

The brokerage Platform for new and used construction machinery between professionals is owned by **Machinerycash BV**, Avenue du Prince d'Orange 111, 1180 Uccle, Belgium, registered in the Crossroads Bank for Enterprises under the number 0668.952.283, hereinafter '**Machinerycash**'.

By using the Platform, each User agrees to the following terms and conditions, of which the most recent version applies from **April 2025**. Users undertake to read the latest version of these terms and conditions at least once a month.

## 1. DEFINITIONS:

**"Equipment"**: any new or second-hand machine such as but not limited to: mini excavators, skid steer loaders, loaders, hydraulic excavators, telescopic handlers, bulldozers, backhoe loaders, compactors, generators, articulated dump trucks, articulated loaders, wheeled excavators, dump trucks, fork-lift trucks, aerial work platforms, compressors, generators, tractor, crane, bucket truck, various auxiliary parts...

**"Service(s)"**: the Valuation Service, the Underwriting Service and the Direct Offer service as defined in article 2 herein.

**"Extranet"** is an online system the customer and/or Trader (following authentication of their user name and password), using the address [www.machinerycash.com](http://www.machinerycash.com), has access to, for the purpose of registration, alteration, verification, updating or correcting the information on the equipment they wish to buy or for which they wish to make a bid to one or more Traders, also called '**Dashboard**'.

**"User"**: Customer or Trader.

**"Intellectual property rights"** are any and all patents, copyrights, inventions, rights to data files, design rights, deposited designs, trademarks, brand names, logos, know-how, utility models, non-deposited designs or, when applicable, every application of the aforementioned rights, know-how, brand or trade names, domain names (with any extension such as .com, .nl, .fr, .eu etc.) or any other right or similar obligation, which may or may not be deposited, any and all copyrights or any other industrial or intellectual right that exist in any territory or jurisdiction throughout the world.

**"Customer"** is a Dealer, a Rental company or a Professional.

**"Dealer"** is an independent company who acquires Equipment from another seller, manufacturer or company, (Trader) and brings said goods on the market under brand name of the supplier and with whom Machinerycash concluded a partnership agreement.

**"Rental company"** is a company that rents Equipment and with whom Machinerycash has entered into partnership.

**"Platforms"** are the websites, applications, tools, platforms and/or other devices and tools of Machinerycash, associated companies and commercial partners to whom or through whom this service is available.

**“Trader”**: a company reselling Equipment with whom Machinerycash has concluded a partnership agreement and who is permitted to participate in calls for bids within the framework of the Services.

**“Professional”** is every natural person or legal entity that uses new or used Equipment to be used within the context of their/its professional and commercial activities and therefore is not a consumer in the sense of article 1649bis of the old Belgian Civil Code and who requests a valuation for and/or sells their Equipment to a Trader.

## **2. SERVICES**

### **a) For all Users: Valuation Service:**

In order to create a valuation, the User must register and upload certain data and photos of the relevant Equipment. They will receive a confirmation email and within 48 hours (best-efforts undertaking) a valuation, based on information gathered on certain specialised sites and on the experience of the Machinerycash team.

This Service is free for the Users and is not accessible to consumers. The User cannot use the Platform to sell, use, copy, monitor (for example using a spider or screen-scraping), display, download, upload, reproduce or create deep links to any content or information, software and/or products or services available on the Platform as part of an activity or a commercial goal that is not the occasional valuation of Equipment for professional use, or for an activity that is in competition with our platform or our internet site.

Machinerycash may refuse any request for valuation and may, without prior notice, block Users who, in the opinion of Machinerycash, do not respect the terms of use of the Platform.

### **b) Only for Customers and Traders: Service of ‘Valuation’ with Underwriting**

Machinerycash makes it possible to create a quotation request for second-hand Equipment.

