

MASTER RENTAL AGREEMENT FOR EQUIPMENT

RECITALS

A. Nexxis shall let and the Customer shall take on rental equipment. Nexxis and the Customer are entering into this master rental agreement to provide for the rental of all equipment requested by the Customer from time to time. Nexxis may decline to rent equipment in its sole discretion.

B. If Nexxis wishes to rent equipment, Nexxis will require the Customer to sign a Nexxis Quote.

C. The Nexxis Quote may list the particular equipment taken for rent, applicable charges, rental commencement and termination date and such other information and provisions as Nexxis requires.

D. This master rental agreement provides for the terms of each such rental. Each Nexxis Quote shall not constitute a separate rental agreement but shall be read together with and form part of this master rental agreement incorporating all of the provisions of this master rental agreement. The agreement shall include the terms and conditions attached below.

TERMS AND CONDITIONS

1. DEFINED TERMS

Customer means the hirer signing this document, and includes its employees, servants and agents.

Damage Waiver Fee means the damage waiver fee specified in the Nexxis Quote. This may or may not apply depending on the individual Nexxis Quote.

Delivery Address means the Customer's address set out in the Nexxis Quote.

Equipment means any item of plant and equipment listed in the Nexxis Quote, including accessories.

Nexxis means Nexxis Pty Ltd.

Nexxis Quote means the Nexxis quotation provided for plant and/or equipment that sets out the Rental Start Date, Price, Delivery Address and Rental Return Address.

Price means the quoted price in the Nexxis Quote. This may be a daily, weekly or monthly rate applied to the number of days of hire as opposed to a fixed price. A handling fee and freight charges will apply as set out in Nexxis Quote, along with any other applicable charges as set out in the Nexxis Quote.

Rental Return Address means the return address specified in the Nexxis Quote.

Rental Agreement means this document and each Nexxis Quote, which will together form the Rental Agreement between Nexxis and the Customer.

Rental Return Date means the return date stated in the Nexxis Quote.

Rental Start Date means the commencement date stated in the Nexxis Quote.

2. RENTAL TERMS

2.1 The rental period commences on the Rental State Date, shown on the Nexxis Quote, and terminates at 5:00 p.m. on the estimated Rental Return Date, as shown on the Nexxis Quote.

2.2 If the Equipment is not returned by the return date specified in the Nexxis Quote, or no Rental Return Date is specified, then rental charges will continue to accrue until the Equipment is returned (complete with all accessories and undamaged). Nexxis Schedule of Hire Rates shall determine the additional rental charge, at the time.

2.3 In the event of early return before the expiry of the term of the Nexxis Quote, then Nexxis, at its sole discretion, may adjust the rental charge to reflect the shorter rental duration.

2.4 The rental period may be extended beyond the period stated on the Nexxis Quote and will be invoiced thereafter for every 14 day period accrued until the equipment is returned (complete with all accessories and undamaged).

2.5 Equipment returned to the Nexxis office (complete with all accessories and undamaged) from which it was despatched to the Customer before 9:00 am on any business day 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.

3. PAYMENT FOR RENTAL

3.1 The Customer agrees to pay Nexxis the Price and the Damage Waiver Fee (where applicable) specified in the Nexxis Quote for the Equipment for the hire period and any applicable GST, value added tax, sales or rental tax, stamp duties, tolls, fines, penalties, levies, customs duties and tariffs, or freight and other charges relevant to the Rental Agreement and the rental. If any of the above taxes or duties applies in the country of rental then the Customer, in addition to the Price, will pay such applicable tax and/or duty. In certain instances, Equipment may need to be sourced from outside of the country of rental. In those circumstances, Nexxis reserves the right to adjust any Price if there is any adverse currency fluctuation between the country of rental and the country of source. The Customer indemnifies Nexxis in respect of any claims for such costs, charges, imposts and expenses applied or incurred.

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3.2 The required fees must be paid to Nexxis fourteen (14) days from the date of the Nexxis invoice. Account customers who do not pay their account on the terms agreed will be deemed to be in default. Equipment not returned on time and in accordance with the Rental Agreement will be subject to a continuance of the agreed rental until return is complete.

3.3 Nexxis may agree to make Equipment delivery and collection arrangements to and from the Customer's site and the Customer will pay to Nexxis any charges expenses incurred in such delivery, installation and/or collection. Nexxis will use its best endeavours to deliver the Equipment by the agreed time but will not be liable to the Customer for a late delivery, non-delivery or any associated loss or damage due to a late or non-delivery.

