

Orbis India Pvt. Ltd.,

Our Terms and Conditions for Sales, Support & Services.

These Terms and Conditions of Sale and Service ("Terms") are applicable to governing the sale of Products and Support and the license of Software by Orbis India Pvt Ltd ("Orbis India").

1) PRICES

a) Unless otherwise indicated on the quotation, prices include shipping and handling charges to the address agreed to by Orbis India in accordance with the Applicable Trade Term. Prices are valid for the period indicated on the quotation. Support prices, except for prepaid and Custom Support, may be changed by Orbis India upon written notice.

b) Prices exclude any sales, service, value added or similar tax which will be payable by Customer in addition to the purchase price if applicable. If exemption from taxes is claimed, Customer must provide a certificate of exemption.

2) ORDERS, CANCELLATIONS AND RETURNS

All orders are subject to acceptance by Orbis India. Product orders must specify Delivery within Four (4) months from order date Customer may cancel orders for Products (except Custom Products) prior to Shipment at no charge but atleast 8 weeks before the delivery date asked for in their Purchase order. In case of order cancellation within 8 weeks of shipment schedule 50% of the impacted value is payable by the customer.

Cancellation of orders or rescheduling shipment for Custom Products will be subject to Orbis India's approval.

Cancellation of a Repair Support order will be subject to applicable charges. Information regarding applicable Repair Support cancellation charges is available upon request. Cancellation Charges of 75% are payable if any Order cancellation is made within 8 Weeks of the delivery requirements. Product returned will also be subject to Orbis India's approval and the applicable return/repairs/Calibration charges.

All parts replaced under exchange program will have to be returned within 7 days of repairs, else the complete cost of Original spare will be payable by customer.

3) SHIPMENT, TITLE AND RISK OF LOSS

a) Orbis India will make reasonable efforts to meet Customer's Delivery and shipment requirements. If Orbis India is unable to meet Customer's Delivery and shipment requirements, alternative arrangements may be agreed. In the absence of such agreement, Customer's sole remedy is to cancel the order.

b) Ownership title to hardware Products and risk of loss and damage will pass to Customer at the address agreed to by Orbis India in accordance with the Applicable Trade Term.

4) INSTALLATION AND ACCEPTANCE

a) For Products with installation included in the purchase Order, acceptance by Customer occurs upon completion of installation by Orbis India. Installation is complete when the Product passes Orbis India's installation test procedures. For Products without installation included in the purchase price, acceptance by Customer occurs upon Delivery.

b) If Customer schedules or delays installation by Orbis India more than thirty (30) days after Delivery, Customer acceptance of the Product(s) will occur on the thirty-first (31st) day after Delivery. If no notice of rejection is received within 30 days in writing, the items will be deemed to have been accepted and payment to be made by the customer immediately.

5) PAYMENT

a) Payment terms are subject to Orbis India credit approval. Payment is due immediate from Orbis India's invoice date. Invoices for contractual Support will be issued in advance of the Support period. Orbis India may change credit or payment terms at any time should Customer's financial condition or previous payment record so warrant.

b) Orbis India may discontinue support or any specific performance if Customer fails to pay any sum due, or fails to perform under this or any other Orbis India agreement if, after ten (10) days written notice, the failure has not been rectified.

c) Payment after the due date will attract 2% interest per month.

6) WARRANTY

(a) Each Product will receive a Factory warranty. A Factory warranty at the time of shipment includes the standard warranty for the country in which the purchases have been made. If a Product is moved to another country, the destination standard warranty terms may not apply for on-site warranty where Orbis India does not have an applicable support presence in that country.

