

## Terms and Conditions of Purchase

Last Updated: 03.27.2023

**1. ORDERS.** This order is an offer by CDI Products, LLC or any of its affiliates as designated on the face of this order ("CDI") to the parties to whom the order is addressed ("Seller") to purchase the goods and/or services ("Products") designated on the face of this order or attached writing and shall be the complete and exclusive agreement between CDI and Seller for such Products. The sole manner of acceptance shall be by performance. These Standard Terms and Conditions of Purchase (the "Terms and Conditions") supersede all prior representations, communications, quotations, proposals, orders, agreements or understandings with the exception of fully executed supply or pricing agreements. By accepting CDI's purchase order, Seller has agreed to these Terms and Conditions in their entirety (the "Contract"). Confirmation orders, invoices or any other documents submitted by Seller that attempt to modify, add to, or are inconsistent with these Terms and Conditions shall not constitute a counter-offer, are deemed to be material alterations of CDI's purchase order, and are expressly rejected and of no force or effect. Acceptance of the Contract is expressly conditional on agreeing to these Terms and Conditions. In no event will CDI be deemed to have in any way changed, enlarged or modified its liabilities or obligations as fixed by these Terms and Conditions except by a written amendment executed by an officer of CDI. No purchase order is valid unless:

- (i) It is placed on CDI's official purchase order form, and
- (ii) CDI has not withdrawn the order.

**2. PRICES.** All prices are in U.S. dollars unless otherwise noted. Payment may be made within forty five (45) days after receipt by CDI of the ordered and conforming Products. All prices are quoted Ex Works CDI's requested delivery destination unless otherwise agreed upon in writing by CDI. Prices quoted by Seller shall include sales, excise, municipal, state or any other government taxes. All taxes and other governmental charges upon the production, manufacture, distribution, sale or use of the Products, to the extent required or not forbidden by law to be paid by Seller, shall be paid by Seller.

**3. VOLUME PROJECTIONS AND QUANTITY.** Seller acknowledges that any estimates, forecasts or projections of future anticipated volume or quantity requirements for Products provided by CDI are provided for information purposes only, may change over time, and are not binding upon CDI. If quantities and delivery schedules are not specified in the Contract, they will be as reasonably determined by CDI and stated in CDI's firm releases issued to Seller from time to time. If Seller is supplying CDI under a vendor managed inventory system pursuant to this Contract, Seller shall maintain CDI's supply at required levels as indicated through the vendor managed inventory system at all times during the terms of this Contract.

**4. SHIPPING.** Seller shall use the carrier designated by CDI. Seller shall comply with all applicable regulations or other legal requirements concerning the manufacture, packaging, packing and delivery of the Products. Any additional shipping expenses as a result of Seller's backorders or shipments of a lesser quantity than specified shall be paid by Seller unless CDI authorizes such shipping expenses in writing. The Products shall be properly packed and secured in such a manner as to reach their destination in good condition under normal conditions of transport. Shipping documents, including Seller's invoice, must accompany each shipment and be transmitted to the freight forwarder in a timely manner. Seller shall bear all risk of loss until Products are delivered to CDI (including off-loading and stacking) and accepted. CDI shall not be obligated to return to Seller any packaging or packaging materials for the Products, whether or not any Products are accepted by CDI.

**5. TIME.** Seller shall deliver the Products at the time specified in the Contract which shall be during normal business hours. CDI, without penalty or liability to Seller, shall have the right to reschedule or postpone any delivery of Products. Time shall be of the essence of the Contract. Seller understands and acknowledges that late or nonconforming delivery will obligate Seller to pay direct, incidental and consequential damages to CDI. If for any reason CDI is unable to accept delivery of the Products at the time when they are due for delivery Seller shall, if its storage facilities permit, store the Products in a secure manner until CDI is ready to accept delivery and CDI shall pay Seller's reasonable charges for storage.

**6. CANCELLATION.** CDI may cancel any purchase order upon written notice to Seller. In the event of such cancellation, CDI is responsible to Seller only for the cost of any finished goods or work in process that corresponds to CDI's purchase order.

Termination of the Contract for any reason shall be without prejudice to rights of CDI accrued prior to termination.

