

IF YOU HAVE SELECTED FLEXIRENT, PARTS A, B AND D OF THIS LEASE APPLY

IF YOU HAVE SELECTED FLEXIRENT PROTECT, PARTS A, B AND E OF THIS LEASE APPLY

IF YOU HAVE SELECTED FLEXIOWN, PARTS A, C AND D OF THIS LEASE APPLY

IF YOU HAVE SELECTED FLEXIOWN PROTECT, PARTS A, C AND E OF THIS LEASE APPLY

This Lease Agreement (Lease) is between you and Flexirent Capital (New Zealand) Limited.

PART A – GENERAL TERMS

1. OWNERSHIP OF EQUIPMENT

- a) We are the owner of the Equipment. You only have the right to use it.
- b) For the purposes of this Lease, Equipment includes hardware and software.
- c) You must protect our ownership of the Equipment and not attempt to sell, hire or deal with it in any other way.

2. ENTIRE AGREEMENT

- a) The entire Lease between you and us consists of these terms and conditions, the Signature Page, the Disclosure Statement and each accepted Request.
- b) This Lease cannot be cancelled or terminated except in accordance with its terms.
- c) Any brochures and marketing material you may have seen are provided for your information only and do not form part of this Lease.

3. DISCLAIMERS

- a) Upon delivery of the Equipment you will inspect it and satisfy yourself that it is in good operating order and condition.
- b) You must rely on your own judgment as to: i) the quality and condition of the Equipment and its fitness and suitability for any particular purpose; and ii) the performance of services provided by third parties.
- c) No warranties are given in relation to the Equipment or any services other than those implied by law. We are not responsible for any representation or warranty, implied or expressed, made by the supplier of the Equipment.
- d) To the extent permitted by law, damages for breach of warranties implied by law are limited to repair or replacement of the Equipment or the re-supply of the services.
- e) We exclude all liability for indirect or consequential damage, loss of income, loss of profit or interruption of business.
- f) The supplier of the Equipment or any salesperson or agent of the supplier of the Equipment is not our agent for any purposes and are not authorised to change any term of this Lease or to make any warranties or

representations about it, oral or otherwise.

- g) The provisions of the Consumer Guarantees Act 1993 are excluded if you lease the Equipment for business purposes.

4. CORRECTION OF ERRORS

You authorise us to complete any blanks or correct any errors in the Lease (including inserting serial numbers, model numbers, the Start Date, Payment Date and Contract Number).

5. MASTER FACILITY

- a) At any time, you may request that we lease additional equipment to you on the terms and conditions of this Lease by signing and returning to us a completed Request for New or Additional Equipment form (“Request”).
- b) We are not obligated to accept any Request and no Request will be binding on us until we have accepted it.
- c) Upon our acceptance of a Request, we agree to lease to you the Equipment in the Request on the terms and conditions of this Lease. Each accepted Request shall form part of this Lease.
- d) If we have approved a facility limit for you, the aggregate purchase price of all Equipment leased to you must not exceed this facility limit.
- e) We may review the facility limit at any time.

6. PAYMENTS

- a) You must pay to us each month the Total Monthly Lease Payment shown on the Signature Page and each accepted Request (as such amount may be amended in accordance with paragraph (h)).
- b) The obligation to make Total Monthly Lease Payments continues for the Agreed Term shown on the Signature Page and on each accepted Request.
- c) Payments are due monthly in advance.
- d) Unless we otherwise agree, all Total Monthly Lease Payments are due on the Payment Date shown on the Signature Page. We may adjust the first Lease Payment of any accepted Request to reflect a shorter or longer period than one month in order to effect a common Payment Date.
- e) If the Payment Date falls on a weekend or public holiday, payment is due the next business day.
- f) Unless we otherwise agree, all payments must be made by direct debit from your bank account or credit card.

- g) All payments, once paid, are not refundable for any reason.
- h) If there is any change to the amount of GST payable or if any other taxes or government charges become payable in respect of the Lease, you agree that we may adjust the Total Monthly Lease Payment and/or Residual Amount (if any) accordingly.
- i) You are unconditionally bound to pay all amounts due without any deduction or set off or counterclaim, and without any deduction in respect of taxes, unless prohibited by law, on any account whatsoever. This obligation continues no matter what happens, even if the Equipment is damaged or destroyed, if it is defective or if you can no longer use it.
- j) We are entitled to decline to accept any part prepayment from you under this Lease.
- k) If you want to make full prepayment of this Lease contact us and we will advise you of how much you must pay. The amounts which are payable in a full prepayment are described in the Disclosure Statement.

