



# BDPM-003 IRTC SALES TERMS AND CONDITIONS

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Revision Date: 8/25/2025

These Terms and Conditions (“Terms”) apply to all equipment, products (“IRTC Products”), and services provided by the Independent Rough Terrain Center (“IRTC”). By purchasing IRTC Products, services, or using our Products, you (“Customer”), agree to be bound by these terms.

## **WARRANTY RELATED TO IRTC’S EQUIPMENT**

All Products sold by IRTC are subject to IRTC’s 12-Month Standard Limited Warranty. For all Products sold internationally, IRTC provides a 12-Month Standard Parts-Only Limited Warranty, unless otherwise agreed to in writing. **All other warranties—whether express or implied, including but not limited to warranties of merchantability, fitness for a particular purpose, or non-infringement—are expressly excluded and disclaimed by IRTC.**

## **CUSTOMER RESPONSIBLE FOR ALL TAXES, DUTIES, AND RELATED FEES**

The Customer of IRTC’s Products (“Customer”) assumes responsibility for payment to the appropriate authority of all applicable local, regional, and international taxes, customs duties, brokerage fees, and any other government-imposed charges arising from the transaction, including but not limited to import and export duties or tariffs, Value Added Tax (“VAT”) or Goods and Products Tax (“GST”), customs clearance charges, border fees and surcharges, and local delivery or import licensing fees.

IRTC will not act as an importer or exporter of record unless expressly agreed upon in writing. If IRTC agrees to coordinate such an import or export transaction, the Customer agrees to pay all related fees and charges incurred by IRTC. Such fees and charges shall be invoiced to the Customer as a separate line item on the final invoice prior to shipment of the equipment or products.

## **IRTC’S PRODUCTS COMPLY WITH U.S. LAW – DISCLAIMER OF NON-U.S. REQUIREMENTS**

All Products sold by IRTC are manufactured, configured, and shipped from Cibolo, Texas, in compliance with applicable U.S. laws and regulations. IRTC expressly disclaims and makes no representation or warranty that IRTC’s Products comply with the laws or regulations of any foreign country, state, or jurisdiction where it may ultimately be operated or sold.

Customer is responsible for ensuring that any IRTC Products purchased from IRTC adhere to all applicable local, national, and international regulations in the destination country, including but not limited to emissions standards (e.g., Tier 3 vs. Tier 4 engines), noise, safety, and environmental regulations, operational certifications or homologation requirements, import restrictions or bans based on engine type or equipment classification, and end-use certifications or restrictions under U.S. export control laws (e.g., EAR or ITAR).

**IRTC SHALL NOT BE LIABLE FOR ANY PENALTIES, DELAYS, LEGAL ACTIONS, OR ADDITIONAL COSTS RESULTING FROM NON-COMPLIANCE WITH NON-U.S. COUNTRY REGULATIONS. CUSTOMER AGREES TO INDEMNIFY AND HOLD HARMLESS IRTC, ITS AFFILIATES, AND REPRESENTATIVES FROM ANY CLAIMS, LIABILITIES, COSTS, OR LOSSES ARISING FROM SUCH NON-COMPLIANCE.**

## **LIMITATION OF LIABILITY**

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL IRTC, ITS AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS OR LICENSORS (“IRTC PARTIES”) BE LIABLE TO ANY PERSON FOR NEGLIGENCE OR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, REVENUE, SALES, GOODWILL, USE OF CONTENT, IMPACT ON

