

TechRentals NZ Limited

Terms and Conditions of Rental

The Customer (which for the purpose of this Rental Agreement includes its employees, servants and agents) hereby rents from TechRentals NZ Ltd ("TechRentals") the Equipment as referred to in the Rental Agreement which includes all items, articles, accessories, documents (including operating manuals) supplied with Equipment upon the following terms and conditions.

1. CASUAL RENTAL

- 1.1 The rental period commences on the rent start date shown on the rental agreement and continues until it terminates at 9:00 am on the first business day after the period nominated on the rental agreement. A business day excludes Saturdays, Sundays and Public Holidays.
- 1.2 When the equipment is not returned at the end of the rental period specified in the rental agreement, the rental charges will continue to accrue at the same daily rate as in the rental agreement until the business day on which the equipment is returned complete with all the accessories and undamaged.
- 1.3 The rental period set out in the rental agreement is the minimum for which charges at the daily rate apply.
- 1.4 A rental fee at the daily rental rate and subject to a minimum total charge set out in the rental agreement will continue to be charged until the equipment is returned complete with all the accessories and undamaged. Where equipment or accessories are lost or equipment or accessories are damaged and the rental agreement did not include damage waiver under clause 20 of these terms and conditions, the rental fee at the daily rate will continue to be charged and payable until replacement equipment or accessory(s) is/are purchased and delivered to TechRentals and /or damaged equipment or accessories are replaced or repaired to serviceable condition and returned to TechRentals.
- 1.5 A minimum transaction charge of \$120 plus freight and GST will apply to the first invoice.
- 1.6 The rental rate shown on the rental agreement does not include preparation, packaging & freight charges, GST or other rental tax or duty recovery charges which are shown separately on the invoice.
- 1.7 Equipment returned before 9:00 am on any business day to the TechRentals Office from which it was despatched will be deemed to have been received on the previous calendar day. Equipment received after 9:00 am on any business day will be recorded as received on that business day.
- 1.8 The Customer acknowledges that at all times the property in and ownership of the Equipment remains with TechRentals and the Customer will not remove any sticker or other identification from the Equipment giving notice of TechRentals ownership of the Equipment.

2. DEBIT AUTHORITY

When the Customer has given a credit card or account debit authority, TechRentals are hereby authorised to debit all fees and charges payable under this agreement to the Customer's card or account, whether owing now or in the future.

3. OTHER CHARGES

The Customer shall be responsible for the payment of all costs, taxes, charges, imposts and expenses which arise or are incurred by virtue of this rental including:

- a) Any Stamp Duty or like or similar duty applicable to rental transactions or rental business.
- b) Any Goods or Services Tax or taxes in the manner or nature of a Goods and Services Tax.
- c) Any Value Added Tax or a tax in the manner or nature of a Value Added Tax.
- d) Any Sales Tax or tax of a similar manner or nature.
- e) Any Rental Tax or tax on rentals.
- f) Any customs duties and tariffs.

If any of the above taxes or duties apply in the country of rental then such applicable tax and/or duty will be paid by the Customer in addition to the rental fee. In certain instances equipment may need to be sourced from outside of the country of rental. In those circumstances TechRentals reserves the rights to adjust any rental fee if there is any adverse currency fluctuation between the country of rental and the country of source. The Customer indemnifies TechRentals in respect of any claims for such costs, charges, imposts and expenses applied or incurred.

4. PAYMENT

Payment terms are strictly fourteen (14) days from date of invoice unless otherwise stated in the Rental Agreement.

5. OVERDUE PAYMENTS

If any amount is due and unpaid, the Customer agrees to pay interest on the overdue amount at the rate of 18% calculated daily until payment in full is received and the Equipment has been returned, whichever is the latter. The Customer is liable for all additional costs TechRentals may incur, including legal, administrative and collection costs to recover unpaid amounts.

6. DELIVERY AND RETURN OF EQUIPMENT

Delivery of Equipment to the Customer shall take place at the Auckland premises of TechRentals at the expense and risk of the Customer. Return of the Equipment by the Customer is solely at the Customer's expense and risk, even if arranged by TechRentals, and shall be to the premises of TechRentals from where the Equipment was despatched. The Customer agrees not to ship the Equipment by post.

