

# Gravity Media - Terms and Conditions for Lessor to Supply Equipment (Rental)

## **1. Basis of contract**

1.1. The Lessor shall hire the Equipment to the Lessee subject to these Conditions.

1.2. The Conditions shall be deemed to be accepted on the earlier of (a) the Lessor issuing written acceptance of an Order; or (b) any act by the Lessor consistent with fulfilling an Order, at which point and on which date the Contract shall come into existence (Commencement Date).

1.3. These Conditions apply to the exclusion of any other terms that the Lessor seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

1.4. The Lessor shall not, other than in the exercise of its rights under these Conditions or applicable law, interfere with the Lessee's quiet possession of the Equipment.

## **2. Charges and payment**

2.1. The price shall be the price set out in the Order, or if no price is quoted, as set out in the Lessor's published price list in force at the Commencement Date; and inclusive of packaging and carriage costs unless otherwise agreed. No extra charges shall be effective unless agreed in writing by the Lessee.

2.2. Each invoice shall include supporting information required by the Lessee to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.

2.3. In consideration of the supply of Equipment by the Lessor, the Lessee shall pay the invoiced amounts within 30 days of the date of a correctly rendered invoice to a bank account nominated in writing by the Lessor.

2.4. All amounts payable by the Lessee under the Contract are exclusive of amounts of any applicable taxes and duties and similar charges payable by the Lessee at the rate and in the manner from time to time prescribed by law in the relevant jurisdiction, subject to receipt of a valid tax invoice from the Lessor.

2.5. If the Lessee fails to make a payment due to the Lessor under the Contract by the due date, then the Lessee shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 2.5 will accrue each day at 4% a year above the Bank of England's base rate from time to time.

2.6. The Lessee may at any time, without notice to the Lessor, set off any liability of the Lessor to the Lessee against any liability of the

Lessee to the Lessor, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, the Lessee may convert either liability at a market rate of exchange for the purpose of set-off.

2.7. Any exercise by the Lessee of its rights under this clause shall not limit or affect any other rights or remedies available to it under these Conditions or otherwise.

## **3. Delivery of Equipment**

3.1. The Lessor shall ensure that:

3.1.1. the Equipment is properly packed and secured in such manner as to reach their destination in good condition;

3.1.2. each delivery is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity (including the code number (where applicable)), special storage instructions (if any) and, if being delivered by instalments, the outstanding balance remaining to be delivered; and

3.2. The Lessor shall deliver the Equipment on the date specified in the Order, to the Lessee's premises or such other location as is set out in the Order or as instructed by the Lessee before delivery (Delivery Location); and during the Lessee's normal hours of business on a Business Day, or as instructed by the Lessee.

3.3. The Lessor shall not deliver in instalments without the Lessee's prior written consent. Where delivery in instalments is agreed, they may be invoiced and paid for separately. Failure by the Lessor to deliver any one instalment on time or at all or any defect in an instalment, shall entitle the Lessee to the remedies set out in clause 7.

## **4. Title, Risk and Insurance**

4.1. The Equipment shall, at all times, remain the property of the Lessor. The Lessee shall have no right, title or interest in or to the Equipment (save the right to possession and use, subject to these Conditions).

4.2. The risk of loss, theft, damage or destruction of the Equipment shall pass to the Lessee on Delivery. The Equipment shall remain at the sole risk of the Lessee during the Rental Period and any further term during which the Equipment is in the possession, custody or control of the Lessee (Risk Period) until such time as the Equipment is redelivered to the

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Lessor. During the Rental Period and the Risk Period, the Lessee shall, at its own expense, obtain and maintain the following insurances:

4.2.1. 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, and such other risks as the Lessor may from time to time nominate in writing;

4.2.2. insurance for such amounts as a prudent owner or operator of the Equipment would insure for, or such amount as the Lessor may from time to time reasonably require, to cover any third party or public liability risks of whatever nature and however arising in connection with the Equipment; and

4.2.3. insurance against such other or further risks to the Equipment as may be required by law, together with such other insurance as the Lessor may from time to time consider reasonably necessary and advise to the Lessee.

4.3. The Lessee shall give immediate written notice to the Lessor in the event of any loss, accident or damage to the Equipment arising out of or in connection with the Lessee's possession or use of the Equipment.

4.4. The Lessee shall, on demand, supply copies of the relevant insurance policies or other insurance confirmation and proof of premium payment to the Lessor.

