visionrent
Onderdeel van DIKO Trading BV

Postbus 7167
NL-6050 AD Maasbracht

T: + 31 (0) 475 - 439232
F: + 31 (0) 475 - 436606

I: www.visionrent.eu
E: info@visionrent.eu

K.v.K.: 13014015
BTW: NL 004528086B01

Bank: ING 68.27.11.268
IBAN: NL20INGB0682711268
SWIFT/BIC: INGBNL2A

General Terms & Conditions for Leasing, Rental, and Demonstration

Article 1 Definitions and scope of application

1.1 In these Terms & Conditions, the following terms have the meanings shown:
Lessor: Diko Trading B.V. or a company associated with it to the extent that it has declared these terms & conditions applicable to its Transactions.
Lessee: the counterparty of the Lessor.
Rental or lease: the placing by the Lessor of movable property on the premises of the Lessee by means of operational lease, rental, or demonstration.

1.2 All offers, acceptances, agreements, and other acts which relate to the provision of a leased object and the associated provision of services by the Lessor are governed exclusively by these Terms & Conditions unless both parties have expressly stated otherwise in writing. Any reference by the Lessee to its own purchasing, tendering, or other terms & conditions is not accepted.

1.3 These Terms & Conditions apply to agreements – including acts for the establishment of the agreements – for the supply of goods and/or the performance of services and/or the creation of a work. They also apply to any supplementary or follow-up agreements to which the Lessee and Lessor, or their legal successor(s), are party.

Article 2 Offers, information material, and purchase obligation

2.1 Unless expressly stated otherwise, all offers, in whatever form, are without obligation in the sense that even after acceptance by the Lessee of an offer from the Lessor, the Lessor is authorized to revoke the offer within three full calendar weeks after acceptance.

2.2 Statements and specifications from the Lessor concerning the dimensions, capacity, performance, or results in illustrations, drawings, catalogues, price lists, advertising material etc. are only issued on an approximate basis.

2.3 Orders and acceptances of offers by the Lessee are deemed to be irrevocable. The Lessee is therefore obliged to purchase goods and services for which delivery has been agreed by the Lessor, and to do so at the time and place which was agreed between the parties under the respective agreement and/or these Terms & Conditions.

2.4 To the extent that the Lessee performs any service and/or makes preparations to that end, where there is a clear expectation or assumption that a lease will come into being or has come into being, the Lessee does so at his own risk and expense.

Article 3 Rental price and security

3.1 All prices stated by the Lessor exclude VAT. The VAT is charged separately. To the extent that the Lessor has to incur costs for the provision of the leased object, the Lessor may also charge these separately to the Lessee.

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3.2 If payment of a deposit by the Lessee has been agreed, the Lessor may suspend the provision of the leased object until the deposit has been paid in full. The Lessor will repay the deposit to the Lessee upon the expiry of the obligation, without payment of interest and after set-off against any amounts claimable by the Lessor from the Lessee in whatever respect.

3.3 If there are any grounds in the Lessor's reasonable opinion, the Lessee is obliged without delay, at the Lessor's first request, to provide security (or additional security) to the Lessor's satisfaction for compliance with the Lessee's liabilities under the agreement. If the Lessee fails to provide satisfactory security in time, the Lessor is entitled to terminate the agreement with immediate effect without being liable to pay any compensation.

Article 4 Payment

4.1 The amount owed by the Lessee to the Lessor will be collected by means of direct debit, unless agreed otherwise. If no collection takes place, the Lessee must pay the due amount on time by transfer to a bank or giro account specified by the Lessor. The payment will only be deemed to have been made on time if the due amount is credited no later than on the agreed date.

4.2 If payment does not take place on time, the Lessor, notwithstanding his other rights under the law or the agreement and without any notice of default being required, is entitled to:

a. Suspend compliance with his obligations under all agreements concluded with the Lessee.

b. Take possession of the leased goods without the cooperation of the Lessee. The Lessor is not obliged to pay compensation for damage suffered by the Lessee as a result of the repossession. The costs of repossession and any realization of the goods will be borne entirely by the Lessee. The repossession of the property will not lead to the discontinuation or suspension of instalments due in the future, unless surrender of the agreement is agreed.

c. Compensation for damage as a result of failure to pay on time, which compensation will in any event consist of – at the Lessor's discretion – the statutory interest or interest of 'X'% per year on the amount not paid on time, where 'X' represents the average of the EURIBOR (European Interbank Offered Rates) rates which have applied during the period of payment default for one-month deposits on the first of each month, plus 2.5%. The interest is due from the time at which the Lessee defaults on the payment up to the time at which the Lessee pays in full the amount due to the Lessor. After a period of one year has elapsed, the interest referred to in the previous sentence will also be payable on the interest due but not yet paid. In addition, the EURIBOR rates from the previous year will cease to be taken into account in the calculation of the interest payable in the new year;

d. Reimbursement of all judicial and extrajudicial costs, the latter being deemed to comprise at least 15% of the

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amount which the Lessee has not paid on time and which the Lessor claims, subject to a minimum of €350.