7. USE AND MAINTENANCE OF EQUIPMENT

- a) You must keep the Equipment in good repair, condition and working order, normal fair wear and tear excepted and supply all parts and servicing required.
- b) You must use, service and maintain the Equipment in accordance with the manufacturer's instructions and recommendations.
- c) You may modify the Equipment only with our consent.

8. LOCATION AND INSPECTION

- a) Other than portable equipment, you must not move the Equipment from its location noted on the Signature Page or on each accepted Request without our prior written consent.
- b) You agree to provide our authorised agents and us with reasonable access to inspect the Equipment to confirm its existence, condition and proper maintenance.
- c) If you fail to provide access to us and/or our authorised agents, we have the right, subject to compliance with any applicable law, to enter the premises, or authorise our agents to enter the premises, where we believe the Equipment is located in order to confirm its existence, condition and proper maintenance.

9. LATE PAYMENTS

- a) If any Total Monthly Lease Payment or any other amount due is not paid in full on time, you are in

default and we are entitled to recover liquidated damages on the overdue amount which you agree is a genuine pre-estimate of the actual loss that we will suffer as a result of you being late in any payment to us.

- b) For each failure to make a payment in full and on time, the amount of liquidated damages payable will be the greater of \$25 or 0.05% per day on the overdue amount until paid in full.
- c) In addition, you agree to reimburse us for the amount that our bankers charge us for your dishonoured payment(s).
- d) All liquidated damages are payable on demand which we may demand by debiting the amount of any liquidated damages from your nominated bank account or credit card on any date at our election without notice to you.
- e) Upon and after termination of this Lease, as a separate and independent obligation which survives termination of this Lease, you agree to pay liquidated damages at the rate of 0.05% per day on the overdue amount, capitalised monthly, until all amounts owing under this Lease are paid in full.

10. DEFAULT

You will be considered to be in default and to have repudiated this Lease and all accepted Requests if you:

- a) do not pay in full any Total Monthly Lease Payment or any other amounts due in accordance with clause 6;
- b) fail to insure the Equipment under clause 30 if you are required to do so;
- c) become insolvent, bankrupt or become subject to any liquidation, administration, statutory management, arrangement or composition, or a receiver is appointed in respect of you or any of your assets; or
- d) sell, hire, dispose or encumber the Equipment or make any attempt to do so.

11. TERMINATION

This Lease or relevant part will terminate upon the occurrence of any of the following events:

- a) we give you notice terminating this Lease either in whole or in part after your default and repudiation under clause 10; or
- b) we sell any Equipment repossessed under clause 14.

12. CONSEQUENCES OF EARLY TERMINATION

- a) If this Lease is terminated under clause 11, you must immediately:
 - i) pay to us the amounts set out in the Disclosure Statement; and

