

# FORCE Technology – General Conditions

Products including installation



## 1. PREAMBLE

- 1.1 FORCE Technology, company reg. (CVR) no. 55117314, is a government-approved research and technology organisation ("RTO Institute"), registered under Danish law and having its address at Park Allé 345, 2605 Brøndby, Denmark.
- 1.2 For the purpose, of these general conditions (the "Conditions"), "Customer" shall mean the party with whom FORCE Technology enters, into a contractual relationship.
- 1.3 The Customer and FORCE Technology are collectively referred to as the "Parties" and individually as a "Party".
- 1.4 The Parties shall prepare a written agreement (the "Agreement") describing the deliverables to be provided by FORCE Technology under the Agreement (the "Deliverable"). The Deliverable consists of the delivery of physical products, including machinery, devices and appliances, material, hardware, spare parts, etc. ("Products"), as well as other services including installation, changes, modification, repairs, maintenance, and inspection ("Services") to the extent set out in the Agreement.
- 1.5 Consultancy services shall not form part of the Deliverable unless explicitly stated in the Agreement.
- 1.6 The Conditions apply to all work and deliveries performed by FORCE Technology for the Customer and thus form an integral part of the Agreement between FORCE Technology and the Customer. Accordingly, any reference to the Agreement shall be understood as a reference to the Agreement including these Conditions.
- 1.7 The Customer's general conditions, if any, whether printed on orders or otherwise submitted to FORCE Technology prior to or after the Customer's receipt of the Conditions, and irrespective of whether FORCE Technology has not directly rejected such conditions, shall not form part of the Agreement.
- 1.8 In order, to be valid, any derogation from or amendment to the Conditions shall be agreed in writing between the Parties.
- 1.9 In the event of any discrepancies between the Agreement, the Conditions, specifications, plans, illustrations and/or pictures, the documents shall prevail in the order of priority set out in this clause.
- 1.10 Any documents supplied by the Customer (e.g., specifications, plans, designs, models, or the like) are of key importance to FORCE Technology's provision of the Deliverable. The Customer is responsible for the accuracy, technical relevance, and completeness of the contents. FORCE Technology is not obliged to verify such documents beyond their contents.

## 2. OFFER

- 2.1 FORCE Technology's offer is valid for a period of thirty (30) calendar days, unless otherwise agreed in writing

between the Parties.

## 3. FORCE TECHNOLOGY'S OBLIGATIONS

- 3.1 FORCE Technology shall provide the Deliverable in accordance with the description stipulated in the Agreement or, where said description is not stipulated or stipulated vaguely in the Agreement – in accordance with FORCE Technology's usual practice.
- 3.2 FORCE Technology shall provide the Deliverable in a professional manner and using appropriate materials.
- 3.3 Products shall be delivered as stipulated in the Agreement and in accordance with the time schedule. Where the Parties have not agreed on a time schedule in writing, FORCE Technology shall deliver the Products to the best of its ability without a specified date of delivery.
- 3.4 Any Services shall be performed at the same address at which the Products were delivered.

## 4. CUSTOMER'S OBLIGATIONS

- 4.1 "Place of Delivery" shall mean areas in which the Deliverable shall be delivered, including as much of the surrounding areas as is required for unloading, storage, internal transport, and installation of the Deliverable.
- 4.2 The Customer shall:
  - (a) comply with the obligations following from the Agreement;
  - (b) make any necessary information available and instruct FORCE Technology in accordance with the agreed time schedule in order to ensure that FORCE Technology may provide the Deliverable in accordance with the time schedule;
  - (c) obtain the licences, permits and authorisations necessary for receiving the Deliverable in accordance with applicable regulation, including sanctions and export controls;
  - (d) make all necessary staff available, ensure that FORCE Technology has the necessary access to the Place of Delivery at the agreed times and ensure that FORCE Technology's employees have adequate security clearance to the extent necessary;
  - (e) comply with FORCE Technology's instructions and policies applicable to the delivery of the Deliverable.
- 4.3 The Customer shall ensure that the Place of Delivery has been prepared for receipt of the Deliverable in due time and that conditions at the Place of Delivery are as may reasonably be expected, such that the Deliverable may be delivered without any interruption until delivery is completed. This includes, e.g., compliance with the required security clearances and providing access to power, air conditioning, LAN, etc. to the extent necessary etc.

