

# Website Terms of Use

Last Modified: 01/17/2022

## **Acceptance of the Terms of Use**

These terms of use are entered into by and between You and OTR Capital, LLC ("**Company**," "**we**," or "**us**"). The following terms and conditions, together with any documents they expressly incorporate by reference (collectively, "**Terms of Use**"), govern your access to and use of [www.otrcapital.com](http://www.otrcapital.com), including any content, functionality, and services offered on or through [www.otrcapital.com](http://www.otrcapital.com) (the "**Website**").

Please read the Terms of Use carefully before you start to use the Website. **By using the Website, you accept and agree to be bound and abide by these Terms of Use and our Privacy Policy, found at <https://otrcapital.com/privacy>, incorporated herein by reference.** If you do not want to agree to these Terms of Use or the Privacy Policy, you must not access or use the Website.

This Website is offered and available to users who are 18 years of age or older and reside in the United States or any of its territories or possessions. By using this Website, you represent and warrant that you are of legal age to form a binding contract with the Company and meet all of the foregoing eligibility requirements. If you do not meet all of these requirements, you must not access or use the Website.

## **Changes to the Terms of Use**

We may revise and update these Terms of Use from time to time in our sole discretion. All changes are effective immediately when we post them, and apply to all access to and use of the Website thereafter. However, any changes to the dispute resolution provisions set out in Governing Law and Jurisdiction will not apply to any disputes for which the parties have actual notice on or before the date the change is posted on the Website.

Your continued use of the Website following the posting of revised Terms of Use means that you accept and agree to the changes. You are expected to check this page from time to time so you are aware of any changes, as they are binding on you.

## **Accessing the Website and Account Security**

We reserve the right to withdraw or amend this Website, and any service or material we provide on the Website, in our sole discretion without notice. We will not be liable if for any reason all or any part of the Website is unavailable at any time or for any period. From time to time, we may restrict access to some parts of the Website, or the entire Website, to users, including registered users.

You are responsible for both:

- Making all arrangements necessary for you to have access to the Website.
- Ensuring that all persons who access the Website through your internet connection are aware of these Terms of Use and comply with them.

To access the Website or some of the resources it offers, you may be asked to provide certain registration details or other information. It is a condition of your use of the Website that all the

information you provide on the Website is correct, current, and complete. You agree that all information you provide to register with this Website or otherwise, including, but not limited to, through the use of any interactive features on the Website, is governed by our *Privacy Policy* <https://otrcapital.com/privacy>, and you consent to all actions we take with respect to your information consistent with our Privacy Policy.

If you choose, or are provided with, a user name, password, or any other piece of information as part of our security procedures, you must treat such information as confidential, and you must not disclose it to any other person or entity. You also acknowledge that your account is personal to you and agree not to provide any other person with access to this Website or portions of it using your user name, password, or other security information. You agree to notify us immediately of any unauthorized access to or use of your user name or password or any other breach of security. You also agree to ensure that you exit from your account at the end of each session. You should use particular caution when accessing your account from a public or shared computer so that others are not able to view or record your password or other personal information.

We have the right to disable any user name, password, or other identifier, whether chosen by you or provided by us, at any time in our sole discretion for any or no reason, including if, in our opinion, you have violated any provision of these Terms of Use.

### **Intellectual Property Rights**

The Website and its entire contents, features, and functionality (including but not limited to all information, software, text, displays, images, video, and audio, and the design, selection, and arrangement thereof) are owned by the Company, its licensors, or other providers of such material and are protected by United States and international copyright, trademark, patent, trade secret, and other intellectual property or proprietary rights laws.

These Terms of Use permit you to use the Website for your personal, non-commercial use only. You must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store, or transmit any of the material on our Website, except as follows:

- Your computer may temporarily store copies of such materials in RAM incidental to your accessing and viewing those materials.
- You may store files that are automatically cached by your Web browser for display enhancement purposes.
- You may print or download one copy of a reasonable number of pages of the Website for your own personal, non-commercial use and not for further reproduction, publication, or distribution.
- If we provide desktop, mobile, or other applications for download, you may download a single copy to your computer or mobile device solely for your own personal, non-commercial use, provided you agree to be bound by our end user license agreement for such applications.

