



2iC Rental Product – Terms & Conditions of Rental

Last Revised 6th October 2008

Definitions:

“Owner” means: 2iC Australia Pty Ltd (2iC) ABN 31 079 595 467.

“Customer” means: The company, entity, firm, corporation or person hiring or requesting to hire the specified 2iC Rental Product from the Owner and any officer, employee or agent of the hirer who accepts the 2iC Rental Product Terms & Conditions shall be taken by the Owner as having full authority to sign on the customers behalf.

“Specified 2iC Rented Product” means: Any product specified in the official 2iC Australia Pty Ltd Product Catalogue as a Rental Product.

“2iC Rental Product” means: Any 2iC Rental Product described or requested by the Customers own official purchase order.

All freight, customs, taxes, duties, withholding tax and other transport/government, bank or funds transfer charges of any kind including any distributors handling charges, will be solely born by the Customer.

1. **Rental Cost:** The cost of rental (**Rental Cost**) or period of rental (**Rental Period**) and payment terms shall be specified by the **Owner** or its **Distributor** at the time of ordering the **PRODUCT** by the **Customer**. If any instalment of the Rental Cost is unpaid seven (7) calendar days after becoming due, the **Customer** shall be deemed to be in breach of the rental terms and conditions of renting a specified **2iC RENTAL PRODUCT**. The **Owner** also reserves the right to review the daily rental rate, terms and conditions from time to time.

2. **Rental of the PRODUCT:** The **Owner** agrees to allow the **Customer** to rent the specified **2iC RENTAL PRODUCT** at any time within the term of the **Rental Period** while the specified **2iC RENTAL PRODUCT** is available, as determined from time to time by the **Owner**, for the **Rental Period**, subject to the following terms and conditions. The specified **2iC RENTAL PRODUCT** includes a series of patented & patent pending components. The specified **2iC RENTAL PRODUCT** includes all additions, replacements, modifications and accessions thereto.

3. **2iC Australia Pty Ltd is the Owner:** The **Owner** agrees to transfer possession of the specified **2iC RENTAL PRODUCT** to the **Customer** and to allow the **Customer** to use the **PRODUCT** during the **Rental Period**. At all times during the **Rental Period**, **2iC**

Australia Pty Ltd shall remain the Owner of the specified **2iC RENTAL PRODUCT** as defined by clause 14 of these **Rental Terms & Conditions**.

4. **Rental Period:** The **Rental Period** is subject to the termination provisions as detailed in clause’s 9, 10 and 11 of these **Rental Terms & Conditions** and will commence either on the date of dispatch of the **2iC RENTAL PRODUCT** or 7 days from the date of dispatch depending on the final destination of the specified **2iC RENTAL PRODUCT** as detailed below:

- Dispatched within the country of origin of 2iC Australia Pty Ltd or its regional **Distributor** – **Rental Period** begins on the dispatch date (minimum rental period of 15 days).
- Dispatched to a country outside of the country of origin of 2iC Australia Pty Ltd or its regional **Distributor** – **Rental Period** begins 7 days after dispatch date (minimum rental period of 30 days).

The initial **Rental Period** will be for a minimum of either 15 or 30 days unless otherwise stated as detailed above and then on a daily basis for each day thereafter, and **will not terminate** until the date specified by **2iC that the RENTAL PRODUCT** is received in good order and condition by the **Owner** or its **Distributor** from the **Customer** at the original dispatch address.

5. **Customer Obligations:** During the **Rental Period** the **Customer** shall:

- I) Ensure that the specified **2iC RENTAL PRODUCT** is operated in a skillful and proper manner by its operators at all times.
- II) Not allow, encourage or assist any party or individual to copy or modify the patented and/or pending specified **2iC RENTAL PRODUCT** or any part thereof that is in the possession of the **Customer** in any way as this will be deemed an infringement upon the **Intellectual Property rights** of the **Owner** or its supplier.
- III) Keep the specified **2iC RENTAL PRODUCT** in good and serviceable repair and condition and make good to the **Owner** all loss or damage to the specified **2iC RENTAL PRODUCT** however caused.
- IV) Ensure that the specified **2iC RENTAL PRODUCT** is properly cleaned and free of contamination of grease or any other substances prior to returning the specified **2iC RENTAL PRODUCT** to the **Owner** or its appointed **Distributor** either at the termination of the **Rental Period** or when the specified **2iC RENTAL PRODUCT** is due for service as notified by the **Owner** or its **Distributor**.
- V) Agree to pay an **Equipment Cleaning & Waste Disposal fee** to the **Owner** or its **Agent** should the specified **2iC RENTAL PRODUCT** be returned in an unclean state as determined by the **Owner** or its **Distributor**.
- VI) Punctually pay all sums outstanding within thirty (30) days of invoicing.
- VII) Obtain all necessary licenses; permits and permissions for use of the specified **2iC RENTAL PRODUCT** and not use, or permit to be used, the **PRODUCT** contrary to law or any applicable regulations.
- VIII) Permit the **Owner**, **Distributor** or their duly authorized representative's at all reasonable times to enter upon the premises in which the specified **2iC RENTAL PRODUCT** is kept to inspect and examine its condition.
- IX) Indemnify the **Owner** against loss or damage to the specified **2iC RENTAL PRODUCT**, or any part thereof including any consequential loss, from any cause whatever, whether or not such loss or damage results from the negligence of the **Customer**. All damaged and/or worn components remain the property of the **Owner** and must be returned immediately to the **Owner** or its appointed **Distributor**.
- X) Not encumber or part with possession of or otherwise deal with the specified **2iC RENTAL PRODUCT** or any interest therein or create or allow to be created any lien on the

