

TERMS AND CONDITIONS OF SALE

Integrated Drive Systems, LLC, a Texas limited liability company, is herein called "IDS." The person, firm or corporation to whom or which this transaction is made is herein called "Buyer." This document constitutes an offer by IDS to provide the products and/or services described herein (the "Products") and to license software loaded on, or provided with, the products (the "Software") to the Buyer, subject to the terms, covenants, and conditions contained herein. Buyer may not modify, change, renounce, or waive any term, covenant, or condition hereof or any of IDS's rights or remedies hereunder unless IDS consents thereto in writing. IDS agrees to provide the Products to Buyer only on the terms of this contract, notwithstanding any language in Buyer's purchase order, if one exists, or other writing or oral representation previously, simultaneously, or hereafter received by IDS purporting to amend, modify, or replace the terms, covenants, and conditions of this contract with any different or additional terms, covenants, or conditions or reciting that any action or inaction by IDS constitutes agreement or consent by IDS to such amendment, modification, or replacement. IDS's agreement to provide the Products and/or Software is expressly conditioned on Buyer's assent to all of the terms and conditions set forth herein.

1. ACCEPTANCE

IDS's sales representatives are without authority to change, modify, or alter the terms of this document. Buyer shall be deemed to have made an unqualified acceptance of this contract (the "Agreement") and the terms and conditions herein on the earliest of the following to occur: (i) IDS's receipt of a copy of this document signed by Buyer; (ii) Buyer's payment of any amounts due under this document; (iii) Buyer's delivery to IDS of any material to be furnished by Buyer; (iv) Buyer's receipt of the Products; or (v) any other event constituting acceptance under applicable law. Written quotations are void unless accepted within 45 days from date of issue. Other IDS publications are maintained as sources of general information and are not quotations or offers to sell.

2. PRICES

Buyer agrees that if Buyer hereafter makes any change in the quantities scheduled for shipment from those shown on the face hereof the price of such units or parts may be changed to meet the IDS's price applicable to the changed quantities scheduled.

Prices stated herein do not include any tax, excise, duty or levy now or hereafter enacted or imposed by any governmental authority on the manufacture, sale, delivery and/or use of any item delivered. All such assessments are for Buyer's account and IDS will add all such assessments to the price stated if no proper exemption certificate is received relieving IDS of the responsibility for paying or collecting such assessments.

Unless otherwise agreed in writing by IDS, all prices are FOB IDS's plant in Houston, Texas. Charges will be added for factory preparation and packaging for shipment to the extent such requirements exceed IDS's standard packaging practice.

Title and risk of loss to all Products sold by IDS to Buyer shall pass to Buyer upon delivery thereof by IDS to a carrier for shipment to Buyer subject to any security interest retained by IDS.

3. PAYMENT TERMS

Terms of payment are subject to approval by IDS's credit department, and shall be (i) letter of credit, (ii) progress payments, or (iii) Net thirty (30) days. IDS reserves the right to modify or withdraw credit terms at any time without notice. Invoices shall be issued at the time of shipment unless otherwise specified, and all payments are due in the currency specified in IDS's quote and/or invoice. Interest shall be due from Buyer to IDS on overdue accounts at the (i) rate of 1% per month or (ii) the maximum rate allowed by law, whichever is less. When partial shipments are made, the Products will be invoiced as shipped and each month's invoices will be treated as a separate account and be payable accordingly. Payment for Products is due whether or not technical documentation and/or third-party certifications are complete at the time of shipment. IDS shall be entitled to recover all reasonable attorney's fees and other costs incurred in the collection of overdue accounts. IDS reserves the right where genuine doubts arise as to Buyer's financial position, or in the case of failure to pay for any Products or services, to suspend delivery or performance of any order or any part thereof without liability until payment or satisfactory security for payment has been provided.

4. DELIVERY

Where Products are to be supplied from stock, such supply is subject to availability of stocks at the date of delivery. Partial shipments may be made at the option of IDS. Stated delivery dates are approximate only and cannot be guaranteed. IDS shall have no liability for damages arising out of the failure to keep a projected delivery date, irrespective of the length of the delay. In the event that IDS's performance is delayed by force majeure, defined as causes beyond the reasonable control of IDS, the date for IDS's performance shall be extended by the length of the delay, and Buyer shall not be entitled to cancel any order on the basis of such delay. In the event Buyer is unable to accept delivery of Products when tendered, IDS may, at its option, arrange storage of the Products and Buyer shall be liable to IDS for the reasonable cost of such storage. This provision is without prejudice to any other rights which IDS may have with respect to Buyer's failure to take delivery of Products which includes the right to invoice Buyer for the Products. Buyer agrees that title to the Products will transfer to Buyer upon invoicing notwithstanding Buyer's inability to accept delivery and that Buyer assumes all risk of loss or damage to the Products from the date title passes to Buyer.

