

fixed term

H I R E A G R E E M E N T



In association with



Kennet
EQUIPMENT LEASING

Kennet Equipment Leasing Ltd. Kennet House Temple Court Temple Way Coleshill B46 1HH T: 01675 469200 F: 01675 469210
www.kennet-leasing.co.uk sales@kennet-leasing.co.uk

CHECKLIST FOR CUSTOMERS

1. Read your contract carefully before signing it and ensure that it has been fully completed particularly in respect of the rental amount and the period of hire.
2. Make sure you understand and agree with all terms and conditions of the contract and if you are unsure, seek advice. Never sign an agreement which is not fully completed.
3. Make sure you understand the costs involved and whether the agreement allows for any automatic increases in charges.
4. Make it clear within your own organisation who can sign such agreements.
5. Ensure that the supplier of any equipment involved is a reputable and accredited supplier of the equipment involved.
6. Ensure with the supplier that the equipment to be used is new or if not that you are content that the used or refurbished equipment is suitable.
7. Always ensure that the completed contract corresponds with any \ verbal or written quotation supplied via the sales person or negotiator involved.
8. Check the period of hire and any notice period required for its termination.
9. Ensure that the length of the agreement is not longer than the expected working life of the equipment involved.
10. Check if the agreement includes the supply of service(s) and whether this will continue after the initial period of hire.
11. If any amendments are made to your contract or a further contract is required to replace an existing agreement - do not sign until you have made the same checks as you did for the original agreement.

Published by the Finance and Leasing Association for customers who intend to sign an agreement for hire.

Direct Debit Guarantee

- This Guarantee is offered by all Banks and Building Societies that take part in the Direct Debit Scheme. The efficiency and security of the Scheme is monitored and protected by your own Bank or Building Society.
- If the amounts to be paid or the payment dates change _____ will notify you 10 working days in advance of your account being debited or otherwise agreed.
- If an error is made by _____ or your Bank or Building Society, you are guaranteed a full and immediate refund from your branch of the amount paid.
- You can cancel a Direct Debit at any time by writing to your Bank or Building Society. Please also send a copy of your letter to us.



TERMS AND CONDITIONS OF HIRE AGREEMENT

1. COMMENCEMENT OF HIRE

This Agreement will commence when it is signed by the Owner or the Owner's authorised representative (the 'Agreement Date') and will continue for the Fixed Term even if (where applicable) the Equipment has not been at that time fully installed or connected to a communication network.

2. HIRE PAYMENTS

- (a) On the date of delivery of the Equipment you must pay to us the First Payment together with the documentation fee as stipulated in the Key Financial Information section overleaf. You will make each other payment on the first day of each subsequent payment period. It is an essential condition of this Agreement that we receive all Payments on their due dates without previous demands.
- (b) You agree to pay us interest on any Payment or other sum due to us under this Agreement but unpaid at 0.5% per month from its due date to the date of Payment such Interest to run day to day and after as well as before judgment.
- (c) Remittances may be standing order or by cheque. All remittances made other than by direct debit will be subject to an administration charge per remittance of £35 plus VAT. On each occasion that a cheque or direct debit is returned unpaid the Hirer will pay an administration charge of £35 plus VAT.
- (d) There shall not be any rebate or deferral of any Payment during any period in which the Equipment is not in your possession or is unserviceable or for any other reason is not in your use.
- (e) The Payments have been calculated as follows:
 - i. by taking into account the rate of Corporation Tax applicable on the date the Agreement was accepted by us. If this rate changes we may increase the amount of each future Payment by up to 2% for each 1% increase in the rate; and
 - ii. by assuming that writing down allowances at the rate of 20% per annum on a reducing balance basis will be made to us (but not disallowed or withdrawn) on all of our expenditure on the purchase of the Equipment on the basis in force on the Agreement Date. If this assumption is not realised we will increase the Payments payable after such event shall have occurred to ensure that our intended after tax return from the Agreement is maintained. An annual service fee of £35 excluding vat will be payable on each anniversary of this agreement.

We will notify you of any increase of Payment which will then be payable and such notice shall be conclusive and binding upon you in the absence of manifest error.

- (f) Save as provided in clause 14(e) below, you must pay the payments and all other sums due to us under this Agreement in full on the due dates for payment without any deduction, set-off or counterclaim.
- (g) You must pay VAT on all rentals and other sums due under this Agreement. If the VAT rate changes we can increase or reduce the Rentals including VAT at the rate Vat increases or reduces.

