



THIS CONDITIONS OF SALE (this “Agreement”) is entered into by and between **IPTE, LLC**, a subsidiary of **ITE ENTERPRISES, INC.** (“IPTE”), with its principal place of business located at 6245 Shiloh Road, Suite B, Aphetta, GA 30005, (“Seller”) and Customer (“Buyer”).

WHEREAS, Seller wishes to sell and Buyer wishes to purchase Seller’s product in the quantities and at the prices more specifically set forth on the quotation attached hereto and incorporated herein by this reference (the “Quotation”).

NOW, THEREFORE, the parties hereto agree as follows:

1. Purchase Price/Quantity.

Buyer agrees to purchase from Seller and Seller agrees to sell to Buyer the products referenced at the prices and in the quantities set forth on the Quotation (the “Products”), subject to the terms and conditions of this agreement.

2. Delivery/Payment.

(i) The scheduled delivery date(s) for the Products shall be stated on the order acknowledgment letter (the “Order Acknowledgment”) provided to Buyer promptly after receipt of an order by Seller from Buyer with respect to the Products, and payment terms for the Products shall be stated in Seller’s invoice provided to Buyer (the “Invoice”). If no payment terms are stipulated on the Invoice, the following payment terms shall apply: 30% payment as invoiced to buyer on receipt of Buyer’s order, 30% payment as invoiced to Buyer upon Design Approval, 30% payment as invoiced to Buyer upon shipment of the Products and 10% payment as invoiced to Buyer upon completion of installation of the Products (unless otherwise agreed in writing by the parties), and any balance due and unpaid by Buyer will be assessed a monthly charge of 1.5% per month; (ii) all deliveries hereunder shall be F.O.B. Seller; (iii) if Buyer cannot receive the Products on the scheduled delivery date, Buyer must immediately notify Seller and also pay Seller a reasonable storage charge for the Products until, and prior to, such time as Buyer accepts delivery of the Products; (iv) no amount payable by Buyer to Seller under any Invoice shall be subject to set-off for claims of Buyer. In the event Seller deems it necessary to enforce Buyer’s obligations pursuant to this Agreement (including, without limitation, to collect any amount due to Seller hereunder or under any Invoice) by or through an attorney, Buyer shall pay to Seller upon demand all costs and expenses of such enforcement, including, without limitation, reasonable attorney’s fees. Acceptance by Seller of less than the full amount of any installment or payment under any Invoice shall not constitute a waiver by Seller of its right to collect the balance thereof.



3. Term.

This proposal by Seller to sell the Products pursuant to the Quotation will automatically terminate fifteen (15) days after the date written on the Quotation if not accepted by Buyer prior to such time. However, this proposal may be extended by the mutual written agreement of both parties.

4. Acceptance of Seller's Proposal.

Buyer's acceptance of Seller's proposal to sell the Products pursuant to the Quotation and the terms and conditions of this Agreement shall be indicated by any of the following, whichever first occurs: (i) Buyer's written acknowledgment hereof by placement of an order with Seller, including, without limitation, by Buyer's submission to Seller of Buyer's purchase order, (ii) Buyer's acceptance of any shipment of any part of the Products specified for delivery to Buyer; or (iii) any other act or expression of acceptance by Buyer. Buyer's acceptance is expressly limited to the terms and conditions of this Agreement in their entirety, without addition, modification or exception, and any term, condition or proposal hereafter submitted by Buyer (whether oral or in writing) which is inconsistent with or in addition to the terms and conditions of this Agreement is objected to and is rejected by Seller. Seller's silence or failure to respond to any such subsequent term, condition or proposal shall not be deemed to be Seller's acceptance or approval thereof.

5. Additional Terms and Conditions.

Notwithstanding the foregoing Paragraph 4, this Agreement shall incorporate the terms and conditions contained in the Invoice and the Order Acknowledgment. In the event of a conflict between the terms of this Agreement and the Invoice or Order Acknowledgment, the terms of this Agreement shall govern.

6. Cancellation.

Buyer may cancel its order for the Products by providing written notice to Seller. Seller, in its sole discretion, shall either approve or disapprove of such cancellation by written notice to Buyer. In the event of any cancellation expressly approved by Seller, Buyer shall pay to Seller the aggregate amount of the purchase price for the Products in accordance with the following schedule: (i) 30% of the aggregate purchase price for the Products shall be due and payable to Seller if Buyer cancels its order for the Products within 21 days from the date the order is received by Seller; (ii) 70% of the aggregate purchase price for the Products shall be due and payable to Seller if Buyer cancels its order for the Products between 22 and 42 days from the date the order is received by Seller; and (iii) 100% of the aggregate purchase price for the Products shall be due and payable to Seller if Buyer cancels its order for the Products at any time after 42 days from the date the order is received by Seller.



