

TERMS AND CONDITIONS OF SALE

1. Agreement

1.1 Agreement. These Terms and Conditions ("Terms") have been incorporated by reference into a sales quotation, sales confirmation, sales order, contract, agreement or other written instrument issued or signed by an authorized employee of Seller (each, a "Seller Sale Document") regarding the sale of products built to Buyer's specification ("Products"). These Terms and the Seller Sale Document issued by Seller to Buyer shall be collectively referred to herein as the "Agreement." A sales quotation will expire on the earlier of 45 days from the quotation date or the other expiration date set forth therein. The quotation represents no obligation until OSIE accepts a written purchase order and acknowledges acceptance.

1.2 Entire Agreement. The Agreement, including any attachments, exhibits or other written documents that are explicitly incorporated by reference by the text of the Agreement, constitutes the entire agreement between Seller and Buyer regarding the subject matter of the Agreement and supersedes all prior or contemporaneous agreements, representations, or understandings, written or oral, explicit or implied, concerning the subject matter of this Agreement. This Agreement may not be modified except in a writing signed by a duly authorized employee of Seller and Buyer.

1.3 Buyer Documents. Seller shall not be bound by the terms and conditions of any purchase order, order confirmation, acceptance or other instrument issued by Buyer (collectively, "Buyer Document"), unless such Buyer Document is counter-signed by an authorized employee of Seller. Seller's performance under the Agreement shall not, under any circumstances, be deemed Seller's acceptance of any of the terms and conditions contained in a Buyer Document. If Buyer issues a Buyer Document to procure the Products described in a Seller Sale Document, then such issuance shall be deemed to constitute Buyer's acceptance of the terms and conditions of this Agreement, but all other terms and conditions contained in the Buyer Document shall be of no force or effect and shall not be deemed to supersede, replace, modify, augment, enhance, delete, remove, amend or otherwise alter any of the terms and conditions of this Agreement. Taking possession of the Products by Buyer or payment by Buyer for any of the Products shall also be deemed to constitute Buyer's acceptance of and assent to all of the terms and conditions of this Agreement. The sale of the Products is expressly made conditional on Buyer's acceptance of the Terms set forth herein.

1.4 Precedence. In the event of any conflict between the terms of a Seller Sale Document and these Terms, the terms and conditions of the Seller Sale Document shall take precedence.

2. Products. Upon the earlier to occur of Seller's execution of a confirming copy of Buyer's purchase order, the issuance by Seller of a sales order that Buyer accepts by executing a confirming copy or that Buyer does not immediately reject, or shipment of the Products by Seller, Buyer agrees to purchase the Products from Seller and Seller agrees to sell the Products (built to the specifications provided by Buyer) to Buyer, in accordance with and subject to the terms and conditions of this Agreement.

3. Purchase Price

3.1 Prices for Products. The prices for Products covered by these Terms are those prices set forth in the Seller Sale Documentation. Quoted prices are subject to change with notice within the 45 days' or other applicable quotation period, provided that Seller has not previously accepted a purchase order from Buyer during that time period. Any orders placed after the 45 days' or the applicable quotation period, including any follow on orders, shall be subject to re-quotation by Seller and Seller shall have no obligation to honor previously quoted prices or prices for previously accepted orders. Seller's prices do not include sales, use, VAT, excise, or similar taxes, duties, transportation, shipping or insurance costs. In addition to the prices specified herein, the amount of any present or future sales, use, VAT, excise or other similar tax, duties and other charges applicable to the sale of the products hereunder shall be separately added to Seller's invoice paid by the Buyer, or in lieu thereof the Buyer shall provide Seller with a tax exemption certificate acceptable to Buyer and the taxing authorities.

4. Terms of Payment

4.1 Payments. All payments are due and payable in full by Buyer immediately upon Buyer's receipt of the invoice, but no later than 30 days from the date of shipment. Buyer shall deliver payments to the address or bank account specified in Seller's invoice.

4.2 Currency. Buyer shall pay all amounts due in U.S. dollars, unless otherwise provided in the applicable Seller Sale Document.

