

Complexus Limited – Terms of Hire

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1 Introduction

These Terms and Conditions are the standard terms that apply to the hire of all Equipment from us, Complexus Limited, a company registered in England and Wales under number **04277517**, whose registered office address is at Manor Court Chambers, Townsend Drive, Nuneaton, Warwickshire, United Kingdom, CV11 6RU (“the Company/we/us/our”).

2 Definitions and Interpretation

2.1

In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

“**Client/you/your**” means the customer who is renting the Equipment or the firm or corporate body ordering the Equipment for hire. Where an individual is entering into the Contract on behalf of a business, the individual confirms they have the authority to enter into the Contract on behalf of that business and the business will be the Client in the context of the Contract;

“**Contract**” means the contract formed as detailed in clause 3, which shall incorporate, and be subject to, these Terms and Conditions;

“**Equipment**” means the equipment to be hired by the Client, including but not limited to, trackers and panic alarms;

“**Hire Term**” means the term of hire as set out in our Quotation, which may be extended by agreement;

“**Order**” means your order to hire the Equipment; and

“**Quotation**” means our quotation for the provision of the Equipment for hire. Any Quotation remains open for acceptance for a period of 30 days unless otherwise specified.

2.2

Unless the context otherwise requires, each reference in these Terms and Conditions to:

2.2.1

“writing” and “written” includes emails and similar communications;

2.2.2

A statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;

2.2.3

“these Terms and Conditions” is a reference to these Terms and Conditions as amended or supplemented at the relevant time;

2.2.4

A clause is a reference to a clause of these Terms and Conditions;

2.2.5

A “Party” or the “Parties” refer to the parties to these Terms and Conditions.

2.3

The headings used in these Terms and Conditions are for convenience only and shall have no effect upon their interpretation.

2.4

Words imparting the singular number shall include the plural and vice versa. References to persons shall include corporations.

3 The Contract

3.1

These Terms and Conditions govern the hire of all Equipment by us and will form the basis of the Contract between you and us. If you wish to place an Order with us, you must send an enquiry, and we then will provide you our Quotation.

3.2

A legally binding Contract will be formed as soon as you accept our Quotation (electronically or otherwise), and the Contract will include the acceptance of these Terms and Conditions, which will apply between you and us.

3.3

No terms or conditions stipulated or referred to by you in any form whatsoever will in any respect vary or add to these Terms and Conditions unless we agree otherwise in writing.

3.4

You are responsible for the accuracy of any information submitted to us and for ensuring that the Quotation reflects your requirements. Our Quotation is based on the information provided to us at the time of its preparation. Should any errors or discrepancies become evident which affect the order value, we reserve the right to make adjustments to it.

3.5

Quotations are subject to Equipment availability and may be revoked without liability or substituted on a like for like basis.

3.6

Confirmations will be provided by email and will contain confirmation of the Equipment ordered and the Hire Term.

3.7

If, for any reason, we do not accept or cannot fulfil your Order, no payment will be taken under normal circumstances. If we have taken payment, any such sums will be refunded to you as soon as possible (and in any event, within 14 days).

4 Hire Term

4.1

The agreed Hire Term will be as detailed in our Quotation;

4.2

The Hire Term can be extended at any time prior to the end of the Hire Term, subject to these same Terms and Conditions. Any additional Hire Terms are subject to availability, and we cannot guarantee the ability to extend the original hire term;

4.3

The Equipment may be returned early; however, no refunds will be issued for early returns, and the Hire Term shall be rounded up to the nearest full week;

4.4

We shall attach valid a returns label with all Equipment. You must ensure the Equipment arrives back with us no later than the last day of the Hire Term. If the Goods are not delivered to us on the agreed date then a hire rate will be charged on a weekly basis until the goods have been returned to us;

4.5

We reserve the right to recall the Equipment immediately at any time. In the event that we exercise this right, you will be reimbursed for any and all days remaining in the Hire Term or will be issued immediately with replacement equipment of the same type or of the closest type thereto at no additional cost.

5 Company's Obligations

5.1

We offer standard delivery by post or the collection of our Equipment, which shall be agreed between both Parties. If the Equipment is delivered, you will need to sign for it on delivery. If for any reason we are unable to deliver the Equipment at your chosen delivery address, we will leave a note informing you that the Equipment has been returned to our premises, requesting that you contact us to arrange re-delivery. The re-delivery will be chargeable. In the event of a failed delivery, the starting date of the Hire Term remains the same.

5.2

If, on delivery or collection, any of the Equipment is defective or any parts are missing, and either you lawfully refuse the delivery or you sign for them on delivery as "unexamined" and you give us written notice of such defect within 24 hours of the delivery, we will replace the defective Equipment as soon as is reasonably possible. However, we shall have no further liability to you, and you may not reject the Equipment if delivery is not refused, or notice given by you as set out above.

