



## **LOAN/RENTAL AGREEMENT**

**THIS RENTAL AGREEMENT** is made the \_\_\_\_\_ day of \_\_\_\_\_ 200

### **BETWEEN:**

**WAVECOM INSTRUMENTS PTY LTD** (ACN 065 069 225) of 257 Grange Rd, Findon 5023 in the State of South Australia Head Office or Branches (hereinafter referred to as "Wavecom")

AND

The person(s) or company whose name & address is specified in Item 1 of the Schedule to this Rental Agreement (hereinafter referred to as "the Customer")

Wavecom **HEREBY OFFERS** to rent to the Customer, and the Customer **HEREBY AGREES** to rent from Wavecom, the equipment specified in Item 2 of the Schedule, on the following terms & conditions:

### **1. RENTAL**

- 1.1 The Customer shall pay the rental fees specified in Item 3 of the Schedule, by installments in advance, the first installment being due immediately upon the collection or delivery of the equipment by/to the Customer, and thereafter, in accordance with Item 4 of the Schedule.
- 1.2 The Customer shall pay a Deposit, being the amount specified in Item 5 of the Schedule, when the equipment is collected by, or delivered to, the Customer, and:
  - 1.2.1 Provided that the equipment is not lost, stolen or damaged prior to the date on which it is returned to Wavecom by the Customer, the Customer shall be entitled to receive a full refund of the Deposit, at such time as the equipment is so returned;
  - 1.2.2 If, however, the equipment is lost, stolen and/or damaged, or the Customer is otherwise in default in payment of the rental, or any other charge for which the Customer is liable according to the terms & conditions of this Rental Agreement, as at the date upon which the equipment is returned to Wavecom by the Customer, or repossessed by Wavecom, then the Deposit shall be applied to reduce the Customer's indebtedness to Wavecom, and the Customer shall only be entitled to a refund of the

balance of the Deposit (if any), after all outstanding liabilities to Wavecom have first been met.

## **2. RENTAL PERIOD**

- 2.1 Subject hereto, the Rental Period shall be that period specified in Item 6 of the Schedule.
- 2.2 The Rental Period shall commence on the day on which the Rental Agreement is signed by the Customer (or otherwise as Wavecom & the Customer agree).
- 2.3 The Rental Period shall conclude:
  - 2.3.1 If the equipment is returned to Wavecom prior to 9:00 am, then on the day preceding the day on which the equipment is returned;
  - 2.3.2 If the equipment is returned to Wavecom at or after 9:00 am, then on the day on which the equipment is returned.
- 2.4 Wavecom shall be entitled to charge the Customer for a full month's/week's/ day's rental of the equipment (as is appropriate), notwithstanding that the equipment may be returned part way through the relevant Rental Period.

## **3. OTHER CHARGES PAYABLE BY THE CUSTOMER**

- 3.1 The Customer shall be liable for the following additional costs:
  - 3.1.1 The cost of transporting the equipment from Wavecom's offices at Norwood to the Customer, being the amount specified in Item 7 of the Schedule;
  - 3.1.2 The cost of returning the equipment from the Customer's address to Wavecom's offices, and it is agreed that the transportation of the equipment shall be by the Customer personally or by Courier, not by post;
  - 3.1.3 The cost of insuring the equipment for replacement value, being the amount specified in Item 8 of the Schedule, in the event of damage in transit, with an Insurance Company certified for Total Quality Service;
  - 3.1.4 Any & all taxes payable pursuant to:

3.1.4.1 The *Stamp Duties Act, 1923 (SA)*, or any similar legislation;

3.1.4.2 The *A New Tax System (Goods & Services Tax) Act, 1999 (Cwth)* or any similar legislation;

3.1.4.3 Any Sales Tax legislation, whether State of Commonwealth;

3.1.4.4 Any other costs provided for in this Rental Agreement.

3.2 The Customer shall pay to Wavecom, such costs as it is liable for (other than rental) within SEVEN (7) days of Wavecom demanding same in writing, and if the Customer fails to make such payment within the time prescribed, then Wavecom shall be entitled to charge interest on the amount outstanding at the rate of TEN PER CENT (10%) per annum, from the date on which the demand is made until the date on which payment in full is received.

