



TERMS & CONDITIONS FOR THE RENTAL OF EQUIPMENT ("CONDITIONS")

These conditions are not to be used for Consumer Contracts

1. DEFINITIONS

The "**Owner**" is **TSideHaan GmbH**, a company registered in Osnabrück, Germany under number **HRB 214962** with its registered address at Händelstraße 10b, 26892 Dörpen, Germany and includes its successors & assigns. Which owns the equipment that the **Company** uses & rents out to the **Client**. The "**Company**" is **Maritime Technical GmbH**, a company registered in Osnabrück, Germany under Number **HRB 215023** with its registered address at Händelstraße 10b, 26892 Dörpen, Germany and includes its **Maritime Technical Group** consisting of its Departments, Sister & Daughter Companies as well as its Partners (list available on request)

The "**Client**" is the company, firm, person, corporation, and/or public authority Renting the **Owner's** Equipment and includes their successors and/or personal representatives.

"**Equipment**" covers all classes of Machinery, Equipment, Tools & Accessories therefore, which the **Owner** agrees to Rent to the **Client** via the **Company**.

A "**Day**" shall be Eight (**8**) hours unless otherwise specified/agreed in the Contract.

"**Working week**" covers the period from starting time on Monday to finishing time on Friday limited to a maximum of Forty(**40**) working hours. Unless specifically mentioned differently in the Quote

The "**Rental Period**" shall commence from the time when the Equipment leaves the **Owner's** and/or **Company's** depot and/or place where last employed and shall continue until the Equipment is received back at the **Owner's** and/or **Company's** named depot and/or other agreed location.

A "**Consumer Contract**" is a contract entered into with a natural person acting for purposes unrelated to their trade, business or profession.

"**Contract**" means shall be interpreted in accordance with clause **2.** of these Conditions.

"**Offer & Acceptance**" means the document(s) detailing the Equipment to be Rented by the **Client** from the **Company** and the price the **Client** has agreed to pay the **Company** together with any ancillary documents.

Headings are for ease of reference only and do not form part of and shall not be construed as forming part of these Conditions. Any reference in these Conditions to any statute shall be construed as a reference to such statute as amended, extended, consolidated, or re-enacted from time to time and references to a statutory provision shall extend to any subordinate legislation made under it. Words in the singular shall include the plural and vice versa and the masculine gender shall include the feminine and neuter and words importing persons shall include firms or companies where the context so requires or admits.

The **Client** confirms that it enters into these terms & conditions in the course of trade and that the **Client** is not a consumer.

2. EXTENT OF CONTRACT

- a. No conditions other than specifically set forth in the Offer & Acceptance and/or in these Conditions shall be deemed to be incorporated in and/or to form part of the Contract or shall otherwise govern the relationship between the **Owner/Company** and the **Client** in relation to the Rental of any particular Equipment pursuant to the Offer & Acceptance.
- b. All other Terms & Conditions whatsoever shared, whether written and/or oral, and/or contained in any of the **Client's** Request for Quotation, Order Forms, Purchase Orders, Communications, Purchasing Terms & Conditions and/or Otherwise, are hereby excluded. The **Client** has accepted our Terms & Conditions under the Conditions as mentioned in Article 7) and therefore the **Client** shall be deemed to waive any & all other conditions and/or stipulations even if the same are expressly referred to and/or are stated expressly in or on any offer, acceptance or other documents. Such other conditions and stipulations are hereby expressly repudiated by the **Company**.
- c. The Contract does not create any right enforceable by or purport to confer any benefit on any person not a party to it except that a person who is a successor to or an assignee of the rights of the **Owner** is deemed to become a party to the Contract after the date of succession or assignment (as the case may be).



- d. All other terms & conditions whatsoever, whether written or oral, and/or contained in any of the **Client's** Request for Quotation, Order Forms, Purchase Orders, Communications and/or Otherwise, are hereby excluded and the **Client** accepts therefore in full & waives any rights it may have arisen thereunder.

3. ACCEPTANCE OF EQUIPMENT

Acceptance of Equipment on site implies acceptance of all terms & conditions herein unless otherwise agreed in writing.

