

# GENERAL TERMS AND CONDITIONS OF XEROX AG

## RENT

*These general terms and conditions are for information only. The Xerox AG General Terms and Conditions in German or French apply.*

### 1 SCOPE AND APPLICATION

1.1 These General Terms and Conditions ("Terms") govern the conclusion, content and execution of rental agreements between Xerox AG ("Xerox") and the "Customer", hereinafter also referred to as "Tenant".

1.2 Xerox provides the Customer with the specified equipment ("Supplier Equipment") for use as a rented item for the agreed duration. Xerox acts both in its own name and in the name and on behalf of Xerox Finance GmbH. Maintenance of the Rental Goods is governed by the following provisions and, in addition, by the separate Xerox General Terms and Conditions of Maintenance "TERMS Maintenance".

1.3 Notwithstanding any provisions that may be interpreted to the contrary, the contractually agreed services are provided for the duration agreed in the individual contracts ("minimum duration").

1.4 No termination or cancellation is possible unless expressly provided for under this Agreement. The Customer's obligation to pay all payments due for the agreed equipment now and in the future is absolute and unconditional.

1.5 These General Terms and Conditions shall apply, unless in individual cases written agreements to the contrary are made in the contract. The customer's general terms and conditions of business or delivery shall not apply, even if reference is made to them in their offer or other associated documents.

### 2 OBLIGATION FOR MAINTENANCE BY TENANT/RENTER

2.1 The conclusion of a maintenance contract with Xerox or a Xerox Certified Service Partner is mandatory and is confirmed by signing the acceptance protocol / delivery note. The maintenance contract must be concluded in accordance with Xerox's specifications. The beginning and duration of such a maintenance agreement must coincide with the beginning and duration of this rent. Repairs and maintenance costs on the rental item are at the expense of the Tenant.

2.2 The agreed maintenance of the Rental Goods is based on Xerox's TERMS Maintenance.

### 3 DURATION AND COMMENCEMENT OF THE RENT

3.1 Minimum duration: The minimum duration is agreed in the individual contracts. In the absence of such an agreement, it is 48 months.

3.2 Duration: The agreed contract period begins: (a) For equipment to be delivered, on the first day of the month immediately following installation; (b) For equipment already installed, unless otherwise agreed in the individual contract, on the first day of the month immediately following the effective date of the contract. Upon expiration of the originally agreed term (fixed term), the Agreement shall be extended by twelve (12) months in each case, unless terminated in writing by one of the parties, giving ninety (90) days' notice, in each case to the end of the month. For

services provided to Customer by Xerox outside the term of this Agreement, the Parties agree that the provisions of the corresponding individual agreement, including these Terms, will apply.

### 3.3 Extraordinary termination:

a) By Xerox: Xerox has the right to terminate the Agreement without notice if Tenant fails to meet his or her payment obligations despite reminders and/or Xerox's property rights are affected or endangered in any way. In the event of premature termination of the contract, Xerox has the right to have the Rental Property collected immediately, to claim forfeited rent plus interest on arrears and to demand damages. The damages are calculated as follows: A deduction will be made from the total amount of rent due until the regular expiration of the contract: (i) a discount customary in the market and (ii) at the Lessor's discretion, the difference between the market value or the net realisation proceeds between the termination of the contract and the ordinary end of the contract for the Leasehold Item (the costs of repair and storage shall be borne by the Tenant). We reserve the right to claim further damages.

b) by the Renter: If Xerox repeatedly fails to meet its contractual obligations despite written reminders, Customer has the right to terminate the Rental Agreement in writing by giving ninety (90) days' notice to the end of a billing period.

c) by either party: if bankruptcy or composition proceedings are instituted against the other party. In this case, all individual contracts shall end simultaneously without further notice

3.4 Premature termination of rental agreements: In the event that the customer terminates the contract before the minimum term of contractually agreed equipment has expired or demands the removal of contractually agreed equipment or the contract is terminated by one of the parties, the customer agrees to (i) pay all unpaid rental fees for the contracted equipment; and (ii) pay early termination fees for each contracted equipment equal to the amount of rental fees that would have accrued between the termination date and the expiration date of the applicable minimum term for the contracted equipment, plus administration fees to be determined at the time of early termination.