4.3 Taxes. Buyer shall promptly pay the amount of any sales, use, sales tax, duties, excise or other similar tax (and all interest and penalties) applicable to the sale, importation, transportation or use of the Products (other than amounts due on Seller's net income from such sale or use).

4.4 Late Payment. All amounts past due shall incur a late payment charge that shall accrue at a rate of 1.5% per month or the highest rate permitted by applicable law, whichever is less, calculated from the date due until such amount is paid.

4.5 Buyer's Credit. Seller's performance under this Agreement shall at all times be subject to Seller's approval of Buyer's creditworthiness. Seller shall be permitted to terminate this Agreement, in whole or in part, or to suspend deliveries (required by the terms of the Agreement or under any other agreement between Seller and Buyer) and warranty service and shall be permitted to impose such other terms and conditions or security arrangements as Seller, in its sole discretion, deems appropriate at any time to ensure full payment by Buyer for the Products. Buyer represents and warrants that it is solvent at the time of placing any order and if Buyer becomes insolvent at anytime prior to delivery of the Products Buyer shall immediately notify Seller.

4.6 Security Interest. Buyer hereby grants to Seller a purchase money security interest in all Products, and in any proceeds thereof, including insurance proceeds, to secure payment of all amounts due under this Agreement until such amounts are paid in full. Buyer shall not, without Seller's prior written consent, relocate, sell, lease, or create additional liens other than the security interest described herein over the Products until Buyer has paid for all such Products in full. If Buyer defaults under any obligation arising under or in connection with this Agreement, Seller may pursue all remedies of a secured creditor provided under the Uniform Commercial Code or other applicable law. Buyer agrees that Seller is entitled to file such financing statements and amendments thereto as Seller deems necessary to protect its interest in the Products and to effectuate the purposes of this Section 4. If Buyer defaults on any obligation arising under or related to this Agreement, Buyer shall make all Products available so that Seller may repossess them promptly and without a breach of the peace. Upon Seller's request, Buyer covenants that it shall execute any and all documents requested by Seller to perfect Seller's security interest in any or all of the Products.

4.7 Notice of Payment Dispute. If Buyer intends to dispute any amount due under or related to this Agreement, Buyer must notify Seller in writing within 30 days of the date such payment is originally due and pay Seller any amounts that are undisputed. Buyer waives its

right to dispute amounts or to bring or participate in any legal action involving a dispute of such amounts if such amounts not reported within such 30 day period.

5. Delivery and Acceptance

5.1 Title and Risk of Loss. Unless otherwise provided in the applicable Seller Sale Document, all Products shall be delivered Ex Works Seller's manufacturing location (Incoterms 2010). Title and risk of loss or damage to Products therefore pass to Buyer at such location.

5.2 Dates. Seller's delivery and performance dates are estimates only. Seller will use commercially reasonable efforts to deliver in accordance with the delivery or performance dates specified in the Seller Sale Document, but may change those dates as it deems necessary. Seller shall not be liable for failure to deliver or perform by such dates.

5.3 Shipping. All Products shall be shipped to the "Ship To" address designated in the Seller Sale Document. Seller shall provide at its expense commercial packaging adequate under normal conditions to identify and protect the Products during shipments by regular commercial carrier. Buyer may request special packaging at its expense. Unless Buyer requests specific carriers or methods of shipment, Seller shall ship to Buyer by regular commercial carrier selected by Seller. Buyer shall pay all freight and unloading costs. Unless Buyer requests specific insurance coverage or specific valuation amounts, Seller shall specify shipment without insurance coverage and at minimum valuation. Buyer shall pay all insurance costs. Buyer assumes all risk of loss and damage after products are made available Ex Works (Incoterms 2010) Seller's manufacturing location including during shipment and Buyer shall file any damage claim forms required by the carrier or insurer.

5.4 No Cancellations. Buyer may not cancel, delay, reschedule or otherwise vary any delivery of Products without Seller's written consent, and payment of any rescheduling charges imposed by Buyer.