4.3 A payment by the Lessee will be applied first against any interest due, and thereafter against any costs which the Lessor has had to incur in connection with the Lessee's failure to perform under the lease, and only thereafter against any lease instalments due, with the first instalment due taking precedence over the last instalment due. These provisions apply unless the Lessor specifies otherwise.

4.4 Unless expressly agreed otherwise in writing, the Lessee is not permitted to apply any discount, deduction, or set-off to a payment.

Article 5 Manual and instructions

5.1 The Lessor will provide the Lessee with information on the construction, operation, and handling of the plant and machinery to be supplied, in the form of a manual or instruction book in the Dutch language.

5.2 The lessee is entitled to free instruction if that has been agreed in the respective agreement.

Article 6 Drawings, software etc.

6.1 All drawings, illustrations, catalogues, software, and other data – other than manuals or instruction books as referred to in article 5 – which one party makes available to the other will continue to belong to that party and must be returned to that party at its first request. The aforementioned data must not be copied or disclosed to third parties without prior written consent.

Article 7 Provision and acceptance of the leased object

7.1 Unless expressly agreed otherwise in writing, the Lessor will make the leased object available to the Lessee at the agreed time in the Lessor's warehouse. The Lessor will be in default with regard to the provision of the leased object towards the Lessee only if he also fails to make it available after the elapse of a reasonable period to be specified taking account of all circumstances, such period having been notified to him in writing after the original period.

7.2 For the Lessor, force majeure is deemed to include circumstances of a factual, legal, or other nature which – foreseeably or otherwise – through no fault of his own prevent him from fulfilling the agreement on time or are extremely problematic for such fulfilment. Such circumstances include: strikes; sit-ins; production stoppages as a result of machine breakdown, faults in energy and water supply or fire etc.; import, export, and production bans and other government measures; transport blockages; failures by suppliers and ancillary personnel; weather conditions. These are all included to the extent that the Lessor is not to blame for such circumstances.

7.3 If a circumstance of force majeure arises on the Lessor's side, he will notify the Lessee without delay. Unless there is no doubt that the situation of force

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majeure will last for 30 full working days or longer, the obligations whose fulfilment is being prevented by the force majeure or becomes extremely problematic for the Lessor, and the correspondingly unfulfilled obligations on the other side, will be suspended. As soon as there is no longer any doubt that the force majeure situation will last longer than 30 full working days, or once the force majeure situation has lasted longer than 30 full working days, each party is authorized to dissolve the agreement, to the extent that it is affected by force majeure, by means of a written statement to the other party. To the extent that the Lessee has already made payments with regard to the dissolved agreement or the dissolved part thereof, he will receive a reimbursement of the amount paid from the Lessor.

7.4 If the Lessee does not take up the leased object at the agreed time and the reason is not attributable to the Lessor, the Lessee will thereby already be in default. Notwithstanding his right to reimbursement of all costs and compensation for damage in connection with the first failure to take up the leased object, the Lessor is entitled to dissolve the lease with immediate effect without judicial intervention if the Lessee also fails to take up the leased object before or on the second occasion on which the Lessor has given notice to the Lessee.

7.5 On receipt of the leased object or after notification by the Lessor to the Lessee that he has completed the agreed works, but in any case within ten (10) working days, the Lessee must carefully examine the leased object and/or works for soundness, integrity, and completeness. If the Lessee discovers defects or deficiencies, he must report these to the Lessor no later than three (3) working days after discovery. Defects which the Lessee has not discovered on time because he has failed to examine the leased object and/or works carefully for soundness, integrity, and completeness at the time of receipt, but in any case within ten (10) working days, or defects which the Lessee has not reported in writing on time to the Lessor, cannot be grounds for any rental price reduction, dissolution of the lease, or compensation for damage.