4. UNLOADING AND LOADING

The **Client** shall be responsible for the unobstructed access and, unless otherwise agreed in writing, for unloading & loading of the Equipment at the site, and any personnel supplied by the **Company** for such unloading and/or loading shall be deemed to be under the direction and control of the **Client**. Such personnel shall for all purposes in connection with their employment in the unloading and/or loading of the Equipment be regarded as the servants or agents of the **Client** (but without prejudice to any of the provisions of Clause 13.) who alone shall be responsible for all claims arising in connection with unloading and/or loading of the Equipment by, or with the assistance of, such personnel.

5. DELIVERY IN GOOD ORDER AND MAINTENANCE: INSPECTION REPORTS

- a. Unless notification in writing to the contrary is received by the **Company** from the **Client** in the case of Equipment supplied with an operator within Two(2) working days, and in the case of Equipment supplied without an operator within three(3) working days, of the Equipment being delivered to the site, the Equipment shall be deemed to be in good order, save for either an inherent fault or a fault not ascertainable by reasonable examination, in accordance with the terms of the Contract and to the **Client's** satisfaction, provided that where plant requires to be erected on site, the periods above stated shall be calculated from the date of completed erection of the Equipment. The **Client** shall be responsible for its safekeeping, use in a workmanlike manner within the manufacturer's rated capacity and return on the completion of the Rental in equal good order (fair wear & tear excepted).
- b. The **Client** shall when Renting the Equipment without a **Company's** operator or driver take all reasonable steps to keep himself acquainted with the state & condition of the Equipment. If such Equipment be continued at work or in use in an unsafe and unsatisfactory state or environment, the **Client** shall be solely responsible for any damage, loss or accidents whether directly or indirectly arising therefrom.

6. SERVICING AND INSPECTION

The **Client** shall at all reasonable times allow the **Owner/Company**, his Employee's, Agents and/or his Insurers to have access to the Equipment to inspect, test, adjust, repair and/or replace the same. So far as reasonably possible, such work will be carried out at times to suit the convenience of the **Client**.

7. TIMBER/STEEL DRAGLINE MATS OR EQUIVALENT

- a. If the ground (including any private access road or track) is soft or unsuitable for the Equipment to work on, travel, and/or be transported over without timbers and/or equivalents the **Client** shall supply & lay suitable timbers and/or equivalents in a suitable position for the Equipment to travel over, work on, and/or be transported over, including for delivery and collection.
- b. Where the Rental is for lifting equipment, any sound timber and/or other material supplied by the **Owner/Company** for use with outriggers/stabilizers is provided solely to assist the **Client** and expressly not relieve him of his legal, regulatory or contractual obligations to ensure adequate stability of the lifting equipment under the imposed loading.



8. HANDLING OF EQUIPMENT

When a driver or operator or any person is supplied by the **Owner/Company** with the Equipment, the **Owner/Company** shall supply a person competent in operating the Equipment or for such purpose for which the person is supplied and such person shall be under the direction and control of the **Client**. Such drivers or operators or persons shall for all purposes in connection with their employment in the working of the Equipment be regarded as the servants or agents of the **Client** (but without prejudice to any of the provisions of Clause 13.) who also shall be responsible for all claims arising in connection with the operation of the Equipment by the said drivers/operators/persons. The **Client** shall not allow any other person to operate such Equipment without the **Owner's/Company's** previous consent to be confirmed in writing.

