Swedbank Liising AS General Terms and Conditions of Lease Contract

This is a translation. In case of dispute the Estonian terms and conditions shall prevail.

Effective as of 01.02.2019


1.1 These General Terms and Conditions of Lease Contract form part of the lease contract which sets out the general grounds for and the procedure of communication between the Lessor and the Lessee and general conditions for the operations to be performed under the lease contract.

2. Delivery of Object of Lease

2.1 After the receipt of the first instalment and the contract fee to the Lessor’s bank account, the Lessor shall enter into a sales contract with the Seller for the acquisition of the object of lease and do everything within their power to deliver the object of lease to the Lessee and grant the Lessee the use thereof.

2.2 Upon receipt of the object of lease, the Lessee shall proceed from the Instrument of Delivery and Receipt of the Object of Lease issued by the Lessor, and the lease contract and these General Terms and Conditions of Lease Contract.

2.2.1 In order to prove the Lessee’s right to take over the possession of the object of lease from the Seller on behalf of the Lessor and start using it, the Lessor shall, after the receipt of the first instalment and the contract fee to the Lessor’s bank account, sign the forms of the Instrument of Delivery and Receipt of the Object of Lease issued to the Lessee.

2.2.2 Upon receipt of the object of lease and the accompanying documentation, the Lessee shall have the right and obligation to:

- examine the technical condition of the object of lease;
- carefully check the legal status of the object of lease (the Seller’s ownership of and their right to transfer the object of lease) and verify that it is not stolen, pledged or encumbered with other real rights or rights and claims of third parties, and make relevant inquiries or address registers, the police, insurance companies or other institutions if necessary;
- make sure that the documentation delivered by the Seller along with the object of lease is complete and valid and pay special attention to the conditions of the fixed-term warranty furnished by the Seller with regard to the characteristics and durability of the object of lease.

2.3 The Lessee shall notify the Lessor of the defects subject to elimination, which have been specified in the Instrument of Delivery and Receipt of the Object of Lease within 5 days. The Lessee shall be entitled to demand that the Seller eliminate both the defects indicated in the Instrument of Delivery and Receipt of the Object of Lease (obvious defects) as well as those identified later (within the warranty period furnished with regard to the characteristics and durability of the object of lease) (hidden defects) hindering the use of the object of lease.

2.4 If the Lessee refuses to accept the object of lease from the Seller and does not sign the Instrument of Delivery and Receipt of the Object of Lease due to defects which do not allow the Lessee to use the object of lease for ordinary purposes, the Lessee shall notify the Lessor thereof and explain the identified defects and the resulting impossibility of use of the object of lease within 5 days of the moment the object of lease was presented by the Seller to the Lessor for delivery.

2.4.1 Upon discovery of defects stipulated in clause 2.4 of the General Terms and Conditions of Lease Contract, the Lessee shall be entitled to propose to the Seller that an independent expert analysis be carried out in order to assess the technical condition and normal characteristics of the object of lease.

2.4.2 The results of the expert analysis carried out with regard to the technical condition of the object of lease and the notice explaining the impossibility of
use of the object of lease issued by the Lessee to the Lessor shall serve as the basis for the Lessor's withdrawal from the sales contract.

2.4.3 If the Seller claims compensation for the expenses incurred by them in connection with an unjustified refusal to accept the object of lease and withdrawal from the sales contract as a result thereof, the Lessee shall represent the interests of the Lessor.

2.4.4 If the court or arbitration court reviewing the Seller's complaints arising from the refusal to accept the object of lease declares the refusal to be unjustified, the Lessee shall bear all the related costs.

2.5 The Lessor shall not be liable:

2.5.1 for the lease object's non-conformity with the terms and conditions of the sales contract and/or its defects;

2.5.2 for damages caused to the Lessee by the Seller's failure to perform the obligations arising from the sales contract.

2.6 The Lessor shall be entitled to check and examine the condition of the object of lease at any time either directly or through persons authorized to do so by the Lessor in writing.

2.6.1 If the need for the inspection of the object of lease was caused by the Lessee's failure to perform or properly perform the lease contract, the Lessee shall without argument and in full cover any and all expenses incurred by the Lessor in connection with such inspection.

