

# Rental Agreement Terms & Conditions

PART A APPLIES TO BOTH FLEXIWAY® AND FLEXIRENT PROTECT™

PART B APPLIES ONLY TO FLEXIWAY®

PART C APPLIES ONLY TO FLEXIWAY PROTECT

PART D APPLIES ONLY TO FLEXIWAY PROTECT PLATINUM

This Rental Agreement is between you and Flexirent Capital Pty Ltd.



## PART A - GENERAL TERMS AND CONDITIONS

### 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 Rental Agreement, 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 way.

### 2. ENTIRE AGREEMENT

- (a) The entire Rental Agreement between you and us consists of these terms and conditions, the Signature Page and the Direct Debit Request.
- (b) This Rental Agreement 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 Rental Agreement.

### 3. DISCLAIMER OF WARRANTIES

- (a) Upon delivery of the Equipment you must 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.
- (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) No salesman or agent of the seller of the Equipment is authorised to change any term of this Rental Agreement or to make any warranties or representations about it, oral or otherwise.

### 4. CORRECTION OF ERRORS

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

### 5. PAYMENTS

- (a) You must pay to us the Total Monthly Rental Payment shown on the Signature Page each month for the full Agreed Term.
- (b) Payments are due monthly in advance on the Payment Date shown on the Signature Page.
- (c) If the Payment Date falls on a weekend or public holiday, payment is due on the next business day.
- (d) Unless we otherwise agree, all payments must be made by direct debit from your bank account or credit card.
- (e) All payments, once paid, are not refundable for any reason.
- (f) If there is any change to the amount of Stamp Duty or GST payable or if any other taxes or government charges become payable in respect of this Rental Agreement, you agree that we may adjust the Total

Monthly Rental Payment accordingly.

- (g) You are unconditionally bound to pay all amounts due under this Rental Agreement in full without 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 lost, stolen, damaged or destroyed, if it is defective or if you can no longer use it.

### 6. 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 must 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.

### 7. LOCATION AND INSPECTION

- (a) Other than portable equipment, you must not move the Equipment from its location noted on the Signature Page 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.

### 8. LATE PAYMENTS

- (a) If a Total Monthly Rental 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 dishonored 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 Rental Agreement, as a separate and independent obligation which survives termination of this Rental Agreement, 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 Rental Agreement are paid in full.

### 9. DEFAULT

You will be considered to be in default and to have

repudiated this Rental Agreement if you:

- (a) do not pay in full any Total Monthly Rental Payment or any other amounts due in accordance with clause 5;
- (b) fail to insure the Equipment if you are required to do so under clause 30;
- (c) become insolvent, bankrupt or become subject to any arrangement or composition, or as a company or business you enter administration, receivership, liquidation or external administration; or
- (d) sell, dispose or encumber the Equipment or attempt to do any of those things.

#### 10. TERMINATION

This Rental Agreement will terminate upon the occurrence of any of the following events:

- (a) we give you notice terminating this Rental Agreement after your default and repudiation of this Rental Agreement;
- (b) you return the Equipment to us at any time prior to the expiry of the Agreed Term if you have a right to do so under the Consumer Credit Code; or
- (c) we sell any Equipment repossessed under clause 13.

#### 11. CONSEQUENCES OF EARLY TERMINATION

- (a) If this Rental Agreement is terminated under clause 10, you must immediately:
  - (i) pay to us:
    - (1) all overdue Total Monthly Rental Payments; plus
    - (2) the present value of all remaining Total Monthly Rental Payments for the balance of the Agreed Term discounted at monthly rests at the Reserve Bank of Australia's cash rate current on the date this Rental Agreement is terminated; plus
  - (3) any liquidated damages payable under clause 8 and any other amounts payable under this Rental Agreement, which amount you agree is a genuine pre-estimate of the loss that we will suffer because of the early termination of this Rental Agreement; and
  - (ii) return the Equipment to us in accordance with clause 12 if you have not previously done so.
- (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 12(a) and (b)) discounted at monthly rests at the Reserve Bank of Australia's cash rate current on the date this Rental Agreement 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 12. 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 13, 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 Rental Agreement, or under any other agreement between you and us.

