

# SERCEL S.A. (Metrolog Business Unit) – Product Lease (short term) Conditions

## 1. Scope of Application

The present conditions ("Conditions") shall together with Sercel's proposal ("Proposal") govern the lease of products ("Products") made by Sercel Metrolog Business Unit ("Sercel"), unless other conditions have been agreed upon in writing by Sercel. Therefore, the Conditions and the Proposal supersede any other documents relating thereto, including Lessee's conditions. Lessee elects to enter and be bound by the Conditions and the Proposal. Any modification to the Conditions and/or the Proposal is not binding or enforceable unless agreed in writing by Sercel. In case of discrepancies between the Conditions and the Proposal, the latter will prevail.

## 2. Formation of the Contract

Unless otherwise stated in the Proposal, the Proposal remains in full force and effect for a period of thirty (30) days from its date. If no lease order from Lessee is received by Sercel by or on the expiration date of the Proposal, the Proposal shall be deemed cancelled. Binding contract will be deemed entered into only upon Sercel's written acknowledgement of the written or oral order ("Acknowledgement") and upon, unless otherwise agreed in the Proposal, receipt by Sercel of the following documents: (i) export licences and all other authorisations, if any; and (ii) approvals/authorisations from Lessee's country authorities for the payments outside such country in foreign currency.

## 3. Cancellation of lease Order

Should the Lessee cancel partly or wholly a lease order, without any prejudice to any other of right Sercel may have under these Conditions or at Law, Sercel is entitled to charge to the Lessee (i) rental charges for Products already delivered.

## 4. Drawings and Data

All information supplied by Sercel regarding weights, sizes, performance and technical information of any kind in brochures, circulars, advertisements and price list are approximate and shall be taken as generally representing the Products. Sercel shall be entitled to modify the Products descriptions and specifications and to replace prior to delivery, any part, element or component thereof by any other having substantially similar technical specifications.

## 5. Delivery and Time of Delivery

Unless otherwise agreed, the Products rented by Sercel are delivered "EXW Sercel premises" (EXW- Incoterms 2000). Whatever the delivery conditions, the Incoterms of the International Chamber of Commerce (Edition 2000, publication n°5600) shall apply. Unless otherwise agreed in the Acknowledgement, the delivery date set forth in Sercel's documents is always indicative, and, therefore, is not binding Sercel and does not allow termination of the order or damages in case of delay whatsoever. Delivery date is always compounded from the effective date of the Acknowledgement as defined in item 2 hereof. Partial deliveries are permitted. Sercel is entitled to suspend any delivery should Lessee do not fulfil any terms and conditions of the Conditions or the Proposal. If Lessee fails to take delivery of the Products when notified by Sercel that the same are placed at its disposal at the place and time specified by Sercel, the Lessee shall nevertheless make payments of the rental charges in accordance with the Acknowledgement. Sercel shall, in such case, charge Lessee all additional charges and costs for storage, handling and insurance, incurred as a result of Lessee's failure. If the Lessee has not collected the Products within fourteen (14) days from the notice given by Sercel to Lessee, Sercel may terminate the lease Order, without liability to Lessee and without prejudice to any other remedy available to Sercel. Any and all shortage in the delivered Products must be notified by Lessee to Sercel within fifteen (15) days from the delivery date. Products are always delivered in the packing usually used by Sercel.

## 6. Rental charges

Unless otherwise stated in the Proposal, the rental charges set forth in the Acknowledgement are firm and no subject to revision for the duration of the initial lease. However, Sercel is entitled to revise the rental charges in case delivery is suspended or delayed due to Lessee's breach of its obligations hereunder. All rental charges are EXW (or for the agreed Incoterms). Rental charges exclude packing and handling charges, transportation and freight costs, costs of all documents which may be required by the laws of the country of destination including but not limited to consular fees, bills of lading, translated documents. All these additional expenses will be charged to Lessee with a 10 % surcharge for additional administrative costs and expenses. Rental charges include Sercel's French profit taxes and exclude any other tax, duty, deduction in connection with the operations under this Contract and which are due in any country (including but not limited to value added tax (VAT), turnover tax, sales tax or similar taxes, customs duties or withholding taxes). If such taxes (including but not limited to all property taxes, excise taxes, sales and use taxes or other assessments related to the possession and use of the Products) are applicable, they shall be paid separately by Lessee and in addition to the rental charges stated in the Acknowledgement. Rental charges are calculated per week, defined as 7 (seven) consecutive calendar days, whatever the value of the delivered Products is. The rental charges shall apply from the day the Product reaches Lessee's country (or Lessee's town if the rental takes place in the EC) and stops the day it reaches Sercel premises in Toulouse.

