

A. General

1. We only contract business on the basis of general terms. We contradict the validity of general conditions of business partners.
2. Our offers are non-binding. We are just responsible for quality description, which are done by authorized to conclude employees for contract negotiations or which are resulting from current leaflets or from current publications ordered by us. Information which is older than 12 months, can not be considered as current because of progressive development and obligate the business partner to demand.
3. If we are able to demand compensation because of breaches of duty of the business partner, we are entitled to lump sum for damages amounting to 25% of the contract sum. We are reserved for proving that a higher damage incurred. The business partner is reserved for proving that a lower damage incurred in which case he or she has to refer to his or hers limited obligation to pay compensation.
4. The set off against our demands is only possible with indisputable or legally valid identified demands. The same stands for right of retention.
5. Prices shall be quoted ex manufacturing plant exclusively of packaging, loading, distribution, insurance, order and commissioning. The particular statutory value-added tax is going to be added as well.
6. The distribution of machinery, replacement parts and other objects or articles shall be carried out through invoice and risk of our business partner. He or she has to take care for the insurance.
7. If nothing else has been agreed to, we carry out the delivery throughout the provision of the subject matter of the contract to be send by or collected at our workplace. The handover maintains the delivery period.
8. Partial deliveries are permitted. The delivery deadlines present approximate data if they have not been referred to as binding in a written document.
9. We work with EDV and stored data in a legitimate allowed extend.
10. In the case that individual regulations of the contract or the general terms are totally or partially invalid or impracticable, the efficacy or practicability of the remaining regulations of this contract or its terms and conditions remain unaffected.
11. Court of jurisdiction is Eisenstadt, Austria.
12. The Australian law is exclusively valid. The validity of the agreement of the United Nations referring to the performance about the international purchase of goods (CISG) is excluded.
13. Payment must be made upon receipt of the invoice. All payments are to be made in such a way that they are available on the specified account free of charge on the due date.
14. In the event of a delay in payment, we are entitled to charge default interest of 12 percentage points. In addition, we can claim all costs incurred as a result of the delay, in particular reminder fees and solicitor's fees, charge.

B. Sale

1. During the sale of new machinery and mechanic parts, we are allowed to carry out changes of the construction, equipment and reception within the production itself, as long as it serves the technical development and does not affect price change and maintains reasonable to the business partner.
2. We reserve the ownership of machines and mechanic pieces sold by us until the fulfillment of all our claims to the business partner. Referring to all demands also belong those, which we additionally acquire after the delivery but before the complete fulfillment. As far as our business partner has acquired all machinery and mechanic pieces for the purpose of resale, he or she is allowed to resell these by way of a proper business transaction. From now on, our business partner assigns us all entitlements resulting from these resales. We are authorized to unfold these assignments to the client, as soon as the business partner does not longer fully perform his or her respective duties. He or she must provide us with all required indications. We undertake to release security owed to us at the business partners request insofar, that the realizable value of our security exceeds the value of the goods which they are intended to secure by more than 10%; the choice of the releasable security behooves us. The business partner is obligated to inform us immediately about access by third parties or any other interferences referring to the reserved goods. He or she has to point out our retention of title to the third party and has to pay all costs incurred which are needed until the cancellation of the access, as long as these costs cannot be charged by the third party. For the duration of the retention of title, the business partner has to insure the reserved goods against damage, fire, robbery and thievery providing that the rights within the insurance contract are entitles by us.
3. By selling already used machinery and mechanic pieces, a guarantee is excluded.
4. If any new machinery or any other items are defective, we provide refill by our choice through the elimination of the effect or the delivery of a defect-free item. A deadline for us to refill is at least two weeks. If the refill fails, the withdrawal of the contract is excluded without prejudice to the other defect rights. The claims for defects of the business partner come under the statute of limitations after 12 months after delivery time, independent of the knowledge of the failure.
5. Our products are being sold to the business partner and for his company. A resale to other customers is not allowed. The business partner is obligated, in case of disclosure of the products to impose these obligations towards his or hers contracting partner. He or she releases us from the customers' entitlements, belonging to the products because of him or her.

