



OESA Model Terms and Conditions Workshop

The Crowne Plaza Hotel

Romulus, MI

January 28, 2004



OESA Model Terms and Conditions

Antitrust Guidelines

- No agreements, discussions or understandings concerning:
 - any matter inconsistent with the exercise of independent business judgment in pricing of services & products, dealing with customers and suppliers and choosing markets in which to compete.

Complete Guidelines Can Be Found In Attendee Packets



Model Terms and Conditions Background

- Project was developed to address Buyer and Seller issues related to PO Terms and Conditions
- Phase I was a “comparative analysis” of OEM NA PO Terms and Conditions
- Phase II was “Model Terms and Conditions” to provide language acceptable to both buyers and sellers



Model Terms and Conditions

- Phase II was initiated in September 2002
 - 48 people (Corporate Counsel, Sales & Marketing, Purchasing supplier executives)
 - Six teams examined the various provisions, made recommendations and drafted language
 - Test used for each provision was “Is this fair? Could I accept this as either the buyer OR as the seller?”



Model Terms and Conditions

- The six teams presented their recommended language to an Integration Committee in January 2003 which integrated the language and developed a single document
- The most difficult provisions to achieve consensus were: warranty, intellectual property, and offer/acceptance



Model Terms and Conditions

Current Status:

- Review by OESA Board of Directors and Oversight Committee completed by October 20
- A “comment” section has been added explaining the logic behind the language
- This will be a “living document”, changes and adaptations will continue to be made over time
- OESA will share it with the entire membership
- OESA will open a dialogue with the OEMs; Ford and GM have already agreed to discuss



Topics Addressed in Model Terms and Conditions

1. The Contract
2. Products and Services
3. Delivery
4. Inspection
5. Taxes
6. Payment
7. Product Warranties
8. Product Liability
9. Compliance with Laws
10. Intellectual Property Rights
11. Property
12. Terms and Termination
13. Default
14. Confidential Information
15. Assignment and Subcontracting
16. Excusable Non-Performance
17. Labor Contracts
18. Customs
19. Insurance
20. Dispute Resolution
21. Miscellaneous



Housekeeping

- There will be four concurrent sessions
- Please go on to another session if your first choice is already full
- Each session will be run by the presenting committee
- Lunch will be served back in this room
- Concluding remarks will be brief – back in this room again