



CAPITAL FINANCE

RENTAL

TAX INVOICE

CAPITAL FINANCE AUSTRALIA LIMITED ABN 23 069 663 136 ("we" or "our" or "us" or "CAPITAL") of 20 Lexington Drive, Bella Vista NSW 2153 agrees to rent to the Customer named in the Schedule ("you") the goods described in the Schedule (the "Goods"), and you agree to rent the Goods from us, on the terms and conditions set out in this document including any Special Conditions attached to this document. This document will not bind us until it is signed by our authorised officer, at which time a contract will arise without the need for us to give any further notice.

NSW: STAMP DUTY 2963653; TASMANIA: TASMANIAN DUTY PAID

Application No.: XYZ	Account No.:										
SCHEDULE											
Customer Name, Address & ABN/ACN (if applicable)											
ABC											
Underwood UK											
TELEPHONE NO.: 1234567	FACSIMILE NO.:										
	EMAIL:										
Guarantee and Indemnity (if applicable) to be provided by:											
Goods <i>[Clearly describe the Goods so as to enable the nature or character of the Goods to be clearly and readily identified (including number of items)].</i>											
1 x New Panasonic NF700 Digital Phone System											
Engine No.	VIN:										
	Rego No.										
Options / Accessories:	Colour:										
Principally Located At:	State/Territory: Qld 4119										
Term: months from the Commencement Date	Commencement Date:										
Instalment Payments											
	Number of Instalment Payments		Instalment		Stamp Duty		GST		Instalment Payment		Payment Intervals
By	60	of	300.00	+		+	30.00	=	330.00		Monthly
Instalment Payments are payable at the Payment Intervals shown above. The first Instalment Payment is due when we provide the loan* (1) month after we provide the loan*. (delete as applicable) After that Instalment Payments are due on the same day of the month at the Payment Intervals.											

TERMS AND CONDITIONS

1. **Your Acknowledgments**

You acknowledge and agree:

