

# EQUIPMENT RENTAL TERMS AND CONDITIONS

IN CONSIDERATION OF the mutual covenants and promises in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the Hirer leases the Equipment from Permobil on the following Terms:

## AGREEMENT

BETWEEN:

PERMOBIL AUSTRALIA PTY LTD of 8 Viewbrook Close, Seven Hills, NSW 2147 (the “Owner”)

-AND-

(the “Hirer”)

(the Owner and the Hirer are collectively the “Parties”)

## Definitions:

The following definitions are used but not otherwise defined in this Agreement:

“Casualty Value” means the marked value of the Equipment at the end of the Term or when in relation to a Total Loss, the market value the Equipment would have at the end of the Term but for Total Loss. The Casualty Value may be less than but will not be more than the original purchase price of the Equipment.

“Equipment” means the product(s) which has an approximate value as stated in the current price list.

“Total Loss” means any loss or damage that is not repairable or that would cost more to repair than the market value of the Equipment.

## Lease

The Owner agrees to lease the Equipment to the Hirer, and the Hirer agrees to lease the Equipment from the Owner in accordance with the Terms set out in this Agreement.

## **Term**

The Agreement commences on the date the Owner issues a Tax Invoice and is entered into for an indefinite term and may be terminated at any time a) by the Hirer by giving 7 days' notice, or by the Owner by giving 7 days' notice. The Owner may also terminate the Agreement by giving 7 days' notice if the Hirer is in default of any of the Terms under this Agreement. The Hirer is responsible to pay rent until product(s) are returned to the Owner.

## **Rent**

The rent will be paid in instalments, in advance until the product is returned to the Owner.

## **Use of Equipment**

### **Repair and Maintenance of Equipment**

The Hirer will, at the Hirer's own expense, keep the Equipment in good repair, appearance and condition, normal and reasonable wear and tear excepted. The Hirer will supply all parts that are necessary to keep the Equipment in such a state.

If the Equipment is not in good repair, appearance, and condition when it is returned to the Owner, the Owner may make such repairs or may cause such repairs to be made as are necessary to put the Equipment in a state of good repair, appearance and condition, normal and reasonable wear and tear excepted. The Owner will make the said repairs within a reasonable time of taking possession of the Equipment and will give the Hirer written notice of and invoices for the said repairs. Upon receipt of such invoices, the Hirer will immediately reimburse the Owner for the actual expense of those repairs.

The Hirer may, but is not obligated to, enforce any warranty that the Owner has against the supplier or manufacturer of the Equipment. The Hirer will enforce such warranty or indemnity in its own name and at its own expense.

The user shall use the Equipment only in the manner in which it has been designed.

## **Warranties**

The Equipment will be in good working order and good condition upon delivery.

The Equipment is of merchantable quality and is fit for purpose.

## **Loss and Damage**

To the extent permitted by law, the Hirer will be responsible for risk of loss, theft, damage or destruction of the Equipment from any and every cause.

If the Equipment is lost or damaged, the Hirer will continue paying Rent, will provide the Owner with prompt written notice of such loss or damage and will, if the Equipment is repairable, put or cause the Equipment to be put in a state of good repair, appearance, and condition.

In the event of Total Loss of the Equipment, the Hirer will provide the Owner with prompt written notice of such loss and will pay to the Owner all unpaid Rent for the Term plus the Casualty Value of the Equipment, at which point Ownership of the Equipment passes to the Hirer.

## **Ownership, Right to Lease and Quiet Enjoyment**

The Equipment is the property of the Owner and will remain the property of the Owner.

The Hirer will not encumber the Equipment or allow the Equipment to be encumbered or pledge the Equipment as security in any manner.

The Owner warrants that the Owner has the right to lease the Equipment according to this Agreement.

The Owner warrants that as long as no Event or Default has occurred, the Owner will not disturb the Hirer's quiet and peaceful possession of the Equipment or the Hirer's unrestricted use of the Equipment for the purpose for which the Equipment was designed.

