

## RENTAL AGREEMENT

### CUSTOMER DETAILS

CONTACT NAME	
POSITION	
COMPANY NAME	
A.B.N. / A.C.N.	
TELEPHONE / FAX	

### EQUIPMENT DETAILS

ITEM No.	PRODUCT DETAILS	SERIAL No.

**FEES AND CHARGES:** Refer to quotation number: .....

**RENTAL PERIOD:**  
**COMMENCEMENT (DATE):** ..... **EXPIRY (DATE):** .....

**DELIVERY ADDRESS:** .....  
 .....

### ACCEPTANCE

I agree to the terms and conditions provided in this Rental Agreement.

Name: .....

Date: .....

Signature: .....

## TERMS AND CONDITIONS

### 1. GENERAL

The **Customer**, which includes its employees, servants and agents, hereby rents from CHK Power Quality Pty Ltd (**Supplier**) Equipment as referred to in this Rental Agreement and includes all items supplied.

The Customer agrees to be bound by and accepts these terms and conditions of rent. No variation or cancellation of any of these terms and conditions of rent shall be binding on the Supplier unless assented to in writing.

**Commencement** – The date when the Customer takes possession of the Equipment.

**Rental Period** – Means from Commencement until the expiry date as shown on the Rental Agreement. The Rental Period may be extended if the Customer requests it and if the Supplier agrees.

**Equipment** – All rented items and includes the instrument, associated accessories, hardware and software documentation, certificates and application software.

### 2. CUSTOMER RESPONSIBILITIES

The Customer agrees to:

- (a) Satisfy itself at Commencement that the Equipment is suitable for its purposes;
- (b) Deliver the Equipment to the Supplier when it is due back.
- (c) Return the Equipment to the Supplier clean and in good repair.
- (d) Not use the Equipment for any illegal activities or activities which may be construed as for illegal intentions.
- (e) Operate the Equipment safely, strictly in accordance with the law, only for its intended use, and in accordance with any manufacturer's instructions whether supplied by the Supplier or posted on the Equipment.
- (f) Comply with all State, Territory and Federal laws in respect of the Equipment.
- (g) That the Equipment will not have any information contained in or associated with it which would, if received by the Supplier or any other person, be in breach of State, Territory or Federal privacy laws when it has been returned.
- (h) Ensure that any person collecting or taking delivery of Equipment on behalf of the Customer is authorised by the Customer to do so and the Customer will not allege that any such person is not so authorised;
- (i) Ensure that all persons operating or erecting the Equipment are suitably instructed in its safe and proper use and where necessary hold a current Certificate of Competency and/or are fully licensed.
- (j) Conduct a thorough hazard and risk assessment before using the Equipment and comply with all Occupational Health and Safety laws relating to the Equipment and its operation;
- (k) Safely secure all items loaded in or on the Equipment or in or on the Customer's vehicle, and indemnify the Supplier in respect of any injury and/or damage caused by items falling from the Equipment or from any vehicle operated by or on behalf of the Customer;
- (l) Indemnify the Supplier for all injury and/or damage to the extent caused or contributed to by the Customer to persons and property in relation to the Equipment and its operation and have adequate insurance to cover all liabilities incurred as a result of the use of the Equipment;
- (m) Use the Equipment in a careful and proper manner and not interfere or tamper with, alter, modify, damage or repair the Equipment or let anyone else do so;
- (n) keep the Equipment at the delivery address specified in the Rental Agreement unless prior written permission has been obtained from the Supplier to relocate the Equipment elsewhere;
- (o) Report and provide full details to the Supplier of any accident or damage to the Equipment within 2 business days of the accident or damage occurring.
- (p) Not lose or not sell, transfer, assign, underlet, lend, charge, pledge or part with possession of the Equipment;

