



1. **GENERAL:** These Terms and Conditions set forth the terms and conditions pursuant to which the purchaser "Purchaser" will purchase and Industrial Indexing Systems, Inc. ("Seller") will sell any Industrial Indexing Systems, Inc.'s products. These Terms and Conditions shall govern and apply to the sale of the Products to Purchaser, regardless of any terms and conditions appearing on any purchase order or other forms submitted by Purchaser to Seller or given verbally by Purchaser to Seller and Seller hereby expressly rejects any such terms and conditions.
2. **PURCHASE ORDERS:** All purchase orders of Purchaser shall, unless otherwise agreed in writing by Seller, be in writing and set forth the quantity of the Products desired, the specifications therefore, the desired delivery date, the price of each Product, and all other relevant information necessary to effectuate shipment of the Products by Seller. Such purchase orders shall be limited and subject to acceptance of these Terms and Conditions and no additional, inconsistent or contrary terms shall become part of this agreement or any sale of Products to Purchaser unless specifically accepted in writing by Seller and Seller hereby expressly rejects any such additional, inconsistent or contrary terms.
3. **ACCEPTANCE/RETURN:** All orders for Products shall be subject to acceptance by Seller at Seller's facilities. Purchaser shall not return any Products actually delivered to Purchaser without the written consent of, and upon terms agreed to, by Seller.
4. **PRICE:** Prices shall be those in effect at the time of order entry. Prices are subject to change by Seller without notice. Seller's prices do not include sales, use, excise or similar taxes. Consequently, the amount of any present or future sales, use or other similar tax applicable to the sale or use of the Products shall be paid by Purchaser.
5. **PAYMENT/DELINQUENCY CHARGE:** Payment terms are net thirty (30) days from the date of Seller's invoice. Seller reserves the right to charge interest at the rate of 1.5% per month (but not more than the maximum percentage permitted by law) on all balances not paid by Purchaser within the designated net terms. Seller reserves the right at any time to revoke any credit extended to Purchaser because of Purchaser's failure to pay for any Products when due or for any other reason deemed to be good and sufficient by Seller. Seller shall make no sale or shipment of any Products to Purchaser on open account, or in any manner, if at any time the financial responsibility of Purchaser becomes impaired or unsatisfactory to Seller, and Purchaser does not provide full security to Seller, or if at the time of such sale or shipment, Purchaser is delinquent in the payment of any account to Seller. In the event Purchaser shall be in default of any terms and conditions hereof, or becomes insolvent or proceedings are instituted to declare Purchaser bankrupt, or a receiver is pointed for Purchaser in any court, Seller may at its option terminate this order and upon such termination by Seller, any and all claims or demands against Purchaser held by Seller shall immediately become due and payable. In the event of any action at law or in equity by reason of Purchaser's non-payment of balance owed, Purchaser will pay Seller its reasonable costs of collection or other out-of-pocket costs and expenses and attorney's fees on account thereof.
6. **DELIVERY AND FREIGHT CHARGES:** All delivery dates are approximate and based upon the prompt receipt of all necessary information from Purchaser. Unless otherwise instructed, Seller will ship Products to Purchaser via regular Federal Express delivery or similar carrier, Seller's facility (Incoterms 2020). Notwithstanding the provisions contained in these Terms and Conditions to the contrary, Seller shall not be responsible or liable for any loss or damage whatsoever, including loss of income and/or profits, incidental, special or consequential damages resulting from Sellers delayed performance in shipment or delivery of the Products for any reason whatsoever. All freight charges are stated on Sellers invoices and are part of Sellers payment terms.
7. **WARRANTY:** Seller warrants that the Products sold hereunder will be free from defects in material and workmanship for a period of twelve (12) months from the date of shipment from Seller's facility. SELLER'S WARRANTY HEREIN IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES OF SELLER AND THE MANUFACTURER OF THE PRODUCTS (COLLECTIVELY, the "Manufacturing and Selling Parties"), WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE CREATED UNDER APPLICABLE LAW, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY AND ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE. IN NO EVENT SHALL SELLER OR THE MANUFACTURING AND SELLING PARTIES BE LIABLE (AND PURCHASER SHALL NOT ASSERT ANY CLAIM) FOR SPECIAL, INCIDENTAL, COMPENSATORY OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS. PURCHASER'S SOLE AND EXCLUSIVE REMEDIES UNDER THIS WARRANTY SHALL BE LIMITED, AT SELLER'S EXCLUSIVE DISCRETION, TO: (1) REPLACEMENT OF ANY DEFECTIVE PRODUCTS OR PART THEREOF; OR (2) REPAIR OF ANY DEFECTIVE PRODUCTS OR PART THEREOF. Seller, at its option, will repair or replace products found to be defective during the warranty period when returned to Seller, freight prepaid, with description of defect and purchase order. Products found to be defective will be returned via Federal Express delivery or similar carrier at Seller's expense. Products tested and proven to be non-defective are subject to service charges. The repair or replacement of a defective product does not extend the warranty period. Individual components replaced during repair are warranted for six months from date of shipment. Expedited repairs are subject to expediting fees. Software programs designed, programmed and implemented by Seller as a result of written specifications submitted by the Buyer and approved in writing by Seller are warranted for ninety days. The warranty and remedy set forth above are conditioned upon the proper storage, use and maintenance of the Products and conformance with all applicable recommendations of the Manufacturing and Selling Parties with respect to the Products. No agent, employee or representative of Seller (or any distributor, dealer or sales representative of Seller) has the authority to bind Seller to any affirmation, representation or warranty concerning the Products sold hereunder, and unless such affirmation, representation or warranty is specifically included in these Terms and Conditions, it will not form a part of the basis of these Terms and Conditions and shall in no way be binding upon the Seller or enforceable by Purchaser.
