



Terms and Conditions for Purchase Orders

In these terms and conditions:

“**Purchaser**” means the Company accepting the Purchase Order to which these terms and conditions are attached.

Other Agreements.

Unless the parties have a written agreement to the contrary, any purchase order is expressly governed by the terms of the signed purchase order these terms and conditions. Except for such written agreement between the parties, these terms and conditions will prevail over any other terms or conditions contained in any other documentation related to the subject matter of these terms and conditions.

Additional terms, in the Purchaser's acknowledgment or elsewhere are deemed rejected and not accepted by EV Tech, Inc.

Purchaser's Acceptance.

Purchaser will be deemed to accept these terms and conditions by signing a purchaser order. In the absence of a signed purchase order a partial performance of the purchase order by the Purchaser will be deemed an acceptance of the terms of the purchaser order.

Purchaser Agreements.

Notwithstanding anything to the contrary in these terms and conditions the Purchaser and it's personnel will not:

- (i) engage in any unfair, competitive, misleading or deceptive practices respecting EV Tech, Inc., EV Tech, Inc.'s Trademarks or the Goods, including any product disparagement or "bait-and-switch" practices;
- (ii) separate any software or accessories sold, bundled or packaged with any good from the good or sell, license or distribute the software on a standalone basis, or remove, translate or modify the contents or documentation of or related to the software or accessories, including, without limitation, any end user license agreements or warranty statements;
- (iii) market or distribute the goods other than in the form and packaging as delivered by EV Tech, Inc.;
- (iv) sell or offer to sell any of the goods outside of its territory, except to retail outlets located outside the territory that are owned by a retailer with a principal purchasing headquarters within the territory, but only if:
 - (A) the sales are made with the prior written consent of EV Tech, Inc. (which consent may be withheld or withdrawn for any or no reason); or
 - (B) Purchaser complies with the terms and conditions;



(v) ship or otherwise deliver goods to any facility in a location that:

- (A) has not been approved by EV Tech, Inc.; or
- (B) is outside its territory; and

(vi) sell or offer to sell any goods or other EV Tech, Inc.-branded products, other than the goods purchased by Purchaser from EV Tech, Inc. or from a distributor authorized by EV Tech, Inc. to sell the same to Purchaser.

These terms and conditions can only be modified in a written agreement signed by both parties.

Subject to EV Tech, Inc. Acceptance.

EV Tech, Inc. may accept any Purchase Order by confirming the order (whether by written confirmation, invoice or otherwise) or by delivering the goods, whichever occurs first. No Purchase Order is binding on EV Tech, Inc. unless accepted by EV Tech, Inc. as provided in these terms and conditions.

EV Tech, Inc. Right To Cancellation.

EV Tech, Inc. may, in its sole discretion, without liability or penalty, cancel any Purchase Order placed by Purchaser and accepted by EV Tech, Inc., in whole or in part:

- (i) if EV Tech, Inc. discontinues its sale of goods or reduces or allocates its inventory of goods; or
- (ii) if EV Tech, Inc. determines that Purchaser is in violation of its payment obligations to EV Tech, Inc. under this Purchase Order or other agreements.

Purchaser has no right to cancel or amend any Purchase Order submitted by it without prior written acceptance from EV Tech.

Purchaser Review Of Goods.

Purchaser will inspect goods received under the Purchase Order on receipt (the "**Inspection Period**") of the goods and either accept or, if any goods are nonconforming goods or excess goods, reject these goods. Purchaser will be deemed to have accepted the goods unless it notifies EV Tech, Inc. in writing of any nonconforming goods or excess goods during the Inspection Period and furnishes written evidence or other documentation as required by EV Tech, Inc. If Purchaser timely notifies EV Tech, Inc. of any nonconforming goods or excess goods, EV Tech, Inc. will determine, in its sole discretion, whether the goods are nonconforming goods or excess goods. If EV Tech, Inc. determines that the goods are nonconforming goods or excess goods, it will either, in its sole discretion:



- (i) if the goods are nonconforming goods, (i) replace the nonconforming goods with conforming goods, or (ii) refund the price for the nonconforming goods; or
- (ii) if the goods are excess goods, refund the price for the excess goods.