3.4 A cancellation fee may be charged by Nexxis where Equipment has been reserved by booking and the Customer cancels the booking without reasonable notice or fails to take delivery of the Equipment.

3.5 Nexxis may charge the Customer a fee for accepting payment by credit card.

3.6 Nexxis reserves the right at any time without notice to revise the Price.

4. DEBIT AUTHORITY

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

5. OVERDUE PAYMENTS

If any amount is due and unpaid, the Customer agrees to pay interest on the overdue amount at the rate of 7% higher than the Reserve Bank of Australia's 90-day bill rate calculated daily until payment in full is received and the Equipment has been returned. The Customer is liable for all additional costs Nexxis may incur, including legal, administrative and collection costs to recover unpaid amounts.

6. DAMAGE WAIVER FEE

6.1 Upon payment by the Customer of the Damage Waiver Fee, Nexxis shall be responsible for the cost of repairs or replacement of the Equipment due to damage occurring during the rental period subject to any excess payable by the Customer.

6.2 This clause in no way entitles the Customer to, or implies the availability of, compensation from Nexxis for any liability incurred by the Customer in relation to the use of the Equipment.

6.3 This clause will not continue to operate after the expiration of the Rental Agreement unless an extension by Nexxis is granted in writing and an additional agreed fee is paid.

6.4 This clause will not apply to loss or damage which relates to or arises from:

- (a) breach of any statutory laws or regulations in connection with the use of the Equipment of the Customer;
- (b) misuse, abuse, wilful and/or malicious acts, negligent and/or reckless use and/or overloading of the Equipment;
- (c) theft, loss or damage by whatever cause to tools and/or accessories supplied with the Equipment including but not limited to: probe tips, probe tip cases, electric leads and cables, USB, AC adaptors, manuals, user guides, CD ROMS, batteries, extension cords or cables, and any other accessories in the packing list;
- (d) lack of appropriate storing or non-adherence to other normal maintenance requirements that could reasonably be expected of the Customer under the Rental Agreement;
- (e) disregard for instructions given to the Customer by Nexxis in respect of the proper use of the Equipment or in contradiction of the manufacturer's instructions if supplied with the Equipment at the commencement of the rental;
- (f) unexplained disappearances of the Equipment;
- (g) theft of the Equipment in circumstances where site security is available including, but not limited to, locked yards, buildings and sheds, where proper security is not used by the Customer to secure the Equipment whilst they are left unattended; and
- (h) loading or off loading Equipment from maritime vessels, transportation of Equipment on maritime vessels or the use of Equipment on any wharf or bridge or over any body of water.

7. DELIVERY AND RETURN OF EQUIPMENT

Delivery of Equipment to the Customer shall take place at the Delivery Address 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 Nexxis, and shall be to the Rental Return Address specified in the Nexxis Quote.

8. USE, OPERATION AND MAINTENANCE

The Customer agrees with Nexxis that:

- (a) The use of the Equipment carries with it dangers and risks of injury and the Customer agrees to accept all dangers and risks.
- (b) The Customer shall keep the Equipment at the Delivery Address specified in the Nexxis Quote unless prior written permission has been obtained from Nexxis to relocate the Equipment elsewhere.
- (c) The Equipment shall not be used by anyone other than the Customer without the express permission of Nexxis.
- (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.

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Further, the Customer will ensure that all persons operating or erecting the Equipment are instructed in its safe and proper use, and where required, hold valid proof of training or are fully licenced to use it.

(e) The Customer will operate, maintain, store and transport the Equipment in a proper manner and where required strictly in accordance with any instruction provided by Nexxis and the manufacturer's instructions and with due care and diligence.

(f) The Equipment will only be used for its intended purpose and in accordance with any manufacturer's instructions and recommendations whether supplied by Nexxis or posted on the Equipment in regard to its operation, maintenance and storage.

(g) The Customer will comply with all occupational health and safety laws and regulations relating to the use of the Equipment, and associated operations.

(h) The Customer shall ensure the Equipment is returned to Nexxis clean of all foreign matter or agrees to a reasonable cleaning fee being charged by Nexxis.

(i) The reasonable costs of consumables provided by Nexxis are used by the Customer are to be paid to Nexxis at the completion date.

(j) The Customer shall permit Nexxis, 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.

(k) The Customer requires and will utilise the Equipment for its business purposes.