3. Lessee's Obligations

3.1 After the payment of the first instalment and the contract fee the Lessee shall forward the forms of the Instrument of Delivery and Receipt of the Object of Lease to the Lessor so that the Lessor can sign them.

3.2 Within 7 days of the receipt of the object of lease at the latest the Lessee shall deliver to the Lessor the latter's copy of the Instrument of Delivery and Receipt of the Object of Lease signed by the Seller and the Lessee.

3.3 The Lessee shall have the improvements to be made to the object of lease preapproved by the Lessor in writing. No approval shall be needed in case of minor improvements which can be made to the object of lease on the premise that these can be removed without damaging the object of lease. If the Lessee has improved the object of lease without the Lessor's approval, the Lessor shall be entitled to consider the improvements made to the object of lease to have transferred to the ownership of the Lessor free of charge.

3.4 The Lessee shall submit to the Lessor all documents related to the possession and use of the object of lease and/or financial reports of the Lessee requested by the Lessor within 7 days of the receipt of the corresponding notice from the Lessor.

3.4.1 Lessees that are legal entities undertake to submit to the lessor within the term of the lease contract the balance sheet and income statement for the previous quarter at the latest by the 5th date of the second month of each quarter, and the annual balance sheet and income statement of the lessee approved by an auditor accepted by the lessor within 180 days after the end of a financial year. All the submitted documents must comply with the laws and accounting regulations and practices of the country of location of the lessee. The income statement and the balance sheet do not have to be approved by an auditor in case no audit is required by law or the articles of association of the lessee.

3.5 The Lessee shall notify the Lessor of damages caused to the object of lease or loss or partial destruction thereof immediately, but not later than on the 1st business day after learning about it.

3.6 The Lessee shall notify the Lessor within 7 days if:

3.6.1 the Lessee's address, telecommunications numbers or their bank details stipulated in the lease contract change;

3.6.2 a competent body of the Lessee decides to wind up the Lessee or a bankruptcy petition is filed against the Lessee with a court;

3.6.3 the buyer undergoes a merger, division or transformation or its share capital is reduced;

3.6.4 other important events occur, which affect the Lessee's performance of the lease contract; the Lessee shall notify the Lessor about the measures taken and means applied by the Lessee in connection therewith.
3.7 The Lessee shall notify the Lessor immediately, but not later than on the day of submission of the application, of their intention to file an application with a court for their reorganisation. The Parties agree that failure to perform this notification obligation shall be deemed fundamental breach of contract, which entitles the Lessor to unilaterally cancel the Lease before the prescribed time.

3.8 The Parties agree that the Lessor shall be entitled to unilaterally and without any prior notice amend the terms and conditions of the Lease (incl. the interest rate) or unilaterally cancel the Lease before the prescribed time if the Lessee has merged, been transformed, divided or transferred either wholly or partly without the Lessor's prior written consent.

3.9 Limited use or impossibility of use of the object of lease caused by damage to the object of lease or technical or economic unsuitability for use thereof or criminal or court proceedings initiated with regard to the object of lease shall not release the Lessee from the obligation to pay lease instalments and interest.

3.10 Should the lease object be used in rented premises during the lease term, the Lessee shall have to inform the Lessor of this immediately and submit data on each lessor of the premises to the Lessor. Furthermore, the Lessee shall have to inform each lessor of the premises that the lease object belongs to the Lessor. The Lessor shall have to compensate for the damage incurred by the Lessor as a result of the Lessee’s failure to fulfil the above obligations. The Lessor shall have the right, without the Lessee’s consent, to inform the lessor of the premises about the fact that the lease object belongs to the Lessor and the lessor’s right of security under § 305 of the Law of Obligations Act shall not be applicable to the lease object. By entry into the Leasing Agreement, the Lessee shall grant the Lessor the right to disclose to the lessor with regard to the delivery of the aforementioned notice information on entry into as well as the terms and conditions of the Leasing Agreement.

3.11 The Lessor shall have the right to repay the prepayments made by the Lessee to the Lessee's current account without any prior notice.

3.12 If the Lessee is a legal person, the Lessor shall have the right to unilaterally determine the claims and their scope and order of satisfaction which are to be deemed as satisfied on the account of the amounts paid by the Lessee.