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## 5. FORCE MAJEURE

- 5.1 Whether in whole or in part FORCE Technology shall not be held liable for any non-performance, or delayed performance of the Agreement if and to the extent
- 5.2 such non-performance is due to an event which is beyond FORCE Technology's reasonable control and is not due to negligence on the part of FORCE Technology ("Force Majeure"). Force Majeure includes, but is not limited to, acts by authorities, fire, flooding, storm, explosions, riots, natural disasters, war, sabotage, cyberattacks, acts of terrorism, court orders or mandatory injunctions, orders or notices affecting FORCE Technology or critical sub-suppliers, such as lockouts and strikes. Force Majeure further includes, but is not limited to, epidemics, quarantine, isolation, exit/entry bans from local authorities to the Customer, or a workplace designated by the Customer due to health risks, including restrictions on air transportation and/or other forms of transportation for the same reasons.
- 5.3 If a Force Majeure event continues for more than three (3) months, either Party may terminate the Agreement and any (relevant) orders.
- 5.4 In the event of the Customer's termination of the Agreement or an order due to Force Majeure after three (3) months, cf. clause 5.3, the Customer shall pay any outstanding fees and reimburse any expenses paid, including pro rata payments for work performed until the date of notice of termination, including, but not limited to, costs for sub-suppliers and expenses relating to work which FORCE Technology has already agreed to pay etc.

## 6. HEALTH AND SAFETY AT WORK

- 6.1 Prior to the commencement of the performance of the Services, the Customer shall inform FORCE Technology in writing of any applicable and relevant security requirements. The Services shall not be performed in unhealthy or hazardous surroundings.
- 6.2 The Customer guarantees safe working conditions, including sufficient and correct instruction of FORCE Technology's employees at the Place of Delivery.
- 6.3 Unless the Parties explicitly have agreed otherwise in the Agreement, the Customer shall make available an appropriate number of engineers/technicians, local transport, cranes, transport, lifting, towing, and docking equipment together with power and similar supplies to the extent necessary for the purpose of FORCE Technology's performance of Services at the Place of Delivery. If FORCE Technology's employees independently assess that the performance of the work poses a health or safety risk to FORCE Technology's employees or otherwise prevents the safe performance of the work, FORCE Technology's employees may at any time cease working without FORCE Technology nor FORCE Technology's

employees incurring any liability in that respect towards the Customer.

## 7. WORKING CONDITIONS

- 7.1 The Customer shall ensure that FORCE Technology's staff will be able to commence the work in accordance with the agreed time schedule within normal working hours as well as outside normal working hours to the extent deemed necessary by FORCE Technology.
- 7.2 FORCE Technology's staff shall be able to obtain appropriate and convenient board and lodging in the vicinity of the Place of Delivery.
- 7.3 The Customer shall reimburse FORCE Technology for any expenses incurred in connection with travel to and from the Place of Delivery, board and lodging and other facilities in accordance with clause 7.2.
- 7.4 The Customer shall, at no cost to FORCE Technology, make available storage facilities at the Place of Delivery to the extent necessary and safeguard the items stored (including Products, tools, and equipment necessary for providing the Deliverable, and FORCE Technology staff's personal items) against theft, deterioration, and accidental destruction.

## 8. PRICE

- 8.1 Unless the Parties explicitly have agreed otherwise in the Agreement, the price for the Deliverable shall be determined on the basis, of the prices of FORCE Technology applicable from time to time.
- 8.2 FORCE Technology reserves the right to adjust its hourly rates. Furthermore, FORCE Technology reserves the right to index its hourly rates in accordance with Statistics Denmark's net price index, annually in January.
- 8.3 If the price of the Deliverable wholly or partly was determined on a time-spent basis and exceeds the price offered and/or estimated by up to ten per cent (10%) of the offered/estimated price, FORCE Technology reserves the right to invoice that amount without prior notice.
- 8.4 If no prices have been agreed between the Parties, FORCE Technology will determine its prices in accordance with FORCE Technology's applicable hourly rates at the time of provision of the Deliverable.
- 8.5 Unless the Parties explicitly have agreed otherwise in the Agreement, all prices are stated exclusive of:
  - (a) Taxes and duties, including VAT and customs duty;
  - (b) Any expenses or fees in connection with packaging, handling, insurance, and transport of goods which will be invoiced separately to the Customer.

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## 9. PAYMENT TERMS

- 9.1 Unless the Parties explicitly have agreed otherwise in the Agreement, the Customer shall comply with the following payment terms:
- (a) The Customer's payment date is thirty (30) calendar days calculated from the date of invoice, unless the Parties have agreed upon a payment plan and/or a prepayment, then the Customer's payment date is five (5) calendar days.
  - (b) Payment shall be made to the bank account designated by FORCE Technology.
  - (c) The Customer shall pay all amounts due under the Agreement. The Customer is not entitled to effect offsetting, deduct counterclaims, nor exercise any lien in amounts due.
- 9.2 In the event of late payment, the Customer must pay interest to FORCE Technology of two per cent (2%) per month of the amount due until payment is made.
- 9.3 In the event of the Customer's failure to comply with the payment terms, FORCE Technology may, without incurring any liability in that respect, be entitled to suspend the performance of its obligations under the Agreement until the Customer has complied with the payment terms. Suspending the performance also includes retention of the Deliverable, including but not limited to, documentation of the Service, Products, reports etc.
- 9.4 The provisions of this clause do not restrict FORCE Technology's other rights or remedies for breach.
- 9.5 FORCE Technology reserves the right to offset any outstanding payments in the event of disputes in relation to the Agreement and/or other agreements with the Customer.

