

Terms and Conditions

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Assumptions of Terms and Conditions

- These terms and conditions (these “Terms”) form a part of any agreement between TOG Enterprises, LLC d/b/a Field Data Solutions (the “Company” or “FDS”) and you (“Customer”) for the rental or lease of any equipment and/or the sale of any equipment or materials.
- The acceptance of any equipment or materials by Customer from the Company or any manufacturer thereof constitutes acceptance of these Terms. Any changes or exceptions to these Terms can only be made in a writing executed by an authorized FDS representative.
- These Terms, the rental/sales order from FDS and the invoice constitute the entire agreement (the “Agreement”) between the Company and Customer with respect to the applicable equipment or materials. Any terms in any other correspondence shall be of no force or effect or in any way binding upon the Company unless in writing executed by an authorized FDS representative.
- If any part, term or provision of the Agreement is declared or determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such holding shall not affect the validity, legality and enforceability of the remaining parts, terms and provisions of the Agreement, the balance of which shall continue to be binding upon the parties. The said invalid, illegal, or unenforceable part, term or provision shall be deemed not to be part of the Agreement and the Agreement shall be construed as if such invalid, illegal, or unenforceable part, term or provision had never been set forth herein.

Price and Payment

- Rental and sale prices are valid for 30 days following the date of the quotation provided by an authorized FDS representative.
- All prices provided in the FDS catalog and website are subject to change without notice.
- FDS will normally invoice Customer at the conclusion of the Rental Period (as defined below) for any rental equipment. For any Rental Period exceeding one month, FDS will invoice Customer at the end of each individual month of the Rental Period. FDS will invoice for materials or any equipment sold to Customer upon delivery thereof to Customer. Customer’s obligation to pay any amounts so invoiced is not dependent on Customer being paid by its client, unless otherwise stated in a writing executed by an authorized FDS representative.
- Invoices will be sent via email or postal mail per Customer’s preference.
- All invoices are marked “NET 30 DAYS FROM DATE OF INVOICE.” Any invoice not paid in full within 5 days of its due date will be subject to a 1.5% per month

late payment charge. In addition, Customer will be liable for all costs and expenses (including reasonable attorneys' fees and disbursements and court costs) incurred by FDS in collecting any overdue amounts or otherwise enforcing its rights hereunder.

Delivery/Shipping Methods

- Free local delivery of equipment and materials is available to customers within an FDS office's designated area. While the Company will do everything within reason to deliver equipment per a customer's request, there is no guarantee that it will be able to do so. The availability of free delivery service will be confirmed when an order is accepted by an authorized FDS representative.
- Orders sent outside a free local delivery area are shipped via Federal Express standard overnight, Federal Express ground or UPS Next Day air service unless otherwise agreed by FDS and Customer.

Rental Terms

RENTAL PERIOD: A rental period (a "Rental Period") begins the day Customer receives the equipment. A Rental Period ends on the day (i) that FDS picks up the equipment from Customer's location in the relevant FDS office's designated area or (ii) that the equipment is received at the relevant FDS office. During the Rental Period (including any time that the equipment is in the possession of a carrier for delivery to FDS), Customer is solely responsible for any loss or damage to the equipment and FDS does not provide any insurance coverage with respect thereto.

RENTAL TERM: A rental term (a "Rental Term") begins on the first business day after the day Customer receives the equipment, unless the equipment is shipped first overnight, priority overnight, UPS Next Day Early A.M. or delivered by FDS early in the morning for use that day, in which case the Rental Term begins on that day. A Rental Term ends on (i) the day that Customer delivers the equipment to a carrier for next day delivery to the Company or (ii) the day before FDS picks up the equipment from Customer's location.

RATES: A "daily" rate is the rate charged for the lease of equipment beginning on the first day of the Rental Term and for all consecutive days thereafter. If applicable, a "weekly" rate is the rate charged for the lease of equipment for a consecutive five (5) business day period beginning on the first day of the Rental Term. Where applicable, a "monthly" rate is the rate charged for the lease of equipment for a consecutive twenty (20) business day period beginning on the first day of the Rental Term.