3.13 The Parties agree that the Lessee shall pay any and all amounts due and payable under the Lease Contract in full. The Lessee shall not be entitled to unilaterally reduce such payments or set them off against any claims arising from the Lease Contract. The Lessee shall not be entitled to deduct any amounts from such payments. If the Lessee is obliged under the law, a court judgment, a decree of an agency or on any other grounds to deduct any amounts from the payments to be made under the Lease Contract, the payments to be made under the Lease Contract shall be increased to the extent of the amounts to be deducted.

3.14 The Parties agree that the Lessee shall refrain from acts or omissions which may incur costs or cause damages or other negative consequences to the Lessor. The Lessee shall do everything within their power to assist the Lessor in solving any and all issues concerning the Lease Contract, including but not limited to their obligation to cooperate with the Lessor in identifying the location of the Object of Lease in the event of its loss and in taking over the possession of the Objects of Lease from or in communicating with third parties. The Lessee shall also inform the Lessor of any and all material circumstances related to the Lease Contract.

4. Lessor’s Obligations

4.1 After the receipt of the first instalment and the contract fee to the Lessor's bank account the Lessor shall immediately enter into a sales contract with the Seller, which has been approved by the Lessee, and do everything within their power to ensure timely and proper performance of the Seller’s obligations arising from the sales contract.

4.2 The Lessor shall immediately notify the Lessee of any amendments to the material terms and conditions of the sales contract concerning the acquisition of the object of lease (late delivery of the object of lease by the Seller, differences in the price or specifications of the object of lease, etc.).

4.3 The Lessor shall allow the Lessee to use the object of lease during the term of the lease contract and, if and when necessary, issue formal authorisations for the use of the object of lease or assist the relevant institutions in issuing and preparing the respective documents (notarised
powers of attorney, etc.). The Lessee shall be entitled to demand that the Lessor issue, at the Lessee's expense, certificates or notarised powers of attorney for the use of the object of lease outside the Republic of Estonia if these are necessary under applicable law, provided that the Lessee has performed all the obligations arising from the lease contract (incl. they have submitted necessary documents) and an insurance policy covering the use of the object of lease in the corresponding country outside the Republic of Estonia has been taken out.

5. Disposal of Object of Lease

5.1 The Lessee shall not have the right to make transactions regarding the disposal of the object of lease, granting its use to third persons or encumbrance thereof with limited real right without the prior written approval of the Lessor.

5.2 The Lessee and each sublessee of the Object of Lease shall have the sublease (both general and commercial lease) terms and conditions pre-approved in writing by the Lessor. Each sublease contract shall indicate that (a) the ownership of the Object of Lease belongs to the Lessor and (b) the sublease terminates upon expiry of the Lease Contract, incl. upon its cancellation by the Lessor. The Parties warrant that a breach of any of the obligations indicated in this clause shall constitute a fundamental breach of a contractual obligation which shall entitle the Lessor to cancel the Lease Contract.

6. Insurance of Object of Lease

6.1 The Lessee shall present the original copy of the insurance policy to the Lessor within 7 days of its entry into force. Until the expiry of the lease contract, the Lessee shall renew the optional insurance contract on time (the renewed insurance contract shall enter force as of the day following the last day of the term of the previous insurance contract) and present the original copy of the renewed insurance policy to the Lessor within 7 days of the renewal of the insurance contract at the latest.

6.1.1 Upon entry into an optional insurance contract, the Lessee shall, at the request of and by the deadline determined by the insurer or the Lessor, present the object of lease for inspection at the insurer's place of business or, upon agreement, at the location of the object of lease.

6.1.2 Upon signing the optional insurance contract, the Lessee shall provide the insurer or their representative with correct information on the material circumstances related to the object of lease (e.g. number and type of keys, model and brand name of security equipment) and notify the insurer of circumstances which increase the insurance risk (e.g. granting third parties the use of the object of lease, provision of a service using the object of lease, alteration of its purpose of use, absence of security equipment) and also immediately notify the insurer of any changes in the respective circumstances which have taken place during the term of the insurance contract.

6.2 Upon occurrence of an insured event, insurance indemnity shall be paid to the Lessor. The insurance indemnity shall be transferred to the Lessor's bank account or, on the basis of the Lessor's written application, to the bank account of a repair shop or the Lessee.