## 10. DELIVERY

- 10.1 Unless the Parties explicitly have agreed otherwise in the Agreement, delivery from FORCE Technology shall be Ex Works (EXW (Incoterms 2020)).
- 10.2 The Customer's delivery to FORCE Technology shall be Delivered Duty Paid (DDP (Incoterms 2020)).
- 10.3 Dates of delivery specified in the Agreement are indicative only. FORCE Technology will take any measures necessary to accommodate such dates, but FORCE Technology is not liable for any delayed delivery, irrespective of whether the delay is due to Force Majeure or other reasons.
- 10.4 If FORCE Technology realises that delivery will be delayed, FORCE Technology shall as soon as practically possible, notify the Customer of the reason for the delay and the expected duration of the delay.
- 10.5 FORCE Technology is not liable for any delays resulting from the failure of sub-suppliers to make timely delivery, provided, that FORCE Technology is able to document that such delays are due to sub-suppliers' non-delivery, including, but not limited to, lack of delivery of original spare parts, sub-suppliers' bankruptcy, etc.

## 11. INVOICING

- 11.1 If the Deliverable is delivered Ex Works (Incoterms 2020) in accordance with clause **Error! Reference source not found.**, the Customer shall make payment in accordance with the following payment schedule:
- (a) Thirty per cent (30%) of the fixed or estimated price seven (7) calendar days after signing of the Agreement.
  - (b) Thirty per cent (30 %) of the fixed or estimated price at the date falling midway between the signing of the Agreement and the date of delivery.
  - (c) Forty per cent (40%) of the fixed or estimated price at the Date of Delivery.
- 11.2 If FORCE Technology in accordance with the Agreement is to carry out the installation as part of the Deliverable, the Customer's payment shall be made in accordance with the following payment schedule:
- (a) Thirty per cent (30%) of the fixed or estimated price seven (7) calendar days after signing of the Agreement.
  - (b) Thirty per cent (30%) of the fixed or estimated price at the date falling midway between the signing of the Agreement and agreed date of dispatch of the Products to be installed.
  - (c) Thirty per cent (30%) of the fixed or estimated price at the Date of Delivery.
  - (d) The remaining part of the fixed or estimated price shall be paid on issuance of the SAT certificate, but not later than ten (10) calendar days after the performance of an undisputed SAT.

## 12. EXTRA WORKS

- 12.1 "Extra Work" shall mean deliverables provided in connection with or in addition to the Agreement or work derogating from what was agreed under the Agreement.
- 12.2 The Customer may request alterations to the scope, quality, design, and composition of the Deliverable originally agreed ("Alterations") until the Products have been delivered. Such requests shall include an exact description of the Alteration in question.
- 12.3 Within a reasonable time of receipt of a request for Alteration, cf. clause 12.2 above, FORCE Technology shall inform the Customer in writing of whether and how the Alteration may be executed, specifying the price of the Alteration, the time schedule for the Alteration and any other amendments to the Agreement.
- 12.4 Where FORCE Technology is to perform Extra Works, FORCE Technology will be entitled to both i. an extension of time to the extent deemed necessary by FORCE Technology and ii. payment for such Extra Works.