7. Approval by Manufacturer.

Seller's performance hereunder is contingent and conditioned upon (i) approval of the order for the Products by the manufacturer thereof ("Manufacturer"), and (ii) Manufacturer's ability to fill said order reasonably in advance of the scheduled delivery date(s) as provided on the Order Acknowledgment. If Manufacturer does not approve said order or indicates its inability to fill same within such time frame, Seller shall notify Buyer and return to Buyer any amounts previously paid to Seller hereunder, whereupon this Agreement shall terminate and be of no further force or effect, without further liability to Seller. Notwithstanding the foregoing, Buyer and Seller may mutually agree in writing to a new delivery date, if practical under the circumstances.

8. Warranty.

Seller warrants that the Products sold hereunder shall be free from defects in material and workmanship for 12 months after acceptance date or 14 months after delivery, whichever occurs first. In the event that defects in material or workmanship occur during the warranty period Seller will, at its option, repair or replace the parts in question. Tooling, consumables and normal maintenance and adjustments are not covered by this warranty.

9. Limitation on Liability.

THE WARRANTIES SET FORTH IN PARAGRAPH 8 ARE THE ONLY WARRANTIES MADE IN CONNECTION WITH THE PRODUCTS, AND THERE ARE NO OTHER WARRANTIES, EITHER ORAL OR WRITTEN, EXPRESSED OR IMPLIED, WITH RESPECT TO ANY OF THE PRODUCTS SOLD HEREUNDER WHETHER AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER MATTER. SELLER SHALL NOT BE LIABLE UNDER ANY CIRCUMSTANCES FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL OR EXEMPLARY DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR RESULTING FROM ANY DEFECT TO THE PRODUCTS, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOST PROFITS, LOSS OF USE, LOST DATA OR ANY DAMAGES OR SUMS PAID BY BUYER TO THIRD PARTIES, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY WHETHER ANY CLAIM IS BASED UPON PRINCIPLES OF CONTRACT, WARRANTY, NEGLIGENCE, OR ANY OTHER TORT, BREACH OF ANY STATUTORY DUTY, PRINCIPLES OF INDEMNITY OR CONTRIBUTION, THE FAILURE OF ANY LIMITED OR EXCLUSIVE REMEDY TO ACHIEVE ITS ESSENTIAL PURPOSE, OR OTHERWISE. FOR THE PURPOSES OF PARAGRAPH 8, THE SOLE LIABILITY OF SELLER TO REPAIR OR REPLACE SHALL BE NO GREATER THAN THE AGGREGATE PURCHASE PRICE OF THE PRODUCTS RECEIVED BY BUYER FROM SELLER.



10. Force Majeure.

Seller shall be excused from its inability to perform hereunder as a result of any prohibition, failure, interruption or delay in manufacture or delivery which may be occasioned by sabotage, fire, flood, explosion, labor dispute, strike, work stoppage, insurrection, war, act of God, shortage of supplies or other cause beyond Seller's control. In the event of any such prohibition, failure, interruption or delay, Seller, may, at its sole option, extend the anticipated delivery date or terminate this Agreement, in whole or in part. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES OR CLAIMS OF BUYER RESULTING FROM FAILURE OR DELAY IN DELIVERY OF THE PRODUCTS.

11. Service of the Products.

Seller will use its good faith efforts to fulfill its obligations set forth in Paragraph 8 arising as a result of warranty claims on the Products within a reasonable period of time after Buyer has provided written notification of such claim to Seller. Upon expiration of the warranty period, Seller may render, at the request of Buyer, substantially similar service as the IPTE customer support in effect at that time and at such prices as IPTE customer support shall establish at that time.

12. Proprietary Information.

For a period of five (5) years from the date written on the Quotation, each of seller and buyer will maintain as confidential and will neither disclose to any person or entity outside their respective employ, nor use for any other purposes other than the performance of this Agreement, any information to which the receiving party becomes privy by virtue of this Agreement, including but not limited to, all drawings, prints and manufacturing process information and proprietary business information gained while visiting the other party's facility. Upon the termination of this Agreement, or in the event Buyer does not accept Seller's proposal to sell the Products pursuant to the Quotation and the terms and conditions of this Agreement, each of Seller and Buyer will return any such information contained in writing at the request of the other party. Each party's obligation not to disclose or misuse such information will not apply to any information, which is either in the public domain through no fault of the receiving party or is developed independently by the receiving party or by some third party.

13. Limited Indemnification.

(i) Seller, at its own expense, shall defend any suit brought against Buyer insofar as it is based upon a claim that any of the Products, as such, directly infringe upon any third party's patents and shall indemnify Buyer against any final award of damages or costs in such a suit. This indemnity is conditioned upon Buyer giving Seller (1) prompt written notice of any suit for such infringement, which notice shall be received by Seller in a reasonable period of time prior to the time an answer is due in such