- ii) for Flexirent: return the Equipment, in respect of which this Lease has been terminated, to us in accordance with clause 13 (if you have not previously done so) if you have selected Flexirent or Flexirent Protect.
 - b) If you fail to comply with paragraph (a)(ii), you must pay to us on demand liquidated damages equal to the present value of the estimated fair market retail value of the Equipment as at the end of the Agreed Term (assuming that the Equipment will be in the condition required under clause 13 (a) and (b)) discounted at monthly rests at the Reserve Bank of New Zealand's official cash rate current on the date this Lease or relevant part is terminated, which you agree is a genuine pre-estimate of the actual loss that we will suffer as a result of your failure to return the Equipment to us in accordance with clause 13. We may make the demand for payment by debiting the amount owed under this paragraph from your nominated bank account or credit card on any date at our election without notice to you.
 - c) If you have returned the Equipment under paragraph (a)(ii) or if we have repossessed the Equipment under clause 14, we will pay to you any amounts you have paid to us under paragraph (b) plus the amount by which the fair market wholesale value of the Equipment as at the date the Equipment is received by us exceeds the amount of liquidated damages calculated under paragraph (b). We will be entitled to set off any amount that we owe you under this paragraph against any amounts that you owe us under this Lease, or under any other agreement between you and us.
13. RETURN OF EQUIPMENT
- a) If you have a right or obligation under this Lease to return the Equipment, you must return the Equipment at your expense to a place within New Zealand that we nominate, together with all documents relating to the insurance, registration and servicing of the Equipment, all documents necessary to transfer the benefit of any insurance, registration and service contract, all software provided by the supplier with the Equipment, all disks, CDs, DVDs, accessories and manuals, in as good condition as the Equipment was delivered to you, except for normal fair wear and tear.
 - b) It is your responsibility to remove any personal data or software not specified in the Signature Page or any accepted Request which is stored on or in the Equipment before returning it to us.
 - c) We expressly deny all liability for any consequences arising from your failure to remove such information.
 - d) If any Equipment is returned to us other than in accordance with paragraph (a), you must pay to us the difference between the fair market retail value of the Equipment as returned to us and the fair market retail value of the Equipment as it should have been returned to us.
 - e) If any Equipment is returned to us other than in accordance with paragraph (b), you must pay to us, calculated at our standard rates, for our services required to remove any personal data in accordance with paragraph (b).
14. REPOSSESSION OF EQUIPMENT
- a) If you fail to pay any Total Monthly Lease Payment or if you fail to return the Equipment when you are required to do so under this Lease, in addition to our other rights, we or our authorised agents may, subject to complying with any applicable law, enter any premises where we believe the Equipment may be located and repossess the Equipment.
 - b) Subject to complying with any applicable law, we may sell any repossessed Equipment at any time.
 - c) If we have not sold the repossessed Equipment or terminated this Lease, you may collect the Equipment from us only if you have paid all amounts payable under this Lease (including any amounts owing under clause 16).
15. ASSIGNMENTS
- a) You acknowledge that we may, without giving you notice, sell, assign or otherwise dispose of or deal with our interest in the Equipment or this Lease and, subject to any privacy laws, disclose information about you for this purpose.
 - b) You may apply to assign this Lease but you acknowledge that we are not obliged to agree. We may charge a fee to credit assess the proposed assignee even if the proposed assignee is declined.
16. COSTS, INDEMNITIES AND COMMISSIONS
- a) You must pay or reimburse us for:
 - i) all taxes (including GST) payable in connection with this Lease; and
 - ii) any expenses we reasonably incur in enforcing this Lease or incur because you have repudiated, terminated or breached this Lease, including, without limitation, any legal costs and expenses, financing break costs, costs incurred in repossessing or attempting to repossess the Equipment, costs incurred in

