

## GENERAL TERMS AND CONDITIONS OF LEASE

effective as of 10/08/2022.

### 1. Definitions

- 1.1. **Lessor** - Bergerat Monnoyeur spółka z ograniczoną odpowiedzialnością based in Izabelin-Dziekanówek, at the following address: Modlińska 11, Izabelin-Dziekanówek, 05-092 Łomianki, entered in the register of entrepreneurs of the National Court Register by the District Court for the Capital City of Warsaw in Warsaw, 11<sup>th</sup> Commercial Division of the National Court Register under the KRS number: 0000021439, NIP (Tax Identification Number): 7780022310, REGON (National Business Registry Number): 0120227940, share capital in the amount of PLN 13,827,250.
- 1.2. **Entrepreneur** - a natural person conducting business, a civil partnership or a legal entity and an organizational unit without legal personality, to which the law grants legal capacity, not being a Consumer.
- 1.3. **Agreement** – a lease agreement concluded between the Lessor and the Lessee, on the basis of which, the Lessor shall provide the Lessee with the Machine for the Lease Term indicated in this Agreement, and the Lessee undertakes to pay the rent and other agreed fees, the terms and conditions of which shall be specified in the General Terms and Conditions of Lease and a specific Order.
- 1.4. **Party** - the party to the Agreement is the Lessor and the Lessee. The Parties to the Agreement shall be jointly understood as the Lessor and the Lessee.
- 1.5. **Lessee** – Customer who concluded the Agreement with the Lessor.
- 1.6. **Order** – a specific Lease Agreement, under the terms and conditions of which, the Lessor shall provide the Lessee with a machine for use, of individual machine's brand, model, year of manufacture, serial number, and the Lessee shall collect the Machine for use and pay the Lessor the Rent under the Agreement and other fees, as well as other arrangements constituting an integral part thereof.
- 1.7. **Machines** - designated as to make, model, year of manufacture, serial number, the machine which is the subject of the Order.
- 1.8. **Business Days** - means days from Monday to Friday from 8:00 a.m. to 3:00 p.m., except Saturdays, Sundays and public holidays.
- 1.9. **Limit** - a lump sum, maximum number of motoring hours per rental month, indicated in the Order.

### 2. General provisions

- 2.1. These General Lease Conditions (hereinafter: "**General Terms and Conditions of Lease**" or "**OWN**") shall apply to all Lease Agreements (Orders), where – Bergerat Monnoyeur spółka z ograniczoną odpowiedzialnością with its registered office in Izabelin-Dziekanówek acts as a Lessor and constitute their integral part upon the Lessee's approval.
- 2.2. Provisions of the General Terms and Conditions of Lease and Order, shall be hereinafter referred to as the Agreement.
- 2.3. Lessor declares that it has legal title to the Machine and is entitled to enter into the Agreement.
- 2.4. The Parties agree that a reading of the counter of the Machine's hours of operation regarding a dedicated Order shall be included in the Handover Report.
- 2.5. The tables used within the Order (or its Appendices) include selection fields in which the choice may be marked as "X" or editable fields for text input. For the avoidance of doubt, an entry made in a dedicated selection or editable field in such tables shall be tantamount to a binding determination made between the Parties with respect to the given condition, deadline or form in which the provisions of the Agreement are to be performed or other circumstances so determined.
- 2.6. In order to avoid any doubt, whenever the Order refers to the Machine, the Parties hereby agree that any such references shall also encompass the Accessories.
- 2.7. BM declares that it has the status of a large entrepreneur within the meaning of the Act on Prevention of Excessive Delays in Commercial Transactions of March 8, 2013. (Dz. U. [*Polish Journal of Laws*] of 2019, item 118, as amended).

### 3. Machine release

- 3.1. The Lessor shall hand over the Machine, dedicated to a specific Order, to the Lessee on the basis of a report signed by the duly authorised representatives of the Parties, hereinafter: "**Release Protocol**". The Lessee's signature of the Handover Report shall be tantamount to approving the Machine's technical condition and confirming that the Machine is operational and suits the arranged use.
- 3.2. At the same time as the Machine is issued, the Lessor shall provide the Lessee with the operation and maintenance manual for the Machine, received from the manufacturer, hereinafter: "**Manual**".

