

General Lease conditions GL 2017 (HYR)



1. Standard terms and conditions

These terms and conditions apply to the lease of the Lessor's equipment when the Lessor and Lessee have agreed upon them in writing or otherwise. Deviations from these terms must be agreed in writing in order to be valid. Information contained in product brochures, price lists and so on, as well as information provided by any other means, is only binding in so far as the agreement between the parties specifically refers to it.

2. Definitions

Packaging shall be taken to mean containers for the storage and transportation of gas, such as gas cylinders, gas cylinder packages, gas cylinder pallets, baskets for gas bottles, transportable vats, transportable tanks or boxes for Dry Ice. Gas Installation shall be taken to mean stationary equipment at the Lessee's premises for the production, separation, storage and/or distribution of gas, such as storage tanks or gas mixers. Lease Agreement shall be taken to mean an agreement between the Lessor and Lessee relating to the Lease of Equipment. Equipment shall be taken to mean Packaging, Gas Installations and all other equipment leased out by the Lessor.

3. Scope of the Lease Agreement

The Lease Agreement covers the Equipment leased out by the Lessor as set out in the completed delivery confirmation or other documentation.

When the Lessee exchanges Packaging, the Lessor can return equivalent Packaging.

4. Rent

Rent is debited as it accrues, starting from the date on which the Equipment is made available to the Lessee. Rent for Equipment that is leased out for a specific period of time is payable in advance for part or all of the lease term. Rent for Packaging that is leased out for an indefinite amount of time is payable in arrears (daily rent). If the Lessor pays advance rent for a specific period of time and does not return the Packaging at the end of that period and does not alternatively pay advance rent for a new period, rent after the fixed lease term runs out will be debited in arrears (daily rent). This also applies if the Lessee, after the end of the lease term, fails to return the Equipment to the Lessor in accordance with the stipulations of these terms and conditions. Rental prices are specified on the Lessor's current price list at any given time. The delivery confirmation provides the basis for calculating and invoicing rent.

The Lessee does not have to pay rent for periods during which he has been unable to use the Equipment, if this is due to faults that fall within the scope of the Lessor's responsibility.

5. Terms of payment

The terms of payment are specified on the Lessor's current price list at any given time. It also sets out the Lessor's current invoicing, late payment and payment reminder charges, as well as late payment interest rates.

6. Supply of Equipment

The Equipment is provided to the Lessee Ex Works of the Lessor's warehouse. At an additional cost, the Lessor can undertake to transport the Equipment CIP to the Lessee's premises.

The terms used here shall be interpreted in accordance with the INCOTERMS in force when this agreement was signed. The Lessee, or someone nominated by the Lessee, shall be present when the Equipment is handed over. In conjunction with this handover, the Lessee and Lessor shall check that the number of Packaging units supplied corresponds to the number recorded on the delivery confirmation, and that the delivery confirmation contains the correct customer number. The Lessee shall confirm receipt of the Equipment by signing the delivery confirmation. Any deviations shall be recorded on the delivery confirmation. If handover takes place at the Lessee's premises without the Lessee being present, which shall only occur by special agreement on each individual occasion, the Lessor shall check that the information on the delivery confirmation is correct. The Lessor shall then record that the Lessee was not present on the delivery confirmation, and as soon as possible inform the Lessee that the delivery has been made. Such notification shall be given by the Lessor putting the delivery confirmation in a letter box agreed for this purpose or some other place that has been agreed between the parties. The information on the delivery note shall then be considered accurate unless the Lessee can prove otherwise.

7. Return of the Equipment

The Lessee shall arrange the return of the Equipment to the location designated by the Lessor.

Where the transportation of Packaging to the Lessee is arranged by the Lessor, the Lessor undertakes to take back an equivalent number of Packaging units at an additional cost. Such Packaging shall be ready for transportation and be kept available for loading at the collection point. If relevant, valve protection caps shall be fitted. The Lessee shall ensure that the return transport is carried out safely. If the Lessee fails to do this, the Lessor is entitled to arrange the return transport at the expense of the Lessee. When returning Packaging, the Lessee and Lessor shall check

that the number of returned Packaging units on the delivery confirmation corresponds to the number of Packaging units actually returned, and that the delivery confirmation has the correct customer number. The Lessor shall confirm receipt of the Packaging by signing the delivery confirmation.

Gas cylinders, gas cylinder packages and gas cylinder pallets shall be returned to the Lessor at residual gas pressure. The Lessee is not entitled to compensation for this residual gas.

8. The Lessee's liability

The Lessee undertakes to comply with government regulations and the Lessor's guidelines regarding the transportation, storage and use of the Equipment.

The Lessee shall look after the Equipment and handle it with due care. The Lessee is responsible for any loss of or damage to the Equipment from when the Equipment is handed over to him until it is returned to the Lessor, regardless of whether the loss or damage is caused by inadequate protection, security or otherwise. The Lessee is not entitled to replace lost or repair damaged Equipment himself but must instead immediately notify the Lessor that any such loss or damage has occurred. The Lessor shall then replace lost or repair damaged Equipment at an additional cost. If this is not done within a reasonable amount of time, the Lessee is entitled to replace lost or repair damaged Equipment at his own risk and expense.

The Lessee shall take all reasonable measures to limit damage caused by faults that are the responsibility of the Lessor. The Lessee is not entitled to rectify such faults himself but must instead immediately notify the Lessor.

