

# FORCE Technology – General conditions

Service and test



## 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").
- 1.5 Consultancy services shall not form part of the Deliverable unless explicitly stated in the Agreement.
- 1.6 These Conditions apply to all work 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, drawings/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 (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 MAJEURE

- 3.1 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 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.

- 3.2 If a Force Majeure event continues for more than three (3) months, either Party may terminate the Agreement and any (relevant) orders.
- 3.3 In the event of the Customer's termination of the Agreement or an order due to Force Majeure after three (3) months, cf. clause 3.2, 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 for work which FORCE Technology has already agreed to pay etc.

## 4. HEALTH AND SAFETY AT WORK

- 4.1 The Customer guarantees safe working conditions, including sufficient and correct instruction of FORCE Technology's employees at workplaces designated by the Customer.
- 4.2 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.

## 5. PRICE

- 5.1 Unless the Parties explicitly have agreed otherwise in the Agreement, the price shall be determined on a time-spent basis.
- 5.2 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.
- 5.3 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

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Technology reserves the right to invoice that amount without prior notice.

5.4 If no prices have been agreed between the Parties, FORCE Technology will determine prices in accordance with FORCE Technology's generally applicable prices at the time of provision of the Deliverable.

5.5 Unless otherwise provided 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.

### 6. PAYMENT TERMS

6.1 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 shall not be entitled to effect offsetting, deduct counterclaims or exercise any lien in amounts due.

6.2 In the event of late payment, the Customer shall pay interest to FORCE Technology of two per cent (2%) per month of the amount due until payment is made.

6.3 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, but is not limited to, retention of documentation, including, but not limited to, test objects, certificates, reports etc.

6.4 The provisions of this clause do not restrict FORCE Technology's other rights or remedies for breach.

6.5 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.

### 7. DELIVERY

7.1 Unless the Parties explicitly have agreed otherwise in the Agreement, delivery from FORCE Technology shall be Ex Works (EXW (Incoterms 2020)).

7.2 The Customer's delivery to FORCE Technology shall be Delivered Duty Paid (DDP (Incoterms 2020)).

### 8. INVOICING

8.1 Unless the Parties explicitly have agreed otherwise in the Agreement, the Customer will be invoiced twenty-five per cent (25%) of the fixed or estimated price on acceptance of an order, but not less than five thousand Danish kroner (DKK 5,000), if the order exceeds an amount of five thousand Danish kroner (DKK 5,000).

8.2 As regards ongoing Deliverables performed over a period exceeding thirty (30) calendar days, FORCE Technology may request on-account payments calculated on the basis, of an estimate by FORCE Technology of the completed part of the Deliverable per month.

### 9. TEST OBJECTS

9.1 If the Deliverable consists, in whole or in part, of testing, it may be necessary to modify the test object for the purpose of performing certain tests.

9.2 FORCE Technology does not guarantee that test objects may be used for their intended purpose after testing.

9.3 Upon provision of the Deliverable, FORCE Technology will return test objects to the Customer unless otherwise agreed in writing.

9.4 Test objects shall be delivered to FORCE Technology Delivered Duty Paid (Incoterms 2020)). Receipt, handling, and storage of test objects, until testing is performed, is upon Customer's risk and cost.

9.5 Test objects shall be returned Ex Works (Incoterms 2020). If the Customer does not arrange for collection of the test object within 30 (thirty) days of FORCE Technology's written notification of the date of return, FORCE Technology may dispose of the Customer's test object. Any costs associated with the disposal of the Customer's test object shall be invoiced to the Customer.

9.6 If, in connection with regulatory approval of products, special statutory requirements apply to FORCE Technology's storage of test objects, including the documentation therefor, FORCE Technology will store test objects in compliance with such statutory requirements.

### 10. NOTICE OF DEFECTS

10.1 The Customer has a duty of inspection to be performed immediately after the Customer's receipt of the Deliverable.

10.2 In the event of use of special components, the time limit for giving notice of defects in such components will correspond to the time limit granted to FORCE Technology by its suppliers.

10.3 In the event of defects, the Customer shall immediately notify FORCE Technology thereof in writing, stating the exact nature of the defect. If notice of defect is received concerning a defect for which FORCE Technology is liable, FORCE Technology will, at