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- 12.5 FORCE Technology is not obliged to execute Alterations until the Parties have agreed on how such Alteration will affect the price, the time schedule, and other terms of the Agreement.
- 12.6 The Customer is liable for any costs and expenses due to Extra Works and/or Alterations unless the Parties explicitly have agreed otherwise.
- 13. FAT**
- 13.1 "FAT" shall mean FORCE Technology's internal factory acceptance test performed at the location where the Product was produced, in accordance with FORCE Technology's usual processes and procedures.
- 13.2 As part of its internal quality assurance, FORCE Technology may subject the Product to an FAT.
- 13.3 FORCE Technology shall, within one (1) week prior to the performance of the FAT, inform the Customer that such FAT will be performed. The Customer may, for its own account, participate as an observer in the FAT. If the Customer approves the Product during such FAT, the Customer shall be prevented from rejecting the Product during a subsequent SAT, always provided that the quality and the function of the Product is unchanged in relation to the FAT.
- 14. SAT**
- 14.1 "SAT" shall mean the site acceptance test performed in accordance with FORCE Technology's usual practice and procedures.
- 14.2 This clause 14 shall apply only to the extent the Parties have explicitly agreed to perform an SAT.
- 14.3 An SAT shall be performed after the Product has been installed to determine whether the Product conforms to contract. FORCE Technology shall with reasonable written notice inform the Customer of when the Product is ready for SAT, including information on when FORCE Technology's staff and other assistance necessary to perform the SAT are ready. FORCE Technology shall pay all costs for its own staff.
- 14.4 If, after having received notice thereof, the Customer fails to meet its obligations in connection with an SAT or otherwise prevents the SAT from being performed as scheduled, the SAT shall be deemed to have been successfully completed on the date stated in FORCE Technology's notice to the Customer, cf. clause 14.3 above.
- 14.5 SAT shall be performed within normal working hours in accordance with FORCE Technology's procedures. FORCE Technology's procedures are available on request.
- 14.6 The Parties shall prepare written documentation of the SAT and the outcome thereof.
- 14.7 If a completed SAT shows that the Product is not conforming to contract, the Parties shall prepare written documentation of the requirements not met on the completion of an SAT. Any outstanding works and defects with no material impact on the use of the Deliverable shall not prevent an SAT from being considered, to be completed. FORCE Technology shall perform any material outstanding works and remedy any defects without undue delay. Once such defects have been remedied in a satisfactory manner, the SAT shall be deemed to be successfully completed. A new (full or partial) SAT shall be carried out only if necessary, to substantiate that the defects have been remedied.
- 14.8 The Customer shall be responsible for the Place of Delivery and equipment as well as for any damage or injury occurring at the Place of Delivery, except for damage or injury occurring as a result, of gross negligence or intent on the part of FORCE Technology's staff.
- 14.9 FORCE Technology will be entitled to perform such inspections, including investigations, measurements, and observations, at the Place of Delivery at an appropriate time before and after an SAT as FORCE Technology deems necessary for the performance of an SAT. FORCE Technology shall inform the Customer of such measures and of the time and nature thereof well before taking such measures.
- 15. ACCEPTANCE**
- 15.1 The risk of deterioration or accidental destruction of the Deliverable passes to the Customer at the time of acceptance.
- 15.2 Except for any obligations to be met after acceptance under the Agreement, the Deliverable shall be deemed to have been provided when the Customer has accepted the Product. The Customer shall be deemed to accept the Product (i) in accordance with Ex Works (Incoterms 2020) or, if otherwise agreed, (ii) when SAT has been successfully completed, including in situations falling within the scope of 14.4.
- 15.3 To the extent training is part of the Deliverable, such training may be provided after acceptance without preventing acceptance.
- 15.4 The Customer shall not commission the Product or other parts of the Deliverable prior to acceptance. Should the Customer do so without the prior consent of FORCE Technology, acceptance shall be deemed to have occurred, and FORCE Technology shall be released from its obligation to perform an SAT and any other acceptance test.
- 15.5 The Customer shall, within five (5) calendar days of completion of an SAT, issue a certificate stating the date of acceptance in accordance with clause 14 and this clause 15. Where FORCE Technology has not been provided with such certificate or a substantiated objection to acceptance within five (5) calendar days of completion of an SAT, such SAT shall be deemed to have been successfully completed, and the warranty period shall commence. Any failure by the Customer

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to issue a certificate shall not affect acceptance under this clause 15.

## 16. SOFTWARE LICENCE

- 16.1 FORCE Technology's software (including Boot ROM code), any third-party software, documentation, interface, content, font, and any other data linked to such licence, whether pre-installed on FORCE Technology's hardware, on a hard disk, embedded in ROM, on any other medium or in any other form (collectively the "Software") are licensed – not sold – to the Customer by FORCE Technology exclusively for the Customer's use and in accordance with the Agreement.
- 16.2 Unless otherwise provided in the Agreement, the Customer is granted a non-exclusive, non-transferable, non-sublicensable, revocable licence for use of the Software in connection with use of the Deliverable.
- 16.3 The Customer shall use the Software only in accordance with the instructions given in the user manual and only in connection with use of the Deliverable.
- 16.4 The Customer shall not independently decompile, reverse engineer, disassemble, attempt to derive the source code, encrypt, modify, or create derivative works of the Software, nor enable others to do so.
- 16.5 The Customer acknowledges that the Software constitutes a valuable intellectual property right and guarantees that the Customer will take all reasonable measures to prevent unauthorised access to or any sharing of the Software.

## 17. WARRANTY

- 17.1 The Customer has a duty of inspection to be performed immediately after the Customer's receipt of the Deliverable.
- 17.2 FORCE Technology grants a warranty for defects in the physical Product caused by design, material, or faulty workmanship, provided that the Product is used in accordance with the specifications provided by FORCE Technology.
- 17.3 FORCE Technology's liability for defects is limited to defects which existed at the time of delivery and become known within twelve (12) months of acceptance (the "Warranty Period"). The Warranty Period for repairs and spare parts is twelve (12) months from the date when the repair was done, or the part was replaced. The Warranty Period shall not in aggregate exceed twenty-four (24) months from the date of acceptance of the Deliverable, irrespective of when the repair or the replacement of spare parts was carried out.