### 4. Operating Conditions of the Machine

- 4.1. The Lessee shall use the Machines only in a manner consistent with its properties, intended use, in particular in accordance with the Specification and Manual, as well as with the Lessor's recommendations.
- 4.2. The Lessee shall not export, transfer, or use or use the Machine outside the territory of the Republic of Poland.
- 4.3. The Lessee may not give the Machine for free use or sublet it or put it to use on any other basis, without the express prior consent of the Lessor.
- 4.4. Persons who will operate the Machine will have the legally required authorizations and appropriate skills, as well as be in a condition to operate the Machine safely and in accordance with the law.

### 5. Service and repair of the Machine by the Lessor

- 5.1. The Lessor agrees to perform regular periodic inspections of the Machine, at its own expense, at the frequency and under the conditions specified in the Manual, hereinafter: **"Inspections"**. The Lessor shall provide at their own expense, filters, gaskets, oils, lubricants, and inhibitors required to carry out the Inspections.
- 5.2. In the event of any malfunction or damage to the Machine, the Lessee shall notify the Lessor, within 24 hours of the discovery of the malfunction or damage, under penalty of losing the rights described in this paragraph 5.3. and 5.4. and follow further instructions of the Lessor.
- 5.3. The Lessor, upon receipt of notice of failure or damage to the Machine, shall proceed to restore the Machine to working order.
- 5.4. The Lessor shall repair the Machine at its own expense, unless the failure or damage was caused by the Lessee. In such a case, the repair costs shall be borne by the Lessee, and the Lessee hereby approves this.
- 5.5. The Lessee shall not make any repairs chargeable to the Lessor, on his own or at the expense of the Lessor.
- 5.6. The Lessee is obliged to notify the Lessor, at least 3 working days in advance of the upcoming review date. The Lessee shall make the Machine available to the Lessor for the duration of the Inspection, in a condition that allows the Inspection to be carried out and shall provide access to the necessary utilities if required.
- 5.7. The Lessee is obliged to refrain from using a Machine that is inoperative.

## 6. Maintenance and operational activities on the part of the Lessee

- 6.1. The Lessee will be obliged to:
  - 6.1.1. regularly check the level of operating fluids of the Machine, including oils, cooling and hydraulic fluids and fuel, and replenish these fluids in accordance with the rules set forth in the Manual and in accordance with the instructions of the manufacturer of these fluids;
  - 6.1.2. to use only the fuel intended for the type of engine of the Machine;
  - 6.1.3. use - when conditions require it - of fuel enhancers;
  - 6.1.4. to replace components subject to abnormal wear, such as cutters, teeth, slats, blade knives, and to replace tires in the event of damage or wear.

The activities set out above in points (1) to (4) shall be hereinafter jointly referred to as **"Operation Activities"**.

- 6.2. For the avoidance of doubt, the Parties unanimously declare that, as part of the Maintenance Activities, the replacement of elements of the Machine shall be carried out by the Lessee and at its expense, only with original, brand new elements purchased from the network of authorized service centers of the manufacturer of the Machine or from other points authorized by the Lessor. At request of the Lessee, the Lessor may – at the expense of the Lessee – carry out the Maintenance Activities that shall be charged to the Lessee. The costs of Operation Activities carried out by the Lessor shall be agreed by the Parties under a separate agreement.
- 6.3. The Lessee shall not (a) replenish fluids (except fuel and Ad-Blue factor) with any type of fluids other than the factory fluids or those recommended by the manufacturer of the Machine, unless the manufacturer of a particular operating fluid expressly permits the mixing of such fluids with the original fluid for the Machine, (b) use fuel of unknown origin, fuel not intended for the engine of the Machine, or use any fuel admixtures, except for refiners.
- 6.4. In addition, the Lessee shall not make any changes as regards the Machine, unless the Agreement explicitly states otherwise. A change in the Machine has a wide meaning as construed by the Parties and includes in particular each and every removal or modification of the Machine's parts or the Machine itself or adding or installing any components or parts in the Machine.