Article 8 Defects

8.1 Deficiencies or defects which come to light in the inspection referred to in 7.5 and which have been reported in time to the Lessor, as well as deficiencies or defects which could not have been discovered in the inspection referred to in 7.5 but which come to light within six (6) months after delivery or notification by the Lessor and are reported in writing to the Lessor within three (3) working days after discovery will be rectified by the Lessor as far as possible by way of supplement or – at his discretion – repair or replacement. Unless specified otherwise in 8.3 below, such rectification will take place at the expense of the Lessor.

8.2 Notwithstanding the provisions of 7.5, if the Lessee discovers defects, deficiencies, or damage in the leased object during the lease term, he must notify the Lessor in writing without delay and in any case within three (3) working days. Any defects, deficiencies, or damage which have not been reported in writing in

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time cannot be grounds for a rental price reduction, dissolution of the lease, or compensation for damage by the Lessor.

8.3 The following additional provisions apply with regard to the rectification of deficiencies and defects:

a. The Lessor will make every effort to carry out or arrange the rectification as soon as possible in the given circumstances. The lessee will provide all the required cooperation.

b. The rectification will take place as far as possible at a place to be designated by the Lessor for the purpose. The goods will be transported to and from that place at the expense and risk of the Lessee.

c. Where rectification is carried out outside the Netherlands, travel and accommodation expenses of those carrying out the inspections and rectification will be for the account of the Lessee.

d. Goods or parts released during replacement will automatically be the property of the Lessor.

e. Any deficiencies or defects arising with regard to goods which the Lessor has obtained from third parties, or with regard to work which the Lessor has had carried out by third parties, will be rectified – notwithstanding the provisions of 7.5 – free of charge only to the extent that the third party meets the costs of the rectification.

f. The Lessee's right vis-à-vis the Lessor to the rectification of defects and deficiencies will lapse if the Lessee rectifies them himself or has them rectified by a third party without the prior consent of the Lessor.

g. The cost of the repair will be borne by the Lessor, except insofar as the Lessor demonstrates that the defect, deficiency, or damage is attributable to the Lessee. The following will in any event be attributable to the Lessee:
- improper use of the leased object
- acts or omissions by third parties for whom the Lessor bears no responsibility under law

h. If the Lessee is completely unable to use the leased object for more than one (1) working day as a result of a defect, deficiency, or damage to the leased object which is not attributable to him in whole or part, he is entitled to a reduction of the rental price in the sense that he will not be required to pay any rent for the days after the said period on which he does not have full use of the leased object.

8.4 After discovery of a defect, deficiency, or damage in the leased object, the Lessee will not continue to use it without consulting the Lessor. If the Lessee fails to consult the Lessor, or fails to do so in time, any damage resulting from continued use will be or remain for the account of the Lessee.

8.5 If the Lessee makes any complaint with regard to a deficiency or defect which cannot be rectified or can only be rectified at a disproportionately high cost to the Lessor, the Lessor is not required to rectify the defect or deficiency. In that case, the price for the delivered object will be

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reduced, with such reduction being determined as far as possible on the basis of consultation between the Lessor and the Lessee and taking into account the unit prices applied on the conclusion of the respective agreement, or the respective agreement may be declared dissolved by each of the parties in writing. The Lessee is only entitled to declare the respective agreement dissolved if the deficiency or defect which cannot be rectified is so problematic to him that even with a price reduction it cannot reasonably be demanded of him that he maintain the respective agreement.

8.6 The occurrence of defects or deficiencies in respect of which the Lessor has a duty of rectification can – except in the case referred to in 8.5 – only be grounds for dissolution by the Lessee of the respective agreement
- if the Lessor, even after written notice, fails to rectify the deficiency or defect within a reasonable time given all the circumstances
- if the nature of the defect, deficiency, or damage means that further use of the leased object by the Lessee cannot reasonably be demanded of him
- if no replacement equivalent leased object has been made available by the Lessor.
The Lessee is not entitled to dissolution, however, to the extent that in the Lessor's opinion he has not provided sufficient security for the payment of the repair costs, if the Lessor has so requested on the basis of the provisions of 8.3 (g), final sentence.

8.7 With regard to vehicles, machinery, and plant to be supplied, the Lessee is entitled to free servicing, where that has been agreed in the conclusion of the respective agreement.

