

LadyBug Power Sensor Rental Terms

THE FOLLOWING TERMS AND CONDITIONS APPLY TO RENTAL FROM LADYBUG TECHNOLOGIES, LLC ("LadyBug") for any "Equipment" (which term includes related accessories, manuals and other items delivered with this order) to Customer. By placing an order with LadyBug, Customer agrees to and accepts these General Terms and Conditions (and together with the terms of LadyBug's Rental Agreement, the "Contract"). All previous communications, representations or agreements between the parties, whether oral or written, regarding the transactions involved are superseded by the Contract. LadyBug HEREBY REJECTS IN ADVANCE ANY ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS PROPOSED OR DEMANDED BY CUSTOMER, WHETHER OR NOT CONTAINED IN ANY CUSTOMER'S BUSINESS FORMS OR PURCHASE ORDERS AND SUCH ADDITIONAL TERMS OR CONDITIONS SHALL BE VOID AND OF NO EFFECT UPON LADYBUG. LADYBUG RESERVES THE RIGHT, IN ITS SOLE DISCRETION, TO MODIFY OR REPLACE ANY OF THESE TERMS AND CONDITIONS AT ANY TIME, AND SUCH MODIFICATION OR REPLACEMENT SHALL APPLY TO ALL RENTALS OF EQUIPMENT FROM LADYBUG AFTER THE DATE OF SUCH MODIFICATION OR REPLACEMENT. IT IS CUSTOMER'S RESPONSIBILITY TO REVIEW THESE TERMS AND CONDITIONS EACH TIME CUSTOMER RENTS EQUIPMENT FROM LADYBUG.

1. PAYMENT TERMS; TAXES. Terms are NET THIRTY (30) DAYS from invoice date. Any amounts not paid by that date are subject to finance charges at the rate of 1-1/2% per month or the highest rate permitted by law. Customer shall pay sales, use, excise, franchise, value added or other taxes, all federal, state, local and foreign taxes, and any other governmental charges in connection with the rental, purchase, possession or use of the Equipment (other than taxes on LadyBug's net income). If Customer has outstanding invoice(s) with LadyBug and submits payment for rental transaction without directing LadyBug how to apply payment, LadyBug will automatically apply the payment to the oldest rental charge. LadyBug may charge the Customer up to 25% of the list price or the aggregate rental price of the Equipment if Customer delays or cancels an order. Under no circumstances shall Customer have a right of set-off against payments owed to LadyBug. If Customer pays via credit card, LadyBug reserves the right to charge recurring billing without Customer's authorization until the equipment is returned.

2. CREDITS. LadyBug may issue credits to Customer's account in certain circumstances, including potential overpayments or duplicate payments, for early termination of a rental, as customer accommodations or incentives or for other reasons. At LadyBug's sole discretion the mere issuance of a credit by LadyBug to Customer's account shall not constitute a determination or admission by LadyBug that an amount is actually due to Customer, and LadyBug expressly reserves the right to revoke or rescind any credit in the event that LadyBug subsequently determines that the credit is not due or may not be due to Customer. Customer may request to utilize a credit against a future purchase or rental from LadyBug or a refund of such credit. Upon receipt of such request, LadyBug shall confirm whether the credit is actually due to Customer, and if the credit is due, LadyBug shall apply or refund the credit as requested by Customer (except for certain types of credits, such as customer accommodations or incentives, which may not be refundable). Any credits not used or refunded within twelve (12) months of issuance will be reduced by a service fee of 8% per month of the initial credit amount. In the event that a credit

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is issued to Customer, LadyBug shall send periodic credit invoices to Customer notifying Customer of any outstanding credits and also indicating the date by which the credits must be utilized in order to avoid a service fee. Once imposed, the service fee is non-refundable and will not be waived, reversed or restored to Customer by LadyBug. Customer expressly releases and discharges LadyBug from any liability to Customer with respect to any credits that have been reduced by such service fees, or which LadyBug has determined are not due to Customer.

3. DELIVERY FOB LADYBUG FACILITY. For all shipments except for the sale of new Equipment, delivery of all items is FOB LadyBug's supplying office. Title transfers and Customer acceptance occurs upon shipment from LadyBug's supplying office. All risk of loss or damage from shipping, theft, mysterious disappearance, fire or any other cause, including without limitation any use or misuse, is the responsibility of Customer thereafter. LadyBug will make reasonable efforts to meet any delivery schedule quoted; but shall not be responsible for failure to meet such delivery schedule, regardless of the reason for such failure. LadyBug will ship Equipment according to Customer's reasonable shipping instructions; if no reasonable method is specified, LadyBug will select the method. Equipment shall not be shipped by LadyBug or returned by Customer by U.S. mail. Customer will pay or reimburse LadyBug for all delivery and handling charges. Customer is deemed to have accepted each Product unless Customer notifies LadyBug of non-acceptance within 7 calendar days of delivery to Customer's specified address.

