

ORBIS TERMS AND CONDITIONS OF SERVICE

Please read these Terms and Conditions of Service (these “**Terms**”) carefully. These Terms materially affect the Parties’ obligations. ORBIS RPM, LLC or the ORBIS entity identified on the applicable Transaction Document (as defined below) (“**ORBIS**”), is bargaining for and will do business with Customer (as defined below), as it relates to the matters contained in this Agreement (as defined below), only pursuant to these Terms. ORBIS’ agreement to sell and provide Services (as defined below) and Products (as defined below) is expressly subject to and conditioned on the Customer agreeing to these Terms. Customer and ORBIS are individually referred to as a “**Party**” and collectively as the “**Parties**.”

1. **Acceptance.** These Terms are the only terms that govern the sale of the Services and/or lease of Products by ORBIS to the customer (“**Customer**”) named on the applicable quote, order confirmation, invoice, or other document referencing these Terms (each a “**Transaction Document**” and, a Transaction Document together with these Terms, each this “**Agreement**”). Notwithstanding anything herein to the contrary, if a written contract signed by both Parties covering the sale of the Services and/or lease of the Products covered hereby is in existence, the terms and conditions of said contract shall prevail with respect to such Services and/or Products to the extent they are inconsistent with these Terms. A Transaction Document may be modified or withdrawn by ORBIS at any time prior to Customer’s receipt of ORBIS’ acceptance. Any price quotation referencing these Terms shall expire if not accepted within ten (10) days from the date of the quotation, unless otherwise stated in such quotation. No purchase order shall be binding upon ORBIS unless accepted, in writing, by ORBIS, and then shall be solely governed by these Terms. Clerical errors in ORBIS’ quotations, acknowledgements, shipping documents, and invoices are subject to correction, and such errors do not relieve Customer of Customer’s obligations contained in this Agreement.

2. **No Conflicting or Additional Terms.** This Agreement constitutes the entire agreement between ORBIS and Customer with respect to the subject matter hereof, and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. All terms, conditions and specifications are set forth in these Terms or on the face or back of the applicable Transaction Document or on any attachments thereto. There are no warranties, agreements, or understandings, either express or implied, affecting it, except as set forth in these Terms or on the face or back of the applicable Transaction Document or on an attachment thereto. The terms of this Agreement expressly exclude and prevail over any of Customer’s general terms and conditions contained in any documentation issued by Customer, including without limitation any terms referenced or included in any purchase order or work order issued by Customer. ORBIS expressly rejects any and all additional or contradictory terms specified in any purchase order, email, acknowledgment, confirmation, or other document supplied by Customer pertaining to the Services, Products, or this Agreement. No online or electronic terms or conditions will be binding upon ORBIS even though ORBIS may have “accepted” such terms in order to access or use any system.

3. **Services.** Customer engages ORBIS to perform, and ORBIS agrees to provide to Customer, the services (the “**Services**”) set out in the applicable Transaction Document, as such may be amended from time to time upon the mutual written agreement of the Parties. Any mutually agreed to revisions to the Services, shall be reflected in a new Transaction Document, which shall expressly replace the then-existing applicable Transaction Document. ORBIS shall use reasonable efforts to meet any performance dates to render the Services specified in this Agreement, and any such dates shall be estimates only.

4. **Product Lease.** To the extent set forth on an applicable Transaction Document, the Services may include the lease of certain product to Customer (“**Products**”). Any such lease shall be governed by this Agreement and by the Product Lease Terms and Conditions listed below in [Appendix 1](#).

5. **Customer's Acts or Omissions.** If ORBIS' performance of its obligations under this Agreement is prevented or delayed by any act or omission of Customer or its agents, subcontractors, consultants or employees, ORBIS shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Customer, in each case, to the extent arising directly or indirectly from such prevention or delay.

