

## General Terms and Conditions of Willenbrock Fördertechnik GmbH for Rental and Related Services

### 1. Scope of application

- (1) These General Terms and Conditions of Contract (hereinafter also referred to as "GTC") apply to all contracts for rental and related services between Willenbrock Fördertechnik GmbH (hereinafter referred to as "lessor") and its customers (hereinafter referred to as "lessee"), but exclusively to entrepreneurs, legal entities under public law and special funds under public law acting in the exercise of a commercial or independent professional activity at the time of conclusion of the contract. Separate GTC apply to other deliveries and services provided by the lessor.
- (2) The lessee's GTC only apply if the GTC are expressly recognised by the lessor in writing.

### 2. Subject matter of the contract

- (1) These GTC govern the general terms and conditions under which the lessee rents equipment from the lessor.
- (2) The lessor provides the lessee with the rental equipment in return for payment of a rental charge.
- (3) The chassis number of the rental device is listed on the delivery note upon delivery. This, together with the order confirmation, is part of the rental contract.

### 3. Conclusion of contract and contract term

- (1) The lessor's offer is non-binding until the contract is concluded.
- (2) The contract is concluded by separate written agreement or the fulfilment of the order by the lessor. It is based exclusively on the content of any written agreement or order confirmation and these GTC.
- (3) The term of the rental contract is agreed separately. Rental contracts are arranged on a per calendar day, calendar week or calendar month basis.
- (4) The term of the rental contract begins on the date of delivery of the rental object to the lessee. The day of delivery is the first day of rental, the day of return (arrival at the rental company) is the last day of rental.

### 4. Location and intended use

- (1) Unless expressly agreed otherwise, the rental equipment is to be used locally by the lessee exclusively at the lessee's works facility for internal transport (hereinafter referred to as "intended use").
- (2) If the rental device is to be used at a different location and/or for a different purpose, the prior consent of the lessor and a possible adjustment of the rental and service instalment are required. The lessee undertakes to allow the lessor to inspect the rental equipment at any time, provided that this takes place during the lessee's operating hours.

### 5. Rental charge, terms of payment, arrears of payment

- (1) The monthly charge is agreed separately.
- (2) The rental charge is per calendar day, calendar week or calendar month.

- (3) The rental charge is subject to the applicable value added tax.
- (4) The rental charge is due net - without deduction - 8 calendar days after the invoice date.
- (5) Interest on arrears is payable by the lessee at the statutory rate from the date of default. If the lessor proves higher damages, the lessor is entitled to demand compensation accordingly. The lessee, in turn, is entitled to prove that the lessor has suffered no or significantly less damage as a result of the default in payment.
- (6) The lessee is only entitled to set-off if the lessee's counterclaims have been established in law, are undisputed or have been recognised by the lessor. In addition, the lessee is authorised to exercise a right of retention insofar as the counterclaim is based on the same contractual relationship.
- (7) The rental charge is always based on single-shift use of the rental equipment, up to 100 operating hours per calendar month. The lessor reserves the right to charge separately for operating hours exceeding this limit.

## **6. Services (optional)**

- (1) If expressly agreed in writing, the lessor undertakes to service the rental equipment in accordance with the provisions of this Section 5.
- (2) In accordance with the service level agreed in the order confirmation, the lessor undertakes maintenance and repair work on the rental equipment during the term of the rental contract in accordance with the manufacturer's maintenance and repair instructions and performs regular inspections in accordance with FFZ, FEM 4.004 (formerly UVV inspection).
- (3) Specifically, the lessor performs the maintenance and repair work on the rental equipment within the scope of the service level agreed in the order confirmation.
- (4) Subsequent additional expenses are charged separately to the lessee in accordance with the applicable Willenbrock service charge rates:
  - a. Expenses incurred by the lessor due to heavily soiled rental equipment,
  - b. Expenses incurred by the lessor due to waiting times for which the lessor is not responsible (by mutual agreement).
- (5) The lessor is obliged to deploy its customer service department within its regular working hours (Monday to Friday from 7 am to 4 pm, except on public holidays) as soon as damage to rental equipment is reported. If damage is reported outside regular working hours, the lessor's response period (deployment of customer service) only begins at the start of the lessor's next regular working hours. Deployments by the lessor outside regular working hours are invoiced separately in accordance with the applicable Willenbrock service charge rates. This also applies if the lessee reports damage during regular working hours, while the actual service is provided by the lessor outside regular working hours.
- (6) Unless expressly agreed otherwise, the contractor's remuneration for services is based on the current service charge rates, which are determined by the contractor for each calendar year.