7. CUSTOMER'S COVENANTS

The Customer agrees with TechRentals that:

- a) The Equipment shall remain the property of TechRentals and the Customer is only a bailee of the Equipment on the terms and conditions as set out in the Rental Agreement;
- b) The Customer shall not sell, charge, pledge or part with possession of the Equipment;
- c) The Customer shall keep the Equipment at the delivery address specified in the Rental Agreement unless prior written permission has been obtained from TechRentals to relocate the Equipment elsewhere;
- d) The Customer shall use the Equipment in a careful and proper manner and not interfere or tamper with or let anyone else do so;
- e) The Customer shall notify TechRentals immediately if any judgment or order is levied against the Customer or property of the Customer or if a petition is presented for the liquidation of the Customer or an Administrator or Receiver is appointed or a scheme of arrangement is proposed;
- f) The Customer shall permit TechRentals its agents or servants to enter the premises where Equipment is located at all reasonable times in order to inspect the Equipment or carry out repairs to the Equipment;
- g) The Customer requires and will utilise the Equipment for its business purposes;
- h) The Customer shall keep the Equipment in a safe and proper location;
- i) The Customer shall not alter or modify the Equipment without the prior written consent from TechRentals;
- j) The Equipment shall at all times, whilst in the care, custody or control of the Customer, be at the risk of the Customer;
- k) The Customer accepts full responsibility for all equipment rented, including its use in accordance with any operating instructions provided or Government Acts and Regulations.

- l) The Customer will in respect of the Equipment comply with all New Zealand Laws; and
- m) The Equipment when returned to TechRentals will not have any information contained in or associated with it which would, if received by TechRentals or any other person, be in breach of any New Zealand law.

8. WARRANTY

TechRentals warrants that the Equipment rented is of merchantable quality and reasonably fit for the purpose for which it was designed. Nothing in these terms and conditions shall restrict, modify or exclude any conditions, warranties, rights or liabilities which may at any time be implied in this Rental Agreement by any law where to do so would render any provisions of this Rental Agreement void or unenforceable. Other than expressly provided for in this Rental Agreement the Customer acknowledges that it has not relied upon any statement or representation by TechRentals in respect of the Equipment or the use of the Equipment by the Customer irrespective of whether or not the Customer's purpose for the use of the Equipment is known to TechRentals the Customer acknowledges that under no circumstances is TechRentals responsible or liable for any failure or unsuitability of the Equipment to perform the purpose required by the Customer.

9. MAINTENANCE

TechRentals shall at its expense when it deems necessary provide maintenance and recalibration for Equipment and shall use its best endeavours to expeditiously repair or replace Equipment which may become defective during the rental period through no fault of the Customer. If the Equipment does not operate properly the Customer shall notify TechRentals and request instructions before taking any action. The responsibility for advising TechRentals of any need for recalibration rests with the Customer. TechRentals may at its sole and absolute discretion and for such length of time as it deems expedient replace Equipment with another of such type or model as shall for the time being be available and Equipment so substituted shall be subject to these terms and conditions.

10. TERM OF HIRE

Where the term of hire has not been entered on the rental agreement then the term shall be from month to month commencing on the date the equipment was collected by or despatched to the customer but in no event shall the term be greater than 11 months and if the equipment has not been returned sooner the customer undertakes to deliver it back to TechRentals on or before 4pm on the last working day of the eleventh month of hire.

11. EARLY CESSATION

Notwithstanding the rental period TechRentals expressly reserves to itself the right to require early cessation which may be exercised on demand and at the absolute discretion of TechRentals. If TechRentals so demands the Customer shall forthwith return Equipment to TechRentals. The applicable rental fee shall be adjusted and payable at the daily rate on the rental agreement for the period between the Rent Start Date and the date the equipment, complete with accessories and undamaged, is returned to TechRentals.

