

# Canon's general terms and conditions for financial rental agreements (2019)

## 1 – Scope of application

1. These terms and conditions apply to financial rental of movable property for commercial use.
2. Financial rental means a transaction, whereby
  - a. a party (**the lessor**) concludes an agreement (**the rental agreement**) with another party (**the customer**), which entitles the latter to use the rental equipment (**the rental equipment**) and
  - b. the services for which the customer must pay or be liable, have been calculated so that they cover the amortisation of all or the major part of the acquisition price of the rental equipment.
3. The rental agreement, which consists of a front page with individual conditions and 'Canon's general terms and conditions for financial rental agreements (2019)' as well as any annexes stated herein, constitute the entire contractual basis between Canon Danmark A/S and the customer. Other written or oral agreements between Canon Danmark A/S and the customer regarding this rental agreement have no validity.
4. A copy or a scan of the rental agreement with signature has the same validity as the original signed copy. The same applies to documents prepared in connection with the rental agreement.
5. It is pointed out that the Danish IT Industry Association (*IT-Brancheforeningen*) has published 'Recommendations on the financing of copy and print solutions'. The recommendations can be found (in Danish) at [www.itb.dk](http://www.itb.dk), and the customer is encouraged to read them before signing the agreement.

## 2 – Proprietary right

1. The rental equipment is the lessor's property. The customer is not entitled to sell, pledge or in other ways dispose legally of the rental equipment.
2. Type designations, serial numbers and the like, which serves as identification of the rental equipment, must not be removed.
3. The lessor may demand that, at his own expense, the customer have his accountant prepare and send to the lessor a report on the presence of the rental equipment, and the lessor may have the equipment provided with a mark or other features that indicate the lessor's proprietary right in the equipment.
4. The lessor's proprietary right also extends to equipment that is combined with or replaces parts of the rental equipment.
5. The lessor is entitled to inspect the rental equipment at any time. If, in connection with the inspection, defects in the maintenance are pointed out or objections to the manner of use are raised, the customer must immediately comply with the lessor's instructions and remedy the defects pointed out.

## 3 – Right of use

1. The customer is entitled to use the rental equipment in his business.
2. Unless the agreement concerns equipment which according to its nature implies changing places of use, the rental equipment may not be removed from the customer's business premises.
3. The rental equipment may not be sub-leased, lent or handed over to third parties.
4. The rental equipment may not be changed, converted or replaced.
5. The rental equipment may not be incorporated in buildings or other movable property in such a way that the lessor's proprietary right is lost.
6. The rental equipment may not be used outside the borders of Denmark without the lessor's prior written permission.
7. The rental equipment must be used in accordance with the manufacturer's directions and specifications.
8. The customer is given a right to use any software delivered in connection with the rental equipment. The right of use applies solely in connection with the use of the rental equipment as the software has been installed on delivery.