- storing and disposing of the Equipment and our administrative costs.
- b) You must indemnify us for:
 - i) liability for any death or damage to any person or property arising directly or indirectly from the Equipment or its use, and
 - ii) a claim for patent, trademark or copyright infringement, or strict liability or for any other reason being made against us in connection with the Equipment or its operation.
 - c) You agree that we may pay commissions or fees to any broker, agent, dealer or other person who introduces you to us, or us to you.
17. PERSONAL PROPERTY SECURITIES ACT (PPSA)
- a) If part 9 of the PPSA applies, it is agreed that sections 114(1)(a), 116, 117(1)(c), 121, 132 and 133 of the PPSA shall be excluded and shall not apply to this Lease.
 - b) You waive the right to receive a copy of the verification statement confirming registration of a financing statement or a financing change statement relating to our interest in the Equipment and you agree that we may charge fees for compliance with a demand that is given under section 162 of the PPSA.
18. RECEIVER
- You agree that, in addition to our rights of termination and enforcement under this Lease, we may appoint a receiver in relation to the Equipment and this Lease and, in addition to, and without affecting, any other powers and authorities conferred on a receiver (whether under the Receiverships Act 1993, or at law or otherwise) a receiver has the power to do all things as if the receiver had absolute ownership of the Equipment in this Lease.
19. SEVERABILITY
- If:
- a) any other law would make a provision of this Lease illegal, void or unenforceable; or
 - b) a provision of this Lease would otherwise contravene a requirement of any law or impose an obligation or liability which is prohibited by any law, this Lease is to be read as if that provision were varied to the extent necessary to comply with the law or, if necessary, omitted, without affecting the continued operation of the rest of this Lease.
20. NOTICES
- a) You must tell us if you change your bank account or credit card details, your business, postal or email address, or if you think there is any information that we should be aware of about your ability to comply with this Lease.
- b) Subject to complying with any applicable law, we can give you notice by delivering it to you personally or leaving it at, or sending it by post, facsimile or email to, your home, business, postal or email address last known to us. An email notice shall only be valid if not returned.
 - c) A certificate signed by an authorised officer will be adequate proof of the facts stated in it relating to this Lease and rights and obligations arising under it.
21. CHANGES TO THESE TERMS AND CONDITIONS
- a) Subject to complying with any applicable law, we may change these Terms and Conditions at any time by giving you not less than 30 days' notice.
 - b) Any change shall not affect the amount of the Total Monthly Lease Payment (except as permitted in accordance with clause 6 (h)) and shall only apply to obligations arising after the expiry of the notice period.
 - c) This notice may also be given to you by advertising the information at least once in the daily newspapers published in all of the following areas: Whangarei, Auckland, Hamilton, Rotorua, Hawkes Bay, New Plymouth, Palmerston North, Wellington, Nelson, Christchurch, Dunedin and Invercargill.
22. FEES
- a) We reserve the right to charge fees for services we provide.
 - b) Fees will be charged at our standard rates.
23. GOVERNING LAW
- a) This Lease is governed by the laws of New Zealand.
 - b) The parties submit to the non-exclusive jurisdiction of the courts of New Zealand.
24. INTERPRETATION
- Capitalised terms used in the Signature Page or any accepted Request have the same meaning in these terms and conditions.
25. JOINT AND SEVERAL OBLIGATION
- If there is more than one, "you" means each of you separately and all of you jointly.
- ## PART B – FLEXIRENT SPECIFIC TERMS
26. END OF TERM OPTIONS
- a) At any time not earlier than 6 months prior to the expiry of the Agreed Term, you may give us 30 days' notice that at the end of the Agreed Term you elect to:
 - i) return the Equipment to us in the condition required under clause 13 (a) and (b);

- ii) negotiate with us to extend the term of this Lease; or
 - iii) make us an offer to purchase the Equipment at any price you see fit (which we are free to accept or reject). GST will apply to this purchase price.
- b) If you do nothing, or fail to give us notice under paragraph (a), this Lease will continue on a monthly basis and during this period, you must pay the Total Monthly Lease Payments in accordance with clause 6 until you give us at least 30 days' notice that on the Payment Date immediately after the expiry of the notice you elect to do either (i), (ii) or (iii) of paragraph (a).
- c) Notwithstanding anything contained in this Lease you have no right or obligation at any time to purchase the Equipment.

PART C – FLEXIOWN SPECIFIC TERMS

27. TRANSFER OF OWNERSHIP

On termination of this Lease and after you have paid to us all amounts owing under this Lease, ownership of the Equipment shall pass to you.

PART D – LOSS, DAMAGE AND INSURANCE

28. LOSS OR DAMAGE

- a) You assume and bear the risk of loss or damage to the Equipment. If the Equipment is lost or damaged you agree to replace or repair the Equipment at your cost, and to continue to pay Lease Payments in accordance with clause 6.
- b) You agree to indemnify us for any loss or damage to the Equipment.

29. INSURANCE

- a) You must arrange and at all times keep the Equipment insured against loss and all other normally insured risks for its full replacement value during the Agreed Term.
- b) You must ensure that we are named as an additional insured party and loss payee under the policy.
- c) You must provide us with evidence that the Equipment is insured if we ask for it.
- d) You must not do, or fail to do, anything which would allow the insurer to refuse or reduce a claim; or enforce, conduct, settle or compromise any claim without our consent.
- e) We are entitled to receive any amounts paid by an insurer. If you receive them, you hold them on trust for us.

PART E – PROTECT SPECIFIC TERMS

30. RISK OF LOSS OR DAMAGE

- a) Subject to clauses 32 and 33, while we own the Equipment we retain and bear the risk of theft, loss or accidental damage to the Equipment occurring anywhere in Australia or New Zealand or anywhere else in the world during a trip of not more than 28 days duration.
- b) You assume and bear the risk of all theft, loss or damage to the Equipment which we do not retain and bear under paragraph (a).
- c) If the Equipment is stolen, lost or accidentally damaged and the risk of that loss or damage is ours under this Lease, subject to your compliance with clause 33, we will discharge our obligations in accordance with clause 34.

