

Standard Terms & Conditions for Plant Leasing



1. PREAMBLE

1.1 The present "Standard Terms & Conditions for Plant Leasing" are integral to the lease agreement between the lessee and lessor. The material can be owned by a 3rd party and rental conditions apply on the same terms for such material.

2. SUPPLY AND ASSEMBLY

2.1 The leased plant shall be supplied ready for use and with the appurtenant accessories excluding electrical power, fuel, lubricants, cordage and ropes, spare parts, replacement wires, chains and the like. The agreement does not comprise the services of an operator or instructor.

2.2 The leased plant shall be supplied to the lessee's site on the lease term commencement date and shall be assembled by the lessor unless otherwise agreed. The lessee may not make use of the leased plant until assembly has been completed and the lessor has released the plant as ready for use.

2.3. A separate charge for the lessor's supply and assembly etc. is payable with the first rental instalment. The charge is specified in the offer (quoted rate is for weekdays between 7.00 and 16.00 hrs).

2.4 If the agreed lease term commencement date cannot be adhered to by the lessor due to documented influx of other orders accepted prior to receipt of the lessee's acceptance, the lessor shall notify the lessee to that effect as soon as possible in writing, thereby releasing both parties from any mutual obligation.

2.5 The lessor shall issue all plant in clean condition and good working order and in conformance with agreed specifications. The lessee, however, has a duty to verify such conformances on taking receipt of the plant, irrespective of whether it is supplied to the lessee's or the lessor's site. The lessor is entitled to demand a signed receipt as confirmation of the lessee's verification of plant conformances. Once verification has been completed and signed for, the lessee waives the right to submit any complaint that the leased plant was not in clean condition, in good working order or otherwise as specified at the time of supply.

3. LESSOR'S SITE

3.1 Regardless of whether supply and assembly are carried out by the lessee or lessor, the lessee is responsible for ensuring that the

site has the requisite conditions - including foundation structures and ground stability - to permit prescribed supply, assembly and use of the leased plant at no risk to life, limb or property.

3.2 In advance of the time of supply, the lessee has a duty to procure, to the requisite extent, power supply, access roads, ground levelling, laying of rails or sheet iron, casting of concrete foundations, preparation of storage space or make any other arrangements necessary for the prescribed and lawful supply, assembly and use of the plant at the site.

3.3 For the duration of the lease term, the lessee is responsible for the lawful equipping and utilisation of the site and the installation and assembly of the leased plant pursuant to statutory and official requirements. This applies equally where the lessee has undertaken the assembly at the site. The lessee is thereby liable in respect of any and all requirements imposed on the lessor/lessee in the event that the aforementioned is disregarded.

3.4 The lessor will carry out any reporting to the Danish Working Environment Authority and any other public bodies pursuant to prevailing legislation.

3.5 The lessee has a duty to furnish the lessor with all the requisite information concerning the site etc. that is pertinent to supply/assembly of the leased plant.

4. LEASE TERM

4.1 The specifics of the term of the lease ('lease term') shall be agreed between the lessor and lessee at the signing of the lease agreement. This term may be extended by written agreement.

4.2 The lease term commences on the date on which the lessee has signed for receipt of the leased plant; see Article 2.5, and endures until the end of the day on which the lessor has signed for return of the plant in contractual condition; see Article 8.5.

4.3 Minimum rental period is 1 month. The contract is irrevocable during the rental period.

4.4 If the Lessee postpones the date booked for start of the rental period, Ajos reserves the right to invoice 50% of the rental price for the period from the original start date until the start of the new rental period.

4.5 If the Lessee wants to extend the rental period, Ajos reserves the right to renegotiate the rental price.

5. HIRE CHARGE

5.1 The hire charge is payable for each whole or part day and comprises use of the leased plant in the period 7.00-16.00 hrs.

5.2 If the leased plant is to be utilised outside of the time period specified in Article 5.1, on a weekend or public holiday, the lessee has a duty to notify the lessor in advance and in writing and will be charged a premium for such use. The premium payable per hour or part-hour is 1/9 of the daily hire charge quoted in the offer/order acknowledgement.

5.3 The hire charge amount is specified in the lessor's offer.

5.4 The hire charge will be invoiced monthly in arrears on the last working day of the month. The invoice due date is 15 months from the invoice date. In the event of payment default, interest will be applied at the rate prescribed in the Danish Interest Act (renteloven).

