

## **TERMS AND CONDITIONS OF RENTAL**

Please read carefully. This agreement includes an indemnification clause, a jury waiver, and limitations of Well2Go's liability. By accepting delivery of the Equipment or making payment(s) to Well2Go for the same, Customer agrees to be bound by the Rental and Service Terms and the Terms that are made available by Well2Go on its website at <https://rent.well2golbk.com/rental-policies>.

### **1. DEFINITIONS**

“Agreement” means the Reservation Details (as defined below), together with any associated Rental and Service Agreement (as defined below), including these Rental and Service Terms which are incorporated by reference therein.

“Credit Card” means the credit card provided by Customer as part of this Agreement or otherwise kept on file with Well2Go.

“Customer” means the person identified in the Reservation Details or any representative, agent, officer or employee of Customer.

“Equipment” means any one or more of the items identified as rental items in the Reservation Details and any accessories, attachments or other similar items delivered to Customer.

“Rental Agreement” means the agreement made between Customer and Well2Go for Well2Go to rent Equipment, whether that Agreement is made in person at Well2Go's offices, online, or at the time of Equipment delivery, and which incorporates by reference these Rental and Service Terms and which identifies the Equipment to be rented by Customer. The Agreement incorporates these Rental and Service Terms by reference.

“Rental Period” means the period of time between the “Rental Out” and “Scheduled In,” set forth in the Rental and Service Agreement, except that the Rental Period may terminate earlier as provided in Sections 21 and 29 hereof or if Customer returns the Equipment earlier.

“Reservation Details” means the Equipment, Rental Period, delivery information, payment information and other information set forth on the Confirmation/Order Summary Screen or the Rental and Service Agreement, as the case may be.

“Well2Go” means Well2Go LLC, a Texas limited liability company, and its successors and assigns.

### **2. AUTHORITY TO SIGN; FORM CONTRACTS**

Any individual signing the Agreement represents and warrants that he or she is of legal age and has the authority and power to sign this Agreement on behalf of Customer.

### **3. INDENMNITY / HOLD HARMLESS**

TO THE FULLEST EXTENT PERMITTED BY LAW, CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD WELL2GO, AND ALL OF ITS RESPECTIVE OWNERS, MEMBERS, MANAGERS, OFFICERS, AGENTS, SERVANTS OR EMPLOYEES, AND AFFILIATES, PARENTS AND SUBSIDIARIES, HARMLESS FROM AND AGAINST ANY AND ALL LIABILITY, CLAIMS, LOSS, DAMAGE OR COSTS (INCLUDING, BUT NOT LIMITED TO, LEGAL FEES, LOSS OF PROFIT, BUSINESS INTERRUPTION OR OTHER SPECIAL OR CONSEQUENTIAL DAMAGES, DAMAGES RELATING TO PROPERTY DAMAGE, BODILY INJURY OR DAMAGES RELATING TO WRONGFUL DEATH) ARISING OUT OF OR RELATED TO THE (A) INSTALLATION, OPERATION, USE, ALTERATION, MODIFICATION, REMOVAL, POSSESSION OR RENTAL OF THE EQUIPMENT, (B) CLAIMS BY ANY CUSTOMER, INDEPENDENT CONTRACTOR OR CUSTOMER EMPLOYEE, AGAINST CUSTOMER, INCLUDING BUT NOT LIMITED TO ANY CLAIM THAT CUSTOMER FAILED TO DISCLOSE OR OBTAIN CONSENT TO DATA COLLECTION CONTEMPLATED UNDER THIS AGREEMENT OR (C) ERRORS, OMISSIONS, INACCURACIES OR MISREPRESENTATIONS (WHETHER INTENTIONAL OR INADVERTENT) IN THE DOCUMENTS OR OTHER INFORMATION PROVIDED BY CUSTOMER, OR OBTAINED FROM OTHERS (INCLUDING ANY THIRD-PARTY DOCUMENTS OR DOCUMENTATION), UPON WHICH WELL2GO RELIES WHEN PROVIDING THE EQUIPMENT. THIS INDEMNITY PROVISION ALSO APPLIES TO ANY CLAIMS ASSERTED AGAINST WELL2GO BASED UPON STRICT OR PRODUCT LIABILITY CAUSES OF ACTION. HOWEVER, CUSTOMER SHALL NOT BE OBLIGATED TO INDEMNIFY WELL2GO FOR THAT PART OF ANY LOSS, DAMAGE OR LIABILITY CAUSED SOLELY BY THE INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE OF WELL2GO. IN FURTHERANCE OF, BUT NOT IN LIMITATION OF THE INDEMNITY PROVISIONS IN THIS AGREEMENT, CUSTOMER EXPRESSLY AND SPECIFICALLY AGREES THAT THE FOREGOING OBLIGATION TO INDEMNIFY SHALL NOT IN ANY WAY BE AFFECTED OR DIMINISHED BY ANY STATUTORY OR CONSTITUTIONAL LIMITATION OF LIABILITY OR IMMUNITY CUSTOMER ENJOYS FROM SUITS BY ITS OWN EMPLOYEES. THE DUTY TO INDEMNIFY WILL CONTINUE IN FULL FORCE AND EFFECT NOTWITHSTANDING THE EXPIRATION OR EARLY TERMINATION OF THE AGREEMENT.