3.5 Early termination of third-party software: Third-party software is provided for the minimum term. Termination or cancellation is not possible unless expressly provided for under this Agreement. In the event that Customer terminates or requests removal of Third-Party Software prior to the expiration of the Minimum Term, or the Agreement is terminated by either party, Customer agrees to (i) pay all unpaid license fees for Third-Party Software and (ii) pay early termination fees for each Third-Party Software in the amount of the license fee that would have accrued between the termination date and the expiration

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date of the applicable Minimum Term for the Third-Party Software.

#### 4. CONSEQUENCES OF THE TERMINATION

4.1 Upon termination or expiration of this Agreement, the following shall apply:

- a) The Customer shall pay that part of the fees that relate to services that have been provided or are to be provided before the termination date but have not yet been invoiced.
- b) The Customer shall pay the specified termination fees at the time of termination.
- c) On the termination date, both parties shall cease to use each other's Confidential Information and other data. At the request of the other Party, each Party shall return all Confidential Information and copies thereof in its possession to the requesting Party or, at the request of the other Party, shall permanently destroy such Confidential Information and prove that it has been destroyed accordingly.
- d) All licenses to use Intellectual Property granted (or procured for grant) by either party under this Agreement shall terminate on the respective termination date. If an extended license for Supplier Software for Supplier Equipment is requested, it will be treated separately.
- f) Customer will permit (or authorize) Xerox to have access to all customer locations (or other locations or premises where Supplier Equipment, Supplier Software, Xerox tools or Xerox customer tools may be located) for the purpose of removing Supplier Equipment, Supplier Software, Xerox tools or Xerox customer tools. Customer is responsible for the configuration of Customer's assets, including the network printing environment, printer drivers and any affected printer functionality, after removal of the Supplier software.
- g) Xerox will notify Customer of outstanding obligations of existing suppliers (e.g., payment of invoices) that will be transferred to Customer on the respective termination date.
- h) Customer will collect all unused consumables for supplier equipment at a single collection point for each customer site to enable Xerox to remove these consumables. If Customer fails or is unable to complete this task at or prior to removal of Supplier Equipment, Xerox has the right to (i) arrange for collection at Customer's expense at Xerox's then-current rates; or (ii) estimate the charges for these supplies and include them in the invoice for the services.

4.2 If the Agreement provides for partial termination, such as with respect to specific Services or Customer Sites, the provisions of this paragraph shall apply to the extent the Agreement is terminated as provided in the termination notice.

#### 5. SCOPE OF SERVICES

5.1 The rental fee includes

- a) Elimination of malfunctions and maintenance measures in accordance with the General Terms and Conditions for Maintenance;
- b) Repair or replacement of all equipment parts that cannot be maintained due to normal wear and tear;
- c) Helpline support (where available) in accordance with the TERMS Maintenance;
- d) Delivery of the standard consumables required for operation (excluding paper and other print media).

5.2 Unless otherwise expressly agreed in the contract, the following services are not included in the agreed scope of services:

- a) Services outside the agreed business hours;
- b) All print media, such as paper, foils and the like;
- c) All special toners ("Speciality Toners and Dry Inks"), and associated developers ("Developers"), except where agreed, the standard toners cyan, magenta, yellow and black;
- d) Repair of damage to the printing equipment caused by improper use, incorrect operation, improper change of location or other influences for which Xerox is not responsible, such as damage caused by the elements, influence of third parties (with the exception of third parties engaged by Xerox), use of improper consumables;
- e) Costs of a change of location;
- f) copyright fees, arising from the reproduction of protected content;
- g) Tasks that must be performed in accordance with the operating instructions for the equipment as if they were performed by Customer personnel instructed by Xerox;
- h) Maintenance outside Switzerland and the Principality of Liechtenstein and outside Xerox maintenance zones;
- i) Training and initial instruction on the pressure equipment; integration of the contractually agreed pressure equipment into the Customer's operating environment;
- j) General cleaning work in accordance with the operating manual.

#### 6. READY FOR MAINTENANCE

6.1 Unless otherwise specified, Xerox will provide the Maintenance Services during the currently valid standby times and maintenance zones within Switzerland and the Principality of Liechtenstein as notified (published) by Xerox.