5.3

The Equipment will be checked to ensure it is working correctly before we dispatch it to you or is collected by you.

5.4

We will use all reasonable endeavours to accommodate any reasonable changes that may be requested by you, subject to your acceptance of any related changes to the fees that may be due as a result.

5.5

We will use all reasonable endeavours to complete our obligations under the Contract, but time will not be of the essence in the performance of these obligations.

6 Client's Obligations

6.1

You agree, during the Hire Term and any extended term, until the Equipment is returned to us, that you will:

6.1.1

Inform us within 24 hours of delivery if there is any damage to the Equipment, if it is not what was agreed, or you want to upgrade;

6.1.2

Keep the Equipment in your possession and control and ensure that it is kept secure;

6.1.3

Operate the Equipment in a proper, safe and prudent manner in accordance with any operating instructions issued and for the purpose for which it was designed, and ensure that the Equipment is operated with all due care and attention;

6.1.4

Keep the Equipment in good working order, fair wear and tear accepted;

6.1.5

Not hold yourself out as owner of the Equipment, nor will you charge, encumber, sell, let, lease, hire or otherwise dispose of, part with, or abandon the Equipment, or permit or suffer the creation of any lien or distress over the Equipment;

6.1.6

Ensure that any identification marks, labels or signs on or fixed to the Equipment are not removed, defaced, amended, obscured or otherwise subjected to interference, including those which identify the Equipment as belonging to us;

6.1.7

Not allow any person other than our authorised personnel (or a person acting under our instruction) to interfere with, modify, relocate or service the Equipment without prior written approval by us; and

6.1.8

Return the Equipment to us at the end of the Hire Term in the same condition, as it was at the beginning of the Hire Term, or any agreed extended term, which we will arrange for you.

6.2

If, when we receive the Equipment back, the whole or any part of the Equipment is found to be lost or damaged, we will invoice for the cost of the repair or replacement and we reserve the right to continue to charge for the hire until such time as all sums under the Contract have been received.

7 Equipment Breakdown

7.1

In the event that the Equipment suffers a breakdown or malfunction, you must immediately stop using it and disconnect it from any power source (where applicable). You must inform us within 24 hours of a breakdown.

7.2

You must not undertake or permit any repair work to be carried out on the Equipment without our express written permission.

7.3

Where the breakdown is caused by fair wear and tear or by a fault in the Equipment, the cost of the repair (including labour and all parts necessary) shall be borne by us and if the Equipment is incapable of being used for a period of 2 weeks or more, no hire charge will be made for the period in which the Equipment was unavailable to you for use. A replacement shall be provided subject to Equipment availability.

7.4

Where the breakdown is caused by your negligence (or that of any third party) or as a result of wilful or accidental damage, misuse, vandalism, neglect or any other cause beyond our reasonable control, the cost of the repair or replacement of the Equipment shall be borne by you.

8 Fees & Payment

8.1

You will be invoiced before the delivery of the Equipment.

8.2

All invoices are payable strictly within 7 days of the date of invoice, without set-off, withholding or deduction.

8.3

All prices quoted are expressed exclusive of VAT.

8.4

Time for payment shall be of the essence of the Contract. If you fail to make any payment to us by the due date then, without prejudice to any other rights which we may have, we shall have the right to recover the Equipment and charge interest from the due date until payment is made in full, both before and after judgment, at the rate of 8% per annum over the Bank of England base rate from time to time in force, in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

9 Title & Risk

9.1

Risk in the Equipment shall pass to you upon it leaving our physical possession or control and shall not revert back to us until the Equipment is back in our possession or control despite the expiry of any agreed Hire Term.

9.2

Title and all rights to the Equipment shall at all times be vested in us and you acknowledge that you have no right, title, property or ownership in the Equipment. You will not acquire title to any goods which we supply to you until such time as they have been paid in full, and until they have been paid for in full we reserve the ownership of such goods;

9.3

We reserve the right to repossess any Equipment in which we retain title without notice. You irrevocably authorise us to enter your premises (or any premises at which we reasonably believe the Equipment is being held) during normal business hours for the purpose of repossessing any Equipment in which we retain title.

9.4

If we supply goods which you claim to be unsuitable or unfit for the purpose in which they were intended, we will replace them or if a replacement is impossible, reimburse the cost of such goods but we reserve the right not to do so, and we shall not be obliged to do so, if the goods are not used or kept or treated by you in accordance with instructions or recommendations given or made either by the manufacturers or by the suppliers.