#### **4. INSPECTION OF EQUIPMENT**

Customer acknowledges that Customer has inspected the Equipment prior to taking possession thereof, finds it in good working order and repair, and suitable for Customer's needs. If Customer discovers any malfunction or defect in Equipment, Customer shall promptly notify Well2Go.

#### **5. LIMITATION OF LIABILITY**

In no event shall Well2Go be liable or responsible to Customer or any other party for: (A) any loss, damage or injury caused by, resulting from or in any way connected with the Equipment, its operation or its use; (B) Well2Go's failure to deliver the Equipment as required hereunder or Well2Go's failure to repair or replace non-working Equipment; (C) any incidental, consequential, punitive or special damages, including damages resulting from the delay to any ongoing projects, in connection with this Agreement or its subject matter under any legal or equitable theory, including breach of contract, tort (including negligence), strict liability, or product liability, even if so advised of the possibility of such damages, if such damages were otherwise foreseeable, and notwithstanding the failure of any agreed or other remedy of its essential purpose; or (D) any liquidated damages. Customer acknowledges and assumes all risks inherent in the operation, use and possession of the Equipment from the time the Equipment is delivered to

Customer until the Equipment is returned to Well2Go and will take all necessary precautions to protect all persons and property from injury or damage from the Equipment.

## **6. CUSTOMER RESPONSIBILITIES**

Customer shall provide Well2Go with the information and the documentation Well2Go requests to assess, plan, and provide the Equipment. All Equipment is provided based on information provided by Customer or others, and Well2Go is relying on the accuracy and completeness of such information in providing the Equipment. Well2Go reserves the right to refuse to provide the Equipment without any liability whatsoever to Customer.

## **7. EQUIPMENT USE**

Customer is familiar with the proper operation and use of each item of Equipment. Customer has selected the Equipment based on its requirements and will not use or allow anyone to use the Equipment for an illegal purpose or in an illegal manner; without a license, if required under any applicable law; or who is not an adult. Customer agrees to: (i) clean and visually inspect the Equipment regularly; and (ii) immediately cease using the Equipment and immediately notify Well2Go if Equipment needs repair or maintenance. Customer acknowledges that Well2Go has no responsibility to inspect the Equipment while it is in Customer's possession. Well2Go shall have the right to replace the Equipment with other reasonably similar equipment at any time and for any reason.

## **8. COMPLIANCE WITH APPLICABLE LAWS**

Customer shall, at Customer's sole expense, comply with all applicable municipal, state, and federal laws, ordinances and regulations, building and zoning codes, professional licenses, and licenses and permits which may apply to the use of the Equipment ("Licenses and Permits"). Customer shall ensure that the Equipment at all times remains movable personal property. Customer shall not permit or allow the Equipment to be incorporated, attached or joined to any real or immovable property such that it causes the Equipment to be deemed a fixture.