4. LIMITED OR NO WARRANTY. Rental sensors are provided with a 1 year warranty and calibration certificate. Damage to sensor by Customer (such as overpowering) will be charged to Customer at standard LadyBug repair & calibration fees and shipping terms. Sensor must be sent to LadyBug for evaluation. If LadyBug determines damage is covered under its rental warranty, sensor will be repaired and returned within 7 business days and a 25% rental credit will be applied to the next billing cycle. LadyBug reserves the right to substitute an alternate sensor with the same features. The remedies in these Terms and Conditions are Customer's sole and exclusive remedies for warranty claims. Customer acknowledges that LadyBug has based its pricing on the limitations set forth in this section

5. INDEMNITY & LIMITATION OF LIABILITY. Customer will defend, indemnify, and hold harmless LadyBug, its affiliates, successors and assignees, its directors, officers, shareholders, and employees from and against any loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost, fees (including import and export customs fees), or expense (including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers) ("Claims") arising out of or occurring in connection with: (a) any misuse or modification of the Equipment by Customer or its employees or agents, (b) any act (or failure to act) by Customer or its employees or agents in contravention of any safety procedures or instructions provided to Customer or its employees or agents, or (c) Customer's, or its employees' or agents', failure to store, install, operate, or maintain the Equipment in accordance with any instructions or manuals.

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IN NO EVENT WILL LADYBUG BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO ANY LOSS OF REVENUE OR ANTICIPATED PROFITS, LOST DATA, AND COSTS OF PROCUREMENT OF SUBSTITUTE EQUIPMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EVEN IF LADYBUG HAS BEEN ADVISED OF THE POSSIBILITY OF THE DAMAGES.

6. RIGHT OF SETOFF. In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, LadyBug is hereby authorized by Customer at any time and from time to time, without notice or demand to Customer or to any other person (any such notice and demand being hereby expressly waived), to set off, recoup and to appropriate and to apply any and all funds which may be in the possession of, or which may be owed by LadyBug or its affiliates against any obligation of Customer or Customer's affiliates to LadyBug, whether such obligation is liquidated, unliquidated, fixed, contingent, matured or unmatured, and regardless of whether such obligation arises under the Contract or a different agreement between LadyBug and Customer or Customer's affiliate.

7. COMPLIANCE. The parties agree to comply with applicable laws and regulations. LadyBug may suspend performance if Customer is in violation of applicable laws or regulations. No U.S. government procurement regulation shall be deemed a part of the Contract or be applicable to LadyBug unless specifically agreed to in writing by LadyBug. The Equipment may not be used as parts, components or assemblies for the planning, construction, maintenance or direct operation of a nuclear facility. Customer agrees to comply with all United States and other applicable laws and regulations regarding the importation, use, sale, and diversion of the Equipment, and assumes responsibility for determining whether any shipment of Equipment requires government authorization or would otherwise violate applicable law. Any included software may only be used strictly in accordance with any applicable license(s). Any party defaulting on any of its obligations hereunder shall pay for all costs, expenses and legal fees incurred by the other party to enforce its rights, whether or not legal action is instituted, including in the case of LadyBug, the costs of recovering, repairing or replacing the Equipment.

8. FORCE MAJEURE. LadyBug shall not be liable for failure to perform, or delay in performance, or delivery of any Equipment or maintenance due to (a) fires, floods, other natural disaster, strikes, or other labor disputes, accidents, sabotage, terrorism, war, riots, delays in transportation or lack of transportation facilities, restrictions imposed by federal, state or local laws, rules or regulations; or (b) any other cause beyond the reasonable control of LadyBug.

9. LIENS. Customer shall keep the Equipment free from any liens, including without limitation, mechanics' liens, storage, warehouse or other possessory liens, claims or encumbrances, attachments, rights of others and legal processes ("Liens") of creditors of Customer or any other persons. Customer shall promptly notify LadyBug upon receipt of notice of any such Liens affecting the Equipment and Customer shall promptly defend at its own expense LadyBug's title to the Equipment from such Liens.

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10. Export Regulations. Customer shall not transfer or otherwise dispose of any Equipment or related software, know-how, technical data, documentation or materials furnished by LadyBug to any party or in any manner which would constitute a violation of the export control regulations of the United States (now or hereafter in effect). Such export regulations prohibit, without limitation, exports, transshipments or re-exports of Equipment to: (a) such countries or regulations that are subject to U.S. sanctions programs, or (b) to entities or individuals that appear on the U.S. government's (a) Specially Designated Nationals List; (b) Denied Persons List; (c) Unverified List; (d) Debarred List; or (e) Entity List.