## 7. Payment

Rental charges are payable at reception of the invoice. An invoice is issued at the end of the rental period or, for long duration rentals, at the end of each month and then at the end of the rental period. Payments will be made in the currency and according to the terms stated in the Proposal or the Acknowledgement, within thirty (30) days from the invoice date and without any discount or rebate for any cause or reason whatsoever. The rental charges have to be paid to Sercel whatever the results. If Lessee fails to make timely payments, Sercel shall be entitled to charge Lessee interest from the agreed payment date until payment is actually made, at a rate equal to 3 (three) times the French legal interest rate in force at the delivery date. In case the payment conditions are not fully respected by Lessee for any delivery, Sercel shall be entitled to suspend all deliveries and any and all amounts due by Lessee in consideration of any and all other deliveries shall become immediately payable, without prejudice to Sercel's right to damages. Any dispute regarding Sercel's invoices must be sent by Lessee to Sercel within five (5) days from the date of receipt of the invoice.

## 8. Title

Sercel retains at any time full ownership of the rented Products and Lessee shall have no right, title or interest therein. In no event will the Product be deemed to be an accessory of other equipment or machinery of Lessee or a component part or fixture of any piece of real property. Lessee, at its expense will protect and defend Sercel's title to the Product and will keep the Product free and clear from any and all claims, liens, and encumbrances. Lessee will make no claim or assert any right to any such Product inconsistent with Sercel's ownership.

The Lessee shall not lease, sublease, mortgage or otherwise encumber or part with possession of the Product or any part thereof. Neither this contract nor any interest herein is assignable or transferable by operation of law.

In case of non-payment of the rental charges at the due date, Sercel shall be entitled to demand the return of the Products at the costs and to the risks of Lessee. In addition thereto, Sercel shall have the right to take possession of all or any part of the Products in Lessee's possession or control relating to the Products and may lawfully and without breach of the peace enter upon any premises upon which any of the Products are situated and remove the same therefrom without any liability for trespass or damages thereby occasioned unless arising out of Sercel's gross negligence or wilful misconduct. Any provisions in contradiction to the present provisions shall be deemed null and void.

## 9. Software

In case an operating system or software is incorporated into the Products, Sercel grants to the Lessee, for the duration of the lease only, a personal, non-exclusive and non-transferable licence to use the object code version of the system/software solely in connection with the lease of the Products and for Lessee's internal use. Unless otherwise provided in the Proposal, the above license shall not include any obligation on the part of Sercel to provide Lessee with any updates of such operating system or software or any technical support with respect thereto. Lessee shall not perform any reverse engineering on the Software nor more generally on the Products.

## 10. Advises Recommendations - Use and location of the Products

The advises and recommendations which may be provided by Sercel in connection with Products' use are provided by Sercel according to its best know how and belief based upon its experience and without any guarantee of any kind whatsoever since Lessee is free to use or not such advises and, therefore, damage claims shall be precluded. The foregoing paragraph shall apply to any kind of assistance provided by Sercel for the use of the Products.

Lessee shall use the Product solely in the conduct of Lessee's business. Lessee shall use the Product in a careful, prudent and proper manner and in accordance with all pertinent laws and regulations, all applicable insurances policies; if applicable, the specific instructions of Sercel.

Except as otherwise provided for in this Contract, the Product shall not be removed from the possession of the Lessee without Sercel's prior written consent. At the end of the lease period, the Product will be returned in good, satisfactory and safe operating condition and appearance as when received, reasonable and normal wear and tear only excepted, to the point specified in the Proposal at Lessee's expense, or to such other location as the Parties shall mutually agree. Any expense required to restore the Product to the condition at the start of the lease, normal wear and tear excepted, shall be borne by the Lessee. Reasonable and normal wear and tear shall mean deterioration, which occurs without negligence, carelessness, accident, or abuse as determined by Sercel.