#### 12. RETURN OF EQUIPMENT

- (a) On termination of this Rental Agreement, you must return the Equipment at your expense to a place

within Australia that we nominate, together with all software specified in the Signature Page, all 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 and software not specified in the Signature Page that 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).

#### 13. REPOSSESSION OF EQUIPMENT

- (a) If you fail to pay any Total Monthly Rental Payment or if you fail to return the Equipment when you are required to do so under this Rental Agreement, in addition to our other rights, we or our authorised agents may, subject to complying with any applicable law, take all necessary steps to 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 terminated this Rental Agreement, you may collect the Equipment from us only if you have paid all amounts payable under this Rental Agreement (including any amounts owing under clause 16(a)).

#### 14. 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 or 30 days after our receipt of the notice (whichever date is the later) you elect to:
  - (i) return the Equipment to us in accordance with clause 12;
  - (ii) return the Equipment to us in accordance with clause 12 and enter into a new agreement with us for the rental of equipment having a value equal to or greater than the value of the Equipment when it was purchased by us;
  - (iii) pay to us the Flexi Keep Optional Payment shown on the Signature Page; or
  - (iv) 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 this clause, the payment of the final Total Monthly Rental Payment shall be deemed to be a notice making the election in accordance with paragraph (a)(iii).
- (c) If you make an election in accordance with paragraph (a)(ii), and provided we have received all amounts owing under this Rental Agreement, we irrevocably waive our rights to receive the Total Monthly Rental Payments due more than 30 days after our receipt of your written notice of election.
- (d) If you make an election in accordance with paragraph (a)(iii), and provided we have received all amounts owing under this Rental Agreement (including the amounts required under paragraph

