

# GUARANTEE

It is recommended that the Guarantor/ees obtain independent legal advice to ensure that they understand their commitment in terms hereof and the potential consequence of their decision to bind themselves as Guarantor/ees. and co-principal debtor/s.

1. I/ We the Guarantors listed in the guarantee section of the aforewritten agreement overleaf, do hereby bind myself/ourselves jointly and severally as co-principal and for the primary continuing obligation for the proper and punctual payment by User to Hirer or its cessionary/ies of all amounts whatsoever due and owing arising out of or incidental to this agreement and the schedule/s thereto and all and any other indebtedness to Hirer, whether actual or contingent, present or future and howsoever arising (the "Guaranteed Obligations");
2. I/ We agree as a separate, additional, primary and continuing obligation to indemnify Hirer or its cessionary/ies, from time to time on first demand, from and against all and any loss or damage incurred by Hirer or its cessionaries as a result of or pursuant to any of the Guaranteed Obligations being or becoming void, voidable, unenforceable or ineffective for any reason whatsoever, whether or not known to Hirer or its cessionary/ies, the amount of such loss being the amount which Hirer or it cessionary/ies would otherwise have been entitled to recover from the User in terms of this agreement or the schedules thereto;
3. I/We undertake to pay the amounts referred in clause 1 above plus accrued unpaid interest (including any default interest) in terms of this agreement and any other amounts owing to Hirer or its cessionary/ies in terms of this agreement and any schedules thereto at a rate of 2 (two) percent per annum above the prevailing publicly quoted base rate of interest per annum at which any one of Hirer's bankers will lend on overdraft ("prime").
4. I/ We acknowledge having received a copy of this agreement and the schedules hereto and confirm I/ we are aware of the terms thereof;
5. I/ We shall promptly provide Hirer or its cessionary/ies with such information which is in my/ our possession concerning me/us as Hirer or its cessionary/ies may from time to time reasonably require;
6. I/ We shall ensure that my/ our liabilities under this Guarantee will rank at least equal in point of priority and security with all such other present or future debts (both actual and contingent) which are secured to the same extent as such liabilities hereunder;
7. I/ We renounce the benefits of excussion, division and cession of action, the nature and extent of which I/ we acknowledge myself/ourselves to be aware;
8. No extension of time or indulgence that may be granted to User in the aforewritten agreement at any time, nor any release of any other security or guarantee shall in any way affect my/our liability hereunder;
9. I / We consent to the jurisdiction of the Magistrate's Court provided Hirer shall be entitled to institute action in any division of the High Court of South Africa jurisdiction;
10. I/ We agree to make payment of any legal costs that may be awarded against me/us on an attorney and own client scale;
11. I/ We choose as my/ our domicile for all purposes arising out of this guarantee, the address/es as set out below;
12. I/ We indemnify and hold Hirer and it cessionary/ies in the event of a cession harmless against any claim arising out of or incidental to the aforewritten agreement, to its breach or its termination for any reason whatsoever;
13. I/ We warrant and represent that I/ we have received and will continue to receive adequate value for the granting of this guarantee;
14. I/ We agree that where it is contemplated that more or one person will sign as guarantor, I or any of us who may have signed as Guarantor shall be bound in solidum, irrespective of whether or not the other or others referred to will have executed this document or become bound in terms hereof.
15. We agree that no termination, cancellation, limitation or variation of my/our obligations in terms of this guarantee shall be of any force or effect unless it is in writing and signed by Hirer or its cessionary/ies, in the event of a cession in terms of the aforewritten agreement;
16. The terms of clauses 9, 23 and 25 of the aforewritten agreement shall apply hereto mutatis mutandis.

Thus done and signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

Full name	Street Address and Identity Number	Signature of Guarantor
Full name	Street Address and Identity Number	Signature of Guarantor
Full name	Street Address and Identity Number	Signature of Guarantor
Full name	Street Address and Identity Number	Signature of Guarantor

**As Witnesses**

1. Signature _____	Print Name _____	2. Signature _____	Print Name _____
--------------------	------------------	--------------------	------------------



## SMALL BUSINESS MASTER AGREEMENT OF HIRE

Your attention is drawn to the limitation of our risk and liability contained in the framed clause below as well as clauses 3, 5, 7, 9, 13, 16, 18, 19 and 25. You are requested to indicate your acceptance of the provisions thereof by initialing in the block indicated. ➤