## 7. Risk of accidental loss of or damage to the Machine, Obligations of the Lessee

- 7.1. The Lessee shall bear the risk of accidental loss of or damage to the Machine from the moment of its delivery to the Lessee and shall be liable for damage or deterioration of the Machine, unless such damage or deterioration does not exceed the consequences of proper operation of the Machine. The Machine shall be covered by insurance in accordance with item 9 of the OWN, and the Lessee shall reimburse the Lessor for any and all damage that has not been fixed (covered) under the insurance purchased for the Machine, which shall also concern re-invoice of insurance franchise.
- 7.2. The Lessee undertakes to inform the Lessor - within no more than 24 hours - of any events concerning the Machine that may give rise to claims or benefits under insurance agreements, while notifying the relevant authorities or services, if required by law.
- 7.3. In the event of damage to the Machine, the Lessee shall take all necessary measures to protect the Machine from deterioration of its condition or increasing the extent of the damage.
- 7.4. The Lessee shall be responsible for the acts and omissions of the operators of the Machine as if they were its own acts and omissions even if they controlled the Machine incidentally or without the consent and knowledge of the Lessee or for purposes not directly related to the business conducted by the Lessee, even if they were professionals.
- 7.5. Disposing of the Machine, encumbering the Machine with rights in favor of third parties, including pledging the Machine as collateral against any third parties on any legal basis is prohibited.
- 7.6. The Lessee shall make periodic checks of the Machine's hour meter and inform the Lessor of the number of hours of the Machine upon each inquiry of the Lessor, within 2 days of receipt of such inquiry.
- 7.7. The Lessee shall, at all times, allow the Lessor to inspect the condition of the Machine and to perform repairs and maintenance procedures that are charged to the Lessor or that the Lessor deems necessary. The Lessor shall see to it that such an inspection does not cause excessive trouble for the Lessee.

## 8. Rent and other costs

### Common provisions for Rent and other fees under the Agreement

- 8.1. The payment conditions concerning the rent and other costs provided for in the Agreement, including deposit and transport costs, are specified in a specific Order. The provisions concerning the rent in a particular Order shall apply accordingly to making other payments under the Agreement.
- 8.2. Any and all payments provided for in a specific Order shall be transferred by the Lessee to the Lessor's bank account specified in the Order, hereinafter: "**Bank Account**".

### Rent

- 8.3. The Lessee shall pay the Lessor a monthly rent for the Machine resulting from a specific Order, for each running month of the lease, including the following provisions, hereinafter: "**Rent**".
- 8.4. The Rent specified in the Order is a net rent and may be indicated in Polish zloty (hereinafter: "PLN") or Euro (hereinafter: "**EUR**").
- 8.5. If the Rent is specified in EUR and the payment is to be made in PLN, the Rent in EUR shall be converted into PLN, at the exchange rate of Bank Societe Generale in Warsaw on the date of issuance of the relevant VAT invoice, unless otherwise agreed by the Parties. The VAT tax applicable as at the day of issuance of the appropriate VAT invoice shall subsequently be added to the Rental Fee converted in accordance with the terms and conditions laid down in the previous sentence.
- 8.6. If the Rent is specified in EUR and payment is also to be made in EUR, the EUR Rent shall be increased by the appropriate VAT rate expressed in EUR, which shall be converted into PLN, according to the average exchange rate of the National Bank of Poland on the business day preceding the issuance of the relevant VAT invoice.
- 8.7. Where the Rent is indicated in PLN and the payment is to be made in PLN, the VAT rate applicable as of the date of issuance of the appropriate VAT invoice shall be added to the Rent indicated in PLN.
- 8.8. The Rent shall be paid by wire transfer to the Bank Account, and the date on which the Lessor's account is credited shall be considered the date of payment.
- 8.9. The Lessor shall charge the Lessee with the Rent and other fees under the Agreement in the period from the Handover Report date until the Return Report date or signing by the Lessor a unilateral Machine collection report in the case referred to in 13.4 of the OWN.
- 8.10. The Rent in a given month of lease shall be gradually reduced in proportion to the number of days in that month in which the Machine was not operational in the opinion of the service staff of the Lessor. The reduction of the Rent referred to in the previous sentence shall not apply if the breakdown of the Machine resulted from circumstances attributable to the Lessee, or if the Lessor has delivered a substitute machine.
- 8.11. For the sake of clarity, reduction of the number of days of Machine operation in a given month of lease as a result of breakdown referred to in item 8.11 above shall cause proportional reduction of the Limit in a given month of lease.
- 8.12. Should the last month of lease end on the day that is not the last day of this month of lease, such Rental Fee can be calculated – at the discretion of the Lessor – in proportion to the amount of the monthly Rental Fee and the number of calendar days of the duration of the Agreement within that month of lease.
- 8.13. The Lessor shall be entitled to set off against the Deposit the due amount of additional Rent specified in the Order or amounts related to exceeding the Limit.

### Deposit

- 8.14. The parties agree that the Lessor shall proceed with the organisation of the Machine for handover only on condition that the Lessee pays the Deposit pursuant to the provisions of this Order.
- 8.15. The Lessor may retain the Deposit in the event of non-performance or improper performance of the obligation of the Lessee under the Agreement.