12. SAFEKEEPING

The Customer is responsible for the safekeeping of the Equipment and shall bear the risk of any loss, theft, damage or destruction of Equipment and if the Equipment shall require repair or recalibration or replacement as a result of the Customer's use of the Equipment the Customer shall bear the total cost of any such repair or recalibration or replacement including any freight charges there occasioned. Any repairs carried out by TechRentals will be charged at our normal hourly rates. The Customer shall pay to TechRentals the total new replacement cost as assessed by TechRentals of the Equipment which is lost, stolen, destroyed or damaged beyond repair. The Customer shall pay to TechRentals a reasonable calibration and refurbishing fee in the event that ownership labels, calibration seals or anti-tamper notices affixed to Equipment are removed or defaced. Any item, article, accessory, document or thing supplied in conjunction with the Equipment (including operation manuals) not returned or are returned in damaged condition to TechRentals upon cessation of the rental period shall be paid for by the Customer with a fee determined by TechRentals being charged to the account of the Customer. In respect of damage or loss of Equipment, or failure to return all of the Equipment (including all accessories), the rental period shall continue, and the Customer shall continue to pay rental until the Equipment has been repaired and returned (including all accessories) to TechRentals, or the replacement cost of new Equipment or accessories has been paid by the Customer. The Customer indemnifies TechRentals for all loss or damage suffered as a consequence of such damage or loss to, or failure to return, the Equipment and accessories.

13. CUSTOMER DEFAULT, TERMINATION & REPOSSESSION

13.1 If the Customer is in breach of this Rental Agreement then TechRentals shall be entitled to treat this Rental Agreement as breached and repudiated by the Customer and with or without notice accept the repudiation and terminate this Rental Agreement whereupon the Customer shall immediately, at its own cost and expense, return the Equipment to TechRentals and failing such return TechRentals may repossess the Equipment and charge the Customer for all of its costs and expenses incurred in doing so. Any such termination shall not prejudice any right to recover any unpaid rental and the rights and obligations under clause 12. Further TechRentals shall be entitled to recover all damages including any consequential damages incurred.

13.2 Where the Rental Agreement is terminated under clause 13.1 the Customer consents to TechRentals, its servants and agents entering its premises, or any other premises where the Equipment is located, using such force as is necessary to repossess the Equipment. The Customer must provide TechRentals with all reasonable assistance in order to locate and collect the Equipment. If the Equipment is not available for collection at the nominated time and or place the Customer will be liable for any additional costs TechRentals incur. TechRentals will not be liable for any damage to property caused by any person in collecting the Equipment.

14. INDEMNITY

The Customer agrees to indemnify TechRentals and be responsible for all costs, charges and other liabilities incurred by TechRentals as a result of the Customer's breach of any of these terms and conditions or as a result of TechRentals's enforcement of any of these terms and conditions or arising out of or in any way connected with the use of the Equipment.

15. SEPARATE ITEMS OF EQUIPMENT

Where more than one item of Equipment is supplied under this Rental Agreement, in interpreting this Rental Agreement, the singular shall be read as the plural where appropriate and the rental shall be apportioned to each item of Equipment as set forth in the Rental Agreement and the conditions herein set forth shall apply separately to each individual item of Equipment as though each item of Equipment was subject to a separate Agreement.

16. LIABILITY

16.1 If the Equipment does not function as warranted or in the event of any breach by TechRentals of the Rental Agreement then to the extent permitted by law TechRentals liability (if any) for any loss, damage or injury whatsoever shall be restricted to the amount of the rental for the duration of the rental period in which

the breach occurs and TechRentals shall not be liable for any item of so called consequential loss. If this Rental Agreement constitutes a supply of goods or services to a consumer, as defined in the Consumer Guarantees Act 1993, as amended, nothing in this Rental Agreement excludes, restricts or modifies any condition, warranty or other obligation in relation to this Rental Agreement and the goods or the services to be supplied, where to do so would be unlawful. In such case, TechRentals' sole liability for breach of any such condition, warranty or other obligation, including consequential loss, shall be limited to one of replacement of goods; supply of equivalent goods; refund of the invoiced value of the goods; the repair of the goods; or in relation to the services either the supply of the services again or refund of the original fee.