 - (a) you have satisfied yourself as to the Goods' condition and suitability for your purposes and you have not relied on us in deciding to enter into this Agreement;
 - (b) you will, at your own cost, obtain delivery of the Goods and we will not be liable for any delay in that delivery;
 - (c) to the full extent permitted by law:
 - (i) all express and implied terms, conditions and warranties (other than the ones set out in this Agreement) are excluded;
 - (ii) we make no representation or warranty as to the condition, specifications, quality, fitness for purpose, suitability or safety of the Goods or as to the taxation treatment or accounting classification of any transaction evidenced by this Agreement; and
 - (iii) we are not liable for any damage, injury or loss to any person or property arising from the possession, operation or use of the Goods;
 - (d) whether or not Schedule 2 of the *Competition and Consumer Act 2010* (Cth) or any law to a similar effect applies, our liability for anything in relation to the Goods or their use, including damage or economic loss to anyone, is limited to the maximum extent permitted by law. In any event, to the maximum extent permitted by law, our liability is limited, at our option:
 - (i) in the case of Goods, to the replacement of the Goods (or the supply of equivalent goods), the repair of the Goods, the payment of the cost of replacing the Goods (or of acquiring equivalent goods) or the payment of the cost of having the Goods repaired; or
 - (ii) in the case of services, to the supplying of the services again or the payment of the cost of having the services supplied again; and
 - (e) to the maximum extent permitted by law, in no event will we be liable for any indirect, consequential or economic loss or damage arising under or in connection with this Agreement.
2. **Payment Obligations**
 - 2.1 You must pay the Total Amount Payable. You must make any payments under this Agreement by way of direct debit or in such other manner as we may from time to time direct in writing.
 - 2.2 You must pay us the Instalment Payments referred to in the Schedule at the times referred to in the Schedule. If the Commencement Date occurs after the Acceptance Date, then you also agree to rent the Goods from us during the period from the Acceptance Date to the Commencement Date (the "Interim Period") and to pay to us on demand an additional amount equal to the Instalment Payment for the first Payment Interval multiplied by the number of days in the Interim Period and divided by the number of days in that Payment Interval. Payment of this additional amount does not alter your liability to pay the Instalment Payments described in the Schedule throughout the Term.
 - 2.3 You must pay or bear and indemnify us against all stamp duties, taxes (other than income tax), other duties, fees and fiscal imposts payable on or in respect of this Agreement, any moneys payable under this Agreement, our purchase or sale of the Goods and any other transaction evidenced by this Agreement. Should the amount actually payable to the relevant authority for any such duties, taxes, fees or imposts differ from the amount (if any) disclosed in the Schedule, you must pay to us the amount of the deficiency.
 - 2.4 You must pay or reimburse us on demand for the amount of any GST payable on any supply made by us under or in connection with this Agreement (including, without limitation, any GST payable in connection with any Early Termination Amount). You must also pay or reimburse us on demand for the amount of any GST payable by us on the acquisition of the Goods (to the extent that we are unable to claim an input tax credit in respect of such GST).
 - 2.5 You must pay to us any fees or charges that we may reasonably request:
 - (a) to recover any transaction fees or costs incurred by us, including, but not limited to, any costs incurred in seeking to recover any payments owed by you to us;
 - (b) for the provision of information;
 - (c) for acting on any assignment or variation of this Agreement;
 - (d) as a result of you not paying us in the way we require under clause 2.1;
 - (e) to recover registration, account maintenance and update fees; or
 - (f) to recover any losses arising from and any costs incurred in connection with any action taken by us under or in relation to the PPSA, including any registration, or any response to an amendment demand or a request under section 275 of the PPSA, or any search of the PPS Register,and you authorise us to debit your account for these fees at the time charged.
 - 2.6 Subject to clause 2.1, all payments by you must be paid on demand or as provided for in the Schedule in funds that are immediately available to us. If a date for payment:
 - (a) is not a Business Day, the payment must be made on the preceding Business Day; or
 - (b) falls on a day not contained in a month, the payment must be made on the last day of that month.
- 2.7 Without limiting clause 2.3, you must pay for all registration fees, compulsory third party insurance and purchase stamp duty in relation to the Goods and consent to us making payment on your behalf.
- 2.8 Your obligation to pay the Instalment Payments is absolute and unconditional and (without limitation) will continue even if the Goods break down, are defective, damaged, lost, stolen or destroyed and you agree not to exercise or seek to exercise any right or claim to withhold payment or claim any deduction or set-off.
3. **Use & Care Of The Goods**
 - 3.1 You:
 - (a) must ensure that the Goods are used only in your general business operations and only for the purposes for which they were designed, by qualified personnel complying at all times with all laws relating to the Goods and their use and with all instructions and recommendations issued by the supplier or manufacturer of the Goods and, if the law requires the Goods to be registered, you must attend to this and ensure they remain registered at all times;
 - (b) must at your own cost ensure the Goods are maintained by qualified personnel in accordance with all instructions and recommendations issued by the supplier or manufacturer of the Goods and, if necessary, repaired by qualified personnel, so they remain at all times in good working order and condition and subject to any applicable warranty;
 - (c) irrevocably authorise, and must use your best endeavours to have others authorise, us to enter upon any premises where we reasonably believe the Goods are located to examine their state of repair and operation;
 - (d) agree that any replacement of, alteration or addition to any accessories, tools or other goods supplied with, installed in, or attached to, the Goods (including, without limitation, any tyres) during the Term will become our property and will be considered part of the Goods for the purposes of this Agreement. You must ensure that they are free of any Security Interests (other than PPS Security Interests in our favour) before they are installed on or attached to the Goods;
 - (e) must not permit any Goods:
 - (i) to become a fixture or an accession to; or
 - (ii) to be manufactured, processed, assembled or commingled with,anything that we do not own or is not subject to a perfected PPS Security Interest in favour of us, and even then only if the priority of that PPS Security Interest is no less favourable than the priority of our PPS Security Interest in those Goods;
 - (f) agree to notify in advance any person who is to repair or maintain the Goods that you have no authority to pledge our credit or create a Security Interest or right in, or over, the Goods to or in favour of any person other than us;
 - (g) must not sell, hire, dispose, sublet, or part with possession of, or create or permit to subsist any Security Interest that is not in our favour in, the Goods or any interest in the Goods, or agree or attempt to do so or authorise any person to do so, without our prior written consent; and
 - (h) must provide us access to the Goods at any time to enable us to affix identifying plates or marks on the Goods, and you must not place, or allow to be placed, on any Goods any plates, words, markings or numbers that are inconsistent with our PPS Security Interest in the Goods. If we ask, you must affix to the Goods a readily visible plate or sign that brings the existence of our PPS Security Interest in the Goods to the attention of other persons and states that a disposal of the Goods or the granting of a Security Interest over the Goods which is not otherwise permitted under this Agreement will breach this Agreement. You must not remove or change, or allow any person to remove or change, that plate or sign unless we agree.
 - 3.2 You acknowledge, if you dispose of or otherwise deal with the Goods or an interest in them in breach of clause 3.1(g), that we have not authorised the disposal or agreed that the dealing would extinguish our interest (including any PPS Security Interest), and that our interest (including any PPS Security Interest) continues in the Goods or interest, despite the disposal or dealing.
 - 3.3 For the purposes of section 20(2)(b)(i) of the PPSA, the collateral that is subject to the PPS Security Interest in the Goods under this Agreement is goods.
4. **Personal Information in relation to third parties**
 - 4.1 You agree that if you provide Personal Information to us in relation to any third party who is an individual (for example, as applicable, your director, employee or other staff member, employer or accountant) when dealing with us, you will:
 - (a) make them aware that:
 - (i) their Personal Information has been collected, and may be used and disclosed, by us for the purposes of your dealings with us (including, as relevant, to assess your applications for credit and to provide you with our products and services);
 - (ii) you may not be able to obtain relevant products or services from us if that individual's personal information is not provided to us;
 - (iii) that their Personal Information will be held, used and disclosed consistently with our Privacy and Credit Reporting Policy (which is available on our website (www.capitalfinance.com.au)); and