6.2.1 The Lessee shall name the Lessor as the beneficiary under the insurance contract and ensure that a corresponding entry showing the business name of the Lessor is made in the insurance contract. If a valid insurance policy covering the object of lease has already been taken out, the Lessee shall make a corresponding amendment within 3 days of the delivery of the object of lease to the Lessee at the latest.

6.2.2 If the Lessor has not been named in the insurance contract as the beneficiary, they shall be entitled to exercise the rights arising from the insurance contract without the Lessee's consent. The Lessee may not exercise the Lessor's rights arising from the insurance contract on their own behalf or enforce the Lessor's claims against the insurer, waive such claims or enter into any transactions regarding the claims.

6.2.3 If the insurance indemnity is paid to the Lessee, they shall transfer the entire indemnity to the Lessor within 4 days at the latest.

6.3 Insurance premiums and other insurance-related costs shall be borne in full by the Lessee. The Lessee shall pay insurance premiums by the due dates and in the amounts specified in the insurance contract.

6.3.1 The Lessee shall ensure that the insurance contracts are valid, insurance cover is uninterrupted
and the insurance contract and lease contract are properly performed pursuant to the prescribed terms and conditions until the expiry of the term of use of the object of lease. Upon premature expiry or termination of the optional insurance (incl. upon withdrawal from the insurance contract), the Lessee shall enter into a new insurance contract not later than on the day following the expiry or termination of the previous insurance, and present the original copy of the new insurance policy to the Lessor within 7 days.

6.3.2 The Lessee shall reimburse insurance-related expenses and/or damages (incl. recourse claims of insurers) caused by their failure to pay insurance premiums or incurred on other grounds. If the corresponding expenses and/or damages have been covered by the Lessor, the Lessee shall compensate the Lessor for corresponding amounts by the deadline and pursuant to the procedure specified by the Lessor.

6.4 The Lessee shall notify the insurer of any changes in the information forming basis for the insurance contract (incl. the information and risk-related issues stipulated in clause 6.1.2 of the General Terms and Conditions of Lease Contract) not later than within 4 days of the occurrence of the corresponding change, and amend the insurance contract accordingly if the insurer finds it necessary in order to ensure the validity of insurance cover.

6.5 Upon an insured event, the Lessee shall:

6.5.1 follow the mandatory instructions provided in the insurance contract regarding the object of lease;

6.5.2 notify the Lessor of the insured event in writing within 3 days by presenting information on the circumstances of the insured event and the extent of loss using the corresponding form of the Lessor;

6.5.3 represent the Lessor in communication with the insurer, the police and the repair shop where the object of lease is being repaired and perform any and all obligations of a policyholder to be performed in the event of a loss or an insured event, including:

6.5.3.1 re-register the object of lease and deliver it to the insurer, if the insurer requires this as a prerequisite for the disbursement of insurance indemnity, and perform all the operations related thereto, except for the acceptance of insurance indemnity without the corresponding written consent of the Lessor;

6.5.3.2 guarantee the restoration of the pre-loss condition of the object of lease and notify the Lessor of the measures applied for the restoration of the object of lease, the insurer’s positive or negative decision regarding the indemnification of loss, and of other loss-related circumstances by presenting the corresponding information using the relevant form of the Lessor;

6.5.4 perform any and all obligations of the policyholder arising from the insurance contract in a timely manner and as required and ensure that the corresponding obligations are performed by persons who possess and use the object of lease with the Lessee’s consent;

6.5.5 not terminate the insurance contract if the object of lease is damaged and continue proper payment of insurance premiums to ensure that the insurance cover regarding the damaged object of lease remains valid until the insurer makes a decision with regard to the indemnification of loss; the Lessee shall be entitled to terminate the insurance contract if the object of lease is transferred to the insurer.

6.6 If the insurance indemnity fully covers the costs incurred by the Lessor by the acquisition of the object of lease and not compensated for by the Lessee, the Lessor shall transfer the amount exceeding such costs to a bank account indicated by the Lessee within 9 days of the receipt of the insurance indemnity to the Lessor’s bank account.

6.7 If the object of lease is destroyed, lost or damaged in a manner which is not considered to be an insured event under the insurance contract and therefore is not subject to indemnification by the insurer or if the insurance indemnity does not cover all the costs of the Lessor, the Lessee shall be liable to the Lessor. Within 14 days of the receipt of a corresponding notice from the Lessor the Lessee shall reimburse the costs which have not been compensated for.

