



Terms and Conditions of Sale

Harsh International | Antennas

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Definitions

- "**INCOTERMS**" refers to the international rules the International Chamber of Commerce established for interpreting trade terms. These rules, as they exist on the date when the contract for the sale and Purchase of products is finalized, will be applicable.
- "**Products**" shall mean any products or services the Supplier provides.
- "**Purchaser**" shall mean the person, firm, or company purchasing the products and services provided by the Supplier.
- "**Supplier**" shall mean Harsh International, Inc., Antenna Division at 600 Oak Ave, Eaton, Colorado 80615, USA.

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1. Basis of Sale

- 1.1 The Supplier shall sell, and the Purchaser shall purchase the Products per an accepted written quotation from the Supplier or an accepted written purchase order from the Purchaser. In each case, the relevant sale and purchase contract shall be subject to these terms and conditions, which shall govern the contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted or any such is made or purported to be made by the Purchaser.
- 1.2 No variation to these terms and conditions shall be binding unless agreed in writing between the authorized representatives of the parties.
- 1.3 The Supplier's employees or agents are not entitled to give or make any undertakings, representations, or warranties concerning the Products other than as set out in the current standard specifications of the Supplier or as explicitly authorized by an officer of the Supplier in writing.

2. Orders and Specifications

- 2.1 Direct all purchase orders to the Supplier, as listed in section 13, giving all information necessary to process the Purchaser's order, and the Purchaser shall be responsible to the Supplier for ensuring the accuracy of the terms of any order submitted by the Purchaser.
- 2.2 No order submitted by the Purchaser shall be deemed accepted by the Supplier unless and until confirmed in writing by the Supplier's authorized representative by way of acknowledgment of the order.
- 2.3 If the Products are to be manufactured or any process is to be applied to the Products by the Supplier per a specification submitted by the Purchaser, the Purchaser shall indemnify the Supplier against all loss, damages, costs, and expenses awarded against or incurred by the Supplier in connection with or paid or agreed to be paid by the Supplier in settlement of any claim for infringement of any patent, copyright, design, trademark, or other industrial or intellectual property rights of any other person which results from the Supplier's use of the Purchaser's specification.
- 2.4 The Supplier reserves the right to make any changes in the specification of the Products, which are required to conform to any applicable safety or other statutory requirements which do not materially affect quality or performance.
- 2.5 The Purchaser may only cancel orders the Supplier accepts with the Supplier's written consent. Suppose the Supplier and Purchaser agree to cancel an order. In that case, the Purchaser shall indemnify the Supplier against all losses, including lost profits, and cover all costs (such as labor and materials), damages, charges, and other expenses incurred due to the cancellation.

For order cancellations involving custom-engineered antenna products designed to customer-specific requirements, the Purchaser shall be responsible for 100% of the order value, as these products cannot be resold to other customers.
- 2.6 The Supplier shall only accept changes to acknowledged orders upon terms that protect the Supplier against loss.

3. Product Pricing

3.1 The Supplier shall determine and provide the price of the Products in a quotation. In the absence of a quoted price, or if the quoted price is no longer valid, the price shall be based on the Supplier's published price list in effect when the order is first accepted. From this price, the Supplier may subtract any agreed-to discounts. The prices stated in the quotes are valid for 30 days or until the Purchaser accepts the quote, whichever occurs first unless the Supplier provides a different validity period in the quotation. After this validity period, the Supplier may revise prices without notifying the Purchaser.

4. Payment Terms

4.1 All orders are subject to credit approval before acceptance. The time of payment shall be the essence of the contract. The Supplier shall charge interest of 2% per month on all overdue accounts (both before and after judgments). Prices do not include freight, sales tax, or value-added taxes for which the Purchaser shall be responsible.

4.1.1 Standard Payment Terms: Payment in full is required before shipment unless credit terms have been approved.

4.1.2 Credit Terms: Purchasers with approved credit accounts pay Net 30 days from invoice date. All orders are subject to credit approval.

Contact the Supplier at antennas@harshenviro.com or [+1 \(970\) 454-2291](tel:+1(970)454-2291) to apply for credit terms.

4.2 Terms may be subject to change without notice to the Purchaser to reflect any increase in the cost to the Supplier due to any factor beyond the Supplier's control (such as without limitation any foreign exchange fluctuation, currency regulation, alteration of duties, or significant increase in the costs of labor, material or other costs of manufacture).

5. Shipment and Carriage

5.1 All shipments are Ex Works the Supplier's Premises (EXW Eaton, Colorado), meaning the Purchaser assumes all costs and risks once products are made available at our facility. Carriage, insurance, and freight charges are the responsibility of the Purchaser unless otherwise specified. In cases where the Purchaser does not specify a carrier, the Supplier has no obligation to select the cheapest or fastest shipping route. It is the Purchaser's responsibility to arrange transportation and specify the carrier. Any claims for shortages or losses during transit must be made by the Purchaser within thirty (30) days from the date of shipment from the Supplier's premises.

