

NATIONAL RURAL TELECOMMUNICATIONS COOPERATIVE

2121 Cooperative Way, Suite 600, Herndon, VA

TERMS AND CONDITIONS OF SALE

(LARGE PRINT VERSION AVAILABLE UPON REQUEST)

1. **General.** The following terms and conditions govern NRTC's sale of the products and services set forth on an NRTC supplied quote ("Quote"). These terms and conditions are binding upon the party identified in the Quote ("Purchaser") as evidenced by the signature of an authorized officer on the Quote form, and NRTC as of the date Purchaser executes the Quote. The terms and conditions contained herein constitute the complete agreement between NRTC and Purchaser regarding this sales transaction (the "Agreement") and supersede any and all prior communications concerning this specific transaction. No course of prior dealings and no usage of the trade shall be relevant to supplement or explain any terms used in this Agreement. This Agreement is in addition to any relevant NRTC/Member Agreement, and in the event of conflicting provisions, the more restrictive provision shall govern, as determined by NRTC.
2. Acceptance by NRTC of Purchaser's order is expressly limited to and conditioned upon Purchaser's acceptance of the terms and conditions contained herein, which may not be changed or waived unless signed in writing by a duly authorized representative of NRTC at its home office in Herndon, Virginia. Any additional, inconsistent or different terms and conditions stated by Purchaser or contained in Purchaser's purchase order or other documents supplied by Purchaser are hereby expressly objected to and rejected
3. **Orders.** All orders are received subject to acceptance by a duly authorized representative of NRTC at its home office in Herndon, Virginia. Typographical and clerical errors in quotations, orders, and acknowledgments are subject to correction by either party if made within fifteen (15) days from the date of the making thereof.
4. **Payment Terms.** Unless specified to the contrary in writing by NRTC's CFO or CEO, payment terms are net thirty (30) days from the date of the invoice. If payments are not made when due, Purchaser shall pay, in addition to the overdue payment, a late charge equal to the lesser of one and one-half percent (1½%) per month or the highest applicable rate allowed by law on all such overdue amounts. Purchaser shall bear all costs of collection incurred by NRTC for overdue amounts, including attorneys' fees.

Unless otherwise specified, all payments of invoices shall be in United States dollars and shall be remitted to NRTC by mail at the address indicated on the invoice or by electronic funds transfer to the account and according to the routing on the invoice. Receipt of payment will be determined by the date the payment is received at NRTC's remittance address or when electronic funds have been received in our designated account. If Purchaser delays delivery, date of readiness for delivery shall be the date of delivery for payment purposes.

5. **Prices.** Prices are subject to adjustment to NRTC's prices in effect at the time of shipment. All prices shall be in United States dollars, unless otherwise specified. Unless otherwise specified, prices do not include sales, use, services excise or other taxes of any kind, and Purchaser agrees to pay such taxes upon NRTC's request or to provide NRTC with tax exemption certificate(s) applicable to the taxable transaction(s). Unless specified to the contrary in Section 5, prepaid freight and installation costs (where applicable) will be in addition to the purchase price. Where price expressly includes transportation or other shipping charges, any increase in transportation rates or other shipping charges from date of quotation or purchase order shall be paid by Purchaser.

