

# IKM TESTING AS TERMS AND CONDITIONS RENTAL EQUIPMENT



## 1 Application

Unless otherwise agreed in writing, these terms and conditions will apply to all rental supplies where IKM Testing AS has assumed delivery responsibility for rental equipment to Customer.

## 2 Definitions

**Contractor** - IKM Testing AS will be the owner and supplier of the rental Equipment.

**Customer** - is the company, firm, person, corporation or public authority taking Contractor's Equipment on rental.

**Equipment** - is Contractor's rental equipment which Contractor agrees to rent to Customer.

**Contract** means the rental agreement consisting of the Order, these terms and conditions and any special conditions detailed in the Order and explicitly accepted by Contractor.

**Order** means an individual purchase order or other written order issued by Customer for the hire of the Equipment.

## 3 Basis of Contract

Customer accepts that only the Contract as defined in clause 2 shall be the basis for the rental agreement, and that any use of or reference to other general or special terms and conditions by Customer shall be deemed not to apply. Customer will hire rental Equipment only, without any operators from Contractor, hence Customer will assume the full responsibility for operating the Equipment.

## 4 Prices

Unless otherwise specified in Contractor's quotation, the prices will not include VAT or other taxes, e.g., related to import and export of goods, freight and forwarding charges or any other additional charges of any nature. Unless otherwise explicitly agreed, the daily rental rates apply for each day or part of day 7 days a week, including holidays.

## 5 Rental period

The rental period shall commence when the Equipment is delivered by Contractor Ex Works Contractor's base, and shall continue until the Equipment is returned and received by Contractor, DDU Contractor's base. Return of the Equipment shall take place during normal opening hours. All transport between Contractor's base and Customer's site shall be for Customer's risk and account.

## 6 Payment

Rental charges will start to accrue at the commencement of the rental period. All prices are quoted and payable in NOK. Unless otherwise agreed, Contractor will submit monthly invoices after the expiry of each month. Payment shall take place net within 30 days from receipt of invoice. In the event of overdue payment, interest will be charged from the due date until payment takes place in accordance with the Norwegian Act on Overdue Payment ('Forsinkelsesrenteloven').

## 7 Contractors responsibilities

Contractor will provide suitable Equipment based on the information and specifications received from Customer. Contractor shall provide operation manuals, maintenance instructions and certificates in order for Customer to operate and conduct regular maintenance for the Equipment. Contractor is not liable for any faults or discrepancies due to normal wear and tear, use of non-approved parts, incorrect handling/usage, inadequate maintenance or overload. Any changes or modifications to the Equipment, which have been made without Contractor's written permission, shall be considered damage for which Customer is liable.

## 8 Customers responsibilities

Customer undertakes to check the Equipment as soon as it is received, including calibration made by Contractor. Any complaints concerning the Equipment shall be made as soon as possible. Final determination of the suitability of the Equipment for the specific use is Customer's responsibility.

Customer shall take reasonable care of the Equipment and keep it properly maintained and only use the Equipment for its proper purpose in a safe and correct manner in accordance with the instructions.

Customer must not attempt to repair the Equipment without prior written authorization from Contractor and shall also not interfere with the Equipment, their working mechanisms or any other parts of them.

Routine maintenance, (i.e. oil level, water level including antifreeze protection, battery charging, greasing, along with any other specific instructions intimated to Customer) is the responsibility of Customer. If/when the Equipment requires fuel, oil and/or electricity, Customer shall ensure that the proper type and/or voltage is used and that, where appropriate, the Equipment is properly installed by a qualified and competent person.

Customer shall take all reasonable steps to keep himself acquainted with the state and condition of the Equipment. If such Equipment be continued at work or in use in an unsafe unsatisfactory state or environment, Customer shall be solely responsible for any damage, loss or accidents whether directly or indirectly arising therefrom.

Customer shall take adequate and proper measures to protect the Equipment from theft, damage and/or other risks. Customer shall keep the Equipment at all times in own possession and control and shall not move the Equipment across borders without Contractor's prior written consent.

Contractor shall be permitted at all times to inspect the Equipment including access to any site where the Equipment is situated.

Customer must return the Equipment together with all parts belonging to Contractor in good working order and condition (fair wear and tear excepted) in a clean condition together with all licences, registration and other documents relating to the Equipment.

Spare parts purchased by Customer cannot be returned unless agreed by Contractor.

## 9 Delay - Mobilisation

Unless otherwise agreed, the following will apply:

If Contractor finds that it cannot deliver Equipment within agreed mobilisation time, or if a delay on Contractor's part seems inevitable, Contractor shall inform Customer of this without undue delay, giving the reasons for the delay, and if possible advise when new revised mobilisation time is scheduled to take place.

## 10 Taxation - Export/Import

If Customer plans to ship the Equipment abroad, Contractor shall be notified for prior approval. Customer will be responsible for all cost and handling related to export/import of the Equipment across borders. Contractor will however provide necessary documentation as required for the import/export process.

## 11 Title and passing of Risk

The Equipment shall remain the property of Contractor at all times. Risk in the Equipment will pass to Customer upon delivery when the Equipment is loaded onto the truck or other means of transport at Contractor's base and will remain with Customer until the Equipment is unloaded and received by Contractor, and Customer shall be liable for any loss of or damage to the Equipment while under Customer's risk, however caused, including theft, accidents, fire, etc. Customer has no right, title or interest in the Equipment except the right of use during the rental period in accordance with the Contract.