- (b) Product warranty information is available with Products, on quotations, or upon request. The warranty period begins on the day of acceptance. Customer may receive a different warranty when the Product is purchased as part of a system or upgrades as the case may be.
- (c) Orbis India warrants Orbis India hardware Products free of any defects in materials and workmanship, and further warrants that Orbis Products will conform to Specifications.
- (d) Orbis India warrants that Software will not fail to execute its programming instructions due to defects in materials and workmanship when properly installed and used on the hardware designated by Orbis India. Orbis India further warrants that Orbis India owned standard Software will substantially conform to Specifications. Orbis India does not warrant that Software will operate in hardware and software combinations selected by Customer or meet requirements specified by Customer.
- (e) Orbis India does not warrant that the operation of Products will be uninterrupted or error free.
- (f) If Orbis India receives notice of defects or non-conformance as defined in Sections 6(c) and 6(d) during the warranty period, Orbis India will, at its option, repair or replace the affected Product(s) either at Customer Site or in Orbis facility. Orbis India will pay expenses for shipment of repaired or replacement Product(s). If Orbis India is unable, within a reasonable time, to repair or replace the affected Product(s), Customer will be entitled to a refund of the purchase price upon return of the Product(s) to Orbis India by the Customer within a period of 30 days but Customer must notify Orbis of any defects or workmanship or of any Non Conformance to specifications within 60 days of Purchase.
- (g) Orbis India warrants that Orbis India Support will be provided in a professional manner. For Repairs carried out by Orbis Warranty on the repair portion will be ninety (90) days from the date of repair, Orbis India will replace, at no charge, defective parts used in Orbis India's repair of Products, only for the repaired portion.
- (h) Some items manufactured by Orbis India, Products may contain repaired or refurbished parts or Orbis may use remanufactured parts which are equivalent to new in performance.
- (i) Orbis India reserves the right to invalidate Customer's warranty for Products with an onsite warranty, or Products that have been installed by Orbis India, in the event Customer relocates such Products. Customer's warranty for such Products may be reinstated provided Orbis India verifies, at Customer's expense, that such Products are in good operating condition.
- (j) The above warranties do not cover defects resulting from improper or inadequate maintenance, installation, repair or calibration performed by Customer or a third party not authorized by Orbis India; Customer or third party supplied hardware or software, interfacing or supplies; unauthorized modification; improper use or operation outside of the Specifications for the Product; abuse, negligence, accident, loss or damage in transit; or improper site preparation.

7) SUPPORT

- (a) Customer may order Support from Orbis India's current Support offering as available. Orders for Support are also subject to the Product specific Support terms and the terms indicated on the quotation.
- (b) To enter in to Support agreement, all Orbis Products considered must be at current specified revision levels and may require Orbis India's certification, at Customer's expense for determining that Products are in good operating condition prior to such AMC agreements. Subject to Support of Products moved to another location is subject to availability.
- (c) Customer is responsible for removing any products not eligible for Support to enable Orbis India to perform Support services. Additional charges, computed at Orbis India's standard rates, may be incurred for any extra work caused by such products.
- (d) Support does not cover any damage, defects or failures caused by:
 - use of non-Orbis India materials modifications by customer s/w or supplies or used with other suppliers products;
 - Environmental or location specific conditions that do not conform to Orbis India's site specifications; or neglect, improper use, fire or water damage, electrical /Magnetic disturbances, transportation, work, or modification by non-Orbis India employees or subcontractors, or other causes beyond Orbis India's control.
- (e) Customer is responsible for maintaining operational procedures external to the Products or devise processes to reconstruct lost or altered Customer Data files, data or programs. Customer will have a representative present when Orbis India provides Support services at Customer's site. Customer will notify Orbis India if Products are being used in an environment which poses a potential health hazard to Orbis India employees or subcontractors. Orbis India may require Customer to maintain such Products under Orbis India supervision.

- (f) Orbis India Support packages may be purchased along with Product purchase and such coverage will be honoured by any Orbis India repair centre. Additional on-site Support coverage may be purchased and such coverage will be limited to the country in which the additional coverage was purchased.
- (g) Subject to Section 3(b) above, Customer may delete Products under a Support agreement or may cancel a Support agreement upon sixty (60) days written notice. Upon sixty (60) days written notice, Orbis India may delete Products no longer included in Orbis India's Support offering or may cancel a Support agreement.

8) INTELLECTUAL PROPERTY CLAIMS

- (i) Orbis India will at its option defend or settle any claim against Customer that Products (excluding Custom Products) delivered under these Terms infringe an intellectual property right in the country where the Products are used or sold, provided Customer promptly notifies Orbis India in writing, and cooperates with and provides control of the defence or settlement to Orbis India, to the extent legally permissible.
- (ii) In the event of an infringement claim under Section 9(a), Orbis India will pay infringement claim defence costs, settlement amounts and court-awarded damages. If such a claim appears likely, Orbis India may, at its option, modify the Product, procure any necessary license, or replace it. If Orbis India determines that none of these alternatives is reasonably available, Orbis India will refund Customer's purchase price upon return of the Product
- (iii) Orbis India has no obligation for any claim of infringement arising from:
 - Orbis India's compliance with, or use of, Customer's designs, specifications, instructions or technical information;
 - Product modifications by Customer or a third party;
 - Product use prohibited by Specifications or related application notes; or use of the Product with products not supplied by Orbis India. These terms state Orbis India's entire liability for claims of intellectual property infringement.