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- its discretion, take remedial action or make a redelivery or a subsequent delivery.
- 10.4 If FORCE Technology has received a defective part or defective equipment for redelivery or repair, the Customer shall pay any transport costs and bear the transport risk.
- 10.5 Defective parts or equipment to be redelivered shall be made available to FORCE Technology.
- 10.6 FORCE Technology's liability for defects is limited to defects which existed at the time of delivery and become known within twenty-four (24) months of that date of delivery.
- 11. LIABILITY**
- 11.1 FORCE Technology's liability is limited to defects identified in connection with proper use of the Deliverable. FORCE Technology is not liable for (i) defects resulting from incorrect installation and maintenance or repairs performed by parties other than FORCE Technology's employees or agents; (ii) modifications performed without FORCE Technology's written approval; (iii) defects due to ordinary wear and tear; or (iv) any loss or 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.
- 11.2 If the Deliverable or any part thereof is covered by a warranty, the warranty period shall not be deemed to have been renewed or extended, irrespective of whether FORCE Technology repairs the Deliverable or replaces spare parts after delivery.
- 11.3 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 or negligence on the part of FORCE Technology in connection with the provision of the Deliverable.
- 11.4 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.
- 11.5 FORCE Technology will provide the Deliverable based on the knowledge and technology available to FORCE Technology at the time when the Deliverable is provided.
- 11.6 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.
- 11.7 FORCE Technology is only liable for any loss or damage as a direct result of FORCE Technology having failed to inform the Customer in due time of existing defects which ought to have been discovered when performing the Deliverable.
- 11.8 FORCE Technology is not liable for any loss or damage which is due to a characteristic of a product or a use of a product which has either (i) not been tested or examined or (ii) does not appear from or otherwise differs from FORCE Technology's description of the characteristic or the possible use of the product in reports or the like.
- 11.9 FORCE Technology is not liable for any damage where the product or product type causing the damage has not been specifically tested, calibrated, product tested or otherwise tested by FORCE Technology, unless the Customer substantiates (i) a basis of liability and (ii) that the product causing the damage is identical to a product specifically tested and inspected by FORCE Technology.
- 11.10 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.
- 11.11 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.
- 12. CLAIMANT'S DEFAULT**
- 12.1 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.
- 12.2 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.
- 12.3 Upon receipt of the Customer's notification, cf. clause 12.1 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.
- 12.4 Unless the Customer's breach, cf. clause 12.1, is due to

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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.

## 13. INFORMATION AND CONFIDENTIALITY

- 13.1 "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.
- 13.2 Any 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.
- 13.3 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 Confidential Information and who are bound to confidentiality by their employment agreements or the likes hereof.
- 13.4 The duty of confidentiality as set forth in this section 13 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.

- 13.5 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 by a 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 the Agreement. In the event of such disclosure, the Receiving Party shall immediately inform the Disclosing Party thereof. Such disclosure shall be limited only to what is required by law, court order or governmental decision.
- 13.6 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.

## 14. MARKETING AND REFERENCES

- 14.1 The Customer's use of FORCE Technology's name and logo for marketing purposes is subject to written agreement with FORCE Technology.
- 14.2 If the Customer intends to use 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 report in accordance with applicable law.
- 14.3 If FORCE Technology's provision of the Deliverable is discontinued or suspended prior to finalisation, the Customer may use FORCE Technology's name and logo only in respect of the part of the Deliverable or results delivered, subject to written agreement with FORCE Technology.
- 14.4 FORCE Technology's 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.
- 14.5 Notwithstanding the provision on confidentiality set out in clause 13, 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.

## 15. TITLE AND OTHER INTELLECTUAL PROPERTY RIGHTS

- 15.1 Irrespective of whether the Customer may have the Deliverable in its possession, the title to the Deliverable 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 Deliverable as belonging to FORCE Technology and shall keep e.g., but not limited to any, physically products separate from property belonging to the



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- Customer and any third party.
- 15.2 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 Deliverable.
- 15.3 All intellectual property rights (including rights to data and/or knowhow) contained in the Deliverable 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 Deliverable.
- 16. CUSTOMER'S POSTPONEMENT OF THE DATE OF PROVISION OF THE DELIVERABLE**
- 16.1 The date of provision of the Deliverable may be postponed subject to specific agreement with FORCE Technology, always provided that the Customer pays a specified postponement fee, if any, covering FORCE Technology's costs associated with the postponement, including for sub-suppliers, booked facilities and staff as well as other costs relating to work for which FORCE Technology has already agreed to make payment. The same applies if the Customer has caused a delay in the work.
- 17. TERMINATION**
- 17.1 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 costs for sub-suppliers, booked facilities and staff and expenses relating to work which FORCE Technology has already agreed to make pay.
- 17.2 Either Party may terminate the Agreement for breach without notice in the event of the other Party's material breach of the Agreement.
- 17.3 Any non-compliance with the payment terms and any breach of clause 19 will always be deemed to constitute a material breach.
- 18. BUSINESS ETHICS AND CODE OF CONDUCT**
- 18.1 FORCE Technology observes at any time FORCE Technology's Code of Conduct, which is available on request from the Customer.
- 19. SANCTIONS AND EXPORT CONTROL**
- 19.1 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 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.
- 19.2 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.
- 19.3 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.
- 19.4 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.
- 20. GOVERNING LAW AND DISPUTES**
- 20.1 The Agreement, including these Conditions, is governed by Danish law with the exception, of provisions and rules concerning conflict of laws.
- 20.2 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,

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not least, the decision by the Institute of Arbitration, are deemed to be Confidential Information, see clause 13.

## 21. ACCREDITED SERVICES

- 21.1 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.
- 21.2 FORCE Technology is subject to supervision from, among others, the accreditation authorities, and other designated bodies, all of which have a duty to treat all information related to the Customer with confidentiality. The Customer accepts that the accreditation authorities and designated bodies will have access to the Customer's information when conducting their supervision, including that the accreditation authorities and other designated bodies may attend accredited tests of equipment without notice.

## 22. SEVERABILITY

- 22.1 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.

## 23. INDEPENDENT CONTRACTORS

- 23.1 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.

## 24. NON-WAIVER OF RIGHTS

- 24.1 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