TERMS AND CONDITIONS

- (iv) they have various rights relating to their Personal Information held by us (such as to request access to it) which they can exercise by contacting us using the details in our Privacy and Credit Reporting Policy; and
- (b) take reasonable steps to provide them with a copy of our Privacy and Credit Reporting Policy; and
- (c) take reasonable steps to comply with any reasonable request from us to provide them with a copy of any other privacy-related notification that we may provide you from time to time.
- 5. Other Obligations**
- 5.1 You must:
- (a) do or cause to be done anything which we consider necessary or desirable to perfect and protect any PPS Security Interest provided for by this Agreement; and
- (b) provide us with all information we need in order to ensure that any registration of any PPS Security Interest provided for by this Agreement is, and remains, fully effective and with the priority that we require.
- 5.2 You warrant that you have not had any other name in the last 5 years other than your name in this Agreement (except as notified to us) and you agree not to change your name without first giving us 30 Business Days' notice in writing of your proposed new name.
- 5.3 You agree to notify us immediately in writing of any transfer of Goods or an interest in Goods, and to provide us with any information that we ask for in relation to the transferee to enable us to perfect our PPS Security Interest as against the transferee. You acknowledge, though, that any such notification does not cure any breach of your undertaking in clause 3.1(g).
- 5.4 If you:
- (a) sub-lease the Goods to a third party; or
- (b) transfer the Goods to a third party and that third party grants you a Security Interest in the Goods,
- you must immediately provide us with all original documents relating to that sub-lease or Security Interest. You acknowledge, though, that providing those documents does not cure any breach of your undertaking in clause 3.1(g).
- 5.5 If you dispose of the Goods in a way that gives rise to an account (as defined in the PPSA), you grant us a PPS Security Interest in that account. You acknowledge, though, that any such grant does not cure any breach of your undertaking in clause 3.1(g).
- 6. Insurance**
- 6.1 You must, at your cost, effect and keep current throughout the Term (and during any interim or extended rental period) with a reputable and solvent insurer:
- (a) insurance in respect of the Goods for their full insurable value against all loss or damage of any kind whatever and however caused;
- (b) insurance for such amount of cover as is reasonably required by us (or if not specifically required by us, for such amount as a prudent owner of the Goods would obtain cover) having regard to the nature and intended use of the Goods, against any loss, damage or injury of any kind whatever and however caused to any person or property arising out of the Goods or their use, under a policy covering all such risks, including claims by third parties; and
- (c) insurance against any other loss, damage, injury or risk which we may reasonably require from time to time.
- 6.2 You must ensure that our interest as owner and secured party is noted on all such insurances and you must produce to us on demand proof of the currency of such insurances and must ensure nothing is done or occurs which might prejudice or invalidate those insurances. We may in our discretion, at any time, effect any such insurances in our own name and on our own behalf, in which case we may include that cost in the acquisition cost of the Goods or you must reimburse us on demand for that cost.
- 6.3 We are entitled to receive all moneys payable under any relevant insurance or by any other person in respect of damage to, or loss of, the Goods and you irrevocably appoint us and each of our authorised representatives, as your attorney to recover or compromise in our respective names any claim for loss or damage under any of the abovementioned insurances, and to give effectual releases and receipts. You also irrevocably authorise us to appropriate any insurance or other moneys received (less any GST) in respect of any loss of, or damage to, the Goods towards any debt or liability, present or future, actual or contingent, of yours or, in our discretion, to repairing such damage or replacing the Goods. To the extent that those insurance moneys may be insufficient to effect such repairs, you must apply your own moneys for this purpose.
- 6.4 You must promptly notify us if the Goods are lost, stolen or damaged.
- 7. Indemnities & Releases**
- 7.1 You indemnify us, our agents and employees against all loss (including loss of bargain or profit), damage, liabilities, costs, taxes, charges and expenses (including legal expenses on a full indemnity basis) of whatever kind or nature, arising directly or indirectly from, or in respect of:
- (a) the Goods' delivery, installation, use or change of use, location, condition, operation, seizure, forfeiture or other confiscation, or the Goods' loss, destruction, theft or damage however caused including loss of value resulting from insufficient, inadequate or faulty repair;
- (b) any claim or demand made by any third party in relation to the Goods or the use of the Goods;
