

## BUSINESS OPERATING LEASE AGREEMENT

**Tax Invoice**  
GST No: 90-712-004

ERL Vehicle Leasing is a trading style of Euro Rate Leasing Limited, Level 3, 119 Great North Road, Grey Lynn, Auckland 1021

**CUSTOMER ("you", "your")**

FULL NAME:  TRADING NAME:  GST NO:  PHYSICAL ADDRESS:  PO BOX:  E-MAIL ADDRESS:	FULL NAME:  TRADING NAME:  GST NO:  PHYSICAL ADDRESS:  PO BOX:  E-MAIL ADDRESS:
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**GUARANTOR ("you", "your")**

FULL NAME:  PHYSICAL ADDRESS:  E-MAIL ADDRESS:	FULL NAME:  PHYSICAL ADDRESS:  E-MAIL ADDRESS:
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**MOTOR VEHICLE**

YEAR OF MANUFACTURE	MAKE	MODEL		
NEW/ USED / DEMO	REGISTRATION NO.	VIN (or chassis if no VIN)	COLOUR	ODOMETER READING
ACCESSORIES				

CASH PRICE OF VEHICLE (incl. GST)	IS THERE A MAINTENANCE PLAN	NUMBER OF REPLACEMENT TYRES	NO OPTION TO BUY <b>*YOU HAVE NO OPTION TO BUY THE VEHICLE UNDER THIS AGREEMENT</b>
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**DEALER**

NAME:  TRADING NAME:	ADDRESS:
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Initials: \_\_\_\_\_

**SPECIFIC TERMS**

**OUR FULL NAME & ADDRESS: This is the person providing you the lease**

You may send notices to us by: <ul style="list-style-type: none"> <li>writing to us at our postal address; or</li> <li>sending an email to us.</li> </ul>	Name: Euro Rate Leasing Limited Trading Name: ERL Vehicle Leasing Phone: 0800 400 122 Email: <a href="mailto:info@eurorate.co.nz">info@eurorate.co.nz</a> Physical Address: Level 3, 119 Great North Road, Grey Lynn, Auckland 1021 Postal Address: PO Box 419, Shortland Street, Auckland 1140
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**PAYMENTS**

You must pay us the Total Rental by paying us the Initial Rental (incl. GST) stated below on the Start Date, followed by: \_\_\_\_\_ calendar monthly payments of the Monthly Rental (incl. GST) stated below before 4pm on the day payment is due. If, in a particular month, there is no such date which corresponds to the date you are to make your payment, you must make that payment before 4pm on the last day of that month.

INITIAL RENTAL (excl. GST)  (Due on Start Date)	GST @ 15%	INITIAL RENTAL (Incl. GST)	MONTHLY RENTAL (excl. GST)	GST @ 15%	MONTHLY RENTAL (incl. GST)
START DATE	TERM (months)	TOTAL RENTAL TO BE PAID (excl. GST)	TOTAL RENTAL (incl. GST)	MAXIMUM Km ALLOWANCE	EXCESS Km CHARGE
END DATE					

**FEES AND CHARGES**

The following fees and charges are, or may become payable under, or in connection with, this agreement

A variation fee of \$20.00 if we vary this agreement  
 An assignment fee of \$50.00 if we agree to an assignment of this agreement  
 A refund fee of \$10.00 if we refund any early payment you make to us.

Our General Terms allow us to change the amount of these fees and charges. Note: Other charges may apply such as late return, excess kilometre and reconditioning charges. See paragraphs 19, 21 and 22 of the General Terms.

**CONDITIONS OF TERMINATION**

You may not end this agreement before the End Date but if you purport to do so, you would be in default and we then may end this agreement and retake possession of the Vehicle.  
 If you otherwise fail to meet your commitments under this agreement, then you would be in default, and we then may end this agreement and retake possession of the Vehicle.  
 The amount you would have to pay when this agreement ends is calculated in accordance with paragraph 27 of the General Terms.

**DEFAULT INTEREST CHARGES AND DEFAULT FEES**

In the event of a default in payment and while the default continues you must pay the default charges. In the event of a breach of this agreement or on the enforcement of this agreement, the default fees specified below are payable.

The default rate is the rate per annum (expressed as a percentage) which is our default interest rate displayed on our website at [www.eurorate.co.nz](http://www.eurorate.co.nz) at the time of default. This is charged on any amount in arrears from the time you fail to make due payment until the arrears are paid.