#### 4. THE CUSTOMER'S OBLIGATIONS

4.1 The Customer shall:

4.1.1 Keep the equipment in a safe & proper location, and at the address specified in Item 1 of the Schedule, unless:

4.1.1.1 Item 9 of the Schedule shall provide otherwise; or

4.1.1.2 The Customer shall have obtained Wavecom's written Authorisation to relocate the equipment elsewhere;

4.1.2 Insure the equipment for its replacement value, being the amount specified in Item 8 of the Schedule, from such time as the equipment leaves Wavecom's offices until such time as the equipment is returned to Wavecom's offices and its return is accepted by one of Wavecom's Directors/employees, and the Customer shall provide evidence of such Insurance Cover to Wavecom, upon request;

4.1.3 Use the equipment in a careful & proper manner;

4.1.4 Follow Wavecom's directions regarding the storage & use of the equipment;

4.1.5 Permit Wavecom, by its Directors and/or employees, to enter

onto the premises in which the equipment is kept, to inspect and/or carry out repairs to the said equipment;

4.1.6 Protect the equipment from environmental contamination, BUT IN THE EVENT that the equipment is exposed to, or coated with, toxic chemicals, then the Customer shall:

4.1.6.1 Notify Wavecom forthwith;

4.1.6.2 Decontaminate the equipment to Wavecom's satisfaction, or, if Wavecom so directs, pay for the cost of decontaminating the equipment.

4.1.7 Notify Wavecom forthwith, if:

4.1.7.1 The equipment develops a problem, or is damaged or contaminated;

4.1.7.2 If the Customer's solvency is called into question by the happening of any of the following events:

4.1.7.2.1 A Judgement being obtained against the Customer (Person/Company);

4.1.7.2.2 A Statutory Demand being issued against the Customer (Company);

4.1.7.2.3 A Creditor's Petition being filed in the Federal Court (Person);

4.1.7.2.4 An Application to Wind Up the Customer, being filed in the Federal Court or the Supreme Court (Company);

4.1.7.2.5 An Application to appoint an Administrator, Manager or Receiver being made (Company);

4.1.7.2.6 The Customer entering in to a Scheme of Arrangement (Person/Company).

4.1.8 Be responsible for the care of the equipment during such times as the equipment is in the Customer's possession, or in transit between Wavecom's office and the Customer, AND if the equipment is lost, stolen or damaged, whether accidentally or through misuse, abuse or neglect, the Customer shall reimburse

Wavecom for the cost of replacing the equipment, being the amount specified in Item 6 of the Schedule, less any amount payable by the Insurer.

- 4.2 The Customer shall not:
  - 4.2.1 Sell, encumber or otherwise deal with the equipment;
  - 4.2.2 Interfere or tamper with (or permit the interference or tampering with) the equipment;
  - 4.2.3 Make (or authorise the making of) any copies of the equipment.

## 5. **WAVECOM'S OBLIGATIONS**

- 5.1 Wavecom shall:
  - 5.1.1 Retain the equipment as its property, free of any claim by the Customer;
  - 5.1.2 Arrange for the equipment to be delivered to the Customer (at the Customer's expense), unless the Customer wishes to collect same from Wavecom's offices;
  - 5.1.3 Service the equipment in accordance with its regular Maintenance Schedule (at Wavecom's expense);
  - 5.1.4 Repair the equipment as a result of general wear & tear (at Wavecom's expense);
  - 5.1.5 Retain the Intellectual Property Rights in & to the equipment, free of any claim by the Customer.
- 5.2 Wavecom shall not be liable to the Customer, for any damage caused to the Customer, its plant & equipment or employees, as a result of the use of the equipment.
- 5.3 Wavecom does not warrant that the equipment is suitable for the purpose for which the Customer intends to use it, whether or not such purpose is known to Wavecom.

