

WireMasters, Inc.  
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TERMS AND CONDITIONS OF SALE

**1. Acceptance; Agreement.** This Agreement, including these terms and conditions and the accompanying order acknowledgment, supersedes all other agreements, oral or written, and all other communications between the parties suggesting additional or different terms. It represents the final and complete understanding of the parties and may be amended or cancelled only by written agreement signed by both parties. This Agreement expressly limits acceptance to these terms. No order shall have any force or effect until acknowledged in writing by Seller. Any proposal for additional or different terms or any attempt by Buyer to vary in any degree any of the terms hereof is hereby deemed material and is objected to and rejected. No terms of any document or form submitted by Buyer shall be effective to alter or add to the terms and conditions in this Agreement. These terms prevail over any of Buyer's general terms and conditions of purchase regardless of whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend this Agreement. Unless otherwise stated herein, Buyer's receipt of any portion of the goods ("Goods") shall constitute acceptance of this Agreement and all of its terms and conditions and accompanying order acknowledgment, unless Buyer immediately returns all such Goods, with a Return Material Authorization ("RMA").

**2. Prices.** Seller reserves the right to revise the price for all or part of any unshipped order by giving Buyer written notice of the revision in price not less than thirty (30) days prior to the effective date of the revision. Buyer shall be deemed to have agreed to such revision unless Buyer rejects such price revision by written notice within ten (10) days after receipt of such notice. Buyer's rejection of such a price revision shall give Seller the option of either cancelling that portion of the order to which the price revision is applicable or completing the order at the original price. Prices are also subject to change at any time by Seller if a price has been quoted in error.

**3. Terms of Payment.** Unless otherwise agreed in writing by Seller, terms of sale are net 30 days. Buyer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.

**4. Taxes.** Prices do not include any sales, use, excise, privilege, or other taxes or assessments now or hereafter imposed or levied by or under the authority of any federal, state, or local law, rule, or regulation concerning the Goods sold hereunder or the manufacture or sale thereof. Taxes are the sole responsibility of Buyer.

**5. Risk of Loss.** Title and all risk of loss or damage to Goods shipped hereunder shall pass to Buyer upon delivery thereof to Buyer, to its designated agent, or to a carrier for delivery to Buyer, whichever occurs first. Unless otherwise stated, all shipments will be made F.O.B. point of shipping.

**6. Delivery.** All shipping and delivery dates are estimates based upon prompt receipt of all necessary information and subject to availability of finished Goods. Delays in securing Buyer's approval of necessary specifications or samples of products and materials shall, if Seller so chooses, extend the date of delivery. Seller shall not be liable for any claim, loss, expense, or damage of any kind whatsoever for delays in delivery.

**7. Limited Warranty.**

**a.** Seller warrants that the Goods will conform to the specifications furnished by Seller or, if agreed to in writing by an authorized representative of Seller, specifications furnished by Buyer. Any specifications furnished by Seller must be approved in writing by Buyer before raw materials can be purchased or before Seller can manufacture and/or distribute the Goods.

**b.** Buyer is responsible for testing the Goods before installation. If Buyer determines that the Goods fail to conform to the applicable specifications, Buyer must notify Seller in writing within a reasonable amount of time to permit Seller to examine and test the goods. Seller may, at Seller's option, (i) replace the goods, (ii) give the Buyer credit on a future order, or (iii) refund the purchase price. This represents Buyer's sole remedy for any breach of warranty.

**c.** THESE ARE SELLER'S ONLY WARRANTIES. SELLER MAKES NO OTHER WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED. ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE ARE HERBY DISCLAIMED BY SELLER AND EXCLUDED.

**d.** Seller's liability to Buyer or anyone claiming through or on behalf of Buyer, with respect to any claim or loss arising out of this transaction or alleged to have resulted from an act or omission of Seller, whether negligent or otherwise, and whether in tort, contract, or otherwise, including failure to deliver, delay in delivery, or breach of warranty, shall be limited to an amount equal to the purchase price of the Goods with respect to which such liability is claimed or, where appropriate and at the option of Seller, to replacement of the Goods thereof. In no case will Seller be liable for any bodily injury, death, or property damage resulting from or in any way arising out of the Goods or their sale, use, or manufacture. IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES, OR EXPENSES ARISING OUT OF THIS TRANSACTION.