## 11. Risks

Notwithstanding any other provisions, the risks over the Products are transferred to Lessee while under Lessee's custody, in accordance with the Incoterm specified by Sercel. If delivery is delayed due to Lessee or due to the common carrier appointed by Lessee, risks are transferred when Products are ready for delivery. Any damage to or loss of the delivered Products occurred prior to delivery or during transport must be stated on the delivery note countersigned by Sercel or by the common carrier, as the case may be, and confirmed by a registered letter sent to Sercel or the common carrier (with a copy sent to Sercel), as the case may be, within three (3) days from the delivery date or within such shorter period and under such other form required by the applicable laws and regulations. Failure for Lessee to strictly adhere to the provisions herein stated shall be deemed an absolute and irrevocable waiver of any claim regarding such loss or damage. Any claim or action against the carrier has to be carried out by Lessee under its sole responsibility and at its costs.

Lessee shall, at its sole expense, maintain in full force and effect (i) an "all risk" insurance policy insuring the Product against loss or damage and more generally against all risks (including, without limitation, theft or fire), with coverage limits in an amount not less than the full replacement value of the Product without deduction for depreciation; and (ii) commercial general liability insurance ("Liability Risks") with respect to personal injury, death, or property damage relating to the Product, with minimum limits of coverage to be not less than \$ 1,000,000 (one million US dollars) combined single limit per occurrence and \$ 10,000,000 (ten million US dollars) in the aggregate. The all risk policy shall name Sercel and its assigns as sole loss payee.

The risks over the Products shall be transferred back from Lessee to Sercel, in accordance with the agreed applicable Incoterm, at the end of the lease period.

## 12. Defective or non-conform rented Product

Sercel shall, within a reasonable period of time, at its sole option, either repair or replace the defective or non-conform rented Product, part or component. Lessee shall strictly follow Sercel's instructions concerning the defective or non-conform Products. Repair of a defective or non-conform rented Product is for Sercel account when the failure is not caused by an external event and if the defective or non-conform rented Product has been used as per its specifications. Even in this case, transport from Lessee's country or town to sercel premises (Toulouse) and all charges in the Lessee's country (including customs duties) are for Lessee's account. In all other cases, repair, calibration and all related costs are for Lessee's account. Maintenance is always for Lessee's account.

In no event shall Sercel be liable for delays, curtailment of operations, pollution, loss of profits, cost of dismantling and removal of Product to be repaired or replaced, . If on site assistance is provided by Sercel upon mutual agreement, travel and living expenses of Sercel's technicians shall be borne by Lessee. All claims shall be made within five (5) days after the Lessee learns to the facts giving rise to the claim. Failure for Lessee to strictly adhere the provisions herein above stated or to give notice of any claim within applicable time period specified above shall be deemed an absolute and irrevocable waiver of such claim. Repair or replacement is excluded for consumable and items subject to normal wear and tear (such as plugs, spark gaps, fuses, ..). No repair or replacement shall apply in case the Products are used outside their normal use conditions or in case of lightning, misuse, defective maintenance, negligence, fault, repair, modifications or replacement by Lessee or a third-party, or connections to equipment non-approved by Sercel, or to the extent that Lessee integrates any uncertified or unapproved component, assembly or sub-assembly into such Product. Sercel makes no other representation or warranty of any kind, express or implied, as to the merchantability, use, performance, application or fitness for particular purpose or use of the rented Products. In particular, Sercel does not warrant the results obtained with the Product or that the Product is fit for purpose. Equipment, consumable and services costs are payable in full, regardless of the results obtained and shall not give rise to any right of withholding or set-offs on the part of the Lessee. Sercel provides Product for measuring parameters of a high quality but, since measurements may be subject to error or to events beyond its control, Sercel cannot and does not warrant the accuracy or correctness of any such measurements. In addition, the interpretation of these measurements is the sole responsibility of the Lessee. Sercel shall not be responsible for any loss or damage arising from, incidental to or connected with the use of such measurements and the Lessee agrees to indemnify and hold Sercel harmless from and against any and all claims arising out of the use of such measurements.