5.5 Acceptance. All Products shall be deemed accepted by Buyer upon delivery.

6. Changes. Buyer may from time to time request changes to this order, including but not limited to, changes in drawings, designs, specifications, method of inspection, method of packaging, order period, rate of shipment, method of shipment, and/or place of delivery, or other provisions contained herein, by written instruction to Seller in a change order notice or letter from Buyer's purchasing department. Seller shall determine whether such change causes an increase or decrease in cost or time of performance of this order and thereafter shall notify Buyer's purchasing department in writing within thirty (30) days from the date of receipt of such change order notice, or letter, or within such other time limit as agreed to by Buyer and Seller, and a mutually satisfactory adjustment shall be negotiated. The agreed to adjustment shall be incorporated as part of this agreement by means of a written change order notice from Buyer's purchasing department that is accepted by Seller in writing. In the event that the requested change order notice is of such a nature and scope as to preclude mutual agreement between Buyer and Seller, Buyer or Seller may terminate this order. Any termination hereunder shall be considered a termination for the convenience of the Buyer and Seller shall forthwith discontinue all work and any additional expenses incurred hereto and Buyer shall pay such amount as Seller and Buyer may agree is to be paid by reason of the termination. In the event of failure to agree upon the amount to be paid by reason of the termination, Buyer will pay to Seller and Seller agrees to accept in full payment: (i) the stipulated price, with respect to Products completed in accordance with Buyer's order, (ii) Seller's costs and expenses, including a reasonable allowance for profit, for the unfinished work and raw materials on hand acquired for Buyer's orders, and (iii) costs or damages of completion or cancellation (as the case may be and at the election of Buyer) of contracts for raw materials ordered specifically for Buyer's orders.

7. Testing. If testing is expressly included in a Seller Sale Document, Seller shall perform such testing in accordance with Seller's standard testing procedures for the type of Products in effect on the date of testing.

8. Excusable Delay. Seller shall not be responsible for any delay or non-performance of its obligations hereunder to the extent and for such periods of time as such delay or non-performance, defective performance or late performance is due to causes beyond its control. Excusable delays include, but are not limited to, acts of God, war, acts of any government in either its sovereign or contractual capacity, fire, explosions, sabotage, the elements, epidemics, quarantine restrictions, strikes, lockout, embargoes, severe weather, delays in transportation, airline schedule, fuel shortages, or delays of suppliers or subcontractors.

9. Confidentiality

9.1 Confidential Information. By virtue of this Agreement, the parties may have access to information that is confidential to the other ("Confidential Information"). Confidential Information will be limited the terms and pricing under this Agreement and all information clearly identified in writing as confidential. A party's Confidential Information shall not be deemed to include information that: (i) is or becomes generally known to the public through no act or omission of the other party; (ii) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (iii) is lawfully disclosed to the other party by a third party without restriction on disclosure or (iv) is independently developed by the other party without use of or reference to the disclosing party's Confidential Information.

9.2 Restrictions on Disclosure and Use. Each party agrees to hold the other party's Confidential Information in strict confidence. Each party agrees, unless required by law, not to make the other party's Confidential Information available in any form to any third party for any purpose except to the extent necessary to exercise its rights under this Agreement, and to treat Confidential Information of the other party with the same degree of care with which it would treat its own confidential information of a like nature, and in no case with less than a reasonable degree of care. Each party agrees not to use the other party's Confidential Information for any purpose other than the performance of the Agreement. Each party agrees to limit the disclosure of Confidential Information to those of its employees and agents who have a need to know such Confidential Information, and each party agrees to take all reasonable steps to ensure that Confidential Information is not disclosed or distributed by its employees or agents in violation of the terms of the Agreement. It will not be a breach of this Section if Confidential Information is disclosed pursuant to subpoena or other compulsory judicial or administrative process, provided the party served with such process promptly notifies the other party and provides reasonable assistance so that the other party may seek a protective order against public disclosure.