## **9. WARRANTY / DISCLAIMER OF WARRANTIES**

WELL2GO WARRANTS THAT THE EQUIPMENT WILL BE IN GOOD WORKING ORDER UPON DELIVERY. EXCEPT AS EXPRESSLY SET FORTH HEREIN, WELL2GO MAKES NO WARRANTIES, EXPRESS OR IMPLIED WITH RESPECT TO THE EQUIPMENT AND MAKES NO WARRANTIES AS TO THE MERCHANTABILITY OF THE EQUIPMENT OR ITS FITNESS FOR ANY PARTICULAR PURPOSE. THERE IS NO WARRANTY THAT THE EQUIPMENT IS SUITED FOR CUSTOMER'S INTENDED USE, OR THAT IT IS FREE FROM DEFECTS OR CONTAMINANTS. EXCEPT AS MAY BE SPECIFICALLY SET FORTH IN THE AGREEMENT, WELL2GO DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, MADE IN CONNECTION WITH THIS RENTAL TRANSACTION. IN THE EVENT OF A BREACH OF THE ABOVE EQUIPMENT WARRANTY, WELL2GO SHALL, AT ITS SOLE COST AND EXPENSE, REPAIR OR REPLACE THE EQUIPMENT. IN THE EVENT OF A BREACH OF THE ABOVE SERVICE WARRANTY, WELL2GO SHALL, AT ITS SOLE COST AND EXPENSE, RE-PERFORM THE SERVICE.

#### **10. MALFUNCTIONING EQUIPMENT**

Should the Equipment be involved in an accident, become unsafe, malfunction or require repair, Customer shall immediately cease using the Equipment and immediately notify Well2Go. If such condition is the result of normal operation, Well2Go will repair or replace the Equipment with reasonably similar Equipment in working order, if such replacement Equipment is available. Well2Go has no obligation to repair or replace Equipment rendered inoperable by misuse, abuse or neglect. Customer's sole remedy for any failure or defect in Equipment shall be the termination of any rental charges accruing after the time of failure. Customer must return the Equipment to Well2Go within twenty-four (24) hours from the time of defect in order to terminate rental charges.

#### **11. RETURN OF EQUIPMENT / DAMAGED & LOST EQUIPMENT**

At the expiration of the Rental Period, Customer will return the Equipment to Well2Go during its regular business hours or if Well2Go has agreed to pick up the Equipment, Well2Go shall endeavor to pick up the Equipment within a commercially reasonable period of time after Customer notifies Well2Go that the Equipment is called "off rent." Customer is obligated to restore the Equipment to the same condition as when delivered, reasonable wear and tear (as defined below) excepted. Customer shall be responsible for all damages to or loss of the Equipment from the time Customer takes possession of the Equipment until the Equipment is either returned by Customer or picked up by Well2Go. In the case of the loss or destruction of any Equipment, or inability or failure to return same to Well2Go for any reason whatsoever, Customer will pay Well2Go the then full replacement list value of the Equipment together with the full rental rate as specified until such Equipment is replaced. If the Equipment is returned in a damaged or excessively worn condition, Customer shall pay Well2Go the reasonable cost of repair and pay rental on the Equipment at the regular rental rate until all repairs have been completed. Well2Go shall be under no obligation to commence repair work until Customer has paid to Well2Go the estimated cost therefor. Customer agrees that Well2Go reserves the right to charge the Credit Card and/or Customer's account for any amount owed by Customer pursuant to this section due to damaged or lost Equipment.

#### **12. REASONABLE WEAR AND TEAR**

Reasonable wear and tear of the Equipment shall mean only the normal deterioration of the Equipment caused by ordinary and reasonable use.

#### **13. LATE RETURN**

Customer agrees that if the Equipment is not returned by the end of the Rental Period, Well2Go, in its sole discretion, may require Customer to do any of the following: (A) continue to pay the rental rate(s) applicable to the Equipment as specified in the Agreement; (B) for periods less than 24 hours, pay the full daily rental rate applicable to the Equipment; or (C) pay any increased rental rate(s) in effect at the time of, or after, the expiration of the Rental Period. Customer agrees that Well2Go reserves the right to charge the Credit Card, and/or Customer's account for any amount owed by Customer pursuant to this section due to late return of Equipment.

#### **14. CUSTOMER PERSONAL PROPERTY**

With respect to any personal property left in or on the Equipment upon expiration of the Rental Period, Well2Go is not a bailee or warehouseman of Customer's, or any other person's, personal property. Well2Go expressly disclaims any custody, control, or responsibility for the care of Customer's, or any other person's, personal property. Well2Go or its agents may remove the personal property from the Equipment. Under no circumstances are Well2Go or its agents responsible for any personal property that may be lost, stolen, or damaged. Customer personal property left in or on the Equipment upon expiration of the Rental Period may be considered abandoned, unclaimed property in accordance with applicable state law.

