

# Force Logic UK Ltd – Terms & Conditions of Hire

## 1 Interpretation

1.1 The following definitions and rules of interpretation apply in this Agreement:

"**Business Day**" means a day other than a Saturday, Sunday, bank or public holiday in England.

"**Commencement Date**" means the date that the Lessee takes Delivery of the Equipment.

"**Delivery**" means the transfer of physical possession of the Equipment to the Lessee at the Site.

"**Hire Period**" means the total period that the Equipment is with the Lessee.

"**Price List**" means Force Logic's equipment hire price list in force from time to time. An up to date price list is available at: [www.force-logic.co.uk](http://www.force-logic.co.uk). A copy of the price list in force at the date of this agreement is attached to this Agreement. Prices stated in the price list are for one load cell and display system.

"**Total Loss**" means the Equipment is, in Force Logic's reasonable opinion or the opinion of its insurer(s), damaged beyond repair, lost, stolen, seized or confiscated.

"**VAT**" means value added tax chargeable under the Value Added Tax Act 1994.

"**Force Logic**" means Force Logic UK Ltd, incorporated in England and Wales with company number 6603297.

1.2 Clause headings shall not affect the interpretation of this Agreement.

1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.4 A reference to **writing** or **written** excludes fax and e-mail.

1.5 A reference to a **'week'** means seven calendar days.

## 2 Equipment Hire

2.1 Force Logic shall hire the Equipment to the Customer for use at the Site subject to the terms and conditions of this Agreement.

2.2 Force Logic shall not, other than in the exercise of its rights under this Agreement or applicable law, interfere with the Customer's quiet possession of the Equipment.

## 3 Rental Payments and Deposit

3.1 The Customer shall pay the Rental Payments to Force Logic in accordance with the Payment Schedule. The Rental Payments shall be made by credit card or debit card, details of which will be required prior to dispatch.

3.2 The Rental Payments are exclusive of VAT and any other applicable taxes and duties which shall be payable by the Customer at the rate and in the manner prescribed by law.

3.3 All amounts due under this Agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

3.4 If the Customer fails to make a payment due to Force Logic under this Agreement by the due date, then, without limiting Force Logic's remedies under clause 9, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment.

3.5 Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate, but at 4% a year for any period when that base rate is below 0%.

3.6 The Deposit is a deposit against default by the Customer of payment of any Rental Payments or any loss of or damage caused to the Equipment. Force Logic shall, on the date of this Agreement, pre-authorise the Customer's payment card for the value of the Deposit. If the Customer fails to make any Rental Payments in accordance with the Payment Schedule, or causes any loss or damage to the Equipment (in whole or in part), Force Logic shall be entitled to apply the Deposit against such default, loss or

damage. The Customer shall pay to Force Logic any sums deducted from the Deposit within ten (10) Business Days of a demand for the same. The pre-authorisation for the Deposit (or balance thereof) shall, subject to the above, be cancelled within five (5) Business Days of receipt by Force Logic of the Equipment.

## 4 Delivery

4.1 Unless otherwise agreed in writing, Delivery of the Equipment shall be made by Force Logic. Force Logic shall use reasonable endeavours to effect Delivery by the date and time agreed between the parties, but time shall not be of the essence. Title and risk shall transfer in accordance with clause 5 of this Agreement.

4.2 The Customer shall ensure that a duly authorised representative of the Customer be present at the Delivery of the Equipment. Acceptance of Delivery by such representative shall constitute conclusive evidence that the Customer has examined the Equipment and has found it to be in good condition, complete and fit in every way for the purpose for which it is intended (save as regards any latent defects not reasonably apparent on inspection). If required by Force Logic, the Customer's duly authorised representative shall sign a receipt confirming such acceptance.

## 5 Title, risk and insurance

5.1 The Equipment shall at all times remain the property of Force Logic, and the Customer shall have no right, title or interest in or to the Equipment (save the right to possession and use of the Equipment subject to the terms and conditions of this Agreement).