**7. ON-SITE WORK.** In the event that Seller or its representatives are performing installation or other on-site services related to the purchase of any goods by CDI, then CDI may issue additional specifications and conditions to such on-site services. Seller shall fully defend, indemnify and hold CDI, including its directors, officers, employees, agents and representatives (collectively, "CDI Indemnitees") harmless against all claims, losses, damages, penalties, interest, judgments, settlements, costs, and expenses (including attorney's fees and litigation costs) resulting from or in connection with any personal injury or property damage claim resulting from any work performed by Seller's employees, agents or subcontractors at CDI's premises.

**8. WARRANTIES.** Seller expressly warrants to CDI that all Products or goods sold shall:

- (i) Conform as to quantity, quality and description with the specifications contained in the Contract;

(ii) Be free of all defects in design, materials and workmanship;

(iii) Be equal in all respects to the samples, patterns, drawings, or specification provided or given by either party;

(iv) Be capable to any standard or performance specified in the Contract;

(v) Comply with all statutory requirements and regulations relating to the Products;

(vi) If the purpose for which they are required is indicated in the Contract or known by Seller, either expressly or by implication, be fit for that purpose.

The warranties under this section will be effective for the longer of: (a) the period provided by applicable law where the Products are used; or (b) the warranty period provided by CDI to its customers.

(vii) In addition to the remedies available to CDI through this Contract or applicable law, the Seller is liable to pay for all associated costs incurred by CDI due to the supply of non-compliant Products. These associated costs shall include a fixed administrative charge of \$1,000 to cover all handling, data entry and reporting activities resulting from the supply of non-compliant Products.

Seller shall repair any defects during the applicable warranty period at Seller's cost and expense (including, without limitation, all parts, labor and transportation costs) immediately after being notified of any such defect by CDI. The warranties and remedies contained herein supplement the warranties and remedies provided by the Uniform Commercial Code or other applicable law, which shall not be disclaimed or limited. All warranties contained in this Contract shall run, and all remedies shall be available to, CDI, its Affiliates and/or customers, and all such warranties shall survive any delivery, inspection, acceptance or payment by CDI.

#### **9. INSPECTION AND TESTING.**

(i) Before delivering the Products, Seller shall carefully inspect and test the Products for compliance with specifications.

(ii) Seller shall also at the request of CDI supply to CDI a copy of Seller's test sheets and/or inspection reports for the Products certified by Seller to be a true copy. In such instances, Seller shall retain the original documents for a period of ten (10) years.

(iii) CDI shall be entitled to inspect and test the Products during manufacture, processing or storage processes. If this right is exercised, Seller shall provide or procure the provision of all such facilities as may reasonably be required for such inspections and tests. CDI shall have five (5) years from the date of receipt of Products from Seller to bring any claim for defective or non-conforming goods.

#### **10. REJECTION.**

(i) CDI may reject or revoke acceptance of the Products if Seller fails to comply with its obligations under the Contract. CDI reserves the right to inspect, reject and/or revoke acceptance regardless of any prior payment for the Products or the placement of the Products into use for all defects that were not actually discovered by CDI prior to payment or use.

(ii) CDI at its sole option may return the rejected or non-conforming Products to Seller at Seller's risk and expense. In such case, Seller shall, within a reasonable time, replace such rejected Products with conforming Products. CDI may alternatively require Seller to remove, repair and/or replace the defective Products or parts thereof on-site without cost to CDI.

(iii) Seller shall return to CDI any amounts paid to Seller for rejected or non-conforming Products that have been returned to Seller but not replaced.

(iv) Where CDI agrees to accept delivery of the Products by installment, the Contract will be construed as a single contract. Nevertheless, failure by Seller to deliver any one installment shall be a material breach of the whole Contract.

(v) The above provisions are in addition to and not in substitution for any other remedies that CDI may have under applicable law.

#### **11. CARE AND RETURN OF PATTERNS, DIES, ETC.**

(i) All patterns, dies, molds, or any other tooling and any materials supplied by CDI or prepared for, or obtained by Seller for and at the sole cost of CDI (collectively, "Tooling"), shall be and remain the property of CDI. All such Tooling shall be utilized exclusively for CDI's benefit and under no circumstances will any Tooling be used for the benefit of any third party without the prior written consent of CDI.