**15. RENTAL PERIOD / CALCULATION OF CHARGES**

Rental charges commence when the Equipment leaves the possession of Well2Go and end when the Equipment is either returned to Well2Go during Well2Go's regular business hours or picked up by Well2Go after Customer notifies Well2Go that the Equipment is "off rent" and obtains an "off rent" confirmation number from Well2Go. Pick-up and delivery by Well2Go is subject to a "Delivery Charge," the amount(s) of which are disclosed on the Rental Invoice. Customer's right to possess the Equipment terminates on the expiration of the Rental Period and retention of possession after this time is a material breach of the Agreement.

**16. RESERVED**

**17. RESERVED**

**18. SECURITY DEPOSIT AND PAYMENT**

A. SECURITY DEPOSIT: Customer's Credit Card will be charged a deposit for 50% of the estimated Rental at the time of payment. In addition to securing the payment of rental charges hereunder, Customer agrees that any rental deposit shall be deemed to be a guarantee by Customer of the full and complete performance of each and all of the terms of this Agreement to be performed by Customer. In the event of any breach by Customer, the deposit will be credited against any damages, cost or expense incurred by Well2Go as a result of the breach.

B. PAYMENT: All remaining amounts due hereunder shall be payable in full upon Checkout of Customer. Customer acknowledges that timely payment of rental and service charges is essential to Well2Go's business operations and it would be impractical and extremely difficult to fix the actual damages caused by late payment. Customer and Well2Go agree that there shall be added to all past due rental charges a late payment fee equal to the lesser of two percent (2%) per month (24% per annum) on any such payments outstanding after 30 days, or the maximum amount allowed by applicable law. Where permitted by law, Well2Go may impose a surcharge of 3.0% for credit card payments on charge accounts. This surcharge is not greater than Well2Go's merchant discount rate for credit card transactions and is subject to sales tax in some jurisdictions. Rental rates do not include sales tax, goods and services tax or other taxes, levies and assessments required to be collected by Well2Go from Customer at any time upon, or in respect of, the Equipment and/or the Agreement (collectively, "Taxes"). Customer agrees that Well2Go reserves the right to charge the Credit Card and/or Customer's account for any amount owed by Customer pursuant to this section due to late or past due payment(s), delivery charge(s),

extended rental(s), rental charges or Taxes. In the event Customer asserts that a transaction is exempt from Taxes, Customer agrees to provide a valid tax exemption certificate. Should the transaction later be deemed taxable, Customer is obligated to reimburse Well2Go for any Tax assessed that was attributable to Customer.

**19. TITLE / NO PURCHASE OPTION / NO LIENS**

The Agreement is not a contract of sale, and title to the Equipment shall at all times remain with Well2Go. Unless covered by a specific supplemental agreement signed by Well2Go, Customer has no option or right to purchase the Equipment. Customer shall keep the Equipment free and clear of all mechanics and other liens and encumbrances.

**20. RESERVED**

**21. DEFAULT**

Customer shall be deemed in default should Customer fail to pay any amount when due hereunder; fail to perform, observe or keep any provision of the Agreement; or should Well2Go anticipate that Customer may otherwise be in default. If Customer is in default, Well2Go may do any one or more of the following: (A) terminate the Rental Period; (B) declare the entire amounts due hereunder immediately due and payable and commence legal action therefor; (C) cause Well2Go's employees or agents, with notice but without legal process, to enter upon Customer's property and take all action necessary to retake and repossess the Equipment, and Customer hereby consents to such entry, re-taking and repossession and hereby waives all claims for damages and losses, physical and pecuniary, caused thereby and shall pay all costs and expenses incurred by Well2Go in retaking and repossessing the Equipment; or (D) pursue any other remedies available by law.

**22. RESERVED**

**23. NO ASSIGNMENT, LENDING OR SUBLETTING**

Customer shall not sublease, subrent, assign or loan the Equipment without first obtaining the written consent of Well2Go, and any such action by Customer, without Well2Go's written consent, shall be void.