9. BREAKDOWN, REPAIRS AND ADJUSTMENT

- a. When the Equipment is Rented without the **Owner's/Company's** driver or operator any breakdown or the unsatisfactory working of any part of the Equipment must be notified immediately to the **Company**. Any claim for breakdown time will only be considered from the time & date of notification.
- b. Full allowance for the Rental charges and for the reasonable cost of repairs that have been authorized by the **Owner/Company** will be made to the **Client** for any stoppage due to breakdown of Equipment caused by the development of either an inherent fault and/or a fault not ascertainable by reasonable examination and/or fair wear & tear and for all stoppages for normal running repairs in accordance with the terms of the Contract.
- c. The **Client** shall not, except for the changing of any tire & repair of punctures, repair the Equipment without the written authority of the **Owner/Company**. The changing of any tire and repair of punctures are however the responsibility of the Hirer who should arrange for them to be changed/repared without awaiting authorization from the Owner. The Hirer is responsible for all costs incurred in the changing or replacement of any tire and the repair of any puncture.
- d. The **Client** shall be responsible for all expense involved arising from any breakdown and all loss or damage incurred by the **Owner** due to the **Client's** negligence, misdirection or misuse of the Equipment, whether by the **Client** or his servants, and for the payment of Rental at the idle time rate as defined in Clause 25. during the period the Equipment is necessarily idle due to such breakdown loss or damage. The **Client** is responsible for the cost of spares and/or repairs due to theft, loss or vandalism of the Equipment. The **Owner** will be responsible for the cost of repairs, inclusive of the cost of spares, to the Equipment involved in breakdown from all other causes.

10. OTHER STOPPAGES

No claims will be admitted (other than those allowed for under "Breakdown" or for "Idle Time", as provided for in these Conditions), for stoppages through causes outside the **Owner's/Company's** control, including bad weather or ground conditions nor shall the **Owner/Company** be responsible for the cost or expense of recovering any Equipment from soft ground.

11. LOSS OF OTHER EQUIPMENT DUE TO BREAKDOWN

Each item of Equipment specified in the Contract is Rented as a separate unit and the breakdown or stoppage of one or more units or vehicles (whether the property of the **Owner** or otherwise) through any cause whatsoever, shall not entitle the **Client** to compensation or allowance for the loss of working time by any other unit or units of Equipment working in conjunction therewith, provided that where two or more items of Equipment are expressly hired together as a unit, such items shall be deemed a unit for the purpose of breakdown.

12. LIMITATION OF LIABILITY

Except for liability on the part of the **Owner/Company** which is expressly provided for in the Contract (including these Clauses):

- a. the **Owner/Company** shall have no liability or responsibility for any loss or damage of whatever nature due to or arising through any cause beyond his reasonable control;



- b. the **Owner/Company** shall have no liability or responsibility, whether by way of indemnity or by reason of any breach of the Contract, breach of statutory duty or misrepresentation or by reason of the commission of any tort (including but not limited to negligence) in connection with the Rental, for any of the **Client's** loss of profit, loss of use of the Equipment or any other asset or facility, loss of production or productivity, loss of contracts with any third party, liabilities of whatever nature to any third party, and/or any other financial or economic loss or indirect or consequential loss or damage of whatever nature; and
- c. whenever the Contract (including these Clauses) provides that any allowance is to be made against Rental charges, such allowance shall be the **Client's** sole and exclusive remedy in respect of the circumstances giving rise to the allowance, and such remedy shall be limited to the amount of Rental charges which would otherwise be or become due if the allowance in question had not been made.
- d. Other than the representations and warranties expressly provided under the Contract, the **Owner/Company** expressly disclaims all warranties, conditions, representations, statements, terms and provisions, whether express or implied by statute, common law, custom or trade, or otherwise in connection with the Contract to the maximum extent permissible by law.
- e. It is expressly agreed by the **Company** and the **Client** that the maximum aggregate liability of the **Owner/Company** to the **Client** in respect of all claims made by **Client** against the **Owner/Company** pursuant to the Contract or otherwise shall not exceed the Rental charges actually received by the **Company**.