3. SUPPLIER

The Supplier of the Equipment named overleaf is not our agent and neither the Supplier nor any person on his behalf has any authority to make or give any representation or warranty on our behalf in relation to the Equipment or to vary the Terms and Conditions herein set out. You acknowledge that you were solely responsible for the selection of the Supplier and the Equipment.

4. EXCLUSION OF LIABILITIES

- (a) We shall extend to you the benefit of any guarantees, conditions and warranties given by the manufacturer or Supplier of the Equipment to us at your request and at your cost and on our terms.
- (b) We accept liability for death or physical injury to persons caused by our negligence or the negligence of our servants or other person for whose negligence we are liable in law.
- (c) Any liability we may otherwise incur and any right you may otherwise possess in respect of any conditions, warranties or representations relating to the condition of the Equipment or its satisfactory quality or suitability or fitness for any general or particular purpose for which it is or may be required whether express or implied by statute or otherwise and whether arising under this Agreement or in any oral or written statements made on behalf of any person in the course of negotiation in which we may have been concerned prior to this Agreement are hereby in so far as the same is possible in law excluded.
- (d) We shall not be liable for any claim arising out of state of or condition or quality of the Equipment or any consequential damages including loss of earnings or profits suffered by you if the Equipment is or becomes unusable.
- (e) Unless within seven days of delivery of the Equipment you notify the Supplier and us in writing of any defect damages or shortages the Equipment will be deemed in good working order and condition in conformity with your specifications and satisfactory in every respect. You will if we so request furnish us with such statement of your acceptance of the Equipment as we may require.

5. RISK AND INSURANCE

- (a) All risks in respect of the Equipment shall at all times rest with you until possession of the Equipment is retaken by us and until then you shall keep the Equipment insured to its full replacement value with a reputable insurer against loss or damage by fire, theft, flood, storm and accident and all other risks which it is commercially prudent to insure against. You must also

insure against any third party liability for such amount as we approve in writing, and arrange for us to be noted on the policy. All monies payable under such policy shall be payable to us or to our order and any insurance monies received by you shall be held by you on trust for us and you shall if required assign to us all your insurance rights.

- (b) If the Equipment is declared a total loss you will on demand pay to us an amount which added to the net proceeds recovered by us from the insurance equals the sum specified in clause eight.
- (c) If you fail to insure we may do so and you will repay the cost to us on demand.

6. YOUR OTHER OBLIGATIONS

You shall:-

- (a) Be responsible for arranging in conjunction with the Supplier the delivery installation and commissioning of the Equipment.
- (b) Be responsible for loss of or damages to the Equipment howsoever the same may occur.
- (c) Be responsible for keeping the Equipment properly maintained and repaired at your expense.
- (d) Allow us access to inspect the Equipment
- (e) If so required allow us to indicate on the Equipment our ownership thereof by whatever means we deem appropriate.
- (f) Keep the Equipment in your sole possession at the location specified overleaf and not sell, assign, mortgage, charge or sub-let the Equipment nor without our consent remove or permit the removal of the Equipment from the United Kingdom.
- (g) Keep the Equipment free of all liens and pay all taxes and impositions in respect of the Equipment its hiring hereunder and its location excepting only any taxes on or assessed by reference to our profits and any Value Added Tax which we are able to reclaim from HM Customs and Excise.
- (h) Not do or permit or cause to be done any matter or thing whereby our rights in respect of the Equipment are or may be prejudiced.
 - (i) Return the Equipment at your expense to us on the expiry or sooner termination of this Agreement in a condition consistent with the performance of your obligations hereunder and at such place in the United Kingdom as we shall require.
- (j) Indemnify us in respect of any claims made against us and all damages costs and expenses suffered or incurred by us, as a result of a claim made by a third party arising out of the state, condition or use of the Equipment or in any way arising out of its hiring hereunder.
- (k) As we own the Equipment, you must look after it by having it properly maintained. You must not part with the Equipment, sell it, allow anyone else to use it, or claim Capital Allowances on it and ensure that it is used in accordance with the manufacturers instructions. You agree that it is not our responsibility to make any alterations to the Equipment (or bear the cost of any such alteration) which may become necessary or compulsory as a result of change or the introduction of a European currency. Accordingly, you will, at your expense, procure that any necessary alterations are carried out.