("You", "Your" or "User") \_\_\_\_\_  
 Registration No. \_\_\_\_\_ VAT No. \_\_\_\_\_  
 Physical Address \_\_\_\_\_  
 and Postal Address \_\_\_\_\_ Postal Code \_\_\_\_\_  
 and Telephone No.'s \_\_\_\_\_ Fax No. \_\_\_\_\_  
 E-mail address \_\_\_\_\_

ask Sunlyn Rentals (Pty) Ltd (Reg. No. 1988/000147/07) ("us", "we" or "our") of 29 Scott Street, Waverley, Johannesburg to hire to you and which we agree to do, the equipment listed in the schedule/s hereto ("the goods") and at the Installation Address which we accept as per the Terms of Business set out overleaf.

Your signature _____ <i>who confirms that he/she is authorized to sign the Agreement</i>	Name of signatory _____
Position of signatory _____ <b>Witness:</b> _____	Date _____ Place _____ <b>Witness:</b> _____
Signature _____ Print Name _____	Signature _____ Print Name _____

<b>FOR OFFICE USE ONLY:</b>	
Our signature _____	Name of signatory _____
Position of signatory _____ <b>Witness:</b> _____	Date _____ Place _____ <b>Witness:</b> _____
Signature _____ Print Name _____	Signature _____ Print Name _____

1. YOU HEREBY ACKNOWLEDGE AND AGREE THAT -
  - 1.1. NOTHING THAT IS NOT DISTINCTLY SET OUT HEREIN IS BINDING ON US.
  - 1.2. YOU WERE REFERRED BY THE SUPPLIER OF THE GOODS TO US.
  - 1.3. WE HAVE BOUGHT THE GOODS FROM THE SUPPLIER AT YOUR SPECIAL INSISTANCE AND REQUEST.
  - 1.4. WE ARE NOT RESPONSIBLE FOR THE SUITABILITY OR QUALITY OF THE GOODS.
2. YOU GUARANTEE THAT IMMEDIATELY BEFORE THE SALE OF THE GOODS TO US, THE SUPPLIER WAS THE OWNER OF THE GOODS AND ENTITLED TO SELL AND PASS OWNERSHIP OF THE GOODS TO US.
3. YOU HEREBY INDEMNIFY US -
  - a. AGAINST ANY LEGAL RESPONSIBILITY FOR ANY CLAIM THAT MAY BE MADE AGAINST US, AND/OR
  - b. FOR ANY LOSS THAT WE MAY SUSTAIN ARISING FROM ANY BREACH OF ANY OF THE AFORESAID PROVISIONS OR FOR THE FAILURE OF THE SUPPLIER TO PASS OWNERSHIP OF THE GOODS OR DELIVER THE GOODS TO US, AND/OR
  - c. FROM ANY OTHER LOSS WHICH WE MAY SUFFER IN RELATION TO THE GOODS OF WHATSOEVER NATURE AND HOWSOEVER ARISING AND WHETHER OR NOT YOU ARE AT FAULT IN RELATION THERETO.
4. SHOULD THE AGREEMENT BE CANCELLED, OUR AFOREGOING RIGHTS, WHICH WERE OUR'S BEFORE CANCELLATION OF THE AGREEMENT, SHALL REMAIN ENFORCEABLE.
5. YOU ARE HEREBY GIVEN NOTICE OF YOUR ENTITLEMENT OF FREE CHOICE IN TERMS OF SECTION 43 (1) OF THE SHORT TERM INSURANCE ACT 53 OF 1998.

**Upgrade option**  
 User shall have the right to upgrade the goods or any part thereof, subject to our prior written consent.