You must not:

- Modify copies of any materials from this site.

- Use any illustrations, photographs, video or audio sequences, or any graphics separately from the accompanying text.
- Delete or alter any copyright, trademark, or other proprietary rights notices from copies of materials from this site.

You must not access or use for any commercial purposes any part of the Website or any services or materials available through the Website.

If you wish to make any use of material on the Website other than that set out in this section, please address your request to: [legal@otrcapital.com](mailto:legal@otrcapital.com).

If you print, copy, modify, download, or otherwise use or provide any other person with access to any part of the Website in breach of the Terms of Use, your right to use the Website will stop immediately and you must, at our option, return or destroy any copies of the materials you have made. No right, title, or interest in or to the Website or any content on the Website is transferred to you, and all rights not expressly granted are reserved by the Company. Any use of the Website not expressly permitted by these Terms of Use is a breach of these Terms of Use and may violate copyright, trademark, and other laws.

### **Trademarks**

The Company name, the terms OTR Capital, the Company logo, and all related names, logos, product and service names, designs, and slogans are trademarks of the Company or its affiliates or licensors. You must not use such marks without the prior written permission of the Company. All other names, logos, product and service names, designs, and slogans on this Website are the trademarks of their respective owners.

### **Prohibited Uses**

You may use the Website only for lawful purposes and in accordance with these Terms of Use. You agree not to use the Website:

- In any way that violates any applicable federal, state, local, or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries).
- For the purpose of exploiting, harming, or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information, or otherwise.
- To transmit, or procure the sending of, any advertising or promotional material, including any "junk mail," "chain letter," "spam," or any other similar solicitation.
- To impersonate or attempt to impersonate the Company, a Company employee, another user, or any other person or entity (including, without limitation, by using email addresses associated with any of the foregoing).
- To engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the Website, or which, as determined by us, may harm the Company or users of the Website, or expose them to liability.

Additionally, you agree not to:

- Use the Website in any manner that could disable, overburden, damage, or impair the site or interfere with any other party's use of the Website, including their ability to engage in real time activities through the Website.
- Use any robot, spider, or other automatic device, process, or means to access the Website for any purpose, including monitoring or copying any of the material on the Website.
- Use any manual process to monitor or copy any of the material on the Website, or for any other purpose not expressly authorized in these Terms of Use, without our prior written consent.
- Use any device, software, or routine that interferes with the proper working of the Website.
- Introduce any viruses, Trojan horses, worms, logic bombs, or other material that is malicious or technologically harmful.
- Attempt to gain unauthorized access to, interfere with, damage, or disrupt any parts of the Website, the server on which the Website is stored, or any server, computer, or database connected to the Website.
- Attack the Website via a denial-of-service attack or a distributed denial-of-service attack.
- Otherwise attempt to interfere with the proper working of the Website.

### **Reliance on Information Posted**

The information presented on or through the Website is made available solely for general information purposes. We do not warrant the accuracy, completeness, or usefulness of this information. Any reliance you place on such information is strictly at your own risk. We disclaim all liability and responsibility arising from any reliance placed on such materials by you or any other visitor to the Website, or by anyone who may be informed of any of its contents.

This Website includes content provided by third parties, including materials provided by other users, bloggers, and third-party licensors, syndicators, aggregators, and/or reporting services. All statements and/or opinions expressed in these materials, and all articles and responses to questions and other content, other than the content provided by the Company, are solely the opinions and the responsibility of the person or entity providing those materials. These materials do not necessarily reflect the opinion of the Company. We are not responsible, or liable to you or any third party, for the content or accuracy of any materials provided by any third parties.

### **Changes to the Website**

We may update the content on this Website from time to time, but its content is not necessarily complete or up-to-date. Any of the material on the Website may be out of date at any given time, and we are under no obligation to update such material.

### **Information About You and Your Visits to the Website**

All information we collect on this Website is subject to our Privacy Policy <https://otrcapital.com/privacy>. By using the Website, you consent to all actions taken by us with respect to your information in compliance with the Privacy Policy.