- (a)(iii)), then:
- (i) the term of this Rental Agreement shall be indefinite;
  - (ii) we irrevocably waive our rights to receive any Total Monthly Rental Payments which would otherwise become due after the receipt by us of the amount required under paragraph (a)(iii);
  - (iii) you assume and bear the risk of all theft, loss or damage to the Equipment;
  - (iv) you are irrevocably released from any obligation under clause 30(a) to (d);
  - (v) we are irrevocably released from any obligation under clause 31 (if applicable);
  - (vi) we appoint you as our authorised agent to sell the Equipment to any person other than yourself for any amount that you determine;
  - (vii) you must notify us of the sale of any Equipment made by you as our agent under paragraph (d)(vi);
  - (viii) for your efforts in procuring the sale of the Equipment on our behalf, you will be entitled to retain as commission the full proceeds received upon the sale of the Equipment made by you as our agent under paragraph (d)(vi) less \$1. You must pay the \$1 to us on demand; and
  - (ix) any sale or purported sale by you in contravention of paragraph (d)(vi) shall be void.
- (e) Notwithstanding anything contained in this Rental Agreement you have no right or obligation at any time to purchase the Equipment.
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 Rental Agreement.
  - (b) You may apply to assign this Rental Agreement 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) and stamp duties payable in connection with this Rental Agreement; and
    - (ii) any expenses we reasonably incur in enforcing this Rental Agreement or incur because you have repudiated, terminated or breached this Rental Agreement, including, without limitation, any legal costs and expenses, financing break costs, costs incurred in repossessing or attempting to repossess the Equipment and costs incurred in storing and disposing of the Equipment.
  - (b) You must indemnify us for:
    - (i) 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
    - (ii) a claim for patent, trademark or copyright infringement, for 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. PRIVACY
- (a) We comply with the National Privacy Principles, the Code of Conduct for Credit Reporting and the Privacy Act (Cth) 1988. Terms used in this clause have the meaning given in the Privacy Act. In this clause “you” includes any guarantor.
  - (b) You have a right to request access to the personal information that we hold about you. Contact our Privacy Officer for more information.
  - (c) Subject to the payment of any applicable fee, we agree to provide you access to, or with a copy of, the personal information that we hold about you. We can only deny access to you in accordance with National Privacy Principle 6.
- (d) You agree to us collecting personal information about you for the purposes of:
- (i) assessing existing or future application(s) for consumer or commercial credit, managing your account, responding to your questions, enforcing our rights, performing our obligations and protecting our assets;
  - (ii) either us, the supplier of the Equipment or any other supplier appointed by us contacting you about your end of rental term options, any trade up options or other special offers or promotions;
  - (iii) providing you with information about our other products and services and the products and services offered by our dealers or suppliers; and
  - (iv) any guarantee given or to be given by you or any guarantee given or to be given by any other person as your guarantor and the enforcement of any guarantee.
- (e) We collect your personal information primarily from you. You agree that we may also collect personal information about you from the supplier of the Equipment; other credit providers; insurers; any of your employers, former employers, referees, banks, landlords, guarantors, accountants, lawyers and financial advisers; service providers to us (including debt collection agencies, introducers, private investigators, professional advisers); professional organisations; the internet; public and subscriber only databases; and government authorities.
- (f) You agree that we can obtain from credit reporting agencies and/or any business providing information about commercial credit worthiness:
- (i) consumer credit report(s) about you for application(s) for commercial credit; and
  - (ii) commercial credit report(s) about you for application(s) for consumer credit.
- (g) You agree that we can disclose your personal information to:
- (i) any person as permitted or required by law;
  - (ii) any of our related bodies corporate; our assignees or potential assignees; the supplier of the Equipment; any other supplier appointed by us, credit reporting agencies or any business providing information about commercial credit worthiness; other credit providers; insurers; any guarantor or proposed guarantor of your obligations to us; your assignees or proposed assignees; debt collection agencies; our banks and financial advisers; our lawyers, accountants and other professional advisers; and any suppliers or contractors to us whom may need to have access to your personal information to provide services to us or you (including, without limitation, valuers, physical and electronic file storage suppliers, receivables management suppliers and data warehouse); and
  - (iii) any person specifically authorised by you in writing to obtain your personal information from us.
- (h) You agree that the main consequence for you if you do not provide to us the personal information that we require, is that any application for credit is unlikely to be approved.
18. SEVERABILITY
- If:
- (a) the Consumer Credit Code (“Code”) or any other law would otherwise make a provision of this Rental Agreement illegal, void or unenforceable in any jurisdiction; or
  - (b) a provision of this Rental Agreement would

otherwise contravene a requirement of the Code or impose an obligation or liability which is prohibited by the Code or any other law, this Rental Agreement is to be read as if that provision were varied to the extent necessary to comply with the Code or that other law or, if necessary, omitted, without affecting the continued operation of the rest of this Rental Agreement in that jurisdiction or any other jurisdiction.

#### 19. 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 Rental Agreement.
- (b) 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 be valid if not returned.
- (c) A certificate signed by one of our authorised officers is adequate proof of the facts stated in it relating to this Rental Agreement and rights and obligations arising under it in the absence of manifest error.
- (d) You consent to us and our related bodies corporate sending commercial electronic messages to you.

#### 20. CHANGES TO THESE TERMS AND CONDITIONS

- (a) 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 Rental Payment (except as permitted in accordance with clause 5(f)) and shall only apply to obligations arising after the expiry of the notice period.
- (c) This notice may also be given to you by an advertisement in one or more newspapers circulating in your State or Territory.

#### 21. FEES

- (a) We reserve the right to charge fees for services we provide.
- (b) Fees will be charged at our standard rates applicable from time to time.

#### 22. GOVERNING LAW

- (a) This Rental Agreement is governed by the laws of New South Wales.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales.

#### 23. INTERPRETATION

Capitalised terms used in the Signature Page have the same meaning in these terms and conditions.

