

Terms of Business for Hire, Trial & Loan

1. DEFINITIONS

In this Agreement: "The Customer" means the person or company who will hire or is hiring the Equipment; "The Equipment" means equipment, manuals, accessories and other items provided for the Customer's use by SensorCare; "EU" means the countries within the European Union. "Hire" means hire, trial or loan of equipment.

2. FORMATION OF CONTRACT

Any purchase order by the Customer for, or the acceptance of any quotation of SensorCare to hire Equipment to the Customer shall constitute an acceptance by the Customer to take the Equipment on hire from SensorCare on the terms in this Agreement at the hire rates set out in SensorCare's signed quotation, an undertaking to fully indemnify SensorCare in respect of any loss SensorCare suffers as a result of such offer being withdrawn; and a warranty by the Customer that the description of the Equipment is suitable for their requirements.

3. HIRE COMMENCEMENT AND TERMINATION

3.1

The period of hire, and hire charges for the Equipment, starts on the day after the Equipment is despatched by SensorCare for delivery to the Customer, or, within the EU, at the time the Equipment is delivered to the Customer (or some other mutually convenient place, as agreed with the Customer).

3.2

The period of hire ends and hire charges cease to accrue:-

- a) for Equipment delivered by the Customer to SensorCare per clause 5.2, at the time of delivery, or, if collected by SensorCare, in accordance with clause 5.3;
- b) for non repairable or lost Equipment when a suitable replacement is acquired by SensorCare and the Customer or its insurers pay to SensorCare the full cost of replacement of such Equipment;
- c) for damaged Equipment at the earlier of it being repaired, or, at SensorCare's option, a suitable replacement being acquired by SensorCare and reimbursed as in clause (b).

4. DELIVERY INSPECTION AND ACCEPTANCE

4.1

Delivery dates for Equipment given by SensorCare are best estimates and SensorCare will use all reasonable efforts to adhere to them. SensorCare shall not however be liable for any delay in delivery.

4.2

The Customer must notify any damage to or faults of the Equipment to SensorCare in writing within 48 hours from the time of its delivery. Unless alleged faults or damage are so notified the Equipment will be deemed to be accepted by the Customer and hire charges will be payable in full from the time stated in clause 3.1, until the time of such notification.

5. EQUIPMENT RETURN AND COLLECTION

5.1

Return of the Equipment must be pre-arranged (either at the time of ordering, or during the period of hire) by requesting SensorCare to issue a Return Notification Number ("RNN") for that Equipment. To allow the Customer's flexibility in Equipment use it is not automatically collected at the end of any proposed period of hire.

5.2

Delivery of the Equipment by the Customer to SensorCare shall be to its trading address in the UK. The Customer shall be responsible for using adequate packaging materials for the return of the Equipment. In any event the Equipment must be returned in good condition free of any damage (other than fair wear and tear), otherwise see clause 3.2 above.

5.3

a) where the RNN is issued during the two working days preceding a public holiday in England, on the working day the Equipment is made available for collection after such public holiday;
b) where the RNN is issued before 5pm GMT on a working day then hire charges will cease to accrue on that day, and if after 5pm GMT, hire charges will cease on the following working day, except:

5.4

Where SensorCare inspects returned Equipment and finds any damage it will seek to determine whether the cause is fair wear and tear. In the event of dispute the opinion of an expert employee of the manufacturer of the Equipment shall prevail.

6. HIRE AND OTHER CHARGES

6.1

The charge for hire shall be at the rates set out in SensorCare's written quotation. Unless stated otherwise the minimum hire period is seven days.

6.2

Hire charges and discounts may be subject to change without prior notice. SensorCare reserves the right to alter the charge for Equipment already on hire with 7 days notice in which event the Customer may return the same and terminate the hiring.

6.3

In addition to the hire charge SensorCare may make a separate charge for delivery and collection. The packaging materials are chargeable in full if not returned upon completion of hire. Where the Customer changes collection arrangements, SensorCare may make an additional charge.

6.4

Training is charged as extra and will be indicated on the quotation.

7. NO VARIATION

Hire Agreements with the Customer may only be varied or cancelled with SensorCare's consent. Supplementary charges will be invoiced accordingly.

8. PAYMENT AND TAXES

All invoices are payable within 30 days of the invoice date. All amounts referred to in this agreement are exclusive of VAT, which will be charged at the appropriate rate on the relevant Tax Point date. The Customer shall be liable for all costs incurred in recovering overdue debts and interest may be charged at a rate equivalent to 4% above the Bank of England Base Rate calculated from the date payment was due to the date payment is received by SensorCare.

9. CONTINUING OBLIGATIONS

The Customer agrees that for the duration of the hire contract:-

9.1

to keep the Equipment in the Customer's own possession and shall not deal in the Equipment or grant any rights or interest in it to any third party and not allow the Equipment to be transferred to

countries prohibited by the UK Department of Trade and Industry or the US Bureau of Foreign Commerce;

9.2

not to assign or transfer the benefit of this Agreement in whole or part; to notify SensorCare as soon as possible of any changes of address telephone number or other Customer contact information; and

9.3

to preserve SensorCare's' identification number or mark on any nameplate / label on the Equipment.