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BUSINESS INCLUDING LOSS OF BUSINESS INFORMATION, VIRUS INFECTIONS, OR SYSTEM OUTAGES, BUSINESS INTERRUPTION, LOSS OF ANTICIPATED SAVINGS, LOSS OF BUSINESS OPPORTUNITY) HOWEVER CAUSED, UNDER ANY THEORY OF LIABILITY, INCLUDING, WITHOUT LIMITATION, CONTRACT, TORT, WARRANTY, BREACH OF STATUTORY DUTY, NEGLIGENCE OR OTHERWISE, EVEN IF THE LIABLE PARTY HAS BEEN ADVISED AS TO THE POSSIBILITY OF SUCH DAMAGES OR COULD HAVE FORESEEN SUCH DAMAGES ARISING OUT OF, BASED ON OR RESULTING FROM THE USE OF IRTC'S PRODUCTS OR SERVICES. THE EXCLUSION OF DAMAGES UNDER THIS SECTION IS INDEPENDENT OF ANY REMEDY PROVIDED UNDER THESE TERMS AND SURVIVES IN THE EVENT SUCH FAILS OF ITS ESSENTIAL PURPOSE OR IS OTHERWISE DEEMED UNENFORCEABLE. THESE LIMITATIONS AND EXCLUSIONS APPLY WITHOUT REGARD TO WHETHER DAMAGES ARISE FROM BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE, OR ANY OTHER CAUSE OF ACTION TO THE EXTENT THAT APPLICABLE LAW DOES NOT PROHIBIT SUCH EXCLUSIONS AND LIMITATIONS. IN NO EVENT SHALL IRTC'S TOTAL LIABILITY TO CUSTOMER FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION, WHETHER IN CONTRACT, STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE PRICE ALLOCABLE TO SUCH SPECIFIC GOODS OR SERVICES OR PART THEREOF INVOLVED IN THE CLAIM, REGARDLESS OF CAUSE OR FAULT. THIS LIMITATION OF LIABILITY REFLECTS A DELIBERATE AND BARGAINED-FOR ALLOCATION OF RISKS BETWEEN IRTC AND CUSTOMER AND CONSTITUTES THE BASIS OF THE PARTIES' BARGAIN, WITHOUT WHICH IRTC WOULD NOT HAVE AGREED TO THE PRICE OR TERMS OF THIS CONTRACT. IRTC SHALL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE FOR ANY LABOR CHARGES WITHOUT ITS PRIOR WRITTEN CONSENT. THE LIMITATIONS IN THIS SECTION WILL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY HEREIN.

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#### **INDEMNIFICATION**

Customer and IRTC hereby agree to indemnify, defend and hold the other party and its affiliates harmless from and against any and all third-party claims, actions, causes of action, liabilities, suits, demands, fines, penalties, judgments or damages, including without limitation actual attorneys' fees ("Damages") incurred by or against a party in connection with (i) misrepresentation or breach of this agreement with IRTC or violation of law by a party or any of its shareholders, directors, officers, employees, affiliates, representatives, agents, successors or assigns ("Affiliated Parties"), or (ii) any damage to or destruction of property, or injury to or death caused, or alleged to have been caused, in whole or in part, by any intentional, reckless, negligent or other act (or failure to act) of party or any of its Affiliated Parties. Prior to settling any claim, the indemnifying party will allow the other party to participate in the defense and/or settlement. Neither party shall agree to settle any claim without the other party's written consent.

In the event of any recall affecting the Products, IRTC shall have the right to control the recall process, and Customer agrees to fully cooperate with the process established by IRTC.

#### **INTELLECTUAL PROPERTY RIGHTS**

"Intellectual Property Rights" means all present and future rights conferred by statute, common law or equity in or in relation to any copyright and related rights, trademarks, designs, patents, inventions, goodwill and the right to sue for passing off, rights to inventions, rights to use, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, rights to claim priority from, such rights and all similar or equivalent rights or forms of protection and any other results of intellectual activity which subsist or will subsist now or in the future in any part of the world. This Agreement does not transfer to you any intellectual property owned by IRTC or third parties, and all rights, titles, and interests in and to such property will remain (as between the parties) solely with IRTC. All trademarks, service marks, graphics, and logos used by IRTC for the



Products are trademarks or registered trademarks of IRTC or its licensors. Other trademarks, service marks, graphics, and logos used in connection with the Website and Products may be the trademarks of other third parties. Your use of the Website and Products grants you no right or license to reproduce or otherwise use any of IRTC or third-party trademarks.

#### **ACCORD AND SATISFACTION**

IRTC shall not be bound by any endorsement or statement on any payment or in any letter accompanying a payment. Any payment with any such statement of conditional tender or endorsement shall not constitute an accord and satisfaction, and IRTC's acceptance of such payments shall not limit IRTC's right to pursue full payment and remedies.

#### **CANCELLATION AND RETURNS**

Customer may cancel or reduce the number of Products purchased by mutual agreement based upon payment to IRTC of reasonable and proper cancellation charges of up to twenty-five percent (25%) of the amount of the Products cancelled. Notwithstanding the foregoing, IRTC may withhold the required down payment if the Products are cancelled. Any such cancellation or reduction in the Products must be communicated to IRTC in writing prior to the shipment of the Products.