#### 24. JOINT AND SEVERAL OBLIGATION

If there is more than one, "you" means each of you separately and all of you jointly.

#### DDR SERVICE AGREEMENT

#### 25. DEBITING YOUR ACCOUNT

- (a) By signing the Direct Debit Request (DDR), you authorise us to debit funds from your nominated account for any amount payable under this Rental Agreement and any other agreement between you and us.
- (b) If any payment falls due on a non-business day, it will be debited from your nominated account on the following business day.
- (c) All enquiries should in the first instance be directed to us.
- (d) Your records and account details held by us will be kept confidential, except information required by our Financial Institution in the event of a claim or relating to an alleged incorrect or wrongful debit.

#### 26. CHANGES

- (a) If you want to request a change to the drawing

arrangements, please contact us at least 14 days prior to the next scheduled drawing date. You should contact us before contacting your Financial Institution.

- (b) These requests may include:

- (i) deferring the drawing;
- (ii) stopping an individual debit;
- (iii) suspending the DDR; or
- (iv) cancelling the DDR completely.

- (c) However, as we have relied on your agreement to honour the DDR, we would be unlikely to agree to a request to change it, unless you provide a reasonable proposal as to how you will make good your payment obligations under this Rental Agreement.

#### 27. YOUR OBLIGATIONS

- (a) It is your responsibility to:

- (i) ensure that your nominated account can accept direct debits as direct debits through BECS is not available on all accounts (your Financial Institution can confirm whether your account can accept direct debits);
- (ii) check your nominated account details with your Financial Institution before completing the DDR;
- (iii) ensure that there are sufficient cleared funds in the nominated account, by the due date, to allow for payment of the amounts payable; and
- (iv) advise us if the nominated account is transferred or closed.

- (b) If your drawing is returned or dishonoured by your financial institution, you should contact us to make suitable arrangements to rectify the non-payment. If no contact is made, we reserve the right to redraw the non-payment plus any applicable liquidated damages and fees payable pursuant to this Rental Agreement at any time at our discretion.

- (c) You will be responsible for paying any varying charges including, but not limited to, taxes, liquidated damages payable pursuant to clause 8 of this Rental Agreement and any other fees and charges payable.

#### 28. DISPUTES

- (a) If you believe that a drawing has been initiated incorrectly, contact us during business hours before contacting your financial institution.

- (b) If you do not receive a satisfactory response from us to your dispute, contact your Financial Institution who will respond to you with an answer to your claim:

- (i) within 7 business days (for claims lodged within 12 months of the disputed drawing); or
- (ii) within 30 days (for claims lodged more than 12 months after the disputed drawing).

- (c) You will receive a refund of the drawing amount if we cannot substantiate the reason for the drawing.

#### PART B - TERMS AND CONDITIONS THAT ONLY APPLY TO FLEXIWAY

#### 29. 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 the Total Monthly Rental Payments in accordance with clause 5.
- (b) You agree to indemnify us for any loss or damage to the Equipment.

#### 30. 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; nor can you 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 C - TERMS AND CONDITIONS THAT ONLY APPLY TO FLEXIWAY PROTECT**

**31. RISK OF LOSS OR DAMAGE**

- (a) Subject to clauses 14(d)(v), 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 Rental Agreement, subject to your compliance with clause 33, we will discharge our obligations in accordance with clause 34.

**32. 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 Rental 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.