6.8 The Lessee’s disagreement with the insurer’s decision to refuse to declare the destruction of or damage to the object of lease an insured event or to indemnify for the loss and the legal disputes arising therefrom shall not release the Lessee from the performance of the obligation stipulated in clause
6.7 of the General Terms and Conditions of Lease Contract in a timely manner and as required.

6.9 Upon the destruction or loss of or damage to the object of lease to an extent that makes further normal use thereof impossible, the Lessee shall be entitled to compensate the Lessor for the expenses incurred in acquiring the object of lease and not compensated for by the Lessee before the insurer makes their decision.

6.9.1 Upon application of clause 6.9 of the General Terms and Conditions of Lease Contract, the Lessor shall assign the right of claim against the insurer to the Lessee.

6.10 Upon the transfer of the ownership of the object of lease to the Lessee, the Lessee shall notify the insurer thereof in writing within 4 days at the latest. The notification obligation shall not be effective if the insurance contract has expired or has been terminated upon agreement with the insurer before the transfer of ownership. Losses arising from a failure to perform the notification obligation shall be covered by the Lessee.

6.11 If section VI of the General Terms and Conditions of Lease Contract is in conflict with any clause of the insurance contract, the provisions of the insurance contract shall apply.

7. Cancellation of Lease Contract

7.1 The Lessor shall be entitled to cancel the Lease Contract and demand immediate performance of financial obligations and settlement of other claims arising from the lease contract, notifying the Lessee in writing, if:

7.1.1 the Lessee has intentionally given false information to the Lessor in the lease contract application or other documents (incl. foundation documents, balance sheet and income statement of the Lessee) presented to the Lessor or in reports, notices or certificates issued during the term of the lease contract;

7.1.2 the Lessee who is a consumer has failed to pay three consecutive leasing instalments or two instalments or one instalment under the payment schedule or has not paid them in full;

7.1.3 the Lessee who operates as a company or a sole trader has failed to pay a leasing instalment and/or the interest appropriately or paid them in part and failed to settle the debt within 15 days as of the due date;

7.1.4 the value of the object of lease is considerably reduced due to the Lessee’s intentional acts or omissions;

7.1.5 The Lessee evades performance of the obligations assumed under the lease contract and fails to perform them despite the Lessor’s repetitive reminders;

7.1.6 the Lessee fails to sign the insurance contract, pay insurance premiums or renew the insurance contract as prescribed by the lease contract;

7.1.7 the Lessor learns about circumstances which cause the Lessor to have reasonable doubts about the Lessee’s ability to perform the obligations arising from the lease contract, incl. their payment obligations.

7.1.8 Sanctions have been imposed against the Lessee, its beneficial owner or any other person affiliated with the Lessee or its beneficial owner (incl. their legal representatives), or against the guarantor (incl. its legal representative), or against a person whose activities were facilitated with the Object (e.g. the Lessee’s contracting partners) (all the above individually as ‘Person’) (the Sanctions include any commercial, economic or financial sanctions, embargos or restrictions on transactions that are administered and have been enforced or complied with by the UN Security Council, European Union, Government of the Republic of Estonia, US Administration (incl. the US Office of Foreign Assets Control (OFAC)), any other international organisation and/or subdivisions of the above);

7.1.9 pursuant to the laws and regulations governing the prevention of money laundering and terrorist financing, as applicable to the Lessor, the Lessor has a right or obligation to cancel the lease contract should the Lessor have reasonable grounds to suspect that the Person is or might be involved in money laundering, terrorist financing and/or any other illegal activity (e.g.: the Person is or was in a line of business with a high money laundering and/or terrorist financing risk; the Person fails to submit adequate documents or data on its ownership and management structures, the origin of the resources used in its transactions or its business relationships if the Lessor needs these to comply with the
obligations stipulated in the laws and regulations on the prevention of money laundering and terrorist financing).

7.2 The Lessor shall notify the Lessee of the cancellation of the lease contract under sub-clauses of clause 7.1 of the General Terms and Conditions of the Lease Contract at least 14 days in advance. Within said term the Lessee shall be entitled to perform their obligations overdue under the lease contract.