**e.** Seller reserves the right, at any time, to make changes in the design or specification of the Goods, or any part thereof, which Seller, in its sole discretion, believes will constitute an improvement in such Goods or parts thereof.

**f.** Seller is not liable for any alterations of the goods, improper maintenance, abuse of the goods, or improper installation.

**8. Returns.**

**a.** Any Goods to be returned to Seller must have a RMA number issued by Seller before being returned. Any Goods returned without a proper RMA number will not be accepted and will be returned to Buyer at Buyer's expense.

**b.** Any goods returned for Buyer's convenience must be returned as originally shipped. Damaged Goods cannot be returned. All transportation and other applicable charges for returns at Buyer's convenience shall be the responsibility of Buyer. Returns for customer convenience are limited to Goods shipped within 60 days prior to the return request date and are subject to restocking charges.

**c.** Non-standard and specialty manufactured Goods will not be considered for return. Goods which are deemed non-conforming by Seller may be returned provided an RMA number is issued.

**d.** RMA is subject to Seller's consideration of all related "case-by-case" factors, including but not limited to, manufacturer/supplier willingness to accept such return.

**9. Cancellations.** Order cancellations are subject to cancellation charges as deemed applicable by the Seller to cover all costs and expenses incurred prior to the cancellation of said order. Cancellation charges may include, but are not limited to, all costs and expenses incurred in producing the Goods (both completed and in process) and the cost of all items and special material purchased for such order. Cancellation charges may be the total cost of manufacturing and/or distributing the Goods.

**10. NCNR Goods.**

Seller may designate Goods as "NCNR". Notwithstanding any provision of this Agreement to the contrary, orders for special, custom, value-added and other non-standard products, including products to be assembled in kit form, products of manufacturers which do not appear on Seller's line card, works-in-process, and products otherwise identified by Seller as "NCNR" or "Non-Cancelable and Non-Returnable" (or words of similar import) are "NCNR Goods". Buyer hereby acknowledges that NCNR Goods are both non-cancelable and non-returnable and further acknowledges and agrees to the following:

- Orders for NCNR Goods cannot be cancelled;
- Changes cannot be made to the schedule for such orders without prior written approval by Seller;
- NCNR Goods cannot be returned to either Seller or the manufacturer (unless defective, and then pursuant ONLY to applicable procedures and warranties, if any);
- As purchaser of the NCNR Goods, Buyer accepts full responsibility for the suitability for use of the NCNR Goods; and
- Buyer accepts full responsibility for payment of any invoice(s) issued by Seller concerning the NCNR Goods, including for any NCNR Goods that are pipelined, ordered, received, or inventoried by Seller, and acknowledges that Seller is entitled to demand full payment from Buyer.

Seller has no obligation to seek more favorable cancellation or return privileges with the manufacturer for the NCNR Goods. If, however, Seller is able to negotiate more favorable cancellation or return privileges with the manufacturer for the NCNR Goods, then, at its sole discretion, Seller may extend such privileges to Buyer. Also, Seller may waive the above obligations under this Agreement concerning NCNR Goods, in Seller's sole discretion, if Seller can sell at a comparable price the full quantity of the NCNR Goods to third parties at the time Buyer should request such waiver. Seller may charge a restocking fee on any such NCNR Goods.

**11. Force Majeure.** Seller shall not be liable for any delay in or failure of performance hereunder due to any contingency beyond its reasonable control, including without limitation: an act of God; war; civil commotion; sabotage; labor dispute; explosion; fire; accident; downtime; power or equipment failure or outage; inability to obtain suitable or sufficient labor, fuel, power, or material; delay of carrier; embargo; or any law, ordinance, rule, or regulation, whether valid or invalid.

**12. Quantity Variance.** All orders will be shipped +/- 10% unless previously agreed to by Seller in writing.

**13. Choice of Law Provisions.** The terms and provisions of this Agreement shall be construed in accordance with the laws of the State of Tennessee without regard for any rules on conflicts of laws. Any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted in the federal or state courts located in Maury County, Tennessee and each party irrevocably submits to the exclusive jurisdiction of such courts.