6. LESSEE'S USE OF THE LEASED PLANT

6.1 The leased plant may be used solely for the purposes agreed in writing.

6.2 While the plant is under the lessee's care, custody and control, the lessee has a duty to use, store and otherwise exercise proper care of the leased plant in compliance with prevailing statutory rules and regulations and the lessor's instructions.

6.3 Insofar as applicable legislation or other regulations require operator certification for use of the leased plant, the lessee shall guarantee that the plant will be used solely by operators with valid certification.

6.4 The lessee may not convert or otherwise alter, including repair, the leased plant.

6.5 Without the lessor's express consent, the leased plant may not be removed from the site specified in the lease agreement unless this is effected further to the arrangements for returning plant upon expiry of the lease term or further to an agreed repair.

6.6 The lessee undertakes to grant the lessor access at any time to inspect the leased plant and its use or storage by the lessee.

7. SUBLEASING ETC.

7.1 The lessee is not, without the lessor's express consent, entitled to sublease, lend or otherwise assign use of the leased plant to a third party.

7.2 The lessee is liable for any and all damage caused to the plant by a third party - including damage caused by a third party's wrongful use.

8. RETURN OF PLANT

8.1 Unless otherwise agreed, the lessor shall arrange - on the date of expiry of the lease term - the disassembly of the plant and its conveyance back to the lessor. If it is agreed that the lessee himself shall make such arrangements, the lessor may require that the lessee returns the plant to a different site, provided that the transportation distance is not thereby extended.

8.2 The lessee will be charged a separate fee for the lessor's disassembly and conveyance of the plant to the lessor's site. The size of the fee is specified in the lessor's offer and is payable by the lessee on demand. Unless otherwise agreed, the fee solely covers disassembly and conveyance on weekdays between 7.00 and 16.00 hrs.

8.3 The leased plant shall be cleaned by the lessee on the return date and otherwise be in the same condition as at the commencement of the lease term, allowing for ordinary wear and tear.

8.4 On return of the leased plant to the lessor's site, it will be inspected at the lessor's workshop to establish that it is in the presupposed condition; see Article 8.3. Where this is not the case, the lessor is entitled to demand cleaning and/or repairs at the lessee's expense and the lessee shall on demand reimburse the lessor's (reasonable) expenses on such remedies.

8.5 Once the leased plant has been returned to the lessor in contractual condition; see Article 8.2, the lessor shall issue a signed receipt for the return.

9. MAINTENANCE

9.1 The lessee shall at his own expense perform regular maintenance of the leased plant (in respect of repairs, servicing and cleaning etc.) while it is under his care, custody and control. All repairs and inspections etc. shall be performed by the lessor - if feasible, at the lessee's site - or by a repair service specified by the lessor. The lessee is not authorised to perform such repairs etc.

9.2 Any statutory safety inspections of the leased plant shall - while it is in the care, custody and control of the lessee - be performed by an expert at the lessee's expense.

10. LIABILITY AND RISK

10.1 For the duration of the lease agreement, the lessee shall be liable to the lessor for loss of or damage to the leased plant unless such loss/damage results from:

a. Plant failure, which is taken to mean any random failure attributable to defective materials or errors in project planning, construction or assembly, vibrations, misadjustment, incorrect installation, detachment of component parts, stresses, fatigue, centrifugal force, overheating, incorrect or accidental lack of lubrication, electrical surges arising from any cause, faults in insulation, short-circuiting, exposed electrical wires or arcing and other intrinsic defects or deficiencies.

b. Ordinary wear and tear.

c. Damage resulting from statutory testing of the leased plant, provided that such testing was performed pursuant to the regulations laid down by the authorities.

d. Accidental damage.

10.2 Notwithstanding the limitation of liabilities cited in Article 10.1, the lessee will be held liable for any loss/damage arising due to gross negligence on the part of the lessee or anyone for whom the lessee is liable, including the lessee's independently acting third parties.

10.3 For indemnification against damages comprised by Articles 10.1 a and 10.1 d, the lessor has taken out plant insurance on standard terms and conditions with a deductible of DKK 200,000.

The lessee shall pay the premium specified in the order acknowledgement/offer and – in case of loss/damage – an additional proportion of the deductible of no more than 5% of the actual cost of the loss/damage. If the actual cost of the loss/damage is less than DKK 10,000 (per event), the lessee shall, however, bear the actual cost.