The Lessee shall ensure that Packaging which forms a closed container is only filled with gas by the Lessor. The Lessee may not transfer, lend out, rent out, mortgage or in any other way legally dispose of the Equipment hired from the Lessor. The Lessee cannot, without the prior written consent of the Lessor, move, alter or supplement the Gas Installation.

In the event of an application for execution, or bankruptcy, the Lessee shall immediately notify the Lessor of this, as well as notify the bailiff and the administrator of the Lessor's ownership of the Equipment.

9. Compensation claims

In the event of the Equipment being defective, the Lessee must make a claim against the Lessor immediately after he discovers, or should have discovered, the defect. The claim shall contain a description of the problem with the Equipment.

In the event of the Lessor debiting the wrong amount of rent, the Lessee must make a claim against the Lessor immediately after he discovers this or should have discovered it. The Lessor's liability for rectifying incorrect debits is limited to 12 (twelve) months back in time, calculated from the date of the last rent invoice sent.

If the Lessee makes a claim, and it turns out that there is no defect for which the Lessor is responsible, the Lessor is entitled to compensation for the time he has spent and the expenses that he has incurred in dealing with the claim.

10. The Lessor's liability

When it is handed over to the Lessee, the Equipment shall be in a good state of repair and in compliance with the agreed specifications.

In the event of the Equipment being defective, and the defect resulting in significant inconvenience to the Lessee, the Lessor shall, without undue delay, rectify the fault or replace the Equipment.

The Lessor is liable for losses of, damage to or faults with the Equipment that have been caused by the Lessor's actions or failure to act.

If the Lessor fails to rectify a fault within 30 (thirty) days of receiving a claim, the Lessee is entitled to terminate the agreement.

11. Product liability

The Lessee shall indemnify the Lessor with respect to the Lessor's liability to third parties for damage or losses for which the Lessor is not liable to the Lessee under the terms of the second paragraph of this Clause.

The Lessor is not liable for any loss or damage caused by the Equipment:

- a) to real property or moveables, or the consequences of such damage or losses, if the damage or losses occur when the Equipment is in the possession of the Lessee, or
- b) to products manufactured by the Lessee, or to products that incorporate the Lessee's products, or for damage or losses to property that these products cause due to properties of the Equipment supplied.

The abovementioned limitations on the Lessor's liability do not apply if the Lessor has caused the damage or losses through gross negligence.

If a third party raises a compensation claim against the Lessor or Lessee with respect to damage or losses set out in this Clause, the other party shall immediately be notified of the claim.

The Lessor and Lessee undertake to adopt as their place of jurisdiction the court or arbitration court that handles any compensation claim against either one of them, if the claim is based on damage or losses that are allegedly caused by the Equipment. However, internal liability between the Lessee and the Lessor shall always be decided in accordance with Clause 17.

12. Marking of the Equipment

The Lessor is entitled to mark Equipment with his own unique markings. The Lessee may not remove or change any such markings without the prior written consent of the Lessor.

13. Transfer of the Lease Agreement

The Lessee cannot transfer his obligations and/or rights under this Lease Agreement to a third party without the prior written consent of the Lessor.

14. Force majeure

If the fulfilment of the Lease Agreement becomes impossible or unduly burdensome due to circumstances such as war, government intervention, rioting, civil commotion, energy shortages, labour conflicts, prohibitions, restrictions, lack of permits, accidents, machine breakdowns, unfavourable transport or weather conditions, interruptions or disruptions in telecommunications, fuel shortages or problems with or delays to deliveries from subcontractors caused by such circumstances, the affected party shall be exempted from his obligations to a proportionate extent.

The abovementioned circumstances only provide grounds for exemption if one of the parties could neither have reasonably foreseen those circumstances when the Lease Agreement was signed, nor reasonably have avoided or overcome the consequences of those circumstances.

If either party wishes to invoke this force majeure Clause, he shall without undue delay notify the other party of this in writing, also stating when the force majeure will cease to apply. Regardless of what follows from the above, both parties are entitled to terminate the Lease Agreement, after notifying the other party in writing, if the fulfilment of the agreement is delayed by more than 6 (six) months due to a force majeure event as set out in the first paragraph of this Clause.

15. Limitation of liability

The Lessor has no liability other than as set out specifically in this agreement. This applies to all losses including, but not limited to, production losses, loss of profit or other financial consequential losses. However, this limitation on the Lessor's liability does not apply if the damage is caused by gross negligence.

16. Data protection

The Lessor will treat personal information about the Lessee in such a way as to be able to provide the agreed services/products, administer the agreement between the parties, for marketing purposes (including direct marketing), for customer profiling and invoicing, etc. By providing personal information (including personal identity numbers where relevant) when the Agreement is signed, the Lessee agrees to his personal information being used in this way. The Lessee can demand to know what personal information is held by the Lessor. Furthermore, the Lessor is obliged to correct inaccurate personal information at the request of the Lessee.

17. Disputes

Any dispute between the Lessee and the Lessor shall be finally decided in accordance with the International Chamber of Commerce's arbitration rules, by one or more arbitrators appointed in accordance with those rules. The arbitration proceedings shall take place where the Lessor has his place of business, under law that applies there. If the Lessee is considered a consumer, the dispute shall be resolved through the ordinary court system.