## Get more Work from your Power

- (q) not 'on-hire' the Equipment unless it receives the prior written consent of the Supplier. The Supplier consent may be withheld in its absolute discretion.
- (r) If the Supplier provides its consent pursuant to clause 3(p), it may require the Customer to register a security interest in relation to the Equipment on the Personal Property Securities Register ("PPSR").
- (s) Not to rely upon any representation relating to the Equipment or its operation other than that provided by the manufacturer's documentation.
- (t) Not remove any stickers, labels or any other identification from the Equipment.
- (u) Notify the Supplier immediately if any judgement or order is levied against the Customer or property of the Customer or if a petition is presented for the liquidation of the Customer or an Administrator or Receiver is appointed or a scheme of arrangement is proposed.
- (v) That the Equipment shall at all times, whilst in the care, custody or control of the Customer, be at the risk of the Customer.
- (w) That title in the property in the Equipment shall not pass to the Customer in any circumstances.
- (x) keep the Equipment in a safe and proper location;
- (y) Supplier, 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;
- (z) No to purport to grant any encumbrance over or in connection with the Equipment or otherwise purport to offer or use the Equipment as security. For the purpose of these Conditions, encumbrance means any mortgage, lien, charge, bill of sale, option, title retention, pledge, claim, restriction, condition, overriding interest, security interest pursuant to the Personal Property Securities Act 2009 (Cth) ("PPSA") or other encumbrance.
- (aa) The Customer accepts full responsibility for all Equipment rented, including its use in accordance with any manufacturer or the Supplier operating instructions provided or Government Regulations.

- (bb) Notwithstanding any other provisions of the Rental Documents, the parties agree that the Customer is liable to the Supplier for any loss, including loss of the Equipment, where that loss has arisen as a direct or indirect result of the Customer 'on-hiring' or not registering or perfecting a security interest pursuant to the PPSA.

### 3. SUPPLIER RESPONSIBILITIES

The Supplier agrees to:

- (a) Provide Equipment to the Customer, clean and in good working order;
- (b) Inform the customer of any visual defects (which may not necessarily impede the function of the Equipment) prior to the customer accepting the Equipment to rent.
- (c) Recalibrate and provide maintenance of the Equipment as it deems necessary.
- (d) 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 the Supplier and request instructions before taking any action. The responsibility for advising the Supplier rests with the Customer.
- (e) At its sole and absolute discretion and for such length of time as it deems expedient replace the Equipment with another of such type or model as shall for the time being be available and the Equipment so substituted shall be subject to these Conditions.

### 4. THEFT, SAFEKEEPING AND REPAIRS

- 4.1 No form of theft waiver is offered by the Supplier.
- 4.2 The Customer is responsible for the safekeeping of the Equipment and shall bear the risk of any loss, theft, damage or destruction of Equipment in the event where the Customer has failed to keep the Equipment in a securely locked location.
- 4.3 If the Equipment shall require repair, recalibration or replacement as a result of the Customer's use or whilst in the Customer's possession, the Customer shall bear the total cost of any such repair, recalibration or replacement including any freight charges there occasioned.
- 4.4 The Customer shall pay to the Supplier the total new replacement cost as assessed by the Supplier of

## Get more Work from your Power

the Equipment which is lost, stolen, destroyed or damaged beyond repair.

4.5 The Customer shall pay to the Supplier 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.

4.6 Any item, article, accessory or document supplied in conjunction with the Equipment (including operation manuals) not returned or are returned in damaged condition to the Supplier upon cessation of the Rental Period shall be paid for by the Customer with a fee determined by the Supplier being charged to the account of the Customer.

4.7 In respect of damage or loss of Equipment, or failure to return all of the Equipment (including all accessories), the Rental Period shall continue, and the Customer shall continue to pay rental until the Equipment has been repaired and returned (including all accessories) to the Supplier, or the replacement cost of new Equipment or accessories has been paid by the Customer.

4.8 The Customer indemnifies the Supplier for all loss or damage suffered as a consequence of such damage or loss to, or failure to return, the Equipment and accessories.

### 5. DAMAGE WAIVER

5.2 No form of damage waiver is offered by the Supplier.

### 6. PAYMENTS

6.1 Payment terms are strictly fourteen (14) days from date of invoice unless otherwise stated in this Rental Agreement.

6.2 Payments by the Customer to the Supplier include:

- (a) All costs incurred in cleaning the Equipment;
- (b) The full cost of repairing any damage to the Equipment caused or contributed to by the Customer, unless expressly agreed otherwise in this Rental Agreement;
- (c) Stamp duties, Goods and Services Tax (GST), any other taxes or duties, and all tolls, fines, penalties, levies or charges payable in respect of this Rental Agreement or arising from the Customer's use of the Equipment;

(d) All costs incurred by the Supplier in delivering and recovering possession of the Equipment;

(e) Any expenses and legal costs (including commission payable to a commercial agent) incurred by the Supplier in enforcing this Rental Agreement due to the Customer's default;

(f) If any damage and/or theft waiver applies, the amount for which the Customer is liable as set out in this Rental Agreement.