## **7. Obligations of the lessee**

- (1) If the lessor has been commissioned by the lessee to perform repair and maintenance work, the lessee is to provide the lessor free of charge with all necessary resources (in particular electricity, compressed air, light), the cleaned rental equipment, all equipment required for maintenance and/or repair and a suitable work area.
- (2) The lessee is obliged to treat the rental equipment with care, to keep it in a clean and orderly condition and to operate it only up to the limit of the load capacity indicated on the load plate. The lessee is not permitted to smoke in the rental equipment. Costs for any interior cleaning required in the event of excessive soiling of the interior or violation of the smoking ban are charged to the lessee. Unless otherwise agreed in the rental contract, the rental equipment is handed over to the lessee with a full tank of fuel or a fully charged battery while the lessee is obliged to return the rental equipment at the end of the rental period with a full tank of fuel or a fully charged battery. If the vehicle is not fully refuelled or returned fully charged, the lessor is entitled to charge the lessee the expense allowance agreed in the rental contract for refuelling or charging.
- (3) The lessee is required to maintain and check the rental equipment at its own expense in accordance with the manufacturer's guidelines. The lessee is to ensure that the rental equipment is protected from any kind of overuse.
- (4) Only the lessor or its vicarious agents are authorised to perform repairs and modifications (in particular attachments and installations) to the rental equipment and to remove markings affixed by the lessor and/or the manufacturer.
- (5) In the case of battery-powered rental equipment, the guidelines of the battery and charger manufacturers also need to be observed. Before the start of each work shift, the lessee is to ensure at its own expense in particular that
  - a. the battery electrolyte level is checked and replenished,
  - b. the battery charge is not to fall below the minimum level,
  - c. the battery surface is cleaned,
  - d. visual inspection of super-elastic tyres or belts.

Unless expressly agreed otherwise, the lessee is also to ensure that the lead-acid battery of the rental equipment is regularly replenished with demineralised water. This is not applicable to Li-ION batteries.

- (6) In the case of rental equipment with an internal combustion engine, the lessee is also to ensure daily maintenance in accordance with the operating instructions at its own expense and monitor the following, in particular before the start of each shift (depending on the equipment type and model):
  - a. checks on fluids, replenish as required (lubricating oils, greases, water),
  - b. checks on air pressure in pneumatic tyres,
  - c. visual inspection of super-elastic tyres or belts.

If the usage (Pt. a) lies outside the manufacturer's specifications, the lessor is to be informed immediately.

- (7) Only trained or instructed persons are permitted to operate the rental equipment.
- (8) The lessee is only permitted to allow a third party to use the rental equipment with the express authorisation of the lessor.
- (9) The lessee is required to protect the rental equipment against the effects of the weather outside working hours. In addition, the lessee is to ensure that the rental equipment is suitably safeguarded.
- (10) The lessee is liable for damage for which the lessee is accountable and which occurs to the rental equipment as a result of disregarding the obligations under this Section 6, as well as for normal wear and tear damage to the rental equipment.
- (11) In the event of damage to the rental equipment for which the lessee is accountable, the lessor is released from rental and service obligations until the damage is rectified, without forfeiting any right to receive the rental and service

instalment. The repair work and spare parts deliveries undertaken by the lessor as a result of such damage are to be charged separately to the lessee in accordance with the applicable Willenbrock service charge rates.

- (12) The lessee is to dispose of any waste oil.
- (13) If the lessee discovers defects in the rental equipment, the lessee is obliged to notify the lessor immediately after discovering the defect. In the event of significant defects and/or defects that impair the operational safety of the rental equipment and/or the operating personnel, the lessee is also obliged to cease operation immediately upon discovery of the defect.
- (14) Unless expressly agreed otherwise in writing, the lessee assumes custodial ownership of the rental equipment (within the meaning of Section 7 Road Traffic Act (StVG)). The lessee is to ensure that the necessary insurance cover (including liability insurance) for the use of the rental equipment is available at its own expense.

## **8. Delivery, exchange and return**

- (1) The lessor undertakes to provide the rental equipment in good condition.
- (2) At the request of the lessee, the lessor undertakes to instruct the operating personnel of the rental equipment free of charge at the time of handover of the rental equipment.
- (3) The costs of delivery and return delivery are payable by the lessee. This applies in each case up to or from the point of use. The transport risk is assumed by the lessee.
- (4) The lessee is required to inspect the rental equipment for defects immediately after delivery and, if defects are discovered, to report them to the lessor without delay.
- (5) The lessor is entitled to replace the rental equipment within the term of the rental contract at its own expense with equipment of the same type or with equipment that meets the requirements agreed for the rental equipment at the time the contract was concluded.
- (6) After the end of the rental period, the lessee is obliged to return the rental equipment, including ancillary equipment, in a clean condition, corresponding to the contractual use. Before the rental equipment is returned to the lessor, a handover check is undertaken with the lessee at the place of use. The rental equipment is checked for completeness and functionality and all essential components are examined for damage that goes beyond typical age-related wear and tear under normal use and/or is attributable to the use of force or non-contractual use.
- (7) If the lessor discovers any damage, then the damage is documented in writing and a cost estimate is prepared. The cost of the damage repair is then charged to the lessee in accordance with the applicable Willenbrock service charge rates.