(ii) Seller shall maintain all such Tooling in good order and condition and insure them against all risks while in Seller's custody and on completion of the order, or as otherwise directed by CDI, shall return all Tooling to CDI in good order and condition.

(iii) Seller must have, or put in place systems to ensure that CDI's Tooling is clearly identifiable and where possible must be physically marked as such.

#### **12. SAFETY AND STATUTORY REQUIREMENTS.**

(i) Seller warrants that the design, construction and quality of the Products to be supplied to CDI comply in all respects with all safety and other requirements imposed by any statute, statutory rule or order, or other instrument having the force of law, which may be in force at the time when

the same are supplied. Seller shall comply with all environmental laws and regulations that apply to the Products supplied by Seller to CDI. Seller agrees to provide CDI with Material Safety Data Sheets and Certificate of Analysis when applicable.

Seller shall give CDI prior written notice of: (a) any delivery of the Products or items accompanying the Products having toxic or other hazards to the safety or health of persons or property and shall provide full details of such hazards and of all precautions which should be taken by CDI in respect of the delivery, storage, handling, installation and use of the Products or items and provide CDI with all information relating to the properties of the Products or items to enable CDI to comply with all relevant laws relating to the Products or items and/or such hazards; and (b) any delivery of Products which are perishable or of limited lifespan and of any circumstances which may adversely affect the lifespan of such Products.

**13. INFRINGEMENT OF PATENT, TRADEMARK AND OTHER RIGHTS.** Seller shall fully defend, indemnify, and hold CDI and the CDI Indemnitees harmless from and against any and all actions, claims, damages, penalties, interests, judgements, settlements, demands, costs, charges and expenses (including attorney's fees and litigation costs) arising from and incurred by reason of any infringement or alleged infringement of any intellectual property rights by any third party, including patent, design patents, trademarks or copyrights by the use or sale of any Products supplied by Seller.

**14. USE OF INFORMATION.** All designs, drawings, specifications and information supplied by CDI in connection with any order are confidential and shall be used and protected as CDI Confidential Information in accordance with Section 15 herein. Accordingly, all such designs, drawings, specifications and information and any copies thereof must be returned to CDI upon the request or upon completion of the order.

**15. CONFIDENTIALITY.** If the parties have entered into a Confidentiality or Non-Disclosure Agreement ("NDA"), the terms and conditions of the NDA shall apply and control for confidentiality obligations between the parties. In the absence of a NDA, Seller may have access to CDI's confidential information including, without limitation, inventions, developments, know how, specifications, business plans, results of testing, systems, financial information, product information, method of operation, customer information, supplier information and compilations of data ("Confidential Information"). Seller shall use CDI's Confidential Information only for the purpose contemplated under this Contract and shall not disclose it to third parties or otherwise use it to its own advantage or CDI's detriment. Confidential Information shall not include information which: (a) at the time of disclosure is publicly available, or after disclosure becomes a part of the public domain without breach of this Contract by Seller; (b) was known to Seller prior to its receipt from CDI as evidenced in writing; or (c) is developed by Seller independently of and without reference to its access to Confidential Information. Seller is permitted to disclose CDI's Confidential Information to its employees and authorized subcontractors on a need to know basis only; provided that such employees or authorized subcontractors have written confidentiality obligations to Seller no less stringent than the confidentiality obligations under this section. Seller shall remain liable for any breach of this Section 15 by any employees and/or authorized subcontractors with whom it shares such Confidential Information. Seller shall return CDI's Confidential Information and shall not use CDI's Confidential Information for its own or any third party's benefit. Seller's confidentiality obligations shall survive termination of the Contract for so long as CDI's Confidential Information remains confidential. CDI shall be entitled to injunctive relief including, but not limited to, preliminary, temporary or permanent injunctions from any court of competent jurisdiction as may be necessary to enjoin any violation of this section without the necessity of proving immediate irreparable harm or any inadequate remedy at law.