(l) The Customer shall keep the Equipment in a safe and proper location.

(m) The Customer shall not alter or modify the Equipment without the prior written consent from Nexxis.

(n) The Equipment shall at all times, whilst in the care, custody or control of the Customer, be at the risk of the Customer.

(o) The Customer accepts full responsibility for all equipment rented, including its use in accordance with any operating instructions provided or Government Regulations.

(p) The Customer will in respect of the Equipment comply with all State, Territory and Federal Laws.

(q) The Equipment, when returned to Nexxis, will not have any information contained in or associated with it which would, if received by Nexxis or any other person, be in breach of State, Territory or Federal privacy laws.

(r) Nexxis 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 Nexxis and request instructions before taking any action. The responsibility for advising Nexxis of any need for recalibration rests with the Customer. Nexxis 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 available and Equipment substituted shall be subject to these conditions.

9. CUSTOMER'S WARRANTIES

The Customer warrants that:

(a) the Equipment will be used for business purposes;

(b) the particulars of the Nexxis Quote are correct in every respect and are not misleading in any way including, without limitation, by omission;

(c) the Customer holds a valid current driver's licence, operating licence or permit valid for the type of equipment hired (where required);

(d) the Equipment will not be used for any illegal purpose;

(e) the Customer's vehicle is suitable for towing the Equipment if required;

(f) the Customer will not, without prior written consent of the owner, tamper with, repair or modify the Equipment in any way, or permit another to do so;

(g) the Customer agrees that the Equipment complies with its description, is in merchantable condition and is fit for the Customer's purpose;

(h) the Customer agrees that the Equipment has been received clean and in good working order; and

(i) the Customer will not in any way part with possession of the Equipment, nor assign this Rental Agreement, nor remove the Equipment from the State without the prior approval of Nexxis.

10. INDEMNITY

10.1 To the full extent permitted by law, the Customer releases, discharges and indemnifies Nexxis from all claims and demands on Nexxis arising out of or consequent on the use or misuse of the Equipment during the hire period.

10.2 Without limiting clause 10.1 of this Rental Agreement, the Customer agrees that to the full extent permitted by law, no warranties are given by Nexxis in respect of the Equipment. Any liability of Nexxis pursuant to any warranty which cannot be excluded by law will not exceed either the cost of repairing the Equipment or the cost of resupplying the Equipment, at the discretion of Nexxis.

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11. TITLE TO EQUIPMENT

11.1 The Equipment shall remain the property of Nexxis and the Customer is only a bailee of the Equipment on the terms and conditions set out in this Rental Agreement. The Customer agrees that it has no rights to pledge Nexxis' credit in connection with the Equipment.

11.2 The Customer shall not agree, offer or purport to sell, assign, sub-let, lend, pledge, mortgage let or hire or otherwise part with or attempt to part with personal possession or otherwise not to deal with the Equipment and not to conceal or alter the goods or make any addition or alteration to the Equipment.

11.3 Subject to clause 11.1, the property and title in the Equipment remains with Nexxis unless the Customer purchases the Equipment and the Customer is not in breach or in default of the Rental Agreement. The property in the Equipment shall not pass to the Customer until and unless all monies owing including rental and purchase price have been received by Nexxis and the payments received shall be applied first in reduction of any outstanding rental and interest, and second on account of the purchase price.

12. EARLY CESSATION

Notwithstanding the rental period, Nexxis expressly reserves to itself the right to require early cessation, which may be exercised on demand and at the absolute discretion of Nexxis. If Nexxis so demands the Customer shall immediately return Equipment to Nexxis. The applicable rental fee shall be adjusted and payable on a pro-rata basis. For the purpose of the pro-rata a week shall be of seven (7) days and a month shall be of thirty (30) days.

13. LOSS, DAMAGE OR BREAKDOWN OF PLANT AND EQUIPMENT

13.1 Subject only to the obligations of Nexxis following payment by the Customer of the Damage Waiver Fee in accordance with clause 6, the Customer will be responsible for any loss, theft, damage or destruction to the Equipment irrespective of how the loss, theft, damage or destruction occurred, except for fair wear and tear, during the rental period. 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 cost of any such repair or recalibration or replacement including any freight charges there occasioned.

13.2 The Customer is liable for the payment of the new list price of any Equipment not returned to Nexxis.

13.3 If there is a breakdown or failure of the Equipment, the Customer shall notify Nexxis immediately for the appropriate action to be taken.