#### **i. Procedure**

1. The Customer puts the Equipment on the Platform. Machinerycash checks the information and the duration of the Underwriting (Immediate (direct bid) / 1 month / 2 months / 3 months), hereinafter the ‘Duration of the Underwriting’.
2. Valuation of the market price in accordance with article 2a above.
3. Posting of the Equipment on the Platform for Traders.
4. Offer rounds (each offer from a Trader is visible, but its origin is concealed):
  - 1<sup>st</sup> offer round for all Traders (24 hours, extendable if no bid is made).
  - 2<sup>nd</sup> offer round for three highest bidders from round 1 (24 hours).
5. The winning offer is communicated to the Customer, who must either accept the bid or refuse it. The winning Trader is informed by email.
6. Once the Equipment is accepted, Machinerycash communicates Customer and Trader the invoicing details from the other party. Once the invoice is posted in PDF or JPEG format on the

Platform, the Trader shall pay this invoice within fifteen days of invoice date (based on upload by the Customer to the Platform).

7. Trader pays the commission to Machinerycash via a separate invoice.

Unsuccessful offers remain binding for the Trader during the whole required period of the duration of the Underwriting (step 1) in case the transaction with the winning Trader is not concluded.

#### **ii. Price**

The Customer is solely responsible for invoicing of the price for the Equipment (including all taxes, extras and expenses, according to the applicable legislation) by posting the invoice on the platform or by sending it by mail to Machinerycash admin. Machinerycash will deliver it via the Platform or via email to the Trader. Only the User is entitled to collect the payment. The price will include only those elements of the Equipment specified in the post on the Platform and no additional services such as delivery, customs charges, import duties etc. The Bid and the price will be in the currency of the Customer. Exchange rates can be viewed on the Platform and are based on information from the Fixer website.

The Customer will not charge transaction and administrative costs, nor expenses associated with the means of payment, whatever it may be (for example, for payment by credit card). The Customer and the Trader accept and acknowledge that they are each at all times liable for payments or deductions at source in favour of any relevant (fiscal) authorities with regard to taxes, surcharges, supplements and expenses associated with the transaction which are their responsibility.

Only expenses, taxes, charges, extras (e.g. delivery) or other amounts considered by Machinerycash as not included in the price for the Equipment can be invoiced additionally to the Customer, on condition that these additional elements have been explicitly agreed between Trader and Customer (e.g. delivery costs). Since delivery costs are not handled via the Platform, they must be invoiced separately.

#### **iii. Legal qualifications**

Listing Equipment on the Platform does not constitute a binding offer, but rather an invitation to submit bids. Each bid from a Trader is a binding bid for the full Duration of the Underwriting or until expressly rejected by the Customer. The Trader may decide to extend their bid after the Duration of the Underwriting by email to Machinerycash (e.g. at the request of Machinerycash). Mere acceptance by the Customer creates a binding sale agreement directly between the Customer and the Trader, whereby Machinerycash only intervenes as broker. Machinerycash therefore never becomes the owner of the Equipment and does not bear any responsibility for it. Ownership and risk transfer between Trader and Customer respectively at the time of payment of the price and acceptance of the offer. Machinerycash exercises no control over – and gives no guarantee whatsoever regarding – the quality, safety or legality of the Equipment, the veracity or the accuracy of the contents of the advertisements or bids, the authority to contract on the part of Trader and Customer or either's solvency. Any information regarding rates and delivery or any other advice suggested by Machinerycash on the Platform or elsewhere is for information purposes only.

Invoicing is performed directly by the Customer to the Trader. Complaints or claims regarding the Equipment or services provided by the Customer must be addressed to the Customer without the intervention or interference of Machinerycash, which is not responsible for such complaints or claims. Machinerycash bears absolutely no responsibility for the choices made by Traders or Customers.

By accepting the Underwriting or Direct offer, the Customer accepts the Trader who made the bid as co-contractor and this is also true for all additional information and/or special requests from the Trader.

#### **iv. Commission for Machinerycash**

The Trader owes the commission (as stipulated in the agreement with the Trader) on every purchase via the Platform as soon as the invoice is posted on the platform or sent via email. Sales will be realised (by delivery/collection and invoicing of the Equipment) within a maximum period of 3 months.