6. **Fees and Expenses.** In consideration of the provision of the Services by ORBIS, Customer shall pay the applicable fees and expenses set forth on the applicable Transaction Document. Unless specifically held open for a length of time on the applicable Transaction Document, all prices are subject to change without notice and all Products and Services will be invoiced to and paid by Customer at ORBIS' prices in effect at the time of delivery or performance. All prices are exclusive of freight and transportation charges. Customer shall be responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by Customer hereunder; provided that in no event shall Customer be responsible for any taxes imposed on, or with respect to, ORBIS' income or revenues. If ORBIS is required to pay any such tax, fee, or charge, Customer shall promptly reimburse ORBIS. Customer agrees to reimburse ORBIS for all travel and out-of-pocket expenses incurred by ORBIS in connection with the performance of any Services.

7. **Payment.** Customer will pay ORBIS in accordance with the payment terms set forth on the applicable Transaction Document, without offset or deduction. If payment terms are not set forth on an applicable Transaction Document, payment shall be due in full within thirty (30) days of invoice, without discount. All late payments shall bear interest at the lesser of the rate of one and one-half percent (1.5%) per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Customer shall reimburse ORBIS for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under this Agreement or at law, ORBIS shall be entitled to (a) suspend the provision of any Services if the Customer fails to pay any amounts when due hereunder until such failure is remedied and/or (b) change the payment terms to cash on delivery or cash in advance. Customer shall pay all collection fees, including attorneys' fees, incurred by ORBIS in connection with attempting to collect on any and all outstanding amounts due and owed to ORBIS.

8. **Customer Obligations.** Customer shall (a) respond promptly, accurately, and completely to all requests from ORBIS for instructions, information, or approvals required by ORBIS to provide the Services; (b) cooperate with ORBIS in its performance of the Services and provide access to Customer's premises, employees, and Products as required to enable ORBIS to provide the Services; (c) take all steps necessary, including timely obtaining and maintaining in effect any required licenses, permissions, authorizations, consents and permits, to prevent Customer-related delays in ORBIS' provision of the Services; (d) comply with all applicable laws, regulations and ordinances; and (e) perform such other obligations as are set forth on the applicable Transaction Document. In addition, Customer shall, from time to time upon ORBIS' request, provide ORBIS with access to Customer's premises, employees, and Products in order to enable ORBIS to perform an inventory of the product covered by this Agreement, including without limitation any Products leased pursuant to Section 4.

9. **Intellectual Property.** All intellectual property rights in and to all documents, work product, Products, and other materials that are delivered to Customer under or in connection with this Agreement or prepared by or on behalf of ORBIS in the course of performing the Services shall be and remain exclusively the property of ORBIS. Customer shall assist ORBIS, to the extent reasonably requested by ORBIS, in the procurement of any protection or defense of ORBIS' intellectual property that relates to the Products and/or Services. Except as otherwise expressly and specifically provided on the face of a

Transaction Document hand-signed by an authorized representative of ORBIS, no license, transfer or assignment of proprietary rights shall occur as a result of this Agreement.

10. **Confidentiality.** From time to time during the Term (as defined below) of this Agreement, either Party (as the “*Disclosing Party*”) may disclose or make available to the other Party (as the “*Receiving Party*”) certain non-public, proprietary, and confidential information (“*Confidential Information*”). Notwithstanding the foregoing, Confidential Information does not include any information that: (a) is or becomes generally available to the public other than as a result of the Receiving Party’s breach of this Agreement; (b) is or becomes available to the Receiving Party on a non-confidential basis from a third-party source, provided that such third party was not prohibited from disclosing such Confidential Information; or (c) was rightfully in the Receiving Party’s possession without any obligation of confidentiality prior to the Disclosing Party’s disclosure hereunder. The Receiving Party shall: (i) protect and safeguard the confidentiality of the Disclosing Party’s Confidential Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (ii) not use the Disclosing Party’s Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and (iii) not disclose any such Confidential Information to any person or entity, except to the Receiving Party’s employees who need to know the Confidential Information in order for the Receiving Party to exercise its rights or perform its obligations under this Agreement. If the Receiving Party is required by applicable law or legal process to disclose any Confidential Information, it shall, prior to making such disclosure, notify the Disclosing Party of such requirements to afford the Disclosing Party the opportunity to seek, at the Disclosing Party’s cost and expense, a protective order or other remedy. The Receiving Party shall treat any Confidential Information disclosed by the Disclosing Party as confidential for a period of five (5) years after the expiration or termination of this Agreement.