### **Links from the Website**

If the Website contains links to other sites and resources provided by third parties, these links are provided for your convenience only. This includes links contained in advertisements, including banner advertisements and sponsored links. We have no control over the contents of those sites or resources, and accept no responsibility for them or for any loss or damage that may arise from your use of them. If you decide to access any of the third-party websites linked to this Website, you do so entirely at your own risk and subject to the terms and conditions of use for such websites.

### **Geographic Restrictions**

The owner of the Website is based in the State of Georgia in the United States. We provide this Website for use only by persons located in the United States. We make no claims that the Website or any of its content is accessible or appropriate outside of the United States. Access to the Website may not be legal by certain persons or in certain countries. If you access the Website from outside the United States, you do so on your own initiative and are responsible for compliance with local laws.

### **Disclaimer of Warranties**

You understand that we cannot and do not guarantee or warrant that files available for downloading from the internet or the Website will be free of viruses or other destructive code. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to our site for any reconstruction of any lost data. TO THE FULLEST EXTENT PROVIDED BY LAW, WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES, OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA, OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF THE WEBSITE OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE OR TO YOUR DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY WEBSITE LINKED TO IT.

YOUR USE OF THE WEBSITE, ITS CONTENT, AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE IS AT YOUR OWN RISK. THE WEBSITE, ITS CONTENT, AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER THE COMPANY NOR ANY PERSON ASSOCIATED WITH THE COMPANY MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY, OR AVAILABILITY OF THE WEBSITE. WITHOUT LIMITING THE FOREGOING, NEITHER THE COMPANY NOR ANYONE ASSOCIATED WITH THE COMPANY REPRESENTS OR WARRANTS THAT THE WEBSITE, ITS CONTENT, OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE WILL BE ACCURATE, RELIABLE, ERROR-FREE, OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT OUR SITE OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT THE WEBSITE OR ANY SERVICES OR ITEMS OBTAINED

THROUGH THE WEBSITE WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.

TO THE FULLEST EXTENT PROVIDED BY LAW, THE COMPANY HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR PARTICULAR PURPOSE.

THE FOREGOING DOES NOT AFFECT ANY WARRANTIES THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

**Limitation on Liability**

TO THE FULLEST EXTENT PROVIDED BY LAW, IN NO EVENT WILL THE COMPANY, ITS AFFILIATES, OR THEIR LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS, OR DIRECTORS BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE, THE WEBSITE, ANY WEBSITES LINKED TO IT, ANY CONTENT ON THE WEBSITE OR SUCH OTHER WEBSITES, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT, OR OTHERWISE, EVEN IF FORESEEABLE.

**Indemnification**

You agree to defend, indemnify, and hold harmless the Company, its affiliates, licensors, and service providers, and its and their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors, and assigns from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses, or fees (including reasonable attorneys' fees) arising out of or relating to your violation of these Terms of Use or your use of the Website, including, but not limited to, your User Contributions, any use of the Website's content, services, and products other than as expressly authorized in these Terms of Use, or your use of any information obtained from the Website.

**Governing Law and Jurisdiction**

All matters relating to the Website and these Terms of Use, and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the State of Georgia without giving effect to any choice or conflict of law provision or rule (whether of the State of Georgia or any other jurisdiction).

Any legal suit, action, or proceeding arising out of, or related to, these Terms of Use or the Website shall be instituted exclusively in the federal courts of the United States or the courts of the State of Georgia, in each case located in the City of Roswell and County of Fulton, although we retain the right to bring any suit, action, or proceeding against you for breach of these Terms of Use in your country of residence or any other relevant country. You waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.

### **Arbitration**

At Company's sole discretion, it may require You to submit any disputes arising from these Terms of Use or use of the Website, including disputes arising from or concerning their interpretation, violation, invalidity, non-performance, or termination, to final and binding arbitration under the Rules of Arbitration of the American Arbitration Association applying Georgia law.

### **Limitation on Time to File Claims**

ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OF USE OR THE WEBSITE MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES; OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

### **Waiver and Severability**

No waiver by the Company of any term or condition set out in these Terms of Use shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of the Company to assert a right or provision under these Terms of Use shall not constitute a waiver of such right or provision.