31. EXCLUSIONS, ALLOCATION OF RISK AND INDEMNITY

- a) Notwithstanding clause 31, we will not pay for, and you will assume and bear the risk of, any loss, theft or damage to any Equipment:
 - i) which is not accidental loss or damage;
 - ii) where at the time of the loss, theft or damage you are two or more Total Monthly Lease Payments in arrears;
 - iii) which is covered by a manufacturer's warranty or any other extended warranty or would have been so covered had that warranty not been voided;
 - iv) caused by mechanical and/or electrical breakdown of any kind, unless the breakdown occurs as a result of an external accident (e.g. power surge);
 - v) arising from theft, misappropriation, fraudulent, intentional or dishonest acts, or malicious damage by you, your employees, your family, any person who has unrestricted access to the Equipment, or any person to whom you have lent the Equipment or otherwise permitted to use the Equipment;
 - vi) arising from theft, attempted theft or loss:
 - 1) from unoccupied premises unless the theft or loss resulted directly from a violent and forcible entry to the premises;
 - 2) from an unoccupied vehicle unless the vehicle was locked and the Equipment was locked in a lockable compartment permanently affixed to the vehicle and the theft or loss resulted directly from a violent and forcible entry to the vehicle

- and the locked compartment;
 - 3) from an unoccupied vehicle under any circumstances where the Equipment was stored or left overnight; or
 - 4) from any public place or any place where the public has regular access and where the Equipment was left unattended;
 - vii) occurring during or as a result of the Equipment being transported in any aircraft or watercraft unless carried as cabin baggage;
 - viii) that was on loan or being used for trial, testing, demonstration or exhibition;
 - ix) where the loss or damage is to software or data of any type whatsoever or is caused by any computer virus, worm, Trojan or the like or any other software based malfunction;
 - x) for the costs of data programming, data reconstruction, data recovery or program installation or reconfiguration;
 - xi) resulting from:
 - 1) any consequence of war or warlike activities;
 - 2) ionizing radiation or radioactivity; or
 - 3) the confiscation or destruction of any Equipment by any government, public or statutory authority;
 - xii) caused by corrosion, oxidation, rust, insects, vermin, dust, dampness, dryness, cold, heat, wasting, cosmetic damage, scratching or marring, faulty workmanship or materials, loss of screen or image brightness or resolution, failure to perform to specifications or wearing away or wearing out of any part of any Equipment which arises from normal fair wear and tear, ordinary use or gradual deterioration; or
 - xiii) which are expendable or consumable items including fuses, batteries, bells, chains, tapes or ribbons or any other part of any Equipment which requires periodic or frequent replacement.
 - b) You agree to indemnify us for:
 - i) any theft, loss or damage to the Equipment to which paragraphs (a)(i) to (a)(xiii) apply;
 - ii) liability for any injury or death to any person or damage to any property arising directly or indirectly from the Equipment or its use; and
 - iii) the first \$220 of any claim for loss or damage in respect of risks retained by us for our processing and administration costs.
 - c) You are responsible for ensuring that all software and data is backed up.
32. INCIDENT NOTIFICATION
- a) If any Equipment is stolen, you must promptly inform the police and promptly provide us with a copy of the police report.
 - b) Within 14 days after the loss or damage occurring, you must complete an Incident Notification form and send it to us.
33. BASIS OF SETTLEMENT
- a) In our absolute discretion, we may:
 - i) repair the damaged Equipment;
 - ii) replace the stolen, lost or damaged Equipment with equipment of similar age, original specifications (excluding modifications) and condition, but this may not necessarily be the same make or model; or
 - iii) choose to release you from your future obligations under this Lease except for any payments in arrears at the time the loss or damage claim is approved.
 - b) We reserve the right to choose any suitably qualified repairer to carry out repairs or any suitable supplier to replace the Equipment.
 - c) Unless we release you from your obligations under paragraph (a)(iii), you must continue to pay Total Monthly Lease Payments in accordance with clause 6.