## 4 – Rent

1. In consideration of the use of the rental equipment, the customer pays rent, the size and due date of which appear from the rental agreement. In addition to the rent, the customer is required to pay VAT together with taxes and duties payable on the rent or calculated pursuant to the rules from time to time applicable.
2. If the purchase price stated in the rental agreement is changed at the insistence of the supplier or as a result of the purchase price being paid in foreign currency at a rate other than that assumed when the rent was calculated, the rent is adjusted accordingly.
3. If the parties have agreed that the rent will vary in whole or in part according to the level of a reference interest rate or a reference exchange rate, the reference interest rate, reference exchange rate and the conditions for changing the rent must be stated in the rental agreement. If a non-publicly quoted reference interest rate or reference exchange rate is used, the lessor must notify the customer about any change in the reference interest or exchange rate used. If the public quotation of the reference interest rate stops, or if the lessor can demonstrate that it has generally lost its importance, the lessor may use another reference interest rate, provided that the position of the parties are essentially unchanged when such rate is used. If it has been agreed that the rent varies by the changes in the three-month CIBOR rate, the adjustment is made each 8 January, 8 April, 8 July and 8 October on the basis of the threemonth CIBOR rate on the day in question. In agreements with variable rent, the lessor is entitled to increase the rent as compensation for any differences between the trends in the agreed reference interest rate and trends in the lessor's costs of refinancing. Such increase can only be effected prospectively and subject to three months' prior notice. If the rent has been increased in accordance with this provision, and the basis for the increase subsequently ceases to exist in full or in part, the lessor is obliged to reduce the rent, though never to a level lower than at the time when the agreement was concluded.
4. Besides as stated in clause 4, no. 3, in agreements with variable rent as well as in fixed rent agreements, the lessor is entitled to increase the rent as compensation for cost-increasing or profit-reducing changes in public law regulations or on the basis of public law requirements made by public authorities, and which affect the lessor directly or indirectly.
5. In case of delayed payment of the rent or other amounts due under the rental agreement, default interest is payable at a rate of 2% per month or part of a month plus a late payment fee.
6. Defects in the rental equipment as well as loss of or damage to the rental equipment in an event that is not due to the lessor's circumstances do not exempt the customer from paying the rent. In the event of total loss of the rental equipment as well as in case of cancellation of the purchase agreement, the parties' outstanding account is calculated according to clause 17.
7. Until delivery has taken place, the customer is liable for and pays interest on expenses and prepayments that the lessor has made in accordance with the rental or purchase agreement. Interest accrued on claims from suppliers, which are not due to delays on the part of the lessor, is paid by the customer.
8. The lessor is entitled to select on which of several claims due a part payment, including the net proceeds of a realisation of the equipment/additional securities, see clause 17, is to be written off.
9. Whatever the cause, the customer is not entitled not to pay rent or not to make other payments to the lessor because of any counterclaims against the lessor, supplier or others, regardless of their origin, nature or otherwise. Hence, the customer can under no circumstances set off against payments to the lessor.

## 5 – Delivery

1. The rental equipment is delivered at the address stated in the rental agreement. Prior to delivery, the customer must ensure that the access route to the place of installation is clear and that electrical installations, switches, connecting cables and any ventilation are present to the necessary extent. Moreover, the machine must be securely earthed on connection.
2. On delivery of the rental equipment, the customer must immediately examine it properly. If the customer finds any defects, the customer must immediately and no later than five working days from delivery complain in writing to the lessor. If the customer has not complained in writing within five working days from the date of delivery, the delivered equipment is considered to have been approved.
3. If the customer does not pick up or receive the rental equipment in due time, or if the customer's circumstances have otherwise had the effect that it was not handed over to the customer in time, the lessor is entitled to compensation.
4. In case of delivery before the commencement of the agreed rental period, rent is payable pro rata for the period up until then. In case of delivery later than the commencement of the agreed rental period, the commencement is postponed until the first ordinary date of payment after delivery has been made, and rent is payable pro rata for the period up until then.

## 6 – Claims for defects against the supplier

1. The legal venue for claims against the supplier is the Copenhagen City Court.
2. The supplier has no obligation to remedy defects in hardware/software that the customer has changed.
3. The customer can in no circumstances claim defects against the supplier later than one year from the delivery of the rental equipment.
4. At the supplier's choice, defects are remedied by rectifying defects or by replacement delivery at the place of delivery originally agreed. In this connection, the customer is responsible that the replacement delivery can be made at the place of delivery originally agreed, unless otherwise agreed between the supplier and the customer. However, the supplier will be entitled to remedy defects at the supplier's premises or at the premises of a service technician designated by the supplier. The deadlines stated in clause 10(2) apply to the remedy of defects and replacement delivery. If the remedy of defects involves payment of disproportionately large costs, the supplier will be entitled instead to make a proportionate reduction in the purchase price corresponding to the reduction in the value of the equipment. Replacement delivery requires the lessor's prior approval and the drawing up of a new separate agreement, see clause 15.
5. The supplier's liability is limited to an amount corresponding to 100% of payments received by the supplier under the purchase agreement for the rental equipment during the last 12 months before the date of the event giving rise to the claim.
6. The customer cannot raise claims against the supplier on account of defects in the equipment besides as described in sub-clauses (1)-(5), irrespective of whether the customer's loss or costs are directly or indirectly caused by defects in the equipment.
7. If the customer gets a pro rata reduction, such amount accrues to the lessor so that the future rent is adjusted in proportion to the amount actually received by the lessor, or any third party to whom the rental agreement may be transferred, from the supplier.
8. Complaints must be submitted in writing.