suit, (2) full authority, at Seller's option, to settle or to conduct the defense thereof, and (3) full assistance and cooperation in said defense; (ii) no cost or expense shall be incurred by or on behalf of Seller without its written consent; (iii) in the event that any of the Products in such suit is held to constitute such infringement, Seller at its own election and at its own expense may either procure for Buyer the right to continue the use of said Products, or modify said Products so that they becomes non-infringing; (iv) Seller shall not be obligated to defend against, and shall not be liable for, (1) infringement of any patent claim covering: (a) a combination of the Products with any other product, whether or not supplied by Seller, or (b) any method, process or products in or for which, in the manufacture of which, the Products may be used; or (2) patent infringement arising from compliance by Seller with Buyer's design, specification, or instruction. Buyer shall indemnify Seller against any final award of damages or costs for such infringement, as specified in subparagraphs (iv)(1) and (2) above, and shall reimburse all costs incurred by Seller, in defending any suit for such infringement and if so requested, shall give full authority to Seller to conduct the defense thereof and full assistance and cooperation in such defense; (v) it is furthermore specifically understood that IPTE is not liable for any claim or demand, based upon infringement or alleged infringement of any third party's patent, which claim or demand is directly or indirectly, based upon the number of products manufactured by means of the Products, irrespective of whether such claim or demand alleges that Seller's system as such, or its use, infringes or contributes to the infringement of any such patent; (vi) Seller's liability under this Paragraph 13 shall be limited to a period of five (5) years starting on the date written on the quotation. NOTWITHSTANDING THE FOREGOING, SELLER'S LIABILITY UNDER THIS PARAGRAPH 13 SHALL BE LIMITED TO FIVE PERCENT (5%) OF THE AGGREGATE PURCHASE PRICE RECEIVED BY SELLER FROM BUYER; (vii) THE FOREGOING STATES THE ENTIRE LIABILITY OF SELLER IN CONNECTION WITH INFRINGEMENT OF THIRD PARTY PATENTS BY THE PRODUCTS, AND EXCEPT AS STATED IN THIS PARAGRAPH 13, SELLER SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE OF WHATEVER KIND (INCLUDING, IN PARTICULAR, ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGE) SUFFERED BY BUYER OR ANY OTHER PERSON WITH RESPECT TO THE INFRINGEMENT OF ANY PATENT.

14. No License.

Buyer acknowledges that it shall acquire no rights in any intellectual property of Seller and in particular no rights in any patent, trademark, copyright, mask work right, or trade secret in any material created for Buyer by Seller under this Agreement.

15. Governing Law.

This Agreement shall be interpreted and construed in accordance with the laws of the State of Georgia applicable to contracts to be fully performed therein.



16. Incorporation.

The exhibits to this Agreement, if any, shall be incorporated into the terms and conditions of this Agreement, as if same were fully set forth herein.

17. Entire Agreement.

This Agreement constitutes the entire and exclusive agreement between Buyer and Seller with respect to the purchase and sale of the Products. All prior and contemporaneous proposals, negotiations, representations and agreements are merged into this Agreement and no course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Agreement. No modification hereof shall be of any force or effect until signed by Seller and Buyer.

18. Severability.

Each provision set forth in this Agreement is separate, distinct and severable from the other and remaining provisions of this Agreement. The unenforceability of any provision set forth herein shall not affect or impair the enforceability of any other provision set forth herein.

19. Assignment.

This Agreement may not be assigned by either party, without the prior written consent of the other party, except that Seller may assign this Agreement to any affiliate or subsidiary of Seller.

20. Notice.

Any notice, demand or communication required or permitted to be given by any provision of this Agreement shall be in writing and shall be deemed to have been sufficiently given or served for all purposes if delivered personally to an executive officer of the party to whom the same is directed, or sent by registered or certified mail, postage and charges prepaid, addressed to the address of the party which is set forth in this Agreement. Either party may change its address for purposes of this Agreement by written notice to the other party in accordance herewith. Except as otherwise provided herein, a notice shall be deemed to be given on the date it is personally delivered, or three (3) business days after the date on which the same is deposited in a regularly maintained receptacle for the deposit of United States mail, addressed and sent as aforesaid.



21. *Miscellaneous.*

The prices and service charges stated in the Quotation do not include the following items, for which Buyer is responsible. Buyer is responsible for all sales, use, excise or other taxes or importation duties or assessments, levies or other governmental charges, and transportation costs associated with transporting and importing the Products from the F.O.B. origin shipping point. Buyer must provide (i) the necessary physical enclosure and environmental control equipment, including air conditioning and humidity control, to assure proper operation of the Products; (ii) the necessary electrical power conditioning equipment to assure proper operation of the Products; and (iii) the necessary compressed air equipment, including air compressor, dryer and filtration, to assure proper operation of the Products. Seller will provide the specifications for the equipment described in items (i), (ii) and (iii) above.

22. *Security Interest.*

Seller expressly retains a first priority purchase money security interest in each item of the Products delivered to Buyer as security for payment of the purchase price, and any additional charges hereunder or under any Invoice. In furtherance of the foregoing, Buyer hereby grants and conveys to Seller (effective as of the time that Buyer obtains title to the Products) a first priority purchase money security interest in the Products as security for the timely payment and performance by Buyer of its obligations hereunder and under any Invoice now or hereafter issued by Seller in connection herewith. Buyer shall execute and deliver such other documentation as shall be reasonably requested by Seller to further evidence and perfect such security interest, including without limitation, one or more financing statements.

December 15th, 2021

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