- (c) any damage to property or death of, or injury to, any person suffered or sustained in connection with the Goods or the use of the Goods;
- (d) any failure by you to observe your obligations under this Agreement or arising from the early termination of this Agreement or from any untrue or misleading representation, warranty or statement (including on tax matters) made by you in, or in connection with, this Agreement (and which are not otherwise recoverable under this Agreement);
- (e) any steps taken by us to administer, exercise, enforce or preserve any of our rights under or in connection with this Agreement;
- (f) any loss, reduction or disallowance of any depreciation allowance or of any tax deduction or rebate of any income or other tax upon which we have relied in calculating the Instalment Payments payable under this Agreement;
- (g) any new legislation or change in any legislation (including government revenue raising legislation) or subordinate legislation, or any change in any ruling, guideline, directive or requirement issued by any government authority or any change in the interpretation of any such legislation, subordinate legislation, ruling, guideline, directive or requirement that affects this Agreement, the transactions evidenced by this Agreement, our obligations under this Agreement or our return under this Agreement.
- (h) any Security Interest contemplated by this Agreement not having its intended priority required by us, failing to attach to the Goods, not being perfected, being void, illegal, invalid, unenforceable or of limited force and effect.
- 7.2 You release us, to the full extent permitted by law, from all claims and demands of every kind arising out of the delivery, installation, location or use of the Goods, including any liability which may arise in respect of any accident or damage to property or death of, or injury to, you or any other person of whatever nature or kind or arising out of any steps taken by us to exercise, enforce or preserve our rights under or in connection with this Agreement.
- 7.3 The indemnities and releases set out in this Agreement continue in full force and effect notwithstanding the termination (however occurring) of this Agreement.
- 8. Our Right To Terminate**
- 8.1 We may terminate this Agreement and repossess the Goods (which repossession will itself terminate this Agreement if no prior notice of termination is given) if any of the following events occur:
- (a) **(failure to pay Instalment Payment)** You fail to pay an Instalment Payment when due;
- (b) **(repudiation)** You breach any other essential provision of this Agreement or otherwise repudiate your obligations under this Agreement;
- (c) **(non-compliance with rectification notice)** You fail to observe any other obligation under this Agreement after first being given a written notice by us which requires such failure to be rectified within a period of at least seven days after service of the notice, that notice being deemed to stipulate the time for rectification to be of the essence;
- (d) **(misrepresentation)** We ascertain that any representation, warranty or statement made by you in, or in connection with, this Agreement is untrue or misleading (whether by omission or otherwise) in any material respect;
- (e) **(material change)** There is, in our reasonable opinion, a material adverse change in your business, assets or financial condition or a material change in your ownership without our prior written consent;
- (f) **(insolvency)** You enter into, or any steps are taken to have you enter into, liquidation, provisional liquidation, official management, receivership, receivership and management, administration, bankruptcy or any arrangement, reconstruction or composition with your creditors or any of them or you fail to pay your debts as they fall due or otherwise become insolvent;
- (g) **(insurance)** Any insurance required under this Agreement is cancelled or any insurer disclaims liability, or we receive notice that any such insurance will be cancelled or materially adversely modified and a fresh policy is not effected to our satisfaction before expiration of the notice;
- (h) **(loss of Goods)** The Goods are lost, destroyed, in adverse possession, seized or impounded, or in the opinion of any insurer, damaged to any extent making repair impracticable or uneconomic;
- (i) **(cross default)** You fail, or a related body corporate fails, to comply with your or its obligations under any leasing, borrowing, hiring or other finance agreement or arrangement with us or any related body corporate, or under any guarantee, indemnity or undertaking given to us or any related body corporate; or
- (j) **(jeopardy)** We ascertain in our reasonable opinion that there is a serious risk of loss or damage to the Goods for any reason.
- 8.2 Without limiting the essentiality of any other term of this Agreement, your obligation to pay the Instalment Payments on time, to maintain and insure the Goods, to comply with clause 3.1(g) and to remain solvent are essential terms of this Agreement. You will be taken to have repudiated your obligations under this Agreement if you do not comply with any of the essential terms of this Agreement.