Purchaser will ship, at EV Tech, Inc.'s expense and risk of loss, all nonconforming goods and excess goods to EV Tech, Inc.'s facility located at 7950 Legacy Drive, Suite 400 Plano, TX 75024. If EV Tech, Inc. exercises its option to replace nonconforming goods, EV Tech, Inc. will, after receiving Purchaser's shipment of nonconforming goods, ship to Purchaser, at EV Tech, Inc.'s expense and risk of loss, the replaced goods to the original delivery point. Purchaser acknowledges and agrees that the remedies set out in these terms and conditions are Purchaser's exclusive remedy for the delivery of nonconforming goods or excess goods.

Limited Right of Return.

All sales of goods to Purchaser under this Agreement are made on a one-way basis and Purchaser has no right to return goods purchased under this Agreement.

Title and Risk of Loss.

Title to goods shipped under any Purchase Order passes to Purchaser on EV Tech, Inc.'s delivery of such Goods to the carrier at the Shipping Point. Risk of loss to goods shipped under any Purchase Order passes to Purchaser on EV Tech, Inc.'s delivery of such goods to the carrier at the shipping point.

Shipping Charges, Insurance and Taxes.

Purchaser will pay for shipping charges and insurance costs in accordance with the commercial terms selected by the Parties. All prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any governmental authority on any amounts payable by Purchaser pursuant to a purchase order. Purchaser is responsible for all charges, costs and taxes; provided, that, Purchaser is not responsible for any taxes imposed on, or regarding, EV Tech, Inc.'s income, revenues, gross receipts, personnel or real or personal property or other assets.

General Compliance With Laws Representation and Warranty.

Purchaser represents and warrants to EV Tech, Inc. that it is in compliance with all laws applicable to the purchase order, the goods and the operation of its business.

EV TECH'S Intellectual Property Rights

Subject to the express rights and licenses granted by EV Tech, Inc. in connection with the goods sold under the purchase order, Purchaser acknowledges and agrees that:



- (i) any and all EV Tech, Inc.'s intellectual property rights are the sole and exclusive property of EV Tech, Inc. or its licensors;
- (ii) Purchaser will not acquire any ownership interest in any of EV Tech, Inc.'s intellectual property rights by purchasing any goods under a purchase order;
- (iii) any goodwill derived from the use by Purchaser of EV Tech, Inc.'s intellectual property rights inures to the benefit of EV Tech, Inc. or its licensors, as the case may be;
- (iv) if Purchaser acquires any intellectual property rights in or relating to any product (including any good) purchased under a purchase order (including any rights in any trademarks, derivative works or patent improvements relating thereto), by operation of law, or otherwise, these rights are deemed and are hereby irrevocably assigned to EV Tech, Inc. or its licensors, as the case may be, without further action by either party; and
- (v) Purchaser will use EV Tech, Inc.'s intellectual property rights solely for the purposes of performing its obligations under the purchase order and only in accordance with the purchase order and the instructions of EV Tech, Inc.

EV Tech, Inc.'s Trademark License Grant.

The purchaser order does not grant either party the right to use the other party's or their affiliates' trademarks. Subject to as posted on EV Tech, Inc.'s website at www.evech.us, which may be amended from time to time in EV Tech, Inc.'s sole discretion, and these terms and conditions, EV Tech, Inc. hereby grants to Purchaser a non-exclusive, non-transferable and non sub-licensable license to use EV Tech, Inc.'s trademarks in its territory during the Term solely on or in connection with the promotion, advertising and resale of the goods in accordance with these terms and conditions. Purchaser will promptly discontinue the display or use of any trademark to change the manner in which a trademark is displayed or used with regard to the goods when requested by EV Tech, Inc. Other than the express licenses granted by the agreement embodied by these terms and conditions, EV Tech, Inc. grants no right or license to Purchaser, by implication, estoppel or otherwise, to the goods or any intellectual property rights of EV Tech, Inc.

If the Purchaser is any authorized distributor of the Goods under another agreement with EV Tech, Inc. then Purchaser is authorized to refer to and advertise itself as an authorized distributor of the goods in the applicable territory. Any use of the name "EV TECH" OR "EV TECH, INC." by Purchaser in connection with its distribution and sale of the goods or advertising of the name "EV TECH" OR "EV TECH, INC." is at the Purchaser's sole cost and expense.