If any provision of these Terms of Use is held by a court or other tribunal of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of the Terms of Use will continue in full force and effect.

### **Entire Agreement**

The Terms of Use, and our Privacy Policy, and End User License Agreement constitute the sole and entire agreement between you and OTR Capital, LLC regarding the Website and supersede all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding the Website.

### **Your Comments and Concerns**

This website is operated by OTR Capital, LLC.

1000 Holcomb Woods Parkway

Building 300, Suite 315-A

Roswell, GA 30076

All notices of copyright infringement claims should be sent to the copyright agent designated in our Copyright Policy in the manner and by the means set out therein.

All other feedback, comments, requests for technical support, and other communications relating to the Website should be directed to: [legal@otrcapital.com](mailto:legal@otrcapital.com).

## **TERMS AND CONDITIONS**

**1. THIS DOCUMENT CONTAINS VERY IMPORTANT INFORMATION REGARDING YOUR RIGHTS AND OBLIGATIONS, AS WELL AS CONDITIONS, LIMITATIONS, AND EXCLUSIONS THAT MIGHT APPLY TO YOU. PLEASE READ IT CAREFULLY.**

**THESE TERMS REQUIRE THE USE OF ARBITRATION TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS.**

**BY PLACING AN ORDER FOR PRODUCTS OR SERVICES FROM THIS WEBSITE, YOU AFFIRM THAT YOU ARE OF LEGAL AGE TO ENTER INTO THIS AGREEMENT, AND YOU ACCEPT AND ARE BOUND BY THESE TERMS AND CONDITIONS. YOU AFFIRM THAT IF YOU PLACE AN ORDER ON BEHALF OF AN ORGANIZATION OR COMPANY, YOU HAVE THE LEGAL AUTHORITY TO BIND ANY SUCH ORGANIZATION OR COMPANY TO THESE TERMS.**

**YOU MAY NOT ORDER OR OBTAIN PRODUCTS OR SERVICES FROM THIS WEBSITE IF YOU (i) DO NOT AGREE TO THESE TERMS, (ii) ARE NOT THE OLDER OF (A) AT LEAST 18 YEARS OF AGE OR (B) LEGAL AGE TO FORM A BINDING CONTRACT WITH OTR Capital, LLC, OR (iii) ARE PROHIBITED FROM ACCESSING OR USING THIS WEBSITE OR ANY OF THIS WEBSITE'S CONTENTS, PRODUCTS OR SERVICES BY APPLICABLE LAW.**

These terms and conditions (these "**Terms**") apply to the purchase and sale of products and services through OTR Capital or OTR Business Solutions (the "**Site**"). These Terms are subject to change by OTR Capital, LLC (referred to as "**us**", "**we**", or "**our**" as the context may require) without prior written notice at any time, in our sole discretion. Any changes to these Terms will be in effect as of the "Last Updated Date" referenced on the Site. You should review these Terms prior to purchasing any product or services that are available through this Site. Your continued use of this Site after the "Last Updated Date" or payment of your subscription will constitute your acceptance of and agreement to such changes.

These Terms are an integral part of the Website Terms of Use that apply generally to the use of our Site. You should also carefully review our Privacy Policy before placing an order for products or services through this Site (see Section 9).

**2. Order Acceptance and Cancellation.** You agree that your order is an offer to buy, under these Terms, all products and services listed in your order. All orders must be accepted by us or we will not be obligated to sell the products or services to you. We may choose not to accept orders at our sole discretion, even after we send you a confirmation email with your order number and details of the items you have ordered.



3. Prices and Payment Terms.

(a) All prices, discounts, and promotions posted on this Site are subject to change without notice. The price charged for a product or service will be the price advertised on this Site at the time the order is placed, subject to the terms of any promotions or discounts that may be applicable. The price charged will be clearly stated in your order confirmation email. Price increases will only apply to orders placed after the time of the increase. All such taxes and charges will be added to your total price and will be itemized in your shopping cart and in your order confirmation email. We strive to display accurate price information, however, we may, on occasion, make inadvertent typographical errors, inaccuracies, or omissions related to pricing and availability. We reserve the right to correct any errors, inaccuracies, or omissions at any time and to cancel any orders arising from such occurrences.