13. CLIENT'S RESPONSIBILITY FOR LOSS AND DAMAGE

- a. For the avoidance of doubt, it is hereby declared and agreed that nothing in this Clause affects the operation of Clauses **4**, **5**, **8** and **9** of this Agreement.
- b. During the continuance of the Rental Period the **Client** shall subject to the provisions referred to in sub paragraph **a**. make good to the **Owner** all loss of or damage to the Equipment from whatever cause the same may arise, fair wear and tear excepted, and except as provided in Clause **9** herein, and shall also fully and completely indemnify the **Owner/Company** in respect of all claims by any person whatsoever for injury to person or property caused by or in connection with or arising out of the storage, transit, transport, unloading, loading or use of the Equipment during the continuance of the Rental Period, and in respect of all costs and charges in connection therewith whether arising under statute or common law. In the event of loss of or damage to the plant, Rental charges shall be continued at idle time rates as defined in Clause **25** until settlement has been effected.
- c. Notwithstanding the above the **Client** shall not be responsible for damage, loss or injury due to or arising:
 - i. prior to delivery of any Equipment to the site (or, where the site is not immediately adjacent to a highway maintainable at the public expense, prior to its leaving such highway) where the Equipment is in transit by transport of the **Owner/Company** or as otherwise arranged by the **Owner/Company**,
 - ii. during the erection and/or dismantling of any plant where such Equipment requires to be completely erected/dismantled on site, always provided that such erection/dismantling is under the exclusive control of the **Owner/Company** or his Agent,
 - iii. after the Equipment has been removed from the site and is in transit on a highway maintainable at the public expense (or where the site is not immediately adjacent to a highway maintainable at the public expense after it has joined such highway) to the **Owner** by transport of the **Owner/Company** or as otherwise arranged by the **Owner/Company**,
 - iv. where Equipment is travelling to or from a site on a highway maintainable at the public expense (or, where the site is not immediately adjacent to a highway maintainable at the public expense, prior to its leaving or after its joining such highway) under its own power with a driver supplied by the **Owner/Company**.

14. NOTICE OF ACCIDENTS

If the Equipment is involved in any accident resulting in injury to persons or damage to property, immediate notice must be given to the **Owner/Company** by telephone and confirmed in writing to the **Owner's/Company's** office. In relation to any claim in respect of which the **Client** is not bound fully to indemnify the **Owner**, no admission, offer, promise of payment or indemnity shall be made by the **Client** without the **Owner's** consent in writing.



15. RE-RENTING ETC

Equipment or any part thereof shall not be re-Rented, sub-let, or lent to any third party without written permission of the **Owner/Company**.

16. CHANGE OF SITE

Equipment shall not be moved from the site to which it was delivered or consigned without written permission of the **Owner/Company**.

17. RETURN OF EQUIPMENT FOR REPAIRS

If during the Rental Period the **Owner** decides that urgent repairs to the Equipment are necessary he may arrange for such repairs to be carried out on site or at any location of his nomination. In that event the **Owner** shall be obliged to replace the Equipment with similar Equipment if available, the **Owner** (but without prejudice to any of the provisions of Clauses **9** and/or **13**) paying all transport charges involved. In the event of the **Owner** being unable to replace the Equipment he shall be entitled to determine the Contract forthwith (but without prejudice to any of the provisions of Clauses **9** and/or **13**) by giving written notice to the **Client**. If such determination occurs:

- a. within three months from the commencement of Rental, the **Owner** (but without prejudice to any of the provisions of Clauses **9** and/or **13**) shall pay all transport charges involved, or,
- b. more than three months from the commencement of Rental, the **Owner** (but without prejudice to any of the provisions of Clauses **9** and/or **13**) shall be liable only for the cost of reloading and return transport.