- 17.4 In the event of defects, the Customer shall, if the Customer wishes to invoke the warranty, immediately notify FORCE Technology thereof in writing, stating the exact nature of the defect. If notice of defect is received during the warranty period concerning a defect for which FORCE Technology is liable, FORCE Technology will, at its discretion:
  - (a) repair the defective Product or the part of the Product which is defective (in situ); or
  - (b) arrange for the defective Product or part to be returned to FORCE Technology for repair; or
  - (c) redeliver the defective Product or part; or
  - (d) deliver the spare parts necessary for enabling the Customer to perform the necessary repairs for the account of FORCE Technology; or
  - (e) refund any amounts paid by the Customer for the Deliverable on a pro rata basis. In the event of a refund, the Customer shall return the Deliverable to FORCE Technology in accordance with FORCE Technology's instructions and for the account and risk of FORCE Technology.
- 17.5 If FORCE Technology has received a defective Product or part for redelivery or repair, the Customer shall pay any transport costs and bear the transport risk.
- 17.6 The warranty set out in clause 17.2 shall not apply:
  - (a) if the defect is attributable to ordinary wear and tear;
  - (b) if unauthorised repairs, changes or modifications have been made to the physical Products, or if they have otherwise been mis-used;
  - (c) in the event of incorrect installation or connection;
  - (d) in the event of non-compliance with maintenance requirements set out in the Product manual or other inadequate maintenance; or
  - (e) if the defect is attributable to the Customer's failure to take reasonable measures in respect of storage of the Deliverable.
- 17.7 FORCE Technology does not guarantee that the Product as a whole (including software, firmware, and hardware) is free of any defects or may be used without interruption.
- 17.8 If special components are used, the warranty period for such components will correspond to the warranty period granted to FORCE Technology by its suppliers.
- 17.9 If FORCE Technology has received a defective Product or part for redelivery or repair, the Customer shall pay any transport costs and bear the transport risk.
- 17.10 Furthermore, FORCE Technology guarantees that the Software may, to a material extent, be used on the hardware specified in the Agreement for a period of two (2) years from the date of delivery.
- 17.11 In the event of defects in the Software, the Customer shall, if the Customer wishes to invoke the warranty, immediately notify FORCE Technology thereof in writing, stating the exact nature of the defect. If notice

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of a defect in the Software is received during the warranty period concerning a defect for which FORCE Technology is liable, FORCE Technology will, at its discretion:

- (a) remedy defects in the defective Software; or
- (b) replace the Software with an updated version to the extent the defect materially affects the use of the Software; or
- (c) instruct the Customer in practical alternative solutions (work-around).

17.12 The warranty will not apply if the defect in the Software is caused by:

- (a) damage to software functionality; or
- (b) unauthorised repairs, changes or modifications to the Software, or other misuse of the Software; or
- (c) inadequate calibration by the Customer; or
- (d) third-party products (e.g., hardware or software) used by the Customer and not designated by FORCE Technology as being compatible with the Software; or
- (e) use of a wrong hardware or software key; or
- (f) unauthorised maintenance or failure to maintain the Software.

17.13 The Customer shall tolerate errors in the Software to the extent such errors do not materially restrict the use of the Deliverable.

17.14 As regards sub-licensed Software, the warranties, if any, provided by the sub-licensor shall be the Customer's sole remedy for breach in the event of defects.

17.15 The Deliverable shall be covered solely by the warranty set out in this clause 17 and any warranties explicitly provided in the Agreement. The Deliverable shall not be deemed to be covered by any other warranty or guarantee, including with respect to marketability, suitability, fitness for a specific purpose, etc., irrespective of whether the Customer may have mentioned such warranty or guarantee.

## 18. INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS

18.1 The Customer shall respect any rights in the Deliverable which may be held by third parties. The Customer accepts that the Customer's right of use of such rights is subject to the restrictions following from the right to sub-licence such rights granted to FORCE Technology.

18.2 If a third party takes legal action, claiming that the Software is infringing such third party's intellectual property rights, FORCE Technology shall, in accordance with the Conditions, indemnify the Customer, always provided that:

- (a) the Customer promptly notifies FORCE Technology of the claim in writing;
- (b) the Customer does not make any concessions limiting FORCE Technology's options of defending itself against the claim;

(c) FORCE Technology is given full control of the conduction of the case and of all negotiations relating to the claim; and

(d) the Customer assists FORCE Technology in any way which FORCE Technology may request.

18.3 If the Customer is, or if in FORCE Technology's opinion there is a risk that the Customer may be, met with a claim concerning the Software, FORCE Technology may for its own account replace or modify the Software to the effect that the Software no longer infringes any third-party intellectual property rights.

