



Rental Agreement Terms and Conditions

August 2023

RENTAL PERIOD. The Equipment is rented as specified in the Quotation. The Rental Period shall commence on the date KD Analytical ("KDA") ships the Equipment to Customer and shall be automatically extended upon all the terms and conditions hereof until the date the Equipment is returned to the possession of KDA.

USE. KDA is not responsible for end use or the ability of the customer to operate the instrument properly. Customer will incur all rental charges regardless of the use being for training, calibration, or producing usable data. These uses do not constitute a reduced rate in rental time. Customer will be charged a non-use or standby charge reduced rental rate if instrument is retained without use. KD Analytical is not responsible for expenses occurred or loss of data due to equipment failure.

RENT. Customer shall pay KDA during the Rental Period the rent indicated in the Quotation for each item of Equipment plus (i) all sales, use and property taxes imposed thereon. Each payment of Rent or other amounts due hereunder shall be due within 30 days after the date of KDA's invoice.

DEFAULT. Upon any default, KDA shall have the right to terminate this Agreement, take immediate possession of the Equipment and recover from Customer in any action to enforce KDA's right hereunder, all accrued but unpaid Rent and late charges, plus all other amounts due or to become due hereunder (discounted to present value at the rate of 5% per annum) and KDA's costs and reasonable attorneys' fees.

DELIVERY AND RETURN. Shipment will be made as specified by Customer and at Customer's expense. Customer shall return Equipment in good operating condition to KDA by prepaid insured shipment to KDA's specified address.

DISCLAIMER OF WARRANTY; LIMITATION OF LIABILITY. KDA MAKES NO WARRANTIES EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Any oral statements about the Equipment do not constitute warranties, shall not be relied upon by Customer and are not part of this Agreement. To the extent possible, KDA shall pass to Customer the benefits of any warranties from the supplier or manufacturer of the Equipment. Unless Customer notifies KDA to the contrary within 48 hours after receipt of the Equipment, it shall be conclusively presumed that the Equipment was delivered to Customer in good operating condition. KDA shall not be liable for any special, incidental or consequential damages, whether in contract, tort or otherwise. KDA makes no representation or warranty as to Customer's accounting or tax treatment of this rental.

SERVICE. Customer shall notify KDA and request instructions before taking any remedial action or before returning any item of Equipment to KDA. If Customer elects self-service, KDA will not provide service and Customer shall be responsible, at its sole cost and expense, to provide all maintenance and service of the Equipment.

SAFEKEEPING. Customer is responsible for the safekeeping of all Equipment and shall bear the risk of any loss, theft, damage or destruction of the Equipment. Customer shall insure each item of Equipment against such risk of loss for not less than the replacement cost of each item with the loss payable to KDA and, if requested by KDA, shall provide evidence of such insurance. In the event that any item of Equipment requires repair or recalibration as a result of accident or Customer's unauthorized tampering, modification or repair or negligence, misuse or abuse of such item, Customer shall bear the entire cost thereof, including shipping costs. At KDA's option, Customer shall either replace or pay the replacement cost of any item of Equipment which is lost, stolen, destroyed or damaged beyond repair. Until an item of Equipment has been repaired, replaced or the replacement cost thereof has been paid by Customer, the Rental Period shall continue and Customer shall continue to pay the Rent with respect thereto. Any items of Equipment or nonexpendable materials not returned to KDA will be charged to Customer at full replacement cost (minimum \$10). All Equipment will be delivered to Customer with ownership labels, calibration seals and anti-tamper notices affixed, none of which Customer shall permit to be removed or defaced. If such seal or notice is removed or defaced, Customer shall pay to KDA a reasonable calibration or refurbishing fee.

SOFTWARE. The Equipment includes any software provided herewith. Software shall remain the property of its licensor. The terms and conditions of any Software License Agreement covering the software are incorporated herein by reference and supersede anything to the contrary herein, and Customer agrees to be bound by such terms and conditions, particularly, those limiting the use and transfer of the software. Except as otherwise permitted therein, Customer shall use the software only with the Equipment and shall not copy, remove, sublicense, rent, transfer, assign, sell, alter, modify or encumber the software without KDA's prior written consent. In no event shall Customer copy the software without reproducing and including on each copy, any copyright notice and proprietary rights legend appearing in or on the original software. Software is warranted only to the extent provided for directly by the licensor. KDA MAKES NO INDEPENDENT WARRANTY AS TO THE PERFORMANCE OF THE SOFTWARE.

INDEMNIFICATION OF KDA. Customer shall indemnify, hold harmless and defend KDA from any and all claims, actions and damages, including attorney's fees, arising out of the Equipment, and its use, rental, possession, operation, condition, purchase and return including without limitation any such claims arising out of the theory of strict liability in tort which obligations shall survive termination of this Agreement.

ATTORNEYS FEES. In the event of any action to enforce this Agreement, the prevailing party shall be entitled to recover all costs and expenses, including reasonable attorneys fees.

ASSIGNMENT. Customer shall not assign the Equipment or its rights under this Agreement without the prior written consent of KDA. KDA shall have the right to assign the Equipment and this Agreement without notice to Customer and Customer agrees that any such assignee will have all of the rights and benefits of KDA but none of the obligations. Customer also agrees that it will not assert against an assignee of KDA any claims, defenses or set-offs that Customer may have against KDA.

MISCELLANEOUS. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. The terms and conditions set forth herein and in the Quotation constitute the entire Agreement between KDA and Customer with respect to the Equipment, and shall not be amended except in writing signed by both parties.