**24. RESERVED**

**25. ENTIRE AGREEMENT / ONLY AGREEMENT**

These terms and conditions and the front the Agreement, and any Addendum attached thereto, represent the entire agreement between Customer and Well2Go with respect to the Equipment and the rental and servicing of the Equipment. There are no oral or other representations or agreements not included herein. None of Well2Go's rights or Customer's rights may be changed and no extension of the terms of this Agreement may be made except in writing, signed by both Well2Go and Customer. Any use of Customer's purchase order number on this Agreement is for Customer's convenience only.

**26. ORDER OF PRECEDENCE**

These terms and conditions and the Agreement shall control over any terms and conditions contained in Customer's purchase order or similar documents and such other terms are hereby rejected by Well2Go.

**27. JURY WAIVER**

The federal and state courts in Lubbock County, Texas shall have exclusive jurisdiction over all matters relating to this Agreement. TRIAL BY JURY IS WAIVED. In order to effect service of process on Well2Go, please contact the Secretary of State Corporations Division or the equivalent office in your state to obtain the name of the registered agent and the registered office address that is on file with the Secretary of State for Well2Go. Well2Go shall be entitled to decrees of specific performance (without posting bond or other security) in addition to such other remedies as may be available.

**28. OTHER PROVISIONS**

- A. Any failure of Well2Go to insist upon strict performance by Customer of any terms and conditions of this Agreement shall not be construed as a waiver of Well2Go's right to demand strict compliance. Customer has carefully reviewed this Agreement and waives any principle of law which would construe any provision hereof against Well2Go as the drafter of this Agreement. Any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement.
- B. Customer agrees to pay all reasonable costs of collection, court costs, attorneys' fees and other expenses incurred by Well2Go in the collection of any charges due under this Agreement or in connection with the enforcement of its terms.
- C. Customer shall pay the rental charges without any offsets, deductions or claims.
- D. Customer consents to the collection, use and disclosure of his or her personal identification and financial information as described herein and in Well2Go's Privacy Policy. Customer's personal identification and financial information is provided voluntarily and not as part of a credit card transaction. Personal identification information includes, for example, Customer's name, billing address, ZIP code, telephone number, date of birth, driver's license number and email address. Financial information includes, for example, information related to any balances or invoices related to the Agreement. Customer's personal identification information can be used for purposes of this transaction, any subsequent transactions with Well2Go and for Well2Go to evaluate and improve its products and services and/or develop new products or services. Customer's personal identification information and/or financial information may be disclosed to contractors, service providers and other third parties that support Well2Go's business and who are bound by contractual obligations to keep personal information confidential and use it only for the purposes for which we disclose it to them.
- E. Well2Go shall have the right to immediately repossess the Equipment, without any liability to Customer, in the event of (1) permanent closure of Well2Go; (2) declaration of any

emergency, disaster or similar situation by any federal, state or local government; or (3) as otherwise set forth in this Agreement.

- F. If any provision of this Agreement is invalid, illegal or incapable of being enforced under applicable law, that provision will be severed from this Agreement and all other provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any provision is invalid, illegal or incapable of being enforced, the parties shall modify this Agreement so as to effect the original intent of the parties as closely as possible to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

**29. FORCE MAJEURE**

Neither party shall be liable to the other party for failure to comply with the terms of the Rental and Service Agreement or performance of its obligations hereunder to the extent such failure has been caused by Force Majeure, provided that the non-performing party shall give notice to the other party as soon as commercially possible and shall exercise reasonable efforts to resume performance. For the purposes of the Rental and Service Agreement, "Force Majeure" shall mean fire, war, insurrection, act of terrorism, riots, flood, hurricane, typhoon, earthquake, tornado, mudslide, tsunami, and any other natural disaster, pandemic or other causes beyond the reasonable control and not due to the fault of the non-performing party.

**30. CHANGES TO THE RENTAL AND SERVICE TERMS**

Well2Go reserves the right to modify or make changes to these Rental and Service Terms at any time. Any such modification will be reflected in these terms as of the "Last update" date below, and will be effective immediately upon public posting on Well2Go's website. Customer's continued use of the Equipment following any such modification constitutes the Customer's acceptance of these modified Rental and Service Terms. Except for changes described here, no other amendment or modification of these Rental and Service Terms will be effective unless in writing and signed by the parties.

**31. HEADINGS**

The section and paragraph headings in this Agreement are for convenience of reference only and shall not affect the meaning, construction, scope, or effect of this Agreement.

Last Update: August 16, 2023