18. BASIS OF RENTAL FEE'S, INVOICING & PAYMENT TERMS

- a. The **Client** shall render to the **Owner/Company** for each week an accurate statement of the number of hours the Equipment has worked each day during that week. Where the Equipment is accompanied by the **Owner's** driver or operator, the **Client** shall sign the employee's Time Record Sheets. The signature of the **Client's** representative shall bind the **Client** to accept the hours shown on the Time Record Sheets.
- b. Full allowance will be made for breakdown periods resulting from mechanical or electrical faults or absence of driver or operator supplied by the **Owner** except where breakdown is due to acts or omissions of third parties and/or the **Client's** misuse, misdirection or negligence, subject however to the provisions of Clause 8 of this Agreement.
- c. Breakdown time in respect of such periods shall be allowed for not more than **8** hours Monday to Thursday and not more than **7** hours on Friday less the actual hours worked.
- d. Equipment shall be Rented out either:
 - i. for a stated minimum number of hours per day or per week or,
 - ii. without any qualification as to minimum hours. Odd days at the beginning and at the end of the Rental Period shall be charged pro rata.
- e. Stoppages due to changing of tyres and repairs to punctures will be chargeable as working time up to a maximum of **2** hours for any one stoppage and any excess will be charged for at the appropriate idle time rates as specified in the Offer and Acceptance.
- f. In the case of Equipment which requires to be dismantled for the purpose of transportation, if the **Owner/Company** agrees to a modification of the Rental charge for the period required for assembling on site and dismantling upon completion of Rental, such modification of the Rental charge and the period for which it shall apply shall be stated on Offer and Acceptance.
- g. The **Client** shall pay the **Company's** fees (together with any associated bank charges) punctually & in any event not later than **Fourteen (14)** days following the relevant invoice date.



- h. The Client is to provide;
- i. For contracts with a value of more than **One-Hundred Thousand** ($\geq 100,000.00$) Euro an official Bank Guarantee letter.
 - ii. For contracts with a value of more than **Two-Hundred Thousand** ($\geq 200,000.00$) Euro an official Bank Guarantee letter & the **Client** is to transfer **Thirty Percent** (**30%**) of the Contract Value to a dedicated Project Bank Account at & Controlled by the **Company's** House Bank as security. Which will be transferred at Project Completion to the **Company**.
- i. If any part of an invoice is genuinely in dispute, the **Client** shall notify the **Company** immediately upon, and no later than **Five (5)** days after receipt of the invoice as to any part of the invoice which is in dispute giving full reasons as to why a portion of the invoice is disputed and nevertheless pay the undisputed part within **Fourteen (14)** days of the invoice date, if the notification is not send within **Five (5)** days after receipt of the Invoice it is considered to be accepted in full & therefore undisputed as a whole. The parties shall endeavour to resolve the disputed portion without delay.
- j. In case of default the **Client** shall pay the out of court expenses. These costs shall be deemed to amount to no less than **Fifteen Percent (15%)** of the amount due.
- k. The **Company** shall be entitled to charge interest on a daily basis at the rate of **Eighth Percent (8%)** above the LIBOR rate per month on any overdue invoice or on any undisputed part thereof as appropriate. In any case where an invoice is more than **Thirty (30) days** overdue, the **Company** may stop work or withhold any deliverables on the contract which relates to the overdue invoice.
- l. Without prejudice to any rights of recovery which the **Company** might have against a third party, the **Company** shall treat the **Client** identified in the signed Agreement as the person responsible for paying for the work done, therefore the **Company** shall not need to be concerned as to whether the **Client** considers itself to be principal or agent nor shall the **Company** need to concern itself as to whether the **Client** is, or is not, paid by a third party.
- m. Invoicing terms - Rental rate will be invoiced at;
- i. Short Term Project – **Thirty or Less** (≤ 30) Working Days
One-Hundred Percent (100%) at completion of Services Provided
 - ii. Long Term Project – **more than Thirty** (> 30) Working Days;
One-Hundred Percent (100%) of the "worked" month at the end of the month, every month or at completion of Services Provided whichever comes first.
- n. Invoicing Terms - Lump Sum Quoted Projects with a valued Rental Fee higher than **Fifty-Thousand Euro (€ 50,000.--)** will be invoiced at;
- i. Short Term Project - **Thirty or less** (≤ 30) Working Days:
Twenty Percent (20%) - at Contract Signing (prior start of works)
Twenty Percent (20%) - at Start of Work
Sixty Percent (60%) - at Completion of Work
Balance of "out of scope" works & expenses if any at actual Project Completion.
- Or
- ii. Long Term Project - **more than Thirty** (> 30) Working Days:
Twenty Percent (20%) - at Contract Signing (prior start of works)
Twenty-Five Percent (25%) - at **One-Third (1/3rd)** of the initial estimated Project Completion time
Twenty-Five Percent (25%) - at **Two-Thirds (2/3rd)** of the initial estimated Project Completion time
Thirty Percent (30%) - at **Three-Thirds (3/3rd)** of the initial estimated Project Completion time
Balance of "out of scope" works & expenses if any at actual Project Completion.
- o. The **Company** has, however, at all times the right to demand full or partial payment in advance, and/or to demand advance guarantee of payment. An agreed credit period does not diminish this right.