## 12 Guarantee

Contractor guarantees that the Equipment will be delivered ready for operation and will to the best of its ability ensure that the Equipment is calibrated in accordance with Customer's specific instructions. However, Contractor does not guarantee the results of any operation or service conducted by Customer. If the Equipment is found to be defective on receipt by Customer, or if any fault occurs during the rental period, Customer shall immediately notify Contractor of such condition. Contractor will investigate and determine whether the fault represents a defect covered by Contractor's guarantee. Contractor shall decide how to remedy the fault, including whether to repair or replace Equipment.

In case of help outside Contractor's workshop, all extra charges

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associated with freight, travel and subsistence will be charged to Customer.

Full deduction of the rental charges will be made to Customer for the stoppage period due to inherent defects in Equipment for which Contractor is responsible.

### 13 Breakdown, repairs and adjustment

If the Equipment sustains any breakdown, damage or loss in the rental period and this is not covered by Contractor's guarantee, Customer shall reimburse Contractor for the repair cost or the actual replacement cost, including damage suffered by Contractor arising from any breakdown of the Equipment due to Customer's negligence, misdirection and/or misuse of the Equipment, whether by Customer or his servants, and for the payment of rental at the idle time rate during such breakdown, loss or damage.

Customer is also responsible for the cost of spares and/or repairs due to loss or vandalism of the Equipment.

Customer shall always notify Contractor immediately of any accidents related to the Equipment resulting in death, personal injury to any personnel, or severe damage to the Equipment.

### 14 Other stoppages

No Equipment off-hire will be admitted (other than those allowed for under "Guarantee"), for stoppages through causes outside Contractor's control, including bad weather, craneage delays or ground conditions etc.

### 15 Loss of other equipment due to breakdown

Each item of the Equipment specified in the Contract is rented as a separate unit and the breakdown or stoppage of one or more units (whether the property of Contractor or otherwise) through any cause, shall not entitle Customer to compensation or allowance for the loss of working time by other units of Equipment working in conjunction therewith, unless 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.

### 16 Re-hiring

Customer shall not re-hire, sub-let, or lend the Equipment to any third party without the written permission from Contractor.

### 17 Contractors name plates

Customer shall not remove, mark, deface or cover up Contractor's name plates etc, indicating that the Equipment is any other parties' property.

### 18 Manuals and documentation

All manuals and documentation enclosed with the Equipment will remain the property of Contractor.

### 19 Indemnity

Customer shall indemnify Contractor from and against all costs, expenses and claims resulting from any loss of or damage to the Equipment for which Contractor is liable in accordance with the Contract, including repair costs or replacement costs.

The operation of the Equipment must be in accordance with Contractor's specifications, recommendations and instructions and any liability arising from Customer's failure to comply with such specifications, instructions and recommendations or from negligence in any form in the operation of the Equipment, shall be the sole responsibility of Customer and Customer shall fully indemnify and hold Contractor harmless from any claim made by any person or party arising directly or indirectly from such failure and/or negligence.

Customer shall fully indemnify Contractor in respect of all claims by any person whatsoever for injury to person or property caused by or in connection with the storage, transit, transport, unloading, loading or use of the Equipment during the rental period, and in respect of all costs and charges in connection therewith.

### 20 Insurance

Subject to the second paragraph below, Customer is liable for and must determine at his own risk and expense whether to take out any insurance against damage to the Equipment during the rental period. The Equipment replacement value can be obtained from Contractor.

In the event that the total value of the rented Equipment exceeds

5 mill NOK, Customer shall have an obligation to take out insurance covering the full Equipment value. Contractor will inform Customer if this is the case and Customer must verify that sufficient insurance cover has been arranged, prior to the mobilisation of Equipment. Customer shall ensure that their insurance company shall waive any and all rights of subrogation against Contractor.

### 21 Pollution

Customer shall defend, indemnify and hold harmless Contractor from and against all claims, losses, damages, costs, expenses and liabilities, arising from pollution whether or not originating from the Equipment or related to the Equipment.

### 22 Consequential loss

Subject to clause 8, neither party shall be liable to the other for any consequential losses or indirect losses, including without limitation, loss of profit, loss of goodwill, loss of revenue or turnover, loss of opportunity arising out of or in connection with the Contract.

### 23 Force Majeure

Contractor shall not be considered in breach of any obligation under the Contract to the extent that fulfilment of the obligation has been prevented by Force Majeure. Force Majeure means any occurrence beyond Contractor's control, provided that he could not reasonably have foreseen such occurrence at the time of entering into the Contract and could not reasonably have avoided or overcome it or its consequences.

### 24 Limitation of liability

Notwithstanding any of the provisions herein, Contractor's total liability for breach of Contract shall be limited to the total rental charges paid by Customer, but shall in no event exceed NOK 2 million.

### 25 Governing Law and Jurisdiction

The Contract shall be governed by and construed in accordance with Norwegian law.

Any dispute between the parties that cannot be solved amicably shall be settled by court proceedings according to Norwegian law at the Stavanger District Court, which the parties accept as their legal venue.