**16. ASSIGNMENT, WAIVER, ENTIRE AGREEMENT, SEVERABILITY.** Neither party shall assign or delegate any of its rights or obligations under this Contract without the prior written consent of the other party, which such consent shall not be unreasonably withheld, except that either party may assign or delegate its rights or obligations hereunder to an Affiliate without the other party's consent. As used herein, the term "Affiliate" shall mean any entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with the entity specified. CDI may terminate this Contract upon written notice to Seller without any further liability to Seller if there is a change of control of Seller, which shall mean any acquisition of substantially all of Seller's assets, or the acquisition of 30% or more ownership in Seller's company by a third party. The Contract constitutes the entire agreement between the parties with respect to its subject matter, and supersedes all prior oral or written representations, communications, or agreements by the parties with respect to the subject matter of this Contract. Except as authorized in Section 1, neither the Contract nor any of its provisions may be modified, amended or waived, whether orally, through the parties' course of performance, course of dealing or course of conduct, or manifested in any other way, unless in writing and signed by authorized representatives of both parties. It is the express intention of the parties that such requirement for written modifications, amendments or waivers be strictly enforced notwithstanding judicial precedent or statutory provisions to the contrary. Any provision found invalid or unenforceable will not affect the validity or enforceability of any other provision and the invalid provision may be judicially modified to the extent enforceable. The failure of CDI to insist in any one or more instances, upon the performance of the Contract or the failure of CDI to exercise any of its rights hereunder shall not be construed as a waiver or relinquishment of any such terms, conditions or rights and shall not affect CDI's right to insist on strict performance and compliance with regard to any future performance of the Contract.

**17. INDEPENDENT CONTRACTOR STATUS.** CDI and Seller are independent contractors. Nothing in this contract makes either party the agent or legal representative of the other party for any purpose. Neither party has authority to assume or to create any obligation on behalf of the other party.

**18. DEFAULT, BANKRUPTCY OR LIQUIDATION.** If Seller commits any breach of the terms and conditions of the Contract, becomes insolvent, is subject to the Bankruptcy courts, enters into an arrangement with its creditors, is put into liquidation, or has a receiver appointed, CDI may, without prejudice to any other rights which may have accrued, or which shall accrue to it:

- (i) terminate the order simply by notice in writing to Seller; or
- (ii) give any such receiver or liquidator or other person the option of carrying out the order on such terms as CDI may specify.

**19. INDEMNITY AND INSURANCE.** Seller shall fully defend, indemnify, and hold CDI and the CDI Indemnitees harmless from and against any and all damage or injury to any person or to any property (including the goods themselves) and against all actions, suits, claims, demands, costs, penalties, interest, settlements, judgments, charges or expenses arising out of the Products supplied by Seller. Seller shall maintain the following kinds of insurance with the minimum limits described below:

- a. Commercial General Liability Insurance with a minimum Limit of Liability of \$1,000,000 each occurrence, \$1,000,000 Products/Completed Operations Aggregate Limit and \$5,000,000 General Aggregate Limit.
- b. Commercial Automobile Liability Insurance including Owned, Hired and Non-Owned Vehicles with a minimum limit of \$1,000,000 for each accident.
- c. Workers' Compensation Insurance, which provides Statutory Benefits and Employers Liability Insurance with limits of \$500,000 (each accident and each employee by disease).
- d. Any other insurance as may be required by law.

Before beginning performance of this Contract, Seller shall furnish insurance certificates as directed by CDI, satisfactory in form and substance to CDI, showing the above coverage, and identifying CDI as a certificate holder.

**20. SET OFF.** CDI shall be entitled to apply any sum due from CDI to Seller in settlement of any sum due from Seller to CDI or to any other company related or affiliated with CDI.

**21. FORCE MAJEURE.** Neither party shall be liable to the other party for delay in scheduled delivery or failure in performance caused by acts beyond such party's reasonable control without fault or negligence of such party, such as, without limitation, flood, war, embargo, acts of terrorism, riot or the intervention of any governmental authority ("Event of Force Majeure"), provided such party presents a claim and notice in writing to the other party within twenty-four (24) hours of such party becoming aware that an Event of Force Majeure may delay or interrupt performance hereunder. If Seller is unable to perform for any reason, CDI may purchase Products from other sources and reduce its purchases from Seller accordingly without liability to Seller.

**22. CHOICE OF LAW.** All transactions shall be governed by the laws of the State of Texas, United States of America, excluding conflict of law rules. The provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply.