19. EQUIPMENT RENTED ON A DAILY BASIS WITHOUT QUALIFICATION AS TO HOURS

The full daily rate will be charged on a daily basis irrespective of the hours worked except in the case of breakdown for which the **Owner** is responsible, when the actual hours worked are more than our normal daily working hours as stated in these terms and conditions, when the actual hours worked will be charged pro rata of the average working day. No Rental charge shall be made for Saturday and/or Sunday unless the plant is actually worked.

20. EQUIPMENT RENTED BY THE WEEK OR MONTH WITHOUT QUALIFICATION AS TO HOURS

The weekly or monthly rate shall be charged irrespective of the number of hours worked, except in the case of breakdown for which the **Owner** is responsible, when the actual hours worked are more than our normal daily working hours as stated in these terms and conditions, when an allowance pro rata of the agreed weekly rate or pro rata of the agreed monthly rate will be made for each full working day broken down calculated to the nearest half working day.

21. EQUIPMENT RENTED BY THE WEEK OR THE HOUR FOR A MINIMUM OF 40 HOURS PER WEEK

If no breakdown occurs, the full hire for the minimum period in the Contract will be charged and an addition pro rata charge will be made for hours worked in excess of such minimum period. Allowance will be made for breakdowns up to 8 hours except on Fridays when the allowance will be up to 7 hours providing always that where the actual hours worked are in excess of the minimum period less breakdown time, the actual hours worked shall be chargeable. Idle time for this purpose shall be treated as actual working time. The minimum week of 39 hours shall be reduced by 8 hours Monday to Thursday and 7 hours Friday for each day's statutory holiday occurring in such week, provided that the plant does not work on the holiday.

22. "ALL-IN" RATES

Where "All-In" rates are charged by agreement the minimum period shall be as defined in the Contract and in accordance with the Rental rates and terms contained therein, subject to the provisions of Clause 26.

23. COMMENCEMENT AND TERMINATION OF RENTAL (TRANSPORT OF EQUIPMENT)

- a. The Rental Period shall commence from the time when the Equipment leaves the **Owner's/Company's** depot or place where last employed and shall continue until the Equipment is received back at the **Owner's/Company's** named depot or other agreed location but an allowance shall be made of not more than one day's Rental charge each way for travelling time. If the Equipment be used on day of travelling, full Rental rates shall be paid for the period of use on that day. If more than one day be properly and unavoidably occupied in transporting the Equipment, a Rental charge at idle time rates shall be payable for such extra time, provided that where plant is Rented for a total period of less than one week, the full Rental rate shall be paid from the date of despatch to the date of return to the **Owner's/Company's** named depot or other agreed location.
- b. An allowance of not more than one day's travelling time shall be allowed when the Equipment is travelling to a site other than that specified in the Contract provided that:
 - i. consent to such transfer has been given by the **Owner/Company** under Clause 16, and,
 - ii. the Equipment is moved by means other than under its own power, and,
 - iii. the Equipment shall have been on the site specified in the Contract or on any other site to which consent to transfer has been given under Clause 16 for a period of at least Fourteen (14) days.



24. NOTICE OF TERMINATION OF CONTRACT

Where the period of Rental is indeterminate or having been defined becomes indeterminate the Contract shall be determinable by Seven (7) days notice in writing given by either party to the other except in cases where the Equipment has been lost or damaged. Notwithstanding that the **Owner** may have agreed to accept less than Seven (7) days notice of termination, the **Client's** obligations under Clause 13 shall continue until the Equipment is returned to the **Owner** in accordance with Clause 31 or until the **Owner** has collected the Equipment within Seven (7) days following the acceptance of short notice. Oral notice given by the **Client** to the **Owner's/Company's** driver or operator shall not be deemed to constitute compliance with the provisions of this Clause.

