

Houston Radar LLC (“HOUSTON RADAR”)

Terms and Conditions (“Terms”)

1. General

- 1.1. Throughout these Terms, “Client” refers to the customer, as defined in the quotation.
- 1.2. These terms and conditions are acknowledged and accepted by the client when: (a) a purchase order is issued or (b) an order via email is issued with specified quantity requirements and a targeted delivery date or period or (c) this quotation is signed and returned or (d) shipment of HOUSTON RADAR product or products is accepted by Client. In any case, any of the client’s terms and conditions which are inconsistent with HOUSTON RADAR’s terms and conditions will be construed as proposals for additions to this order and will not be binding unless agreed to in writing by HOUSTON RADAR.

2. Quotations

- 2.1. Any quotation submitted by HOUSTON RADAR in response to a Client’s request (verbal or via email or via a document or sent by HOUSTON RADAR to client to solicit business with client) (“Quotation”) is valid for ninety (90) days from the date of the Quotation unless renewed by HOUSTON RADAR. A quotation shall be deemed to have been renewed under these Terms if HOUSTON RADAR continues to supply products to Client past the first order and shipment. In any case, if there is any question of which Terms apply to a particular order supplied by HOUSTON RADAR to Client, the Terms specified in the latest quotation from HOUSTON RADAR to Client shall apply even if the particular product in question was not explicitly listed on quotation.
- 2.2. All Quotations are subject to revision based on the final evaluation of any requested change by the client in operation or features of the product.

3. Shipment and Charges and Terms

- 3.1. All products are shipped FOB Houston. Product shall be shipped via Client’s preferred method of shipping and client shall be responsible for actual shipping charges and insurance for shipping product from HOUSTON RADAR’s place of business (Houston, TX). If no shipping preference is expressed, then product shall be shipped via UPS Ground or equivalent and Client shall be responsible for actual shipping charges.

4. Product Performance and Remedy for Non Performance

- 4.1. HOUSTON RADAR undertakes to ensure that the products offered for sale perform as advertised. In the event that they do not perform to the satisfaction of the client or to the client’s expectation or interpretation of the advertised performance, HOUSTON RADAR shall, at its discretion, undertake reasonable measures to make the product perform as advertised. HOUSTON RADAR shall also make available a representative sample to the client, under reasonable business terms, for product performance evaluation and testing in the client’s application. Testing of the product shall be the responsibility of the client. In the circumstance that the delivered products quoted in the quotation do not perform as advertised or deviate materially from the operation and performance of the representative sample and HOUSTON RADAR is unable or unwilling to make changes necessary to make the products perform to the satisfaction of the client, the remedy available to the client is limited to returning the products for a full refund of the paid price if the product is returned to HOUSTON RADAR at the client’s expense within 30 days after the client has become aware of the non-performance of the product. UNDER NO CIRCUMSTANCES WILL HOUSTON RADAR BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR OTHER BUSINESS DAMAGES ARISING FROM THE NON-CONFORMANCE OR NON-PERFORMANCE OF THE PRODUCT.

5. Payment

- 5.1. Any payment due under this Agreement, if not paid within thirty (30) days of the invoice date, HOUSTON RADAR reserves the right to accrue interest until paid at a rate equal to the lesser of either eighteen percent (18%) per annum or the maximum rate permissible by law. Payment thereafter shall first be applied to accrued interest and then to unpaid principal.

6. Warranty

- 6.1. HOUSTON RADAR warrants its products for a period of one year from the date of shipment. Warranty is limited to repair or replacement of non-performing product. HOUSTON RADAR, at its option, may repair or replace a non-performing product if non-performing product is returned to HOUSTON RADAR at Client’s expense. HOUSTON RADAR shall ship the replaced or repaired product back to Client via UPS Ground or equivalent. HOUSTON RADAR shall not be held liable for any incidental or consequential damages arising from the non-performance of product under warranty period.

7. **Indemnity for HOUSTON RADAR.** Client agrees to release, protect, defend, indemnify, and hold harmless HOUSTON RADAR and its members, employees, officers, directors, contractors, agents and representatives (COLLECTIVELY, THE “HOUSTON RADAR PARTIES”) from and against

any and all claims, demands, costs, liabilities, judgments, expenses (including attorneys' fees and costs), or causes of action (collectively, "Claims") arising out of or in connection with Client's application, sale, use or possession of the products, **EVEN IF CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENCE OF ANY HOUSTON RADAR PARTY, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE A RESULT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN HOUSTON RADAR PARTY.**

8. **Limitation of Liability.** IF HOUSTON RADAR BECOMES LIABLE TO CLIENT UNDER THIS AGREEMENT FOR ANY REASON, WHETHER ARISING BY NEGLIGENCE, INTENDED CONDUCT OR OTHERWISE, SUCH LIABILITY SHALL NOT EXCEED IN THE AGGREGATE FOR ALL EVENTS THE MONIES PAID TO HOUSTON RADAR HEREUNDER FOR THE PRODUCTS OR TEN THOUSAND DOLLARS (\$10,000.00) WHICHEVER IS SMALLER.
9. **Ownership of Intellectual Property.** HOUSTON RADAR retains ownership of all intellectual property, design and likeness to design of products and technologies in such products contained in and derived from the design, development and use including new use and application of HOUSTON RADAR products offered for sale in the agreement. Nothing herein shall be construed as limiting the right of HOUSTON RADAR to further develop, derive, assign or offer for sale its products and technologies to any third parties.
10. **Governing Law.** This Agreement, and all the rights and duties of the parties arising from or relating in any way to the subject matter of this Agreement or the transactions contemplated by it, shall be governed by, construed, and enforced in accordance with the laws of the State of Texas (excluding its conflict of laws rules which would refer to and apply the substantive laws of another jurisdiction). Any suit or proceeding hereunder shall be brought **EXCLUSIVELY** in Harris County, Texas, and each of the parties consents to the personal jurisdiction of the courts, state and federal, located therein. Each party agrees to waive any objection that the state or federal courts of Harris County, Texas, are an inconvenient forum.