- 6. Shipment.** Unless otherwise specified herein, all orders are delivered F.O.B. point of shipment, with the method of transport and route to be selected by NRTC. Where scheduled delivery is delayed due to causes specified in Section 6 below, NRTC may deliver such product(s) by moving it to storage for the account of and at the risk of Purchaser. NRTC reserves the right to deliver in installments. Any special handling costs and costs of insurance shall be paid by Purchaser. Notwithstanding any agreement with respect to delivery terms or payment of transportation charges, risk of loss or damage shall pass to Purchaser and delivery shall be deemed to be complete upon delivery of the product(s) by NRTC to a private or common carrier or upon moving into storage, whichever occurs first, at the point of shipment.
- 7. Delivery Dates.** NRTC endeavors to make shipments of orders as scheduled; however, all shipment dates are approximate, and NRTC reserves the right to readjust shipment schedules. If NRTC suffers delay in performance or delivery due to any cause beyond its control, including acts of nature, acts or omissions of Purchaser, acts of government, fires, floods, strikes or other labor disturbances, war, riot, sabotage or delays in obtaining from others suitable services, materials, components, equipment or transportation, the time of performance or delivery shall be extended for a period of time equal to the period of the delay and its consequences. NRTC will give to Purchaser notice in writing within a reasonable time after NRTC becomes aware of any such delay.
- 8. Order Cancellation.** All orders subject to this Agreement are mutually understood by NRTC and Purchaser to be firm, non-cancelable purchase orders. Notwithstanding the foregoing, NRTC may, in its sole discretion allow Purchaser to cancel an order upon Purchaser's prior written notice and upon Purchaser's payment of reasonable and proper termination charges, including, but not limited to all direct and indirect costs associated with the order incurred prior to the effective date of notice of termination and all charges incurred by NRTC in respect to the termination. In addition, a fixed sum of fifteen percent (15%) of the final total selling price for cancellation of the order will be due from Purchaser to compensate NRTC for disruption in scheduling, restocking and other indirect costs.
- 9. Order Modifications/Changes.** Purchaser-requested order changes, including those affecting the identity, scope and delivery of the product(s) must be documented in writing and approved by an officer of NRTC of the senior vice president level (or higher), and NRTC reserves the right to reject any change it deems inadvisable, inconsistent with its policies or incompatible with its capabilities. If any such change causes an increase or decrease in the cost of or the time required for performance of this order, an equitable adjustment shall be made in the order price or delivery schedule or both, and the order shall be modified in writing accordingly.
- 10. Claims.** Purchaser's claims for lot shortages, correction of erroneous order charges or other errors must be made in writing and delivered to NRTC at its home office in Herndon, Virginia within fifteen (15) days of Purchaser's receipt of the product(s). Claims outside of this time period will be disallowed.
- 11. Returned Goods.** If, upon formal inspection and/or testing of the product(s), Purchaser is of the opinion that the product(s) is defective or otherwise unacceptable, Purchaser shall notify NRTC in writing within fifteen (15) days of Purchaser's receipt of the product(s). Prior to making any return to NRTC, Purchaser must obtain a Return Authorization ("RA") from a duly authorized representative of NRTC. The following conditions also apply to returns: (1) all products returned to NRTC must include the RA and must be properly packed and shipped; delivery of returns without the RA or returns not properly packed and/or shipped will not be accepted; (2) all returns are subject to inspection and/or testing by NRTC as it deems appropriate. If NRTC determines that the returned product(s) appears to be in compliance with order specifications, it shall notify Purchaser; (3) all product(s) must be returned by delivery F.O.B. destination to NRTC-specified locations. Title and risk of loss on all product(s) shall remain with Purchaser until such returned product(s) is received by NRTC; (4) NRTC will allow a credit on all defective product(s) returned in accordance with this paragraph, calculated on a last invoice basis; (5) all product(s) returned under this Section will be

repaired or replaced at the original invoice price. Purchaser shall not be charged for parts and labor associated with replacement or repair. All returns are subject to the provisions of this Section and Section 9 governing claims. Any product(s), which has been modified, altered, damaged or used by Purchaser, may not be returned.

- 12. Warranties.** Warranties for products are provided by the manufacturer of such products. Purchaser should review the standard warranty information for such products on the manufacturers' websites. NRTC does not provide any warranties for products sold hereunder. NRTC shall provide Purchaser with warranty information and return authorization information upon the selection of products.

TO THE EXTENT PERMITTED BY LAW THERE ARE NO IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE. THE PROVISIONS OF THIS SECTION 11 AS TO DURATION AND LIMITATION OF LIABILITY SHALL BE THE SAME FOR BOTH IMPLIED WARRANTIES (IF ANY) AND EXPRESSED WARRANTIES.