25. IDLE TIME

When Equipment is prevented by prolonged inclement weather from working for a complete week, the charge shall be two thirds of the Rental rate or such other idle time as is stated in the Offer and Acceptance. If the Equipment works for any time during the guaranteed Rental Period, then the whole of that guaranteed minimum period shall be charged as working time. In any case no period less than one day shall be reckoned as idle time save for as provided for in Clause 18.e. Where an "All-In" rate is charged, idle time is charged on the machine element only. Full rate will be charged for the operator.

26. WAGES & OTHER CHARGEABLE ITEMS RELATING TO DRIVERS AND OPERATORS OF EQUIPMENT

All chargeable items shall be paid by the **Client** at the rates contracted save that any subsequent increases before and/or during the **Rental** Period arising from awards under any wage agreements and/or from increases in the employer's statutory contribution shall be charged as additions at cost by the **Owner/Company** and shall be admitted and paid by the **Client**.

27. TRAVELLING TIME AND FARES

Travelling time and fares for drivers, operators and any person supplied by the **Owner/Company**, similar expenses incurred at the beginning and end of the Rental Period and where appropriate return fare of the driver, operator and any person supplied by the **Owner/Company** to his home will be chargeable at cost. No charge shall be made by the **Owner/Company** for any such expenses incurred by other employees of the **Owner/Company** for the purpose of servicing, repair or maintenance of Equipment, unless necessitated by the **Client's** negligence, misdirection or misuse of the Equipment.

28. FUEL, OIL AND GREASE

Fuel, oil and grease shall, when supplied by the **Owner**, be charged at net cost or an agreed estimate of net cost, and when supplied by the **Client** shall be of a grade or type specified by the **Owner**.

29. SHARPENING OF DRILLS/STEELS, ETC.

The cost of re-sharpening shall be borne by the **Client**.

30. OWNER'S NAME PLATES

The **Client** shall not remove, deface or cover up the **Owner's** name plate or mark on the plant indicating that it is his property.

- In case the **Client** is in noncompliance with the above, an compensation of € 10,000.- per day per case/affected Equipment of noncompliance will be invoiced until the noncompliance has been rectified will be charged in addition of the Rental Charges to the **Client** by the **Owner/Company**



31. TRANSPORT

The **Client** shall pay the cost of and if required by the **Owner/Company**, arrange transport of, the Equipment from the **Owner's** depot or other agreed location to the site and return to named depot or other agreed location on completion of the Rental Period.

32. GOVERNMENT REGULATIONS

The **Client** will be responsible for compliance with any and all relevant regulations issued by any Government or Local Authorities governing the locations of travel and operation of the Rented Equipment, including but not limited to Regulations under the Safety, Health & Welfare at Work Acts and observance of Road Traffic Acts and/or Company internal rules & regulations should they apply, including the cost of Motor Tax and any insurances made necessary thereby, save that if and during such time as the Equipment is travelling, whether for full or part journey from **Owner** to site and site to **Owner** under its own power with a driver supplied by the **Owner**, the **Owner** and not the **Client** shall be responsible as aforesaid.

33. PROTECTION OF OWNER'S RIGHTS

- a. The **Client** shall not re-Rent, sell, mortgage, lease, rent, charge, pledge, part with possession of or otherwise deal with the Equipment except as provided under Clause **15** and shall protect the same against distress, execution or seizure and shall indemnify the **Owner/Company** against all losses, damage, costs, charges and expenses arising as a direct result of any failure to observe and perform this condition except in the event of Government requisition.
- b. If the **Client** make default in punctual payment of all sums due to the **Company** for Rental of Equipment or other charges or shall fail to observe and perform the terms and conditions of this Contract, or if the **Client** shall suffer any distress or execution to be levied against him or make or propose to make any arrangement with his creditors or becomes insolvent or any amendment or re-enactment thereof for the time being in force; or shall do or cause to be done or permit or suffer any act or thing whereby the **Owner's** rights in the Equipment may be prejudiced or put into jeopardy, this Contract may forthwith be determined by notice from the **Owner/Company** to the **Client** (notwithstanding that the **Owner/Company** may have waived some previous default or matter of the same or a like nature). The Contract shall thereupon be deemed determined by reason of the **Client's** breach and it shall be lawful for the **Owner** to retake possession of the said Equipment and for that purpose enter into or upon any premises where the same may be and the determination of the Rental under this Condition shall not affect the right of the **Owner/Company** to recover from the **Client** any monies due to the **Owner/Company** under the Contract or any of the **Owner's** rights and remedies. In particular, without limitation, the **Owner** shall be entitled to claim the Rental charges outstanding as at the date of determination of the Rental under this Clause, return transport charges under Clause **31**, and damages for the **Client's** actual or deemed breach of the Contract under this Clause.

