



Terms and Conditions for Sale, Hire or Loan

1. DEFINITIONS AND LAW

- 1.1 "The Company" shall mean EMERGING LIMITED, also trading as Merging UK.
- 1.2 "The Equipment" shall mean goods, components, and other items sold, hired or loaned by The Company, or any part thereof.
- 1.3 "The Customer" shall mean the person, firm, corporate or public body hiring or purchasing The Equipment. Any person purporting to act on the behalf of The Customer shall be bound by the contract.
- 1.4 "Consequential loss" shall mean loss of profits, contracts or other consequential loss or damages whatsoever.
- 1.5 "Interest" shall mean interest calculated in accordance with clause 4.1.
- 1.6 "Customer data" shall mean any data proprietary to The Customer, their business or application and/or not associated with the system operation of The Equipment.

2. TERMS FOR HIRE OR LOAN OF EQUIPMENT

2.1 CHARGES

- 2.1.1 Hire charges commence from the date stated in the contract and are payable for the period of hire.
- 2.1.2 Equipment must be returned by 12 noon on the date specified in the Contract in a clean and serviceable condition and The Customer must obtain the supplier's receipt.
- 2.1.3 Additional charges accrue at the full daily rate together with consequential loss in the event of the breach of these conditions or The Equipment not being available for use by other Customers.
- 2.1.4 All cables must be returned to The Company. The Company reserves the right to make a reasonable charge for cables missing or returned in poor or untidy condition.
- 2.1.5 The Company provides consumables such as fuses with equipment where appropriate. These and consumables replaced must be returned with The Equipment and in default, their full replacement cost will be charged.
- 2.1.6 All charges are payable on demand.

2.2 HIRE PERIOD

- 2.2.1 The hiring period commences at 12 noon on the date specified in the contract and continues for the period specified in the Contract and terminates at 12 noon on the last day of the hiring period.

2.3 POWER TO ENTER THIS CONTRACT

- 2.3.1 The signatory to the contract warrants that they are duly authorised on The Customer's behalf to enter into the Contract and hereby personally indemnifies The Company against all losses and costs that may be incurred by The Company if this is not the case.

2.4 CUSTOMER'S RESPONSIBILITIES

- 2.4.1 The Customer's responsibilities for The Equipment commences on receipt of The Equipment by The Customer or his agent or on delivery and ends when The Customer is in possession of The Company unqualified receipt for the return of all The Equipment.
- 2.4.2 The Customer shall not at any time sell, dispose or otherwise part with control of The Equipment to do so.
- 2.4.3 The signatory for the contract and The Customer jointly and severally undertake with The Company that everyone who uses The Equipment has been properly instructed in its safe and proper operation and will ensure that every user is in possession of necessary instructional material and further will not allow The Equipment to be misused.
- 2.4.4 The Customer will at all times fully indemnify The Company against any expense liability financial loss claim or proceedings whatsoever in respect of any personal injury or damage to, or any loss of any property arising out of or in connection with the delivery, hire, use, non use, repossession, collection, return or non return of The Equipment.
- 2.4.5 Nothing in this clause shall affect the statutory rights of The Customers or purport to exclude any liability, which may not be excluded under the Unfair Contract Terms Act 1977.

2.5 ELECTRICAL EQUIPMENT

- 2.5.1 Any electrical equipment must be used with plugs and/or sockets as fitted.
- 2.5.2 If other plugs or sockets are to be fitted by The Customer such work shall be carried out by a competent person who shall also reinstate the same to the original condition prior to redelivery.
- 2.5.3 The Customer shall be responsible at all times to arrange a proper supply of electricity for use with The Equipment and ensure that The Equipment shall at all times be properly earthed.

2.6 EQUIPMENT MAINTENANCE AND REPORTING

- 2.6.1 The Customer shall ensure that The Equipment remains serviceable and clean during the hire period.
- 2.6.2 Any breakdown or unsatisfactory working of Equipment shall be immediately notified to The Company.

- 2.6.3 The Customer shall under no circumstances attempt to repair The Equipment without prior authorisation from The Company.