13.4 The Customer shall pay to Nexxis 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 to Nexxis upon cessation of the rental period shall be paid for by the Customer with a fee determined by Nexxis being charged to the account of the Customer.

14. CUSTOMER DEFAULT, TERMINATION & REPOSSESSION

14.1 If the Customer is in breach of this Rental Agreement then Nexxis shall be entitled to treat this Rental Agreement as breached and repudiated by the Customer and, with or without notice, accept the repudiation notice and terminate this Rental Agreement whereupon the Customer shall immediately, at its own cost and expense, return the Equipment to Nexxis. Failing such return, Nexxis 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. Further Nexxis shall be entitled to recover all damages including any consequential damages incurred.

14.2 Where the Rental Agreement is terminated under clause 14, the Customer consents to Nexxis 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 Nexxis 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 Nexxis incur. Nexxis will not be liable for any damage to property caused by any person in collecting the Equipment.

14.3 Without prejudice to any other remedies Nexxis may have against the Customer, and notwithstanding the hire period specified in the Nexxis Quote, the Rental Agreement may be terminated by Nexxis as follows:

- (a) upon giving the Customer two days written notice of termination at any time during the period of hire;
- (b) without notice if the Customer has a winding up petition presented against it, or be would up, or go into voluntary liquidation, or has a receiver of any of its assets appointed, or it makes an assignment/compromise to the benefit of its creditors or if its business is placed under official management or if it ceases to carry on business; and/or
- (c) without notice if the Customer commits a breach of any part of this Rental Agreement.

15. INSURANCE

Nexxis will maintain current insurance policies in respect of the Equipment to its full insurable value. This insurance does not cover the Customer unless they elect to pay the Damage Waiver Fee described in clause 6.

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16. LIABILITY

16.1 The Customer will assume all risks and liabilities for, and in respect of, the Equipment and for all injuries to or deaths of persons and any damage to property howsoever arising from the Customer’s possession, use, maintenance, repair, storage or transport of the Equipment.

16.2 If the Equipment is returned or repossessed, Nexxis 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 Nexxis 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 Nexxis. In addition, Nexxis 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. DISCLAIMER

To the extent permitted by law, Nexxis disclaims all liability for and does not given any warranties to the Customer as to the condition of the Equipment.

18. COMPLETION OF THE HIRE PERIOD

18.1 The hire period is completed when the Equipment has been returned to Nexxis in the same condition as when it was rented:

- (a) on or by the date and time outlined in the Nexxis Quote, or
- (b) will be deemed completed on the date returned to Nexxis.

18.2 Where pick up is agreed, Nexxis will arrange to pick up the Equipment within a reasonable period after a request to do so.

18.3 The Customer agrees to maintain the responsibility for the Equipment whilst it is awaiting pick up.

19. PPS LAW

19.1 This clause applies to the extent that this Rental Agreement provides for a ‘security interest’ for the purposes of the *Personal Property Securities Act 2009* (Cth) (**PPS Law**).

19.2 References to PPS Law in this Rental Agreement include references to amended, replacement and successor provisions.

19.3 Nexxis may register its security interest as a PMSI. The Customer must do anything (such as obtaining consents and signing documents) which Nexxis requires for the purposes of:

- (a) ensuring that Nexxis’ security interest is enforceable, perfected and otherwise effective under the PPS Law;

- (b) enabling Nexxis to gain first priority (or any other priority agreed to by Nexxis in writing) for its security interest; and

- (c) enabling Nexxis to exercise rights in connection with the security interest.

19.4 Nexxis may recover from the Customer the cost of doing anything under this clause, including but not limited to registration fees.

19.5 The rights of Nexxis under this document are in addition to and not in substitution for Nexxis’ rights under other law (including PPS Law) and Nexxis may choose whether to exercise rights under this document, and/or under other law, as it sees fit.

19.6 To the extent that Chapter 4 of the PPS applies to the security interest under this agreement, the following provisions of the PPS Law do not apply, and for the purposes of section 115 of the PPS Law are ‘contracted out’ of this Rental Agreement in respect of all goods to which that section can be applied: section 95 (notice of removal of accession to the extent it requires Nexxis to give notice to the Customer); section 96 (retention of accession); section 121(4) (notice to grantor); section 125 (obligations to dispose of or retain collateral); section 130 (notice of disposal to the extent it requires Nexxis to give notice to the Customer); section 129(2) and 129(3); section 132(3)(d) (contents of statement of account after disposal); section 132(4) (statement of account if no disposal); section 135 (notice of retention); section 142 (redemption of collateral); and section 143 (re-instatement of security agreement).