## 13. Force majeure

If the performance by Sercel of any of its obligations is prevented, restricted or interfered by a force majeure event such as riots, labour disputes, governmental decree or act, unavoidable accidents at its facilities, by act of God, or of a public enemy or any other act beyond its reasonable control, Sercel upon giving a prompt notice to the Lessee shall be excused from such non performance to the extent of such prevention, restriction or interference.

## 14. Import - Reexportation

Lessee is solely responsible for obtaining the necessary import licences and any other official authorisations and to carry out all customs formalities necessary and for paying all associated costs, taxes and duties. Products delivered under export licence or indicated as being subject to an export licence may not be exported without the authorisation of the countries to which the Products were initially delivered. Use or export of the Products in or to certain countries may be restricted or prohibited by national or international rules. Lessee has to inform himself about such restrictions and prohibitions and shall be responsible in case of breach of such rules.

## 15. Repairs at the end of the lease period

Lessee shall be responsible for any loss or damage to rented Products. All Products returned to Sercel at the end of the lease period shall be subject to inspection, and all repairs shall be invoiced to the Lessee at the then current price list. The repairs must be paid by Lessee to Sercel at reception of the invoice. A Product damaged beyond repair, or even lost, shall be paid in full to Sercel as per the relevant price list for brand new items.

## 16. Liability

Lessee shall indemnify, hold harmless and defend Sercel from and against any liabilities, claims, demands, proceedings, damages, arising directly or indirectly out of or as a consequence of (1) death or illness of or injury to any third party including its employee, servant or agent or (2) loss of or damage to any of equipment or property, howsoever caused including the negligence or breach of statutory duty by Sercel or (3) any damage to wells, holes, pipelines or natural reservoirs, loss of control of a well, blowout, crater, well fire or seepage which may cause surface and/or subsurface loss or damage, including but not limited to pollution and costs of control and removal thereof, regardless the cause thereof including negligence or breach of duty of Sercel.

Consequently, in respect of such death, illness, injury, loss or damage, Lessee waives any right of recourse against Sercel and shall request its insurers to waive their right of recourse and subrogation accordingly. For the purpose of the present article, Lessee shall include the Lessee, its client(s), their respective affiliates, co-venturers, contractors and sub-contractors and the employees, agents and directors of said persons or entities.

In no event, shall Sercel be liable for direct, special, indirect and consequential or punitive damages, whether material or immaterial (such as, but not limited to loss of profit or anticipated profits or revenues, loss of sales or data, contract, production, or bargains, interruption of business, damage to goodwill or loss due to any delay) howsoever caused including without limitation breach of contract (negligence included), breach of warranty, breach of duty (statutory duty included), tort or otherwise even when Sercel has been advised of the possibility of such damages. In any case whatsoever, Sercel's aggregate liability, whatever the grounds thereof, shall be limited to 30% (thirty percent) of the related rental charges of the Products actually paid by Lessee to Sercel. Sercel's rental charges are determined on the basis of the limits on Sercel's liability as set out above.

## 17. Miscellaneous

Contract between Sercel and Lessee shall be construed and interpreted according to French laws. All the disputes or differences that may arise in connection with to contract between Sercel and Lessee shall be finally settled under the

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Rules of Arbitration of the International Chamber of Commerce by one (1) arbitrator (or 3 (three) arbitrators if the Parties so agree) appointed in accordance with the said rules. The arbitration proceedings shall be held in Paris (France), in the English language (unless the Parties otherwise agree in writing beforehand). The award rendered by the arbitrator(s) shall be final and binding. However, disputes regarding payment of overdue invoices may be, at Sercel's option, within the jurisdiction of the Tribunal de Commerce of Nantes (France). Any failure by either Party at any time to enforce or require the strict enforcement of any of the provisions of the Contract shall not constitute a waiver of rights, and shall not affect the right of such Party at any time to avail itself of same.

### **18. Lease period**

The lease period shall commence on the date the Product leaves Sercel's premises and shall continue until the Sercel has terminated this contract or the Product is returned in good operating conditions to Sercel's premises (Toulouse) and accepted by Sercel, whichever first occurs. Unless otherwise stated in the Proposal, the minimum term of the rental is 2 (two) weeks starting from the date the Product leaves the Sercel's premises..

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