Article 9 Use

9.1 The Lessee is obliged to use the leased object in a proper manner. This means among other things that:

a. The Lessee will use the leased object only for the purpose for which it was leased and within that framework is also suitable having regard to its nature.

b. The Lessee will use the leased object in accordance with the instructions issued to him by the Lessor by means of instruction books etc. or otherwise.

c. The Lessee will inspect the leased object on an ongoing basis for proper operation and, unless agreed otherwise, carry out the required daily maintenance in time to maintain good operation, in accordance with the manufacturer's specifications, if available. Inspections are deemed to include, but are not limited to, lubrication and checking of levels of battery water, lubricating oil, hydraulic oil, coolant, brake fluid, battery acid, other lubricants and all other liquids in the respective tanks and/or compartments, the operation of the operating hours meter, the condition of the tyres and wheels or moving parts, the condition of the warning and signalling systems, pipes, hoses, cooling systems, air and fluid filter systems etc., the general and safe operation of the leased goods and any equipment connected to or associated with the goods.

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d. If the inspection reveals one or more of the following, it must be reported to the Lessor as soon as possible, but within no more than three (3) working days: defective operating hour meter (the number of hours operated during the defect will be estimated and may be charged to the Lessee); defective warning or indicator lights and system signalling components; signalling by the aforementioned warning equipment of a condition that is incorrect for the technical operation of the leased goods; leakages from or other defects in pipes, hoses, filter systems, cooling systems etc.; actual, assumed, or expected defects and/or incorrect or unsafe operation of the leased goods or components thereof and of the equipment connected to or associated with the leased goods.

e. The Lessee will take all reasonable measures to prevent damage to and/or loss of the leased object.

f. The Lessee will not move the leased object or transfer it to another location outside the Benelux countries or Germany unless consent has been obtained from the Lessor three (3) working days before the planned removal or transfer date.

9.2 The Lessee is not permitted to make changes on or to the leased goods without the prior written consent of the Lessor. This and any costs of returning the leased goods to their original state will be for the account of the Lessee.

9.3 If a permit is required for the use of the leased object, the Lessee will be responsible for obtaining the permit on time, unless expressly agreed otherwise.

9.4 The Lessee is prohibited from using the leased object in any way other than as could be accepted within the Lessee's normal operating conditions. Any changes which would have an extreme effect on the wear pattern and/or use of the leased goods and/or the circumstances under which the leased goods operate and/or if the circumstances are considerably more demanding than may be expected in normal operation on which the lease is based and has been costed may lead to an interim revision of the lease. The Lessor is then entitled to amend the lease and consequently to adapt the rental price to the actual circumstances.

9.5 If despite the above obligations and prohibitions the leased object is found to be used improperly, any loss will be recovered in full from the Lessee.

9.6 If the Lessor wishes to have access to the leased object for testing, inspection, maintenance, or repair, the Lessee will cooperate fully without delay after receiving notice to that effect. Such cooperation includes the Lessee making a suitable and safe working area available if requested in accordance with the applicable occupational health & safety and environmental rules.

Article 10 Indemnity

10.1 The Lessor is not obliged to provide any indemnity and/or compensation for the Lessee with regard to defective performance, product liability, unlawful acts and defects, whether concealed or otherwise, deviation, deceit, foreclosure, or for any other reason, nor does it give

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any guarantee of warranty of the condition, suitability, or any purpose or quality of the Lessor's goods.

10.2 Anything impeding the Lessee's enjoyment of the leased goods will – even if it may be the result of force majeure – have no effect on the continuation of the lease or on the liability to pay lease instalments.

10.3 The Lessor will bear no liability for any costs and/or damage which may arise for the Lessee and/or third parties as a result of or in connection with the leased goods or the use of the leased goods. The Lessee indemnifies the Lessor in respect of any claims of third parties on such matters.

10.4 The leased object made available by the Lessor to the Lessee must be and remain fully indemnified in respect of seizure or claims by third parties.

10.5 Any costs incurred to guarantee the Lessor's rights in respect of third parties will be for the account of the Lessee.

10.6 In appropriate cases, the Lessor may demand that the Lessee install the leased goods in a location other than on the Lessee's premises.

Article 11 Loss or destruction of the leased object

11.1 The Lessee must immediately notify the Lessor of any full or partial loss (removal from his control) or full or partial destruction in the physical sense of the leased object after its discovery and give the Lessor all cooperation which the latter requires in connection with the loss or destruction. Destruction is also deemed to have occurred if in the Lessor's judgement the cost of repair of damage to the leased object exceeds the market value of the leased object at that time.