34. CHANGES IN NORMAL WORKING WEEK

- a. The foregoing provisions have been framed upon the basis of the **Client** working a **5-day** week of **39** hours; it is hereby agreed that in the event of;
 - i. there being any change in the normal weekly hours in the industry in which the Hirer is engaged or,
 - ii. the Contract being made with reference to a 5-day week of other than 39 hours.
- b. Clauses **1.d**, **1.e**, **18.c**, **18.d**, **20** and (in regard to breakdown allowance and reduction for statutory holidays) **21** shall be deemed to be modified conformably and in the event of an alteration in the normal weekly working hours in the said industry the "Offer and Acceptance" of Equipment Rented for a minimum weekly or daily period shall be varied pro rata.

35. GENERAL

- a. Failure by the **Owner/Company** at any time or for any period, to require strict performance of any of the provisions of the Contract shall not be construed as a waiver and shall in no way affect the **Owner/Company** right later to enforce the Contract.



- b. The invalidity or unenforceability of any of the provisions of the Contract shall in no way affect the validity or enforceability of the remaining provisions.
- c. The **Owner** may assign, transfer or novate the Contract or any of its rights or obligations hereunder. The **Client** agrees to enter into such documents as the **Owner** may stipulate in order to effect such transfer, assignment or novation. The **Client** may not assign, transfer or novate any of its rights or obligations under the Contract.
- d. If the **Client** is a partnership or consists of two or more natural persons, each partner or person shall be jointly and severally liable under the Contract.
- e. The **Owner** may appoint one or more agents or representatives for any of the purposes of the Contract.
- f. Save as provided for elsewhere in these Conditions, the Contract represents the entire of the understanding of the parties concerning the subject matter hereof and overrides and supersedes all prior promises, representations, understandings, arrangements, practices, agreements, letters of intent or heads of agreement concerning the same which are hereby revoked by mutual consent of the parties provided that nothing in this clause **35.f** shall operate to limit or exclude any liability for fraudulent misrepresentation. No amendment or modification to the Contract shall be made except in writing signed by both parties.
- g. Except for failure to make payments when due, neither party shall be liable to the other by reason of any failure in performance of the Contract if the failure arises out of any cause beyond the reasonable control of that party (an event of "Force Majeure"), including, but not limited to, the unavailability of third party communication facilities or energy sources, any act of God, any act or omission of governmental or other competent authority, fires, strikes, riots or war. If an event of Force Majeure shall continue for more than six (6) weeks, either party may terminate these Terms and Conditions, without liability, upon notice to the other.
- h. Any notice under the Contract, which, for the avoidance of doubt, shall include any notice of a change in the use of the Equipment, during the period of Rental, which affects either the rate of Rental of the Plant or the period of hire of the Plant, shall be given in writing by post or personal delivery or by prepaid registered mail with advice of transmission directed to the address of the party which is set forth in the Contract or to such other address as may be substituted by notice to the other party. If notice is sent by post, it will be treated as delivered two (2) business days after it has been posted.

36. DISPUTE RESOLUTION

The Contract and all matters arising from and in relation to the Contract shall be governed by the laws of Germany, in the absence of an amicable agreement, any dispute concerning the validity, interpretation or performance of this Contract will be submitted to the Landgericht HANNOVER in Niedersachsen - Germany, as its exclusive jurisdiction over the **Owner/Company** registered headquarters.