

TERMS AND CONDITIONS OF LOANS

The terms and conditions of this Contract govern the Customer's participation in HPE's Demo program. HPE agrees to loan to the Customer, and the Customer agrees to borrow, the Products, on and subject to the terms and conditions of this Contract.

1. The Company shall keep the Hewlett-Packard New Zealand ("HPE") Equipment at all times in its possession and control at the address specified in this form and the Equipment shall not be removed there from without HPE's prior written consent.
2. Upon giving the Company notice, HPE shall have the right to enter upon the premises occupied by the Company where the Equipment is believed to be located for the inspection purpose.
3. The Company shall not make any alterations, additions or improvements to the Equipment without HPE's prior written consent. All additions, replacement, attachment and improvements of whatever kind of nature made to the Equipment and approved by HPE shall become the property of HPE. The Company shall keep and maintain the Equipment at all times in good condition and working order (fair wear and tear, excepted) at its own cost. The Company agrees to promptly return the Equipment upon request by HPE.
4. The Company shall indemnify and save HPE harmless against all damages, losses or liabilities whatever whether in respect of property or person otherwise which may arise in respect of the Equipment or the possession, condition, use or operation therefore by the Company or any other person PROVIDED THAT in no event shall the Company be responsible if the damage/loss is caused solely by the gross negligence of HPE and/or its employees.
5. The loan provided hereunder is personal to the Company and is not assignable by the Company. The Company undertakes not to part with possession of the Equipment or assign, mortgage, encumber or deal with this loan in any way whatsoever. Notwithstanding the aforesaid, HPE reserves the right to assign, mortgage, encumber, charge or deal in any way whatever with its interest in the Equipment hereunder.
6. The Equipment shall at all times remain the sole and exclusive property of HPE and the Company shall have no right, title or interest therein except as bailee. The Full List of equipment including Part Numbers, Quantities and Serial Numbers relating to this Loan Agreement will be supplied on the Delivery Consignment Note at the point of Product Delivery. HPE will deliver the Products to, and collect the Products (in case of return) from the Delivery Address. Company will pack the Products in the packaging supplied by HPE prior to HPE's collection of those Products at the time of their return.
7. HPE retains all right, title and interest to the Products and their packaging. Company will be responsible for the loss of, and damage to, the Products and their packaging upon delivery until they are returned to, or collected by, HPE. Within 1 business day of delivery, the Company (or if applicable Customer) will advise HPE if the Products or their packaging were in a damaged condition when received by the Company or if any of the Products listed on the delivery docket were missing. Otherwise, the Company will be liable to pay HPE:
 - a. for damaged Products and packaging, the cost to HPE of repair or replacement of such Products and packaging and reasonable administration costs in relation to such repair or replacement; and
 - b. for lost or missing Products and their packaging (missing Products and their packaging being ones not made available for collection by HPE at the expiry of the Loan Period), HPE's List Price for such Products less the Company's normal discount (if any) and the replacement cost of the packaging. Any such charges must be paid by Company within 14 days of written notification from HPE of the amount due.
8. In the event of the following:
 - a) if the Company fails to observe or perform any term or condition of this Agreement and if the breach is not cured within thirty (30) days from date of notification by HPE; or
 - b) if any steps or proceedings are taken or a resolution passed to have the Company wound up or to have an Official manager appointed or if a Receiver of any of the assets of the Company is appointed or if a meeting of the Company's creditors be called or if the Company makes any composition with the Company's creditors or if the Company commits an act of bankruptcy or becomes bankrupt or distressed or execution be threatened or levied upon the Equipment; or
 - c) if any insurer having the Equipment insured cancels any such insurance, or
 - d) if HPE had reasonable cause to believe that the Company has done or omitted anything whereby the HPE's interest in the Equipment may be prejudiced or put in jeopardy; or
 - e) if the Company uses this product, not for its intended purpose of Demonstration and Evaluation, but instead engages the Loan Equipment for use in Corruption, Bribery or for any purpose which fails to comply to with local laws:

This Agreement will be terminated forthwith by HPE without prejudice to any HPE's right. Upon termination, the Company shall forthwith deliver the Equipment at the Company's own expense to HPE and in accordance with any direction given by HPE and in default thereof HPE may repossess and retake the Equipment and for that purpose HPE by its servants or agents may with the authority of and as agents of the Company enter upon any land or premises occupied by the Company where the Equipment is, or to where HPE or its agents of servants suspect that it is and for the purpose of such entry, open any inside or outside gate, door or detach and dismantle the Equipment from any part of the freehold to which it may be affixed. The Company shall pay all costs and expenses incurred under this clause to HPE on demand.
9. The Company shall indemnify HPE of any loss of or damage to Equipment in the care, custody and control of the Company due to theft by the Company's agents employees and subcontractors or from any event due to the Company's negligence. In this respect, the Company shall effect the appropriate insurance which shall include the Company's liability for loss or damage to the Equipment whilst in the care, custody or control of the Company.
10. This Agreement shall be governed by and construed in accordance with the laws of New Zealand. Any suit, action or proceeding arising from or relating to this Agreement must be brought solely and exclusively to the courts of New Zealand and each Party hereby irrevocably consents to the jurisdiction and venue of such court in any such suit, action or proceeding."

11. **Limitation of Liability.** To the extent allowed by applicable law, HPE will not be responsible for any loss or damage to the Company, its customers or any third parties caused by the Equipment or HPE's performance under this Agreement and HPE will not be liable for any direct, indirect, special, incidental or consequential damages, whether based on contract, tort or any other legal theory, arising out of any use of the Loaned Equipment or any performance of this Agreement.
12. **Intellectual Property Rights.** All right, title and interest in and to all intellectual property with respect to the Equipment, including that which may be or become protectable by patent, copyright, trademark, trade secret, or similar laws, will remain exclusively with HPE. No licence or other right of any kind is granted by HPE's furnishing of the Equipment to Company, except for the limited right to use the Equipment for the Purpose as expressly provided in this Agreement. The Company must not use HPE's copyrights, trademarks, trade names, or other intellectual property in any way.
13. **Assignment.** This Agreement is personal to the Company. Company must not assign or otherwise transfer any rights or obligations under this Agreement. Any attempted assignment or transfer will be voidable at HPE's option.
14. **Where Company is an authorized HPE Reseller.** If the Company is an HPE reseller submitting this Application on behalf of its Customer, the Applicant will ensure its Customer's compliance with these Terms.
15. This Agreement shall be for a term of 1 months and shall automatically terminate on the expiry of this term unless terminated earlier for the reasons specified in Section 8 of this Agreement
16. **Anti-Corruption and Bribery.** HPE advises Company that HPE is subject to the US Foreign Corrupt Practices Act ("FCPA"), the UK Bribery Act ("UKBA"), as well as other global anti-corruption laws. These laws prohibit the payment or promise of payment of anything of value by HPE or its Affiliates either directly or indirectly, to the representative of a commercial entity or an official of a foreign government, foreign political party, party official, or candidate for foreign office, for the purpose of influencing any act or decision in their official capacity, or inducing that official to use their influence with a foreign government to assist HPE or its Affiliates, in obtaining, retaining, or directing business to any person, or in securing any improper business advantage. Company agrees that it will not take any action which could cause HPE to be in violation of the FCPA, UKBA or any other applicable anti-corruption law or regulation. If Company becomes aware of any such violation, it will immediately notify HPE.