## 7 – Termination

1. With the exceptions mentioned in sub-clauses (2) and (3), the rental agreement is nonterminable from the conclusion of the agreement and in the entire rental period agreed.
2. Each party may terminate the rental agreement without notice if it turns out that it is impossible to deliver the equipment, or if delivery has not been made six months after the agreed date at the latest, and the lessor can then cancel the purchase agreement. If the rental agreement is terminated in accordance with this provision, the customer must cover the lessor for any losses incidental to entering into the agreement.
3. The lessor may terminate the rental agreement without notice in the following cases:
  - a. If the customer is a sole proprietorship or a partnership, in the event of the death of the personally liable owner or any of the partners.
  - b. If the customer is a public or private limited company, in the event of the transfer of a controlling part of the share capital.
  - c. In the event that the customer divests substantial parts of his commercial activities or the customer's capital base becomes materially reduced during the rental period.
  - d. If the customer does not provide information about his owner and control structure and does not identify any beneficial owners according to the Danish Act on Measures to Prevent Money Laundering and Financing of Terrorism (*Bekendtgørelse af lov om forebyggende foranstaltninger mod hvidvask af udbytte og finansiering af terrorisme*).

On termination according to this provision, the lessor's claim is calculated according to clause 17.

## 8 – Extension

On the expiry of the agreed rental period, it is automatically extended on unchanged conditions for 12 months at a time, unless the customer has terminated the rental agreement before that by giving three months' notice. However, the extension requires an individual approval from the lessor.

## 9 – The customer's responsibilities

1. The customer is responsible that both private and public regulations applying to the use of the rental equipment are complied with and that the necessary permissions are obtained. The customer bears the risk that the required permissions can be obtained and are not withdrawn. It rests with the customer to ensure that the power supply of the equipment and all installations for the purpose of connection are legal.
- The customer exempts the lessor for any liability the latter may incur to public authorities or private individuals or bodies on account of the use made by the customer of the rental equipment, including that regulations have not been observed or permissions not obtained.
2. The customer bears the risk for damage to the customer's property that is due to defects or dangerous properties in the rental equipment.
- It rests with the customer to hold the lessor harmless as regards claims that may be raised by a third party, including the customer's staff, against the lessor as owner of the rental equipment as a result of defects or dangerous properties in the rental equipment. In relation to the Danish Act on Product Safety (*Lov om produktsikkerhed*), the customer has a duty to prevent that the equipment may cause damage to a third party's person or property.

## 10 – Maintenance

1. The customer is required to keep and maintain the rental equipment in good repair and working order at all times, ordinary wear and tear excepted.
- The customer is required to strictly observe the maintenance instructions set out in manuals and similar material from the supplier. In connection with repair and maintenance, only original spare parts stipulated by the supplier may be used, and any repairs and service must be undertaken by the supplier or a service technician authorised by him.
- In connection with maintenance and repair, the rental equipment must not undergo any changes or modifications.
2. The customer's remedy for defective performance is limited to demanding that the supplier replace the equipment with similar equipment if a defect has not been remedied within 14 days of the supplier having received a notice demanding remedy of the defect. Such demand can, at the earliest, be made after the expiry of the deadline mentioned in the first sentence. The deadlines mentioned here are suspended to the extent that the defect is due to external factors, including the impossibility of delivery of spare parts. Irrespective of the above, the customer cannot demand that the rental equipment be replaced if the defect does not considerably reduce the fitness for purpose of the equipment.
3. The supplier is entitled to replace the rental equipment with other rental equipment with equivalent specifications if the supplier assesses that the rental equipment is strained beyond

the manufacturer's recommendations. Such replacement is made without additional costs for the customer, provided that the customer has otherwise observed the specifications applying to the use of the equipment. In case of such replacement, the supplier is entitled to use factory remanufactured equipment.