TERMS AND CONDITIONS

- 8.3 If we terminate this Agreement under clause 8.1, you must:
- immediately on receiving notice of termination, deliver up the Goods in good working order and condition (fair wear and tear excepted), packed and crated and decommissioned in accordance with the manufacturer's specifications (and otherwise in accordance with any return conditions set out in the Special Conditions), to us at a place directed by us together with any duly executed transfer of certificate of registration and such records regarding the Goods as required by us;
 - pay to us on demand, by way of indemnity for our loss arising from the early termination, the Early Termination Amount;
 - pay to us on demand our Costs of Repossession; and
 - pay to us on demand all monies which fell due prior to termination and which remain outstanding.
- 8.4 If an event referred to in clause 8.1 occurs entitling us to terminate this Agreement, then the occurrence of such event shall:
- constitute an event of default under; and
 - be taken to be a repudiation of your obligations under,
- any other leasing, borrowing, hiring or other finance agreement or arrangement with us or any related body corporate, thereby entitling us to terminate that leasing, borrowing, hiring or other finance agreement or arrangement.
- 8.5 If you are in default under this Agreement, you consent to the recording of telephone conversations between you (if you are an individual) and your employees (if any) and our employees, employees of our related entities and our agents, for purposes related to the enforcement of this Agreement and the exercise of our rights under this Agreement. You agree to obtain any consent of your employees and to give any notice to your employees of such recording as may be required by law. Any such recordings may be submitted in legal proceedings arising out of this Agreement, to the extent permitted by law.
- 9. Our Title To The Goods**
- 9.1 You acknowledge that the Goods remain our property at all times and that your rights under this Agreement are personal and as bailee only, and that you have no authority to deal with, and agree not to purport to deal with, or share or transfer possession of, the Goods.
- 9.2 You must do everything necessary to protect our title to an PPS Security Interest in the Goods, including advising third parties of our ownership of and PPS Security Interest in the Goods. You must refrain from doing anything which could give rise to any claim adverse to our ownership of and PPS Security Interest in the Goods. You must notify us immediately if a third party makes any such claim.
- 9.3 If we become entitled to repossess the Goods, you irrevocably authorise us to enter upon any land or premises where we reasonably believe the Goods are, and for the purpose of such entry break open any inside or outside gate, door, fastening or other obstruction and remove, detach and dismantle the Goods, including from any part of the premises to which they may have been affixed.
- 10. Procedure On Expiry**
- 10.1 On expiry of the Term (or on expiry of any extended term or holding over period, as applicable, under clauses 10.3 or 10.4), you must:
- at your cost, immediately deliver up the Goods in good working order and condition (fair wear and tear excepted), packed and crated and decommissioned in accordance with the manufacturer's specifications (and otherwise in accordance with the return conditions set out in the Special Conditions) to us at a place directed by us together with a duly executed transfer or certificate of registration (where applicable) and such records regarding the Goods as are required by us, and if you do not do so, we may repossess the Goods;
 - pay to us on demand, by way of liquidated damages, an amount equal to the average daily rental payable by you during the Term for each day you fail to deliver up the Goods in accordance with clause 10.1(a) or until we retake possession of the Goods;
 - pay to us on demand our Costs of Repossession; and
 - pay to us on demand all other amounts then due and payable under or in connection with this Agreement.
- 10.2 You undertake to give us not less than 90 days prior written notice of your intention to terminate the rental of the Goods at the end of the Term and any extension of the Term.
- 10.3 If you fail to give the notice required under clause 10.2 or if you give that notice and you do not return the Goods to us in the condition required under clause 10.1(a) at the expiration of the Term and we have not terminated this Agreement, then the term of this Agreement will be automatically extended for a further period of 180 days ("Extended Term") during which period your rental of the Goods will continue at a rental equivalent to the periodic rental payable by you immediately before the expiry of the Term and otherwise on the same terms and conditions as set out in this Agreement.
- 10.4 If the Term is extended under clause 10.3 and you fail to return the Goods at the expiration of the Extended Term in the manner required under clause 10.1(a), then the Term of this Agreement shall be extended from month to month (the "Holding Over Period") during which period your rental of the Goods will continue at the same periodic rental and otherwise on the same terms and conditions as set out in this Agreement, provided that the Holding Over Period may be terminated by us demanding possession of the Goods at any time or by you giving us one month's notice and delivering the Goods to us in the manner required under clause 10.1(a).
- 10.5 Payment of additional rental instalments by you under clauses 10.3 and 10.4 will not affect our ownership of or PPS Security Interest in the Goods or any of our rights under or in connection with this Agreement.
- 11. Charges For Services**
- If the Instalment Payments include amounts payable for the maintenance of the Goods or for the provision of other services (or for our recovery of our funding of maintenance or other services), whether or not such amounts are separately identified in the Schedule, you agree and acknowledge that:
- such amounts have been included at your request;
 - you have given to us a direction to pay those amounts to the person providing the services ("Service Provider") or to retain those amounts if we have already paid the relevant maintenance or service charges to the Service Provider;
 - we are not responsible for the maintenance of the Goods or the provision of any services;
 - we are not related to the Service Provider, and
 - your obligation to:
 - pay the Instalment Payments and other monies payable under this Agreement free of any deduction, withholding or set-off on any account; and
 - perform your other obligations under this Agreement, is absolute and unconditional and, without limitation, will not be affected by:
 - the failure of the Service Provider to perform the services;
 - the insolvency of the Service Provider; or
 - the termination of any agreement or arrangement for the provision of any services.
- 12. Where The Goods Include Software**
- If the Goods include software or the licensing of any software is funded by us under or in connection with this Agreement:
- where you have been granted the licence to use the software:
 - it is acknowledged that you will be entitled to the benefit of the licence during the Term (and any extension of the Term), subject to the terms of the licence; and
 - upon the expiration or earlier termination of this Agreement, you will do all things reasonably required by us to ensure that we obtain the benefit of the licence or the grant of an equivalent licence to enable the continued use of the software;
 - where we have been granted the licence to use the software:
 - you may enjoy the benefit of the licence during the Term (or any extension of the Term) to the extent that the licence permits you to do so; and
 - we will do anything within our power that is reasonably requested by you to enable you to enjoy the benefit of the licence during the Term (or any extended term or holding over period under this Agreement);
 - we make no representation about the software and you cannot refuse to pay Instalment Payments or make any other claims should the software be defective or unsuitable;
 - we make no representation about the terms of any licence relating to the software and you must rely on your own enquiries in this regard; and
 - on the expiration or earlier termination of this Agreement, you must return the software to us with the Goods.
- 13. Where The Goods Include Serial Numbered Property**
- 13.1 You declare that you have provided us with the serial numbers that we would require to make an effective registration (with the priority required by us) against all Serial Numbered Property in accordance with the PPSA and the PPS Regulations.
- 13.2 You must notify us immediately in writing if a new or different serial number is allocated to any Serial Numbered Property.
- 13.3 You must not change or remove the serial number of any Serial Numbered Property after you have disclosed the number to us.
- 14. Casualty Events**
- 14.1 If the Goods or any item or items of the Goods (the "Affected Goods") are lost, stolen or damaged beyond economic repair, you must immediately notify us and within 5 Business Days of such notification you must either:
- replace the Affected Goods at your cost with goods approved by us being at least equivalent in type, functionality and value; or
 - pay to us by way of indemnity:
 - the amount which we notify you is the amount of the Instalment Payments (if any) then due and payable by you to us in respect of the Affected Goods;
 - the amount which we notify you is the Early Termination Amount referable to the Affected Goods, calculated as at the date of our notification to you; and
 - the amount which we notify you is, as at the date of our notification, the gross residual value referable to the Affected Goods (being the residual value assumed by us in calculating the Instalment Payments, adjusted in accordance with our usual procedures to include our required investment return on the Residual Value up to that date).
- You must pay the aggregate of the amounts referred to in this clause 14.1(b) within 2 Business Days of the date of our notification to you.
- 14.2 If you replace the Affected Goods in accordance with clause 14.1(a), then you must:
- ensure that we obtain clear title to the replacement goods;