7. TERMINATION

If you repudiate or are deemed to repudiate this Agreement by breach of your obligations hereunder you shall no longer be in possession of the Equipment with our consent and we may (after giving you any notice required by law) terminate the hiring and take back the Equipment and you will be liable to pay us the sums due under clause eight and without prejudice to the generality of the foregoing it is agreed that any of the following events will constitute a repudiatory breach of this Agreement.

- (a) If you fail to pay any Payment or other sum payable hereunder within ten days of it becoming due.
- (b) If you commit or cause to permit a breach of any other Term or Condition of this Agreement and fail to remedy the same within ten days of the sending of a notice by us requiring the breach to be remedied.
- (c) If we have grounds to believe you cannot pay your debts, or you are declared or become bankrupt or if a company are liquidated or have an administrator or receiver appointed (or in Scotland be sequestrated or become apparently insolvent).
- (d) If you enter or attempt to enter into a composition with creditors or (where you are a Limited Company) a petition is presented or any other steps are taken for the appointment of an administrator or receiver in respect of your assets or any part thereof or a meeting whether formal or informal is called of your creditors or if you enter into a liquidation other than for the purposes of amalgamation or reconstruction on terms previously agreed in writing by us.
- (e) If any distress or execution is levied against assets under your control.
- (f) If, being an individual, you die.

8. CONSEQUENCES OF TERMINATION

- (a) Upon any such termination you shall immediately pay to us as a debt:-
 - i. All arrears of sums then due by way of Payment and other sums accrued due and unpaid at the date of termination together with interest thereon payable under clause two above; and
 - ii. As agreed damages the sum of all Payments due between the date of termination and the expiry of the Fixed Term less a discount for early receipt of 3% per annum on each Payment calculated from the date when it would have been due to the end of the Fixed Term.

FTV1 A4 (i) (e) iii. Any other sums which are or become due to us.

- (b) If the Equipment is returned to us we shall give credit to you for the net proceeds of sale of the equipment by us (excluding VAT) less the amount of any costs and/or expenses incurred by us in recovering and/or selling the Equipment.

9. ENDING THE AGREEMENT EARLY

If you give us written notice that you wish to terminate the Agreement early we will agree as compensation for loss of profit or excessive depreciation or both that you pay us a Termination payment equal to the total of all Payments which you would have had to pay if the hiring under this Agreement had not ended less a discount of 3% per annum on each Payment which would have been paid at a later date calculated from the date of termination to the date when it would have been due. The total amount you owe before discount will include any interest, or increase, payable under clause two of this Agreement.

You must return the Equipment as detailed in clause six of this Agreement.

10. MISCELLANEOUS

- (a) Without imposing any obligations upon us so to do we may upon or at any time after termination of this agreement retake possession of the Equipment and for such purpose enter upon any premises belonging to you or in your occupation or control and you shall be responsible for all costs and expenses so incurred.
- (b) You shall be liable to us for all legal and other costs (on a full indemnity basis) incurred by us in enforcing any provision of this Agreement or recovering any sum due thereunder.
- (c) Any forbearance or indulgence granted by us to you shall not constitute a waiver of any right or remedy which we would otherwise have had against you.
- (d) Notwithstanding the termination of this Agreement our rights in relation to the Equipment and any payments due thereunder shall continue to be regulated by this Agreement.
- (e) You may not assign, mortgage, charge or sublet this Agreement. We reserve the right to transfer or to charge the benefit of this Agreement to any person at any time in our absolute discretion.
- (f) Any notice served hereunder shall be sufficiently served if sent by first class post to your usual or last known place of business and shall be deemed to have been received by you forty-eight hours after posting.
- (g) This Agreement shall be governed by English Law and you hereby submit to the jurisdiction of the English Courts.
- (h) This Agreement incorporates all the Terms and Conditions agreed between us and can only be varied by a document signed by both of us.

11. JOINT AND SEPARATE LIABILITY

Where two or more people are responsible for your part of this Agreement they are liable individually and together for the full amounts due to us.

12. SIDE AGREEMENTS

This Agreement is the entire agreement between you and us. It takes the place of all proposals or previous agreements (verbal or written) and all other communications between you and us about the subject matter of this Agreement.