11. **Export Compliance.** Customer acknowledges and agrees that to the extent Customer is not the ultimate end-user of the Services purchased and/or Products leased pursuant to this Agreement and intends to further distribute the Products and/or Services, Customer will be responsible for complying with all applicable laws, including all U.S. and other export control laws and regulations. Customer shall not use or otherwise export or re-export the Products and/or Services except as authorized by United States law and the laws of the jurisdiction in which the Products and/or Services were obtained by Customer. Without limiting the foregoing, Customer shall not use, transfer, export or re-export the Products and/or Services to countries on which the United States maintains an embargo (collectively, “*Embargoed Countries*”), or to or by a national or resident thereof, or any person or entity on the U.S. Department Treasury’s List of Specially Designated Nationals or the U.S. Department of Commerce’s Table of Denial Orders (collectively, “*Designated Nationals*”), each of which may change from time to time. By purchasing the Services and/or leasing the Products, Customer represents and warrants that Customer is not located in, under the control of, or a national or resident of, an Embargoed Country, and that Customer is not, and is not under the control of, a Designated National. In addition to any other indemnification obligations Customer may have to ORBIS, Customer shall indemnify, defend and hold ORBIS harmless from and against any and all claims, actions, liabilities, penalties, fines, and expenses of whatever kind (including without limitation attorneys’ fees) arising out of or relating to any breach of the foregoing or any resale, export or distribution of the Products and/or Services.

12. **No Other Warranties.** ORBIS MAKES NO WARRANTIES EXCEPT AS EXPRESSLY PROVIDED HEREIN. ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, ARE EXPRESSLY DISCLAIMED.

13. **Exclusive Remedy.** ORBIS shall not be liable for a breach of the warranties set forth in in this Agreement unless: (a) Customer gives ORBIS written notice of the defective Products and/or Services, reasonably described, within fifteen (15) days of the time when Customer discovers or ought to have discovered the defect; (b) ORBIS is given a reasonable opportunity after receiving the notice of breach of such warranty to examine such Products and/or Services and Customer (if requested to do so by ORBIS) returns any such Products to ORBIS' place of business for the examination to take place there; and (c) ORBIS reasonably verifies Customer's claim that the Products and/or Services are defective. In the event of any such claim, ORBIS will, at the option of ORBIS, either repair, replace or re-perform any and all defective Products and/or Services free of charge, or grant to Customer a credit in an amount equal to the purchase price of the applicable defective Products and/or Services. The remedy of repair, replacement, re-performance or credit is the sole and exclusive remedy for a breach of any warranty set forth herein. At ORBIS' request, Customer shall return to ORBIS any Product for which a warranty claim has been made, F.O.B. ORBIS' facility with freight prepaid, and ORBIS will credit Customer's account for such freight cost upon verification by ORBIS that the Products are defective. ORBIS shall not be responsible for any defective Products and/or Services that have been subject to misuse, abuse, alteration, modification or improper repair. To the extent any products manufactured by a third party ("***Third Party Product***") may be contained in, incorporated in, attached to or packaged together with any Products or Services, such Third Party Products are provided "as-is" and without warranty. For the avoidance of doubt, ORBIS MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCT, INCLUDING ANY (i) WARRANTY OF MERCHANTABILITY; (ii) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (iii) WARRANTY OF TITLE; OR (iv) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE. THE REMEDIES SET FORTH IN THIS SECTION SHALL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND ORBIS' ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTIES SET FORTH IN THIS AGREEMENT.

14. **Mutual Indemnification.** Each Party shall indemnify and hold harmless the other Party from any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, and expenses of whatever kind (including reasonable attorneys' fees) (collectively "***Losses***") arising out of or occurring in connection with such Party's negligence, willful misconduct, or breach of this Agreement.