11.2 Unless the Lessor makes available a replacement equivalent leased object after the loss or destruction of the leased object is reported, the lease will end in the event of loss or destruction of the leased object. If, however, in the case of partial loss or partial destruction of the leased object the Lessee wishes to continue using the remaining part of the leased object, the lease will be continued at a reduced rental price. Unless the parties agree otherwise, the rental price will be reduced to the same extent as the decrease in the market value of the whole leased object resulting from the partial loss or destruction.

11.3 If the loss or destruction is the result of a circumstance which is attributable in law to the Lessee – which applies for example to improper use of the leased object by the Lessee – the damage which the Lessor consequently suffers will be for the account of the Lessee.

Article 12 Termination of the lease and return after the end of the lease

12.1 The Lessor is authorized to terminate the lease with immediate effect if:

a. An application for suspension of payments or bankruptcy has been made with regard to the Lessee.

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b. The Lessee's assets (or any parts thereof) have been seized.

c. The Lessee's business has been closed down, largely closed down, discontinued, or liquidated.

d. The Lessee permanently clears or largely clears his site or place of establishment without prior written notice or has clearly left it permanently.

e. Any other circumstance arises in respect of the Lessee which may cause the Lessor to have reasonable doubt about the Lessee's compliance with his obligations under the lease.

12.2 Unless expressly agreed otherwise in writing, the Lessee will return the leased object clean and – apart from normal wear of the leased object resulting from proper use by the Lessee – in the original condition by making the leased object available to the Lessor at the place in which the Lessor made it available to the Lessee for the performance of the lease, no later than on the day on which the lease ends due to the elapse of the agreed lease term or otherwise.

12.3 If the possibility of purchase was included at the time of the conclusion of the lease, the Lessee must make this wish known to the Lessor no later than ten (10) working days before the end of the lease. If the Lessee gives notice later of his wish to purchase, the Lessor is entitled to derogate from the previously agreed purchase right.

12.4 If it is agreed that the Lessee will purchase the leased object from the Lessor at a time when not all lease instalments have fallen due, the purchase price will be that of any purchase option plus the instalments not yet due, unless agreed otherwise. All instalments due but not yet paid must still be paid.

12.5 The Lessee will furthermore return to the Lessor, in the manner and at the time described in article 12.2, any parts of the leased object which have been released during the lease term, including as a result of maintenance carried out by the Lessee.

12.6 If the Lessee does not make the leased object available at the place and time applicable to him, the Lessee will be in default without any notice of default or formal demand being required on the part of the Lessor. The Lessee will then be liable to pay a penalty amounting, unless agreed otherwise, to three (3) per cent (%) of the price (excluding VAT) for the purchase of an equal or equivalent leased object, for each day on which the Lessee fails to comply with the obligation to make the leased object available at the place and time applicable to him. In addition to the penalty, the Lessor is entitled to full compensation for all damage which the Lessor suffers as a result of the Lessee's failure to comply with the obligation to make the leased object available at the place and time applying to him. The Lessor is then also entitled, and expressly authorized by the Lessee, to enter the place in which the leased object is located, in order to take possession of the leased object. The associated costs will also be for the account of the Lessee.

12.7 If after return it emerges that the leased object has been damaged or has

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not been cleaned, the Lessee will be liable for the damage and costs resulting for the Lessor, unless the Lessee demonstrates that the damage or unclean condition is the result of circumstances not attributable to him.

Article 13 Lessor's liability for damage

13.1 If an event occurs which results in or is reasonably expected to result in damage for the Lessee, for which the Lessor may be held liable, the Lessee must inform the Lessor of that event in writing without delay but in any case within twenty-four (24) hours after such event. If the Lessee fails to provide such written notification in time, his right to compensation for the event will lapse. All claims by the Lessee for compensation for damage from the Lessor will lapse twelve (12) months after the event causing the damage, except in the case of damage which has been notified to the Lessor in time in accordance with 13.2.