C. Installation

1. Our installers act like vicarious agents of the business partner in relation to third parties. They will obey his or her instructions. The installers are allowed to reject orders, which contradict a proper assembly, recognized rules of techniques or legislations, without taking any responsibilities with the execution for the arrangement for legislations and regularities of the ordered work and activities.
2. In our withholding rates and additional conditions for the use of the installers, the mounting kits are fixed separately. (see PDF-Downloads)
3. As long as our business partner executes the installers' activities at agreed installation rates which are not part of the agreed flat-rate, this extra-work has to be charged additionally referring to out general mounting kits.
4. The installers' waiting time, especially resulting from delay at the construction site have to be charged as work time.
5. In addition to the installation time, the expenditures (use of material, traveling costs and traveling time, accommodation costs, daily charges etc.) have to be replaced separately.

D. Rental fee

1. The leasing relationship begins with the provision of the leasing object by us and ends by the re-delivery which has to take place at the earliest at the end of the term of release.
2. The business partner owns the risk for damages and the loss of a leasing object during the leasing relationship. He or she carries the insurance of the leasing object in our favor at his or her expense and he assign his or her claim against the insurance at the beginning of the rental fee, to us.
3. When calculating the insurance, all days between the pick up and the return will be calculated continuously (including Sundays and holidays as well as the days of transport).
4. We assume no ability for the suitability of the rental object for the intended use of the business partner.
5. The business partner is obligated to maintain the rental object properly during the rental time, explicitly respecting the maintenance and care instructions and the rules of technique.
6. Necessary repairs and the exchange of spare parts have to be carried by the business partner. After the re-delivery from the leasing, a principle check within our building takes place. We are allowed to put the renting object, apart from normal abrasion, to its initial state or let it clean if necessary, without prior announcement or grace period and at the expense of the business partner.
7. Leased machinery is fully fueled with diesel fuel during the pickup. If this machinery is not returned in the same conditions, the missing amount of diesel will be charged as well.

E. Liability

1. We are only liable for the damages that are not caused by the delivered item/ the subject itself, -for whatever legal reason- by:
 - a) In the case of intent;
 - b) Upon gross negligence by our bodies and executives (in the present case limited to the damage typical to the contract and reasonably foreseeable);
 - c) In the case of negligence injury of life, body or health;
 - d) In case of defects concealed fraudulently or whose absence has been guaranteed;
 - e) In case of delivery item defects to the extend as liability is provided under the product liability law for persona injury and property damage in relation to privately used items;
 - f) In the case of culpable fundamental breach contractual obligations, we are also liable in the event of gross negligence of non-managerial employees and slight negligence, in the latter case limited to reasonable, foreseeable typical contract damage.
2. To the extend that we are liable because of delay, our liability shall likewise be limited to the foreseeable damage typical for the contract, to the extend that there is no culpable breach of life, body and health. Further claims that are not treated here, are excluded.

