

IN-TCsga09

## **Website terms and conditions template: retail of hardware and licensed software**

## Terms and Conditions

These terms and conditions are the contract between you and [OurName] (“us”, “we”, etc). By visiting or using our

We are [your business name], a company registered in [country], number [ ].

VAT Registration Number:

You are: Anyone who uses our website

**These are the agreed terms:**

### 1. Definitions

“Content”	means the textual, visual or aural content that is encountered as part of your experience on Our Website. It may include, among other things: text,
“Intellectual Property”	means intellectual property owned by us, of every sort, whether or not registered or registrable in any country, including intellectual property of kinds coming into existence after today; and including, among others, patents, trademarks, unregistered marks,
“Our Website”	means all of the hardware and software installation that
“Post”	means display, exhibit, publish, distribute, transmit and/or disclose information, Content and/or other material on to Our Website,
“Product”	means any product sold or offered for sale
“Software”	means the software you will use in association with the Product. It includes all software owned by us,

regardless of the source from which

“Visitor” means anyone who visits Our Website.

## 2. Interpretation

In this agreement unless the context otherwise requires:

- 2.1. Every term in this agreement applies both to the Product and to any Software,
- 2.2. A reference to a person includes a human individual, a corporate entity and any organisation
- 2.3. In the context of permission, “may not” in connection with an
- 2.4. The headings to the paragraphs and schedules (if any) to this agreement are inserted
- 2.5. Any agreement by any party not to do or omit to do something includes an obligation not to allow some
- 2.6. [\[except where stated otherwise\]](#), any obligation of any person arising from this
- 2.7. A reference to the knowledge, information, belief or awareness of any person shall be deemed to include the knowledge, information,
- 2.8. The words “without limitation” shall be deemed to follow any use of the words “
- 2.9. A reference to an act or regulation includes new law of substantially the same
- 2.10. In any indemnity, a reference to costs or expenses shall be construed as including the estimated cost of management time of the

- 2.11. All money sums mentioned in this agreement are calculated net of VAT, which
- 2.12. These terms and conditions apply to all supplies of Products by us. They
- 2.13. This agreement is made only in the English language. If there is any conflict in meaning between the English language version of this agreement and any version or

### **3. Basis of Contract**

- 3.1. When you buy a Product driven by software, you are also buying a licence limited to the use of that software in association with the Product you have bought, subject to the terms of this agreement. We now grant a licence to you to
  - 3.2. In entering into this contract you have not relied on any representation or information from any source except the
  - 3.3. You acknowledge that you understand exactly what is included in a Product and you are satisfied that the Product
  - 3.4. [The Contract between us comes into existence when we receive](#)
- [OR](#)
- 3.5. [The Contract between us comes into existence only when we write to you to confirm that we agree to provide to you the Product you want. Your payment does not create a contract.](#)
  - 3.6. If you make any payment for Products in the future, you will do so under

## 4. The price

- 4.1. The prices payable for Products are clearly set
- 4.2. [Unfortunately, we cannot guarantee that every Product advertised on Our Website is available. If at any time a Product , ].
- 4.3. The price charged for any Product may differ from one country to another. You may not be entitled to
- 4.4. Prices are inclusive of any applicable value added
- 4.5. All monies paid by you to us are non-refundable and cancellation and/or termination of this Agreement by you or us at any

## 5. Security of your credit card

- 5.1. We take care to make Our Website safe for you to use. Card payments are not processed through pages controlled by us. We use one or more online
- 5.2. If you have asked us to remember your credit card details in readiness for your next purchase or subscription, we will securely store your payment details on our systems. These details will be

## 6. Delivery and pick up

- 6.1. Delivery of the Software will be included with
- 6.2. Deliveries will be made by the carrier to the address stipulated in your order. You

- 6.3. If we are not able to deliver your purchase within [30] days of the date of your order, we shall
- 6.4. We may deliver your purchases in instalments if they are not all
- 6.5. [Products are sent at our risk until signed for by you or by any other ]
- 6.6. All goods must be signed for on delivery by an adult aged 18 years or over. If no one of that age is at the address when the delivery is attempted your purchase may be retained by the driver. When your purchase arrives it is important that you check immediately the condition and quantity.
- 6.7. Signing "Unchecked", "Not Checked"
- 6.8. [Products are sent by post. We will send you a message by email to ]
- 6.9. If we agree with you to deliver on a particular day or at a particular time, we will do our best to comply. But no time given is to be treated as contractual. So we are
- 6.10. Some items will be delivered direct from the manufacturer who will contact you to arrange delivery. When delivery of the items has been arranged directly
- 6.11. Some items are so large and heavy that delivery times may be slightly longer. In this case, approximate
- 6.12. Time for delivery specified on the order, if any, is an estimate only. We
- 6.13. We are happy for you to pick up Products from our shop/ warehouse provided you make an appointment in advance and payment has been