The default fees are:

- \$10.00 if any payment you make to us is dishonoured.
- \$35.00 if we engage a repossession agent to retake possession of the vehicle

Note: There may be charges we incur if we engage third parties as a result of your breach under this agreement or if we enforce this agreement. These charges could include debt collection and repossession fees. These are in addition to the default fees listed above.

Our General Terms allow us to change the default interest rate and default fees.

Initials: \_\_\_\_\_

This agreement can be signed by each of you (if there is more than one of you) using a separate copy of this agreement. If you do sign separately then all the signed agreements together will be treated as one and the same agreement.

**CUSTOMER**

In signing this agreement, I (each Customer name on page 1):

- Acknowledge that this agreement (which includes the General Terms ) was disclosed to me, and a copy received by me before I signed it and I understand its terms.
- If I am not named as the Customer, I have authority to sign this agreement
- Consent to you (Euro Rate Leasing Limited) sending notices and other communications to my email address on page 1 or any other email address I might later give you in writing. I acknowledge that this does not preclude you from sending notices and other communications to my postal and/or physical address.
- Understand that I do not have the option to buy the Vehicle under this agreement.

I agree that you can collect, use and hold my personal information (if this applies) under your Privacy Consent and Disclosure Authority which is also available on your website at [www.eurorate.co.nz](http://www.eurorate.co.nz). I confirm I have and understood your Privacy Consent and Disclosure Authority.

\_\_\_\_\_  
*Signature (for the customer)*

\_\_\_\_\_  
*Signature (for the customer)*

\_\_\_\_\_  
*Name of person signing*

\_\_\_\_\_  
*Name of person signing*

\_\_\_\_\_  
*Signing Date*

\_\_\_\_\_  
*Signing Date*

**GUARANTEE AND INDEMNITY**

I (each Guarantor named on page 1):

- Guarantee to you (Euro Rate Leasing Limited) payment of all money owed to you and the performance of all the Customer's obligations under this agreement.
- Indemnify you for any loss or damage we may incur if the Customer does not perform any of its obligations under this agreement.
- Agree that this guarantee and indemnity will continue until all money owed to you under this agreement is paid back in full and the other obligations under this agreement are performed.

I also agree and acknowledge that:

- My liability to you is not affected under this guarantee and indemnity by things you may not do under this agreement. For example, you might not have taken any steps to recover any money owing from the Customer first, but you might still ask for me to pay that money to you. This is because between me and you, you can treat me as though I am the Customer.
- You may, at any time, assign or transfer this guarantee and indemnity to any person. If you do this, I understand that the person you assign or transfer this guarantee and indemnity to will replace you and have all your rights and interest. I agree that you may give such person any information you have relating to me to any such assignee or transferee.
- If there is more than one Guarantor named above each one of us is individually liable to you under this guarantee and indemnity. This means, for example, you may look to me only to recover any money and not to any other Guarantor.

**GUARANTOR**

In signing this agreement, (which includes the guarantee and indemnity above) I (each Guarantor name on page 1):

- Understand that I should seek independent legal advice if I do not understand anything in the agreement and my guarantee and indemnity.
- Acknowledge that this agreement (which includes the Guarantee and Indemnity) was disclosed to me before I signed it and that I understand its terms
- Consent to you sending notices and other communications to my email address on page 1 or any other email address as you might later give us in writing. I acknowledge that this does not preclude you from sending notices and other communications to my physical address.
- I agree that you can collect, use and hold my personal information under your Privacy Consent and Disclosure Authority which is also available on your website at [www.eurorate.co.nz](http://www.eurorate.co.nz). I confirm I have and understood your Privacy Consent and Disclosure Authority.

\_\_\_\_\_  
*Guarantor Signature*

\_\_\_\_\_  
*Guarantor Signature*

\_\_\_\_\_  
*Guarantor Name*

\_\_\_\_\_  
*Guarantor Name*

\_\_\_\_\_  
*Signing Date*

\_\_\_\_\_  
*Signing Date*

**SIGNED FOR**

\_\_\_\_\_  
Euro Rate Leasing Limited

\_\_\_\_\_  
Date Signed

Initials: \_\_\_\_\_

SAMPLE

Initials: \_\_\_\_\_

## GENERAL TERMS

### What Is This Agreement About

- We (Euro Rate Leasing Limited) agree to lease to you the Vehicle on the terms set out in this agreement. This means you only lease the Vehicle. You do not have the option to buy the Vehicle under this agreement.
- Your agreement with us is set in the Specific Terms and these General Terms and include any agreed changes. The agreement also includes the information on the signing page on page 3 and the Guarantee and Indemnity if there is a Guarantor.