5. CANCELLATION

Orders placed by Buyer and accepted by IDS may be canceled only with the written consent of IDS and will subject Buyer to cancellation charges. All of IDS's documents, drawings and like information shall be returned to IDS upon Buyer's request for cancellation. No orders may be canceled subsequent to shipment. As estimated actual damages, Buyer agrees to pay IDS the greater of IDS's actual costs incurred prior to cancellation plus a reasonable profit, or the following minimum cancellation charges:

- a) 20% of order value if canceled thirty (30) or more days prior to the original shipment date;
- b) 50% of the order value if canceled thereafter;
- c) 100% of the value of any non-standard items, which are items not built for stock or built to customer specifications.

Buyer shall verify the amount of the cancellation charges prior to canceling an order.

6. WARRANTY

(a) **Product:** IDS warrants that its Products will be free from defects in workmanship and materials under normal use and service for a period of 12 months for any electrical and/or electronic assembly and a period of 6 months for any mechanical apparatus. Each warranty period begins on the date of shipment pursuant to Section 4 of these Terms and Conditions of Sale. Parts subject to regular replacement due to operational wear are not covered by this warranty. This warranty is void in cases of damage in transit, negligence, abuse, abnormal usage, misuse, accidents, improper installation, and/or improper maintenance. This warranty is also void in cases of start-up of Product by a third-party service organization or other service provider not approved in advance by IDS. On equipment furnished by IDS, but manufactured by others, IDS makes no warranty express or implied. However, the written warranty of the manufacturer, if any, will be assigned to Buyer if assignment is reasonably practicable. IDS does not adopt or guarantee or represent that the manufacturer will comply with any of the terms of the warranty of such manufacturer. IDS will not reimburse Buyer for any expenses incurred by Buyer in repairing or replacing any defective products, except for those incurred with the prior written permission of IDS.

(b) **Software:** IDS warrants that its Software shall conform to the specifications set forth in its documentation, and where permitted, when properly installed by Buyer on drives or systems meeting or exceeding the minimum hardware specifications, and shall be free from any material defects, whether in design or programming, for a period of six (6) months after the date of delivery of the Software. IDS represents and warrants that, to the best of its knowledge, as of the date of delivery, it owns the Software and has the right to enter in this Agreement and that Buyer's use of the Products in accordance with the terms of this Agreement does not infringe upon any third party's copyright, U.S. patent, or trade secret. IDS does not warrant that the Software will operate uninterrupted or error-free or meet the requirements of Buyer or any other party. IDS is not responsible for problems caused by use of the Software in conjunction with third-party software, hardware, or products.

IDS's sole obligation under this warranty shall be, upon prompt written notice by Buyer of any defect, to repair or replace without charge at IDS's plant in Houston, Texas, any defective Products, Software or parts thereof expressly warranted herein against defects by IDS. This warranty covers only replacement or repair of defective parts at IDS's main office and does not include field service travel and living. In no event shall IDS be liable for incidental, consequential, or other damage.

If any third-party claim substantially interferes with Buyer's use of the Products and/or Software, or if IDS believes that a third-party claim may substantially interfere with Buyer's use of the Products, IDS, at its sole discretion, may: (a) replace or modify the portion of the infringing Product and/or Software, without additional charge, with functionally equivalent and noninfringing parts of code to avoid the infringement; or (b) obtain a license for the Buyer to continue use of the Product and/or Software and pay any additional required license fee; or (c) if the foregoing alternatives are not commercially reasonable, terminate this Agreement. This Section 6 shall constitute IDS's entire liability and Buyer's exclusive remedy for a claim of infringement.

7. DISCLAIMER OF WARRANTIES

IDS AND BUYER AGREE THAT THE WARRANTIES IN THE PRECEDING SECTION ARE EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IDS HEREBY DISCLAIMS AND EXCLUDES ALL OTHER EXPRESS OR IMPLIED WARRANTIES. Any oral or written description of the Products is for the sole purpose of identifying the Products and shall not be construed as an express warranty.

8. LIMITATION OF LIABILITY AND REMEDIES

IDS is not liable for and Buyer hereby waives any right to bring any cause of action it has or may have against IDS for any consequential, punitive or special damages arising out of any breach of either (i) this Agreement (or any sales transactions between Buyer and IDS) or (ii) the aforesaid warranty. Buyer also waives any claims for any damages to any property or injury or death to any person arising out of its purchase or the use, operation or maintenance of the Products. IDS will not be liable for any labor subcontracted or performed by Buyer for preparation of item under warranty for return to IDS's factory or for preparation work for field repair or replacement. Invoicing of IDS for labor either performed or subcontracted by the Buyer will not be considered as a liability by the IDS.