TERMS AND CONDITIONS

- (b) notify us immediately in writing of the replacement and provide us with any information that we ask for in relation to the replacement goods to enable us to perfect our PPS Security Interest in them; and
- (c) ensure that the priority of our PPS Security Interest is no less favourable than the priority of our PPS Security Interest in the Affected Goods.
- Such replacement goods shall be taken to be the Goods (or the relevant item or items of the Goods as the case may be) for the purposes of this Agreement.
- 14.3 If clause 14.1(b) applies, then, upon our receipt of the amount payable by you under clause 14.1(b) in respect of the Affected Goods:
- (a) the rental to you of the Affected Goods shall terminate;
- (b) the rental of any remaining item or items of the Goods will continue at a new rental commencing on the next due date for an Instalment Payment, being the rental otherwise payable less the proportion of the rental which we calculate was payable in respect of the Affected Goods; and
- (c) we will make a pro rata adjustment to any rental already paid in respect of the Affected Goods for the period from the receipt of the payment referred to in clause 14.1(b) to the next date on which an Instalment Payment falls due.
- 14.4 If we receive any insurance proceeds in respect of the Affected Goods:
- (a) where you have replaced the Goods in accordance with clause 14.1(a), such proceeds (net of GST) will be credited to you; and
- (b) where clause 14.1(b) applies, such proceeds (net of GST) will be credited to you to the extent of the payment received from you under clause 14.1(b)(ii) and (iii).
- 15. Occupational Health & Safety**
- (a) **(Your acknowledgements)** You acknowledge that during the term of this Agreement you (and not us) will have sole possession and control of the Goods.
- (b) **(Your undertakings)** For the purposes of enabling us to comply with our obligations under any applicable occupational health & safety law ("Occupational Health & Safety Law"), you undertake:
- (i) before taking possession, using or dealing with the Goods, to:
- a. obtain all available information concerning health and safety about the Goods from the designer or manufacturer of such Goods, including, without limitation, (where applicable) obtaining all records kept by any previous owner of the Goods and obtaining any information, data or certificates provided or kept in accordance with the Occupational Health & Safety Law; and
- b. ensure that the Goods are inspected and tested in accordance with the requirements set out in the Occupational Health & Safety Law and that you obtain written notification of any faults detected in respect of the Goods and (if applicable) receive written notification that the Goods are not to be used until the faults are rectified;
- (ii) before the date upon which any Goods are returned or repossessed, to:
- a. do all things necessary to ascertain whether or not the Goods are suitable only for use as scrap or for spare parts; and
- b. provide to us upon demand any information required to be obtained or collected by you pursuant to paragraphs (i) and (ii) of this paragraph (b).
- (c) **(Indemnity)** You indemnify us against any loss or liability arising from your failure to comply with your obligations under this clause.
- 16. General Provisions**
- 16.1 **Assignment** Subject only to your rights under this Agreement, we may assign, transfer or otherwise deal with the Goods or all or any part of our rights or obligations under or in connection with this Agreement without your consent. You must not assign, transfer or otherwise deal with any of your rights under or in connection with this Agreement without our prior written consent.
- 16.2 **Goods' Location** You must notify us of the usual location of the Goods from time to time and agree not to use them outside the State or Territory in which they are first delivered to you without our consent.
- 16.3 **Rights** Termination of this Agreement, howsoever arising, will be without prejudice to our rights, powers and remedies with respect to any antecedent breach by you under this Agreement. All rights of ours under this Agreement are in addition to our rights under the general law.
- 16.4 **Evidence** A certificate signed by any officer or manager of ours containing statements as to an amount due by you under or in connection with this Agreement, the occurrence of any event or the existence of any fact, will be sufficient evidence of same unless you prove them to be false.
- 16.5 **Product Information** You request us to provide you from time to time with information on our or other third party products or services.
- 16.6 **Financial Information** You must provide us with any financial or other information relating to the financial condition, business, assets and affairs of yourself and any of your related bodies corporate as and when requested by us.
- 16.7 **Notices** Any notice or demand to be given by us under or in connection with this Agreement may be served on you by being left at or sent by pre-paid mail, transmitted by facsimile to your address set out in the Schedule or otherwise as notified in writing to us, or sent by email to your email address set out in the Schedule or as otherwise notified in writing to us. The notice or demand will be treated as having been given and received: (a) if delivered, on the day of delivery; (b) if sent by pre-paid mail, on the next delivery day; (c) if transmitted by facsimile, on the day of transmission if a Business Day, or otherwise on the next Business Day; and (d) if sent by email, on the day of sending if a Business Day, or otherwise on the next Business Day. You authorise us to accept and act on a communication given by fax or email without verification. You acknowledge that communication by fax or email is not secure and involves higher risk of manipulation, distortion or attempted fraud and may be of poor quality and unclear. You must indemnify us against, and must pay us on demand the amount of, all claims, liabilities, losses, costs, charges or expenses of any nature incurred or suffered by us in connection with acting on a communication given by fax or email.