8. **PATENT INFRINGEMENT:** Seller's liability for patent infringement (and the liability of the Manufacturing and Selling Parties) is limited to Seller's defense of any suit or proceeding brought against Purchaser based on a claim that the Products sold hereunder, when employed in the manner intended by Seller, constitutes an infringement of any patent of the United States. If Purchaser's use of the Products in the manner intended by Seller is finally enjoined, Seller shall, at its option, either procure for Purchaser the right to continue using the Products; replace the same with non-infringing Products; modify the Products so that they become non-infringing, but equivalent to the Products sold hereunder, or refund the purchase price (less allowance for use, damage or obsolescence). Seller makes no warranty against patent infringement resulting from portions of the Products made to Purchasers specifications or the use of Products in combination with any other Products or in the practice of any process and if a claim, suit or action against the Manufacturing or Selling Parties is based thereon, Purchaser shall defend, indemnify and save Seller and the Manufacturing and Selling Parties harmless from and against any and all claims, losses or damages arising there from.
9. **FORCE MAJEURE:** Sellers obligations hereunder are subject to, and Seller shall not be held responsible for, any delay or failure to make delivery of all or any part of the Products due to acts or circumstances beyond the control of Seller, including, but not limited to, labor difficulties, fires, casualties, accidents, acts of God, acts of terrorism, transportation difficulties, inability to obtain Products, materials or components or qualified labor sufficient to timely perform part or all of any obligation, or governmental regulations or actions. In the event of the occurrence of any of the foregoing, at the option of Seller, Seller shall be excused from the performance hereunder or the performance of the Seller shall be correspondingly extended.
10. **MISCELLANEOUS PROVISIONS:**
 - (a) These Terms and Conditions, together with any written Distributor Agreement between the parties, constitute the entire agreement between Seller and Purchaser as it relates to the purchase and sale of Products to Purchaser by Seller and the liability of the Manufacturing and Selling parties, and supersede any and all prior agreements, correspondence, quotations or understandings heretofore enforced between the parties relating to the subject matter hereof.
 - (b) If any term or condition or part of these Terms and Conditions is held invalid, the remaining terms and conditions hereof shall not be affected thereby.
 - (c) These Terms and Conditions may be modified, canceled or rescinded only by a written agreement by both parties executed by their duly authorized agents.
 - (d) All rights available to Seller under the Uniform Commercial Code except as specifically limited or excluded herein (even though not specifically enumerated), are reserved to Seller as remedies available in the event of default or breach by Purchaser.
 - (e) This agreement and any sale of Products to Purchaser shall be deemed to have been made in and governed by the substantive laws of the State of New York, without regard to choice-of-law provisions. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this contract.
 - (f) Any claims relating to the sale or use of the Products and/or the relationship between Seller and Purchaser shall be asserted only in the state or federal Courts located in Monroe County, New York. Purchaser hereby consents to the jurisdiction and venue of said courts.
 - (g) Any failure by either party to enforce at any time any term or condition hereof shall not be considered a waiver of such party's right thereafter to enforce the same or any other term or condition hereof.
 - (h) These Terms and Conditions shall be binding upon the successors and legal representatives of Purchaser and Seller.
11. **FIELD SERVICE AND START-UP:** Field service and start-up are available upon receipt of a purchase order. Charges are billed at the current price list's rate, plus air travel and other expenses. Time is figured on a portal-to-portal basis. The normal rate, based on an 8-hour day, is increased for night and weekend hours.
12. **TECHNICAL ADVICE:** Technical advice regarding products hereunder solicited from Seller shall be used by Buyer at his own risk. IIS is not liable for direct or consequential damages suffered as the result of the use of such technical advice.
13. **DISCLOSURE OF INFORMATION:** Any information supplied by Buyer to Seller in connection with the performance hereunder is not to be regarded as proprietary, except as may be otherwise stated in writing and signed by an officer of Seller. Seller reserves the right to refuse disclosure of its proprietary information to a buyer or third party unless executed non-disclosure agreements are in effect.
14. **SOFTWARE:** Seller makes no prevention from the duplication of its software; therefore, software is a non-refundable product. Seller reserves the right, however, to sell its software under a single-user license and will support and warranty only the original copy of purchased software. Seller will duplicate copies for a mutually agreed upon charge and will only then support those copies.
15. **GENERAL:** No sales representative of Seller has authority to alter, vary or waive any of the terms and conditions herein. The Buyer will not assign an interest therein without prior written consent.