### Transport

- 8.16. The Parties agree that the cost of transportation of the Machine for the purpose of handover or collection under the Agreement shall be borne by the Lessor or Lessee respectively or shall be divided between the Parties according to rules determined in the Order.
- 8.17. Machine's transportation costs shall be each time settled on the basis of a VAT re-invoice in accordance with any and all costs of transportation borne by the Lessor.
- 8.18. VAT re-invoice for the said transport shall be issued after a relevant transport service is provided, and the payment shall be made within 14 days of the re-invoicing date.
- 8.19. The Lessee shall cover Machine Transport Costs in the event of:
  - 8.19.1. the need to redeliver the Machine in order to initiate the performance of the Agreement due to the Lessee's failure to collect the Machine,
  - 8.19.2. necessity to transport the Machine due to its failure or damage, for reasons attributable to the Lessee,
  - 8.19.3. the need to return the Machine following termination of the Agreement for reasons attributable to the Lessee.

## 9. Machine Insurance

- 9.1. The Lessor declares that the Machine shall – throughout the term of the Agreement – be insured at the cost and effort of the Lessor against loss or damage. The Lessee shall immediately inform the Lessor about any loss of or damage to the Machine and cooperate in the lost adjustment procedure, in particular by submitting relevant information and documents that are required by the insurer and undertake any and all means in order to prevent the damage from

increasing.

- 9.2. The Lessee declares that he has familiarized himself with the requirements of the insurer of the Machine for its operation and storage related to insurance coverage and undertakes to strictly comply with them. The General Conditions of Insurance are contained in an Appendix to a specific Order ("General Conditions of Insurance").

#### 10. Remote Machine Ignition Cutoff

- 10.1. In the event that the Lessee is in default in the payment of even one Rent or any part thereof, the Lessor shall be entitled to remotely cut off the ignition in the Machine, preventing the Lessee from starting the engine in the Machine (hereinafter "**Remote Machine Ignition Cutoff**"), subject to prior warning to the Lessee that the Remote Ignition Cutoff shall occur within not less than 7 days of the warning, communicated to the Lessee via Electronic Communication. The Lessor's right to Remote Machine Ignition Cut-off shall expire upon settlement of all outstanding payments by the Lessee to the Lessor before the date of Remote Machine Ignition Cut-off envisaged by the Lessor.
- 10.2. Should the Lessee fail to settle all outstanding payments before the date of Remote Machine Ignition Cut-off, the Lessor shall have the right to terminate the Agreement with immediate effect and to collect the Machine from the Lessee at his expense.
- 10.3. If the Lessee settles all outstanding payments to the Lessor before signing the report referred to in item 11.3 below, the Lessor shall have the right to withdraw the notice of termination of the Agreement with immediate effect and to restart the Machine. For the avoidance of doubt, should the Renter withdraw the notice of termination of the Agreement with immediate effect, the Agreement shall be continued. The provision of item 10.4 below shall not apply.
- 10.4. After the termination of the Agreement, the Lessee may start using the Machine once again only after the new lease agreement is signed and all formalities related to the new lease agreement have been completed.
- 10.5. For the period between Remote Machine Ignition Cut-off and the date of re-start or signing the report referred to in 11.3 below, the Lessee shall be obliged to pay all fees provided for in the Agreement, in particular to pay the agreed Rent.
- 10.6. The Lessee agrees to duly secure the Machine in order to avoid any damage that may occur due to the Remote Ignition Cutoff of the Machine. The Lessee shall be liable for damages resulting from the operation (including involuntary) or discontinuation of operation of the Machine related to the Remote Machine Ignition Cut-off.

#### 11. Lease period

- 11.1. The Agreement is concluded for the period indicated in a particular Order, hereinafter: "**Lease Period**". For the avoidance of doubt, a month of lease shall mean appropriate interval amounting to 30 subsequent calendar days. The first month of lease shall start on the date of the handover of the Machine confirmed by the Handover Report.
- 11.2. Upon the lapse of the Lease Period, the Agreement shall be automatically extended or expire, depending on the Order.
- 11.3. Return of the Machine to the Lessor shall be made on the basis of a protocol, signed by authorized representatives of the Parties, hereinafter referred to: "Return Report" or pursuant to unilateral collection of the Machine by the Lessor in the case referred to in § 13.4. of the OWN.
- 11.4. The Agreement shall enter into force on the date of its conclusion, while the term of the Agreement shall be calculated from the date the Parties sign the Release Protocol until the date of termination of the Agreement. The Lessee shall be obliged to pay all fees provided for in the Lease Agreement, including, in particular, the agreed Rent, and to secure the Machine in order to avoid any damage until the Machine is returned to the Lessor pursuant to the Return Report, or to unilaterally hand over the Machine to the Lessor in the case referred to in § 13.4 of the OWN.