## TERMS OF BUSINESS

- Note: (i) Anywhere in the Agreement that refers to the singular also means the plural or the other way around, as the case may be. Similarly if the masculine is referred to it also means the feminine and neuter, or the other way around, as the case may be. Reference to natural persons includes artificial persons, or the other way around, as the case may be.
- (ii) The address which you choose to accept service of all documents on yourself will be, for all purposes, your Installation address overleaf. The address which you choose to receive any letters or notices on yourself will be your Postal address or Telefax number. You shall therefore be deemed to have received any letter or notice on the 8th day after the date of posting or on the day the notice or letter was delivered or telefaxed to the abovementioned address.
- (iii) Each phrase, sentence, paragraph and clause in the Agreement can be separated the one from the other irrespective of how they may be linked together and if a court orders any phrase, sentence, paragraph or clause to be defective or unenforceable, the remaining part of the Agreement shall still be of full force and effect.
1. You agree that this is a Master Agreement. The terms of this Agreement shall apply to each and every Schedule which we may enter into with you for the goods described therein as if the Terms of Business of the Agreement were incorporated in such Schedule. The conclusion of a further Schedule shall create a separate agreement relating to the goods described therein. You agree that should any separate agreement which has been created in terms hereof, be terminated by us in terms of the Agreement or by any cause whatsoever and howsoever arising, you will continue to fulfill your obligations to us in respect of any other separate agreement created in terms hereof and the Terms of Business of the Agreement will remain in force in respect of such separate agreement so created. We agree to grant you the use of the goods described in the Schedule(s) hereto for the initial rental period stated therein on the terms and conditions set out in this Agreement and in the Schedule(s) thereto, subject to 2 below.
  2. The initial rental period of the Agreement is the period stated in the Schedule thereto commencing from the date of last signature hereto ("the Commencement Date").
  3. You and we both agree that the rights in the Agreement and in the ownership of the goods is held, and remains with us, or anyone we have transferred our rights to, and that nothing in the Agreement shall be taken to mean that ownership may pass to you, or that you have any interest in the Agreement or the goods other than as the user thereof.
  4. You and we both agree that the Agreement applies only to the hiring of the goods, which you have accepted "as is" and that the rental does not include any payment in respect of licensing, service or maintenance. You and we agree that there is no licensing, service or maintenance agreement between you and us, and if you require one it should be obtained from the supplier of the goods. You agree that any dispute in respect of the goods, their licensing, maintenance or any other agreement you may have, will not entitle you to cease complying with your obligations in terms of the Agreement, and you will not be entitled to withhold any rental payments.
  5. You and we both agree that the amount of the rentals will increase from time to time in accordance with increases in the prime overdraft rate as charged by The Standard Bank of South Africa Limited to its most favored customers ("prime"). In addition, you agree that the prevailing rental will increase once per year on the anniversary of the contract start date by the annual escalation percentage stated in the Schedule, cumulatively.
  6. You shall insure the goods for their replacement cost with a registered insurer or through a broker of your own choice for as long as you have them, and advise the insurer of our ownership and our rights in and to the goods. You agree that you will notify us, in writing within fourteen days, if any of the goods are lost, stolen or damaged. You confirm that you have been given prior written notice of your right of free choice in terms of Section 43(1) of the Short Term Insurance Act 53 of 1998, and that you have exercised that freedom of choice and you were not coerced or induced as to the manner in which you exercised your choice.
  7. If you breach any of the conditions or terms of the Agreement, or fail to pay any amounts due to us, or if you become insolvent, or compromise with any of your creditors, or if you have made false statements in connection with the Agreement or our ownership of the goods, or you allow any judgment that has been granted against you to remain unsatisfied for more than seven days, or if you are subject to a final or provisional order of liquidation or surrender, or if you are an individual and your estate is provisionally sequestrated, then you agree that we have the right (without notice to you and without affecting any of our other rights) to:
    - 7.1 claim immediate payment of all amounts which would have been payable in terms of the Agreement until expiry of the rental period stated in the Schedule, whether such amounts are then due for payment or not. You agree that we may take possession of the goods and only return them to you on receipt of full payment of all amounts owing by you. You will not be able to withhold payment or make any deductions from any amount owing as a result of your loss of possession of the goods; or
    - 7.2 immediately terminate the Agreement, recover possession of the goods, retain all amounts already paid by you and claim all outstanding rentals, all legal costs as between attorney and his own client and the Net Present Value at Prime of the rentals which would have been payable had the Agreement continued until expiry of the initial rental period stated in the Schedule as a pre-estimate of the damages which we may suffer.
  8. If we grant you an extension of time, in order to pay, or any other indulgence, this does not mean that we have given up any of our rights in the Agreement. You agree that we are entitled to charge interest on overdue amounts, including damages, at a rate of six percent per annum over prime.
  9. A certificate signed by any of our managers or other authorised persons, certifying the amount due by you will on the face of it, be proof of the amount of your indebtedness. It shall not be necessary to prove the appointment of the person signing such certificate.
  10. You agree that Value Added Tax (VAT), or any other taxes which may become applicable during the period of the Agreement will be payable by you.