- 2.6.4 Any damaged or unsatisfactory Equipment must be returned to The Company's premises for examination at The Customer's cost.

- 2.6.5 If The Equipment is involved in any accident resulting in damage to either The Equipment or other property or injury to any person The Customer shall notify The Company immediately.

- 2.6.6 Equipment must not be removed from any site originally specified by The Customer or from any subsequently authorised site without prior consent of The Company.

2.7 COMPATIBILITY OF EQUIPMENT

- 2.7.1 The Customer shall ensure that The Equipment is compatible and may safely be used with any other equipment being used by The Customer.

- 2.7.2 The Customer shall be responsible for ensuring that any Equipment is suitable for their purposes.

2.8 INSURANCE

- 2.8.1 The Customer agrees to pay The Company the full retail cost of any Equipment lost, stolen or damaged beyond economic repair during the Hire or Loan.

- 2.8.2 The Customer shall insure the goods against the above liability.

- 2.8.2 All monies received by The Customer from any insurance company or third party in settlement of any claim shall be held in trust by The Customer and paid to The Company on demand, to the extent that any such payment is due under this clause.

- 2.8.4 The Customer shall not compromise or settle any claim without the express consent of The Company.

- 2.8.5 In the case of The Equipment, which is lost, stolen or damaged beyond economic repair, The Customer shall pay a charge at the full daily rate together with interest with consequential loss until The Equipment is replaced.

2.9 CONDITION OF RETURNED EQUIPMENT

- 2.9.1 The Customer is fully responsible for care, safekeeping and return in good order of The Equipment.

- 2.9.2 The Customer will reimburse all costs incurred by The Company in rectifying the condition of The Equipment returned damaged or unclean and shall in addition, pay a charge at the full daily hire rate until rectification.

- 2.9.3 The Customer is responsible for the removal and making copies of any data or media files associated with their use, such as audio recordings, prior to the end of the hire period. On return of The Equipment from Hire or Loan The Company shall permanently remove any such files and shall not make copies.

2.10 TERMINATION OF HIRE OR LOAN

- 2.10.1 The Company shall be entitled to terminate the contract with immediate effect and to repossess The Equipment if at any time;
- o The Customer is in breach of these terms; or
 - o The Customer shall take any steps, or if any act or proceeding is commenced in which The Customer's solvency is, in the reasonable view of The Company, in doubt.

- 2.10.2 The Customer hereby authorises The Company to enter any property which The Company reasonably believe any equipment to be and The Company in their absolute discretion, may recover and remove The Equipment.

- 2.10.3 The Customer hereby authorises The Company (notwithstanding any subsequent instruction to the contrary after the date of the commencement of the Contract) to deduct any sums properly due to The Company arising under the breach of these terms from any credit card debit card or charge account details of which are in the possession of The Company.

3. TERMS OF SALE

3.1 RISK IN TITLE

- 3.1.1 The risk in The Equipment shall pass to The Customer immediately on delivery to The Customer at the address shown for delivery on the contract or if The Customer collects, on collection.

- 3.1.2 Property and title in The Equipment shall remain vested in The Company and The Company reserve the right to dispose of The Equipment until such time as the price shall have been paid in full.

- 3.1.3 If any part of the payment is overdue or if the customer is in breach of any of these terms, or if The Customer, or any third party, shall take steps or any act or proceeding, in which, in the reasonable view of The Company, The Customer's solvency is in doubt, The Company may (without prejudice to any of The Company's other rights) recover or resell The Equipment and may enter upon The Customer's or any third parties property for that purpose.

3.2 RECEIPT

- 3.2.1 The Customer or any duly appointed person on behalf of The Customer shall receive and unload The Equipment and shall check the same for quantity and condition in the presence of The Company's carrier.

- 3.2.2 Any shortage or unsatisfactory equipment shall be endorsed by The Customer or a duly authorised person on behalf of The Customer on the delivery document and The Customer shall give written confirmation to The Company within 3 days.