## **Insurance**

No insurance coverage for the Equipment is required under this Agreement. The owner encourages the hirer to take out appropriate insurance coverage to cover any loss or damage.

## **Taxes**

The Hirer will report and pay all taxes, fees and charges associated with the Equipment, with the use of the Equipment, and with revenues and profits arising out of the use of the Equipment, including, but not limited to, sales taxes, property taxes, and licence and registration fees. The Hirer will pay and all penalties and interest for failure to pay any tax, fee or charge on or before the date on which the payment is due. The Hirer will pay any and all penalties and interest for failure to report required information to

any taxing authority with jurisdiction over the Hirer or the Equipment. If the hire fails to do any of the foregoing, the Owner may, but is not obligated to, do so at the Hirer's expense.

Notwithstanding any other provisions of this Agreement, the Hirer will not be required to pay any tax, fee or charge if the Hirer is contesting the validity of same in the manner prescribed by the legislation governing the imposition of the same, or in the absence of a prescribed form, in a reasonable manner. However, the Hirer will indemnify and reimburse the Owner for damages and expenses incurred by the Owner arising from or relating to the Hirer's failure to pay any tax, fee, or charge, regardless of whether the Hire is contesting the validity of the same or not.

If the Hirer fails to pay any and all taxes, fees, and charges mentioned in this Agreement and the Owner, on behalf of the Hirer, pays the same, the Hirer will reimburse the Owner for the cost upon notification from the Owner of the amount.

## **Default**

The occurrence of any one or more of the following events will constitute an event of default ("Event of Default") under this Agreement:

The Hirer fails to pay any amount provided for in this Agreement when such amount is due or otherwise breaches the Hirer's obligations under this Agreement.

The Hirer becomes insolvent or makes an assignment of rights or property for the benefit of creditors or files for or has bankruptcy proceedings instituted against it under the bankruptcy law of Australia or another competent jurisdiction.

A writ of attachment or execution is levied on the Equipment and is not released or satisfied within 10 days.

## **Remedies**

On the occurrence of an Event of Default, the Owner will be entitled to pursue any one of more of the following remedies (the "Remedies")

Declare the entire amount of the Rent for the Term immediately due and payable without notice or demand to the Hirer.

Apply the deposit toward any amount owing to the Owner.

Commence legal proceeding to recover the Rent and other obligations accrued before and after the Event of Default.

Take possession of the Equipment, without demand or notice, wherever same may be located, without any court order or other process of law. The Hirer waives any and all damage occasioned by such taking possession.

Terminate this Agreement immediately upon written notice of the Hirer.

Pursue any remedy available in law or equity.

### **Address of Notice**

Service of all notices under this Agreement will be delivered personally or sent by registered mail or courier to the following addresses:

Owner: PERMOBIL AUSTRALIA PTY LTD of 8 Viewbrook Close, Seven Hills, NSW 2147

All dollar amounts in the Agreement refer to Australian dollars, all payments required to be paid under this Agreement will be paid in Australian dollars unless the Parties agree otherwise.

### **Governing Law**

This Agreement will be construed in accordance with and governed by the laws of Australia and the Parties submit to the exclusive jurisdiction of the Australian courts.

### **General Terms**

By accepting product(s) on hire you are agreeing to the entire Agreement.

Time is of the essence in this Agreement.

This Agreement will extend to and be binding upon and inure to the benefit of the respective heirs, executors, administrators, successors, and assigns, as the case may be, of each Party to this Agreement.

Neither Party will be liable in damages or have the right to Terminate this Agreement for any delay or default in performance if such delay or default is caused by conditions beyond its control including, but limited to Acts of God, Government restrictions, wars, insurrections, natural disasters, such as earthquakes, hurricanes, or floods and/or any other cause beyond the reasonable control of the Party whose performance was affected.

**Notice to Hirer**

NOTICE TO THE HIRER: This is a lease. You are not buying the Equipment.