

General Terms for Rental Machines of the WIDOS Wilhelm Dommer Söhne GmbH

§ 1 Field of application

The following General Terms for Rental Machines do only apply towards companies, legal persons of public law or separate estate under public law. Entrepreneur is every natural or legal person or business partnership having legal capacity that acts in performing its commercial or self-employed occupational activity upon concluding legal transactions. Commercial transactions with private consumers (= every natural person concluding a transaction for neither commercial nor self-employed occupational activity purposes) are excluded from these General Terms for Rental Machines. In fact, legal regulations have to be applied here.

§ 2 General Rights and Duties of the contractual partners

1. The company WIDOS commits itself to hand over the rental item for a stipulated rental period to the tenant for use.
2. The tenant commits himself to only use the rental item for the agreed purpose, to carefully observe the corresponding terms for accident prevention and employment protection as well as road traffic instructions, to properly treat the rental item and to return it in a faultless and clean state after the expiration of the rental period.
3. The tenant is obliged to indicate the relative location of application of the rental item to WIDOS.

§ 3 Defects upon handing over the rental item

1. The tenant is entitled to inspect the rental item on time before the rental period starts and to rebuke any defects. The costs for any inspection are borne by the tenant.
2. Defects recognizable upon handing over cannot be rebuked anymore unless indicated to WIDOS in written form immediately after the inspection. Other defects already existing upon handing over are to be immediately indicated in a written form after their discovery.
3. The company WIDOS has to eliminate rebuked defects in time that were existing upon handing over and which will considerably affect the previewed application. The costs for eliminating such defects are borne by WIDOS. The company WIDOS is also entitled to substitute the rental item for an equally functional one to the tenant. The tenant's duty of payment delays by the necessary repair time in case of considerable damages at the rental item.
4. If WIDOS twice elapses a given reasonable extension of time for the elimination of existing defects upon handing over, the tenant has a right of withdrawal.

§ 4 Restriction of responsibility / Tenant's rights

For damages that are not interconnected with the delay of our service, a bad or non-service or its impossibility, we are only liable to the exclusion of any further responsibility in the following cases:

- In case of damages resulting from injuries to the life, body or health that are due to a careless violation of duty from our part or an intended and careless violation by one of our legal agents or assistants as well as
- for other damages only in case of a grossly careless violation of duty from our part or an intended or grossly careless violation of duty by one of our legal agents or assistants.

In all other cases that means in cases of a delay of our service, a bad or non-service or its impossibility, a compensation is to be rendered, maybe according to the instructions of the German Civil Code and limited to the characteristic and predictable damage resulting from a violation of contractual duty. The replacement for pure financial loss especially for production failure, decrease or lost profit is additionally limited by general principles of good faith, perhaps in cases of a disproportionality between the amount of contractual refund and damage.

§ 5 Rental price and payment, cession to secure the rental debt

1. Invoicing is effected at the beginning of the tenancy in advance, with weekly rental periods for one week at a time in advance, with monthly rental periods each month in advance. Daily rental invoices are to be paid immediately, weekly or monthly invoices at 14 days net after invoicing. In case of a prolongation of the rental period a corresponding procedure is applied. A delay in payment entitles WIDOS to invoice annual interests in the amount of 8% above the current basic interest rate without any special proof.
2. A tenant's right of retention and charging does only exist with his counterclaims acknowledged, undisputed or legally determined by the company WIDOS.
3. If the tenant is delaying a due payment for more than 15 days after a written reminder, then WIDOS is entitled to collect the rental item after notifying and to the tenant's account in order to dispose of it elsewhere. The tenant has to enable access to the rental item and its collection. The contractual claims of WIDOS thus remain valid however the amounts are settled after the deduction of costs generated by the recollection and anewed tenancy, therefore amounts that WIDOS has achieved during the arranged contractual period by any further tenancy.
4. The tenant cedes his claims against his client in the amount of the arranged rental price minus received partial payments whose order the rental item is used for. The tenant agrees to the cession.

5. In case of a cancellation by the tenant 30% of the rental charge will be flatly invoiced. The company WIDOS however is entitled to prove a higher damage in individual cases and charge it to the tenant's account.