- 13. Limitation of Liability.** IN NO EVENT WILL NRTC BE LIABLE FOR INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND. NRTC'S MAXIMUM CUMULATIVE LIABILITY RELATIVE TO ALL OTHER CLAIMS AND LIABILITIES, INCLUDING THAT WITH RESPECT TO DIRECT DAMAGES AND OBLIGATIONS UNDER ANY INDEMNITY, WHETHER OR NOT INSURED, WILL NOT EXCEED THE COST OF THE PRODUCTS GIVING RISE TO THE CLAIM OR LIABILITY, REGARDLESS OF ANY ADVICE OR RECOMMENDATION THAT MAY HAVE BEEN RENDERED CONCERNING THE PURCHASE OR USE OF THE PRODUCT (S). ANY ACTION AGAINST NRTC MUST BE BROUGHT WITHIN EIGHTEEN MONTHS AFTER THE CAUSE OF ACTION ACCRUES. THESE DISCLAIMERS AND LIMITATIONS OF LIABILITY WILL APPLY REGARDLESS OF ANY OTHER CONTRARY PROVISION OF THE AGREEMENT AND REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT OR OTHERWISE, AND FURTHER WILL EXTEND TO THE BENEFIT OF NRTC'S VENDORS AND OTHER AUTHORIZED RESELLERS AS THIRD-PARTY BENEFICIARIES. EACH PROVISION IN THE AGREEMENT WHICH PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTY OR CONDITION OR EXCLUSION OF DAMAGES IS SEVERABLE AND INDEPENDENT OF ANY OTHER PROVISION AND IS TO BE ENFORCED AS SUCH.

- 14. Resolution of Disputes.** In the event of a dispute between NRTC and Purchaser arising out of this Agreement, the parties shall meet and negotiate in good faith to attempt to resolve the dispute. In the event the dispute is not resolved within thirty (30) days of the date one party notified the other party in writing of the dispute, and if any party wishes to pursue the dispute, it shall be submitted to binding arbitration in accordance with the rules of the American Arbitration Association. In no event may arbitration be initiated more than one (1) year following the sending of written notice of the dispute. Any arbitration proceeding under this Agreement shall be conducted in the Commonwealth of Virginia in the county designated by NRTC. The arbiters shall have no authority to award any punitive or exemplary damages, or to vary or ignore the terms of this Agreement, and shall be bound by controlling law.

- 15. Licensed Equipment and Software.** Products comprised of licensed equipment or software may be subject to additional terms and conditions set forth in separate agreements that will control to the extent necessary to resolve any conflicts with the warranty terms and conditions stated herein.

- 16. Intellectual Property.** NRTC will provide Purchaser with any end user license agreements required to be executed between Purchaser and the product manufacturer. Any liability for indemnification of potential IP infringement or other similar claims will be located in such end user agreement, and NRTC shall not be liable for any claims or actions under such end user license agreements.

17. Export. Product(s) purchased for export outside of the United States or its possessions are covered by the respective trade laws or other legal conditions specific to the country or possession in question so understood and agreed to by both parties. Purchaser shall be solely responsible for any permits, licenses, waivers or other requirements necessary to permit movement of any product outside of the United States.

18. Governing Law. NRTC does not assume any responsibility for compliance with any foreign or federal, state or local laws and regulations, except as expressly set forth herein, and compliance with any laws and regulations relating to the product(s) is the sole responsibility of the Purchaser. All laws and regulations expressly incorporated herein shall be those in effect as of the date hereof. In the event of any subsequent revisions or changes thereto, NRTC assumes no responsibility for compliance therewith. Nothing contained herein shall be construed as imposing responsibility or liability upon NRTC for the obtaining of any permits, licenses or approvals from any agency or governmental entity, foreign or domestic, which may be required in connection with the supply of the product(s).

All sales and purchases of product(s) from NRTC, including terms and conditions thereof, shall be governed by the laws now prevailing in the Commonwealth of Virginia, without regard to its conflict of laws provisions.

19. Partial Invalidity. If any provision herein or portion thereof shall for any reason be held invalid or unenforceable in accordance with prevailing law, such invalidity or unenforceability shall not affect any other provisions or portions thereof, but the terms and conditions herein shall be construed as if such invalid or unenforceable provision or portion thereof had never been contained herein.