specified **2iC RENTAL PRODUCT** and shall keep it free from distress, execution or legal process.

- XI) Pay to the **Owner** or its **Distributor**, all expenses (including but not limited to, legal costs on a full indemnity basis) incurred by or on behalf of the **Owner** in ascertaining the whereabouts of the specified **2iC RENTAL PRODUCT** or taking possession of it by reason of a breach by the **Customer** of any of the **Rental Terms & Conditions**.

6. **PRODUCT Losses:** Where the specified **2iC RENTAL PRODUCT** or any part thereof is lost, stolen, destroyed or damaged by the negligence or wrongful act of a third party in the care of the **Customer**, the **Customer**:

- I) Shall forthwith notify the **Owner** or its **Distributor** in writing on the **Customer's** official company stationary as to the circumstances that caused the loss, damage or theft to occur as well as the steps taken by the **Customer** to recover the specified **2iC RENTAL PRODUCT** or part thereof, if the specified **2iC RENTAL PRODUCT** or part thereof has been stolen then the **Customer's** official statement must be accompanied by written proof that the incident has been reported to the local police authorities for investigation and prosecution. The **Customer** shall not settle any claims without the **Owner** or its **Distributor's** consent and allow the **Distributor** to take over the conduct of any negotiations (except in relation to claims of the **Customer** for personal injuries, loss of use of the specified **2iC RENTAL PRODUCT**, or loss, or damage to the property of the **Customer** unconnected with the specified **2iC RENTAL PRODUCT**); and
- II) Pay to the **Owner** or its **Distributor** the replacement cost for the specified **2iC RENTAL PRODUCT** so lost, stolen, destroyed or damaged, provided that nothing herein shall release the **Customer** from its obligations to pay the **Rental Cost** during the **Rental Period**. The **Customer** shall bear responsibility for its own insurance requirements in relation to the specified **2iC RENTAL PRODUCT**.

7. **Repair and Replacement Responsibilities:**

- I) Subject to sub-clause 5(III), the **Owner** or its **Distributor** shall replace all missing, damaged and broken parts requiring replacement during the **Rental Period** with parts of equal value and quality at the **Customer's** cost and expense save where reasonable wear and tear has caused a breakdown of the