The Trader may, at the request of Machinerycash, decide to extend this period for invoicing and delivery. However, the sale remains valid and cannot be cancelled.

### **3. EXTRANET**

Machinerycash provides the User with a username and password so that they can access the Extranet. The User must protect and guarantee the privacy of the username and password and not pass them on to others. The User must inform Machinerycash in the event of fraudulent use or (suspected) misuse.

Consultation, modification or deletion of the data on the extranet is feasible and free. Once removed, data will no longer be used.

Multiple effective persons can be registered under the same User ID. The User remains responsible at all times for these persons and guarantees that these persons will respect these terms of use.

The Extranet contains the details of all bids during the Duration of the Underwriting and of all quotations made for the User by Machinerycash on the Platform.

Machinerycash's systems, books and registers (including the Extranet, written communications and/or emails) are considered conclusive evidence of a sale and of invoicing, unless conclusive evidence to the contrary is furnished.

### **4. OBLIGATIONS ON THE PART OF THE USER**

#### **a) Information**

The User must provide the following information in a format determined by Machinerycash:

- Contact information (name of company or location, VAT number, telephone numbers, email address, User's legal representative, name, telephone, birthday and email of all persons registered under the User, their nationality and birthday, (direct) telephone and (direct) email), the accepted means of invoicing (deposit), payment information (RIB, IBAN, BIC, name of bank) and currency selected.
- Information about the Equipment (including photos, images, technical dossiers and descriptions) and accessories and availability.
- A description of the options available for collection and/or delivery (loading dock and maximum payload and quay width).
- The place where the Equipment must be picked up or must be delivered.
- The Customer's branches or establishments.
- The contact details of Customer/Trader vendors/purchasers registered under the profile.
- Information about transactions realised on the Platform.

Machinerycash may publish, delete, or translate the information related to the Equipment. Machinerycash cannot be held responsible for the accuracy of any translations. Translations are provided for convenience only. The User may, at any time, change the information using the Extranet, after prior confirmation from Machinerycash within a reasonable period of time.

The publication of the Equipment on the Platform itself must not contain any (reference to) contact details nor make it possible to identify the User.

This information is only used for the Platform and the User may not use it for any other network or for any distribution or sales purpose.

#### **b) Financial obligations and terms of payment**

Other payments (commissions from the Trader for the Service) must be made within 14 days of invoice date and in the currency indicated on the invoice (in principle EURO, but Machinerycash may invoice commission in the currency of the relevant transaction, at the exchange rate of the inter-bank interest rate (closing price at 4pm EST) chosen ad hoc by Machinerycash).

All payments are made net, with available funds, without charge or fee and without deduction or payment of fees, taxes, duties, expenses or deductions of any kind as requested by a government agency or tax authority.

Arrear interest at the rate set by the law of 2 August 2002 with regard to the suppression of arrears in commercial transactions will be applied without notice from the invoice due date. Machinerycash may, in the event of a payment being overdue, suspend its services (for example, by making the Platform and/or Extranet inaccessible) and/or demand a bank or other guarantee.

### **5. INTELLECTUAL PROPERTY RIGHTS LICENCE**

#### **a) On the part of the User**

Machinerycash has the non-exclusive right to exercise, without time limitation (i.e. for the duration of the Underwriting), in an irrevocable, royalty-free and transferable manner, the Intellectual Property Rights arising from article 4 a) (as well as any other rights necessary for content display/web hosting), on all existing or future media, within the limits provided by law, including the right to use, reproduce, have reproduced, distribute, license, modify, adapt and sublicense by any possible means and in any possible form.

Machinerycash may use the trade name and brand of the Customer or Trader as a reference, including as part of online marketing campaigns, email campaigns and/or publicity, so-called pay-per-click (PPC).

The User accepts that Machinerycash uses search engines and their methods, such as content indexing, AdWords and URL ranking and that it may for these purposes use the information, trade name and brand mentioned above.

**b) On the part of MACHINERYCASH**

Unless mentioned otherwise, the software used for Services and Platforms, the Intellectual Property Rights (including copyright), the content, information and hardware in relation to our Platform shall remain the exclusive property of Machinerycash SRL, its partners or its suppliers or its dealers.

