

Rental Agreement Terms and Conditions

OUR AGREEMENT WITH YOU

Renting, delivery and ownership of Goods

1. (1) The Owner (We/Us/Our) agree to rent to the Renter (You/Your), the Goods subject to these terms and conditions. Together with these terms and conditions you will receive a document entitled Rental Agreement. These terms and conditions and the Rental Agreement comprise the rental agreement between Us and You. Words that are capitalised in this document have the meaning given to them in the Rental Agreement. Reference to Goods in this document is a reference to Rented Goods in the Rental Agreement

- (2) By accepting delivery of the Goods, you accept the offer in the Rental Agreement and you confirm that the Goods that have been delivered;
 - (a) are the goods specified as the Goods, and
 - (b) are prepared and ready for operation as per the manufacturer's specifications.
- (3) At all times the Goods belong to Us and You are the bailee only.

When our Agreement begins and ends

- (4) Our Agreement begins on the date when goods are delivered even if we have not processed or received any rental payments.
- (5) Our Agreement ends at the end of the Rental Period;
 - (a) if We have received all amounts due and liable by You under this Agreement or
 - (b) earlier if either of Us exercises their special right to terminate under this Agreement.

Special right to terminate

- (6)(a) PROVIDING THAT You are not in continuing default under the terms of this Agreement, You may terminate this Agreement at any time by returning the Goods in good and proper working order and condition and in good and substantial repair
- (b) You may terminate this Agreement at any time before any Goods have been delivered to you.

Offers after conclusion of the Rental Agreement

- (7)(a) This Rental Agreement is not an offer by Us to sell the Goods to You or to provide You with a payment option to buy the Goods by instalments.
- (b) At the conclusion of the Rental Agreement, You may make Us an offer to buy the Goods from Us. This may be in writing or it can be done over the phone by calling 1300 723 808.
- (c) Any offer to buy the Goods from Us needs to take into account the market price of the Goods, if any, as second hand goods, the depreciated value of the Goods (which We can advise You on) and what is a fair value for such Goods considering the cost that Essential Appliance Rentals is likely to incur in collecting the Goods, storing them before sale and then offering the Goods to the second hand market including any marketing and sale related expenses.

Indicatively but not conclusively, after considering the items in this clause (c), commonly the value of the second hand Goods to Essential Appliance Rentals is nominal

(d) Whilst Essential Appliance Rentals has the right to decline the offer, Essential Appliance Rentals recognises and appreciates your patronage in using our services and accordingly, every offer will be looked at favourably.

Deposit, rent and other money

- 2. (1) On or prior to accepting delivery of the Goods,
 - (a) You shall pay to Us one month's rent in advance; and
 - (b) You shall provide Us an authority for the deduction of all rental payments under this agreement authorising Your financial institution, Your employer or Centrelink to make all rental payments under this agreement to Us pursuant to clauses 4(3) and 4(6)
- (2) You shall pay to Us the total Rental Amount specified in the Rental Agreement when it is due.
- (3) You are obligated to pay the total rent and all other money payable under this agreement at the times and in the manner specified unless authorised by Us, or terminated in accordance with clause 1 (6).

Enabling Technology

- A. We reserve the right to install enabling technology on Goods that are capable of connecting to the Internet
- B. For the purpose of this agreement, enabling technology means a technology built into Goods that is capable of connecting to the Internet and enables us to disable the Goods and/or communicate with the user of the Goods
- C. The enabling technology is built into the hardware of the Goods and cannot be disabled and its function cannot be distinguished or isolated from the operation of the Goods
- D. You acknowledge and agree that we may use the enabling technology in the following circumstances;
 - i. in the event of default, we may use the enabling technology to disable the device and render it inoperative or otherwise restrict its full functionality;
 - ii. in the event of default, we may use the enabling technology to send a message to you or the person in possession of the Goods;
 - iii. in the event of default, we may use the enabling technology to locate the Goods; and
 - iv. if the Goods are lost or stolen we can use the enabling technology to locate the Goods
- E. We will not use the enabling technology;
 - i. to view any of your information on the Goods;
 - ii. to use any information on the device;
 - iii. to transmit or install any information or data on the device; or
 - iv. to gain access to any photos stored on the device or to any camera installed onto

F. You can ask Essential to:

- i. block the use of the Goods rented by You if it is lost or stolen; or
- ii. unblock the use of the Goods rented by You.

G. If the Goods are blocked, the Goods cannot be used to access Mobile Services (except to make calls to emergency 000 or 112 numbers only). Access to the TTY 106 emergency services number may be restricted or unavailable from some blocked devices.