(b) Terms of payment are within our sole discretion and, unless otherwise agreed by us in writing, payment must be received by us before our acceptance of an order. We accept Visa, Mastercard and American Express for all purchases. You represent and warrant that (i) the credit card information you supply to us is true, correct and complete, (ii) you are duly authorized to use such credit card for the purchase, (iii) you authorize the reoccurring charges until cancellation is submitted according to section 4, (iv) charges incurred by you will be honored by your credit card company, and (v) you will pay charges incurred by you at the posted prices, including shipping and handling charges and all applicable taxes, if any, regardless of the amount quoted on the Site at the time of your order.

4. Cancellation, Charges & Refunds.

(a) Cancellations must be submitted by written request emailed to [websitesupport@otrcapital.com](mailto:websitesupport@otrcapital.com). The cancellation request must be received ten (10) days before the next renewal cycle to be eligible for cancellation.

(b) There are no refunds for late account cancellations.

(c) No Phone Cancellations. Cancellations must be submitted via email to be accepted.

(d) No refund for the unused portion of the account. Once payment is made there are no refunds for early cancellation of that account.

(e) Delinquent Payment. In the event a reoccurring payment is declined, we may terminate the subscription if the payment type is not promptly corrected and the invoice is not immediately paid.

5. Warranty and Disclaimers.

(a) **ALL PRODUCTS AND SERVICES OFFERED ON THIS SITE ARE PROVIDED "AS IS" WITHOUT ANY WARRANTY WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY (A) WARRANTY OF**

**MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (C) 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.**

**(b) SOME JURISDICTIONS LIMIT OR DO NOT ALLOW THE DISCLAIMER OF IMPLIED OR OTHER WARRANTIES SO THE ABOVE DISCLAIMER MAY NOT APPLY TO YOU.**

**(c) YOU AFFIRM THAT WE SHALL NOT BE LIABLE, UNDER ANY CIRCUMSTANCES, FOR ANY BREACH OF WARRANTY CLAIMS OR FOR ANY DAMAGES ARISING OUT OF THE MANUFACTURER'S FAILURE TO HONOR ITS WARRANTY OBLIGATIONS TO YOU.**

6. Limitation of Liability.

**(a) IN NO EVENT SHALL WE BE LIABLE TO YOU OR ANY THIRD PARTY FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF, OR RELATING TO, AND/OR IN CONNECTION WITH ANY BREACH OF THESE TERMS, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT WE WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED.**

**(b) OUR SOLE AND ENTIRE MAXIMUM LIABILITY, FOR ANY REASON, AND YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY CAUSE WHATSOEVER, SHALL BE LIMITED TO THE ACTUAL AMOUNT PAID BY YOU FOR THE PRODUCTS AND SERVICES YOU HAVE ORDERED THROUGH OUR SITE.**

7. Acceptable use of Website and Services. OTR Capital, LLC does not allow any of the following content or links to such content to be published on any website purchased through the Service. Users, found to be posting any of the following on their site will be notified of the breach and given a 48-hour cure period. Failure to correct may result in the cancellation of the service by OTR Capital, LLC with no refund of fees paid.

- (a) Content of an illegal nature (including unapproved copyrighted material).
- (b) Content with the sole purpose or result of causing harm or inciting hate or content that can reasonably be considered as libelous or slanderous.
- (c) Content of a pornographic, sexually explicit, or violent nature.

8. Goods Not for Resale or Export. You represent and warrant that you are buying products or services from the Site for your own use only, and not for resale or export.

9. Privacy. We respect your privacy and are committed to protecting it. Our *Privacy Policy*, [www.otrcapital.com/privacy](http://www.otrcapital.com/privacy), governs the processing of all personal data collected from you in connection with your purchase of products or services through the Site.