**23. EQUAL OPPORTUNITY.** Seller shall comply with Executive Order 11246, as amended, Sec. 402 of the Vietnam Era Veterans Readjustment Act of 1974, as amended, Sec. 503 of the Rehabilitation Act of 1973, as amended, and Sec. 61-250.5(a) and Public Law 95-507 as such laws contain required contract clauses relative to equal employment opportunity and are incorporated herein by specific reference at 41 CFR 60-1.4(a, d), 60-4.3, 60-250.5(a) and 60-741.5(a).

**24. DISPUTE RESOLUTION AND FORUM SELECTION.** Any dispute, controversy or claim arising out of or related to this transaction where the amount in controversy does not exceed the sum of \$50,000, exclusive of interest and costs, shall be resolved by means of binding arbitration. A demand for arbitration shall be served on the other party by certified mail. Within forty-five (45) days after a party demands arbitration, the parties shall select a single arbitrator. The selected arbitrator shall conduct the arbitration in a manner substantially similar to the procedures set forth in the Commercial Arbitration Rule of the American Arbitration Association ("AAA"). If the parties are unable to agree on an arbitrator, the party demanding arbitration shall file a demand for arbitration with the AAA and the arbitration shall then proceed in accordance with the Commercial Arbitration Rules of the AAA. In all circumstances, the arbitration shall take place in Houston, Texas.

Any dispute, controversy or claim arising out of or related to this transaction where the amount in controversy exceeds the sum of \$50,000, exclusive of interest and costs, shall be adjudicated exclusively by a court of competent jurisdiction in Houston, Texas. The parties hereto irrevocably consent to the personal jurisdiction of and venue in a court of competent jurisdiction in Houston, Texas and irrevocably waives any claim or challenge to such jurisdiction or venue.

In the event of any action or proceeding related to a transaction subject to this Contract where CDI is determined to be the prevailing party with regard to some or all claims, Seller agrees to pay all of CDI's attorney's fees and litigation costs up through and including any appeal.

## **25. EXPORT CONTROL REGULATIONS COMPLIANCE.**

### CDI Group Positions

Seller shall respect the CDI Positions which may contain more restrictive provisions than the Trade Restrictions as defined below. These CDI Positions are based on commercial considerations and other compliance concerns, including but not limited to: money laundering and corruption concerns and concerns related to the financing of terrorism. These CDI Positions apply to the Products sold as spare parts or incorporated in a higher-level assembly (such as fitted unit, a ground vehicle, a plane, etc.). As of signature date of the Agreement, the list of countries to which CDI refuses and prohibits any direct or indirect sales (including transit across these countries) is as follows: Cuba, Iran, North Korea, Syria. This list is subject to changes during the term of the agreement and CDI reserves the right to regularly notify such changes to the Seller.

### Trade Restrictions

Seller shall comply with all applicable laws and regulations with regard to the supply, sale, transfer, export, re-transfer, or re-export of the Goods and Services, including but not limited to those relating to: trade sanctions (including but not limited to comprehensive or sectoral embargoes and restricted parties) and export controls (including but not limited to military or dual usage products), altogether defined hereafter as "Trade Restrictions". For the avoidance of doubt, all applicable laws and regulations could include those originating out of the United Nations, the European Union, the OSCE, or the United States of America.

Seller shall not cause CDI to, either directly or indirectly, risk any potential violation of any applicable Trade Restrictions. Furthermore, Seller will not supply, sell, transfer, export, re-transfer, re-export, or otherwise make Supply of any Good to CDI in any manner to circumvent, evade or avoid any applicable Trade Restrictions.

Seller shall only supply, sell, transfer, export, re-transfer, re-export, otherwise make available Goods as permitted by applicable law and shall not supply, sell, transfer, export, re-transfer, re-export, or otherwise make available, either directly or indirectly, any Goods in connection with Seller's performance hereunder:

(i). To any individual, entity or body resident, located, registered, incorporated, domiciled or head-quartered in any jurisdiction targeted by applicable Trade Restrictions;

(ii). To any "Restricted Person": Restricted Person shall mean any individual, entity or body either: (1) specifically designated or listed under Trade Restrictions; (2) owned or controlled by any person specifically designated or listed under Trade Restrictions; or, (3) acting for or on behalf of any person specifically designated or listed under Trade Restrictions and

(iii). For any use, purpose or activity which is prohibited or otherwise restricted under Trade Restrictions,