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- 6.14. If you pick up Products from \_\_\_\_\_ :
- 6.14.1 we will not be able to assist you \_\_\_\_\_ ;
- 6.14.2 Products are at your risk from the moment they are picked up by you \_\_\_\_\_ / \_\_\_\_\_ ;
- 6.14.3 you agree that you are responsible for everything that happens after you take possession of the Product, both on and off our premises, \_\_\_\_\_ , \_\_\_\_\_ .

## 7. Product returned

These provisions apply in the event that you return any \_\_\_\_\_ :

- 7.1. We do not accept returns unless you buy as a consumer, or there was a defect in the Product at the time of \_\_\_\_\_ , \_\_\_\_\_ .
- 7.2. Before you return a Product to us, please carefully re-read the instructions and check that you have assembled it correctly and \_\_\_\_\_ , \_\_\_\_\_ .
- 7.3. The Product must be returned to us as soon \_\_\_\_\_ .
- 7.4. **So far as possible, the \_\_\_\_\_ :**
- 7.4.1 **with both the Product and all packaging as far as \_\_\_\_\_ ;**
- 7.4.2 **securely wrapped;**
- 7.4.3 **including our delivery slip;**
- 7.4.4 **at your risk and cost.**

**OR**

- 7.5. **You must tell us by email message to [address] you that you would like to return the Product, specifying exactly what Product and when purchased, and giving full details of the defect or other reason for return. We will then issue a returns note. If you**

7.6. The procedure for return of Products is set out on

OR

7.7. Detailed instructions for returning a faulty item are on our web site at [url].

7.8. In returning faulty items please enclose

7.9. Most Products are covered by the manufacturer's guarantee for [ 12 ]

7.10. If delivery was made to the Republic of 1930  
1986 .

7.11. If we agree :

7.11.1 refund the cost of return carriage;

7.11.2 repair or replace the item as we choose.

## 8. Limitation of liability for defects

8.1. We will repair or

8.1.1 the defect appears and  
[ 12 ] ;

8.1.2 the defect results only from faulty design;

8.1.3 you have returned ;



8.2. If we agree that we are liable, [ ]

8.3. If we repair or replace the Product as set out in , , .

## 9. Foreign taxes, duties and import restrictions

9.1. When you buy a Product for delivery outside the Republic of India, , .

9.2. You are the importer in law responsible for purchasing a Product which you are , .

## 10. Dissatisfaction with a Product

10.1. [If for any reason you are not completely](#) , 30 , .

[OR](#)

10.2. [Our most important task is to ensure your absolute satisfaction. We will always strive to reach](#) , .

10.3. If you do not follow the procedure for complaints , .

## 11. Software updates

11.1. The Software is updated from time to time. If you wish to receive information about updates, please register via \_\_\_\_\_.

11.2. The Product \_\_\_\_\_.

## 12. Content you Post to Our Website

12.1. We may, at our discretion, read, assess, \_\_\_\_\_.

12.2. You agree that you will not \_\_\_\_\_.

:

12.2.1 be malicious or defamatory;

12.2.2 consist in \_\_\_\_\_;

12.2.3 be software which assists in \_\_\_\_\_;  
\_\_\_\_\_;

12.2.4 be illegal, \_\_\_\_\_;

12.2.5 be sexually explicit or pornographic;

12.2.6 promote discrimination or animosity to any person  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_;  
\_\_\_\_\_;

12.2.7 be likely to harass, \_\_\_\_\_,  
\_\_\_\_\_;

12.2.8 be likely to deceive any person or be  
\_\_\_\_\_, \_\_\_\_\_;  
\_\_\_\_\_;

12.2.9 give the impression that it emanates from

;

12.2.10 solicit passwords or personal information from anyone;

12.2.11 be used to sell

;

12.2.12 be used to

;

12.2.13 include anything other than words (i.e.

)

;

12.2.14 be incomplete or

;

12.2.15 request personal information from other users

.

12.2.16 link to any

,

### 13. Other restrictions

You agree that you

:

13.1. to sell or

;

13.2. in a way which violates the law

,

;

13.3. for spamming.

,

:

13.3.1 the bulk sending of unsolicited

,

;

13.3.2 the use of distribution lists that

;

13.3.3 excessive and

;

13.3.4 sending age-inappropriate

18 .