  11. You agree to pay all Rentals in terms of this Agreement in advance, every month, without the necessity of us having to send you a monthly statement or invoice. Paying on time is an essential condition of the Agreement and you agree that your signature to the Agreement gives us authority to draw against your bank account, wherever it may be, the amounts due to us in terms of the Agreement. You may not deduct any amounts owing by us to you from any amounts owing to us.
  12. You agree to keep the goods in a secure and suitable place and use them according to the manufacturer's directions. Should you wish to relocate the goods or the accessories you must obtain our prior approval in writing. Upon cancellation or termination of the Agreement you agree, at your expense, to return the goods to us in good condition.
  13. You may not transfer your rights in terms of the Agreement, nor part with possession of the goods to any other party without obtaining our written consent. We may, without notice to you, transfer all or any portion of our rights in terms of the Agreement or our ownership of the goods to any other person or persons. You agree that, if we transfer, you will hold the goods and continue to fulfill your obligations to the new owners of the rights to the Agreement and/or the goods.
  14. The first rental will become due on the commencement date and thereafter rentals will become due on the common due date of every succeeding month. Notwithstanding the provisions contained herein, the first rental from the commencement date until the first common due date ("the broken period") shall be calculated by the formula:  $A = B \times C/30$ , where A = Rental (including VAT), B = Agreed Monthly Rental (including VAT), C = number of days in the broken period.
  15. You and we both agree that this is the entire Agreement, regardless of any representations that may have been made regarding the goods or the Agreement and no variation, waiver, suspension, extension of time or agreement to cancel shall be of any force or effect unless in writing and signed by both you and us.
  16. You agree that the Magistrate's Court shall have jurisdiction over any proceedings that arise as a result of the Agreement, but we have the right to institute proceedings in the High Court if we so wish, and that you will be liable to pay all costs on an attorney and own client basis if we decide to use our attorney to recover monies owed to us in terms of the Agreement, and we shall not be limited to the recovery of costs on a Magistrate's Court scale.
  17. You acknowledge and agree:
    - 17.1 that you selected and inspected the goods prior to signing this Agreement and/or the Schedule and are satisfied with the goods and that they suit your purpose;
    - 17.2 that all warranties implied by the Common Law are excluded and that no representations of any nature have been made by or on behalf of us; and
    - 17.3 that once the Schedule to the Agreement is signed by you, all the risk in the goods pass to you.
  18. You agree that if a claim is made on the insurance policy for the loss of the goods, you will be responsible to pay any excess. Should you fail to insure the goods or fail to produce written proof of insurance within 14 days from our written request, we shall be entitled, but not obliged, to effect such insurance as we deem fit on your behalf and you will pay the premiums to us on our demand.
  19. If you fail to return the goods after the Agreement has expired, then in addition to any other claims that we may have against you, you will still be liable to continue to pay the rentals as if the Agreement had not expired.
  20. If any of the goods are lost or stolen, and not recovered within a period of 21 days after such loss or theft, or are damaged beyond repair, then you agree that the Agreement will terminate in respect of such goods unless, we at our option decide to replace such goods with other goods of a similar nature and condition, and thereafter the Agreement shall continue to apply equally to the replacement goods which you will accept accordingly. Any dispute in this regard shall be referred to any sworn valuator selected by us who shall act as an expert and whose decision shall be final and binding on you and us.
  21. If the Agreement is terminated according to paragraph 20, then you will immediately pay to us all outstanding rentals and the Net Present Value at Prime of the rentals which would have been payable had the Agreement continued until the expiry of the initial rental period stated in the Schedule less any proceeds received by us from any insurance claims.
  22. If we breach or cancel or attempt to cancel the Agreement, you may only cancel or accept our cancellation if you have first given us 14 (fourteen) days notice in writing to remedy such breach or withdraw our cancellation.
  23. You agree that we may use any payments made by you to settle any debt(s) in terms hereof or otherwise which may be owing by you to us in terms hereof or otherwise.
  24. 24.1 We hereby cede to you who agrees to accept cession thereof, all claims which we may have against the Supplier or the licensor of the goods arising out of any express or implied guarantee, warranty or undertaking to the condition, state or quality of the goods or software or as to the fitness or stability thereof for any purpose whatsoever or arising out of any latent defect in the goods.
    - 24.2 The cession in terms of 24.1 operates as a complete and absolute discharge of any liability which we may have to you in respect of any corresponding claim which is not excluded in this Agreement. Nothing contained in this Agreement shall derogate from your obligation in terms of this Agreement notwithstanding that you may have no right against the Supplier(s) of the goods or components thereof in terms of any of our rights ceded to you in terms of this Agreement.
    - 24.3 We make no warranty or representations as to the validity or enforceability of any right you may have against any of the Supplier(s).
    - 24.4 The cession of rights against the Supplier(s) in terms of this clause 24 shall by the very fact terminate on termination of this Agreement and the rights hereby ceded shall by that very fact be deemed to have been re-ceded by you to us.
  25. You confirm that you agree on your behalf and on behalf of your directors, shareholders, members and associates that we are entitled at any time to communicate with any person to obtain and provide any information relating to your payment behavior, credit worthiness or defaults.
  26. You acknowledge that your guarantor/s are entitled in law to obtain your confidential financial information and you hereby consent to us providing the guarantee/ies with your confidential financial information.