### **5. Lessee's responsibilities**

5.1. The Lessee shall during the term of the Contract:

5.1.1. ensure that the Equipment is kept and operated in a suitable environment, used only for the purposes for which it is designed, and operated in a proper manner by trained competent staff in accordance with any operating instructions provided by the Lessor;

5.1.2. take such steps (including compliance with all safety and usage instructions provided by the Lessor) 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;

5.1.3. maintain at its own expense the Equipment in good repair in order to keep it in as good an operating condition as it was on the Commencement Date (fair wear and tear only excepted), and shall make good any damage to the Equipment;

5.1.4. make no alteration to the Equipment and shall not remove any existing component(s) from the Equipment without the prior written consent of the Lessor unless carried out to comply with any mandatory modifications required by law or any regulatory authority or unless the component(s) is/are replaced immediately (or if removed in the ordinary course of repair and maintenance as soon as practicable) by the same component or by one of a similar make and model or an improved/advanced version of it. Title and property in all substitutions, replacements, renewals made in or to the Equipment shall vest in the Lessor immediately upon installation;

5.1.5. keep the Lessor fully informed of all material matters relating to the Equipment;

5.1.6. not, without the prior written consent of the Lessor, 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;

5.1.7. not without the prior written consent of the Lessor, attach the Equipment to any land or building so as to cause the Equipment to become a permanent or immovable fixture on such land or building. If the Equipment does become affixed to any land or building then the Equipment must be capable of being removed without material injury to such land or building and the Lessee shall repair and make good any damage caused by the affixation or removal of the Equipment from any land or building and indemnify the Lessor against all losses, costs or expenses incurred as a result of such affixation or removal;

5.1.8. not do or permit to be done any act or thing which will or may jeopardise the right, title and/or interest of the Lessor in the Equipment and, where the Equipment has become affixed to any land or building, the Lessee must take all necessary steps to ensure that the Lessor may enter such land or building and recover the Equipment both during the term of Contract 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 the Lessor of any rights such person may have or acquire in the Equipment and a right for the Lessor to enter onto such land or building to remove the Equipment;

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5.1.9. 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. If the Equipment is confiscated, seized or taken, notify the Lessor and the Lessee shall at its sole expense use its best endeavours to procure an immediate release of the Equipment;

5.1.10. not use the Equipment for any unlawful purpose;

5.1.11. ensure that the Equipment remains identifiable as being the Lessor's property and wherever possible shall ensure that a visible sign to that effect is attached to the Equipment;

5.1.12. deliver the Equipment at the end of the Rental Period or on earlier termination of the Contract at such address as the Lessor requires; and

5.1.13. not do or permit to be done anything which could invalidate the insurances referred to in clause 4.

### **6. Warranty**

6.1. The Lessor warrants that the Equipment shall substantially conform to its specification (as made available by the Lessor), be of satisfactory quality and fit for any purpose held out by the Lessor. The Lessor shall use all reasonable endeavours to remedy, free of charge, any material defect in the Equipment which manifests itself within twelve (12) months from Delivery, provided that:

6.2. the Lessee notifies the Lessor of any defect within ten (10) Business Days of the defect occurring or of becoming aware of the defect;

6.3. the Lessor is permitted to make a full examination of the alleged defect;

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

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

6.6. Insofar as the Equipment comprises or contains equipment or components which were not manufactured or produced by the Lessor, the Lessee shall be entitled only to such warranty or other benefit as the Lessor has received from the manufacturer.

6.7. If the Lessor fails to remedy any material defect in the Equipment in accordance with clause 6.1, the Lessor shall, at the Lessee's

request, accept the return of part or all of the Equipment and make an appropriate reduction to the charges payable during the remaining term of the agreement.

### **7. Lessee remedies**

7.1. If the Lessor fails to deliver the Equipment by the applicable date, the Lessee shall, without limiting or affecting other rights or remedies available to it, have one or more of the following rights to:

7.1.1. terminate the Contract with immediate effect by giving written notice to the Lessor;

7.1.2. refuse to accept any subsequent delivery the Lessor attempts to make;

7.1.3. recover from the Lessor any costs incurred in obtaining third party substitute Equipment;

7.1.4. require a refund from the Lessor of sums paid in advance; and

7.1.5. claim damages for any additional costs, loss or expenses incurred by the Lessee which are in any way attributable to the Lessor's failure to meet such dates.

7.2. If the Lessor has delivered Equipment that do not comply with the undertakings set out in clause 6 then, without limiting or affecting other rights or remedies available to it, and in addition to the rights in clause 7.1, the Lessee shall have one or more of the following rights, whether or not it has accepted the Equipment:

7.2.1. to reject the Equipment (whole or part) and return them at the Lessor's own risk and expense;

7.2.2. to require the Lessor to repair or replace the rejected Equipment, or provide a full refund of the rejected Equipment' price (if paid);

7.2.3. to claim damages for any additional costs, loss or expenses incurred by the Lessee arising from the Lessor's failure to supply Equipment in accordance with clause 6.

7.3. These Conditions extend to any repaired or replacement Equipment supplied by the Lessor.

7.4. The Lessee's rights under the Contract are in addition to its rights and remedies implied by statute and common law.