PRORATED EQUIPMENT RENTAL RATES: FDS prorates the rental rates for both weekly and monthly rentals. After the first week of an equipment rental, the days of each subsequent week are invoiced at a prorated weekly rate (the weekly rate divided by five). After the first month of an equipment rental, the days of each subsequent month are invoiced at a prorated monthly rate (the monthly rate divided by twenty). In

addition, the weekly rate applies to all days in a multiple week rental, until a monthly rate becomes more cost effective for a customer.

FIXED FEE RENTAL RATES: FDS charges no additional fees for standard cleaning and recalibration of equipment upon its return. Customer is obligated to deliver the equipment to the Company or the carrier for delivery to FDS free of all contamination. If FDS must decontaminate the equipment upon its return or pay any charges, fees or fines related to the shipment of equipment in a contaminated condition, Customer shall reimburse FDS for all such amounts.

CANCELLATION: A cancellation fee (equal to twice the standard daily rate for the equipment to be rented) will be charged for any rental order cancelled less than 24 hours prior to the scheduled shipping time. A separate restocking fee of \$50 will be charged for any order of materials being delivered from FDS's inventory cancelled less than 24 hours prior to the scheduled shipping time. To the extent any manufacturer charges FDS any fees related to the cancellation of any order of its equipment or materials, FDS, in its sole discretion, may require Customer reimburse FDS for any such fees.

Equipment Condition Upon Delivery

- Rental equipment will, at the time of delivery to Customer, meet its manufacturer's operating specifications. Customer will have twenty-four (24) hours after delivery of equipment to confirm the equipment is in proper working condition. If the equipment received is not in proper working condition, FDS will cover all shipping expenses.
- In the event that any rental equipment requires repair or re-calibration, Customer will contact the relevant FDS office within twenty-four (24) hours of making that determination. Customer will not allow or permit any person or entity other than FDS to perform repairs on rental equipment. Should rental equipment require re-calibration during the Rental Period, Customer may return the equipment to FDS for re-calibration or Customer may perform its own re-calibration.

Equipment Lost, Stolen, Damaged During Rental Period

- In the event that rental equipment (including any manuals, cables, and/or accessories) is lost, stolen or damaged (other than as the result of ordinary wear and tear) while in the care and custody of Customer or while being shipped from Customer to FDS, Customer shall pay to FDS (i) the replacement cost (as new) of the lost, stolen or damaged equipment or (ii) the cost to repair the damaged equipment, in FDS's sole discretion. In addition, Customer shall pay to FDS the applicable rental rate for the period until the Company has the replacement equipment or repaired equipment available for rent to another party.

- The Company will extend the Rental Period at the standard rental rate to include the period during which equipment is being either replaced or repaired. The decision to repair or replace damaged rental equipment is made in the sole discretion of FDS. At any time during a Rental Period, FDS may, in its sole discretion, request the immediate return of any or all rental equipment from Customer. By doing so, FDS does not waive any of its rights, nor is Customer excused from any of its obligations, under the Agreement.

Instrumental Rental Warranty

FDS WARRANTS THAT THE RENTAL EQUIPMENT PROVIDED WILL, UNDER NORMAL USE, MEET ITS MANUFACTURER'S OPERATING SPECIFICATIONS. THE SOLE OBLIGATION OF FDS UNDER THE FOREGOING WARRANTY SHALL BE, AT ITS EXPENSE, TO REPAIR, RE-CALIBRATE, OR, AT ITS OPTION, REPLACE THE EQUIPMENT THAT SHALL FAIL TO MEET SAID WARRANTY. THE OBLIGATIONS CREATED BY THIS WARRANTY SHALL BE THE SOLE REMEDY OF CUSTOMER. FDS EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. FURTHERMORE, IN NO EVENT, REGARDLESS OF CIRCUMSTANCES, DOES FDS WARRANT THE SUITABILITY OF RENTAL EQUIPMENT FOR CUSTOMER'S PROPOSED USE OR APPLICATION OR SHALL FDS BE LIABLE FOR ANY DAMAGES OR CONSEQUENCES FROM SUCH USE OR APPLICATION.