IDS's obligations under the warranty and under this Agreement (or in connection with any sales transaction between Buyer and IDS), are expressly conditioned upon timely receipt of all payments in strict accordance with payment terms, time being of the essence of this regard. During the time which IDS has not received any amount overdue, IDS shall have no obligation under this Agreement and this warranty; the expiration date of the warranty shall not be extended upon payment of the overdue amount.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, IDS'S TOTAL LIABILITY UNDER THE WARRANTY AND UNDER ANY SALES TRANSACTION BETWEEN BUYER AND IDS (REGARDLESS OF THE LEGAL LIABILITY THEORY UPON WHICH THE CLAIM IS PREDICATED) SHALL BE LIMITED TO THE VALUE OF THE PRODUCTS OR SERVICES PURCHASED.

9. RETURN OF PRODUCTS

Upon IDS's prior written approval (and only upon such written approval), unused Products, in new condition and of current manufacture and catalog specifications may be returned by Buyer for credit, provided written request is received within one (1) year after the purchase date. Non-standard Products are not returnable for credit. Requests for return of Products must show original purchase order number, invoice number, description of material, and date of purchase. Return of Products does not relieve Buyer of the obligation to make payment against IDS's invoice, and any credit or refund allowed will be issued following IDS's receipt of the Products. The credit allowed on returned Products, if any, is a merchandise credit and is applicable only against future purchases of IDS Products. The credit given will be solely in IDS's discretion and may be based on the original or a subsequently adjusted price; a charge will be made to clean up, refinish and restock. No rubber products may be returned for credit after six (6) months from date of shipment.

10. TECHNICAL ASSISTANCE

UPON REQUEST, IDS WILL PROVIDE ENGINEERING OR TECHNICAL INFORMATION REGARDING ITS PRODUCTS AND, IF FEASIBLE, WILL PROVIDE PERSONNEL TO ASSIST BUYER IN AFFECTING FIELD INSTALLATION OR FIELD SERVICE. ANY SUCH INFORMATION, SERVICE, ADVICE OR ASSISTANCE SO PROVIDED, WHETHER WITH OR WITHOUT CHARGE, SHALL BE ADVISORY ONLY. IT IS EXPRESSLY AGREED THAT IDS SHALL HAVE NO LIABILITY FOR ANY DAMAGE OR LOSS ARISING OUT OF, RESULTING FROM, OR CAUSED IN WHOLE OR IN PART BY SUCH INFORMATION, SERVICE, ADVICE OR ASSISTANCE PROVIDED.

11. CANCELLATION OR CHANGES

Buyer shall have the right by written order to make changes in specifications or delivery schedules once agreed upon. If such changes alter the amount due under the purchase order or the time required for performance, an equitable adjustment of the price and/or time for performance shall be made; provided, however, that changes, engineering or otherwise, affecting the function or performance of the Products ordered shall not be made without the prior consent of IDS in writing. Cancellations for the convenience of the Federal Government may be affected and cancellation charges paid as required by applicable Federal statutes or regulations. If either Buyer or IDS should be declared a bankrupt or insolvent or if a receiver should be appointed for all or a substantial portion of the assets of either party by court of competent jurisdiction, or if there should be filed in any such court and not dismissed within thirty (30) days any application or petition for adjudication of such insolvency or bankruptcy, or for the appointment of such a receiver, or involving the resetting or extension, however termed, of the obligations of Buyer or IDS, or if either Buyer or IDS should make an assignment of all or a substantial portion of its property for the benefit of its creditors, then upon the happening of any such events, the other party may cancel any order placed by Buyer with IDS immediately by notice in writing sent to the opposite party by registered mail at its last known business address, or by personal service upon such party.

12. APPLICABLE LAW

Any provision which Buyer is required to insert in this order by virtue of any valid federal or state law, or any valid rule or regulation issued thereunder, if specifically submitted in writing by Buyer to IDS before its acceptance of the order and if approved by IDS in writing, shall be deemed embodied herein by reference when this order is accepted.

Notwithstanding the above, this Agreement without regard to its conflicts of law provisions and any resulting Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas.

13. INTELLECTUAL PROPERTY (CONFIDENTIALITY AND LICENSE GRANT)

(a) **Confidentiality of Intellectual Property:** Buyer shall keep IDS's business, technical and proprietary information (the "Confidential Information"), including pricing, confidential using at least the same safeguards as it uses for its own confidential information. Buyer shall not use the Confidential Information except as necessary and shall not disclose the Confidential Information except as required by law, in which case Buyer shall promptly inform IDS of all such legal obligation or proceedings so that IDS may attempt by appropriate legal means to prevent and/or limit such disclosure. Buyer shall further use its best efforts to limit the disclosure and maintain confidentiality to the maximum extent possible to its employees and contractors.