4. Any replacement of rental equipment requires the lessor's prior consent. Any replacement requires the conclusion of a new separate agreement, see clause 15.

#### **11 – Risk**

The customer bears the risk of the rental equipment and the right of use from the conclusion of the agreement up until the day on which the equipment has been correctly returned to the lessor.

The customer must inform the lessor without delay in the event that the equipment is damaged or deteriorates – regardless of the reason.

If the equipment is repairable, the customer must have it repaired at his own expense. If the equipment is irreparable, the rental agreement terminates, and any account outstanding between the parties is settled according to the provisions of clause 17.

#### **12 – Insurance**

The customer is obliged at his own expense to take out insurance against loss of or damage to the rental equipment and against any claims brought against the customer as user or the lessor as owner in connection with the use of the rental equipment. The lessor may demand that the insurer be notified of the lessor's interest at the customer's expense.

The lessor may at any time choose to take out insurance against loss of and damage to the rental equipment at the customer's expense. The premium for such insurance can be indexed by the increase in the net price index published by Statistics Denmark and be increased in the event of price increases in the insurance product. Currently, the excess is DKK 5,000 per claim in case of a purchase price < DKK 500,000 and currently DKK 10,000 per claim in case of a purchase price of >= DKK 500,000 and payable by the customer.

#### **13 – Duty of disclosure and consent**

1. On request, the customer must produce his latest annual report, interim financial statements and budgets as well as the personal financial statements of the liable owners. The customer must also notify the lessor of any circumstances that may materially affect the lessor's credit risk.

2. The customer consents to the lessor obtaining information about the customer's creditworthiness and registering the information obtained – and also consents to this information as well as information related to the present rental agreement being processed and disclosed to a new lessor to whom this present rental agreement is expected to be transferred.

#### **14 – Security**

If the customer has made a deposit or provided other security for the fulfilment of the customer's obligations, such deposit or security also serves as security for any other obligation the customer has or may of his own volition incur against the lessor, regardless of the reason.

#### **15 – Renegotiation**

The rental agreement concluded may be renegotiated during the rental period if the customer's needs regarding equipment change. Changes may be made in case of additions of rental equipment, reductions in rental equipment or replacement of rental equipment. Changes can be agreed with effect from the end of an invoicing term. Any change requires the conclusion of a new separate rental agreement, taking into account the remaining obligation existing from time to time under this present rental agreement. Moreover, the lessor's renewed individual credit approval of the customer and the new rental agreement is required.

#### **16 – Non-performance**

The lessor may terminate the rental agreement without notice and demand compensation for any loss suffered, including expenses borne by the lessor, in the event that the customer fails materially to fulfil his obligations under the rental agreement, including that:

1. the customer fails to pay rentals or any other payments due within eight days of the due day;
2. the customer goes bankrupt and the estate does not affirm the rental agreement and provide adequate security within eight days of being encouraged to do so;
3. the customer initiates an unreported suspension of payments or is placed under a reconstruction process, unless, with the reconstruction administrator's permission, a clarifying statement was timely given regarding the continuation of the rental agreement in accordance with the provisions of the Danish Bankruptcy Act (*Konkursloven*);
4. the customer fails to fulfil his obligations under another rental agreement or loan agreement entered into with the lessor;
5. the customer fails to maintain the rental equipment or fails to repair it properly;
6. the customer does not allow the lessor to inspect the rental equipment;
7. the customer fails to observe the provisions of clause 3(2) by removing the rental equipment from his business premises;
8. the customer fails to observe the provisions of clause 3(3) by letting a third party have full or partial use of the rental equipment;
9. the customer uses the rental equipment in conflict with current statutory provisions, directions and instructions applying to such use, or fails to obtain the required public authorisations;
10. the customer fails to take out and retain insurance policies in accordance with clause 12;
11. on being requested to do so, the customer fails to submit financial statements etc. in accordance with clause 13.

In the cases mentioned in sub-clauses (5)-(11) above, the rental agreement can only be cancelled if the breach remains unremedied eight days after the customer was requested in writing to remedy the breach.