5.2 The risk of loss, theft, damage or destruction of the Equipment shall pass to the Customer on Delivery. The Equipment shall remain at the sole risk of the Customer during the Rental Period and any further term during which the Equipment is in the possession, custody or control of the Customer (including any carrier appointed by the Customer to return the Equipment) ("**Risk Period**") until such time as the Equipment is received by Force Logic or a carrier appointed by it. During the Rental Period and the Risk Period, the Customer shall, at its own expense, obtain and maintain the following insurances:

5.2.1 insurance of the Equipment to a value not less than its full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident;

5.2.2 insurance for such amounts as a prudent owner or operator of the Equipment would insure for, to cover any third party or public liability risks of whatever nature and however arising in connection with the Equipment;

5.2.3 insurance against such other or further risks relating to the Equipment as may be required by law, together with such other insurance as Force Logic may consider reasonably necessary and advise to the Customer.

5.3 The Customer shall give immediate written notice to Force Logic in the event of any loss, accident or damage to the Equipment during the Risk Period.

5.4 The Customer shall, on demand, supply copies of the relevant insurance policies or other insurance confirmation acceptable to Force Logic and proof of premium payment to Force Logic to confirm the insurance arrangements.

## 6 Customer's responsibilities

6.1 The Customer shall during the term of this Agreement:

6.1.1 ensure that the Equipment is kept and operated in a suitable environment and is used only for the purposes for which it is designed (including operating the Equipment at all times within the prescribed load limit for the relevant piece of Equipment), and is operated in a proper manner by trained competent staff in accordance with all applicable laws (including Health and Safety legislation) and any operating instructions provided by Force Logic;

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6.1.2 take such steps (including compliance with all safety and usage instructions provided by Force Logic) as may be necessary to ensure, so far as is reasonably practicable, that the Equipment is at all times safe and without risk to health when it is being set, used, cleaned or maintained by a person at work;

6.1.3 ensure the Equipment remains in as good an operating condition as it was on the Commencement Date (fair wear and tear only excepted);

6.1.4 not conduct any maintenance or repairs on the Equipment and shall not make any alteration to the Equipment or remove any component(s) from it;

6.1.5 keep Force Logic fully informed of all material matters relating to the Equipment;

6.1.6 keep the Equipment at all times at the Site and shall not move or attempt to move any part of the Equipment to any other location without Force Logic's prior written consent;

6.1.7 permit Force Logic or its duly authorised representative to inspect the Equipment at all reasonable times and for such purpose to enter upon the Site or any premises at which the Equipment may be located, and shall grant reasonable access and facilities for such inspection;

6.1.8 maintain operating and maintenance records of the Equipment and make copies of such records readily available to Force Logic, together with such additional information as Force Logic may reasonably require;

6.1.9 not, without the prior written consent of Force Logic, part with control of (including for the purposes of repair or maintenance), sell or offer for sale, underlet or lend the Equipment or allow the creation of any mortgage, charge, lien or other security interest in respect of it;

6.1.10 not do or permit to be done any act or thing which may jeopardise the right, title and/or interest of Force Logic in the Equipment and, where the Equipment has become affixed to any land or building, the Customer must take all necessary steps to ensure that Force Logic may enter such land or building and recover the Equipment both during the term of this Agreement and for a reasonable period thereafter, including by procuring from any person having an interest in such land or building, a waiver in writing and in favour of Force Logic of any rights such person may have or acquire in the Equipment and a right for Force Logic to enter onto such land or building to remove the Equipment;

6.1.11 not suffer or permit the Equipment to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Equipment is so confiscated, seized or taken, the Customer shall notify Force Logic and the Customer shall at its sole expense use its best endeavours to procure an immediate release of the Equipment and shall indemnify Force Logic on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation;

6.1.12 not use the Equipment for any unlawful purpose;

6.1.13 ensure that at all times the Equipment remains identifiable as being Force Logic's property and shall ensure that a visible sign to that effect is attached to the Equipment;

6.1.14 deliver up the Equipment at the end of the Rental Period or on earlier termination of this Agreement at such address as Force Logic requires, or if necessary allow Force Logic or its representatives access to the Site or any premises where the Equipment is located for the purpose of removing the Equipment; and

6.1.15 not do or permit to be done anything which could invalidate the insurances referred to in clause 5.