(9) Remedies and Limitation of Liability of Orbis India.:

- (a) In no event will Orbis India, its subcontractors or suppliers be liable for any special, Direct, incidental, indirect or consequential damages (including downtime costs, loss of Electronic Data, costs involving recovery of Lost Data, Deemed Loss of profits, or cover any cost whatsoever) regardless of whether such claims are based on contractual, Warranty, Guarantee or based any other legal theory, even if advised of the possibility of such damages. Orbis has the right to exclude and is independent of any remedy set forth in these Terms.
- (b) To the extent that limitation of liability is permitted by law in India Orbis India's liability to Customer is limited to the purchase price of the product, except that Orbis India's obligation to make warranty refunds under Section 6 is limited to the Product purchase price.
- (c) The limitations set forth in Sections 9(a) and 9(b) above will not apply to infringement claims under Section 9, or to damages for bodily injury or death.
- (d) The remedies in these Terms are Customer's sole and exclusive remedies.

10 Other General Terms::

- Orbis India will not be liable for performance delays due to any General Strikes in the Factory, Floods, Earth Quakes or for non-performance, or due to act of God or nature, will resort to Force Majeure, or due to any reason beyond its reasonable control.
- Customer may not assign or transfer products/service sold to them by Orbis to any third party without Orbis India's prior written consent. Any attempted assignment or transfer without such consent will render any contract treated null and void. As conditions to such consent; (i) the assignee or transferee must agree in writing to the applicable Orbis India Support terms; (ii) Orbis India may require that all Products included within a Support agreement are in good operating condition; and) Orbis India may request for applicable charges in connection with the assignment or transfer. Customer may not initiate a Support agreement in connection with any bankruptcy proceedings without Orbis India's written consent. If either party becomes insolvent, is unable to pay its debts when due, files for bankruptcy, is the subject of involuntary bankruptcy, has a receiver appointed, or has its assets assigned, the other party may cancel any unfulfilled obligations.
- Orbis India will store and use any of the Customer's Personal Data in accordance with Orbis India's privacy practices, which are available upon request or from www.orbissystems.eu

Specific Meaning of terms used.

- 1) "Applicable Trade Term" means the term defined in Incoterms 2000, agreed by the parties, and documented in the quotation.
- 2) "Customer's Personal Data" means Customer's personal data or other personal data in Customer's control, including but not limited to designations, names, telephone numbers and email addresses. "Delivery" means the date on which Orbis India places the Product(s) at Customer's or Customer's authorised representative's disposal at the address agreed to by Orbis India in accordance with the Applicable Trade Term.
- 3) "Product(s)" means any hardware/Services sold or Software licensed under these Terms. "Custom Products" means Products manufactured or configured to meet Customer requirements.
- 4) "Software" means one or more computer programs in object code format, whether stand-alone or bundled with other Products, and related documentation provided to Customer under these Terms.
- 5) "Specifications" means specific technical information about Products which is published by Orbis India in effect on the date Orbis India ships Customer's order.
- 6) "Support" means any standard service such as hardware maintenance, calibration and repair; Software updates and maintenance; or education and training. "Customized Support" means Support adapted to meet Customer requirements.

– Privacy Statement. Orbis India guarantees that it will not sell, rent or lease Customer's Personal Data to others. Customer agrees that Orbis India may forward Customer's Personal Data to other Orbis India entities or business partners (including agents, resellers and subcontractors) solely to conduct business activities, including communication with third parties (such as the handling of orders, advertising campaigns or market research). Customer agrees that Orbis India and its entities may store and use Customer's Personal Data in all countries where Orbis India and its entities do business. Customer represents and Orbis India acknowledges Customer's representation that consent from individual data subjects has been obtained or is not needed. Customer, who exports, re-exports transfers or imports Products, technology or technical data purchased hereunder, assumes responsibility for complying with applicable Indian Laws, European Union, and other laws and regulations, and for obtaining required export and import licences. f) Disputes arising in connection with these Terms will be governed by the Republic of India. Provisions herein which by their nature extend beyond the termination of any sale or license of Products or Support will remain in effect until fulfilled. h) Neither party's failure to exercise any of its rights under these Terms will be deemed a waiver or forfeiture of those rights. To the extent that any provision of these Terms is determined to be illegal or unenforceable, the remainder of these Terms will remain in full force and effect. These Terms constitute the entire agreement between Orbis India and Customer, and supersede any previous communications, representations or agreements between the parties, whether oral or written, regarding transactions hereunder. Customer's additional or different terms and conditions will not apply. Customer's purchase or license of Products and Support will constitute Customer's acceptance of these Terms, which may not be changed except by an amendment signed by an authorized representative of each party.