6.2 Normal Maintenance Readiness:

- Monday through Friday (excluding national and regional holidays) between 08:00 a.m. and 5:00 p.m.

6.3 Special maintenance readiness:

- Extended or increased maintenance readiness according to separate agreement.

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### 7. DELIVERY, DELIVERY AND REMOVAL, RELOCATION

- 7.1 Delivery shall be made, if possible, on the date requested by the Tenant. However, delays do not constitute a right of withdrawal or a claim for damages on the part of the tenant. Costs of delivery and removal shall be borne by the Hirer.
- 7.2 The special tariffs to be agreed upon shall apply to special transports. Installation as well as initial instruction of the operating personnel shall be invoiced.
- 7.3 The Tenant shall provide the necessary installation requirements (electrical connections, air conditioning if necessary, etc.).
- 7.4 The Tenant will have changes to the location carried out exclusively by Xerox at the currently valid rates. Removals require the conclusion of a service agreement and are not included in the rental price. Relocation of the equipment location outside of the Xerox service zones and outside of Switzerland and the Principality of Liechtenstein is not permitted.

### 8. ACCEPTANCE

- 8.1 The Rental Goods shall be deemed to have been accepted by the Hirer upon signing the delivery note. If the signing of an acceptance protocol has been agreed upon, this protocol shall be valid in the sense of proof of acceptance. The commencement of operations shall in any case be deemed to be acceptance. Unless otherwise agreed, the connection of the contractually agreed pressure equipment to third-party systems shall be the responsibility of the Hirer. If defects are found during acceptance that do not significantly impair or make impossible the functionality and/or proper operation of the equipment or system supplied by Xerox, the equipment or system is deemed to have been accepted without any claim to a reduction, but subject to the reservation that the defect is repaired in a timely manner.

### 9. WARRANTY OF QUALITY

- 9.1 The devices are either newly built or generally overhauled according to the contract form.
- 9.2 Newly built products contain components which have been reconditioned in the manufacturer's works using parts which have been taken back. While Xerox places great emphasis on the principles of environmental protection, Xerox guarantees that, even when remanufactured components are used, new products will always fully meet new product requirements for performance, reliability, durability and all other specifications.
- 9.3 Reconditioned products have been fully inspected, refurbished and, where necessary, fitted with new or reconditioned components by Xerox. Reconditioned products have undergone extensive operational testing to verify their functionality.

### 10. LEGAL WARRANTY

- 10.1 Xerox warrants that its services do not violate any third-party property rights.
- 10.2 As soon as the Customer becomes aware of a possible infringement of property rights, he will inform Xerox. Customer will leave it to Xerox, within the scope of the applicable procedural law, to independently defend against the claim and settle it, provide Xerox with all available information and grant Xerox all support and authority to defend against such a claim, as well as not settling such legal disputes by way of settlement without Xerox's prior consent.
- 10.3 Xerox's liability for third party claims resulting from breaches of legal warranty is limited to claims that arise from legally enforceable court or arbitration awards, which were settled by Customer with Xerox's consent or whose existence was acknowledged by Xerox. Xerox will not contest claims that are obviously justified. Xerox will also reimburse Customer for reasonable attorney's fees arising from the above-mentioned court or arbitration proceedings. This is provided that Customer promptly notifies Xerox of the assertion of such a claim, grants Xerox the authority to independently defend against the claim and to settle it, provides all available information at Customer's expense and grants Xerox all support and authority to defend against such a claim and has not settled such disputes by compromise without Xerox's prior consent.
- 10.4 If the third party has obtained or threatens to obtain a prohibition against Customer from obtaining or using some or all of the Services, Xerox will, at its option, terminate the Agreement:
- a) replace the Services with other non-infringing Services;
  - or
  - b) adapt the services so that they no longer infringe the rights of third parties,
- This is, however, always provided that the contractually essential functionalities of the services are maintained and such replacement or adaptation is carried out without significant impairment of the customer's operational processes.
- 10.5 If neither a replacement nor an adjustment can be effected, the customer may extraordinarily terminate the corresponding service or partial service.
- 10.6 In addition, Xerox is not liable for infringement actions or claims resulting from the use of a computer system in conjunction with other systems, software or data not provided by Xerox.
- 10.7 Warranty for third-party Cloud Services: Only the warranty provisions agreed between Customer and the third party apply to third-party Cloud Services. Xerox excludes all warranties of title and non-infringement.