9.3 Other Confidentiality Agreements. If Seller and Buyer have entered into a separate agreement designed to protect the confidential information of either party transmitted in connection with the transactions described in a Seller Sale Document, then the terms of this Section 9 shall not be deemed to supersede, replace, modify, augment, enhance, delete,

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remove, amend or otherwise alter any of the terms and conditions of such separate agreement, which agreement shall remain in full force and effect.

10. Warranty.

10.1 **Warranty Terms.** Seller warrants to Buyer (and to no other party) for a period of 90 days from original shipment that the Products shall be free from defects in material (other than consigned material) and workmanship. Unless otherwise specified in a Seller Document the criteria for workmanship standards are based on the current revision of IPC A-610, Class 2 Standards. Seller supplied material is warranted to conform to the original component manufacturer's specification during the 90 day warranty period from original shipment. Defects in a repaired or replaced Product shall be covered to the extent of the unexpired term of the applicable warranty period.

10.2 **Limitations.** The warranty set forth above shall not apply if (i) Seller is unable to identify the defect or error reported by Buyer; (ii) the defect or error is due to the incorrect installation or operation or use of the Product; (iii) Buyer has failed to timely report a defect or error in accordance with the procedures established by Seller to identify and report such problems to Seller's Customer Service Department; (iv) the Product has been repaired or modified, or attempted to be repaired or modified, without Seller's prior written consent or by any person other than Seller (v) the Product has been damaged by neglect, misuse, mishandling, failure of electrical power, electrical surges, electrostatic discharge, electrical circuit or system design or malfunction, user error, liquids, environmental factors or as a result of any other cause external to Product; (vi) the defect or error is related to a component failure of any consigned material, (vii) the defect or error is a result of Seller's compliance with Buyer's supplied specifications and/or manufacturing processes, (viii) the defect or error is due to a design flaw (ix) the defect or error is due to follow-on handling, processing, or manufacturing of Products after shipment of the Product from Seller or use or combination of the Product with the products or systems of Buyer or others (x) the defect or error is related to components provided by third party suppliers selected by Buyer, which defects Seller could not reasonably detect, prevent or control, (xi) the defect or error is related to software or firmware (xii) Buyer has not provided functional or other tests to Seller to adequately diagnose failures (xiii) Buyer has failed to timely pay, in whole or in part, any invoice issued by Seller; or (xiv) Buyer is in breach of the Agreement or any other agreement between Buyer and Seller (this statement shall not be construed to limit any other rights or remedies available to Seller for any such breach). The warranty set forth above is not transferrable and may not be relied upon by or enforced by anyone other than Buyer.

10.3 **Exclusive Remedies.** Buyer must report to Seller in writing any breach of the warranties contained in this Section 10 during the relevant warranty period. Products may be returned to Seller freight prepaid only after obtaining a Return Material Report Number from Seller. If after testing and inspection any such returned product is determined by Seller to be defective, Seller shall promptly repair or replace the Product and return it to Customer freight prepaid. Buyer's sole and exclusive remedies, and Seller's entire liability, shall be limited to repair or replacement of defective Products as set forth herein. The foregoing notwithstanding, Seller may at Seller's election and in Seller's sole discretion, provide Buyer with a refund in lieu of repair or replacement of defective Products as set forth herein.

10.4 **Disclaimer.** EXCEPT AS SET FORTH IN THIS SECTION 10, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SELLER DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT, AND WARRANTIES THAT MAY ARISE FROM COURSE OF DEALING OR PERFORMANCE OR USAGE OF TRADE. SELLER DOES NOT ASSUME OR AUTHORIZE ANY OTHER TO ASSUME FOR IT, ANY OTHER LIABILITY IN CONNECTION WITH THE PRODUCTS, INCLUDING LIABILITY ARISING OUT OF PRODUCT TESTING, DELIVERY, SERVICE OR USE. SELLER DOES NOT EXTEND THE WARRANTY CONTAINED IN THIS SECTION 10, AND BUYER MAY NOT TRANSFER IT TO, ANY PARTY OTHER THAN BUYER.