6.1.16 Ensure that all credit / debit card details provided to Force Logic are (i) complete and accurate, (ii) for a valid card with sufficient funds / credit limit to enable payment in accordance with the terms of this Agreement of the Rental Payments and other

sums due under this Agreement and (iii) immediately updated in the event that any of the foregoing requirements are no longer met by the credit card / debit card details then held by Force Logic.

6.2 The Customer acknowledges that Force Logic shall not be responsible for any loss of or damage to the Equipment arising out of or in connection with any negligence, misuse, mishandling of the Equipment or otherwise caused by the Customer or its officers, employees, agents and contractors.

6.3 The Customer undertakes to indemnify Force Logic on demand from and against all losses, liabilities, claims, demands, costs, damages and expenses of whatever nature suffered or incurred by Force Logic, its officers, employees and agents arising out of or in connection with (i) the occurrence of any of the matters described in clause 6.2 and (ii) any failure by the Customer to comply with the terms of this Agreement.

6.4 When calculating sums due under the indemnity in clause 6.3, the Customer agrees that

6.4.1 Sums chargeable for the repair or replacement (at Force Logic's election) of lost or damaged Equipment (and any associated parts) shall be relevant retail prices stated in the relevant price list published by Force Logic or the relevant parts supplier; and

6.4.2 Labour rates shall be charged by reference to Force Logic's published labour price list in force from time to time.

## 7 Warranty

7.1 Force Logic warrants that the Equipment shall substantially conform to its specification (as made available by Force Logic), be of satisfactory quality and fit for any purpose held out by Force Logic. Force Logic shall use reasonable endeavours to remedy, free of charge, any material defect in the Equipment which manifests itself within the Rental Period, provided that:

7.1.1 the Customer notifies Force Logic of any defect in writing immediately on becoming aware of the alleged defect;

7.1.2 Force Logic is permitted to make a full examination of the alleged defect;

7.1.3 the defect did not materialise as a result of misuse, neglect, alteration, mishandling or unauthorised manipulation by any person other than Force Logic's authorised personnel;

7.1.4 the defect did not arise out of any information, design or any other assistance supplied or furnished by the Customer or on its behalf; and

7.1.5 the defect is directly attributable to defective material, workmanship or design.

7.2 Insofar as the Equipment comprises or contains components which were not manufactured or produced by Force Logic, the Customer shall be entitled only to such warranty as Force Logic has received from the manufacturer.

7.3 If Force Logic fails to remedy any material defect in the Equipment in accordance with clause 7.1, Force Logic shall, at the Customer's request, accept the return of part or all of the Equipment and make an appropriate reduction to the Rental Payments payable during the remaining term of the agreement and, if relevant, return any Deposit (or any part of it).

## 8 Liability

8.1 Without prejudice to clause 8.2, Force Logic's maximum liability per claim or series of connected claims arising out of or in connection with this Agreement (including any liability for the acts or omissions of its employees, agents and subcontractors), whether arising in contract, tort (including negligence), misrepresentation or otherwise, shall in no circumstances exceed the greater of £250 (two hundred and fifty pounds) and 100% of the Rental Payments paid by the Customer under this Agreement

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in the 12 months preceding the date of the incident(s) giving rise to the relevant claim.

8.2 Nothing in this Agreement shall exclude or in any way limit Force Logic's liability for:

8.2.1 death or personal injury caused by its own negligence;

8.2.2 fraud or fraudulent misrepresentation; or

8.2.3 any other liability which cannot be excluded or limited by law.

8.3 This Agreement sets forth the full extent of Force Logic's obligations and liabilities in respect of the Equipment and its hiring to the Customer. In particular, there are no conditions, warranties or other terms, express or implied, including as to quality, fitness for a particular purpose or any other kind whatsoever, that are binding on Force Logic except as specifically stated in this Agreement. Any condition, warranty or other term concerning the Equipment which might otherwise be implied into or incorporated within this Agreement, whether by statute, common law or otherwise, is expressly excluded.

8.4 Without prejudice to clause 8.2, Force Logic shall not be liable under or in connection with this Agreement for any:

8.4.1 loss of profit;

8.4.2 loss of revenue

8.4.3 loss of business; or

8.4.4 indirect or consequential loss or damage

in each case, however caused, even if foreseeable.