15. **Mutual Limitation of Liability.** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE, OR PROFIT, DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED UPON REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE AGGREGATE AMOUNTS PAID OR PAYABLE TO ORBIS PURSUANT TO THIS AGREEMENT IN THE ONE YEAR PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

16. **Insurance.** During the Term of this Agreement and for five (5) years thereafter, Customer shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to, commercial general liability (including product liability) in a sum no less than \$1,000,000 with financially sound and reputable insurers. Upon ORBIS' request, Customer shall provide ORBIS with a certificate of insurance from Customer's insurer evidencing the insurance coverage specified in these Terms. The certificate of insurance shall name ORBIS as an additional insured. Customer shall provide ORBIS with ten (10) days' advance written notice in the event of a cancellation or material change in Customer's insurance policy. Except where prohibited by law, Customer shall require its insurer to waive all rights of subrogation against ORBIS and ORBIS' insurers.

17. **Independent Contractor.** Customer and ORBIS are independent contractors, and neither Party has nor will have any power, nor represent that it has any power, to bind the other Party or to create any obligation or responsibility, express or implied, on behalf of the other Party, or in the other Party's name.

18. **No Third-Party Beneficiaries.** This Agreement solely benefits the Parties and their permitted successors and assigns, and nothing in this Agreement, express or implied, confers on any other person any legal or equitable right, benefit, or remedy of any nature whatsoever.

19. **Force Majeure.** ORBIS shall not be liable or responsible to Customer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of ORBIS including, without limitation, acts of God, flood, fire, earthquake, governmental actions, war, civil unrest, labor disputes, restraints or delays affecting carriers, or inability or delay in obtaining supplies.

20. **Termination.** In addition to any remedies that may be provided under these Terms, ORBIS may terminate this Agreement or any Transaction Document, in whole or in part, with immediate effect upon written notice to Customer, if Customer: (a) fails to pay any amount when due under this Agreement; (b) has not otherwise performed or complied with any of the terms of this Agreement, 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.

21. **Survival.** Any right or obligation of the Parties in this Agreement which, by its nature, should survive termination or expiration of this Agreement, will survive any such termination or expiration of this Agreement.

22. **Notices.** All notices required to be given under the terms of this Agreement, or which the Parties may desire to give hereunder, shall be in writing and shall be deemed to have been delivered and given for all purposes (a) when delivered by hand courier to the Party to whom the notice is directed; (b) one business day after deposit with a commercial overnight carrier; (c) three business days after being mailed by registered or certified mail, return receipt requested, postage prepaid; or (d) upon completion of transmission, if sent via electronic mail (email) with confirmation of successful transmission and receipt thereof; in each case addressed to the Party to be notified at the address included on the applicable Transaction Document, or at such other address as the Party to be notified may furnish to the other in the manner provided hereunder. Notice is effective only upon receipt by the receiving Party and only if the Party giving the notice has complied with the requirements of this Section.

23. **Assignment; Successors and Assigns.** Neither Party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other Party. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve a Party of any of its obligations under this Agreement. Subject to the foregoing, this Agreement is binding on and inures to the benefit of the Parties to this Agreement and their respective permitted successors and assigns.

24. **Severability.** If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement to effect the original intent of the Parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

25. **Choice of Law; Choice of Forum.** This Agreement shall be construed and interpreted according to the internal laws of the State of Wisconsin, U.S.A. Each Party irrevocably (a) agrees that any and all suits, actions or other legal proceedings arising out of this Agreement shall be brought exclusively in the courts of the State of Wisconsin located in Milwaukee County, or the federal courts of the United States located within Milwaukee County, in the State of Wisconsin, and (b) consents to the jurisdiction of each such court with respect to any such suit, action, or proceeding. The United Nations Convention on Contracts for the International Sales of Goods (CISG) does not apply to this Agreement.

26. **Miscellaneous.** No waiver by either Party of any provision of this Agreement or any default by the other Party, and no failure of either Party to insist upon strict performance, will affect the right of that Party thereafter to enforce such provision or to exercise any right or remedy in the event of any other default, whether or not similar. This Agreement may not be modified or changed except by a writing signed by both Parties. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement.