11. **Limitation of Liability.** SELLER'S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO THE TOTAL PRICE ACTUALLY PAID BY BUYER FOR THE PRODUCTS COVERED BY THE AGREEMENT. THE PARTIES ACKNOWLEDGE THAT THE LIMITATIONS OF LIABILITY IN THIS SECTION 10 AND IN THE OTHER PROVISIONS OF THE AGREEMENT AND THE ALLOCATION OF RISK HEREIN ARE AN ESSENTIAL ELEMENT OF THE BARGAIN BETWEEN THE PARTIES, WITHOUT WHICH SELLER WOULD NOT HAVE ENTERED INTO THE AGREEMENT. SELLER'S PRICING REFLECTS THIS ALLOCATION OF RISK AND THE LIMITATION OF LIABILITY SPECIFIED HEREIN. NO LEGAL ACTION SHALL BE COMMENCED AGAINST SELLER, ITS SUBSIDIARIES OR AFFILIATES MORE THAN 12 MONTHS FOLLOWING THE OCCURRENCE OF THE EVENT ALLEGED TO GIVE RISE TO SUCH CLAIM.

12. **No Indirect or Consequential Damages.** SELLER SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT, OR DAMAGES FOR LOSS OF PROFITS, REVENUE, BUSINESS, SAVINGS, DATA, USE OR COST OF SUBSTITUTE PROCUREMENT, INCURRED BY BUYER OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH DAMAGES ARE FORESEEABLE

13. Miscellaneous Provisions.

13.1 **Remedies.** The remedies described in various sections of the Agreement shall not be deemed the exclusive remedies available to Seller and Seller shall, in addition to all such remedies, also be entitled to all other remedies available to it under law, in equity and as specified elsewhere in the Agreement.

13.2 **Proprietary Rights.** Seller retains all rights, title and interest in its Intellectual Property Rights. Buyer does not acquire any other rights, express or implied, or license to Seller's Intellectual Property Rights. Buyer will acquire no rights in Seller Confidential Information which may be included in any derivative work unless expressly agreed otherwise. "Intellectual Property Rights" means patent, copyright, trademark, trade secret and any other intellectual property rights worldwide.

13.3 **Indemnity by Buyer.** Buyer shall indemnify and hold harmless Seller, its officers, directors, agents and employees from any claims arising from or related to any subsequent resale of the Products by Buyer or any sale by Buyer of Buyer's products that contain or incorporate the Products or any acts or omissions of Seller, its officers, directors, employees, agents or permitted assigns. Without limiting the generality of the foregoing, Buyer shall indemnify and hold harmless Seller from any claims for intellectual property infringement

related to any Products that are manufactured to Buyer's design or specification. Buyer warrants that any Products that are manufactured to Buyer's design or specification, and their sale or use alone or in combination, will not infringe any Intellectual Property Rights of any third party.

13.4 **Relationship Between the Parties.** Each of Seller and Buyer is an independent contractor and neither party's personnel are employees or agents of the other party. The Agreement shall not be construed as creating an agency, partnership, joint venture or any other form of association, for tax purposes or otherwise, between the parties; the parties shall at all times be and remain independent contractors. Except as expressly agreed by the parties in writing, neither party shall have any right or authority, express or implied, to assume or create any obligation of any kind, or to make any representation or warranty, on behalf of the other party or to bind the other party in any respect whatsoever.

13.5 **Marketing Rights.** Seller shall have an unfettered right to issue a press release regarding the sale of Products covered by this Agreement, including disclosing the purchase price, the Products covered, Buyer's name and location, and any other information deemed appropriate in Seller's discretion. Such disclosure, if made by Seller, shall not be deemed a breach of Section 9.

13.6 **No Buyer Press Release.** Buyer shall issue no press release or other public statement of any kind regarding the Products or terms of this Agreement without Seller's express written consent.

13.7 **Notice.** Any notice, request, demand or other communication required or permitted hereunder will be in writing and will be deemed to be properly given upon the earlier of (i) actual receipt by the addressee, (ii) five business days after deposit in the mail, postage prepaid, when mailed by registered or certified airmail, return receipt requested or (iii) two business days after being sent via internationally-recognized private industry courier (e.g., FedEx, UPS) to the respective parties at the addresses indicated in the Seller Sale Document, (ATTN: President) or to such other person or address as the parties may from time to time designate in a writing delivered pursuant to this Section.