Any and all rights to the databases, being both the databases pertaining to Users as the Equipment and the Content of the Platform shall remain the exclusive property of Machinerycash. The User shall accept that Machinerycash is permitted to sell the databases or to market them differently. The latter shall also apply to the data of the User or of their Equipment. The User shall not have the right to (either directly or indirectly) publish, use for marketing purposes or to create links (hyperlinks or deep linking) or use these in any other way without explicit consent from Machinerycash.

**6. CLASSIFICATION AND COMMENTS FROM TRADERS**

**a) Classification**

The order in which the Trader appears on the platform (hereinafter called “classification”) shall be determined automatically by Machinerycash. In respect of this Machinerycash reaches its decision autonomously and will accept no complaints. The classification shall be influenced by a range of factors such as, but not limited to, the trade agreements concluded using the platform, the comments from the customer in the customer service’s history, the number and type of complaints made by the customer.

**b) Comments**

Customers who have concluded a sale with a Trader shall be requested by Machinerycash to share their experiences with the Trader and to give a score. Machinerycash shall reserve the right to post said comments and scores on the platforms and to base said classification on the said comments and scores. The Trader shall acknowledge that Machinerycash cannot be held liable for the content of the comments and therefore will not act as an editor and will have no obligation to supervise or

investigate such comments and scores. Machinerycash remains the exclusive owner of all rights, titles, interests and also (of all intellectual property rights) with respect to the comments. Users must not use or make mention of the comments in any way.

## **7. REPRESENTATION AND GUARANTEES**

The User shall declare and guarantee to Machinerycash that they agree to the following for the period of validity of this collaboration:

- a) All information provided by them is and will remain correct, accurate, true and not misleading.
- b) They dispose of all the rights, capacity and necessary authority to enter into this agreement and to allow Machinerycash to use the intellectual property rights in accordance with article 5 a).
- c) They dispose of and act in accordance with, all authorisations, licences and other authorisations necessary for operations on the Platform.
- d) The Trader has not entered into any contractual or other commitment which would prevent them from making use of the services or from buying second-hand Equipment on the platform.

They shall immediately notify Machinerycash of any violation of this clause.

## **8. LIMITATION OF LIABILITY**

Machinerycash bears no responsibility for any acts or omissions by third parties (including other Users), including partners of Machinerycash or Users. Machinerycash bears no liability for transactions in connection with Equipment via the Platform (or outside of it), even if the User's decision regarding the transaction is based on an evaluation or ranking by Machinerycash or any other information from Machinerycash.

Although Machinerycash makes considerable efforts to provide an assessment service, it does not verify assessment or the information provided therein and does not guarantee its correctness, accuracy or completeness and cannot be held liable for any mistake (including obvious mistakes) except for fraud or gross negligence. Any liability on the part of Machinerycash is limited to 500 EUR, whatever the circumstances.

Machinerycash is not responsible for any interruption, unavailability, or malfunction or breakdown in the services, whether of the Platform or of the Extranet (whether due to a technical failure, or an action or omission by third parties, whether temporary and/or partial, a breakdown, a repair, an update, an improvement or a maintenance of our website or something else). Machinerycash is not liable in case of loss of information as a result of the above and it is the User's sole responsibility to foresee back-ups of such information.

Machinerycash is not liable for any loss or indirect, special, punitive or consequential damages, including loss of profit, loss of production or contract, reputational damage or opportunity cost.

Lastly, and as far as legally possible, the parties expressly confirm the exclusion of all articles of the non-mandatory regulation of Book 6 of the Belgian Civil Code.