Limitation of Liability

In no event whatsoever, regardless of cause or circumstances, shall FDS be liable for any consequential, incidental, indirect or exemplary damages, either real or alleged, including any losses from equipment downtime. Under no circumstances shall Customer, or any other person, recover from FDS for any claims or damages in excess of the rental price or sales price, as the case may be, of the equipment or materials, regardless of the basis for such claims or damages. Product descriptions and specification in the FDS catalog or on the FDS website reflect representations made by the manufacturers of the products and do not constitute guarantees, representations or warranties of FDS.

Software

- With respect to any software incorporated in or forming part of the equipment rented or sold under an Agreement, FDS and Customer hereby agree that such software is being licensed and not sold. Notwithstanding anything to the contrary contained in an Agreement, the Company or its licensor, as the case may be, retain all rights and interest in any software provided as part of any equipment other than as set forth in the next paragraphs.
- FDS hereby grants to Customer a royalty-free, non-exclusive, non-transferable license, without power to sublicense, to use software provided in any rental

equipment solely for Customer's internal business purposes and to use the related documentation solely for Customer's internal business purposes. This license terminates when Customer's lawful possession of the related rental equipment ceases, unless earlier terminated as provided herein.

- Customer shall hold in confidence and not sell, transfer, license, loan or otherwise make available in any form to third parties the software and related documentation provided under any Agreement. Customer shall not disassemble, decompile or reverse engineer, copy, modify, enhance or otherwise change or supplement such software without FDS's prior written consent. The Company may terminate the license granted in the preceding paragraph if Customer does not comply with any term or condition herein.

Equipment Use

During the entire Rental Period, Customer shall use the rental equipment in a careful and proper manner in compliance with, but not limited to, any and all governmental laws, requirements and safety certifications and manufacturer's instructions and specifications, including any required periodic verification of proper calibration. Customer shall indemnify and hold harmless FDS and its officers and/or agents from and against any and all claims, liabilities, losses, costs, expenses, including attorney fees and court costs, arising from Customer's use, operation, possession and rental of the rental equipment from FDS.

Rental Equipment Terms

- The Company will pick up equipment in the relevant FDS office's designated area approximately one day after receiving notification from Customer. When possible, the Company will pick up equipment the same day as it receives notification.
- Rental equipment to be returned by a Customer outside the relevant FDS office's designated area should be shipped via next-day delivery. Shipping charges for customers without a designated Federal Express, UPS or common carrier account number will be added to the final invoice. It is Customer's responsibility to pay delivery and return shipping charges unless otherwise specified in the applicable Agreement.
- Customer will return the equipment to FDS in substantially the same condition as when first delivered to Customer, ordinary wear and tear excepted.

Law

Each Agreement shall be governed by the laws of the Commonwealth of Pennsylvania, without reference to any conflict of laws principles thereunder. FDS and Customer agree that the state and federal courts located in Allegheny County in the Commonwealth of Pennsylvania shall have exclusive jurisdiction in any action, suit or

proceeding based on or arising out of each Agreement. The Company and Customer hereby: (a) submit to the personal jurisdiction of such courts; (b) consent to service of process in connection with any action, suit or proceeding therein; (c) agree that venue is proper and convenient in such forum; and (d) waive any other requirement (whether imposed by statute, rule of court or otherwise) with respect to personal jurisdiction, subject matter jurisdiction, venue, or service of process.

Equipment Sales

In the event that Customer purchases equipment or materials through the Company, Customer hereby accepts and is bound by the terms and conditions provided by the manufacturer thereof.

FDS Terms and Conditions Updated June 2022.