13. REGULATED AND NON-REGULATED AGREEMENT

IMPORTANT - READ THIS BEFORE SIGNING

If: (i) the Hirer is a body corporate; (ii) the Hirer is a partnership consisting of entirely bodies corporate; (iii) the Hirer is a partnership of 4 or more partners; (iv) the total payments the Hirer must make under the agreement are more than £25,000 including VAT and the Hirer is entering into the agreement wholly or predominantly for a business purpose, then the agreement will not be regulated by the Consumer Credit Act 1974 and any statement in the agreement about the act and its consequences will not apply.

14. MAINTENANCE

If you are entering a maintenance agreement with the Supplier and have chosen to pay maintenance charges through ourselves, then:

- (a) You must keep the Equipment in good condition and must ensure that all necessary maintenance and repairs are carried out by a competent service provider at your expense as soon as is desirable.
- (b) If that maintenance agreement allows the Supplier to vary the maintenance charge, then the Owner will collect the varied maintenance charge if and when any notice of variation is received from that Supplier.
- (c) Any maintenance agreement in respect of the equipment, is entered into between the Hirer and

the Supplier, and the Owner will not be responsible in any way for either the carrying out or the adequacy of that maintenance, irrespective of whether the Owner is aware of the existence or the terms of any maintenance agreement. The Hirer must satisfy itself as to the competence of the Supplier and that the Supplier is capable of maintaining the Equipment to the standard required by this Agreement. The Supplier is not the agent of the Owner and in no circumstances will the Owner be responsible for any actions of the Supplier. The Hirer should obtain from the Supplier such warranties or other legal protections as the Hirer considers that is requires.

- (d) Where a maintenance charge is provided for in this Agreement, the Hirer authorises the Owner to pass on to the Supplier maintenance charges paid by the Hirer. If the Hirer notifies the Owner that the Supplier is unable to comply with the maintenance agreement (whether because the Supplier has gone out of business or for any other reason) or if the maintenance agreement has terminated, the maintenance charge provided for in this Agreement will no longer be payable. In these circumstances:
- the Hirer will not be able to recover from the Owner any maintenance charges which the Owner has already paid to the Supplier, which shall be a matter between the Hirer and the Supplier, and
 - the Owner will use its reasonable endeavours to find a new Supplier who is willing to enter into a new maintenance agreement. If however the Owner fails to do so it will not be liable to the Hirer in any way.

15. SOFTWARE

- (a) When part of the Equipment consists of one or more computer disks, tapes or other media which are recorded computer programme in machine readable form ("Software"), either:
- we will obtain from the Supplier a licence in relation to the Software and grant you a sub-licence to use it (in place of any pre-existing licence); or
 - the Supplier (or third party) will grant you a licence to use the Software.
- (b) You undertake to comply with all the terms of the licence which will incorporate the Supplier's standard terms and conditions for use of the Software, whether we grant it or the Supplier does.
- (c) You acknowledge that Software maintenance is not a condition of this Agreement and rentals will continue to be payable even if the supplier does not provide Software maintenance.
- (d) You must obtain any warranties or guarantees you require in respect to the Software, its suitability for purpose and 2000 Compliance directly from the Supplier. We exclude all express or implied warranties, conditions or guarantees relating to any Software to the full extent permitted by law.

USE OF YOUR INFORMATION

In considering your application, we will search your record at credit reference agencies ("your records"). They will add to your records details of our search and your application and this will be seen by other organisations that make searches.

We will use a credit scoring or other automated decision making system when assessing your application.

We will also add to your records details of your agreement with us, the payments you make under it, any default or failure to keep to its terms, and any changes of address you fail to tell us about where a payment is overdue. It is important that you give us accurate information. We will check your details with fraud prevention agencies, and if you give us false or inaccurate information and we suspect fraud, we will record this.

Your records will be shared with other organisations and used by us and them to:

- help make decisions about credit and credit related services such as insurance for you and members of your household;
- trade debtors, recover debt, prevent money laundering and fraud, and to manage our accounts.

For these purposes we or they may make further searches. Although these searches will be added to your records, they will not be shared with others.

We, the credit reference agencies and fraud preventions agencies will also use your records for statistical analyses about credit, insurance and fraud. We may also use information about you to carry out market research. Fraud prevention agency records will also be shared with other organisations to help make decisions on motor, household, credit, life and other insurance proposals and insurance claims, for you and members of your household.

Please telephone us on 01675 469200 if you want to have details of those credit reference and fraud prevention agencies from whom we obtain and to whom we pass information about you. You have a legal right to these details.

You have a right to receive a copy of the Information we hold about you if you apply to us in writing. A fee will be payable.