

# Terms and conditions of rental

January 2011 – Models, prices and delivery terms are subject to modification.

## 1. Subject Matter of the Lease

Equipment shall be rented out under the terms and conditions set out below as well as the individually agreed conditions in the Rental or Service-Rental Agreement, which take precedence. The following terms and conditions shall be acknowledged as contractual at the latest upon delivery of the equipment to its place of use. Outside online transactions, the subject matter of the Agreement is constituted by the equipment detailed in the rental delivery note.

## 2. Period of Rental

The period of rental shall be calculated in days or weeks. The minimum rental period is one day. Days begun shall be counted in full. The period of rental begins no later than with the arrival of the equipment at the place of use; it ends when the equipment arrives back at the lessor's premises.

## 3. Transport/Shipment and Costs

Transport/shipment of the equipment shall be effected at the expense of the hirer by means of the cheapest method, unless the hirer has expressly stipulated a particular mode of transport/shipment. The cost of a transport insurance policy taken out at the request of the hirer shall be at the hirer's expense. All of the logistics costs can be included in the Rental or Service-Rental Agreement. Additional logistics costs shall be borne by the hirer and invoiced separately if they arise from the hirer causing or being responsible for a change to the order, for example a) a change in the amount of equipment, b) a change in the time periods over which the equipment is used or the sequence of those periods, or c) a change in the place of usage.

## 4. Passage of Risk

The risk of qualitative deterioration, all the way to total technical breakdown, of the rented equipment (operational risk) as a result of incorrect handling or use of the rented equipment by the hirer or a third party, passes from the lessor to the hirer when the shipper collects or is handed the rented equipment, or when it is delivered, depending on the transport agreement between the parties to the contract. The risk of accidental destruction or deterioration of the rented equipment, or an inability to make it available (service risk) passes from the lessor to the hirer when the shipper collects or is handed the rented equipment, or when it is delivered, depending on

the transport agreement between the parties to the contract. The service risk is transferred back from the hirer to the lessor when the rented equipment is returned to the lessor or collected by the lessor.

## 5. Safeguarding the Equipment

The hirer undertakes, from the passage of risk of non-performance to him until it passes back again to the lessor (see also Section 4), to secure the equipment rented against loss or damage and to take out an insurance policy to cover the equipment up to its reinstatement (new) value.

## **6. Use of the Rented Equipment**

The rented equipment is the property of the lessor. The hirer must treat it with all due care, perform all duties connected with the possession, use and preservation in good repair of the equipment, and follow the lessor's recommendations with regard to its maintenance, care and use. The equipment may not be sublet. The hirer must keep the equipment in his own direct possession and only use it at the agreed places of use. The hirer agrees to enable the lessor to inspect the equipment at any time.

## **7. Guarantee**

The lessor shall be responsible for ensuring that the rented equipment is in good working order at the time of the passage of risk. Any further claims are excluded as follows: should, at the time of the passage of risk, the equipment rented have a defect rendering it unsuitable for use in accordance with the terms of the contract, or reducing its usefulness to an extent equalling unsuitability for use, the hirer may either rectify the defect, exchange the defective equipment or rescind the contract as he deems fit. The hirer is freed from the obligation to pay the rental fee for the period it takes to restore good working order. If the working order of the rental equipment is only reduced, the rental or service-rental fee shall be reduced accordingly. The lessor shall only be made liable for damages to the hirer while using the hired equipment if and as far as damage to property was caused intentionally or through gross negligence on the part of the lessor or his vicarious agents, and if and as far as injury to life, body or health was caused at least through the negligence of the lessor or his vicarious agents.

## **8. Liability of the Hirer**

The hirer shall be liable to the lessor for all damage arising out of the improper use of the rented equipment. After the passage of risk, the hirer shall be liable for the accidental loss of or accidental damage to the equipment. In the event of total write-off or loss of the rented equipment, the hirer must indemnify the lessor for the replacement value (value as new) of the rented equipment, subject to the conditions set out in Section 15 below.

## **9. Licences**

Where video and audio systems are operated, the image and sound reproductions played by the hirer are permissible only in accordance with the terms and conditions of the respective licence holder. In the case of IT systems, the software supplied may be used only on the individual article of equipment for which it was provided. Such software may be used only under the terms and conditions notified separately by the licence holder. In the event of improper use of image and sound material as well as software, the hirer shall indemnify the lessor for any claims to damages the licence holders may file.