## 6. **DEFAULT BY CUSTOMER**

- 6.1 If the Customer is in breach of this Agreement, Wavecom shall be entitled to serve on the Customer, at the address specified in Item 1 of the Schedule, by post/facsimile/e-mail (as Wavecom elects), a Notice of Default, requiring the Customer to remedy the breach within SEVEN

(7) days.

6.2 If the Customer's breach continues for a period of more than SEVEN (7) days following the service of such Notice of Default, Wavecom shall be entitled to:

6.2.1 Terminate the Rental Agreement forthwith;

6.2.2 Demand in writing, by post/facsimile/e-mail (as Wavecom elects), the return of the equipment;

without prejudice to its other legal remedies.

6.3 If such equipment shall not have been returned to Wavecom within TWENTY FOUR (24) hours of such written Demand being made, Wavecom shall be entitled to enter the Customer's premises and repossess the equipment.

6.4 Notwithstanding that this Rental Agreement may relate to one or more items of equipment, in the event of the Customer's default, Wavecom shall be entitled to repossess all items of equipment to which this Agreement relates.

6.5 The Customer shall be liable to pay rental for the equipment until such time as the equipment is again in the possession of Wavecom.

6.6 The Customer shall be liable to Wavecom, for such loss as Wavecom may suffer by reason of the Customer's breach of the Rental Agreement.

## 7. REVIEW OF RENTAL AGREEMENT

7.1 Notwithstanding the Rental Period specified in Item 6 of the Schedule, in the event that:

7.1.1 Any of the events referred to in Clause 4.1.7.2 hereof, happens;  
or

7.1.2 The Customer is in breach of the Rental Agreement;

Rental Wavecom shall be entitled to review the terms & conditions of its Agreement, and in particular, the Rental Period.

7.2 If Wavecom elects to vary such terms & conditions, Wavecom shall notify the Customer of the proposed variation(s), by letter.

7.3 If the Customer accepts such variation(s), the Customer shall sign Wavecom's letter and return same to Wavecom within SEVEN (7)

days from receipt of such letter.

7.4 If the Customer:

7.4.1 Does not return Wavecom's letter, duly executed, within the time prescribed; or

7.4.2 Does not agree to the variation(s) proposed by Wavecom;

then the Customer shall return the equipment to Wavecom forthwith, and no later than TEN (10) days from the date of receipt of Wavecom's letter, and both parties shall regard the Rental Agreement as having been terminated by mutual agreement, without prejudice to any other rights & obligations that either party may have pursuant to the said Agreement.

8. **ENTIRE AGREEMENT**

8.1 These Terms & Conditions constitute the entire Agreement between Wavecom and the Customer, and shall not be varied other than by the written agreement of both parties.

8.2 The Customer hereby acknowledges that:

8.2.1 It has not relied upon any statements or representations made by Wavecom which are not included herein;

8.2.2 All other (if any) Warranties as to:

8.2.2.1 The merchantable quality of the equipment;

8.2.2.2 The equipment's fitness or suitability for the purpose for which it is being acquired by the Customer (whether or not that purpose is known to Wavecom), or for any particular use or purpose;

whether implied or statutory, are hereby excluded.

SIGNED for and on behalf of )  
**WAVECOM INSTRUMENTS PTY LTD** )  
by )

in the presence of: )

.....

/ / 200

SIGNED for and on behalf of the Customer )  
by )  
in the presence of: ).....

.....

/ / 200

GOODS RETURNED / /200 .....

Wavecom Rentals offices

257A Grange Rd (HO)  
Findon SA  
5023  
P 08 8243 3500  
F 08 8243 3501

Suite 8 19 Ellingworth Pde  
Box Hill VIC  
3128  
P1300 793 301  
F 03 9897 4766