#### **FORCE MAJEURE**

IRTC shall not be liable for failure to deliver or for delay in delivery of any Products or services or performance due to: (i) a cause beyond its reasonable control including but not limited to: breakage or accident to machinery or equipment, (ii) an act of God including but not limited to: fire, storm, flood, ice, earthquake, explosion, epidemics, act or omission of Customer, act of civil or military authority, governmental priority, governmental restrictions, or other allocation or control, strike or other labor difficulty, riot or other civil disturbance, insolvency or other inability to perform by the manufacturer, delay in transportation or supply chain, or (iii) any other commercial impracticability. If such a delay occurs, delivery or performance shall be extended for a period equal to the time lost by reason of delay. Should IRTC's performance under this Agreement, in whole or in part, be delayed due to Force Majeure, IRTC shall within five (5) business days after the first occurrence of the cause of any such delay, provide written notice to Customer of such Force Majeure. Such notice to Customer shall also include a request for an extension of time for performance along with details, which explains the Force Majeure event, and certifying that the extension sought is limited to the amount of delay caused by the Force Majeure event.

#### **CHANGE IN CUSTOMER'S FINANCIAL CONDITION**

IRTC reserves the right by written notice to cancel any order or require full or partial payment or adequate assurance of performance from Customer without liability to IRTC in the event of (i) Customer's insolvency, (ii) the filing of a voluntary petition in bankruptcy by Customer, (iii) the appointment of a receiver or trustee for Customer, or (iv) the execution by Customer of an assignment for the benefit of creditors. IRTC reserves the right to suspend its performance until payment or adequate assurance of performance has been received. IRTC also reserves the right to cancel Customer's credit at any time for any reason. Customer, in order to provide security for the payment of the full price of goods furnished hereunder, grants IRTC a security interest in the goods. Customer agrees to execute any documents or furnish information necessary to perfect this security interest.

#### **ASSIGNMENT OR DELEGATION**

Neither Customer nor IRTC shall assign or delegate any or all of its duties or rights hereunder without the other Party's prior written consent.

#### **WAIVER AND CHOICE OF LAW**

The failure of either Customer or IRTC to assert a right hereunder or to insist upon compliance with any term or condition will not constitute a waiver of that right or excuse any subsequent nonperformance of any such term or condition by the other Party. All transactions shall be governed by U.S. law, specifically, the laws of the State of Texas, without regard to the conflicts of law provisions thereof.

The Customer and IRTC further agree that they each shall be subject to the laws of the State of Texas. Customer and IRTC irrevocably waive any objection to the validity of the process, personal jurisdiction, or proper venue, with respect to any summons or other legal process issued by a court of competent jurisdiction. The prevailing party in any action to enforce the agreement between Customer and IRTC shall be entitled to costs and attorneys' fees.



### **Dispute Resolution and Mandatory Arbitration**

Customer and IRTC acknowledge that all disputes, claims and controversies relating in any way to these Terms will be resolved by binding arbitration, administered by the American Arbitration Association ("AAA"), under its then-applicable Commercial Arbitration Rules and Mediation procedures, rather than in court.

Customer and IRTC each agree that any dispute resolution proceeding will be conducted only on an individual basis and not in a class, consolidated, or represented action. If, for any reason, a claim proceeds in court rather than in arbitration, the parties each waive any right to a jury trial. Customer and IRTC each agree that a suit in court to enjoin infringement or other misuse of intellectual property rights or to enforce an award issued by an AAA arbitrator.

The prevailing party in any arbitration or proceedings shall be reimbursed by the other party for all costs, expenses, expert fees, and charges, including, without limitation, reasonable attorneys' fees incurred by the prevailing party.

### **GENERAL AND SEVERABILITY**

All orders for Products are subject to acceptance by IRTC. Any representation, affirmation of fact, and course of dealing, promise, or condition in connection therewith or usage of trade not incorporated herein shall not be binding on either Customer or IRTC.

If any provision hereof shall be unenforceable, invalid, or void for any reason, such provision shall be automatically voided and shall not be part of this agreement, and the enforceability or validity of the remaining provisions shall not be affected thereby.

### **ENTIRE AGREEMENT**

These Terms constitute the entire agreement between you and us concerning IRTC's Products, services, and replace all prior agreements.

The section titles in the Terms are for convenience only and have no legal or contractual effect. The terms and conditions of any quotation, offer, acknowledgment, invoice, or similar document do not apply to these Terms.