18.4 If it is not possible to take remedial action as set out in clause 18.3 above at a price and on terms which FORCE Technology deems reasonable, FORCE Technology shall refund an amount to the Customer corresponding to the Customer's payment for the licence for the relevant part of the Software against the Customer, at FORCE Technology's written request and for the account of FORCE Technology, returning to FORCE Technology the relevant part of the Software including related documentation.

18.5 FORCE Technology's obligations as set out in this clause 18 shall not apply to, and FORCE Technology shall not be liable for, infringement of third-party intellectual property rights caused by:

- (a) use of the Software in combination with other software, documentation or equipment if the infringement would otherwise not have existed;
- (b) modification of the Software not performed by FORCE Technology if the infringement would otherwise not have existed;
- (c) use of a version or release of the Software other than the most recent version or release after FORCE Technology has requested that the Customer use the most recent version or release due to alleged infringement of third-party intellectual property rights if the infringement would otherwise not have existed.

18.6 The Parties agree that these Conditions exhaustively set out FORCE Technology's liability vis-à-vis the Customer in the event, that the Software infringes third-party intellectual property rights.

## 19. SUB-SUPPLIERS

19.1 FORCE Technology may freely use sub-suppliers without the Customer's approval. FORCE Technology is liable for any sub-suppliers to the same extent as to its own staff except otherwise stated in the Conditions e.g., cf. clause 10.5.

## 20. LIABILITY

20.1 The Customer's remedies for breach and FORCE Technology's liability are limited to the warranty set out in clause 17 above.

20.2 FORCE Technology is not liable for any costs, loss, or damage, unless it may be documented that such costs, loss or damage was foreseeable and caused by error

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- or negligence on the part of FORCE Technology in connection with the provision of the Deliverable.
- 20.3 FORCE Technology is not liable for any business interruption, loss of time, loss of profits or any similar indirect loss, including any indirect loss which may have been remunerated to a third party.
- 20.4 FORCE Technology will provide the Deliverable based on the knowledge and technology available to FORCE Technology at the time when the Deliverable is provided.
- 20.5 FORCE Technology is not liable for any loss of damage arising in connection with the use of the Deliverable or any part thereof falling outside the scope of the purpose agreed between the Parties.
- 20.6 FORCE Technology is not liable for any statement, declaration, representation or estimate which is evidently a result of an assessment based on discretion, unless it may be documented that such assessment based on discretion was incomplete based on general knowledge or technology in the relevant industry at the time of provision of the Deliverable.
- 20.7 FORCE Technology shall not incur product liability for any damage or loss, except in the event the damage or loss was caused by a defect in the Product causing the damage or loss, and such defect existed at the time of delivery and was due to error or neglect on the part of FORCE Technology when the Product was manufactured.
- 20.8 FORCE Technology's aggregate liability - whether contractual or non-contractual - under an order, is limited to the amount of said order. In addition, FORCE Technology's aggregate liability – whether contractual or non-contractual - over a period of 12 months, is limited to the amount that Customer has paid to FORCE Technology within the respective 12 months. Notwithstanding the above, FORCE Technology's aggregate liability under this Agreement is limited to one million kroner (DKK 1,000,000). This limitation of liability also includes amounts that may have to be reimbursed to third parties.
- 20.9 In the event of third-party claims for which FORCE Technology is not liable under the Agreement, the Customer shall, at FORCE Technology's request, assume conducting litigation and indemnify FORCE Technology for any costs, including legal costs and any amounts of damages.
- 21. CLAIMANT'S DEFAULT**
- 21.1 If the Customer realises that the Customer is not able to perform its obligations under the Agreement, including, but not limited to, receive the Deliverable at the agreed time and/or at the agreed place, the Customer shall promptly notify FORCE Technology in writing of the cause of the breach, specifying the time when the Customer expects to be able to perform its obligations.
- 21.2 In the event of the Customer's breach of the Agreement, the Customer shall compensate any loss and reimburse reasonable costs deriving therefrom. If practicable, FORCE Technology may, for the account of the Customer, secure performance of the Agreement.
- 21.3 In the event of claimant's default, the delivery shall be deemed to be made on the fifth (5th) working day after the agreed date of delivery, and the warranty, cf. clause 17 above, shall run from that date. "Working day" shall mean Monday to Friday, excluding Danish holidays.
- 21.4 Upon receipt of the Customer's notification, cf. clause 21.1 above, FORCE Technology may suspend the performance of FORCE Technology's obligations under the Agreement until such time as the Customer performs its obligations under the Agreement. If necessary, FORCE Technology may facilitate the storage of the Deliverable for the account and risk of the Customer.
- 21.5 Unless the Customer's breach, cf. clause 21.1, is due to Force Majeure, FORCE Technology may specify a reasonable time limit for the Customer's performance of its obligations. If the Customer fails to accommodate the time limit and this is not due to circumstances for which FORCE Technology is liable, FORCE Technology may terminate the Agreement for breach. In that event, FORCE Technology will be entitled to compensation for any loss incurred as a result, of the Customer's breach.
- 22. INFORMATION AND CONFIDENTIALITY**
- 22.1 "Confidential Information" shall mean any and all non-publicly available information or item belonging or otherwise pertaining to a Party and which the Disclosing Party regards as proprietary or confidential, including, but not limited to, any kind of business, commercial or technical information, diagrams, processes, formulas and data which are disclosed by that Party (the "Disclosing Party") to the other Party (the "Receiving Party") in connection with the Agreement, irrespective of the medium on which such information or data is embedded.
- 22.2 All Confidential Information exchanged between the Parties pursuant to the Agreement shall be used exclusively by the Receiving Party for the purpose of performing the Agreement.
- 22.3 The Receiving Party undertakes, to keep Confidential Information in strict confidence, and restrict any unauthorized third parties' access to the Confidential Information. The Receiving Party is obligated to ensure that any person, the Receiving Party involves in the fulfilment of the Agreement, is subject to the same confidentiality obligation as the Receiving Part. Further, the Receiving Party undertakes to ensure that Confidential Information is not distributed, disclosed, or disseminated in any way or form to anyone except those having a reasonable need to obtain the