Limited Product Warranty.

EV Tech, Inc. makes certain limited warranties regarding the Goods ("**Limited Warranties**") solely to and for the ultimate customer's benefit, which will either be:



- (i) included a written warranty statement with the good; or
- (ii) EV Tech, Inc.'s standard limited warranty in force when the good is delivered by Purchaser to Customer, as set out in the written warranty statement on EV Tech, Inc.'s website: www.evtech.us.

No warranty is extended to Purchaser under this Agreement. Purchaser will not provide any warranty regarding any good other than the EV Tech, Inc. warranty for the benefit of ultimate customers described in these terms and conditions.

Warranty Limitations.

Limited Warranties do not apply where the good:

- (i) has been subjected to abuse, misuse, neglect, negligence, accident, improper testing, improper installation, improper storage, improper handling, abnormal physical stress, abnormal environmental conditions or use contrary to any instructions issued by EV Tech, Inc.;
- (ii) has been reconstructed, repaired or altered by persons other than EV Tech, Inc. or its authorized representative; or
- (iii) has been used with any third party product, hardware or product that has not been previously approved in writing by EV Tech, Inc.

Extent of Liability.

During the period of any warranty, regarding any defective goods:

- (i) notwithstanding anything in this Agreement to the contrary, EV Tech, Inc.'s liability under any limited warranty is discharged, in EV Tech, Inc.'s sole discretion and at its expense, by:
 - (A) repairing or replacing the defective goods; or
 - (B) crediting or refunding the price of the defective goods, less any applicable discounts, rebates or credits.
- (ii) Purchaser or the ultimate customer is responsible for all costs and risk of loss associated with the delivery of defective goods to EV Tech, Inc. located at 950 Legacy Dr Suite 400 Plano, TX 75024. (subject to change on receipt of Notice from EV Tech, Inc.) for warranty repair or replacement;
- (iii) EV Tech, Inc. is responsible for all costs and risk of loss associated with the delivery of repaired or replaced goods to the delivery point; and
- (iv) Purchaser is responsible for all costs and risk of loss associated with the delivery and return of the repaired or replaced goods to the ultimate customer.

All claims for breach of a Limited Warranty must be received by EV Tech, Inc. no later than 30 days after the expiration of the limited warranty period of the good.



Purchaser has no right to return for repair, replacement, credit or refund any good except as set out in these terms and conditions. Purchaser will not reconstruct, repair, alter or replace any good, in whole or in part, either itself or by or through any third party.

THESE TERMS AND CONDITIONS SETS FORTH PURCHASER'S SOLE REMEDY AND EV TECH, INC.'S ENTIRE LIABILITY FOR ANY BREACH OF ANY WARRANTY RELATING TO THE GOODS.

Except as explicitly authorized in a separate written agreement with EV Tech, Inc., Purchaser will not service, repair, modify, alter, replace, reverse engineer or otherwise change the goods it sells to ultimate customers.

Warranties Disclaimer; Non-reliance.

EXCEPT FOR THE LIMITED EXPRESS WARRANTIES DESCRIBED IN THESE TERMS AND CONDITIONS, (A) NEITHER EV TECH, INC. NOR ANY PERSON ON EV TECH, INC.'S BEHALF HAS MADE OR MAKES ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WHATSOEVER, INCLUDING ANY WARRANTIES OF: (i) MERCHANTABILITY, (ii) FITNESS FOR A PARTICULAR PURPOSE, (iii) TITLE, (iv) NON-INFRINGEMENT; OR (v) PERFORMANCE OF GOODS TO STANDARDS SPECIFIC TO THE COUNTRY OF IMPORT, WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED, AND (B) DISTRIBUTOR ACKNOWLEDGES THAT IT HAS NOT RELIED ON ANY REPRESENTATION OR WARRANTY MADE BY EV TECH, INC., OR ANY OTHER PERSON ON EV TECH, INC.'S BEHALF, EXCEPT AS SPECIFICALLY DESCRIBED IN THESE TERMS AND CONDITIONS OF THIS AGREEMENT.