§ 6 Tenant's duty of maintenance

1. The tenant is obliged to
 - a) protect the rental item against overexposure in any respect,
 - b) properly maintain and care for the rental item at his own expense,
 - c) observe the user manual of the surrendered rental device,
 - d) notify necessary inspection and maintenance works on time and to have them executed by the company WIDOS without any delay.
2. The company WIDOS is entitled to inspect the rental item at any time and to examine it personally or by an agent after previous stipulation with the tenant. The tenant is obliged to facilitate the inspection for WIDOS in any respect. The inspection cost is borne by the company WIDOS.

§ 7 Usage of rental items by a third party

The usage of rental items by third parties is only allowed after previous approval of the hirer. In case of third parties using the rental item, the tenant cedes his claims against this third party resulting from such usage to the company WIDOS and commits himself to immediately inform WIDOS each time on any addresses of such persons and receipts in the amount of his claims already at the beginning. The cession entitles WIDOS to collect their own claims up to their corresponding amount directly with the third party. The company WIDOS accepts this cession.

§ 8 Termination of the rental period and return delivery of the rental item

1. The tenant is obliged to preliminarily notify WIDOS in time on the intended return delivery resp. the time of the desired collection of the rental item by WIDOS.
2. Unless there is a contractual prolongation, the rental period expires on the day on which the rental item with all parts necessary for its initial operation arrives at the company WIDOS or any other stipulated destination in a proper and conventional condition.
3. The tenant has to return the rental item in operative and cleaned condition or to keep it ready for collection.

§ 9 Violation of maintenance duty

1. If the condition of the returned rental item reveals that the tenant failed to comply with his maintenance duty stated in § 6, then WIDOS is entitled to demand a tenant's payment in the amount of the agreed rental price for the time being necessary to complete neglected and contrary-to-contract maintenance works.
2. The volume of maintenance work being necessary due to defects which the tenant is responsible for is indicated to the tenant by WIDOS in an estimated amount possibly before the start of these works. The maintenance expenses and/or cleaning of the rental item by WIDOS or a chosen third company can be invoiced to the tenant.

§ 10 Further duties by the tenant

1. The tenant must not either surrender the rental item to a third party without written permission by WIDOS nor cede rights from the contract or grant rights of any kind on the rental item. This prohibition of cession does not apply to financial claims according to § 354 a HGB (German Civil Code).
2. If a third party claims rights on the rental item by confiscation, distress or suchlike, the tenant is obliged to immediately make a written report to WIDOS by registered mail/return receipt and to notify the third party hereof also by registered mail/return receipt.
3. The tenant has to care for appropriate measures to secure the rental item against theft and must give proof on demand.
4. The tenant has to immediately notify the company WIDOS in case of accidents interconnected with the rental item and to wait for their instruction. In case of traffic accidents and theft the police is to be called in.
5. If the tenant violates any terms mentioned before namely cypher 1 to 4, he is obliged to replace all resulting damages to WIDOS.

§ 11 Notice of cancellation

1. If a determined or minimum rental period has been stipulated, no party has the right to a proper notice of cancellation.
2. WIDOS has the right to an extraordinary notice of cancellation in the following cases:
 - a) WIDOS gets familiar with details after the conclusion of contract that considerably diminish the tenant's creditworthiness.
 - b) The tenant does not use the rental item or a part of it as intended or relocates it without prior permission of the company WIDOS.
 - c) In cases of violation against § 6 cypher 1.

3. If WIDOS uses its right of cancellation according to cypher 2, § 5 cypher 5 related to §§ 8 and 9 are accordingly used.

§ 12 Loss of the rental item

If it is impossible for the tenant, culpably or due to compulsorily technical reasons, to keep his obligation to return the rental item in due time according to § 8 cypher 3, he is committed to pay compensation.

§ 13 Other terms

1. The tenant is obliged to take note of the complete contents of all surrendered documents to be acknowledged prior to the initial operation (especially the user manual) observing the indications. In case of violating these obligations he is responsible for all resulting damages.
2. Deviant agreements or supplements to the contract require a written form.
3. Place of fulfillment for all tenant's obligations as well as place of jurisdiction is Ditzingen.
4. If any term of these General Rental Conditions becomes ineffective, they are replaced by efficient regulations that resemble the intended legal and economical purpose of the invalid condition; the validity of all other conditions is thereof not touched.