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Confidential Information and who are bound to confidentiality by their employment agreements or the likes hereof.

22.4 The duty of confidentiality as set forth in this section 22 does not apply to information which;

- a) at the time of receipt is or later becomes available to the public a through no breach of this Agreement; or
- b) at the time of receipt is in the rightful possession of the Receiving Party or its affiliates; or
- c) is lawfully obtained by the Receiving Party or any of its affiliates from a third party without confidentiality restrictions, provided said third party, to the knowledge of the Receiving Party, is not in breach of any duty of confidentiality relating to such information; or
- d) is independently developed by the Receiving Party or any of its affiliates without use of the Confidential Information as proven by the Receiving Party; or
- e) is approved for release or use by written authorisation by the Disclosing Party.

22.5 Confidential Information may be disclosed by the Receiving Party if required to be disclosed by law or regulation or in response to a valid order of court or authorised agency of government. Any such required disclosure shall not, in and of itself, change the status of the disclosed information as Confidential Information under the terms of this Agreement. In the event of said disclosure, the Disclosing Party must be notified by the Receiving Party immediately. Said disclosure shall be limited only to what is required by law, court order or governmental decision.

22.6 As an RTO Institute, FORCE Technology is subject to ministerial supervision including user surveys among Danish customers. For that purpose, FORCE Technology is required to disclose the company names of Customers and their registration numbers and addresses, unless a customer relationship is subject to a separate non-disclosure agreement.

## 23. MARKETING AND REFERENCES

23.1 The Customer's use of FORCE Technology's name and logo for marketing purposes is subject to written agreement with FORCE Technology.

23.2 If the Customer intends to use product descriptions, product specifications, plans or results from the Deliverable for marketing purposes, the Customer shall – e.g., if the Deliverable is a report – loyally refer to FORCE Technology's full material in accordance with applicable law.

23.3 FORCE Technology's product descriptions, product specifications, drawings/plans and reports may be published only in their full length, and sources shall be listed. Any use of excerpts or in the form of quotations is subject to written agreement.

23.4 Notwithstanding the provision on confidentiality set

out in clause 22, FORCE Technology may disclose the name of the Customer and the general contents of the Deliverable as a reference, unless the customer relationship as such is subject to a separate non-disclosure agreement.

## 24. TITLE AND INTELLECTUAL PROPERTY RIGHTS

24.1 Irrespective of whether the Customer may have the Service in its possession, the title to the Service will not pass to the Customer until FORCE Technology has received full payment for this (**retention of title**). Until full payment has taken place, the Customer shall to the extent possible clearly mark the Service as belonging to FORCE Technology and shall keep e.g., but not limited to any, physically products separate from property belonging to the Customer and any third party.

24.2 FORCE Technology neither transfers nor grants license to intellectual property rights (including rights to data and/or knowhow) developed by or licensed to FORCE Technology independently of the performance of the Service.

24.3 All intellectual property rights (including rights to data and/or knowhow) contained in the Service are not assigned to the Customer. Instead, the Customer is granted a worldwide, non-transferable, non-exclusive, perpetual right to use intellectual property rights contained in the Service.

## 25. TERMINATION

25.1 The Agreement may be terminated by either Party at thirty (30) calendar days' written notice. However, in the event of termination of the Agreement, the Customer shall pay any outstanding fee and costs, including pro rata payments for work performed until the date of notice of termination, including, but not limited to, costs for sub-suppliers and expenses relating to work which FORCE Technology has already agreed to pay etc.

25.2 Either Party may terminate the Agreement for breach without notice in the event of the other Party's material breach of the Agreement.

25.3 Any non-compliance with the payment terms and any breach of clause 27 will always be deemed to constitute a material breach.