13.8 **No Assignment.** Buyer may not assign, sell, transfer, delegate or otherwise dispose of, whether voluntarily or involuntarily, by operation of law or otherwise, this Agreement or any rights or obligations under the Agreement without the prior written consent of Seller. Any purported assignment, transfer, delegation or other disposition by Buyer will be null and void. Subject to the foregoing, the Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and assigns.

13.9 **No Third Party Beneficiaries.** It is not the intention of the parties to confer a third party beneficiary right of action upon any third party or entity whatsoever, and nothing in this Agreement will be construed to confer upon any third party other than the parties hereto a right of action under this Agreement or in any manner whatsoever.

13.10 **Severability and Waiver.** In the event that any provision of this Agreement (or any portion hereof) is determined by a court of competent jurisdiction to be illegal, invalid or otherwise unenforceable, such provision (or portion thereof) will be enforced to the extent possible consistent with the stated intention of the parties, or, if incapable of such enforcement, will be deemed to be severed and deleted from the Agreement, while the remainder of the Agreement will continue in full force and remain in effect according to its stated terms and conditions. The waiver by either party of any default or breach of this Agreement will not constitute a waiver of any other or subsequent default or breach.

13.11 **Permits and Licenses.** Buyer shall be required to obtain and maintain all registrations, licenses, permits and/or approvals from relevant authorities, as may be necessary to store and operate the Products purchased by Buyer.

13.12 **Governing Law.** The Agreement shall be construed in accordance with and governed by the laws of the Republic of Singapore, without giving effect to any choice of law rule that would cause the application of the laws of any jurisdiction other than the laws of the Republic of Singapore to the rights and duties of the parties. The Agreement shall not be governed by the U.N. Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

13.13 **Dispute Resolution.** Except for matters of injunctive relief, for which either party may initiate proceedings in any court of competent jurisdiction, any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be finally and exclusively determined by binding arbitration. The number of arbitrators shall be one and the language of arbitration shall be English. The place of the arbitration shall be Singapore. The arbitration shall be administered by the International Centre for Dispute Resolution in accordance with its International Arbitration Rules. Within [30] days after the commencement of arbitration, the parties shall appoint a person to serve as an arbitrator. If an arbitrator is not selected within the time period, the International Centre for Dispute Resolution shall, at the written request of any party, appoint the relevant arbitrator. Judgment on the award rendered by the arbitration proceeding may be entered in any court of competent jurisdiction provided the relevant legal procedure for enforcement is adhered to. Except as may be required by law, neither a party nor its representatives may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties.

13.14 **Costs of Collection and Other Legal Fees.** If Seller uses a collection agency to collect money owed by Buyer, Buyer agrees to pay the reasonable costs of collection. These costs include, but are not limited to, collection agency's fees, attorneys' fees, and arbitration or court costs. If any other legal, including, without limitation, an action for arbitration or injunctive relief, is brought relating to the Agreement or the breach hereof, the prevailing party in any final judgment or arbitration award, or the non-dismissing party in the event of a voluntary dismissal by the party instituting the action, shall be entitled to the full amount of all reasonable expenses, including all court costs, arbitration fees and attorneys' fees paid or incurred.

13.15 **Export Administration.** Buyer acknowledges and agrees that the Agreement, including the delivery of the Products, may be subject to approval by export authorities having jurisdiction over the export of the Products (or components of the Products). Seller shall have the right to terminate the Agreement, in whole or in part, and without liability, should Seller not obtain in a timely way all required export licenses and approvals necessary to export the Products. Buyer agrees to comply fully with all relevant export laws and regulations. Without limiting the generality of the foregoing, Buyer expressly agrees not to, and not to allow others to, export, direct or transfer Products to any destination, person or entity restricted or prohibited by applicable export laws and regulations.

13.16 **Construction.** The Agreement shall be interpreted fairly in accordance with its terms and without any construction in favor of or against either party.

End of Terms and Conditions