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### 11. PROVISION OF SERVICES BY THIRD PARTIES

11.1 Xerox is entitled to have services performed by third parties (subcontractors or auxiliary persons). It is responsible for the selection, instruction and supervision of the subcontractors.

### 12. OWNERSHIP / NOTIFICATION OBLIGATION

12.1 The pressure equipment is and will remain the sole property of Xerox for the entire duration of the Contract and/or individual contracts. Renting or otherwise transferring the pressure equipment to third parties is not permitted. During the term of the agreement, Customer shall ensure that any markings Xerox may have affixed to the pressure equipment as "Xerox" equipment are not removed. Customer will immediately inform Xerox in writing of all measures that could in any way endanger Xerox's ownership rights to the pressure equipment.

12.2 Except as provided in this Agreement, neither party shall acquire any rights, title or interest in the other party's Intellectual Property or its licensors.

### 13. COPYRIGHTS / PROTECTION OF THE LICENSED SOFTWARE

13.1 Subject to the application of Xerox's applicable Software & SaaS TERMS, Tenant is only entitled to the rights of use expressly granted by contract. The copyrights remain with Xerox or third parties. Licensee may not remove or alter any notices of confidentiality, ownership or copyright notices on a Licensed Product or the carrier media.

### 14. INSURANCE OBLIGATION

14.1 The customer shall bear the risk of loss or damage to the pressure equipment from the time of delivery. He shall insure the pressure equipment for this period at his own expense against the risks of fire, water, burglary, theft and force majeure at replacement value. Xerox is entitled to request proof of appropriate insurance coverage for the Pressure Equipment at any time.

### 15. LIABILITY

15.1 Each party shall be liable to the other party for the direct damage caused to the other party by culpable breach of this contract.

15.2 The liability for damages of the other party caused by intentional or grossly negligent breach of contract is unlimited. In all other cases, liability for damages caused by or in connection with this contract is (a) unlimited for personal injury and (b) for other damages, limited in total to the fee paid by the customer under this contract within six (6) months before the occurrence of the damaging event, but in any case to a maximum of CHF 1 million.

15.3 Notwithstanding the foregoing paragraphs, any liability arising out of or in connection with this Agreement for indirect or consequential damages, such as loss of profit,

business interruption or loss of data, is excluded to the extent permitted by law.

15.4 The Customer is liable for all damages caused to Xerox as a result of the use of the agreed Rental Goods in a manner contrary to care or instructions. Customer is liable for damage to the Rental Goods in accordance with the law and without application of sections 15.2 and 15.3 of these TERMS.

15.5 In the case of third-party cloud services, only the liability provisions agreed between the Customer and the third party shall apply. Xerox excludes all liability for third-party cloud services.

### 16. INVOICING / TERMS OF PAYMENT

16.1 Subject to any provisions to the contrary, (a) the basic fee for the rental will be invoiced quarterly in advance and (b) the variable maintenance fee for the effective subsequent clicks will be invoiced and charged after the end of a quarter. For the month of installation, the calculation is made proportionately according to calendar days from the date of installation.

16.2 Both Xerox and Xerox Finance GmbH may invoice you. Xerox or Xerox Finance GmbH may request that invoice amounts be collected by direct debit.

16.3 The Customer shall pay the agreed-upon fees when due without any deductions or set-off. The prices quoted are exclusive of value-added tax. Unless otherwise expressly agreed, the prices do not include, in particular, customs and tax duties, fees and costs for packaging, delivery, transport, insurance of the equipment until delivery to the location designated by the Customer, unpacking, training and removal on termination of the contract. The early SWICO take-back, recycling and disposal fee (vRG) is included in the prices.

16.4 Invoices are due for payment within thirty (30) days of the invoice date. The invoice shall be deemed to have been accepted if no written objection is made to it within 10 days of the invoice date. Complaints must be made in writing, along with a copy of the invoice, to the contact address listed on the Xerox invoice.