RENTAL TERMS, TWF Baumaschinentechnik GmbH, Klingerstraße 8, A-1230 Vienna

1. The exact rental objects will be available from the agreed start of the leasing in our factory or at the ubication itself. At this point of time begins the renting period and it ends at the delivery of the rental objects, at the earliest at the time of the probable end of the leasing (minimum lease period). With the expiry of the probable leasing end we are allowed to terminate the leasing relationship within a due time of 24 hours. This also stands in case of the delay of payment.
2. We deserve the right, to use other machinery or equipment instead of the intended rental object, only if these are appropriate at least at the same level.
3. The transport costs are not included within the rental fee and have to be at the expense of the customer. If you want the transport to be organized by us, you have to explicitly provide an additional order.
4. Loading and u loading have to be charged at the expense of the tenant. It will be charged referring to its expenditure.
5. The customer is only allowed to let the rental machinery be used by trained stuff and under the observation of the operating instructions. If you want us to provide an instructor or to introduce your instructor, you have to explicitly provide additional order.
6. The calculation of the total fee referring to the period of the leasing relationship will take place after rental days.
7. Referring to this, Saturdays, Sundays and public holidays are not included within the calculation, unless the rental object have indeed been used during these days. The customer is obligated to show us the use of the rental objects during these days.
8. As long as the customer is able to prove that the rental objects have not been used during whole days of operation (stagnation period), we only charge a stagnation period rent. This stagnation period rent forms 50% of the daily rent. The arrangements for the stagnation period do not stand for those days, in which the rental object have not been used because of the execution of maintenance work and inspection work. Stagnation period will only be authorized by the renter, if it stands in an - according to the renter - acceptable relation referring to the general rent. A rental standstill has to be announced in writing to the renter, at least 5 workdays before start.
9. The leasing fee stands for one-shift operation and a use of 8 hours per day. In case of a higher number of operating hours, 1/8 of the daily rent is due for every started hour.
10. Time which is needed for the transport of the rental objects to its target location has no payment obligation. As long as no contrary can be proved, one operation day will be subtracted from the calculated total of operation days, for the delivery and collection of the rental objects.
11. All rental objects have to be insured by the tender to full payment against all risks since the day of delivery until including the day of return. In the case of total lost we charge the full payment. Lost or damaged parts will also be charged to the tenant as full payment.
12. If the customer himself or herself has an insurance for the rental objects, he or she has to provide us an extra copy of the insurance policy of his or her machinery breakdown insurance. Referring to the drilling accessories, the tenant is liable in all cases to full payment. By reasons of security, the customer assigns his claims against his or her insurance company to us by entering to the rental agreement. At our new request, the customer will provide a separate written certification of the assignment which has already taken effect with the conclusion of the contract, as well as all necessary documents and information that are needed for its enforcement. If the rental machine is insured by the Renter, a deductible of €25,000.00 will be charged to the renter in each case of damage.
13. After the return deliveries, all rental objects will be examined within our factory, if necessary cleaned, and possibly refurbished because of damages or rather wear and tear. These costs will be charged to the renter referring to the expenditure.
14. If damages arise because of no timely changing of the expendable parts, the reparation will also be charged at the tenants' expense.
15. Any inspections and maintenance work have to be carried out professional and schedules and will also be charged at the tenants' expense.
16. The oil-change intervals absolutely have to be respected to no provide consequential damages. After the return deliveries, the need of oil-change will be charged at the tenants' expense.
17. The object will be delivered fully tanked to the renter. Possible shortages will be tanked after return delivery and will be charged referring to the current price to the tenant.
18. If the renter does not comply his or her obligation referring to the availability or dispatch of the rental object or the elimination of deficiencies, he or she is only obligated to replace the for the tenant resulting damage, if there is any prove for culpable intend or gross negligence referring to the damage. This also stands for other claims for damages which are valid for against the renter.
19. The renter is not liable for any damages which are caused through the tenant by using the rental object, nor for those damages which are produced through third parties.
20. The court of jurisdiction is LG Eisenstadt, Austria.
21. Additional rental terms for TWF drilling accessories:
 - Loading- and unloading costs in the particular warehouse are at the tenants' expense.
 - After delivery return, the drilling tools have to be perfectly reusable which means that they have to be immediately usable without any need of mechanical rework for their proper intended use.
 - After delivery return, the drilling tools have to be perfectly clean which means that they have to be free of weld-on parts, adhesions and other residues (concrete, clay etc.).
 - After delivery return, the drilling tools are at your disposal for maximum five days for inspection. After this we will start with possible needed refurbishing which are at the tenants' expense. The tenant has the possibility to repair the drilling tools professionally by specialists. For a common assembly with the customer and an approximate statement of costs at the construction side, we are always available after the end of leasing (against charging).

Possible occurring reconditioning costs:

- Welding hours to recover welding seams (without material) 89,00 Euros per hour
- Renewing hard facing (without material) 89,00 Euros per hour
- Cleaning (dry) 82,00 Euros per hour
- Cleaning (wet) with cleaning agents like e.g. concrete solver 105,00 Euros per hour
- Straightening work 89,00 Euros per hour
- Replacement of wearing parts (without material) 89,00 Euros per hour

All prices plus application fee.

Needed material will additionally be charged referring to the expenditure.

The above-mentioned refurbishing examples can be enlarged referring to the condition of the products.