### The Meaning of Some Words & Phrases in This Agreement

- In this agreement some words and phrases have the following meaning:

*at risk* means if we believe, on reasonable grounds, that the Vehicle has been, or will be, destroyed, damaged, endangered, disassembled, removed, concealed, sold, or otherwise disposed of contrary to the provisions of this agreement.

*Book Value* means the amount determined by us as being the "Book Value" (if the lease of the Vehicle under this agreement ends before the End Date).

*Estimate of Our Loss* means our reasonable estimate of our loss if this agreement ends, being the lower of:

- The Shortfall on Sale (if any); or
- The aggregate amount of all payments set out in the Payments section not then accrued calculated down to the End Date.

*Fair Wear and Tear* means such deterioration in the working order, repair, condition and appearance of the Vehicle as is reasonably consistent with careful maintenance and use of the Vehicle. Fair Wear and Tear includes all superficial scratches and scuffs to bumpers and superficial stone chips and superficial scratches, scuffs and wear to the interior of the Vehicle. However, Fair Wear and Tear does not include:

- The surface of the body paint of the Vehicle exposing undercoat or metal in any way;
- Tears, rips or cuts to seats, interior trim, carpets and headlining, or oil, cigarette burns, glue, chemicals or other such substances on any part of the interior of the Vehicle which cannot be easily removed using upholstery cleaners.
- Missing mechanical parts, components and accessories.
- Mismatched tyres and damage to tyre treads and sidewalls or insufficient tread to pass a roadworthy or similar test.

*Proceeds* mean identifiable or traceable personal property that is derived directly or indirectly from dealing with the Vehicle or the proceeds of the Vehicle and in which you have an interest. This includes a right to an insurance payment or other payment as indemnity or compensation for loss of or damage to the Vehicle or proceeds.

*Security interest* means an interest in property created or provided for by a transaction that, in substance secures payment or performance of an obligation under a contract.

*Term* means the term of this agreement starting on the Start Date and ending on the End Date.

*Shortfall on Sale* means the difference where the Book Value is more than the Sale Price.

*Vehicle* means the vehicle described under the heading "Motor Vehicle" on page 1 and it includes anything you install, attach or affix to the Vehicle.

*Sale Price* means the wholesale price (not including any goods and services tax) of the Vehicle less the costs, expenses and charges relating to the sale of the Vehicle.

2. Other words and phrases have the meaning as set out elsewhere in this agreement, for example in the Specific Terms.

### Things You Should Know and Do In Relation To The Vehicle

3. It is our understanding that the lease of the Vehicle under this agreement is deemed to be a security interest under the Personal Property Securities Act 1999 ("PPSA"). However, if this is not the case, you grant us a security interest in the Vehicle and all Proceeds to secure your obligations to us (including the payment of money) under this agreement.

4. We will register our security interest in the Vehicle on the Personal Property Securities Register ("PPSR") and you waive your right to receive a copy of the verification statement confirming our registration on the PPSR or any changes to that registration. *You also acknowledge* that it is our intention that part 9 of the PPSA will not apply to this agreement. However, if this is not the case at law you:

- Agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA will apply to this agreement; and
- Waive your right to receive any notice of any proposal by us to retain the Vehicle under section 120(2) of the PPSA or object to such proposal under section 121 of the PPSA.

5. You must tell us immediately if you change your address or name.

6. As we own the Vehicle and have a security interest in it, you must:

- Not destroy, damage, endanger, disassemble, sell, lease, hide or give the Vehicle to someone else to use or otherwise lose possession of the Vehicle, move the Vehicle out of New Zealand or allow another security interest or lien to attach to the Vehicle.
- Keep the Vehicle in good condition and working order (Fair Wear and Tear excepted) and carry out all maintenance in accordance with any manufacturer's specification.
- Comply with all legal requirements relating to your possession and use of the Vehicle.
- Allow us to inspect the Vehicle at a reasonable time when we ask to.
- Not allow anything to occur which could adversely affect the Vehicle or our security interest in the Vehicle and tell us straightaway if any of those things happen or could happen.

7. If you install, attach or affix anything to the Vehicle now or later on, for example replacement parts, personalised plate, roof rack or tow bar, that item will be part of the Vehicle. Our security interest in the Vehicle therefore includes that item.