## 9 Termination

9.1 Without affecting any other right or remedy available to it, Force Logic may terminate this Agreement with immediate effect by giving written notice to the Customer if:

9.1.1 the Customer fails to pay any amount due under this Agreement on the due date for payment;

9.1.2 the Customer commits a material breach of any other term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;

9.1.3 the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986;

9.1.4 the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986;

9.1.5 the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;

9.1.6 a petition is filed, a notice is given, a resolution is

passed, or an order is made, for or in connection with the winding up of the Customer other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;

9.1.7 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Customer;

9.1.8 the holder of a qualifying floating charge over the assets of the Customer has become entitled to appoint or has appointed an administrative receiver;

9.1.9 a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer;

9.1.10 a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Customer's assets and such attachment or process is not discharged within 14 days;

9.1.11 any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.1.4 to clause 9.1.10 (inclusive);

9.1.12 the Customer suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

9.2 This Agreement shall automatically terminate if a Total Loss occurs in relation to the Equipment.

## 10 Consequences of termination

10.1 Upon termination of this Agreement, however caused:

10.1.1 Force Logic's consent to the Customer's possession of the Equipment shall terminate and the Customer shall either immediately (i) at its cost return the Equipment to Force Logic at the address stated in the Contract Details section or (ii) where Collection Service is specified in the Contract Details section above, immediately make available to Force Logic's nominated carrier for collection. Notwithstanding the above, Force Logic may in its absolute discretion and at its expense (save where the Collection Service is specified in the Contract Details section above), by its authorised representatives, without notice, elect to retake possession of the Equipment and for this purpose may enter the Site or any premises at which the Equipment is located; and

10.1.2 without prejudice to any other rights or remedies of the Customer, the Customer shall pay to Force Logic on demand:

10.1.2.1 all Rental Payments and other sums due but unpaid at the date of such demand together with any interest accrued pursuant to clause 3.4;

10.1.2.2 any costs and expenses incurred by Force Logic in recovering the Equipment and/or in collecting any sums due under this Agreement (including any storage, insurance, repair, transport, legal and remarketing costs).

10.2 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

**11 Force majeure.** If our performance is prevented or delayed by an event outside our control then we will contact you as soon as possible to let you know and we will take steps to minimise the effect of the delay. Provided we do this we will not be liable for non-performance or delays caused by the event, but if the non-performance or delay continues for more than 14 days you

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may end this Agreement by giving us not less than 7 days notice in writing.

### 12 Confidential information

12.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 12.2.

12.2 Each party may disclose the other party's confidential information:

12.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 12; and

12.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

12.3 No party shall use any other party's confidential information for any purpose other than to perform its obligations under this Agreement.

**13 Assignment and other dealings.** This Agreement is personal to the parties and neither party shall assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement.

### 14 Entire agreement

14.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

14.2 Each party acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.

14.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

**15 Variation.** No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

**16 No partnership or agency.** Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

**17 Further assurance.** At its own expense, each party shall, and shall use all reasonable endeavours to, procure that any necessary third party shall, promptly execute and deliver such

documents and perform such acts as may reasonably be required for the purpose of giving full effect to this Agreement.

**18 Counterparts.** This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement. No counterpart shall be effective until each party has executed at least one counterpart.

**19 Third party rights.** This contract is between you and us. Our officers, employees and agents may enforce clause 6.3. Otherwise, no other person shall have any rights to enforce any of the terms of this Agreement. Neither of us will need to get the agreement of any other person in order to end the contract or make any changes to these terms.

### 20 Notices

20.1 Any notice given to a party under or in connection with this contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office

20.2 Any notice shall be deemed to have been received:

20.2.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;

20.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.

20.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

**21 Waiver.** If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date. For example, if you miss a payment and we do not chase you but we continue to provide the products, we can still require you to make the payment at a later date.

**22 Rights and remedies.** Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

**23 Severance.** Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any are unlawful, the remaining paragraphs will remain in full force and effect.

**24 Governing law.** This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

**25 Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claim).