### **8. Indemnity**

8.1. The Lessor shall indemnify the Lessee against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest,

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penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Lessee arising out of or in connection with:

8.1.1. any claim made against the Lessee for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Equipment;

8.1.2. any claim made against the Lessee by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Equipment; and

8.1.3. any claim made against the Lessee by a third party arising out of or in connection with the supply of the Equipment, as delivered.

8.2. This clause 8 shall survive termination of the Contract.

### **9. Confidentiality**

9.1. Each party undertakes that it shall not at any time during the Contract and for a period of five years after termination/expiry of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or Lessors of the other party, except as permitted by clause 9.2.

9.2. Each party may disclose the other party's confidential information to its employees, officers, representatives, subcontractors or advisers who need to know such information for any purpose under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information must comply with this clause 9; and as may be required by law, a court of competent jurisdiction or governmental/regulatory authority.

9.3. Neither party shall use the other party's confidential information for any purpose other than the performance of obligations under the Contract.

### **10. Termination**

10.1. Without affecting any other right or remedy available to it, the Lessee may terminate the Contract:

10.1.1. with immediate effect by giving written notice to the Lessor if:

10.1.1.1. there is a Lessor change of Control (as defined in section 1124 of the Corporation Tax Act 2010 or, any analogous law in the relevant jurisdiction);

10.1.1.2. the Lessor's financial position deteriorates to such an extent that in the Lessee's opinion the Lessor's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or

10.1.1.3. the Lessor breaches clause 13.

10.1.2. for convenience by giving the Lessor one month's written notice.

10.2. Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

10.2.1. the other party commits a material breach of any term of the Contract which is irremediable or if remediable, fails to remedy that breach within a period of fourteen days after being notified in writing to do so;

10.2.2. the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

### **11. Consequences of termination**

11.1. Termination or expiry of the Contract shall not affect the parties' rights and remedies that have accrued as at termination/expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination/expiry or any provision of the Contract expressly or by implication is intended to come into or continue in force on or after termination or expiry.

### **12. Force majeure**

12.1. Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such delay or failure results from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for fourteen days, the party not affected may terminate the Contract by giving written notice to the affected party.

### 13. General

#### 13.1. Modern Slavery Act 2015

13.1.1. In performing its obligations under the agreement, the Lessor shall :

13.1.2. comply with all applicable anti-slavery and human trafficking laws, statutes, regulations from time to time in force including but not limited to the Modern Slavery Act 2015; and

13.1.3. not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK; and

13.1.4. notify the Lessee as soon as it becomes aware of any breach, or potential breach of this clause 12; or any actual or suspected slavery or human trafficking in a supply chain which has a connection with this supply of Equipment.

13.2. The Lessor represents and warrants that neither the Lessor nor any of its officers, employees or other persons associated with it has been convicted of any offence involving slavery and human trafficking.

#### 13.3. Compliance

13.3.1 The Lessor represents and warrants that it shall comply with all applicable laws, including but not limited to the Bribery Act 2010, the Criminal Finances Act 2017, the Sanctions and Anti-Money Laundering Act 2018 and the Data Protection Act 2018;

13.4. **Assignment and other dealings.** The 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 the Contract, without the other party's prior written consent.

#### 13.5. Notices.

Any notice or other communication given to a party under or in connection with the 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 or its principal place of business; or sent by fax to its main fax number. A notice or other communication shall be deemed to have been received: if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; 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; if sent by fax, at 9.00 am on the next Business Day after transmission. This clause does not apply to the service of any proceedings

or other documents in any legal action or, any other method of dispute resolution.

13.6. **Severance.** If any provision or part- provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to

make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

13.7. **Waiver.** No failure or delay by a party to exercise any right or remedy provided under these Conditions or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

13.8. **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

13.9. **Entire agreement.** The Contract 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.

13.10. **Third party rights.** Unless expressly stated otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

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

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

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

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13.14. **Interpretation.** The following definitions apply in this agreement.

**Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 13.10.

**Contract:** the contract between the Lessee and the Lessor for the supply of Equipment in accordance with these Conditions.

**Lessee:** the Gravity Media group entity specified in the Order.

**Equipment:** the Equipment (or any part of them) set out in the Order.

**Equipment Specification:** any specification for the Equipment, including any related plans and drawings, agreed in writing by the Lessee and the Lessor.

**Order:** the Lessee's order for the supply of Equipment, as set out in the Lessee's purchase order form or in the Lessee's written acceptance of the Lessor's quotation.

**Rental Period:** shall commence on the Commencement Date and continue whilst the Equipment remains in the possession of the Lessee unless the Order is terminated under these Conditions

**Lessor:** the person or firm from whom the Lessee hires the Equipment as specified in the Order.