Third Party Products.

Purchaser acknowledges and agrees that goods purchased by Purchaser under a purchase order may contain, be contained in, incorporated into, attached to or packaged together with the products manufactured by a third party ("**Third Party Products**"). Third Party Products are not covered by the Limited Warranty. For the avoidance of doubt, EV Tech, Inc. makes no representations or warranties regarding any Third Party Products.

No Liability for Consequential or Indirect Damages.

IN NO EVENT IS EV TECH, INC. OR ITS REPRESENTATIVES LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THIS AGREEMENT, REGARDLESS OF: (A) WHETHER THE DAMAGES WERE FORESEEABLE; (B) WHETHER OR NOT THE BREACHING PARTY WAS ADVISED OF THE POSSIBILITY OF THE DAMAGES AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) ON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.



Maximum Liability for Damages.

IN NO EVENT WILL EV TECH, INC.'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO EV Tech, Inc. UNDER THIS AGREEMENT IN THE ONE YEAR PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATIONS APPLY EVEN IF THE NON-BREACHING PARTY'S REMEDIES UNDER THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE.

Insurance.

During the time any purchase order is open and for 2 years thereafter, Purchaser will, at its own expense, maintain and carry in full force and effect commercial general liability (including product liability) in a sum no less than \$1,000,000 with financially sound and reputable insurers. Except where prohibited by law, Purchaser will require its insurer to waive all rights of subrogation against EV Tech, Inc. and its insurers.

Indemnification

Purchaser (as "**Indemnifying Party**") will indemnify, hold harmless, and defend EV Tech, Inc. and its parent, officers, directors, partners, members, shareholders, employees, agents, affiliates, successors and permitted assigns (collectively, "**Indemnified Party**") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees, fees and the costs of enforcing any right to indemnification under the purchase order or these terms and conditions and the cost of pursuing any insurance providers (collectively, "**Losses**"), incurred by Indemnified Party/awarded against Indemnified Party, arising out of or relating to any claim of a third party:

- (i) relating to a breach or non-fulfillment of any representation, warranty or covenant under/representation or warranty by Indemnifying Party or Indemnifying Party's personnel;
- (ii) alleging or relating to any negligent act or omission of Indemnifying Party or its personnel (including any recklessness or willful misconduct) in connection with the performance of its obligations under the purchase order or these terms and conditions;
- (iii) alleging or relating to any bodily injury, death of any person or damage to real or tangible personal property caused by the negligent acts or omissions of Indemnifying Party or its personnel;
- (iv) relating to a purchase of a good by any person or entity purchasing directly or indirectly through Indemnifying Party and not directly relating to a claim of limited warranty breach;
- (v) relating to any failure by Indemnifying Party or its personnel to comply with any applicable laws; or



(vi) alleging that the Indemnifying Party breached its agreement with the third party as a result of or in connection with entering into, performing under or terminating the purchase order or the applicable terms and conditions.

Exceptions and Limitations on General Indemnification. Notwithstanding anything to the contrary in these terms and conditions, Indemnifying Party is not obligated to indemnify or defend Indemnified Party against any claim (whether direct or indirect) if the claim or corresponding losses arise out of or result from the Indemnified Party's or its personnel's:

- (i) gross negligence or more culpable act or omission (including recklessness or willful misconduct); or
- (ii) bad faith failure to materially comply with any of its material obligations set out in this Agreement.

Sole Remedy. THIS SECTION SETS FORTH THE ENTIRE LIABILITY AND OBLIGATION OF INDEMNIFYING PARTY AND THE SOLE AND EXCLUSIVE REMEDY FOR INDEMNIFIED PARTY FOR ANY LOSSES COVERED BY THESE TERMS AND CONDITIONS.

Entire Agreement And Other Matters.

These terms and conditions, including and together with the purchase order and all related exhibits, schedules, attachments and appendices, constitutes the parties' sole and entire agreement regarding the subject matter thereof, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, regarding this subject matter.

Purchaser acknowledges that it has relied on any other express or implied representation or warranty, either written or oral, on behalf of EV Tech, Inc., including any representation or warranty arising from statute or otherwise in Law.