# SCHEDULE TO MASTER AGREEMENT OF HIRE

Between **Sunlyn Rentals (Proprietary) Limited** ("Us")

Agreement No \_\_\_\_\_

Schedule No \_\_\_\_\_

and \_\_\_\_\_ ("You" or "User")  
 the terms and conditions of which the Master Agreement of Hire ("the agreement") shall apply hereto as though specifically set forth herein.

## AGREED COSTS AND RENTAL PERIOD

Agreed Monthly Rental (Excl. VAT)	R	Plus Value Added Tax (VAT)	R	R
Common Due Date: 25 <sup>th</sup> of each calendar month				Initial Monthly Rental (incl. VAT) <small>Provided that the first rental payment for the period from the commencement date to the first common due date is to be determined in accordance with Clause 14 of the Terms of Business.</small>
Initial Rental Period	60 (Sixty) Months from the first common due date after the date of last signature hereto ("the Commencement Date").	Cumulative Annual Escalation Rate from the anniversary of the first common due date	15 % (Fifteen %)	

Notwithstanding the Terms of the Master Rental Agreement, in addition to the above rentals, You shall on the Commencement date pay to Us an initial rental for the period from the Commencement date to the first common due date ("broken period") calculated by the formula:  $A = B \times C/30$ , where A is the initial rental (incl. VAT), B is the Agreed Monthly Rental (incl. VAT) and C is the number of days in the broken period.

Your signature \_\_\_\_\_  
*who confirms that he/she is authorised to sign the Agreement*

Name of signatory \_\_\_\_\_

Position of signatory \_\_\_\_\_

Date \_\_\_\_\_ Place \_\_\_\_\_

### OFFICE USE ONLY:

Our signature \_\_\_\_\_

Name of signatory \_\_\_\_\_

Position of signatory \_\_\_\_\_

Date \_\_\_\_\_ Place \_\_\_\_\_

## THE GOODS

Installation Address:-

MODEL	SERIAL NUMBER

You state that you have received all of the goods as scheduled above and that it is exactly what you ordered and you have tested it and found it to be in good working order and that we may pay for and purchase the goods.

### Witnesses

1.

Signature \_\_\_\_\_ Print Name \_\_\_\_\_

ID Number \_\_\_\_\_

2.

Signature \_\_\_\_\_ Print Name \_\_\_\_\_

User's Signature \_\_\_\_\_ Print Name \_\_\_\_\_

## DEBIT ORDER AUTHORISATION

You hereby request and authorise us or our cessionary/ies to draw against your bank account below or wherever else it may be, the amounts due in terms of the Agreement and any Schedule thereto.

Name of Account Holder \_\_\_\_\_ Date \_\_\_\_\_

Bank \_\_\_\_\_ Branch \_\_\_\_\_ Type \_\_\_\_\_

Account Number \_\_\_\_\_ Sort Code \_\_\_\_\_

### Authorised Signatory/ies

Print Name \_\_\_\_\_

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Signature \_\_\_\_\_