## **9. Liability**

- (1) The lessor is not liable for damages caused by the lessee's use of the rental equipment in a manner contrary to the contract, in particular due to improper use, improper handling, use by unauthorised persons, handling by unauthorised persons and/or the use of force. Furthermore, the lessor is not liable for the lack of availability of the rental equipment or for any resulting damage incurred by the lessee or third parties, provided that the lessor is not accountable for the lack of availability. In all other respects, the lessor is liable to the extent provided by law for intent and gross negligence, as well as for fraudulent intent, personal injury, assumption of a quality guarantee and under the Product

Liability Act. The lessor is liable for simple negligence if a material contractual obligation (cardinal obligation) is breached, for the foreseeable damage typical of the contract, but not exceeding the sum of the rental and service instalments for one month for the corresponding rental equipment. In all other respects, the liability of the lessor is excluded.

- (2) Claims for damages or compensation for wasted expenditure against the lessor are subject to a limitation period of one (1) year, provided the claims are not based on personal injury or are not the result of intent, fraudulent misrepresentation, a guarantee or gross negligence.
- (3) The lessee undertakes to insure the rental equipment at its own expense against fire, burglary and water damage at replacement value. Furthermore, the lessee is required to take out adequate liability insurance (public liability, or special liability if necessary) for the rental equipment at its own expense.

#### **10. Flat-rate machinery breakdown insurance (optional)**

The lessor offers the lessee the option of concluding flat-rate machinery breakdown insurance for the rental equipment. Concluding such flat-rate machinery breakdown insurance, under which the lessee may also be required to pay a deductible, is subject to separate agreement. In the event of disproportionate damage, the lessor is entitled to terminate flat-rate machinery breakdown insurance subject to a quarter-year notice period. Flat-rate machinery breakdown insurance (if agreed) is concluded on the basis of the "General Terms and Conditions for the Machinery Breakdown Flat Rate" (as of 01/2023). The GTC for flat-rate machinery breakdown insurance is available on our website.

#### **11. Extraordinary termination**

- (1) The right to extraordinary termination of the rental contract for good cause remains unaffected.
- (2) In the event of extraordinary termination, the lessor is entitled to enter the lessee's premises and immediately collect the rental equipment. The lessee is to facilitate the return of the rental equipment. The lessor's claims arising from the rental contract due to outstanding instalments and/or compensation for damages remain unaffected by the exercise of the claim for surrender.

#### **12. Ownership / subletting**

- (1) The lessee acquires no ownership or similar rights to the rental equipment. The lessee is prohibited from allowing the rental equipment to be used by a third party, from subletting, selling, pledging, lending, assigning as security or otherwise encumbering the rental equipment, or from assigning the rental contract or claims arising from this rental contract.
- (2) In the event of attachment or other third-party enforcement measures affecting rental equipment, the lessee is obliged to inform the lessor of this immediately and to hand over to the lessor all documents necessary to safeguard the lessor's rights.
- (3) The lessor is entitled to assign the rental equipment to subsidiaries, banks or leasing companies or to pledge it.

#### **13. Place of fulfilment**

The place of fulfilment for all services to be provided under this contract is the registered office of the lessor, provided that and to the extent that no other place of fulfilment is agreed in writing in individual cases.



#### 14. Place of jurisdiction and applicable law

The place of jurisdiction for all legal disputes arising from the contract is - if the lessee is a merchant - the registered office of the lessor. The law of the Federal Republic of Germany applies to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

##### (1) Other general provisions

- (2) Amendments and additions to the contract are required in the written form. This also applies to a waiver of the written form requirement.
- (3) Transmission by e-mail or fax corresponds to the written form with the exception of legally formative declarations.
- (4) The German Freight Forwarders' Standard Terms and Conditions (ADSp), as amended, apply to transport contracts.
- (5) We reserve the right to charge a service fee for each invoice if the customer requests that the initial invoice (rental invoice) be placed in a (supplier) portal. The training of employees on the portal is invoiced separately. Rental invoices are only sent by post or e-mail.

Willenbrock Fördertechnik GmbH

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