10 Termination of Hire Term

10.1

Either party may terminate this Contract for any reason by giving 1 weeks' written notice to the Client. You understand that if you terminate this Contract by giving less notice than the specified period, we may charge a Termination Fee up to the total value of the hire fees.

10.2

Either Party has the right to terminate this Contract immediately if the other commits a material breach of this Contract and fails to remedy that breach within 14 days of receiving notice of the breach, or if the other goes into bankruptcy or liquidation either voluntary or compulsory (save for the purposes of bona fide corporate reconstruction or amalgamation) or if a receiver is appointed in respect of the whole or any part of its assets, or if the other has had their personal belongings confiscated in order to satisfy debts or if the other has a receiving order made against them.

10.3

In the event of termination:

10.3.1

All payments due under this Contract shall become due and immediately payable. In respect of any part of the Hire Term or any extended term for which no invoice has been submitted, we shall be entitled to submit an invoice, which shall become due and immediately payable;

10.3.2

Any and all obligations of the Parties which either expressly or by their nature continue beyond the termination, cancellation or expiration of this Contract shall survive termination on a pro-rata basis.

10.4

The rights to terminate this Contract given by this clause 9 shall not prejudice any other right or remedy of either Party in respect of the breach concerned (if any) or any other breach.

11 Confidentiality

Each Party undertakes that throughout the duration of the Contract, the Parties may disclose certain confidential information to each other. Both parties agree that they will not use the confidential information provided by the other, other than to perform their obligations under this Contract. Each Party will maintain the confidential information's confidentiality and will not disseminate it to any third party, unless so authorised by the other Party in writing or unless required to do so by law.

12 Literature & Representations

Any marketing literature is presented in good faith as a guide to represent the Equipment available for hire and does not form a part of the Contract. None of our employees or agents are authorised to make any representation concerning the Equipment unless confirmed by us in writing. In entering into the Contract, the Client acknowledges that it does not rely on and waives any claim for breach of any such representations, which are not so confirmed.

13 Relationship of the Parties

Nothing in the Contract shall constitute or be deemed to constitute a partnership, joint venture, agency or other fiduciary relationship between the Parties other than the contractual relationship expressly provided for in the Contract.

14 Assignment & Sub-Contracting

14.1

You shall not, without our prior written consent, assign, transfer, charge, sub-contract or deal in any other manner will all or any of your rights or obligations under this Contract.

14.2

We may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of our rights or obligations under this Contract, without the consent of the Client.

15 Liability

15.1

Nothing in these Terms and Conditions excludes or seeks to exclude our liability for death or personal injury caused by our negligence, or for fraud or fraudulent misrepresentation.

15.2

Except as provided in clause 14.1 above, we will not by reason of any representation, implied warranty, condition or other term, or any duty at common law or under the express terms contained herein, be liable for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by our employees, agents or otherwise) in connection with the performance of our obligations under the Contract. All warranties or conditions whether express or implied by law are hereby expressly excluded to the maximum extent permitted by law. It is the Client's responsibility to ensure that all relevant Statutes and Regulations, as well as instructions from the manufacturer are followed when hiring and using Equipment from us.

15.3

In the event of a breach by us of our express obligations under these Terms and Conditions, the remedies of the Client will be limited to damages, which in any event, will not exceed the fees and expenses paid by the Client under the Contract in the 12 months preceding the date on which the claim arose.

15.4

You will indemnify us against all damages, costs, claims and expenses suffered as a result of your actions or inactions, including those of any agents or employees of yours.

16 Force Majeure

Neither Party will be liable for any failure or delay in performing their obligations under the Contract where such failure or delay results from any cause beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, acts of terrorism or war, governmental action or any other event beyond the control of the Party in question.

17 No Waiver

No failure or delay by either Party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of the Contract shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

18 Severance

In the event that one or more of the provisions of these Terms and Conditions are found to be unlawful, invalid or otherwise unenforceable, that / those provision(s) will be deemed severed from the remainder of these Terms and Conditions (and the Contract, as appropriate). The remainder of these Terms and Conditions will be valid and enforceable.

19 Data Protection

Each party agrees to comply with all applicable data protection legislation, including the UK General Data Protection Regulation, the Data Protection Act 2018 and all related legislation.

20 Third Party Rights

No part of the Contract is intended to confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply.

21 Laws & Jurisdiction

21.1

These Terms and Conditions and the Contract (including any non-contractual matters and obligations arising from them or associated with them) will be governed by, and construed in accordance with, the laws of England & Wales.

21.2

Any dispute, controversy, proceedings or claim between the Parties relating to these Terms and Conditions or the Contract (including any non-contractual matters and obligations arising from them or associated with them) will fall within the exclusive jurisdiction of the courts of England and Wales.