19.7 The following provisions of the PPS Law confer rights on Nexxis: section 123 (seizing collateral); section 126 (apparent possession); section 128 (secured party may dispose of collateral); section 129 (disposal by purchase); and section 134(1) (retention of collateral). The Customer agrees that in addition to those rights, Nexxis shall, if there is default by the Customer, have the right to seize, purchase, take possession or apparent possession, retain, deal with or dispose of any goods, not only under those sections but also, as additional and independent rights, under this document and the Customer agrees that Nexxis may do so in any manner it sees fit, including (in respect of dealing and disposal) by private or public sale, lease or licence.

19.8 The Customer waives its rights to receive a verification statement in relation to registration events in respect of commercial property under section 157 of the PPS Law.

19.9 Nexxis and the Customer agree not to disclose information of the kind that can be requested under section 275(1) of the PPS Law. The Customer must do everything necessary on its part to ensure that section 275(6)(a) of the PPS Law continues to apply. The Rental Agreement in this sub-clause is made solely for the purposes of allowing Nexxis the benefit of section 275(6)(a) and Nexxis shall not be liable to pay damages or any other compensation or be subject to injunction if Nexxis breaches this sub-clause.

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20. SECURITY INTERESTS AND SUB-HIRE

20.1 The Customer must not create, purport to create or permit to be created any ‘security interest’ (as defined in PPS Law) in the Equipment other than with the express written consent of Nexxis.

20.2 The Customer must not lease, hire, bail or give possession (‘sub-hire’) of the Equipment to anyone else unless Nexxis (in its absolute discretion) first consents in writing. Any such sub-hire must be in writing in a form acceptable to Nexxis and must be expressed to be subject to the rights of Nexxis under this Rental Agreement.

20.3 The Customer may not vary a sub-hire without the prior written consent of Nexxis (in its absolute discretion).

20.4 The Customer must ensure that Nexxis is provided at all times with up-to-date information about the sub-hire including the identity of the sub-hirer, the terms of and state of accounts and payment under the sub-hire and the location and condition of equipment.

20.5 The Customer must take all steps including registration under PPS Law as may be required to:

(a) ensure that any security interest arising under or in respect of the sub-hire is enforceable, perfected and otherwise effective under the PPS Law;

(b) enabling the Customer to gain (subject always to the rights of Nexxis) first priority (or any other priority agreed to by Nexxis in writing) for the security interest; and

(c) enabling Nexxis and the Customer to exercise their respective rights in connection with the security interest.

20.6 Nexxis may recover from the Customer the cost of doing anything under this clause, including registration fees.

21. INTELLECTUAL PROPERTY RIGHTS

21.1 All rights pertaining to industrial or intellectual property including but not limited to copyrights patents and trademarks are expressly reserved.

21.2 The Customer shall not make any copies or authorise any copying of anything supplied such as software programs and operating manuals except with the prior written authority of Nexxis and the licensor and in accordance with the license terms as applicable. All copies must be delivered up with the Equipment.

22. NON-MERGER

The covenants, agreements and obligations contained in this Rental Agreement will not merge or terminate upon the termination of this Rental Agreement and to the extent that they have not been fulfilled or satisfied or are continuing obligations they will remain in force and effect.

23. SEVERANCE

If any provision of this Rental Agreement is wholly or partly invalid, unenforceable, illegal, void or voidable, this Rental Agreement must be construed as if that provision or part of a provision had been severed from this Rental Agreement and the parties remain bound by all of the provisions and part provisions remaining after severance.

24. GOVERNING LAW

This Rental Agreement is governed by the laws of Western Australia and each party submits to the exclusive jurisdiction of the Court of Western Australia.

25. PRIVACY POLICY

Nexxis will comply with the National Privacy Principles in all dealings with Customers.

26. DISPUTES

Both Nexxis and the Customer agree that any disputes arising from the rental use of the Equipment (except in regard to payment of fees or charges) shall be negotiated with a view to settlement with the assistance of the Hire and Rental Industry Association Limited before litigation is pursued.

27. ENTIRE AGREEMENT

The Rental Agreement constitutes the entire agreement between Nexxis and Customer with respect to the Equipment and shall not be amended except in writing by both parties.

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