price.
- 10.13 The insurance under the *Wet Aansprakelijkheidsverzekering Motorrijtuigen* (Motor Insurance Liability Act, WAM) shall be arranged by VT. The terms of this insurance are available for inspection at VT. The premium that VT is required to pay for the Machine under the WAM is included in the hire price.
- 10.14 For any event that is covered by one of the aforementioned insurance policies, the Hirer shall owe VT an amount by way of an excess. The amount of the excess is specified in the policy summary, which is available for inspection at VT.
- 10.15 If the Machine is lost or damaged, the insurance payments must be paid to VT. The Hirer is obliged to inform its insurers of this obligation, and to give VT the names and addresses of its insurers. VT is entitled to inform said insurers that insurance payments for the Machine belonging to VT must be paid to VT.

Article 11. Third-party clause

- 11.1 The Hirer of the Machine hereby declares that it is aware and, to the extent necessary, agrees that title to the Machine may be held by a third party, now or in future, or that the Machine may be pledged to a third party, now or in future, by way of security for payment of all amounts owed by the Lessor to such third party, now or at any future time, under hire and/or financial lease agreements, or on any other grounds.
- 11.2 Notwithstanding the existence of this hire agreement, the Hirer will not be able to invoke any retention of title if and as soon as the third party, as owner or pledgee of the Machine, demands the surrender of the Machine on the grounds of non-fulfilment of VT's obligations towards the third party. As a consequence of such a demand, this hire agreement shall be automatically dissolved, with immediate effect. The aforementioned surrender must take place at the offices of the third party or at a location designated by said third party.
- 11.3 If the third party is the owner of the Machine (or has acquired ownership as the former pledgee) and the third party wishes to continue this hire agreement, the Hirer shall be obliged, upon the third party's first request, to conclude a hire agreement with the third party for the remaining term of this hire agreement, subject to the same conditions.
- 11.4 Should the present hire agreement be established before the aforementioned hire and/or financial lease agreement between VT and the third party as owner, the application of article 7:226 Dutch Civil Code shall be excluded between the parties. In such event, the present hire agreement shall remain in force between VT and the Hirer even after the machine is sold by VT to the third party, followed by the aforementioned hire and/or financial lease agreement between VT and the third party.
- 11.5 The third-party clause included in paragraphs a to d above cannot be revoked by either the Hirer or by VT.

Article 12. Evidence

- 12.1 With respect to the monetary value of the reciprocal obligations arising from Agreements concluded with VT, the administrative records of VT shall be conclusive, unless proven otherwise using all possible means.

Article 13. Applicable law

- 13.1 Dutch law applies to all Agreements or Agreements resulting therefrom between VT and the Hirer and to these T&C.

Article 14. Competent court

- 14.1 Any disputes arising from the Agreements concluded between VT and the Hirer are subject to the exclusive jurisdiction of the competent court in Haarlem, unless VT prefers to elect the competent court of the Hirer's domicile.