

COP-CP-01	Terms and Conditions of Sale		
Issued by: Management	Effective Date: 7/19/2022	Rev. E	Pg. 1 of 5
Approved: 7/19/2022 1:08 PM - Dan Eick - Operations/Quality			

TERMS AND CONDITIONS OF SALE

BINDING TERMS. These Terms and Conditions (the “Terms”) control all orders for goods and services from In-Position Technologies, LLC (“IP Tech”). If you elect to do business with IP Tech, you agree to be bound by all of these Terms.

ACCEPTANCE. Quotation furnished by In-Position Technologies, LLC (“IP Tech”) shall not be construed as an offer. Quotations furnished by IP Tech are subject to, and shall not be binding upon IP Tech until (i) actual receipt by IP Tech of Buyer’s written purchase order based on the terms and conditions herein, without qualification, and (ii) IP Tech’s written acceptance of such purchase order. The sole and exclusive terms of sale shall be those contained herein and in IP Tech’s written acceptance of the purchase order. Any conflicting or additional terms contained in the purchase order or other documentation originating with Buyer shall be of no force or effect. IP Tech reserves the right to make changes in design, manner of construction, use of materials or auxiliary equipment at any time without incurring any obligation toward Buyer or user of an apparatus previously sold.

PAYMENT: PRICE ADJUSTMENTS. Unless otherwise specified in the quote or proposal, (i) all prices are F.O.B. IP Tech’s plant and/or the OEM plant and (ii) terms of sale are Net 30 days. All amounts not paid by Buyer when due shall bear interest at the rate equal to the lesser of (i) twenty percent (20%) per annum or (ii) the maximum lawful rate. The price stated herein does not include any sales, use or other taxes unless so stated specifically. Such taxes will be added to invoice prices in those instances in which IP Tech is required to collect them from Buyer; provided, however, if IP Tech does not collect any such taxes and is later asked or required to pay such taxes by any taxing authority, Buyer shall make such payment to IP Tech or, if requested by IP Tech, directly to the taxing authority. If requested by IP Tech, Buyer shall make reasonable progress payments. Changes in specifications or deliveries will be subject to change in price. Prices on any given purchase order, whether or not accepted by IP Tech, are subject to change at any time prior to shipment from IP Tech’s plant. Likewise, delivery, shipping, and crating costs may not be included in quotes from and/or purchase orders accepted by IP Tech, and are subject to change at any time up to and including the time of crating and shipping. You agree to pay all such charges. All payments made via credit card are subject to a two percent (2%) processing fee.

DELIVERY. Delivery dates specified herein are dependent upon the timely receipt from Buyer of all data and materials required for the design and / or construction of the equipment and of all materials required for testing it. IP Tech shall not be liable for any delay or failure in delivery due, in whole or in part, to any cause or circumstance beyond its immediate control and without its fault, including, but not limited to, wars, acts of government authorities, acts of God, embargoes, strikes or other labor and transportation difficulties, fires, floods, difficulties in obtaining raw materials or supplies, accidents and abnormal conditions. Buyer’s acceptance of the product(s) upon its delivery shall constitute a waiver of all claims for loss or damage due to delay.

INSTALLATION. Unless IP Tech agrees in writing to install the product(s), Buyer shall be responsible for installation of all product(s) and bear all expenses in connection therewith. If Buyer



requests IP Tech's assistance with installation, additional charges will be added according to IP Tech's standard policy for such service that would include payment for labor, living and travel expense, and Buyer agrees to pay all such charges.

RISK OF LOSS. Regardless of the manner of shipment, title to the product(s) and the risk of loss or damage thereto shall pass to Buyer upon tender to the carrier at IP Tech's plant.

ITEMS FURNISHED BY BUYER. All data, materials and equipment to be furnished by Buyer or procured by IP Tech for Buyer for the construction, remodeling, or testing of products(s), or for any other purpose, shall be delivered at no cost to IP Tech F.O.B. its plant and Buyer shall pay all costs of returning the same. Buyer shall pay all crating and delivery expenses for samples and parts delivered to it, and except as required for test purposes, the cost of producing parts or samples requested by Buyer.