10. Force Majeure. No party shall be liable or responsible to the other party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any of your obligations to make payments to us hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("**Impacted Party**") reasonable control, including, without limitation, the following force majeure events ("**Force Majeure Event(s)**"): (a) acts of God; (b) flood, fire, earthquake, OTHER POTENTIAL DISASTER(S) OR CATASTROPHE(S), SUCH AS EPIDEMICS, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or actions; (e) embargoes or blockades in effect on or after the date of this Agreement; and (f) national or regional emergency; and (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; and (h) telecommunication breakdowns, power outages or shortages, lack of warehouse or storage space, inadequate transportation services, or inability or delay in obtaining supplies of adequate or suitable materials; and (i) other events beyond the reasonable control of the Impacted Party.

11. Governing Law and Jurisdiction. All matters arising out of or relating to these Terms are governed by and construed in accordance with the internal laws of the State of Georgia without giving effect to any choice or conflict of law provision or rule (whether of the State of Georgia or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Georgia.

12. Waiver of Jury Trials and Binding Arbitration.

**(a) YOU ARE AGREEING TO GIVE UP ANY RIGHTS TO LITIGATE CLAIMS IN A COURT OR BEFORE A JURY. OTHER RIGHTS THAT YOU WOULD HAVE IF YOU WENT TO COURT MAY ALSO BE UNAVAILABLE OR MAY BE LIMITED IN ARBITRATION.**

**ANY CLAIM, DISPUTE OR CONTROVERSY (WHETHER IN CONTRACT, TORT OR OTHERWISE, WHETHER PRE-EXISTING, PRESENT OR FUTURE, AND INCLUDING STATUTORY, CONSUMER PROTECTION, COMMON LAW, INTENTIONAL TORT, INJUNCTIVE AND EQUITABLE CLAIMS) BETWEEN YOU AND US ARISING FROM OR RELATING IN ANY WAY TO YOUR PURCHASE OF PRODUCTS OR SERVICES THROUGH THE SITE, WILL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION.**

(b) The arbitration will be administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules and Mediation Procedures ("Commercial Rules").

The arbitrator will have exclusive authority to resolve any dispute relating to arbitrability and/or enforceability of this arbitration provision, including any unconscionability challenge or any other challenge that the arbitration provision or the agreement is void, voidable or otherwise invalid. The arbitrator will be empowered to grant whatever relief would be available in court under law or in equity. Any award of the arbitrator(s) will be final and binding on each of the parties, and may be entered as a judgment in any court of competent jurisdiction.

If any provision of this arbitration agreement is found unenforceable, the unenforceable provision will be severed and the remaining arbitration terms will be enforced.

13. Assignment. You will not assign any of your rights or delegate any of your obligations under these Terms without our prior written consent. Any purported assignment or delegation in violation of this Section 13 is null and void. No assignment or delegation relieves you of any of your obligations under these Terms.

14. No Waivers. The failure by us to enforce any right or provision of these Terms will not constitute a waiver of future enforcement of that right or provision. The waiver of any right or provision will be effective only if in writing and signed by a duly authorized representative of OTR Capital, LLC.

15. No Third-Party Beneficiaries. These Terms do not and are not intended to confer any rights or remedies upon any person or entity other than you.

16. Notices.

(a) To You. We may provide any notice to you under these Terms by: (i) sending a message to the email address you provide or (ii) by posting to the Site. Notices sent by email will be effective when we send the email and notices we provide by posting will be effective upon posting. It is your responsibility to keep your email address current.

(b) To Us. To give us notice under these Terms, you must contact us as follows: (i) by email to [websitesupport@otrcapital.com](mailto:websitesupport@otrcapital.com). We may update the facsimile number or address for notices to us by posting a notice on the Site. Notices provided by personal delivery will be effective immediately. Notices provided by facsimile transmission or overnight courier will be effective one business day after they are sent. Notices provided by registered or certified mail will be effective three business days after they are sent.

17. Severability. If any provision of these Terms is invalid, illegal, void or unenforceable, then that provision will be deemed severed from these Terms and will not affect the validity or enforceability of the remaining provisions of these Terms.

18. Entire Agreement. Our order confirmation, these Terms, our Website Terms of Use, and our Privacy Policy will be deemed the final and integrated agreement between you and us on the matters contained in these Terms.