(b) **Ownership of Engineering Intellectual Property:** All engineering data, design information, and engineering and shop drawings used in the preparation and/or completion of this order (the "Engineering Data") are and shall remain the property of IDS. Buyer shall not copy, reproduce, distribute, publish, or communicate to any third party the Engineering Data without the prior written permission of an authorized agent of IDS.

(c) **Ownership of Software Intellectual Property:** The Software is owned and copyrighted by IDS. No title to or ownership of the intellectual Software, or the patent, copyright, or trade secret or other proprietary rights associated therewith, is transferred to Buyer. Buyer shall not copy, trace, disassemble, decompile, modify, or reverse engineer the Software. Any comments, suggestions, improvements or other communications from Buyer to IDS regarding the Software will be the sole property of IDS. IDS may use the communications and practice any associated intellectual property without compensation or attribution. Buyer shall not take any action in violation of the rights of IDS in the copyright or other intellectual property right in the Software.

(d) **Ownership of Intellectual Property Supplied by Buyer:** To the extent intellectual property supplied by Buyer is incorporated into the Products or Software, it is done with the representation by Buyer of ownership and non-infringement and with the understanding that Buyer shall indemnify and hold harmless IDS from any and all claims asserted against IDS, and any damages and expenses sustained by IDS as a result, including, without limitation, its attorneys fees and costs resulting from any action or threatened action against IDS for infringement of the intellectual property of another, including trade secrets, patents, copyrights and trademarks.

(e) **License Grant:** Upon final and full payment of the total fees set forth on the invoice, IDS hereby grants Buyer a nonexclusive, royalty-free, perpetual, non-sublicensable limited license to use the Software solely in conjunction with the operation of the Products specified on the Invoice in accordance with the Software's documentation. Except as incident to resale of the Product, the license is non-transferrable. No license is granted for Buyer to make any archival copy of the Software or supporting documentation. IDS grants no license, express or implied, by virtue of drawings or materials provided by IDS, other than the right of Buyer to use the specific materials provided in the form delivered by IDS.

(f) **Transfer of license by Buyer:** Buyer may transfer this license for the Software and its media to another party only in conjunction with the transfer of the Products on which the Software is loaded and only upon agreement of the other party to the terms and conditions of this Agreement. All licenses and grants pursuant to this Agreement shall immediately terminate once Buyer no longer rightfully owns or possesses the Products. No other rights under this license are granted. Buyer shall provide IDS with written notice of any such transfer providing the name, address, and contact information of the transferee within 15 days of such transfer.

(g) **Use Restrictions:** Buyer shall not (a) copy, display, transfer, adapt, modify, or distribute in any form the Software except as set forth in this Agreement or documentation; (b) reverse engineer, disassemble, decompile, or otherwise translate the Software's object code, unless expressly permitted by applicable law without the possibility of contractual waiver; or (c) sublicense or lease the Software or any copy thereof. Buyer shall not make available to any party source code for the Software. Buyer shall not, directly or indirectly, export or reexport, or knowingly permit the export or reexport of, the Products, or any technical information about the Products, to any country for which the United States Export Administration Act, any regulation thereunder, or any similar United States law or regulation, requires an export license or other United States Government approval, unless Buyer obtains the appropriate export license and obtains written approval from IDS.

(h) **Maintenance and Support:** Buyer may purchase from IDS annual Software maintenance and support services under the terms and conditions of IDS's then-standard maintenance and support agreement. Buyer may renew this maintenance term at IDS's then-current maintenance rates. In the event Buyer purchases additional Software licenses, maintenance fees for such licenses shall be prorated to be coterminous with Buyer's existing maintenance period. In no event shall IDS be responsible for providing maintenance services for a period during which maintenance coverage lapsed.

14. SPECIFICATIONS

- a. If IDS's model number appears on the face hereof, notwithstanding any correspondence from Buyer referencing contrary information, then only IDS's specifications and/or drawings for such model shall be applicable to the articles furnished under such order.
- b. If only Buyer's part number appears on the face hereof, notwithstanding any correspondence from Buyer confirming that number, then only such specifications as have been agreed upon in writing by Buyer and IDS prior to the date hereof shall be applicable to the articles furnished under such order.

15. DISPUTE RESOLUTION

ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR RELATING TO ANY SALES TRANSACTION BETWEEN IDS AND BUYER, SHALL BE SETTLED BY LITIGATION IN THE STATE OR FEDERAL COURTS IN HOUSTON, TEXAS. IN CONNECTION WITH ANY DISPUTE ARISING UNDER OR IN CONNECTION WITH THIS TRANSACTION, IDS AND BUYER EACH WAIVES ITS RIGHT TO A TRIAL BY JURY.