#### **17 – Statement**

If the rental agreement is cancelled by the lessor or lapses due to the destruction or total loss of the rental equipment, or as a result of the cancellation of the purchase agreement, the customer is obliged to pay to the lessor:

- a. All outstanding amounts due, including rent and other payments owing plus interest and costs.
- b. All amounts not yet due, including rent for the remaining rental period, discounted to current value.

In the event of the customer's bankruptcy or reconstruction under the provisions of the Bankruptcy Act, the obligation to pay non-due rent during the remainder of the rental period applies to the extent that the lessor proves that such rent may be considered equivalent to instalment payments. Otherwise, these payments are subordinated.

The lessor is entitled, in advance, to cover his claim for subordinated rent in any deposit or other security provided and/or in the value of the rental equipment, should it be sold.

- c. The estimated residual value of the rental equipment at the end of the rental period, discounted to current value.
- d. Compensation for any further losses suffered by the lessor as a result of the customer's breach of contract and/or the termination of the rental agreement prior to the expiry of the rental period.
- e. Default interest at the rate of 2% per month or part of a month on the amount due from the customer to the lessor in accordance with points a-d above, as from the day of settlement until payment is made or credit is given; see below.

The amount claimed by the lessor is reduced by the net amount obtained by the lessor by re-renting the rental equipment for the remainder of the rental period; from the sale of the rental equipment; from payment of the sum insured; or from repayment of the purchase price. If the amount thus recovered exceeds the lessor's claim, the customer is not entitled to receive such excess amount.

If it proves impossible to sell or re-rent the rental equipment within four weeks of the date on which it was placed at the lessor's disposal, the lessor is entitled to base his claim on the net

amount estimated by an expert valuer appointed by the home court of the lessor to be the market value of the rental equipment, or to dispose of the rental equipment by auction.

#### **18 – Return of the rental equipment**

On expiry of the rental period or termination of the rental agreement, the customer must return the rental equipment, including software, to a place within the national borders of Denmark as specified by the lessor. The customer is obliged, at his own expense, to delete from the rental equipment data of any kind, including personal data. Failure to delete data is without responsibility for the lessor. The rental equipment may only be transported by a firm approved by the lessor.

The customer pays all costs related to transport.

If the rental equipment is not returned as stated above, the lessor is entitled, without notice and at the customer's expense, to dismantle and collect the rental equipment.

The customer has no lien on the rental equipment.

#### **19 – Remuneration of business partners**

In some cases, the lessor receives or pays commission or other remuneration when the lessor buys or brokers a business partner's products.

#### **20 – Force majeure, limitation of indirect losses, product liability etc.**

1. The lessor is released from any obligation to the customer as a result of circumstances that prevent the performance of the rental agreement or make performance unreasonably onerous, including industrial disputes and any other circumstance which the parties do not control, such as fire, war, mobilisation or military drafting to a similar extent, requisition, seizure, currency restrictions, rebellion and unrest, lack of means of transport, general scarcity of goods, natural disasters, fuel restrictions and defects in or delays of supplies from sub-suppliers, which are due to any of the circumstances mentioned in this paragraph. If the force majeure event lasts for more than 90 calendar days, the lessor is entitled to terminate the agreement by written notice with immediate effect without this leading to other claims between the parties, including compensation or damages.

2. The lessor can under no circumstances be made liable for business interruption loss, lost earnings or other indirect or consequential losses.

3. The lessor is only liable for injury to persons or damage to property as a result of defects in the rental equipment (product liability) to the extent that liability follows from mandatory statutory provisions. The lessor is not liable for damage to the customer's property or other property intended for commercial use (commercial property damage). In this connection, it is specified that the lessor is not liable for the customer's loss of data as a result of defects in the rental equipment.

#### **21 – Venue**

Any actions for claims arising out of the rental agreement can only be brought before the Copenhagen City Court.

The customer is obliged to join the lessor as a defendant/respondent at the court or arbitration tribunal to which the lessor may be summoned in disputes concerning or arising out of the rental agreement.