Survival; Limitation of Actions.

Subject to the limitations and other provisions of these terms and conditions: (a) the parties' representations and warranties contained herein and related exceptions, limitations or qualifiers survive for a period of 12 months after the delivery of the goods under the purchase order; and (b) any other provision that, to give proper effect to its intent, should survive expiration or termination, survive the expiration or earlier termination of the contract between Purchaser and EV Tech, Inc. for the goods covered by the purchase order for the period specified therein, or if nothing is specified for a period of 12 months after the completion of performance. Notwithstanding any right under any applicable statute of limitations to bring a claim, no lawsuit or other action based on or arising in any way out of the purchase order or these terms and conditions may be brought by either party after the applicable survival period's expiration; provided, however, that the foregoing limitation does not apply to the collection of any amounts due to EV Tech, Inc. under the purchase order; and provided, further, that any claims asserted in good faith with reasonable specificity and in writing by notice before the applicable survival period's expiration is not thereafter barred by the relevant period's expiration, and these claims survive until finally resolved.



Choice of Law.

The purchase order and terms and conditions, including all exhibits, schedules, attachments and appendices attached hereto and thereto, and all matters arising out of or relating thereto, are governed by, and construed in accordance with, the laws of the State of Texas, US, without regard to the conflict of laws provisions thereof to the extent these principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Texas. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

Choice of Forum.

Each party irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind whatsoever against the other party in any way arising from or relating to the purchase order or these terms and conditions, including all exhibits, schedules, attachments and appendices attached hereto and thereto, and all contemplated transactions, including contract, equity, tort, fraud and statutory claims, in any forum other than the United States District Court covering Dallas County, Texas or if this court does not have subject matter jurisdiction, the courts of the State of Texas sitting in Dallas County, and any appellate court from any thereof. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of these courts and agrees to bring any action, litigation or proceeding only in the United States District Court covering Dallas County, Texas or, if this court does not have subject matter jurisdiction, the courts of the State of Texas sitting in Dallas, Texas. Each party agrees that a final judgment in any action, litigation or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

Waiver of Jury Trial.

Each party acknowledges and agrees that any controversy that may arise under the purchase order or these terms and conditions, including any exhibits, schedules, attachments and appendices attached thereto, is likely to involve complicated and difficult issues and, therefore, each party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to the purchase order or terms and conditions, including any exhibits, schedules, attachments and appendices attached to the purchase order or terms and conditions, or the transactions contemplated hereby. Each party certifies and acknowledges that (a) no representative of the other party has represented, expressly or otherwise, that the other party would not seek to enforce the foregoing waiver in the event of a legal action, (b) it has considered the implications of this waiver, (c) it makes this waiver voluntarily, and (d) it has been induced to enter into the purchase order or terms and conditions by, among other things, the mutual waivers and certifications in this Section.



Counterparts.

The purchase order and the terms and conditions may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of the purchase order or terms and conditions delivered by facsimile, e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of the purchase order or terms and conditions.

Force Majeure.

No party will be liable or responsible to the other party, nor be deemed to have defaulted under or breached the purchase order or terms and conditions, for any failure or delay in fulfilling or performing any term of the purchase order or terms and conditions (except for any obligations to make payments to the other party under the purchase order or terms and conditions), when and to the extent the failure or delay is caused by or results from acts beyond the impacted party's ("**Impacted Party**") reasonable control, including the following force majeure events ("**Force Majeure Events**"): (a) acts of God; (b) flood, fire, earthquake or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) requirements of law; (e) actions, embargoes or blockades in effect on or after the date of the purchase order or terms and conditions; (f) action by any governmental authority; (g) national or regional emergency. The Impacted Party will give notice within 15 days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party will use diligent efforts to end the failure or delay and ensure the effects of the Force Majeure Event are minimized. The Impacted Party will resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of 20 days following written notice given by it under these terms and conditions, the other party may thereafter terminate this Agreement on 10 days' written notice. EV Tech, Inc. may change its terms and conditions of purchase at any time. Such changes will apply to any future purchase orders between the parties. The parties may also agree to apply such updated terms and conditions to any prior purchase order.