H. If Essential blocks the Goods, Essential or an Essential supplier may include the International Mobile Equipment Identity (IMEI) number of the device on a list of blocked IMEI numbers that is available to Mobile Carriers and Carriage Service Providers who may also block the Goods from being connected to their network.

Operation, maintenance and storage of Goods

3. (1) At your own expense, you will keep and maintain the Goods in proper working order/condition and in good and substantial repair.

(2) You shall operate, maintain and store the Goods with due care and diligence and in compliance with the instructions and recommendations of the supplier and/or manufacturer of the Goods.

(3) At Your own expense you may make additions or alterations to the Goods provided they don't diminish the value of the Goods. Any parts, accessories, equipment or devices which are installed to the Goods by You will be deemed as part of the Goods and therefore Our property and subject to terms and conditions of this agreement.

(4) You undertake to:

(a) comply with all legal obligations and costs and expenses thereof.

(b) pay to Us on demand:

(i) all money We have paid to make good any obligation you have in respect of the Goods.

(ii) all costs/expenses incurred by Us in the attempted or actual enforcement or protection of Our rights including costs to release any lien or encumbrances and any cost incurred by Us in dismantling and removing the Goods from any premises.

(c) promptly notify Us of any default or any event which might come to constitute one;

(d) make the Goods available for examination and testing by Us upon reasonable notice given by Us; and

(e) not to do or allow any act, matter or thing which is likely to endanger the safety or condition of the Goods.

(5) You agree that

(a) the Goods will remain under Your care and control and housed at Your premises at all times.

(b) the Goods will not (unless mobile) be removed from Your premises or be removed from the state or territory in which that place is located without prior written consent by Us.

(6) You authorise Us to use Your name and to act on Your behalf in exercising any rights or instituting, carrying on, enforcing and compromising any legal proceeding or action which We consider desirable to protect Our rights to the Goods.

(7) At any time during the term of this agreement, we may ask You information as to the whereabouts of the Goods. You undertake to tell us, within 7 days after the request for information is given to you, where the Goods are used or ordinarily kept. If the Goods are not in your possession or control at the time of the request, You must give us sufficient details so we can trace the Goods

Liens, encumbrances and Security

4. (1) You are not permitted to deal with the Goods in any manner that may undermine Our rights as the owner of the Goods.

(2) You must notify any potential workers on the Goods or any person seizing the Goods of restrictions contained herein.

(3) To secure your payment obligations under the Rental Agreement, we require You to;

(a) provide us with details of a bank account or credit/debit card, you operate with a financial institution in Australia (The Account); and

(b) execute a direct debit authority in respect of The Account .

(4) In the event You fail to pay any payment under this Agreement, You irrevocably authorise us to rely and activate the direct debit and to debit The Account with any outstanding monies and applicable fees.

(5) You must ensure that The Account has sufficient funds to meet any repayment obligation under this Agreement.

(6) If you are a Centrelink client and have provided Us with a Centrepay authority in relation to repayments under this Agreement, the requirement in clause 4(3) is in addition to that authority.

Risk and insurance

5.

(1) You assume all risks and liabilities in respect of the Goods and for injuries to or death of persons and damage to property arising from their possession, use, maintenance, repair or storage.

(2) You agree to indemnify Us against the loss of or damage to the Goods by any means.

(3) You will indemnify Us and hold Us harmless from all losses, damages, claims, penalties, liabilities and expenses/costs arising as a result of or in connection with the Goods in any way.

(4) You will insure and keep the Goods insured with an authorised insurer for the full replacement value. You must provide us with a copy of the certificate of currency of your insurance which covers the Goods if we ask You for that certificate.

(5) You will not do any act or thing which might in any way invalidate or prejudice any such insurance or Our interest therein.

You must notify Us of any event which might lead to a claim for compensation or a claim under any insurance policy and shall comply with Our instructions in connection with any such claim.

You authorise Us to conduct and/or settle any claim for loss or damage to the Goods and any amount payable is payable to Us and will be credited to your liability under this Agreement. If the amount received is insufficient to pay the cost of repair or replacement or is less than Your total liability to Us, You must pay the deficiency.

Reliance and warranties

6.

(1) You hereby acknowledge that You have not relied in any way on Our skill or judgment. Prior to entering into this agreement and prior to the acceptance of the Goods, you are satisfied as to the condition, suitability and fitness for your purposes and the validity of the warranties of the manufacturer and/or supplier.