The legal relations between the parties are governed and construed according to Danish Law.

#### **22 – Assignment**

1. The lessor is entitled to assign or in any other way transfer his rights under the rental agreement as well as his title to the rental equipment. Such assignment will not release Canon Danmark A/S of any obligations under the rental agreement nor change its status as a financial rental agreement.

2. After the lessor's assignment of the rental agreement to, for example, Leasing Fyn Bank A/S and this company's possible subsequent reassignment to, for example, Leasing Fyn Faaborg A/S, Leasing Fyn Middelfart A/S or Leasing Fyn Svendborg A/S, the following applies in the relationship between the new lessor, to whom the rental agreement was assigned (in the following referred to as 'Leasing Fyn') and the customer:

- a. After the assignment, agreements on amendments to the rental agreement can only be made with Leasing Fyn as lessor. Such agreements must always be in writing to be valid.
- b. The customer can only pay rent and other obligations undertaken under the rental agreement to Leasing Fyn in full discharge.
- c. Before the conclusion of the rental agreement, the customer has selected the rental equipment and approved the supplier, brand, terms of delivery, specifications and the contents of the purchase agreement. Leasing Fyn is not liable for delays, non-delivery, actual or legal defects in the rental equipment, repairs of the rental equipment or lack of service. Leasing Fyn disclaims liability for any loss, including business interruption loss or other consequential damage that delay or defects in the equipment may cause to the customer. Regardless of the usefulness of the equipment, the customer must pay rent to the lessor when the equipment has been delivered. In compensation, Leasing Fyn assigns its powers in relation to Canon Danmark A/S and/or other suppliers, including any guarantees, to the customer on the terms mentioned below.

Should the customer find, after the assignment of the equipment, that the equipment was not contractual on delivery, the customer must complain to the supplier and/or Canon Danmark A/S without undue delay after the defect was found. The customer must notify Leasing Fyn about all matters of importance to putting through any claim; in any respect follow Leasing Fyn's instructions; and on request immediately leave it to Leasing Fyn to try to put through any claim on the customer's behalf.

In the event of defects, the customer is obliged to accept remedy from Canon Danmark A/S and/or other suppliers at Canon Danmark A/S' and/or other suppliers' expense, possibly by the equipment being replaced by other equipment of the same nature, usefulness and quality. However, the foregoing does not apply if the remedy will subject the customer to unreasonable expense or inconvenience.

If Canon Danmark A/S and/or other suppliers cannot be held liable for remedying, or if a defect cannot be remedied as mentioned above, instances of defects must be settled by a reduction in the purchase price of the equipment. Canon Danmark A/S and/or other suppliers must pay any amount of reduction obtained to Leasing Fyn. The future rent is adjusted for the reception of the amount of reduction in relation to the amount that Leasing Fyn actually receives from Canon Danmark A/S and/or other suppliers.

If the purchase agreement is cancelled, the purchase price accrues to Leasing Fyn, and a statement is made of the outstanding account between Leasing Fyn and the customer in accordance with clause 17. Compensation for delay and consequential damage is due to the customer.

The customer bears all costs in connection with advancing claims against Canon Danmark A/S and/or other suppliers.

d. The customer declares to Leasing Fyn that in relation to the lessor, the customer undertakes any risk of using the rental equipment, including also in relation to the Danish Working Environment Authority, health authorities and other public authorities.

e. In relation to Leasing Fyn, the customer is under all circumstances not entitled not to pay, in whole or in part, rent or other obligations undertaken under the rental agreement, including with reference to (but not limited to) delays, non-delivery, actual or legal defects in the rental equipment, repairs of the rental equipment or lack of service, set-offs of any kind whatsoever, or with reference to section 27 of the Danish Debt Instruments Act (*Gældsbrevsloven*) on the assignment of simple debt instruments.

3. By signing the agreement, the customer and the person(s) who sign the agreement approve that Leasing Fyn uses information about them and that such information will be communicated to enterprises that are part of the same group as Leasing Fyn as well as to Canon Danmark A/S. The information will be used for the sole purpose of administering this agreement.

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