#### 12. Termination of the Agreement

- 12.1. Lessor has the right to terminate the Agreement with immediate effect:
- 12.1.1. in the event of actions or omission on the part of the Lessee that infringe upon the obligations of the Lessee defined in the Agreement;
- 12.1.2. in the event of knowledge of the existence of grounds for filing a petition for bankruptcy of the Lessee or initiation of reorganization proceedings or adoption of a resolution to liquidate the Lessee;
- 12.1.3. in the event of delay in at least one Rent payment or any part thereof by the Lessee.
- 12.1.4. if it is established that the Lessee is unable to pay the rental fee or other fees under the Agreement, or if such ability raises reasonable doubts, or if an application is made against the Lessee for the Lessee to be struck off the register of entrepreneurs or such striking off has already taken place.
- 12.2. In the event of termination of the Agreement on the basis of item 12.1 above, the Lessee shall cover any and all costs related with the transportation of the Machine (return of the Machine) to the Lessor. The said costs shall be covered within 14 days of the date of issuance of an appropriate VAT invoice by the Lessor.
- 12.3. The Rentee shall have the right to terminate the Agreement with immediate effect:
- 12.3.1. if the Machine has defects that do not allow for using the Machine in accordance with the Agreement, and the Lessor fails to remove such defects within 14 days from the date the Lessor is notified of the defects or fails to provide a substitute machine, or
- 12.3.2. if, in the Lessor's opinion, the defects preventing use of the Machine in accordance with the Agreement cannot be removed,
- 12.4. The Lessor may terminate the Agreement for an important reason with a 30-day notice period, effective as of the end

- of a calendar month.
- 12.5. In the event that the Lessee delays payment of any amount due, albeit from another agreement to the Lessor, without prejudice to other rights, the Lessor shall be entitled to withhold the release of the Rental Machine from the Agreement to the Lessee until the Lessee has paid all amounts due to the Lessor, without setting a grace period for the Lessee to comply with the obligation. The Lessor shall not be liable for failure to deliver the Machine on the date agreed upon in the Agreement due to delay in payment of the Lessee's dues to the Lessor.
- 12.6. In the event that the Lessee delays payment of any amount due, albeit from another agreement to the Lessor, and the Machine has already been delivered to the Lessee for lease from the Agreement, without prejudice to any other rights, the Lessor shall be entitled to terminate the Agreement immediately without giving the Lessee an additional period of time to comply with the obligation and to proceed to take delivery of the Machine within the next 3 days from the delivery of the notice of termination of the RAB Agreement to the Lessee, or within the next 3 days from the date on which the Lessee had an opportunity to learn the contents of such notice. For the avoidance of doubt, from the time of termination of the Agreement referred to in the sentence above until the Machine is taken back by the Lessor, the Lessee shall secure the Machine to avoid any damage and shall be liable to the Lessor for accidental loss of or damage to the Machine until it is taken back by the Lessor.
- 12.7. In the event that the Lessee settles all outstanding dues referred to above in favor of the Lessor prior to the signing of the protocol referred to in Section 11.3 above, the Lessor shall be entitled to withdraw the notice of termination of the Agreement with immediate effect. For the avoidance of doubt, should the Renter withdraw the notice of termination of the Agreement with immediate effect, the Agreement shall be continued. The provision of item 12.8 below shall not apply.
- 12.8. After termination of the Agreement, the Tenant may begin to use the Machine again only after signing a new lease agreement or a similar type of agreement and completing all formalities related to the new agreement.
- 12.9. For the period from the termination of the Agreement until the date of withdrawal of the statement of termination of the Agreement with immediate effect or signing of the protocol referred to in 11.3 above, the Lessee shall be obliged to pay all fees provided for in the Agreement, including in particular the payment of the agreed Rent. For the avoidance of doubt, from the time of the termination of the Agreement referred to above until the Machine is taken back by the Lessor, the Lessee shall secure the Machine to avoid any damage and shall be liable to the Lessor for accidental loss of or damage to the Machine until it is taken back by the Lessor.