(2) Nothing in this agreement limits your rights under the Australian Competition and Consumer Act 2010 (ACC) or any legislation which may not be limited by agreement. If the ACC or other legislation implies a condition or warranty into this agreement in respect of goods supplied then to the extent permitted by the ACC, Our liability may not be excluded but may be limited, Our liability for any breach of that condition or warranty is limited to Us doing any one or more of the following (at Our election):

- (a) replacing the goods or supplying equivalent goods;
- (b) repairing or paying the cost of repairing the goods;
- (c) paying the cost of replacing the goods or of acquiring equivalent goods;

(3) You hereby warrant that the Goods are to be used by You wholly or mainly for private purposes.

Quiet enjoyment

7. Subject to meeting all your obligations, You may peaceably possess and enjoy the Goods during the Rental Period without interruption or disturbance from Us or Our lawful representative.

Renter's warranties

8. You warrant that You have full power and capacity to enter into and observe and perform the terms of this Agreement and;

- (a) This agreement constitutes legal, valid and binding obligations enforceable against You in accordance with its terms;
- (b) You are not forbidden by any relevant law or regulation or any agreement or instrument to which You are a party or by which any of Your assets are bound to execute and perform this agreement;

(c) You have obtained, in full force and effect, all consents and approvals required in order to execute and perform this agreement;

(d) No event of default exists and no event has occurred which might come to constitute an event of default;

(e) To the best of Your knowledge and belief, no information provided by You to Us in connection with this agreement contained any material misstatement of fact or omitted to state a material fact.

Termination by Default

9. (1) Each of the following events is an event of default:

- (a) Any money payable under this agreement remains unpaid for a period of five days or more after its due date; or
- (b) You suspend or cancel the Centrelink authorisation to pay the rental payment and You fail to reach an alternative payment arrangement with Us prior to the next payment due date; or
- (c) the renter fails to observe or perform other obligations, liabilities or other provisions of this agreement and such failure continues for seven days or more after notice in writing has been given by Us requiring You to remedy the same; or
- (d) We ascertain that any warranty, representation or statement made by You under or in connection with this agreement has been false or misleading in any material respect; or
- (e) insurance in respect of the Goods is not entered into as required under this Agreement, is cancelled/not renewed; or
- (f) You commit or suffer any act of insolvency; or
- (g) execution/distress is levied against You or Your assets; or
- (h) You enter or propose to enter into any arrangement, reconstruction or composition with any of Your creditors; or
- (i) there is a material adverse change in Your financial position which may adversely affect Your ability to meet Your obligations under this agreement.

(2) Occurrence of an event of default is repudiation by You of this agreement.

(3) Subject to National Consumer Credit Protection Act 2009, at any time upon or after the occurrence of an event of default:

- (a) We will give you notice of default requiring you to remedy the default within 30 days of the notice;

If you do not remedy the default, we may:

- (a) commence enforcement proceedings against you and seek to repossess the Rented Goods; and
- (b) We may, by notice in writing, terminate the rental agreement and take possession of the Goods;

and in either case You either;

- (a) give us express authority to access Your premises and repossess the Goods and you undertake to execute such forms and authority as we may require to facilitate access to your property ; or
- (b) You irrevocably undertake to deliver the Goods together with all tools and accessories supplied with or forming part of the Goods in good order and repair, duly allowing normal wear and tear, at Your expense, to Us and in accordance with the directions given by Us.

(4) If We take possession of the Goods We may retain possession until:

- (a) We are satisfied the event of default has been remedied or in Our opinion is no longer prejudicial to Our rights.
- (b) there is no other event of default which has occurred and is continuing or has been waived or remedied.

During possession by us, this agreement shall continue and the total rent shall continue to be payable by You. Prior to any Goods being returned to You, You must pay Us all charges or costs incurred by Us in taking possession, maintaining and storing the Goods during possession, the cost of redelivering the Goods to You, and any other charges and costs paid by Us for which You are liable under the terms of this agreement.

(5) Upon the Rented Goods being received by Us after termination of the rental agreement for any reason whatsoever, We shall be entitled to:

- (a) rent, lease or license the Goods as We may think fit; or
- (b) sell or otherwise dispose of the Goods as We may think fit.

(6) Upon termination of the rental hereunder for any reason whatsoever (except if the agreement ended pursuant to clause 1.(5)), You must pay to Us, by way of liquidated damages an amount equal to the aggregate of:

- (a) the unpaid balance of the rental instalments comprising the total rent that would have been payable during the Rental Period had the rental hereunder not been terminated; and
- (b) the costs and expenses incurred by Us in repossessing and storing, insuring and registering the Goods and in entering upon and removing the Goods from land or premises where the Goods are situated and make good any injury or damage caused to the said land or premises; and
- (c) the costs and expenses of repairs reasonably necessary to bring the Goods to a saleable condition; and
- (d) less a sum equal to the "net proceeds of sale" of the Goods.