**33. 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.

**34. 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 Rental Agreement 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 Rental Payments in accordance with clause

**PART D - TERMS AND CONDITIONS THAT ONLY APPLY TO FLEXIWAY PROTECT PLATINUM**

**35. RELEASE**

Subject to Clause 36, in the event of one of the following events occurring ("Event") and your compliance with Clauses 38 and 39, we will treat the Rental Agreement as terminated and release you from the obligation to pay to us any remaining Total Monthly Rental Payments and any other amounts which may be owing under the Rental Agreement as a consequence of the termination or otherwise (the "Release"):

- a) your Disablement or Disablement of the person(s) nominated in accordance with clause 37 where Disablement means:
- i) Total and continuous inability to perform the usual duties of an occupation for which you or the person(s) nominated in accordance with clause 37 as relevant are reasonably qualified by education, training or experience due to illness or injury for more than 30 consecutive days; and where
  - ii) the disablement is certified by a legally qualified medical practitioner licensed to practice in Australia and who is acceptable to us; and where
  - iii) you or the person(s) nominated in accordance with clause 37 as relevant have not been engaged in work or an occupation for remuneration or profit since the occurrence of the illness or injury; and where
  - iv) your Disablement or Disablement of the person(s) nominated in accordance with clause 37 does not relate to any illness, injury or condition known to be present in the 12 months preceding the commencement of the Rental Agreement.
- b) your involuntary unemployment or involuntary unemployment of the person(s) nominated in accordance with clause 37, which is the termination from permanent and gainful employment, not by your choice or the choice of the person(s) nominated in accordance with clause 37 as relevant, and being certified as unemployed by the appropriate government agency and which does not include any termination that was due to voluntary unemployment, voluntary redundancy, or the Customer reaching retirement, or becoming unemployed due to an act or acts of willful misconduct.
- c) your death or death of the person(s) nominated in accordance with clause 37 as relevant where the death is certified by a legally qualified medical practitioner acceptable to us.
- d) Diagnosis by a qualified medical practitioner acceptable to us that you or the person(s) nominated in accordance with clause 37 as relevant are suffering a terminal illness with a life expectancy of three (3) months or less.

#### 35A. SUSPENDED PAYMENTS

Subject to Clause 36(a), in the event of you or a person(s) nominated in accordance with Clause 37, being involuntarily unemployed within the meaning of Clause 35(b), you may, instead of seeking a Release under Clause 35, elect to have payment of Total Monthly Rental Payments suspended until a period of 3 months has elapsed from Flexirent having notified you it has accepted that your notification of the Event entitles you to a Release (“Suspended Payments”).

In the event you elect for Suspended Payments, rather than a Release, Flexirent will waive the application of Clause 36(b).

Following expiration of the 3 month period, you may elect to seek a Release under Clause 35, in

which case the administration fee becomes payable in accordance with Clause 36(b) or in the event you choose not to seek a Release under Clause 35, the remaining Total Monthly Rental Payments will be adjusted to allow for the Suspended Payments.

#### 36. EXCLUSION AND INDEMNITY

- a) Notwithstanding Clause 35, we will not Release you where you are two or more Total Monthly Rental Payments in arrears.
- b) On making a notification to us under clause 38 you agree to pay us an administration fee of \$220.

#### 37. PARTNERSHIPS, TRUSTS, COMPANIES

Where you as the Customer are not an individual natural person, but you have nominated an individual/s natural person/s as well under Customer details on the Signature Page, you are eligible for Flexirent Protect Platinum in relation to the nominated partners, trustee(s) or directors as relevant, and as such a notification may be lodged in their names, on behalf of the Customer.

#### 38. HOW TO MAKE A NOTIFICATION OF AN EVENT

- a) You or your executor must give us written notice within 30 days of an Event occurring.
- b) We will forward you or your executor a notification form that must, within 14 days of receipt, be completed and returned to us with all relevant information including such information as is set out in clause 35 above.
- c) We may make any reasonable enquiries as we see fit about the notification and may require you to have a medical examination. If we request an examination, we will pay for it.

#### 39. RETURNING EQUIPMENT

In the event we advise you that we agree an Event has occurred, you or your executor must immediately return the Equipment to your local Flexirent state office.

#### CONSUMER LEASE INFORMATION

This information statement applies if you are an individual and, at the date of signing this Rental Agreement, you intend to use the goods wholly or predominantly for personal, domestic or household purposes.