APPENDIX 1
PRODUCT LEASE TERMS AND CONDITIONS

1. **Product Lease.** ORBIS hereby leases to Customer, and Customer hereby leases from ORBIS, the Product specifically set forth on the applicable Transaction Document, for the duration of the term set forth on the applicable Transaction Document (the “*Term*”).
2. **Ownership of Product.** This Agreement is intended only to provide for the lease of the Product, and is not a sale or the creation of a security interest. Customer will not have, or at any time acquire, any right, title, or interest in the Product, except the right to possession and use as provided for in this Agreement. ORBIS will at all times be the sole owner of the Product. Customer shall not sublet, encumber, or dispose of the Product, and will not remove, cover, or interfere with ORBIS’ identification labels attached to the Product.
3. **Product Use.** Customer will use the Product in a careful and proper manner and only for the purposes for which the Product was designed and provided. Customer will not permit any Product to be used in violation of any applicable federal, state, or local statute, ordinance, rule, or regulation, and will indemnify ORBIS for any costs, damages, liabilities, or expenses (including attorneys’ fees) relating to any such violation. Customer warrants that the Product will be used for commercial purposes only, in the conduct of Customer’s lawful business. Customer shall not attempt or purport to sell, pledge, mortgage, or otherwise encumber any of the Product. Customer warrants that any trademarks Customer requests ORBIS to affix to any Product is owned or authorized for such use by Customer.
4. **Risk of Loss; Maintenance and Repairs.** Customer shall be fully responsible hereunder and bear the risk of loss for the Product commencing upon delivery of the Product to Customer. This risk of loss shall remain with Customer until the return of the Product to the location designated by ORBIS following the expiration or termination of this Agreement. Customer will immediately notify ORBIS of any lost, damaged, or defective Product. ORBIS shall be responsible for required maintenance and repairs to the Product caused by Ordinary Wear and Tear. “*Ordinary Wear and Tear*” shall mean only the normal deterioration of the Product caused by ordinary, reasonable, and proper use of the Product by Customer. “Ordinary Wear and Tear” shall not include, under any circumstances, damage to any Product resulting in ORBIS determining in its sole discretion that greater than one percent (1%) of the Product must be scrapped or otherwise disposed of during any twelve (12) month period. ORBIS shall not be responsible for, and Customer shall indemnify ORBIS for, any lost or damaged Product to the extent not caused by Ordinary Wear and Tear, including without limitation any loss or damage resulting from any misuse or negligent act by Customer or its employees, agents, customers, or representatives. Any such amounts shall be due and payable within thirty (30) days of invoice by ORBIS; provided, however, that ORBIS may in its sole discretion allow such amounts to be split and paid together with an agreed upon number of Customer’s regularly scheduled payments under this Agreement.
5. **Return of Product.** Customer agrees to return to ORBIS the Product in good, working condition, Ordinary Wear and Tear excepted, at the end of the Term. If the Product is not timely returned for any reason whatsoever, Customer authorizes ORBIS, at ORBIS’ sole and absolute discretion, to (a) charge Customer per outstanding Product at ORBIS’ then-current daily rental rate; (b) invoice Customer the purchase price for any Products not returned; and/or (c) retake the Product without further notice or legal process, and Customer agrees that ORBIS shall not be liable for any claims for damage or trespass

Appendix 1

to

ORBIS Terms and Conditions of Service

arising out of the removal of the Product, and Customer shall indemnify, defend, and hold ORBIS harmless from any and all Losses arising from such retaking.

6. **Disclaimer of Warranties.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, ORBIS MAKES NO WARRANTY WITH RESPECT TO THE PRODUCT WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

7. **Insurance.** Customer shall cause the Product to be covered by a property casualty insurance policy issued by an insurance company with a rating of AA or better in Best's Insurance Guide. Said policy shall be sufficient to fund the obligations of Customer under this Agreement to pay for any damage to or loss of any Product. ORBIS may require Customer to provide it with certificates or other evidence of insurance showing that ORBIS has been named the loss payee with respect to the proceeds from the property casualty insurance policy as it relates to the Product.

8. **Indemnification.** Customer will take all necessary precautions regarding the safe and appropriate use of the Product, and protect all persons and property from injury or damage. Customer agrees to indemnify and hold harmless ORBIS from and against any and all Losses arising out of the use, possession, or lease of the Product, however caused, except to the extent such Losses are caused by ORBIS' negligence, willful misconduct, or breach of this Agreement.

Appendix 1

to

ORBIS Terms and Conditions of Service