(7) If we issue you with a default notice under this Agreement, you may request, orally or in writing, that we postpone the enforcement proceeding against you. You must make this request before the expiry of the default notice.

(8) If we receive a notice from you pursuant to clause 9(7), we will, within 21 days of receiving your request, advise you whether we agree to postpone any enforcement action against you and if we do not agree to postpone, we will give you reasons for the refusal and information about our external dispute resolution scheme and your rights under that scheme

10. Statement of Account

- (1) The Owner will give you a statement of account, if the term of this Agreement is longer than 12 months then prior to the expiry of the 12 months term and every 12 months thereafter and if this Agreement is not longer than 12 months then the Owner will give you a statement of account prior to the end date of the Rental Period.
- (2) The Owner will not give you a statement of account if you are in default under this Agreement and the Owner commenced enforcement proceeding or if you are a natural person, you die or are insolvent unless the trustee in bankruptcy or the personal representative asks for a statement of account.
- (3) You may, at any time, request the Owner to issue you with a statement of account. The request can be oral or in writing. The statement of account issued by the Owner under this request will include information about your account, any credit and or debits made to your account during the statement period, the amount outstanding and any corrections to the account

(4) If you ask for a statement of account, the Owner will issue such statement within 14 days of the request. If the request was oral the statement can be given orally however if the request was in writing, the statement of account must be in writing.

(5) No later than 90 days before the end date of the Rental Period, the Owner will issue you with an end of lease statement. The end of lease statement will provide information in relation to your obligations at the end of the lease and any action you need to take with respect to the Goods. The statement will have any other information as required by law.

(6) The Owner does not have to issue you an end of lease statement of account if you are in default of this Agreement and the Owner commenced enforcement proceedings, you die or become insolvent and the trustee in bankruptcy or the personal representative did not ask for a statement or the Owner had written off the debt.

(7) You may ask us at any time for a statement of amount required to terminate this Agreement in a given date. We will give you such statement within 7 days from the date of your request.

11. Disputed Amounts

- (a) If you disagree with any amount debited to your account you may dispute that liability. If a statement of accounts is issued, you must dispute the liability within 30 days after you receive the statement of account.
- (b) If a statement of account is not issued, you must dispute the liability within 3 months after the end date of the Rental Period.

12 Hardship

- (1) If you experience difficulties or you are unable to meet your obligations under this Agreement, you may give notice to the Owner with details of the difficulties or inability. The notice can be given orally or in writing (Hardship Notice)
- (2) The Owner may give you notice within 21 days of receiving the Hardship Notice requiring you to provide further and better particulars in relation to the Hardship Notice within 21 days of the date of the Owner's notice.
- (3) You must comply with the Owner's notice for further and better particulars in relation to the Hardship Notice. These details will assist the Owner in deciding whether to comply with any request made by the Hirer under the Hardship Notice.

(4) If the Owner does not require further information from you or the Owner requested and received further information from you in relation to the Hardship Notice, the Owner must within 21 days of receiving the Hardship Notice (if no further information was requested) or within 21 days after receiving the further information advise you of its decision in relation to the request of the Hirer under the Hardship Notice.

(5) If the Owner requested further information from you and did not receive such information in accordance with the time line set out in this clause the Owner must advise you within 28 days of the Owner's notice of its decision in relation to your request under the Hardship Notice.

(6) The Owner does not have to comply with a request under the Hardship Notice or agree to amend this lease Agreement.

(7) If the Owner agrees to vary this Agreement following the Hardship Notice then the Owner will, no later than 30 days after the agreement to vary is made, give you a notice settling out the particulars of the change.

13. Amendments and Variations

(1) This Agreement can only be amended if the amendments are in writing signed by each of the parties. The Owner can vary this Agreement unilaterally if the amendments to the Agreement reduce your obligations.

If the parties vary the Agreement by consent, the Owner will issue to you a notice, no later than 30 days after the agreement to vary, in relation to the changes to the Agreement. The notice will contain such details as are necessary and required by law but as a minimum it will state;

- (a) The date of the change;
- (b) Particulars of the change;
- (c) any fees and charges you must pay;
- (d) Particulars of any amounts and commission payable to third parties before and after the change; and
- (e) Particulars of any increase in the term of the Agreement following the change and the proposed new end date of the Agreement after the change.