8. If the Vehicle has a maintenance plan (see page 1) you will be complying with your obligation in paragraph 6 above on keeping the Vehicle in good condition and working order and carrying out maintenance requirements. However, this only applies to the extent of what is provided in the maintenance plan and provided you take the Vehicle for its maintenance in accordance with the maintenance plan. The maintenance plan includes is for all scheduled servicing, warrants of fitness, annual registrations and the number of replacement tyres referred to in the Specific Terms.

### You Must Keep Vehicle Insured

9. As from the Start Date you must insure the Vehicle and keep it insured with an insurance company we approve and not change the insurance details or the insurer unless we agree.

10. The insurance must be for the Vehicle's full replacement value against all loss, damage, and other usual risks.

11. You must make sure that the insurance policy notes our interest in the Vehicle and names us as loss payee under that policy.

### What if the Vehicle is Lost or Damaged

12. If the insurance company decides not to remedy any loss or damage to the Vehicle then we can (instead of you) do anything we think is necessary or desirable in our or your name. For example, we may decide to take the insurance money and either:

- Use the insurance money to fix any damage to the Vehicle; or
- End this agreement and use the insurance money towards paying the amounts you owe us under paragraph 27 and any other amounts you owe us under this agreement. If after doing that there is a shortfall you must pay the difference to us when we ask you to.
- For the purposes of this paragraph "insurance money" means the amount we receive from the insurer as insurance proceeds. For example, we might receive a pre-accident value of the Vehicle less any charges.

Initials: \_\_\_\_\_

SAMPLE

Initials: \_\_\_\_\_

#### **We Can Enter Any Place Where the Vehicle Is**

13. We (and our agents) can enter any premises where the Vehicle might be (even if you or any other occupier of the premises is not present) to retake repossession of the Vehicle if we choose to (where paragraph 26 applies) or to inspect the Vehicle (under paragraph 6).

#### **How You Must Make Payments to Us**

14. You must make your payments to us at the times and in the amounts as set out (or referred to) in the Specific Terms.

15. You must not deduct any money off any payment you make for any reason for example, if the Vehicle has broken down, or damaged you must still make your payments to us in full when they are due.

16. Where a date for payment falls on a date which is not a business day then payment is to be made (or is deemed to have been made) on the next business day. In this paragraph business day means any day our bank is open for normal banking business.

17. We can at any time ask you to pay to us all amounts you owe us under this agreement on demand except (but provided you are not in default under this agreement) the moneys you owe us as set out (or referred to) under the heading "Payments" in the Specific Terms.

18. If there is a credit balance owing to you under this agreement we can, at any time without giving you notice, set off and apply that amount against any money you may owe us under any other agreement you may have with us.

#### **When Do You Have to Pay the Excess Kilometre Charges**

19. We have worked out your payments under this agreement on the basis that the Vehicle will not travel more than the Maximum Kilometre Allowance during the Term. If the Vehicle does travel more than the Maximum Kilometre Allowance, you will pay us the Excess Kilometre Charge for each kilometre travelled by the Vehicle which is in excess of the Maximum Kilometre Allowance. However, if this agreement ends earlier under paragraph 26 (or otherwise), the Maximum Kilometre Allowance will be adjusted by working out the monthly kilometre allowance (by dividing the Maximum Kilometre Allowance by the number of months in the Term) and multiplying that monthly kilometre allowance by the number of whole months from the Start Date to the end of this agreement. The sum of that calculation is the adjusted Maximum Kilometre Allowance when this agreement ends early. The Excess Kilometre Charge must be paid at the End Date or earlier if this agreement ends earlier.

#### **What Happens to The Vehicle When This Lease Ends**

20. The lease of the Vehicle is for a fixed term. You must not voluntarily return the Vehicle before the End Date.

21. When this agreement ends, whether on the End Date or earlier (under paragraph 25 or otherwise) you must return the Vehicle to us at the time and place we say. We will then arrange an inspection of the Vehicle and complete a Vehicle condition report, a copy of which will be provided to you. The Vehicle condition report will set out any reconditioning costs and other costs to restore the Vehicle so that it is in good condition and working order (Fair Wear and Tear excepted) and you will pay us the costs of such reconditioning (if any).

22. When this agreement ends and you do not return the Vehicle when we say under paragraph 21, you will pay us a charge for each day the Vehicle return is overdue. That charge will be calculated as a daily sum equal to 1/30th of the Monthly Rental (incl. GST) from the date the Vehicle was due to be returned until the date of actual return (counting both dates).