- 16.8 **Overdue Fee** You must pay to us on demand interest calculated by reference to the lesser of our then current overdue interest rate for similar transactions and the maximum rate allowed by law on any moneys payable under or in connection with this Agreement which are overdue on a daily basis for the respective periods from the date the moneys became due to the date of payment by you and such amount shall compound monthly. If a liability under or in connection with this Agreement becomes merged in a judgement or order or exists after your winding up, you, as an independent obligation, must pay interest on the amount of that liability from the date the liability becomes payable both before and after the judgement, order or winding up until it is paid, also at that rate.
- 16.9 **No Waiver By Us** No waiver or indulgence by us in relation to any breach of this Agreement by you will be deemed a waiver or indulgence of any continuing or recurring breach.
- 16.10 **Commission** You consent to us paying a commission to any third party in relation to this Agreement. You acknowledge that any third party which submitted this Agreement to us, or who conducted any antecedent negotiations with you, is not and was not our agent for any purpose. Commission may be included in the cost of the Goods.
- 16.11 **Authority to Complete Schedule** You authorise us to complete and amend any blank, incomplete or inaccurate particular appearing in the Schedule and to otherwise complete all necessary formalities to render this Agreement complete and enforceable.
- 16.12 **We May Act on Your Omissions** If you neglect to pay any money or take any other action required by or in connection with this Agreement, we may pay that money or take that other action and recover the costs from you. We may enter and remain upon any land or premises of yours for this purpose.
- 16.13 **Set-Off** You irrevocably authorise us to set off without notice any money held by us on any account of yours against any money owing by you to us or any related body corporate. You must not exercise any right of set off on any account.
- 16.14 **Trust Provisions** If you enter into this Agreement as a trustee, you represent and warrant that you enter into this Agreement for a proper purpose of the trust (**Trust**), that you have power and authority under the Trust to enter into this Agreement and perform your obligations under this Agreement, and that you have the right to be indemnified fully out of the Trust property before the Trust's beneficiaries for all liabilities you incur under or in connection with this Agreement. Without our prior written consent you must not distribute any capital of the Trust, retire as trustee or be replaced as trustee, re-settle the Trust, amend the trust deed of the Trust or otherwise vary the terms of the Trust, grant a security interest over any of the assets of the Trust, or breach any terms of the Trust. You must tell us immediately if any of these events occur. You agree that in enforcing any PPS Security Interest provided for by this Agreement, we have recourse to and may satisfy any of your liability directly out of the Trust assets.
- 16.15 **Partnership Provisions** This clause applies if you enter into this Agreement as a partnership. Each partner signing this Agreement represents and warrants that they have power and authority to enter into this Agreement for the partnership and perform their obligations under this Agreement. Each partner of the partnership is liable to us as a separate, independent, principal and personal obligation, whether or not we may recover any sum from the partnership assets. You must tell us immediately if the partnership is dissolved, and if this occurs (to the extent permitted by law) then each partner must act in relation to the administration of the partnership assets in the manner (if any) directed by us, a retiring partner is not discharged from any liability to us as a result of an agreement between the then existing partners, and the obligations of a retiring partner to us are not affected by anything which might otherwise affect them at law or in equity.
- 16.16 **Governing Law** This Agreement is governed by the law of the State or Territory referred to in the Schedule.
- 16.17 **Sever Invalid Provisions** If any provision of this Agreement is found to be invalid or unenforceable in any jurisdiction, it will have no force or effect in that jurisdiction and will be severed from this Agreement in that jurisdiction without affecting the remaining provisions and without affecting the operation of this Agreement in any other jurisdiction.
- 16.18 **Conditions of Consent** We may or may not grant any consent or approval under or in connection with this Agreement in our absolute discretion and upon such conditions as we may determine.
- 17. Agency** We may enter into this Agreement as agent for another person (whether disclosed or not).