13.2 The following provisions apply to the Lessor's liability towards the Lessee for damage which the Lessee suffers as a result of an event attributable in law to the Lessor:

a. For damage consisting of injury or damage to health, whether fatal or otherwise, and consequential damage, the Lessee is entitled to compensation to the extent that the Lessor is able to obtain a payout under liability insurance, with the proviso that each loss is subject to a maximum of €1,125,000.

b. For losses resulting from damage or full or partial loss of an item and consequential damage, the Lessee will be entitled to compensation to the extent that the Lessor is able to obtain a payout under liability insurance, with the proviso that each loss or series of connected losses is subject to a maximum of €45,450.

c. For damage other than as stated under a. and b. above the Lessee has no right to compensation, unless it results from intent or recklessness (gross negligence) on the part of the Lessor.

d. The Lessor will not be liable for damage which comes to light twelve (12) months after the event giving rise to the damage which is attributable to the Lessor in law. Notwithstanding the foregoing sentence, a claim for damages will lapse if no legal claim has been lodged against the Lessor within six (6) months after the damage comes to light.

e. If the Lessor has received a claim from a third party for compensation for damage due to an event which is also attributable to the Lessor in law in any way in the relationship with the Lessee, the Lessee indemnifies the Lessor against the claims of the third party, to the extent that the Lessor is required to pay more damages to the third party than he would have had to pay to the Lessee if the Lessee had made a claim against the Lessor for his own damage.

f. If the Lessee makes a claim for compensation against the Lessor on the basis of a claim taken over from a third party for damage in the cause of which the Lessor was directly or indirectly involved in any way, the Lessor can also

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invoke the above provisions against the Lessee.

g. The above provisions also apply to persons who are involved in any way in the fulfilment of the Lessor's existing obligations towards the Lessee.

13.3 The Lessee indemnifies the Lessor against all claims of third parties relating to leased objects leased by the Lessor to the Lessee, except where the Lessee demonstrates that such claims relate to damage for which the Lessor would be liable towards the Lessee in accordance with 13.1 and 13.2, if the Lessee had made a claim against the Lessor for such damage. Such indemnity also includes the costs which the Lessor has to incur in connection with a claim of a third party.

Article 14 Insurance

14.1 If the Lessor has made the leased object available with insurance against damage, destruction, and loss, notwithstanding the provisions elsewhere in these Terms & Conditions:

a. The Lessee must take due care of the leased object.

b. The Lessee must immediately report any damage, destruction, or loss of the leased object in writing to the Lessor.

c. The Lessee remains liable to the Lessor to compensate for the loss which the Lessor suffers as a result of damage, destruction, and/or loss of the leased object, if and to the extent that the insurance effected by the Lessor offers no coverage, for example due to any 'excess' or because the damage, destruction, and/or loss has not been reported in time to the Lessor.

d. If it is agreed that the leased object will be made available without any form of theft protection, an excess is payable by the Lessee of at least 25% of the new value of the machine in the case of theft.

14.2 Damage caused to third parties as a result of theft, business operations, or any other cause whatsoever due to the leased object is at all times for the account of the Lessee.

Article 15 Joint and several liability

15.1 If the Lessee consists of more than one person or legal entity during any part of the term of the lease, each of these persons or legal entities is jointly and severally liable to the Lessor for the obligations resulting from the lease.

Article 16 Assignment of rights and obligations

16.1 The Lessee may assign rights or obligations under the lease to, or have such rights or obligations taken over by, a third party only with the prior written consent of the Lessor. The Lessor may grant such consent on a conditional basis.

16.2 The Lessor is entitled at all times to assign to a third party the receivables resulting from the lease entered into, without first notifying the Lessee.

Article 17 Applicable law and competent court

Postbus 7167
NL-6050 AD Maasbracht

T: + 31 (0) 475 - 439232
F: + 31 (0) 475 - 436606

I: www.visionrent.eu
E: info@visionrent.eu

K.v.K.: 13014015
BTW: NL 004528086B01

Bank: ING 68.27.11.268
IBAN: NL20INGB0682711268
SWIFT/BIC: INGBNL2A

17.1 The legal relationship(s) between the Lessor and the Lessee is/are subject to the substantive law of the Netherlands. The Vienna Convention on the International Sale of Goods of 11 April 1980, which came into force in the Netherlands on 1 January 1992, does not apply.

17.2 Unless imperative legal provisions dictate otherwise and the parties agree on arbitration, the court in whose jurisdiction the Lessor has his head office has exclusive competence to hear disputes which arise between the Lessor and the Lessee on or in connection with a legal relationship between them and cannot be resolved amicably. The Lessor remains authorized, however, to bring legal action against the Lessee – at the discretion of the Lessor – at the court in whose jurisdiction the head office of the Lessee or the branch office of the Lessee, which is closely involved in the dispute, is located.

17.3 If the parties agree on arbitration, such arbitration, unless agreed otherwise, will be governed by the then applicable arbitration rules of the Arbitration Board for the Metal Industry and Trade in the Hague.