#### **9. DAMAGES AND RESPONSIBILITY**

The User must fully indemnify, reimburse and waive any liability with respect to Machinerycash for damage or expenses (including legal costs and attorneys' fees), interest and penalties in connection with:

- Failure to comply with the guarantees in article 7 and any complaint regarding another User in that respect.
- Missing or incorrectly executed transactions via the Platform as a result of the Service(s).
- Any other complaint deriving from another User that is fully or partially attributable to the User (including administrators, employees, agents, representatives or other persons for whom the User is responsible or at the premises of the User).
- Any complaint against Machinerycash relating to or resulting from the Trader's inability to (a) register correctly with the relevant tax authorities or (b) to pay, collect, transfer, to pay at the source any and all expenses, taxes and applicable surcharges requested for or based on the services or any costs in relation to this within the context of the relevant jurisdiction including the payment of fees

#### **10. DURATION, CANCELLATION AND SUSPENSION**

The Services are, unless otherwise stated, for an indefinite period, terminable at any time. Each transaction (bid) that is in progress at the time of cancellation or whose validity period has not yet expired at the time of cancellation, remains, however, subject to these general terms and conditions until full realisation or expiry of the validity period in accordance with these terms and conditions. All payments resulting from such a bid remain due even in case of termination before the bid has been accepted.

In any of the following cases Machinerycash shall be permitted to cancel this agreement (and to close the Trader's page on the platforms) or to suspend it with immediate effect without prior proof of default and without the intervention of a judge:

- a. Violation of every obligation by virtue of this agreement which is not rectified within 3 days following a proof of default mentioning this term together with the intention to rectify it.
- b. Violation of the guarantees in article 7.
- c. The User makes their username and/or password available to third parties or does not keep their username confidential or does not inform Machinerycash of fraudulent use of their username by third parties.
- d. The User affects the proper functioning of the Platform or does something that causes harm to Machinerycash or other Users, such as, but not limited to, contacting another User directly in connection with a transaction for which Machinerycash has been engaged in order to avoid paying commission to Machinerycash.
- e. Non-payment for 30 days of any amount owing to Machinerycash.



- f. Refusal to honour an accepted bid for Equipment, or to present Equipment sold through the Platform; invoicing of sales prices not in accordance with Machinerycash's conditions.
- g. Justified or serious complaint on account of another User.
- h. Fraudulent or unauthorised use of comments.
- i. Inappropriate, unlawful or unprofessional behaviour towards other Users or Machinerycash.
- j. (Declaration or claim of) bankruptcy or suspension of payments (or any other similar action).

## **11. CONFIDENTIALITY**

The parties shall understand and shall declare that within the framework of this agreement each party is permitted to have access to or might be – directly or indirectly – exposed to confidential information concerning the other party such as, but not limited to: customer information (address, contact data, interest in particular kinds of machines, transactions...), the volume of the transaction, the marketing plan, the commercial plan, the estimated price, databases pertaining to Users or the Construction Equipment and any other kind of commercial, financial, technical, operational and non-public information which a party providing the information in question indicates as private or confidential or about which any information receiving party should know that it is treated as private and confidential (hereinafter called “**Confidential Information**”).

Each User accepts that: (a) all Confidential Information remains the exclusive property of the provider and that the recipient undertakes to use it only for the performance of these terms and conditions; (b) they may not distribute or copy Confidential Information; (c) they will return or destroy all (hard copies or electronic versions of) Confidential Information at the written request of the other party; and (d) use commercially reasonable means to maintain the confidentiality of the Information. They also guarantee compliance with this by their employees, directors, representatives, contractors and agents.

Confidential Information does not include what (i) belongs to or will belong to the public domain, (ii) was already in the possession of the recipient, (iii) is distributed by third parties not subject to the obligation of privacy, or (iv) must be distributed in relation to the law, a decision of the court or a summons, or on behalf of a governmental authority.

## **12. PERSONAL DATA**

All personal data of the customer or their staff will be treated in accordance with the privacy policy of Machinerycash and the General Data Protection Regulation (EU) 2016/679 ('GDPR'), which forms an integral part of this contract. (see <https://www.machinerycash.com/gfx/pdf/machinerycash-cookies-en.pdf> ).

## **13. APPLICABLE LAW**

These terms and conditions and the cooperation with Machinerycash are exclusively subject to Belgian law and any dispute will be submitted to the competent courts at Brussels, Belgium.