6. Claims for Damage or Loss in Transit

6.1 The Purchaser is responsible for immediately filing claims with the carrier for any damage or loss incurred during transit. While the Supplier is not liable for these damages or losses, the Supplier may offer assistance in pursuing the Purchaser's claim against the carrier. However, this assistance is conditional upon the Purchaser agreeing to indemnify the Supplier for any losses or expenses incurred during the process.

7. Delays

- 7.1 **Delivery Timelines:** The dates provided for the delivery of the Products are only estimates. The Supplier is not responsible for any delivery delays. Delivery times are not guaranteed and should not be considered as essential terms of the contract.
- 7.2 **Exemptions from Liability:** The Supplier is not liable for any failure to fulfill contractual obligations if such failure is due to unforeseen circumstances beyond reasonable control. Such circumstances include but are not limited to, natural disasters (such as storms, floods, and fires), accidents, acts of war or terrorism, government actions, import/export restrictions, labor disputes (including strikes and lockouts), pandemics or public health emergencies, cyber attacks affecting operations or supply chain, semiconductor shortages, or other supply chain disruptions beyond the Supplier's reasonable control, difficulties in obtaining materials, labor, fuel, parts, or machinery.
- 7.3 **Installment Deliveries:** If the Products are delivered in multiple installments, the Purchaser cannot consider the entire contract as breached or nullified if there is an issue with one or more of these installments. Each delivery is treated separately.
- 7.4 **Limitation of Liability for Non-Delivery:** In cases where the Supplier fails to deliver the Products, except in situations beyond the Supplier's control or due to the Purchaser's fault, the Supplier's liability is limited. It will only cover the difference, if any, between the cost of similar products in the cheapest available market and the price of the Supplier's Products.

8. Title and Ownership

- 8.1 **Transfer of Title:** Ownership (title and property) of the Products remains with the Supplier until the Purchaser has fully paid for them. This is the case even after the Products have been delivered and the risk passed to the Purchaser. Full payment includes all payments for these and any other products sold by the Supplier to the Purchaser that are due at the time.
- 8.2 **Insurance Requirement:** Until the Purchaser owns the Products (title and property have transferred), the Purchaser must insure the Products at their full value.
- 8.3 **Supplier's Rights before Transfer of Ownership:** As long as the Products have not been resold and still exist, the Supplier has the right to demand the return of the Products if ownership has not passed to the Purchaser. If the Purchaser fails to return the Products promptly, the Supplier is entitled to enter the Purchaser's premises or any other location where the Products are stored to repossess them.
- 8.4 **Restrictions on the Purchaser:** The Purchaser is not permitted to use the Products as collateral or security for any debt if the Supplier still owns the Products.

9. Warranty and Returns

- 9.1 **General Repair Terms:** Before returning any product for repair, written authorization from the Supplier is required. Repairs not covered under the warranty are subject to a minimum service charge of 15%. All repairs, including those under warranty, will be guaranteed for 90 days after shipment. This guarantee covers all materials and workmanship provided by the Supplier.

9.2 **Warranty Coverage:** The Supplier's antenna Products are warranted against defects in material and workmanship when operated within the published environmental and electrical specifications for one year from the date of shipment. Please be aware of the Warranty Exclusions outlined in section 9.3.

9.3 **Warranty Exclusions:** This section outlines the specific conditions under which the product warranty is deemed inapplicable. These exclusions are critical for ensuring the product is used within its operational guidelines and according to authorized procedures. The aim is to clarify the scenarios where warranty coverage is voided to prevent misunderstandings and disputes regarding warranty claims.

9.3.1 **General Exclusions:** The warranty does not cover any product misused, neglected, involved in an accident, improperly installed or applied, or repaired or altered outside the supplier's factory. These exclusions underscore the importance of adhering to recommended usage, handling, and repair protocols. Products must be used as intended and maintained according to the supplier's guidelines to remain eligible for warranty coverage. Additionally, and for clarification, the warranty does not cover the Non-Covered Damages outlined in section 9.6.

9.3.2 **Specific Exclusions:** Beyond the general exclusions, the warranty does not extend to issues such as paint chipping and surface defects arising from the installation process or caused by external forces. This subsection is designed to clarify that the warranty does not cover cosmetic or superficial damage that does not affect the product's functionality but arises from external pressures or mishandling during the installation process or general product handling.

9.3.3 **Repainting of Fiberglass Radomes:** Purchasers may repaint the external portion of fiberglass radomes using non-metallic, non-conductive, and non-absorptive paint applied in thin layers. Repainting voids warranty coverage for:

- Surface finish defects
- Any performance degradation caused by the paint or painting process

If a repainted antenna exhibits defects, the Supplier reserves the right to determine whether the repainting contributed to the failure. Warranty coverage remains in effect for defects unrelated to the repainting.

9.4 **Remedies for Defective Products:** If the Purchaser identifies a defect covered by this warranty, the Supplier's only obligation and the Purchaser's only remedy will be for the Supplier to repair or replace the defective Product. Alternatively, the Supplier may provide a refund upon receipt of the defective Product.

9.5 **Limitation of Liability:** The Supplier shall not be liable for any special, indirect, consequential, incidental, punitive, or exemplary damages, including but not limited to lost profits, loss of use, or lost data, regardless of the cause. This limitation applies to damages arising from contract breach, warranty, negligence, or any other legal theory.