(g) All new customers are to pay a deposit of 25% of rental fee, with the balance to be paid at the end of the Rental Period.

### 4.3 Overdue payments:

(a) 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 ninety (90) day bill rate calculated daily until payment in full is received and the Equipment has been returned.

(b) The Customer is liable for all additional costs the Supplier may incur, including legal, administrative and collection costs to recover unpaid amounts.

### 7. SECURITY INTEREST

7.1 This clause applies to the extent that this Rental Agreement provides for a 'security interest' for the purposes of the PPSA. References to PPSA in this Rental Agreement include references to amended, replacement and successor provisions or legislation.

7.2 If the Supplier does not have at Commencement a PPSA registration ensuring a perfected first priority security interest in the Equipment, the Rental Period, (including any extension of the Rental Period or the aggregate of consecutive Rental Periods during which the Customer has substantially uninterrupted possession) may not despite anything else in this document be longer than:

- (a) Ninety (90) days in the case of Equipment which may or must be described by serial number in a PPSA registration; or
- (b) Twelve (12) months in any other case.

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

## Get more Work from your Power

- (a) Ensuring that the Supplier security interest is enforceable, perfected and otherwise effective under the PPSA;
- (b) Enabling the Supplier to gain first priority (or any other priority agreed to by the Supplier in writing) for its security interest; and
- (c) Enabling the Supplier to exercise rights in connection with the security interest.

7.4 The rights of the Supplier under this document are in addition to and not in substitution for the Suppliers' rights under other law (including the PPSA) and the Supplier may choose whether to exercise rights under this document, and/or under such other law, as it sees fit. To avoid any doubt about it the Supplier security interest will attach to proceeds.

7.5 To the extent that Chapter 4 of PPSA applies to any security interest under this Rental Agreement, the following provisions of the PPSA do not apply and, for the purposes of section 115 of the PPSA 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 the Supplier to give a 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 the Supplier to give a 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).

7.6 The following provisions of the PPSA: 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) confer rights on the Supplier. Customer agrees that in addition to those rights, the Supplier shall, if there is default by 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 the Supplier may do so in any manner it sees fit including (in respect of dealing and disposal) by private or public sale, lease or licence.

7.7 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 PPSA.

7.8 The Supplier and the Customer agree not to disclose information of the kind that can be requested under section 275(1) of the PPSA. The Customer must do everything necessary on its part to ensure that section 275(6)(a) of the PPSA continues to apply. The agreement in this sub-clause is made solely for the purpose of allowing to the Supplier the benefit of section 275 (6)(a) and the Supplier shall not be liable to pay damages or any other compensation or be subject to injunction in respect of any actual or threatened breach of this sub-clause.

7.9 Customer must not dispose or purport to dispose of or create or purport to create or permit to be created any 'security interest' (as defined in PPSA) in the Equipment other than with the express written consent of the Supplier.

7.10 Customer must not lease, hire, bail or give possession ('sub-hire') of the Equipment to anyone else unless the Supplier (in its absolute discretion) first consents in writing. Any such sub-hire must be in writing in a form acceptable to the Supplier and must be expressed to be subject to the rights of the Supplier under this Rental Agreement. Customer may not vary a sub-hire without the prior written consent of the Supplier (which may be withheld in its absolute discretion).

7.11 Customer must ensure that the Supplier 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 the Equipment.

7.12 Customer must take all steps including registration under PPSA 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 PPSA;
- (b) Enabling the Customer to gain (subject always to the rights of the Supplier) first priority (or any other priority agreed to by the Supplier in writing) for the security interest; and
- (c) Enabling the Supplier and the Customer to exercise their respective rights in connection with the security interest.