10. USE, FAULTS AND DAMAGE

The Customer agrees with SensorCare:-

10.1

to observe all the manufacturer's instructions and other regulations that may be issued for the proper use of the Equipment and to be liable for any damage to the Equipment or loss of any manufacturer's warranty that results from failure to observe such instructions or regulations or failure to use same in a proper manner;

10.2

not to make any alterations modifications or technical adjustments to or attempt any repairs to the Equipment without the prior written consent of SensorCare;

10.3

not to subject the Equipment to any mis-handling or abuse and to keep the Equipment in good condition and to reimburse SensorCare all costs associated with loss or damage to the Equipment however caused (fair wear and tear only excepted) whilst the Equipment is the responsibility of the Customer;

10.4

to notify SensorCare in writing immediately of any damage or loss to the Equipment;

10.5

where the Customer reports faults or damage to the Equipment but on inspection none can be found by SensorCare then a charge may be made for costs and expenses relating to inspection and exchange of Equipment;

10.6

to comply with all applicable laws and regulations in the use of the Equipment and not to use the Equipment in any manner which could bring SensorCare into disrepute.

11. SOFTWARE

Unless the Customer has entered into a licence directly with the manufacturer of the Equipment or other relevant party for use of software (in which case such licence terms shall apply) then:-

11.1

Ownership of all software including programs and manuals supplied by SensorCare shall remain with the original manufacturer of the Equipment subject to such rights as SensorCare may have in relation to such software. Save as expressly provided in this Agreement no licences or rights in any software are granted to the Customer.

11.2

Any software supplied by SensorCare is only made available to the Customer for the period of hire for use with the Equipment, either in the Equipment's central processing unit and/or for processing of any data. The Customer agrees not to assign or grant any sub-licence to any software supplied.

11.3

On the termination of the hire agreement the Customer shall return to SensorCare all software and manuals supplied together with all copies.

12. RISK AND INSURANCE

12.1

The Equipment is at the Customer's risk from loss or damage throughout the period of hire. The Customer shall be responsible for and shall indemnify SensorCare against any loss, damage, injury or death to persons or property in connection with the hire or the use of the Equipment howsoever arising except for the direct and foreseeable consequences of any wilful default or gross negligence by SensorCare or its employees.

12.2

The Customer shall during the period of hire insure at the Customer's expense against loss of or damage to the Equipment at a sum equal to the replacement cost and against any liability for injury damage or loss caused in connection with the use storage or maintenance of the Equipment; and agrees to assign the benefit and proceeds of such insurance to SensorCare or hold them on trust for SensorCare.

13. CHANGES

If any payment is not received 30 days after the due date or if SensorCare has reasonable grounds for believing that the Customer may be unable to perform or has breached its obligations or had a receiver, administrative receiver or administrator appointed, the Customer shall be deemed to have repudiated this Agreement and SensorCare may terminate the hire and recover the Equipment at the Customer's expense without prior notice and the Customer agrees to make the Equipment available to SensorCare.

14. APPLICABLE LAWS

14.1

SensorCare provides literature representations and advice (Advice) relating to Equipment that is compiled from manufacturers' information. Such Advice is given without charge and in good faith and SensorCare cannot accept any liability or responsibility for the consequences of any decision based on this Advice. Whether or not such Advice is given the Customer remains solely responsible for ensuring that the Equipment is suitable for the intended purpose and the Customer shall have no entitlement to reject the Equipment if the Equipment should prove unsuitable.

14.2

If SensorCare provides Equipment that is defective by reason of SensorCare's default, its liability shall be limited to repairing or replacing it or if this is not practical to refunding any hire paid during the time the Equipment is defective, and as long as SensorCare are notified as soon as the defect is known to the Customer.

14.3

At the request and cost of the Customer, subject to SensorCare being indemnified to its reasonable satisfaction by the Customer against any costs, liabilities and expenses it may incur, SensorCare will on the Customer's behalf enforce all warranties, conditions and other rights relating to the Equipment's description, performance or quality given by the manufacturer of the Equipment.

14.4

The above agreement is in substitution for any representation (unless fraudulent) concerning the Equipment, or warranty express or implied, which but for this exclusion would be binding on SensorCare and all such representations and warranties are so excluded as is any liability of SensorCare to the Customer for its negligence.

14.5

SensorCare's total cumulative liability for damages with respect to any hiring of the Equipment or any breach of any of its obligations to the Customer shall not exceed the total hire charges actually received in respect of the Equipment by SensorCare during the term of such hiring and it is agreed SensorCare shall have no liability to the Customer for consequential or indirect loss suffered by the Customer save that no term in this Agreement shall exclude or restrict SensorCare's liability for personal injury or death resulting from negligence.

15. EQUIPMENT FINANCING

The Equipment is either the property of SensorCare or that of a third party financier who has permitted SensorCare to enter into a hire agreement for the Equipment with the Customer. The Customer consents to the assignment or transfer of the benefit of this Agreement by SensorCare to any third party financier so long as the Customer continues to have the benefit of the use of the Equipment under the terms of this Agreement.

16. WAIVER

No time or other indulgence allowed by SensorCare to the Customer shall prejudice or waive any rights or remedies of SensorCare.

17. LAW AND JURISDICTION

17.1

For UK/EU transactions this Agreement is governed by and regulated in accordance with English law and the English courts will have non exclusive jurisdiction in the resolution of any disputes.

17.2

If any provision of this Agreement is held by any court or other competent authority to be void or unenforceable in whole or in part then this Agreement shall continue to be valid as to its other provisions and the remainder of the affected provision.

18. CONTACT DETAILS

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