- 3.2.3 No claim in respect of shortage of or unsatisfactory condition of The Equipment shall be entertained by The Company unless clause 3.2.2 is observed.

- 3.2.4 This condition does not affect the statutory rights of The Customer.

3.3 PRICE

- 3.3.1 Where account facilities have been granted to The Customer in writing payment of all invoices must be received within 30 days of invoice date.

- 3.3.2 Where no such facilities have been granted, payment will be with order or where previously agreed on delivery.

- 3.3.3 For the avoidance of doubt, payment is deemed as received when cleared funds are present in The Customer's bank account.

4. CONDITIONS APPLICABLE TO HIRE, LOAN AND SALE

4.1 PAYMENT AND INTEREST

- 4.1.1 Where payment is not received by the due date, The Company will be entitled to interest on the amount that is overdue at Barclays Bank plc base rate prevailing for the period for which such monies are overdue together with 4% calculated on a day to day basis compounded with quarterly rests.

- 4.1.2 The payment of such interest shall be without prejudice to any other rights or remedies of The Company.

- 4.1.3 Any legal or other charges incurred in the recovery of money or equipment shall be paid by The Customer.

- 4.1.4 Notwithstanding any provision in these terms of business to the contrary The Customer shall, if required by The Company, pay such sum on account of the hire charges or price of goods and or services shall be agreed at the time of placing the order.

4.2 LIABILITY

- 4.2.1 The Company's liability for any defect in The Equipment shall be limited to and in no case exceed:-

- Any manufacturers warranty sold with The Equipment; or if there shall be none

- Replacement or repair of the defective equipment where appropriate under a support arrangement between The Company and The Customer

- 4.2.2 Consequential Losses. Nothing in these terms shall make The Company liable for any consequential loss to The Customer including any expense liability loss claim or proceeding whatsoever caused by or arising out of late delivery, non delivery, unsuitability, incompatibility, data loss or unlawful repossession of The Equipment or any part thereof or any breakdown or stoppage of the same.

- 4.2.3 Customer Data. The Company shall not be liable for any loss of data associated with the business of The Customer, such as audio recordings. Prior to returning The Equipment to The Company for any reason then The Customer shall be responsible for making data copies and for the removal of data from The Equipment as necessary to meet The Customer's requirements for data security.

4.3 INJURY TO PERSONS AND DAMAGE TO PROPERTY

- 4.3.1 Subject to 4.2 above, The Company shall not be liable for any loss other than that which directly arises from any injury to persons or damage to tangible property where, and only to the extent that such injury or damage is caused by any defect in The Equipment and where such defect is caused by the negligence of The Company.

4.4 RIGHTS RESERVED

- 4.4.1 Any failure by The Company to enforce any or all of these conditions shall not be construed as a waiver of any of The Company rights hereunder

- 4.4.2 If any term in this contract shall be held invalid, such invalidation shall not affect the validity of the remaining terms

4.5 TERMS OF CONTRACT

- 4.5.1 These conditions have effect in substitution for and to the exclusion of any condition put forward by The Customer.

- 4.5.2 By purchasing Merging Technologies SA software products from eEmerging Limited The Customer agrees to software Terms and Conditions from Merging Technologies SA.

4.6 DELIVERY AND CARRIAGE

- 4.6.1 All times quoted or stated for delivery are approximate only. Hire charges or sale prices do not include carriage. Any expenses incurred by The Company in delivery or recovering equipment or attempting the same will be paid by The Customer.

- 4.6.3 Where carriage charges are quoted by The Company such charges will include only for the time to load or unload alongside The Company's vehicle at the address specified by The Customer. Further time or attendance will be paid for by The Customer

4.7 COPYRIGHT

- 4.7.1 The Company notifies The Customer

- that playing or showing copyright material in circumstances where The Customer or anyone authorised by him does not hold the appropriate license of the copyright holder will infringe copyright and may become liable in damages for doing so.

- 4.7.2 The Customer, by accepting delivery of sound or visual reproduction equipment warrants that he has or will obtain the appropriate license for the said performance playing or showing, prior to using The Equipment for the said performance.