7.2.1 The Lessor shall forward the notice on the cancellation of the lease contract to the Lessee by mail or other means of communication (e.g. e-mail, fax, etc.). A notice shall be deemed received by the Lessee when a period usually necessary for the delivery of a notice by the corresponding means of communication has passed from its sending to the contact address or number of the Lessee or the person entitled to receive the notice on the Lessee’s behalf known to the Lessor.

7.3 Upon cancellation of the lease contract, the Lessee shall immediately return the object of lease to the authorised representative of the Lessor. In order to specify the return-related issues and the place of return of the object of lease, the Lessee shall contact the Lessor’s representative.

7.3.1 If the Lessee fails to properly perform the return obligation, the Lessor shall be entitled to turn to a third party chosen by the Lessor and have them perform the operations necessary to restore the Lessor’s possession of the object of lease.

7.4 The Parties agree that upon cancellation of the Lease Contract by the Lessor, any and all subleases (both general and commercial) which the Lessee and the sublessees (both general and commercial) have signed with regard to the Object of Lease shall automatically be considered terminated as of the moment of the cancellation of the Lease Contract.

8. Expiry of Lease Contract

8.1 The lease contract shall expire after the expiry of its term, upon destruction of the object of lease, it becoming unfit for use, cancellation of the lease contract or upon purchase of the object of lease by the Lessee pursuant to the procedure set forth in the lease contract.

8.2 The object of lease to be returned to the Lessor by the Lessee must be complete and equipped with ancillary devices provided along with or installed in the object of lease and it shall include the improvements belonging to the Lessor. The object of lease to be returned by the Lessee may not be damaged or materially defective. If the condition of the object of lease upon its return is not in compliance with the lease contract, the Lessee shall, at their expense, bring the object of lease to the corresponding condition.

8.2.1 A defect of the object of lease discovered shall be deemed material if it prevents successful and unconditional passing of the technical inspection carried out by the Maanteeamet. The Parties may agree to hire a mutually accepted and recognised expert to assess whether the technical defects discovered are material or not.

8.2.2 Mechanical damages to the object of lease and changes in the exterior of the object of lease (such as colour defects and defects in the passenger compartment) are declared material defects on the basis of the opinion of a renowned technical inspector or expert accepted by the Parties, which shall indicate whether or not the given defects have been caused as the result of normal wear and tear.

8.3 At the request of the Lessor, the Lessee shall immediately pay any and all expenses related to the use and possession of the object of lease and incurred during the term of the lease contract or the time the object of lease was in the possession of the Lessee and discovered after the expiry of the lease contract.

8.4 The Parties have agreed that this lease contract shall not become a contract entered into for an unspecified term if the Lessee has not returned the object of lease to the Lessor by the due date arising from the lease contract.

9. Connection of Contracts

9.1 The Parties shall be entitled to prematurely and unilaterally terminate the lease contract if the other Party is in breach of any other financing agreement, incl. lease, factoring, security or transfer deed made and entered into by and between the Parties, and such breach entitles the Party to also terminate the respective agreement.

9.2 The Lessor shall be entitled to unilaterally terminate the lease contract also in case the Lessee is in breach of a lease, factoring or other financing agreements.
agreement or a security or transfer deed entered into with Swedbank AS (registration number: 10060701) or any of its group companies.

9.3 If a Party is entitled to prematurely and unilaterally terminate the lease contract due to the other Party's improper performance of the obligations under the lease contract, the Party shall also be entitled to prematurely and unilaterally terminate all other valid lease, factoring or other financing or transfer contracts made and entered into with the other Party.

10. Miscellaneous

10.1 If any provision of the lease contract turns out to be in conflict with the laws or other legislation of the Republic of Estonia, it shall not affect the validity of the remaining provisions of the lease contract.

10.2 All the Parties' notices regarding the lease contract shall be sent in writing to the addresses indicated in the lease contract or such other address of which one of the Parties has notified the other. Urgent notices may be sent by fax or e-mail.

10.3 All amendments to the Lease Contract shall be made by the Parties in writing or signed by them digitally.

10.4 If disagreements arising from the lease contract cannot be solved in negotiations, the dispute shall be settled in the Harju County Court unless otherwise provided by law.