## 14. About Content Posted by you

You now confirm that:

14.1. you own all of the Content you Post;

14.2. you understand that you are personally responsible for your breach of

, , ,

;

14.3. you will immediately notify

.

14.4. you accept all risk and responsibility

.

14.5. you irrevocably grant to us the right and licence to edit, copy, publish, distribute, translate

,

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14.6. you agree to waive your right to be identified as

1957

57 .

14.7. [\[you now irrevocably authorise us to publish](#)

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14.8. you now irrevocably release us from any right or

## 15. Removal of offensive Content

15.1. For the avoidance of doubt,

15.2. We are under no obligation to monitor or record the activity of any customer for

15.3. If you are

15.3.1 your claim or complaint must be submitted to us in the form

15.3.2 we shall remove

15.3.3 after receiving a notice of

15.4. We may re-

15.5. In respect of any complaint made by you or any person on your behalf,

15.6. You now agree that if any complaint is made

## 16. Security of Our Website

We may, at our discretion or as part of a paid Service, give you permission to access Our

If you violate Our Website or use it unlawfully or immorally, we will take the strongest action against you

, 2000 .

You now agree that

16.1. modify, copy, or cause damage

16.2. link to our site in any way that would cause the appearance

16.3. download any part

16.4. collect or use

16.5. collect or use any information obtained

16.6. aggregate, copy or duplicate in any manner any of the

16.7. for any purpose use our name, any proprietary information (including images,

16.8. use Our Website to hack

;

16.9. make available or upload files that contain software or other material,

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;

16.10. make available, upload or distribute by any means any material

“

” “

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;

;

16.11. upload or republish any

,

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16.12. hide or remove

;

16.13. share with a

;

16.14. use on Our Website software which assists in:

16.14.1 data mining, extraction or collection;

16.14.2

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16.14.3 “

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16.14.4 performing any automated operation;

16.15.

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16.15.1

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16.15.2

## 17. Interruption to our service

17.1.

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17.2.

17.3.

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## 18. Intellectual Property

18.1.

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18.2.

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18.3.

You agree that at all times you will:

18.4.

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18.5.

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18.6.

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18.7.

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18.8.

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18.9.

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18.9.1

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18.9.2

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18.9.3

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18.9.4

18.10.

## 19. Disclaimers and limitation of liability

19.1.

19.2.

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19.3.

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19.4.

19.5.

[

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[

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“

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[

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:

- 19.5.1 useful to you;
- 19.5.2 of satisfactory quality;
- 19.5.3 fit for a particular purpose;
- 19.5.4 ;

19.6.

19.7.

19.8. We accept no responsibility for:

- 19.8.1 malfunction in any hardware of yours;
- 19.8.2

19.8.3 the provision or failure to provide any firewall;

19.9.

19.9.1 indirect or consequential loss; or

19.9.2

19.10.

[ 12 ]

19.11.

, [ . 100 ,  
000 ].

19.12. ( ) , ,  
, , .

19.13. .

## 20. You indemnify us

,  
:

20.1. ;

20.2. your breach of this agreement;

20.3. , ; ,  
, ;

20.4.

20.5. any Content you Post to Our Website;

20.6. ;

20.7. ;

20.8. ;

20.9. ;

20.10. ;

## 21. Miscellaneous matters

21.1.

21.2.

21.3.

21.4.

21.5.

21.6.

21.7.

21.7.1

21.7.2

;

21.7.3 issue a claim in any court.

21.8.

21.9.

21.10.

21.11.

It shall be deemed to have been delivered:

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72 ;

24 ;

- : 24

. [ - . ,

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21.12.

21.13.

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21.14.

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21.15.

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# Explanatory Notes:

## Website terms and conditions template: retail of hardware and licensed software

### General notes

#### 1. What does a T&C document do?

A terms and conditions document serves two prime purposes: first, it sets out the terms under which you have agreed to accept business. Everyone can see the details of the contract between you and your contract party can decide whether or not to enter into a contract on these terms. Secondly, the document affirms the legal rights of the parties, so that either can sue the other in court for a

#### 2. How much information should I include in my & ?

Terms and conditions should provide a legal framework. The document should be all-inclusive of the structure of the contract but need not include detail which may change from time to time, such as prices,

#### 3. Representations on other pages of your site

Note that while the purpose of this document is to set out the terms of the contract with a customer, statements made and information given on your web pages will be regarded by a judge as "representations" which may have induced your customer to enter into a contract with you. You cannot therefore avoid a

#### 4. Making your terms sound friendlier

You may have read the T&C of a large Internet retailer and you want yours to flow in the same gentle way, instead of being "legal". As