9.6 **Non-Covered Damages:** The Supplier is not liable for replacing Products damaged by force majeure, such as lightning, wind, war, or other events beyond reasonable control.

9.7 **Authorization and Shipping Costs for Repairs or Replacement:** Before sending any product back for replacement or repair, the Supplier must provide written authorization. The Purchaser is

responsible for covering the shipping costs for all authorized returns, including repairs or replacements. The Purchaser must pre-pay these costs. If the Product is defective and covered under warranty, the Supplier will bear the shipping costs for returning and replacing the Product as part of the Refund Process outlined in section 9.11.

- 9.8 **Examination of Defective Products:** Replacement or repair is contingent on the Supplier's examination confirming that the defect existed at the time of manufacture.
- 9.9 **Disclaimer of Other Warranties:** Beyond the stated limited warranty, the Supplier disclaims all other express and implied warranties, including merchantability and fitness for a particular purpose and any warranties arising from trade practice or other legal theories.
- 9.10 **Shipping Costs for General Returns:** If a Product is returned for reasons other than defects or warranty claims, the Purchaser is responsible for the shipping costs. These costs are non-refundable and will be deducted from the Purchaser's refund if the return is approved. If the return is due to a defective Product covered under the warranty, the Supplier will cover the shipping costs as part of the Refund Process outlined in section 9.11.
- 9.11 **Refund Process:** Upon receiving a returned Product, the Supplier will inspect it and notify the Purchaser about the status of their refund. If the return is approved, the Supplier will initiate a refund to the original payment method used for the Purchase. The Supplier typically processes the refund within ten (10) days, subject to the card issuer's or payment provider's policies.

10. Insolvency of Purchaser

10.1 **Applicability of Clause:** This clause is applicable in the following circumstances:

- 10.1.1 The Purchaser enters a voluntary arrangement with creditors, is subjected to an administration order, declares bankruptcy (if an individual or firm), or goes into liquidation (if a company), except for the purpose of amalgamation or reconstruction.
- 10.1.2 A third party (encumbrancer) seizes the Purchaser's property or assets, or a receiver or administrative receiver is appointed over the Purchaser's assets.
- 10.1.3 The Purchaser stops or indicates an intention to stop conducting its business.
- 10.1.4 The Supplier reasonably believes that any of the above events will likely occur and informs the Purchaser of this belief.

10.2 **Supplier's Rights in Case of Purchaser's Insolvency:** If any of the situations described in 10.1 occur:

- 10.2.1 The Supplier, without affecting its other rights or remedies, may choose to cancel the contract or suspend further deliveries. In doing so, the Supplier will not be liable to the Purchaser.
- 10.2.2 If the Products have already been delivered but have yet to be paid for, full payment is required immediately, regardless of any previous agreements or arrangements.
- 10.2.3 Ownership (title) of the Products will remain with the Supplier until the Purchaser completes the full payment.

11. Indemnification for Third-Party Intellectual Property Rights

11.1 **Supplier's Indemnification:** The Supplier agrees to indemnify the Purchaser against any claims related to the infringement of third-party intellectual property rights arising from the Products or their usage. However, the Supplier's liability under this indemnity is limited to direct claims and shall not cover consequential damages, including loss of profits. This indemnity will not apply in cases where infringement arises from compliance with the Purchaser's specifications or instructions or the use of Products not provided directly by the Supplier.

11.2 **Conditions for Indemnification:** The Supplier's indemnification is subject to certain conditions:

- 11.2.1 The Purchaser must promptly notify the Supplier in writing as soon as any claim is made or any action is threatened or filed against the Purchaser.
- 11.2.2 The Purchaser should not make any admissions that might harm the Supplier's position in the claim.
- 11.2.3 The Purchaser must allow the Supplier, at the Supplier's expense, to handle the litigation and negotiations for settling the claim.

11.3 **Supplier's Remedies:** In case of an infringement claim, the Supplier has the right to take action to make the infringing items non-infringing. The Purchaser is obligated to cooperate with the Supplier's reasonable requests and make efforts to minimize the impact of any claim.

12. General and Other

12.1 In case any provision of these terms and conditions is deemed invalid or unenforceable by a competent authority, the validity of the other terms and conditions shall remain unaffected, and the remaining part of the provision in question shall not be impacted by such invalidity.

12.2 **Purchaser's Shipping Information:** The Purchaser must provide the Supplier with accurate shipping information, which includes the order's address and postal code, and indicate a preference for transportation and insurance. The Purchaser is responsible for ensuring that appropriate insurance is in place for the shipped products.

12.3 The laws of Colorado, USA shall govern the contract, and each party submits to the non-exclusive jurisdiction of the Colorado Courts.

13. Contact Us

Mailing Address	Phone & Email	Office Hours
Harsh International Attn: Antennas Department 600 Oak Ave Eaton CO 80615 United States of America	Toll-free: +1 (800) 227-1702 Local: +1 (970) 454-2291 antennas@harshenviro.com	Mon-Thu: 7 am – 4:30 pm Fri: 7 am – 12 pm <i>(Mountain Time)</i>

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