### **13. Return of the Machine**

- 13.1. In the event of termination of the Agreement regardless of the reason, the Lessee shall return to the Lessor the Machine, along with the entire equipment and documentation, and such Machine shall be clean, and its technical condition must not be beyond reasonable wear and tear; such return shall be made on the basis of the Return Report.
- 13.2. In the event of the Lessee's failure to comply with the obligations set forth in paragraph 13.1. above, the Lessor shall charge the Lessee with the costs, on this account, and the Lessee undertakes to pay these costs within 14 days counting from the date of issuance of an appropriate VAT invoice by the Lessor.
- 13.3. The Lessee hereby irrevocably authorizes the Lessor (or will provide authorization for the Lessor) to enter and drive in with the necessary equipment and employees - for the purpose of picking up the Machine - on the premises where the Machine will be located at the time of pick-up. Moreover, the Lessee shall fully cooperate with the Lessor and the persons acting on its behalf at the time of return (collection) of the Machine.
- 13.4. In the event of absence of the authorised representative of the Lessee on the date and on the site of Machine return as determined by the Parties, the Lessor will be entitled to collect the Machine on his own pursuant to a Return Report signed only by the Lessor. The Lessor shall draw up a report of unilateral collection of the Machine after its collection from the Lessee and provide the Lessee with its copy by means of Electronic Communication.

### **14. Lessee's responsibility**

- 14.1. In case of:
- 14.1.1. flagrant violation of the operating conditions of the Machine and the rules of its operation, service or repair;
  - 14.1.2. failure to cooperate or to take an action that impedes or prevents the acceptance of the Machine;
  - 14.1.3. change of the location of the Machine agreed upon in the Purchase Order;
  - 14.1.4. failure to fulfil the obligations to inform the Lessor and to cooperate with the Lessor,
- the Lessor shall impose an agreement penalty on the Lessee amounting to 5 monthly gross Rents, separately for each case of violation.
- 14.2. The Lessee shall pay to the Lessor the agreemental penalty in question on the basis of an accounting note specifying it, within 14 days from the issuance of such note.
- 14.3. In each case, apart from the liquidated damages that may be demanded by the Renter on the basis of this Agreement, the Renter shall be entitled to pursue compensation, the amount of which exceeds the said liquidated damages on general terms.

### **15. Liability of the Lessor**

- 15.1. The parties unanimously confirm that the liability of the Lessor for non-performance or improper performance of an obligation, as well as in tort, is based on fault.

- 15.2. The Parties agree that the Lessor shall not be at fault and thus shall not be liable if non-performance or undue performance of an obligation is not attributable to the Lessor's fault. The Parties agree that cases not attributable to the Lessor's fault shall be cases of non-performance or undue performance (including untimely performance) of an obligation by the Lessor resulting, inter alia, from:
- 15.2.1. any types of public orders of both national and foreign authorities which prevent or hinder (which includes delaying) the performance of agreemental obligations by the Lessor, such as import or export restrictions, prohibitions or restrictions in crossing borders or vehicle traffic and freight transport, compulsory quarantine,
  - 15.2.2. lack of possibility or difficulties (including delays) in the movement of vehicles or persons resulting from an epidemic (pandemic) or threat of an epidemic (pandemic), in particular in connection with public orders issued in connection with the epidemic (pandemic) or threat of an epidemic (pandemic),
  - 15.2.3. lack of possibility or difficulties (including delays) in the purchase or production of machines, devices, tools, spare parts, materials, consumables, raw materials, resulting from an epidemic (pandemic) or threat of an epidemic (pandemic), in particular in connection with public orders issued in connection with the epidemic (pandemic) or threat of an epidemic (pandemic), which includes orders concerning closure of factories or plants or restriction of their production,
  - 15.2.4. inability or limitations (including delays) in the ability of people to move, including people performing work or services for the Lessor in connection with the performance of the Agreement (especially the Lessor's service technicians),
  - 15.2.5. the employees or persons providing services to the Lessor refraining from work due to fear for the life or health of the employees, service providers or their families in connection with an epidemic (pandemic) or threat of epidemic (pandemic).
- 15.3. In the event that non-performance or undue performance of an obligation should not be attributable to the Lessor, the Lessee shall not be entitled to claim damages against the Lessee, and the Lessee shall not be entitled to use the legal measures provided for in the Agreement in the event of non-performance or undue performance of the Agreement by the Lessor.
- 15.4. The liability of the Lessor towards the Lessee, including both agreemental liability and tort liability, shall be limited to direct and actual damage – with the exception of lost profits – resulting from willful misconduct or gross negligence. In addition, such liability shall be limited to a maximum of 12 months' net Rental Fee agreed in a specific Order in relation to a single as well as all occurrences.
- 15.5. The above rules and limitations of liability apply to all obligations of the Lessor provided for in the Agreement, including obligations in the scope of delivery of the Machines, assembly, installation, training, servicing, warranty and post-warranty repairs, supply of spare and replacement parts, consumables.
- 15.6. The Lessor shall accept no liability whatsoever for any losses arising from the failure to execute the Order as a result of non-performance of the Lessee's obligations within the time frames specified for them in the Order or in the General Terms and Conditions of Lease.