- specified **2iC RENTAL PRODUCT** in which case parts shall be replaced at the **Owner's** expense provided that nothing herein shall release the **Customer** from its obligation to pay for the **Rental Cost** and the **Customer** indemnifies the **Owner** from any loss including consequential loss to any party as a result of the breakdown or failure of the specified **2iC RENTAL PRODUCT**.
- II) The **Customer** agrees to comply with all municipal, state and federal laws, ordinances and regulations including but not limited too, occupational health, safety and welfare requirements that may apply to the use and application of the specified **2iC RENTAL PRODUCT**.
- III) Immediately upon the **Customer** becoming aware that the **2iC RENTAL PRODUCT** has become unsafe or is in a state of disrepair the **Customer** undertakes to immediately discontinue use of the **2iC RENTAL PRODUCT**. The **Customer** will immediately notify the **Owner** that the **2iC RENTAL PRODUCT** is unsafe or in disrepair and the **Customer** agrees that it will take all steps reasonably necessary to prevent injuries to any person or property from the **2iC RENTAL PRODUCT** until such time that the **Owner** has regained possession and replaced the **2iC RENTAL PRODUCT**.
- IV) The **Customer** shall purchase and replace as required at its own expense all consumables used in the operation of the specified **2iC RENTAL PRODUCT** (as outlined in the **Owner's** Product List) with genuine parts only, as specified by the **Owner**.
- V) All damaged and/or worn components of the specified **2iC RENTAL PRODUCT** remain the property of the **Owner** and must be returned immediately to the **Owner** or its appointed **Distributor** by the **Customer** at the **Customer's** cost.
8. **Enhancements:** The **Customer** shall not make any enhancements, alterations or repairs to the specified **2iC RENTAL PRODUCT** without the **Owner's** prior written consent. Where such consent does not include notice by the **Owner** that any approved enhancements, alterations or repairs are permitted to be permanent, the **Customer** shall be deemed to be required to restore the specified **2iC RENTAL PRODUCT** to its original condition upon termination or expiry of this **Rental Period**. Where the **Owner** does not give such notification, any enhancement or modification shall be considered part of the specified **2iC RENTAL PRODUCT** and shall become the property of **Owner** upon the end of the **Rental Period**.
9. **Termination on Default:** If the **Customer** defaults in payment of **Rental Costs** or fails to observe or perform the terms and conditions hereof the **Owner** may, in addition to any other remedies,
- by written notice to the **Customer** terminate the rental of the specified **2iC RENTAL PRODUCT**, with termination effective on the date such notice is delivered to the **Customer**. Immediately thereafter, the **Customer** shall restore possession of the specified **2iC PRODUCT** either directly to the **Owner** or to the appointed regional **Distributor**.
10. **Automatic Termination:** The Rental Period of the specified **2iC RENTAL PRODUCT** shall automatically expire and be deemed terminated effective upon the date of the occurrence of any one of the following events or conditions:
- I) The bankruptcy or insolvency or the appointment or a trustee in bankruptcy or similar official for the **Customer**;
- II) The assignment of the **Customer's** assets, made for the benefit of the **Customer's** creditors;
- III) If any judgment is rendered against the **Customer** and remains unsatisfied for more than 14 days, and
- IV) The **Customer** abandons the specified **2iC RENTAL PRODUCT**.
11. **Effect of Termination:**
- I) Upon termination of the **Rental Period** for the specified **2iC RENTAL PRODUCT**, for any reason whatsoever, the **Owner**, through its **Distributor**, may without notice re-possess the specified **2iC RENTAL PRODUCT** and may, through its **Distributor**, without notice, enter any land or premises on which the **Owner** believes the specified **2iC RENTAL PRODUCT** to be situated for such purpose.
- II) Upon the expiration or earlier termination of the **Rental Period** for the specified **2iC RENTAL PRODUCT**, the **Customer** shall hold the specified **2iC RENTAL PRODUCT** available for collection by the **Owner** or its **Distributor** and the **Owner** or its **Distributor** may without notice retake possession of the specified **2iC RENTAL PRODUCT** in accordance with Clause 10). If the specified **2iC RENTAL PRODUCT** or any part thereof is affixed to such land, vessel or buildings the **Owner** shall be entitled to sever the same therefrom and to remove the specified **2iC RENTAL PRODUCT** of part thereof so severed and the **Customer** shall be responsible for all damage caused to the land or buildings by such removal.
12. **Warranty/Liability:** Subject to sub-clause 11. I), any condition or warranty which would otherwise be implied in these **Terms & Conditions** is hereby excluded:

- I) Where legislation implies in these **Terms & Conditions** any condition or warranty, and that legislation avoids or prohibits provisions in a contract excluding or modifying the application of or exercise of or liability under such condition or warranty, the condition or warranty shall be deemed to be included in these **Terms & Conditions**. However, unless such legislation otherwise requires, the liability of **2iC Australia Pty Ltd** for any breach of such condition or warranty shall be limited, at the option of **2iC Australia Pty Ltd**, to one or more of the following:
- a) If the breach relates to goods:
 - 1) The replacement of the goods and the supply of equivalent goods;
 - 2) The repair of such goods;
 - 3) The payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - 4) The payment of the cost of having the goods repaired; and
 - b) If the breach relates to services:
 - 1) The supplying of the services again; or
 - 2) The payment of the cost of having the services supplied again.
- II) Subject to clause 11. I), **2iC Australia Pty Ltd** shall be under no liability to the **Customer** in respect of any loss or damage (including consequential loss or damage) which may be suffered or incurred or which may arise directly or indirectly in respect of property, goods or services supplied pursuant to these **Terms & Conditions** or in respect of a failure or omission on the part of **2iC Australia Pty Ltd** to comply with its obligations under these **Terms & Conditions**.
- III) The **Customer** warrants that it has not relied on any representation made by **2iC Australia Pty Ltd** or its **Distributor** which has not been stated expressly in these **Terms & Conditions**, or upon any descriptions, illustrations or specifications contained in any document including catalogues or publicity material produced by **2iC Australia Pty Ltd**.
- IV) The **Customer** acknowledges that to the extent **2iC Australia Pty Ltd** or its **Distributor** has made any representation which is not otherwise expressly stated in these **Terms & Conditions**, the **Customer** has been provided with an opportunity to independently verify the accuracy of that representation.
- V) The **Customer** shall at all times indemnify and hold harmless **2iC Australia Pty Ltd** and its officers, employees and **Distributor**, to the extent permitted by the law ('those indemnified') from and against any loss (including reasonable legal costs and expenses) or liability reasonably incurred or suffered by any of **those indemnified** from any proceedings against **those indemnified** where such loss or liability was caused by:
- a) A breach by the **Customer** of its obligations under these **Terms & Conditions**; or
 - b) Any willful, unlawful or negligent act or omission of the **Customer**.
13. **Assignment:** The **Owner** shall be entitled to assign all of its rights under these **Terms & Conditions**.
14. **Ownership of the specified 2iC RENTAL PRODUCT:** The specified **2iC RENTAL PRODUCT** hereby rented shall remain personal property and shall continue in the ownership of the **Owner** notwithstanding any affixation to any land or building. The **Customer** shall be responsible for any damage caused to any such land or building by the affixing of the specified **2iC RENTAL PRODUCT** thereto or the removal of the specified **2iC RENTAL PRODUCT** there from (whether such affixing or removal be effected by **Owner** or **Customer**) and shall ensure that if the specified **2iC RENTAL PRODUCT** is affixed to any land, vessel or building it shall be removable without material injury to the said land, vessel or building and that all necessary steps are taken to prevent title to the specified **2iC RENTAL PRODUCT** from passing to the owner of the said land or building.
15. **Extension of Term:** If the **Customer** retains the specified **2iC RENTAL PRODUCT** beyond the agreed **Rental Period**, **Rental Cost** at the monthly rate herein payable shall continue to be payable, adjusted on a daily basis until the specified **2iC RENTAL PRODUCT** is re-delivered to the **Distributor** or held available for collection by the **Owner** or the **Distributor**, as the case may be in accordance with Clause 10.
16. **Construction:** The paragraph headings used herein are for convenience only and shall not be used to construe the meaning or intent of any of the terms or provisions of the contract.
17. **Severance:** In the event of any part of these conditions becoming void or unenforceable whether due to any statute or otherwise then that part shall be severed from these conditions to the extent that all parts that shall not be or become void or unenforceable shall remain in full force and effect and be unaffected by any such severance. The expiration or determination of these conditions of hire howsoever arising shall not affect such **2iC Australia Pty Ltd Ezy-Mark Rental Conditions**

provisions hereof as are expressed or implied to operate or to have effect thereafter and shall be without prejudice to any right or action already accorded to either the **Owner** or the **Customer** in respect of any breach of these conditions by any party.

19. **Governing Law:** These **Terms & Conditions** shall be deemed made in the State of Western Australia and shall be interpreted in accordance with the laws of the State of Western Australia. The parties hereby consent and submit to the personal jurisdiction of the courts of the State of Western Australia for the purposes of litigating any matter related to these **Rental Terms & Conditions**.

20. **Delivery:** The **Owner**, through its **Distributor**, shall be responsible for delivering the specified **2iC RENTAL PRODUCT** to the **Customer** at the specified Delivery Address and the **Customer** will be responsible for the reasonable cost of such delivery as per the **Customer's** instruction from time to time. The **Customer** will be responsible for the cost, and to expedite the return of the specified **2iC RENTAL PRODUCT** to the original point of dispatch of the specified **2iC RENTAL**

PRODUCT from the **Owner** or its **Distributor** at the end of the rental period at the Customers cost.

21. **Waiver:** No relaxation, forbearance, delay or indulgence by the **Owner** in enforcing these **Terms & Conditions** or the granting of time by the **Owner** to the **Customer** shall prejudice, affect or restrict the rights or powers of the **Owner** hereunder, nor shall any waiver of any breach hereof operate as a waiver of any subsequent or any continuing breach hereof.

22. **Notice:** "Any notice, demand or issue of legal process (a "Notice") made to a party and relating to these **Terms & Conditions** of rental will not be valid unless in writing addressed to the party at the address, fax number or email address stated on the signed rental **Terms & Conditions**, in the case of the Owner or its authorised agent, or set out below, in the case of the Customer (or such other address as the party has specified by Notice in writing to the other).

I/We, the **Customer**, having read the terms and conditions hereto, and hereby agree to the rental terms and conditions contained herein.

Customer:

.....
Company/Firm/Individual name ACN/ABN (if applicable)

.....
Address

(.....).....(.....)
Telephone Facsimile

.....
e-mail Address

Signed:

.....
Customer Authorized Representative

Date:...../...../.....

.....
Name (please print)

Please sign where indicated above and initial each page to indicate acceptance of the 2iC rental terms and conditions and fax this document to 2iC Australia Pty Ltd (Fax No: +61 8 9456 4199) and/or your local 2iC Distributor.