7.13 To assure performance of its obligations under this Rental Agreement, the Customer hereby gives the Supplier an irrevocable power of attorney to do anything the Supplier considers the Customer should do under this Rental Agreement. The Supplier may recover from Customer the cost of doing anything under this clause 5, including registration fees.

7.14 The Customer authorises the Supplier to search the Personal Property Securities Register at any time for any information about the Customer.

### **8. EXCLUSION OF WARRANTIES AND LIABILITIES.**

8.1 Where the Australian Consumer Law applies, the Customer has the benefit of guarantees in relation to the rent of the Equipment which cannot be excluded.

8.2 Where the Australian Consumer Law applies and the goods are not of a kind ordinarily acquired for personal domestic or household use or consumption, the Supplier liability in respect of any guarantee is limited to the replacement or repair of the goods, or the cost of having the goods repaired or replaced.

8.3 To the extent that the Australian Consumer Law (or any other law which cannot be excluded) does not apply. The Supplier makes no representations and gives no warranties other than those set out in this Rental Agreement and will not be liable to the Customer for any damages, costs or other liabilities whatsoever (including for consequential loss) in relation to the rent of the Equipment by the Customer.

### **9. RENTAL PURCHASE OPTION**

9.1 If the Customer at the end of the Rental Period specified in the Rental Agreement desires to purchase the Equipment, the Customer must inform the Supplier that the Customer exercises the option to purchase the Equipment. The Supplier will advise the Customer of the purchase price for the Equipment, if the Equipment is available for sale, and if the Customer proceeds to purchase the Equipment, the Terms and Conditions of Sale of the Supplier shall apply to the sale of the Equipment.

### **10. DISPUTES**

10.1 The Customer must immediately check all charges, and any disputes in relation to those charges must be communicated to the Supplier in writing thirty (30) days of the Rental Agreement Commencement date. In the event that no communication is received from the Customer within

that thirty (30) day period, the charges are deemed to be accepted by the Customer.

10.2 If a dispute arises relating to this Rental Agreement, the rental or the use of the Equipment (except in regard to payments due to the Supplier), the parties agree to negotiate to settle the dispute with the assistance of the Hire and Rental Association of Australia before litigation.

### **11. PRIVACY**

11.1 The Supplier will comply with the Australian Privacy Principles in all dealings with Customers. A copy of the Privacy Policy is available upon request or by visiting [www.chkpowerquality.com.au](http://www.chkpowerquality.com.au).

### **12. BREACH OF AGREEMENT**

12.1 If the Customer breaches any clause whatsoever of the Rental Agreement and does not remedy the breach within seven (7) days' notice of the breach, or becomes bankrupt, insolvent or ceases business then; the Supplier shall be entitled to:

- (a) Terminate the Rental Agreement;
- (b) To recover all damages including any consequential damages incurred;
- (c) Repossess the Equipment (and is authorised to enter any premises where the Equipment is located to do so).

The Customer must provide the Supplier 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 the Supplier incurs. The Supplier will not be liable for any damage to property caused by any person in collecting the Equipment;

- (d) If any Damage and/or Theft Waiver referred to in this Rental Agreement is immediately invalidated.

12.2 The Customer indemnifies the Supplier in respect of any damages, costs or loss, to the extent caused or contributed to by the customer resulting from a breach by the Customer of any provision of this Rental Agreement.

### **13. GOVERNING LAW**

This Rental Agreement and all related transactions will be governed by and construed in accordance with the laws of New South Wales and the parties hereby

## **Get more Work from your Power**

irrevocably submit to the non-exclusive jurisdiction of the courts of New South Wales.

#### **14. ENTIRE AGREEMENT**

The Customer agrees that this Rental Agreement and any document incorporated by reference or referred to herein constitute the entire agreement between the Customer and the Supplier pertaining to the subject matter of these Conditions of Sale, and supersedes, terminates and otherwise renders null and void any and all prior agreements, understandings,

negotiations, contracts, proposals or requests for proposals, whether written or oral, between the Purchaser and the supplier. In the event of a conflict between these Conditions of Sale and any of the documents incorporated by reference or referred to herein, these Conditions of Sale shall prevail.