TERMS AND CONDITIONS

18. **Authority to Sign** Where this Agreement is executed by a person on your behalf, that person warrants that he or she has the authority and delegated power to execute this Agreement on your behalf.
19. **Authority to Register and Waiver of Right to Receive Notice of Verification Statements** You acknowledge that we may register one or more financing statements in relation to any PPS Security Interest provided for by this Agreement. If permitted by the PPSA, you waive your right under section 157 of the PPSA to receive notice of any verification statement relating to the registration of any such financing statement or any related financing change statement.
20. **PPSA Confidentiality**
- 20.1 You and we agree with each other not to disclose information of the kind mentioned in section 275(1) of the PPSA, except in the circumstances required by sections 275(7)(b) to (e) of the PPSA. You agree that you will only authorise the disclosure of information under section 275(7)(c) or request information under section 275(7)(d) if we approve. Nothing in this clause will prevent any disclosure by us that we believe is necessary to comply with our other obligations under the PPSA.
- 20.2 To the extent that it is not inconsistent with clause 20.1 constituting a "confidentiality agreement" for the purposes of section 275(6)(a) of the PPSA, you agree that we may disclose information of the kind mentioned in section 275(1) of the PPSA to the extent that we are not doing so in response to a request made by an "interested person" (as defined in section 275(9) of the PPSA) pursuant to section 275(1) of the PPSA.
21. **Contracting Out of the PPSA**
- 21.1 To the extent that Chapter 4 of the PPSA would otherwise apply to an enforcement by us of any PPS Security Interest provided for by this Agreement, we and you agree with each other that the following provisions of the PPSA do not apply:
- (a) to the extent that section 115(1) of the PPSA allows them to be excluded: sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4), 135, 138B(4), 142 and 143; and
- (b) in addition, to the extent that section 115(7) of the PPSA allows them to be excluded: sections 127, 129(2) and (3), 132, 134(2), 135, 136(3), 136(4), 136(5) and 137.
- 21.2 If section 115(1) of the PPSA does not allow section 125 of the PPSA to be excluded, you agree that at any time after any PPS Security Interest provided for by this Agreement has become enforceable, we may delay disposing of, or taking action to retain, the whole or part of the collateral to the extent permitted by law.
22. **Acknowledgment of no Subordination** Unless agreed to by us in writing, you acknowledge that we have not agreed to subordinate any PPS Security Interest provided for by this Agreement in favour of any third party.
23. **Interpretation**
- In this Agreement, unless the context otherwise requires:
- (a) **"Acceptance Date"** means the date that this Agreement is accepted on our behalf;
- (b) **"Break Costs"** means any cost, loss or expense arising by reason of the cancellation, termination or alteration of any funding arrangements entered into by us in order to fund (whether in whole or in part) this Agreement or arising by reason of our inability to obtain, on reinvestment of the funds used to acquire the Goods, that return which we would have received had this Agreement terminated by expiration of time;
- (c) **"Business Day"** means a day on which we are open for business in New South Wales and, where applicable, in the jurisdiction referred to in the Schedule;
- (d) **"Commencement Date"** means the Commencement Date referred to in the Schedule;
- (e) **"Costs of Repossession"** means all costs and expenses incurred by us in effecting, or attempting, repossession of the Goods, satisfying any third party claim, and in storing, repairing to good working order and condition, insuring, valuing and disposing of, the Goods after repossession;
- (f) **"Discount Rate"** means the rate determined by us equal to not less than 70% of the rate of interest used by us to calculate the Instalment Payments under this Agreement;
- (g) **"Early Termination Amount"** means the sum of:
- (i) the Instalment Payments (net of GST) which, but for the termination, would have been payable by you under this Agreement as from the date of early termination to the end of the Term (inclusive of any unamortised brokerage or commission), reduced to a present value as at the date of termination by applying the Discount Rate to such Instalment Payments;
- (ii) any Break Costs;
- (iii) an administrative fee of an amount of not less than one Instalment Payment (or such other amount as may be charged by us from time to time); and
- (iv) at our option, any other monies due, owing or payable by you to us on any account under any other agreement or document between you and us;
- (h) **"Goods"** means the goods referred to in the Schedule and any goods which you receive as replacement for the goods described in the Schedule, and includes any other items that are deemed to be or form part of the "Goods" under this Agreement;
- (i) **"GST"** means goods and services tax levied under *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and related legislation;
- (j) **"Instalment Payments"** means the Instalment Payments referred to in the Schedule;
- (k) **"Person"** includes any body corporate, association, authority and any other body or entity;
- (l) **"Personal Information"** has the same meaning as in the Privacy Act 1988 (Cth);
- (m) **"PPSA"** means the *Personal Property Securities Act 2009* (Cth);
- (n) **"PPS Register"** means the Personal Property Securities Register established under Part 5.2 of the PPSA;
- (o) **"PPS Regulations"** means the *Personal Property Securities Regulations 2010* (Cth);
- (p) **"PPS Security Interest"** means a security interest under the PPSA;
- (q) **"Security Interest"** means:
- (i) a PPS Security Interest;
- (ii) any other mortgage, pledge, lien or charge; and
- (iii) any other interest or arrangement of any kind that in substance secures the payment of money or the performance of an obligation, or that gives a creditor priority over unsecured creditors in relation to any property;
- (r) **"Serial Numbered Property"** means any Goods which may or must be described by serial number in a registration under the PPSA;
- (s) **"Special Conditions"** means special conditions, if any, set out in, or annexed to, the Schedule;
- (t) **"Term"** means the Term referred to in the Schedule;
- (u) **"Total Amount Payable"** means the Total Amount Payable referred to in the Schedule;
- (v) **"Transaction Fees and Costs"** includes all sums incurred or reasonably determined by us not otherwise recovered or charged under or in connection with this Agreement;
- (w) **"we"** or **"our"** or **"us"** means CAPITAL FINANCE AUSTRALIA LIMITED ABN 23 069 663 136;
- (x) **"you"** means the customer referred to in the Schedule;
- (y) a reference to any party includes that party's successors, personal legal representatives and permitted assigns;
- (z) if any party is comprised of more than one person, those persons' obligations are joint and several;
- (aa) a reference to any legislation or to any section or provision of any legislation includes any statutory modification or re-enactment or any substituted statutory provision and all ordinances, by-laws, regulations and other statutory instruments;
- (bb) the singular includes the plural and vice versa;
- (cc) if there is any inconsistency between any Special Conditions and the Terms and Conditions, the Special Conditions will prevail; and
- (dd) the following terms have the meaning given to them in the PPSA: **"amendment demand"**, **"collateral"**, **"financing change statement"**, **"financing statement"**, **"perfected"**, **"registration"**, **"serial number"** and **"verification statement"**.

Privacy information for any individual signing this document

We will collect, use, disclose, hold and manage any Personal Information you provide to us in this document (or in any other dealings with us) consistently with our Privacy and Credit Reporting Policy, which is available on our website (www.capitalfinance.com.au). This Policy also explains your rights regarding your Personal Information held by us (such as to request access to it), which you can exercise by contacting us using the details in the Policy.

SIGNATURE(S)

EXECUTED as an agreement

Individual(s) EXECUTED by	
_____ Witness Signature	_____ Signature
_____ Witness Name (please print)	_____ Name (please print)
Date: _____	

Company EXECUTED by ABCPTY LTD in accordance with section 127 of the Corporations Act:	
_____ Director/Sole Director Signature	_____ Director/Secretary* Signature <i>* Delete whichever does not apply. Delete both if Sole Director.</i>
_____ Director/Sole Director Name (please print)	_____ Director/Secretary Name (please print)
Dated: _____	

Company EXECUTED for and on behalf of by NAME ACN/ABN its duly authorised signatory:	
_____ Signature of Witness	_____ Authorised Signatory Signature
_____ Name of Witness (please print)	_____ Authorised Signatory Name (please print)
Dated: _____	
_____ Authorised Signatory Position (please print)	

EXECUTED for and on behalf of Capital Finance Australia Limited ABN 23 069 663 136 by its duly Authorised Officer:	
_____ Name of Authorised Officer (please print)	_____ Signature of Authorised Officer
Date: _____ (Acceptance Date)	