#### **When Will You Have to Pay Fees and Other Charges**

23. The Specific Terms sets out the fees, default interest charges and default fees you might have to pay us. We can change these amounts from time to time if we think that is necessary, but we will let you know if the change means an increase in the fee or charge.

24. There may be charges we incur if we engage third parties as a result of your breach under this agreement or if we enforce this agreement. These charges could include debt collection and repossession fees. These are in addition to the default fees set out in the Specific Terms.

#### **When Will You be in Default and What Happens on Default**

25. You will be in default under this agreement if any of the following happens:

- You do not make a payment to us when it is due under this agreement;
- You purport to end this agreement before the End Date;
- You do not do anything else you have agreed to under this agreement;
- You allow something to happen which should not have happened under this agreement or under any other agreement you may have with us. For example, you allow another security interest or repairers lien to attach to the Vehicle;
- You are a company (but not a listed public company) you sell, transfer or otherwise dispose of any of the shares in your capital which has the effect of changing the effective control of you without first getting our written consent;
- You, or a Guarantor, have given us false or misleading information;
- The Vehicle is at risk; or
- You or a Guarantor become (or steps are taken to become) insolvent. For example, you or a Guarantor is bankrupted.

26. If you are in default under this agreement, we may (if we are allowed to at law) do any one or more of the following things:

- Ask that you pay to us the amounts in paragraph 27;
- Charge you interest at the default rate and any default fees as set out in the Specific Terms;
- End any obligations we may have to you under this agreement;
- Retake possession of the Vehicle; and/or
- Anything else we are allowed to at law and under this agreement.

#### **What Happens When Your Lease Ends**

27. If this agreement ends, whether on the End Date or earlier (under paragraphs 26 or otherwise) you will pay us:

- Any charges for excess kilometres, late return of the Vehicle and reconditioning of the Vehicle (see paragraphs 19, 21 and 22);
- All other amounts that you otherwise owe us under this agreement (including any default fees and charges at the default rate); and
- (if applicable) the Estimate of Our Loss.

#### **You Appoint Us Your Attorney**

28. If you do not do anything you have agreed to do under this agreement, we may decide to do it on your behalf (at your expense) and we might also decide (if the law allows us) to do anything else we think is necessary (at your expense) to protect our interest under this agreement and in the Vehicle. You irrevocably appoint us (and each of our directors and managers) as your attorney to do any of those things.

#### **You Will Compensate Us for Any Costs We Incur**

29. You will indemnify us against all costs, taxes, losses, and expenses we incur under this agreement, in relation to the Vehicle, our security interest and if we have to enforce our rights under this agreement. For example, this includes third party costs mentioned in paragraph 24, costs on a solicitor/client basis, court and tribunal fees and our time spent in a court or tribunal.

Initials: \_\_\_\_\_

**Our Rights Are Not Lost**

30. If we do not do something when we are able under this agreement or at law, that does not mean we are giving up that right or power. We can exercise that right or power later if we want to.

**How Are Notices Given to You**

31. Service of notices and other communications under this agreement will be given to you as required by law or as may be set out in this agreement.

**More Than One Customer**

32. If more than one of you is named as a Customer, each of you is individually liable to us for all matters under this agreement. For example, this means we can ask one of you to pay money owing under this agreement without asking the other to do so.

**We Can Transfer This Agreement to Someone Else**

33. We can without notice to you and at any time assign or transfer or grant a security interest in this agreement to any other person and if we do this then that person will replace us and have all our rights, title and interest under this agreement. You agree that we may give such person any information we have relating to you.

34. You may not transfer or assign any of your rights, title and interest under this agreement without our prior written consent which we might refuse to give.

**Contracting Out**

35. We contract out of:  
a. the provisions of the Consumer Guarantees Act 1993 (“CGA”) so that the guarantees under the CGA will not apply to the agreement or the Vehicle; and  
b. sections 9 (misleading or deceptive conduct generally), 12A (unsubstantiated representations) and 13 (false or misleading representations) of the Fair Trading Act 1986 so that those provisions will not apply to the agreement or the Vehicle.

**Goods and Service Tax**

36. You must notify us immediately on any change to your GST status. You will indemnify us against all costs, losses, taxes and expenses we incur if you do not notify us of any such change.

37. Where the rate of GST changes during the term of the agreement then the payments you are to pay us under the agreement, including your payments set out in the lease agreement, will increase (or decrease, as the case may be) by the GST change applicable at the relevant time.

Initials: \_\_\_\_\_