Where CDI has reasonable cause to suspect that any Goods may be or has been supplied, sold, transferred, exported, re-transferred, re-exported, otherwise made available to any jurisdiction targeted by applicable Trade Restrictions, or to a Restricted Person in connection hereunder, or for any use, purpose or activity which is prohibited or otherwise restricted under Trade Restrictions, CDI reserves the right to:

(i). Immediately suspend its performance under the Agreement;

(ii). Request further information or documentary evidence from the Seller, including but not limited to:

(1) Any licences, authorisations, permits, or approvals obtained by the Seller with respect to the supply, sale, transfer or export of the Goods;

(2) Any shipping or commercial documentation, including: invoices; or, bills of lading,

in order to verify compliance with this provision.

Seller certifies that, as of the date hereof, neither Seller, nor any of the Seller's Group Companies, nor any of their respective directors or officers is a Restricted Person. Seller shall immediately notify CDI if Seller, or any of the Seller's Group Companies, or any of their respective directors or officers becomes a Restricted Person. Furthermore, Seller shall immediately inform CDI if Seller is or becomes aware or has reasonable cause to suspect that either the Seller, or any of the Seller's Group Companies, or any of their respective directors or officers may become a Restricted Person.

In the event that any Goods supplied to CDI have been re-sold, re-transferred, re-exported, re-distributed or otherwise made available from any third party, Seller shall take all actions reasonably necessary to ensure that such third parties: (i) comply with any applicable Trade Restrictions and CDI Positions; and, (ii) do not cause CDI to directly or indirectly violate any applicable Trade Restrictions or CDI Group Positions.

Seller shall indemnify and hold harmless CDI from and against any losses, costs, claims, causes of action, damages, liabilities and expense, including attorneys' fees, any expense of litigation or settlement, and court costs, arising from any noncompliance with Trade Restrictions or CDI Group Positions by Seller. Seller shall be responsible for any act or omission of Seller, its officers, employees, affiliates, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this clause.

**26. ETHICS AND COMPLIANCE.** Seller agrees that (a) in its business dealings with CDI, it will adhere to the highest standards of ethical conduct, such as set forth in the Michelin Code of Ethics, available at <http://ethique.michelin.com/en>; and (b) be aware of and comply with the laws and regulations that apply to Seller and/or to all or part of the Products. In the event of inconsistency between any applicable law or regulation and any provision of these Terms and Conditions, the more stringent requirement shall take precedence.

Seller shall apply a "zero tolerance" policy with regard to corruption and influence peddling. In particular, Seller agrees that it will not (1) offer, promise or give, or (2) attempt or conspire to offer, promise or give, any unfair advantage, whether monetary or of any other nature, directly or indirectly through an intermediary, to a public official or to any professional relation, for that official or professional relation or for a third party, such that the official, professional relation or third party acts or refrains from acting in the performance of their duties, with a view to obtaining or retaining an activity or other advantage improperly.

With respect to gifts and invitations, Seller agrees to refrain from any practice aimed at (1) directly or indirectly improperly influencing the judgment of any of CDI's personnel or (2) obtaining any undue advantage.

In the event that CDI reasonably believes that Seller has violated this clause, CDI reserves the right to (a) immediately suspend its performance under the Agreement; (b) request further information or documentary evidence from Seller that in CDI’s good faith judgment is related to the suspected violation; and (c) take any other appropriate and proportionate measure regarding its commercial relationship with the Seller.

An Ethics Line is available that can be used by anyone to report any potential breach of any applicable laws and regulations and/or Michelin’s Code of Ethics and Anti-Corruption Code of Conduct. An alert can be submitted through the following link: <http://michelingroup.ethicspoint.com/>.

**27. ELECTRONIC SIGNATURE.** Both parties agree that this particular contract may be conducted by electronic means and executed by an electronic signature, and such electronic signature will appear on the agreement just as a handwritten signature would for the purpose of establishing the validity, enforceability and admissibility of the contract.

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The terms and conditions have been read and approved by me, a representative of the company authorized to approve policy and commit the company to contractual agreements, on the date indicated below:

|               |  |              |  |
|---------------|--|--------------|--|
| Business Name |  | Tax ID       |  |
| Signature     |  | Printed Name |  |
| Title         |  | Date         |  |