LIMITED WARRANTY. IP Tech warrants that, except as hereafter provided, the product(s) identified on the quotation (i) shall be free of any defects in workmanship, materials and construction for the period of ninety days from the date of shipment and (ii) shall comply with all written specifications furnished by Buyer and acknowledged by IP Tech in writing. THIS LIMITED WARRANTY DOES NOT COVER, AND IP TECH MAKES NO WARRANTY REGARDING, THE FOLLOWING: (i) PARTS THAT ARE NOT MANUFACTURED BY IP TECH; (ii) DEFECTS OR FAILURES CAUSED BY ACCIDENT OR IMPROPER HANDLING OR INSTALLATION; (iii) DEFECTS OR FAILURES CAUSED BY THE FAILURE TO USE OR MAINTAIN THE PRODUCT(S) ACCORDING TO IP TECH'S RECOMMENDATIONS; (iv) PRODUCT(S) MANUFACTURED PURSUANT TO PLANS, SPECIFICATIONS, DRAWINGS, OR DESIGNS SUBMITTED OR APPROVED BY BUYER; (v) DEFECTS OR FAILURES CAUSED BY UNSUITABLE ENVIRONMENTAL CONDITIONS OR ALTERATION, MODIFICATION, OR REPAIR OF THE PRODUCT(S) BY PERSONS OTHER THAN IP TECH; (vi) MATTERS RELATED TO SPEED OF PRODUCTION OR OUTPUT; AND (vii) SAFETY DEVICES OR FEATURES SHOWN IN APPLICABLE SPECIFICATIONS. THIS WARRANTY EXTENDS TO BUYER ONLY AND DOES NOT EXTEND TO ANY TRANSFEREE, ASSIGNEE OR SUCCESSOR OF BUYER.

NO OTHER WARRANTIES. THIS SALE IS MADE WITHOUT ANY WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, AS TO THE DESIGN, FITNESS, CAPACITY, QUALITY OR ANY OTHER MATTER CONCERNING THE PRODUCT(S) EXCEPT AS SET FORTH IN SECTION 7 HEREOF. WITHOUT LIMITING THE FOREGOING, THIS SALE IS MADE WITHOUT ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY EXPRESSLY DISCLAIMED.

OEM WARRANTY. PRODUCTS THAT ARE NOT COVERED BY IP TECH'S WARRANTY, MAY BE COVERED BY THE OEM WARRANTY. UPON REQUEST, IP TECH WILL ASSIST BUYER WITH OEM WARRANTY COVERAGE.

REPAIR OR DEFECTS. In case of IP Tech's material breach of the limited warranty set forth herein, IP Tech shall have the time required of it to remedy the defect or failure. If IP Tech is unable to

remedy the defect or failure within such time, IP Tech shall, at its election and in its discretion, either replace the product(s) or refund the purchase price.

EXCLUSIVE REMEDIES: NO CONSEQUENTIAL DAMAGES. THE REMEDIES SET FORTH IN PARAGRAPH 9 HEREOF SHALL BE BUYER'S SOLE AND EXCLUSIVE REMEDIES FOR IP TECH'S BREACH OF THE LIMITED WARRANTY SET FORTH HEREIN. UNDER NO CIRCUMSTANCES SHALL IP TECH BE LIABLE TO BUYER OR ANY OTHER PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, ECONOMIC, DIRECT, INDIRECT, GENERAL OR SPECIAL DAMAGES, WHETHER ARISING OUT OF CONTRACT OR TORT, WHETHER ARISING OUT OF NEGLIGENCE OR STRICT LIABILITY, ARISING OUT OF, BASED UPON ON RELATING TO THE SALE, USE OR OPERATION OF THE PRODUCT(S).

CLAIMS. Buyer shall make no claim against IP Tech for shortages unless Buyer provides written notice of such claim to IP Tech within ten (10) days after delivery. Buyer shall make no other claims against IP Tech unless Buyer provides written notice of such claims to IP Tech within thirty (30) days after delivery or, in case of IP Tech's alleged breach of the limited warranty set forth herein, within thirty (30) days after the date within the warranty period on which the defect or failure is or should have been discovered.

PATENTS. Where any product is manufactured from designs, drawings, plans, data or specifications not furnished by IP Tech, Buyer agrees to indemnify, defend (with counsel acceptable to IP Tech) and save harmless IP Tech and its successors and assigns from against all suits at law or in equity and from all losses, damages, claims and demands arising out of actual or alleged infringement of any intellectual property rights, including trade secrets, United States or foreign patent, trademark or copyright by reason of the use or sale of the product(s).