14. Privacy

For the purpose of this clause the following definitions apply;

- (a) Personal information is defined in the Privacy Act as information (or opinion), in any form, about an individual (not a business, company or trust) whose identity is apparent or can be ascertained from the information held.
- (b) Privacy Act means the Privacy Act 1988 (Commonwealth) as amended from time to time

This privacy declaration contains important information about our collection, use and disclosure of Personal Information.

(1) If you proceed with the agreement with us, you agree to the collection, use and disclosure of Personal Information as set out in this privacy notice.

(2) We undertake to comply with the Privacy Act 1988.

(3) We require Personal Information from you in order to better assess your application to enter into a rental agreement with us. You do not have to provide us with Personal Information, however, if you do not provide us with Personal Information we will not be able to process your application.

(4) We will safe guard your Personal Information and not use it for any other purpose except to facilitate our relationship and this agreement.

(5) In order to discharge our legal obligations regarding responsible lending, we may exchange information about you with credit reporting agencies and bureaus.

(6) You expressly authorise us to liaise with any credit reporting agencies or credit providers and receive from these bodies information about your credit file which may include information about your credit history, credit worthiness, repayments history, default information and judgements against you.

(7) We may also disclose information about you to third parties as required by law or as required to provide you with services under this agreement and promotional materials about additional services we may offer (unless you asked us not to), to manage this agreement and to follow your instructions. You may ask us to stop sending you marketing materials or information about additional services we offer, at any time, by calling or writing to us with these instructions.

(8) If you are in default, we may report the default to the credit reporting agencies in compliance with the Privacy Act. We must follow the process described in this Agreement in relation to default and provide you with notice of the pending reporting of the default before we will report your default to the credit reporting agencies.

(9) The credit reporting agencies we use may include:

- (a) Veda, PO Box 964 North Sydney 2059, www.mycreditfile.com.au, 130 762 007
- (b) Dun and Bradstreet, Level 7, 479 St. Kilda Road Melbourne 3004, www.dnb.com.au, 1300 734 806
- (c) Compuscan, Level 32, 101 Miller Street, Nth Sydney 2060 www.compuscan.com.au, 02 8019 7053

(10) You have the right to seek access to any information we hold about you. Contact our privacy officer in this regards. We may charge you a fee to access and or correct your personal information that is held with us. You have the right to ask us to correct any information we hold about you if the information is inaccurate or erroneous.

(11) If you believe we did not meet our privacy obligations, we invite you to write to our privacy officer at Unit 1/11 Havelock Road, Bayswater Victoria 3153

(12) We will make every effort to resolve your complaint internally.

(13) If you are dissatisfied with the resolution we offered, you may file a complaint with the Office of the Australian Information commissioner on 1300 363 992.

(14) We may vary this privacy policy and disclosure at any time. If we change this policy and disclosure, we will give you notice of the changes.

15 Miscellaneous

- (1) A written statement from Us stating the amount or any amount due from You shall be conclusive evidence of the amount so due.
- (2) Any notice served by either party in respect of this agreement shall be deemed to have been served if left at or posted by prepaid mail addressed, in Your case, to the most recent address we have on file and, in Our case to the address specified by notice in writing to You. Any notice served by post shall be deemed to have been served on the day three days after the date of posting. You may change your address but You must notify Us of the new address.
- (3) This agreement shall be governed by and construed in accordance with the laws of the state or territory in which You were residing when this agreement was signed.
- (4) In the construction of this agreement Our rights may be exercised by Our nominees and assigns; singular words shall include the plural; words connoting of gender shall include masculine, feminine and neuter; and month shall mean calendar month.
- (5) Our position or rights under this agreement cannot be waived unless expressly waived in writing by Our general manager, or an officer authorised by the general manager. This agreement shall not be amended except expressly and in writing signed by both parties and on Our behalf by one of Our authorised officers.
- (6) If the Goods are affixed, attached or secured to land/premises, the Goods shall be deemed not to be a fixture and may be removed by Us at any time in accordance with the provisions. We shall not be liable in respect of loss, damage or otherwise arising in respect of such entry or such removal.
- (7) If any provision of this agreement shall be found to be void, voidable or unenforceable, the validity and enforceability of the remaining provisions shall not in any way be affected or impaired.
- (8) The headings in this agreement are inserted for convenience only and shall be ignored in construing this agreement.
- (9) Time is of the essence of this agreement.
- (10) You acknowledge that, in the event that You were introduced or referred to Us in relation to this transaction by a third party, You agree that a commission in the form of a referral credit may be given to that third party in respect of this transaction.