However, the sites that use softer language tend to have very deep pockets and access to the best litigators. They feel safe because the probability of a successful case against them is low, and the

It is much easier to sue a smaller company successfully. If you want to feel as safe,

Although their terms and conditions appear to be friendly and even casual, they will have been carefully drawn by expert lawyers, to the point where every word will have been considered, just as we have considered

## 5. **Make sure it bites**

It is essential that terms and conditions are incorporated into the contract. If they are not drawn to the customer's attention until after the contract has been made, then they do not form

It is important that the customer has to take some positive step to confirm that he has read the terms. The usual device for doing so is a check box, and if you do use one it is important that it is not pre-checked. It is

"I have read and understood [your name]'s terms and conditions, and I agree that they

A better acceptance device is one that compels the customer to go to a page containing the terms and conditions, and where the confirmation of acceptance is on that same page at the

Unless your business model requires sales to children, it is best specifically to  
18 .

## 6. **Enforcing terms when the party to the contract does**

If someone comes to you otherwise than via your website, you must find some other way of obtaining his agreement to your terms. By far the best way is by a signature. That means you will need a second version of this document that provides at the top for the other party to be named and at the end for both parties to sign. If the other party does not sign,

## 7. **If this document is a contract, why are the** ?



It is not necessary (although it is safer) for the other to be identified by name. "You" is enough. However, you do have to be accurately identified. Under the Electronic Commerce law, you must clearly state the real name of you or your company, trading address and names of directors. If you are a sole trader, you must disclose your real name as well as

## 8. Can I just close the line spacing and put it all 8 ?

We do not advocate small print or close type. The whole thrust of the Consumer Protection Act 1986, the Information Technology Act, 2000 and the Monopolies and Restrictive Trade Practices Act 1969 is toward transparency. In any dispute, you

## Paragraph Specific Notes:

The notes to this document, using the :

### 1. Definitions

Every business is different, not only in terms of the product or service being offered, but also the processes. The defined terms that

By all means use the search and replace function in your word processor to change them, either to other general adjectives, or to

We use	You might decide to change to
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Product	Robots
---------	--------

Our Website	RobotStore
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But if you do change the defined word, **make sure it applies to every use of it in the document.**

You should first decide on the contents of the document, then return to check

### 2. Interpretation

Leave these items in place unless there is a good reason to edit

### **3. Basis of contract**

Technically, you are both selling a product and granting a licence for use of your software. The licence we provide here is

This paragraph also covers when a contract comes into effect. If we did not include such wording here, your website could be

### **4. The price**

Edit these paragraphs to suit your business.

### **5. Security of your credit card**

This paragraph is more by way of re-assurance to your

### **6. Delivery and pick up**

There are many possible arrangements you could make. We have therefore provided a

### **7. Product returned**

This paragraph is a matter for your commercial judgement. The relevant law is the Sale of Goods Act 1930 and the Consumer Protection Act 1986 If the item is faulty,

This paragraph also provides for the alternative of stating your returns policy on your website. You could argue

It may be easier to edit text on a web page than to change your T&C document. The problem that may arise is that what you say on your website may not be contractually binding. If you are selling low

&

**8. Limitation of liability for defects**

With the exception of editing the number of months in which

**9. Foreign taxes, duties and import restrictions**

It is important to make this point clear if any of your sales are to other countries. It is not simply a question of avoiding expense or dealing with these matters yourself.

**10. Dissatisfaction with a Product**

We have included this as an option.

**11. Software updates**

We have included

**12. Content you Post to Our Website**

These paragraphs (together with those in sections 15, 16 and 17) form what is also called an Acceptable Use

The paragraphs in this section have two purposes: the first is the obvious and named

No matter what you put in these paragraphs, there is no certainty that you may

Of course,

We suggest that

### **13. Other restrictions**

This paragraph continues in the vein

### **14. About Content Posted by you**

These provisions cover the acceptance by

### **15. Removal of offensive Content**

These paragraphs are targeted at anyone who is aggrieved at a

Note that for these paragraphs to be enforceable, the visitor must have accepted your terms (e.

“ ”).

### **16. Security of Our Website**

These paragraphs may sound overly

Your need for this provision

**17. Interruption to our service**

These paragraphs give you a

**18. Intellectual Property**

Few business managers appreciate just how

We suggest that

**19. Disclaimers and limitation of liability**

Some of these provisions are void

The law is complicated and much depends on the facts of

You will see that we have also included in the provision for directors and

**20. You indemnify us**

We advise you to leave this provision in place. Although part may

1986

1969 ,

**21. Miscellaneous matters**

Unless you have a

,

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Take care before agreeing to accept

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## End of notes