## 16. Parties' contact details

- 16.1. The Parties mutually agree that the term “**Electronic Communication**”, as used in the Agreement, shall refer to the electronic communication between the Parties via e-mail, including the appendices of scanned copies of documents, and that the said term shall pertain to communication in the course of performance of the Agreement which is sent and received using the email addresses specified in the recitals of the Order (item I of the Order).
- 16.2. Each Party is obliged to inform the other Party of any change in its e-mail address, indicated in the Order. Should this obligation be neglected, any information, including correspondence, sent by the other Party to the previous e-mail address of the Party which had failed to advise of the change of its e-mail address, shall be deemed served.
- 16.3. All reports referred to in the Agreement shall be signed by persons authorised to sign them in line with the recitals of the Order (item I of the Order).
- 16.4. For the avoidance of doubt, the Parties, by signing the Agreement, hereby grant the power of attorney to act for and on behalf of the Renter or the Rentee respectively,
- 16.4.1. within the framework of Electronic Communication, to the persons to whom the above e-mail addresses are assigned in the Order,
  - 16.4.2. to sign the reports specified in the Agreement, to the persons authorised in this respect.
- 16.5. By signing the Agreement, the Parties warrant that the email addresses specified in the Order are officially used by the Parties in their business activities and that the email accounts in question are adequately secured so that the only persons who may access such accounts are the persons indicated as the users of such accounts, known by their first and last names.
- 16.6. The Lessee shall be obliged to inform the persons with the help of whom it fulfils its obligations under the Agreement about the contents of the information clause constituting an Appendix to the Order.

## 17. Information clause

### DATA CONTROLLER

Bergerat Monnoyeur Sp. z o.o. with its registered office in Izabelin-Dziekanówek, Modlińska 11, 05-092 Łomianki (“**Controller**”) shall be the controller of your personal data. You can contact us by mail at the above address or by e-mail at:

aktualizacja.rezygnacja@b-m.pl

## PURPOSES OF DATA PROCESSING AND LEGAL BASIS FOR DATA PROCESSING

Personal data are processed by the Controller for the following purposes:

### **Concluding and performing the Agreement (including inquiries concerning the agreement and complaints handling):**

- (a) with regard to natural persons acting on their own behalf (including sole traders) pursuant to Article 6.1(b) of the GDPR, i.e. since the processing of personal data is necessary for the conclusion and performance of the agreement.
- (b) with regard to persons representing the entity (including, without limitation, representatives, agents) and contact persons specified in the agreement (including, without limitation, contact persons, coordinators), pursuant to Article 6(1)(f) of the GDPR, i.e. the Controller's legitimate interest, which is to conclude and perform the agreement through the persons appointed to represent the entity and to contact

**Fulfillment of the obligations arising from the provisions of law applicable to the Controller's activity** - pursuant to Article 6.1(c) of the GDPR, i.e. fulfilment of legal obligations incumbent on the Controller, including those arising from accounting, tax or other special regulations.

**Marketing of own products and services, including sending commercial information about products, services, promotional offers and events** – pursuant to Article 6(1)(a) of the GDPR, i.e. the consent of the data subject, if such a consent has been given;

**Customer satisfaction survey** – pursuant to Article 6.1(f) of the GDPR, i.e. a legitimate interest, which is to increase the quality of services provided by us as a result of our after-sales analysis, **Pursuing and defending against claims** – pursuant to Article 6.1(f) of the GDPR, i.e. our legitimate interest, which is pursuing claims and defending against them.

**Archiving** – pursuant to Article 6.1(f) of the GDPR, i.e. our legitimate interest, which is the need to store evidence of our business activity.