16.5 Where applicable, Customer agrees to provide meter readings in the manner prescribed by Xerox. If Customer does not provide meter readings for supplier equipment or existing systems that do not support Remote Access, or if Remote Access is interrupted, Xerox has the right to estimate the meter readings in question and bill Customer accordingly.

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### 17. LATE PAYMENT

17.1 Upon the due date, the tenant shall be in default without further notice. A default interest of 5% per annum shall be charged for late payment. In addition, a further CHF 25.00 shall be charged per reminder and a further CHF 35.00 per registered letter. Collection fees will be charged additionally on a time and material basis, but in any case, at least CHF 150.00. We reserve the right to assert any further damage caused by delay.

### 18. PRICE CHANGES

18.1 **Ordinary Price Adjustment:** The prices agreed between the parties may be increased by 5% after the expiry of 12 months from the commencement of the Contract at the beginning of each subsequent Contract Year. However, if the Swiss Consumer Price Index (*schweizerischer Konsumentenpreisindex*) ("CPI") has increased by more than 5% during the same period, Xerox shall be entitled to increase the agreed Service Fee and other agreed remuneration in line with the increase in the CPI. No prior notice of the price increase shall be required and such price increase shall not constitute grounds for early termination of the Contract by the Customer.

18.2 **Extraordinary Price Increases:** Xerox further reserves the additional right, independent of the ordinary price adjustments, to change the charges agreed in this Agreement upon three months' prior notice, commencing on the first day of the following month. If Xerox announces such a price change, the Customer may object to such price change in writing by registered letter giving one month's notice. The period shall commence on the date of delivery of the relevant communication from Xerox. In the event of a timely objection, no such extraordinary price adjustment will be made. If no such objection is made, the new prices will apply to this Agreement as of the effective date specified in the notice, and Xerox will indicate this in the notice. Such notification shall not constitute grounds for early termination of the Contract by the Customer.

### 19. EXPORT CONTROL

19.1 The Customer undertakes to comply with all applicable export control regulations in connection with the import, export and re-export of pressure equipment, software or other services under this contract, in particular the relevant regulations of the US Department of Commerce, the US Department of Treasury and the US Department of State.

### 20. DATA PROTECTION

20.1 The contracting parties are subject to the federal and cantonal data protection laws and their implementing ordinances. The contracting parties are aware that the performance of the contract may lead to the inspection or processing of personal data. Xerox shall take appropriate organisational, technical and, if necessary, contractual precautions to ensure data protection or third parties commissioned by Xerox.

20.2 As a general rule, the Customer is the owner of Personal Data in the legal sense. If further data protection regulations such as the EU-DSGVO are to be complied with, it is the Customer's responsibility to issue Xerox with appropriate instructions in the contract.

20.3 Within the framework of the contractual relationship with the Customer, the processing of personal data is also required. The Customer consents to this and agrees that Xerox may disclose such data to third parties, e.g. affiliated companies, suppliers, specialist dealers, service organisations, subcontractors, forwarding agents, credit institutions, etc. in Switzerland or abroad, in connection with the processing and maintenance of the business relationship.

20.4 The parties undertake to comply with the applicable data protection provisions and to process data with due care. Personal Data may be used by Xerox or by third parties engaged by Xerox in particular in the following ways: a) to verify the conditions for the conclusion of a contract, b) to fulfil contractual obligations towards the Customer, c) to maintain and develop the Customer relationship and to monitor usage behaviour, d) to validate addresses, e) to issue invoices, f) for financing and collection purposes, g) to prepare creditworthiness and credit reports or h) for the provision of services by Xerox or its auxiliary persons.

### 21. WRITTEN FORM

21.1 Amendments and supplements to the contract must be agreed in writing.

21.2 Xerox may enable the possibility of digital signature and shall separately specify the necessary technical requirements for this purpose.

### 22. APPLICABLE LAW AND PLACE OF JURISDICTION

22.1 Swiss substantive law shall apply, excluding the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980.

22.2 Exclusive place of jurisdiction is Zurich ZH, Switzerland. Xerox reserves the right to bring proceedings before other competent courts.

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