10.4 The lessee undertakes to notify loss/damage of plant to the lessor without delay and to furnish the lessor with the details needed for assessment of the nature, scale and cause of the damage. Articles 6.4 and 6.6 will likewise be applicable. In case of damage to the leased plant, the lessee undertakes to refrain from using the plant until full repair has been carried out by the lessor. The lessee will be held liable for any further damage caused as a result of his failure to comply with this requirement.

10.5 The lessee will not be liable for any hire charge during the repair period, provided that the damage is comprised by Article 10.1 a-d.

10.6 The lessee is liable vis-à-vis the lessor for any damage caused by the lessee to a third party or a third party's property in connection with the present lease agreement and use of the leased plant.

10.7 The lessee's liability under the present Article 10 comprises any and all loss sustained by the lessor or a third party.

10.8 The lessee shall hold the lessor harmless from and against loss or damage for which the lessor is ordered to cover the cost and for which the lessee is liable under the present Article 10.

10.9 The lessor has sole liability for defects, deficiencies and delays arising from the lessor's gross negligence. The lessor's liability shall, however, in no event extend to operating losses, loss of profits or other inconsequential loss. Moreover, liability under the present terms & conditions of lease may not exceed an amount corresponding to 1 month's plant hire charge. The foregoing limitations shall apply also in the case of any liability on the part of the lessor under rules deriving from legal precedent concerning product liability.

10.10 Theft and vandalism shall be reported to the police – as soon as possible and within 24 hours.

11. BREACH OF CONTRACT

11.1 The lease agreement may be terminated by the lessor in the event of any material breach of contract by the lessee of his obligations under the lease agreement. Material breach of contract shall be understood to include:

- The lessee's default on payment of any outstanding hire charge or any other amount arising from the lease agreement with the lessor.
- The lessee's non-performance of, or deficient, maintenance of the leased plant.
- The lessee's failure to comply with operating or mechanical load regulations or the lessor's instructions concerning use and storage of the plant.
- The lessee's neglect or other misuse of the leased plant.
- The lessee's wrongful assignment of plant use to a third party or to someone not holding a valid operator certification.
- The lessee's wrongful assignment of plant storage to a third party.

11.2 In case of termination of the lease agreement, the lessor will disassemble and collect the plant at the lessee's expense. To that end, the lessee undertakes to grant immediate unhindered access. Article 8.3 shall likewise apply. The lessee will be held liable for any loss sustained by the lessor as a result of the lessee's non-compliance with the foregoing.

12. INSOLVENT LIQUIDATION, REORGANISATION ETC.

12.1 If the Lessee enters into insolvency proceedings or reorganisation proceedings, the estate shall, at the request of the Lessor, give notice as to whether it will become a party to the Lease, cf. section 55 of the Danish Insolvency Act. The response of the estate shall be presented no later than 5 calendar days from the Lessor's request.

12.2 If the estate becomes a party to the Lease, the estate shall comply with the terms and conditions of the contract, including these general terms and conditions for lease of equipment.

12.3 If the estate does not become a party to the Lease, cf. 12.1, the Lessor shall be entitled to terminate the Lease, whereby the Lessee becomes liable for any losses, direct or indirect, which the Lessor may suffer in connection with the termination.

12.4 If, after the day of the insolvency order, the Lessee's insolvent estate de facto uses the Lessor's equipment, e.g. at the Lessee's

sub-contractors or through sub-leasing, the Lessee's insolvent estate shall be deemed to have become a party to the Lease with the effect that the Lessee's insolvent estate shall pay rent from the day of the insolvency order on a par with the pre-preferential claims, cf. section 93 of the Insolvency Act.

12.5 If the Lessee enters into out-of-court insolvency proceedings, including a contractual arrangement or a creditor arrangement, it will be an anticipatory breach, which entitles the Lessor to terminate the Lease unless the Lessee provides adequate security for payment under the lease as specified by the Lessor.

13. DISPUTES

13.1 Any dispute between the lessor and the lessee arising from the present contractual agreement shall be construed in accordance with and governed by Danish law. The lessor shall determine whether the dispute is to be resolved by an arbitration court appointed by The Arbitration Board on Building and Construction Work ("Voldgiftsnævnet for Bygge- og Anlægsvirksomhed") whose ruling is final - or by the ordinary courts.

13.2 If the lessor elects resolution by an arbitration court, the legal venue will be at the court's premises in Copenhagen. If the dispute is to be brought before the ordinary courts, the legal venue is the court within the jurisdiction in which the lessor's head office is located.

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