CONFIDENTIALITY AND PROPRIETARY INFORMATION. All plans, drawings, specifications, notes, instructions, engineering notices, data and technical information furnished by IP Tech to Buyer shall at all times be property of IP Tech, and Buyer shall not disclose such information to any party other than IP Tech or a party duly authorized by IP Tech. When it is no longer reasonably necessary for Buyer to retain such information furnished in a tangible form, Buyer shall, at IP Tech's request, return such information and all reproductions thereof. Buyer agrees that it will not disclose the fact of IP Tech's relationship with Buyer to third parties except on a "need to know basis" with the prior written approval of IP Tech and further agrees that it will not disclose the fact of IP Tech's relationship with Buyer (including but not limited to mentioning IP Tech in any press releases, Internet publications, or other publications directed at the public or competitors of Buyer or of IP Tech) to the public or any third party without obtaining the prior written consent of IP Tech. All quotes from IP Tech are confidential and proprietary, and by receiving a quote from IP Tech you agree to keep the quote and all information contained in the quote strictly confidential.

FINANCIAL INSECURITY. If IP Tech shall at any time in good faith doubt Buyer's financial security, IP Tech may decline to make shipment(s) hereunder except upon receipt of cash payment in advance or security or other proof of security satisfactory to IP Tech. If Buyer fails in any way to fulfill its covenants and obligations hereunder, IP Tech may defer completion and delivery until such breach is cured.

CANCELLATION. After acceptance by IP Tech, Buyer may not cancel all or any part of the order except in the event (i) IP Tech materially breaches any of the terms hereof or (ii) IP Tech consents in writing to such cancellation and Buyer indemnifies IP Tech against all claims and damages, including direct, incidental, and consequential damages. In the event of a permitted cancellation, Buyer agrees to pay IP Tech for all costs, including engineering charges, incurred by IP Tech up to and including the cancellation date.

RETURNS. After acceptance of goods by Buyer, Buyer may not return all or any part of the order except with the written consent of IP Tech, which may be withheld in IP Tech's sole and absolute discretion, for any or no reason. In the event IP Tech consents to a return, Buyer shall pay IP Tech its then current and applicable restocking fee, along with any and all other costs relating to the return, including shipping fees.

ASSIGNMENT. The rights and obligations under this agreement shall not be assigned or delegated by Buyer without prior written consent of IP Tech. Any purported assignment in violation of this section shall be deemed void *ab initio*.

REMEDIES. The warranties and remedies available to IP Tech under the terms of this agreement shall be cumulative in addition to those implied or available at law. No waiver of any breach of this agreement shall be construed to constitute a waiver of any other breach or of any provisions hereof. Buyer's remedies in the event of a breach by IP Tech shall be limited exclusively to the actual relevant order price.

CONSENT TO JURISDICTION: APPOINTMENT OF PROCESS AGENT. Buyer hereby irrevocably submits to the jurisdiction of any Arizona or federal court sitting in Maricopa County, Arizona, over any action or proceeding arising out of or relating to the product(s) and agrees that all claims in respect of such action or proceeding may be heard and determined in any such court. Buyer further agrees that venue for any such action shall lie exclusively with courts sitting in Maricopa County, Arizona, unless IP Tech agrees to the contrary in writing. Buyer irrevocably waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. Buyer agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

EXPENSES AND ATTORNEYS' FEES. Buyer agrees to pay any and all costs and expenses (including, without limitation, reasonable attorney's fees and litigation expenses) incurred by IP Tech arising out of or relating to any breach of any covenant or agreement or the incorrectness or inaccuracy of any representation and warranty of Buyer contained in this agreement.

COMPLIANCE WITH LAWS. Buyer hereby represents and warrants that by placing an order with IP Tech, Buyer is not violating any law, ordinance, regulation, or order, whether federal, state, local, or otherwise, including foreign and international laws, and that the fulfillment of the order(s) by IP Tech will not constitute a violation of any law, ordinance, regulation, or order on the part of IP Tech.

ENTIRE AGREEMENT. There are no other representations, understandings or agreements previously made between the parties, except those that are expressly set forth herein. This agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and cannot be changed, modified, discharged or terminated, except by a writing signed by both parties. Unless expressly accepted in writing by IP Tech, additional or differing terms and conditions proposed by Buyer or included in Buyer's purchase order are objected to by IP Tech and have no effect.

WAIVER. No waiver shall be deemed to have been made by any party of any of its rights hereunder unless the same shall be in writing and signed by the waiving party. Such waiver, if any, shall be a waiver only in respect to the specific instance involved and shall in no way impair the rights of the waiving party or the obligations of the other party in any other respect and at any other time.

GOVERNING LAW. This Agreement shall be governed by and construed and enforced in accordance with the laws of the state of Arizona without giving effect to the principles of conflicts of law.

SEVERABILITY. In the event that any one or more terms or provisions hereof shall be held void or unenforceable by any court or arbitrator, all remaining terms and provisions hereof shall remain in force and effect.

BLANKET ORDERS. Blanket Orders are to be governed by IP Tech's Blanket Order Policy