## PERSONAL DATA CATEGORIES AND SOURCE

The Controller processes the following personal data: name and surname, position, function, e-mail address, telephone number, business address and other data identifying a contracting party (if necessary for entering into and performance of the agreement). These data were obtained directly from the data subjects or from public sources (relevant registers, websites, etc.) or were provided by persons appointed as contacts during the execution of the agreement.

## DATA RECIPIENTS, DATA TRANSFER OUTSIDE THE EEA

The expected recipients of personal data are: companies providing IT support for the Controller, providers of electronic mail and other IT services, carriers, postal operators/couriers, entities handling electronic payments; consulting companies with which the Controller cooperates, entities supporting the Controller's marketing activities, entities authorised to receive personal data under the applicable law, and other entities which perform activities at the Controller's request or provide the Controller with services/goods necessary to conduct the Controller's business, as well as Monnoyeur group companies.

At a certain stage, personal data may be transferred to third countries (outside the EEA). This is done by the Controller on the basis of standard safeguard clauses (Article 46.2 of the GDPR) and, if required, applies additional safeguards for the protection of personal data in accordance with applicable standards or provides another mechanism that is lawful and legalises such transfer to third countries.

## DATA STORAGE PERIOD

Your personal data processed in connection with the agreement shall be retained for the time necessary to perform the agreement, but no longer than for the period necessary to pursue claims hereunder (at most 10 years from the termination of the cooperation). For accounting purposes, the data will be processed within 5 years from the end of the calendar year in which the event occurred. Personal data processed by us for marketing purposes will be processed until the withdrawal of the processing consent. Personal data stored for archiving purposes will be retained for a period specified by law.

## YOUR RIGHTS

You have the right of access to your data and the right to rectify, erase, restrict processing, data portability, the right to object to data processing due to the reasons related to a specific condition of the data subject based on a legitimate interest (article 6(1)(f) of the GDPR), as well as the right to withdraw your consent at any time (within the given scope) without affecting the lawfulness of processing carried out upon consent prior to its withdrawal. You have the right to lodge a complaint with a competent supervisory authority, in particular in the country of your habitual residence, place of work, or place of alleged violation. In Poland, the supervisory authority is the President of the Personal Data Protection Office, Stawki 2, 00-193 Warsaw, Poland.

## VOLUNTARY PROVISION OF DATA AND AUTOMATED DECISIONS

The provision of data is voluntary, however, in order to be able to conclude the agreement, it is necessary to provide it (as a condition precedent). In cases set out by law, the provision of data is mandatory (e.g. in order to issue an invoice). The provision of data for marketing purposes is voluntary, but failure to do so results in inability to conduct marketing activities in relation to you. Your personal data shall not be used to make automated decisions nor for profiling.

## 18. Final Provisions

- 18.1. Any disputes arising out of this Agreement shall be settled by a common court having jurisdiction over the registered office of the Lessor.
- 18.2. In matters not regulated hereunder, provisions of the Polish Civil Code shall apply.
- 18.3. Any amendments of the Agreement shall be made in writing otherwise being null and void, unless the Agreement

- specifies otherwise.
- 18.4. The Agreement has been drawn up in two counterparts, one for each Party.
- 18.5. For the avoidance of doubts, the term "termination" with regard to the Agreement, used in the wording thereof, shall include withdrawal, termination, and other cancellation of the Agreement, as well as Rentee's implied renunciation of the Agreement by way of omission (passivity) of the Rentee.
- 18.6. BM represents that it has the status of a large enterprise within the meaning of the Act on Counteracting Excessive Delays in Commercial Transactions of 8 March 2013 (Journal of Laws of 2019, item. 118 as amended).
- 18.7. In the event that any of the provisions of the Agreement should prove invalid or ineffective, the Parties thereto shall strive to keep the validity and effectiveness of the remaining provisions of the Agreement. Furthermore, the Parties shall undertake to use their best efforts to amend the invalid or ineffective provisions so as to express the original intent of the Parties in the Agreement in a valid and effective manner, superseding the defective clause.
- 18.8. The relevant attachments shall constitute an integral part of the Agreement, if they are attached to the Order, e.g:
- 18.8.1. Appendix - Machine Specification,
  - 18.8.2. Appendix - General Insurance Conditions;
  - 18.8.3. Appendix - Marketing Consent
- 18.9. The Parties may also use attachments other than those listed above, which, when they are consensually attached to the Order, shall constitute an integral part of the Agreement.