## **10. Rescission of the Contract by the Hirer**

If the hirer withdraws from the Agreement for reasons for which the lessor is not responsible, 30% of the value of the order will be charged to the hirer as flat-rate damage compensation. If notice of rescission is given less than four weeks prior to the start of the Agreement period, 50% of the rental or service-rental fee shall be due and payable; less than two weeks before, 75%; and less than one week before, the full 100%. The hirer reserves the right to prove to the lessor that the extent of the loss was smaller.

## **11. Third-Party Rights**

The hirer must hold the hired equipment harmless from all charges, claims and rights of lien of his creditors. He is obliged to notify the lessor and furnish all necessary documents without delay if, during the life of the Agreement, the hired equipment is nonetheless taken in execution or in any other way claimed by third parties. The hirer shall bear all costs which may become necessary in order to secure the discontinuation of such interventions by third parties, in so far as such interventions are not directed solely against the lessor.

## **12. Delivery**

The agreement of a date for rental is subject to punctual availability for delivery of the rental equipment. Events neither known to or foreseeable to the lessor and for which he is not answerable, irrespective of whether they arise with the lessor or one of his suppliers, for example, strike, lockout, damage resulting from an accident, stoppages, etc., entitle the lessor to rescind the Agreement or postpone the commencement of the lease by the duration of the hindrance, whereby the hirer is not entitled to claim for damages. The lessor is obliged to inform the hirer forthwith of the non-availability of the rental equipment and to waive the agreed rental fee for the period of non-availability for which the hirer is not answerable or to refund this proportionately if already paid.

## **13. Provision of Security**

If the agreed rental or service-rental fee should exceed the amount of 2,500 euros, the lessor is entitled to demand a payment in advance amounting to 2/3 of the agreed rental or service-rental fee. Irrespective of this, the lessor may demand that the hirer furnish a security deposit, for the duration of the Agreement, equalling the current market value of the hired equipment. The security deposit shall be refunded without interest to the hirer upon expiry of the Agreement and return of the hired equipment to the lessor.

## **14. Payment of the Rental or Service-Rental Fee**

The rental or service-rental fee, plus statutory value added tax thereon, shall fall immediately due and payable without deduction upon invoicing. For online transactions, payment by cheque and/or bill of exchange shall not be accepted. Should the due date of payment of the lessor's invoices be overstepped by more than five days, the lessor shall charge interest on arrears of 0 percentage points above the base interest rate of the European Central Bank as from the due date of payment. The hirer may only offset claims of the lessor, or exercise a right of retention, if the counterclaim is undisputed or has been pronounced legally effective.

## **15. Return of the Rented Equipment**

The hirer must return the rented equipment to the lessor upon expiry of the agreed period of use and/or possession, without delay and at his own expense and risk (see Period of Rental in Section 2). If the rented equipment is not returned in orderly condition, then the hirer must continue to pay the agreed rental fee for the time it takes to repair or replace the equipment, without that affecting any other damage claims on the part of the lessor.

## **16. Late Return**

Should the hirer fail to return the rented equipment on time (cf. period of rental according to Section 2), then the rental fee shall be recalculated accordingly. Furthermore, the hirer must indemnify the lessor for any damages.

## **17. Changes to Models and Prices**

The lessor reserves the right to make changes to models and prices after consultation with and the agreement of the hirer part of the terms of the contract.

## **18. Final Provisions**

No verbal agreements have been reached. All amendments and additions to the Agreement terms and conditions must be made in writing. This also applies to the amendment of the written form clause in the previous sentence and to the amendment of this sentence. Should any provision contained in the Agreement or in these terms and conditions be or become void, the validity of the remaining provisions will not be affected by this. The place of performance shall be the location of the lessor's branch. The venue for the settlement of disputes for both parties has been agreed as the nearest local first instance courts or first instance district courts within the jurisdiction of which the lessor's branch falls. In the event that equipment is leased outside the Federal Republic of Austria, Austrian law shall apply in addition to the terms and conditions agreed.