It does not apply to customers who are using the Equipment predominantly for business purposes.

#### INFORMATION STATEMENT THINGS YOU SHOULD KNOW ABOUT YOUR CONSUMER LEASE

This statement tells you about some of the rights and obligations of yourself and your lessor. It does not state the terms and conditions of your lease.

#### THE LEASE

1. How can I get details of my lease?

Your lessor must give you a copy of your consumer lease with this statement. Both documents must be given to you within 14 days after the lessor enters into the consumer lease, unless you already have a copy of the consumer lease.

If you want another copy of your lease write to your

lessor and ask for one. Your lessor may charge you a fee. Your lessor has to give you a copy –

- within 14 days of your written request if the contract came into existence 1 year or less before your request; or
- otherwise within 30 days.

2. What should my lease tell me?

You should read your lease carefully.

Your lease should tell you about your obligations, and include information on matters such as –

- details of the goods which have been hired; and
- any amount you have to pay before the goods are delivered; and
- stamp duty and other government charges you have to pay; and
- charges you have to pay which are not included in the rental payments; and
- the amount of each rental payment; and
- the date on which the first rental payment is due and either the dates of the other rental payments or the interval between them; and
- the number of rental payments; and
- the total amount of rent; and
- when you can end your lease; and
- what your obligations are (if any) when your lease ends.

This information only has to be included in your lease if it is possible to give it at the relevant times.

If your lease does not tell you all these details, contact the Government Consumer Agency, or get legal advice as you may have rights against your lessor.

3. Can I end my lease early?

Yes. Simply return the goods to your lessor. The goods may be returned in ordinary business hours or at any other time you and the lessor agree on or the court decides.

4. What will I have to pay if I end my lease early?

The amount the lease says you have to pay.

If you have made rental payments in advance then it is possible that your lessor might owe you money if you return the goods early.

5. Can my lease be changed by my lessor?

Yes, but only if your lease says so.

6. Is there anything I can do if I think that my lease is unjust?

Yes. You can apply to the court. Contact the Government Consumer Agency or get legal advice on how to go about this.

## THE GOODS

7. If my lessor writes asking me where the goods are, do I have to say where they are?

Yes. You have 7 days after receiving your lessor's request to tell your lessor. If you do not have the goods you must give your lessor all the information

you have so they can be traced.

8. When can my lessor or its agent come into a residence to take possession of the goods?

Your lessor can only do so if it has the court's approval or the written consent of the occupier which is given after the occupier is informed in writing of the relevant section in the Consumer Credit Code.

## GENERAL

9. What do I do if I cannot make a rental payment?

Get in touch with your lessor immediately. Discuss the matter and see if you can come to some arrangement. For example, you could ask your lessor

- to extend the term of the lease and either reduce the amount of each rental payment accordingly or defer rental payments for a specified period; or
- to simply defer rental payments for a specified period.

10. What if my lessor and I cannot agree on a suitable arrangement?

You can apply to the court. Contact the Government Consumer Agency or get legal advice on how to go about this.

If you have been unemployed, sick or there is another good reason why you are having problems with your lease, then your lease may be able to be changed to meet your situation.

There are other people, such as financial counsellors, who may be able to help.

11. Can my lessor take action against me?

Yes, if you are in default under your lease. But the law says that you cannot be unduly harassed or threatened for rental payments. If you think you are being unduly harassed or threatened, contact the Government Consumer Agency or the Australian Securities and Investments Commission, or get legal advice.

12. Do I have any other rights and obligations?

Yes. The law will give you other rights and obligations. You should also READ YOUR LEASE carefully.

**IF YOU HAVE ANY DOUBTS, OR WANT MORE INFORMATION, CONTACT THE GOVERNMENT CONSUMER AGENCY OR GET LEGAL ADVICE. PLEASE KEEP THIS INFORMATION STATEMENT. YOU MAY WANT SOME INFORMATION FROM IT AT A LATER DATE.**