**LEASE AGREEMENT**

**CHECKLIST**

**POSSIBLE ISSUES**

Below is a checklist of the most common issues that may arise in a lease agreement. A careful scan of the issues, explained in this checklist, can assist you in assessing what will be important when you negotiate an equipment lease. This checklist is NOT a complete list of all the possible issues but merely a starting point for initiating consideration of some additional points.

1. **Duration and rent** 
   1. What is the initial duration of the lease, and the rent? How and when must rent be paid?
2. **Claims against Lessor** 
   1. Does the lessee have the right to directly sue a lessor on service contracts, refunds, price increases and other claims? Is the lessee allowed to retain settlement amounts?
3. **Transfers** 
   1. Does the lease contain the lessor's right to transfer an interest in the leased equipment?
4. **Representations and indemnities** 
   1. Are any special representations required to satisfy regulatory requirements? Is the lessee required to assume property taxes, licence fees, public liability? To what extent is the lessee obligated to indemnify other parties against various other risks and expenses?
5. **Claims**
   1. Can the lessee sue and take other action in the name of the lessor to assert claims against third parties? Is the lessee's right to settlements, that compensate for losses, protected?
6. **Renewal / Extension options** 
   1. Does the lease provide for renewal or extension? If so, for what term and at what rent? Renewal or extension options may have tax implications.
7. **Subleasing** 
   1. May the lessee sublease the equipment? Under what conditions?
8. **Maintenance** 
   1. Who is obligated to maintain the equipment?
9. **Specific arrangements for loss, theft or destruction by casualty, of equipment**
   1. What, if any, are the specified amounts that the lessee would owe? Are these costs instead of, or in addition to, the value of the lost equipment? Often, specified losses are based upon a method combining outstanding rental payments to the end of the lease term plus the value of the lost tax advantage to the lessor. If the lessor has the right to sell the lease on to an investor seeking tax-sheltering advantages, the specified losses, sometimes stated in terms of making the lessors whole, may be calculated with respect to their lost tax advantages rather than those of the original lessor.
10. **Insurance** 
    1. Insuring the equipment is whose responsibility?
    2. Who is entitled to what part of an insurance settlement?
11. **Adjustments** 
    1. Does the lease provide for adjustments of the rental in the case of changed circumstances or conditions? In longer-term leases, when the value of the equipment to the lessee may suddenly decline, this is especially important.
12. **Option to Purchase** 
    1. Does the lease have an option such that the lessee may purchase the leased equipment? What is the option price? How and when may the option be applied? Keep in mind that purchase options may have tax implications.
13. **Termination of Lease** 
    1. Does the lease provide for early termination under certain circumstances or conditions? Are there any particular circumstances or conditions, such as legal restrictions, any damage that makes continued use of the equipment illegal or uneconomical, or loss of equipment, whereby the lease may be prematurely terminated? Are any additional payments required because of premature termination?
14. **Termination costs** 
    1. At the end of the lease who is responsible for any costs incurred by the equipment being returned to the lessor? Disassembling, packaging, transporting, insuring and related costs can be considerable.
15. **Master leases** 
    1. Does the lease cater for the addition of new equipment or require separate negotiations and a separate contract with the Lessor if the lessee wants to lease another piece of equipment? The addition to an existing contract, describing the new equipment, the new rate and the period of the new lease can mean a substantial saving where an ongoing relationship is contemplated.