16.2 If the Equipment is returned or repossessed, TechRentals is not liable to the Customer for any consequential damage or other damage arising out of or by reason of any Customer data or information being contained in the Equipment.

16.3 TechRentals will not be liable for any failure to deliver the Equipment or perform services under this Rental Agreement if the failure arises as a consequence of fire, embargo, strike, inability to secure materials or labour, or any other matters beyond the control of TechRentals. In addition, TechRentals will not be liable for any delay or failure to deliver by any freight company or delivery service to deliver the Equipment to the Customer or any consequential loss or damage arising in respect of delivery of the Equipment.

17. PERSONAL PROPERTY SECURITY ACT 1999

The customer acknowledges that TechRentals has a Security Interest (as that term is defined in the Personal Property Security (PPS) Act 1999) in all goods supplied. They will assist as required to ensure that that Security Interest becomes a "Perfected Security Interest" (as defined in the PPS Act 1999).

18. INTELLECTUAL PROPERTY RIGHTS

All rights pertaining to industrial or intellectual property including but not limited to copyrights patents and trademarks are expressly reserved. The Customer shall not make any copies or authorise or allow any copying of anything supplied such as software programs and operating manuals except with the prior written authority of TechRentals and the owner/licensor and in accordance with the licence terms as applicable. All copies must be delivered up with the Equipment.

19. CONSUMABLES

TechRentals is entitled to separately charge for consumables including but not limited to thermocouple wire, labels and bump gas supplied by TechRentals for the operation of the Equipment.

20. DAMAGE WAIVER

20.1 Unless indicated in the specific terms of this Rental Agreement the Equipment is covered by Damage Waiver, for which a fee has been included in the rental rate. This waiver does not cover theft or loss of the Equipment or damage to the Equipment caused by the negligence of the Customer or to any damage caused to the Equipment other than in the course of its proper use and provided further that the Customer notifies TechRentals of the damage within 2 business days.

20.2 The waiver option does not apply and the Customer will continue in all respects to be fully responsible if the damage to Equipment was directly or indirectly the result of:

- a) Misuse or use contrary to instructions; or
- b) Malice or any deliberate act; or
- c) Negligence or want of care; or
- d) An act or omission by any person who is not the Customer or in the Customer's direct employ; or
- e) Damage by any cause at or from a place which has not been approved as a rental location.

20.3 The waiver option does not apply and the Customer will continue in all respects to be fully responsible if damage was directly or indirectly the result of:

- a) The Customer is in breach of any item or condition of the Rental Agreement; or
- b) The Equipment has a value, or its price, is in excess of \$100,000.

20.4 The waiver option does not apply and the Customer will continue in all respects to be fully responsible for the return of all accessories and manuals in good order and condition.

20.5 The waiver option does not apply to any item comprising the Equipment which is noted as being excluded on the accessory list provided with the Equipment. The cost for repair or replacement of these items of the Equipment will be invoiced to and payable by the Customer.

21. SUNDRY

These Terms and Conditions constitute the entire agreement between TechRentals and Customer with respect to the Equipment and shall not be amended except in writing by TechRentals. This Rental Agreement shall be governed in all respects by the laws of New Zealand and the jurisdiction of New Zealand shall apply to any dispute arising out of this Rental Agreement.

22. CONSUMER GUARANTEES ACT 1993

Where the provisions of the Consumer Guarantees Act 1993 apply, nothing in these conditions limits any rights the buyer may have under that Act which is paramount. Where the goods are acquired for the purposes of a business (where "business" is as defined in the act), the buyer expressly agrees that the provisions of the Act do not apply.

23. HEALTH & SAFETY

The customer shall abide by all relevant statutory and common-law obligations directly or indirectly relating to or touching upon its possession or use of the equipment including without derogating from the generality of the foregoing, the provisions of the Health & Safety in Employment Act 1992.

24. JURISDICTION

The Rental Agreement shall be governed in all respects by the laws of New Zealand and the jurisdiction of New Zealand shall apply to any dispute arising out of the Rental Agreement.