## 26. BUSINESS ETHICS AND CODE OF CONDUCT

26.1 FORCE Technology complies at any time with its Code of Conduct, which is available upon request from the Customer.

## 27. SANCTIONS AND EXPORT CONTROL

27.1 The Customer warrants and represents that neither the Customer, its - direct or indirect – owners, any affiliates, nor any other involved parties, including the end-user and its direct or indirect owners and affiliates, are subject to any sanctions, including, but



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not limited to, sanctions issued by the United States Department of the Treasury or the Office of Foreign Assets Controls (OFAC), the European Union or any other applicable sanction ("Sanctions") which would prevent FORCE Technology from trading with the Customer. The Customer undertakes to implement adequate procedures to ensure that the Deliverable is not facilitating any business with an entity subject to applicable Sanctions.

27.2 In the event the Customer, its – direct or indirect - owners, its affiliates or any other involved parties, including the end-user and its direct or indirect owners and affiliates, is or becomes subject to Sanctions at any point in time, FORCE Technology shall, without incurring any liability towards Customer or any third party, have the right to amend, suspend or terminate any agreement, withhold any deliverables, payments or services, and reject payments in order to comply with the applicable Sanctions.

27.3 If, as a part of the Deliverable performed under the Agreement, the Customer shall deliver or disclose to FORCE Technology any technologies, products, test objects or other elements that are covered by any global export control programmes such as the European Union Regulation (EU) No 821/2021, as amended, or similar, the Customer must warrant and represent that this is done in compliance with applicable export control regulations. The Customer shall in advance inform FORCE Technology of any relevant export control data such as both EU and U.S. ECCN (Export Control Classification Number), and furthermore, the Customer represents and warrants that the delivery and redelivery of the product, test object, Deliverable or report has received the relevant export control approval from the applicable authorities. Upon request the Customer must within three (3) calendar days, document export control licence, end-user statement or other relevant documentation.

27.4 The Customer is liable for and must indemnify FORCE Technology for any loss, damage, or costs in connection with any violation of applicable Sanctions and/or export control regulations.

## 28. USE AND REDISTRIBUTION

28.1 In connection with the use or, if applicable, redistribution of the Deliverable, the Customer shall use/redistribute the Deliverable in a proper manner and to the extent possible take precautions so as to ensure that neither the Customer nor FORCE Technology will incur product liability. Thus, the Customer shall instruct any contracting party, business partner and subsequent buyer of the properties and the use of the Deliverable to the extent such contracting parties, business partners and subsequent buyers cannot reasonably be assumed to possess such knowledge. Furthermore, the Customer shall make

available packaging, user manuals, etc. containing the necessary descriptions and warnings. The Customer shall further ensure that any subsequent parts of the distribution chain will also comply with the requirements set out in this clause 28.

## 29. GOVERNING LAW AND DISPUTES

29.1 The Agreement, including these Conditions, is governed by Danish law with the exception, of provisions and rules concerning conflict of laws.

29.2 Any dispute which may arise between the Parties in connection with the provision of the Deliverable, including the interpretation of the Agreement, shall, if the dispute cannot be resolved amicably between the Parties, be decided by the Danish Institute of Arbitration pursuant to the rules adopted by the Danish Institute of Arbitration in force at the time of institution of the arbitration proceedings. The proceedings before the Institute of Arbitration and, not least, the decision by the Institute of Arbitration shall be treated as confidential information.

## 30. ACCREDITED SERVICES

30.1 Accredited services are provided in accordance with relevant regulation in force from time to time and in accordance with and limited to the relevant standards and norms.

30.2 FORCE Technology is subject to the supervision of accreditation bodies, which are under an obligation to treat any information relating to the Customer as confidential. The Customer accepts that, in respect of accredited services, FORCE Technology grants said accreditation bodies access to the Customer's information for supervision purposes.

## 31. SEVERABILITY

31.1 If one or more provisions of the Agreement are set aside or cannot be legally enforced, the Agreement shall be construed as if such provision(s) had never been contained therein. If the majority, of the material provisions of the Agreement are still enforceable, setting aside one or more provisions shall not have any bearing on the Agreement generally, and the Agreement shall thus still be binding on the Parties.

## 32. INDEPENDENT CONTRACTORS

32.1 It is expressly agreed between the Parties that the Parties collaborate as independent contractors and that the collaboration between the Parties shall not constitute a partnership, joint venture, or agency. Neither Party shall make any statement, representation or commitment of any kind or take any action which will be binding on the other Party without the prior consent of the other Party.

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## 33. NON-WAIVER OF RIGHTS

33.1 If a Party fails to enforce its rights under the Agreement or waives specific rights in the event of the other Party's breach of the Agreement, that Party will

retain the right to enforce the applicable provisions in the event of any subsequent breach of the Agreement, except in the event the Party has waived such rights in writing.

English version 03/2024