11. TERMINATION. In addition to any other remedies that LadyBug may have, LadyBug may terminate the Contract with immediate effect upon written notice to Customer, if Customer: (a) fails to pay any amount when due under the Contract and the failure continues for five (5) days after Customer's receipt of written notice of nonpayment; (b) has not otherwise performed or complied with any of these terms and conditions, in whole or in part; or (c) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

12. OWNERSHIP; USE. All Equipment remains the property of LadyBug at all times. Customer shall not sublease or assign any rights to or for rental Equipment. Customer will not permit any ownership labels to be removed, obscured or defaced. Equipment must remain at and may be used only by Customer at Customer's place of business designated on the face of the Contract. Customer shall pay any costs arising from a change of location with or without LadyBug's written consent. If LadyBug has given written consent for Customer to relocate Equipment, Customer shall be responsible for all related cost including return shipping. Customer shall not make any alterations, additions or modifications to the Equipment and shall use it only for the purpose and in the manner intended by LadyBug. Customer has no purchase rights, purchase options or equity accruals unless specifically otherwise stated by LadyBug in writing, all of which will be immediately lost if Customer fails to comply with any of the terms of the Contract.

13. RENTAL TERMS. Unless otherwise stated in the Contract: (a) rates quoted are for a thirty (30) day rental period; (b) minimum rental is thirty (30) days; (c) minimum billing is \$100; (d) rental charges commence the day LadyBug ships the Equipment to Customer; (e) rent is prorated on a daily basis starting at the beginning of the second rental billing period; and (f) rent continues to accrue until the Equipment is returned to LadyBug or, in the case of lost or destroyed Equipment, until Customer notifies LadyBug of the circumstances. Customer shall pay all back rent owed to LadyBug. Customer may be charged a processing fee for lost or damaged accessories. In the event of lost or damaged Equipment, Customer will pay the actual cost to replace or repair Equipment as determined by LadyBug as well as a damage evaluation fee. If requested to do so by LadyBug, Customer will furnish LadyBug with proof that Customer has insurance coverage on the Equipment acceptable to LadyBug. If Customer fails to do so, LadyBug may at its option and for its benefit alone, obtain insurance and charge the cost to Customer as additional rent.

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14. REPAIR/CALIBRATION. Upon reasonable notice from Customer during the course of rental, LadyBug will repair or calibrate any malfunctioning Equipment; provided, however, Customer will pay the costs of such repair or calibration if the Equipment has been neglected, misused or abused after receipt by Customer, or permitted anyone other than LadyBug to work on or service the Equipment. Customer must pay rental charges if any Equipment replaced by LadyBug is not properly returned to LadyBug not later than the earlier of ten (10) calendar days after shipment of the replacement Equipment or (ii) the expiration of the rental term.

15. RETURN. Customer agrees to return the Equipment, freight prepaid, properly packaged, and will be responsible for delivery to LadyBug in substantially the same condition as when first received by Customer, reasonable use and wear alone excepted. Customer's license with respect to any software included with the Equipment will terminate on the expiration or termination of the rental, at which time Customer agrees promptly to return the software to LadyBug and to destroy any archived copies.

16. MISCELLANEOUS. All notices hereunder shall be in writing. Typographic and/or clerical errors may be corrected by LadyBug on notice to Customer. These terms and conditions shall be governed by and construed in accordance with the laws of the State of Idaho. Any legal action or proceeding with respect to the Contract shall be brought exclusively in the state or federal courts in Boise, Idaho without giving any effect to any choice or conflict of law provision or rule (whether of the State of Idaho or any other jurisdiction that would cause the application of any laws of any jurisdiction other than those of the State of Idaho), and the parties hereby consent to the venue and jurisdiction of such courts. In any arbitration or litigation between the parties in connection with this Agreement, the prevailing party will be entitled to recover its reasonable attorney's fees and costs in such proceeding from the other party. The United Nations Convention on Contracts for the International Sale of Goods shall not apply. To the extent that any provision or a portion of any provision is determined to be illegal or unenforceable, the remainder will remain in full force and effect. Customer may not transfer or encumber any rights hereunder without the consent of LadyBug; LadyBug may assign or transfer any of its rights or obligations upon notice in connection with a transfer of its business. No waiver by either party of any breach of any provision of the Contract shall be construed as a waiver of any subsequent breach or as a continuing waiver of such breach. Any approval, consent or determination of LadyBug shall be given in LadyBug's sole and absolute discretion. Time is of the essence. "Including" means "including without limitation."