



TERMS AND CONDITIONS

Customer agrees to purchase, and WanTcom Inc. agrees to sell, the goods described on the sales order attached hereto and hereby made a part hereof, subject to the terms and conditions hereof.

1. PRICES:

All prices quoted to the Customer prior to the placement of an order by Customer and acceptance thereof by WanTcom Inc. shall remain firm for a period of forty-five (45) days after such quotations. Exception: Custom products are subject to re-quote following completion of prototypes, and prior to initial production. All orders are subject to acceptance by WanTcom Inc.

2. DELIVERIES:

- A. The goods shall be delivered EXW, WanTcom Inc., 1420 Lake Drive West, Chanhassen, MN 55317. Title to the goods shall pass to customer at time WanTcom Inc. delivers the goods to a common carrier for shipment to the address set forth on the sales order.
- B. WanTcom Inc. shall make every reasonable effort to deliver the goods within the time specified on the sales order attached hereto; with respect thereto, however, it is specifically understood and agreed that WanTcom Inc. shall not be liable for any loss or damage suffered by Customer arising out of WanTcom Inc.'s failure to deliver such goods within specified time where such failure is caused (i) by reason of the fact that prior to or during such specified time WanTcom Inc. has sold goods of the type ordered by Customer to another Customer, or (ii) by delays, including but not limited to production delays and inability to obtain materials, equipment or transportation, beyond the reasonable control of WanTcom Inc.

3. OVER AND UNDER-RUNS:

In the event that production of the goods ordered by Customer exceeds or falls short of the number of goods ordered by a figure not exceeding 5% of such number, Customer shall nevertheless accept the goods produced at the prices quoted on the order attached hereto.

4. PROTOTYPES:

When prototypes are necessary or requested by Customer, samples shall be submitted to Customer for approval before production begins. Tooling and production of units prior to sample approval shall be done at Customer's expense and risk.

5. ENGINEERING AND DESIGN:

Recognizing that WanTcom Inc. necessarily draws upon its long held expertise in specialized product design to facilitate the production of product under this order; and, also recognizing that all costs or expenses born by Customer in arriving at the pre-production stage under this Agreement are not a true representation of the value imparted to the process by WanTcom Inc. through its experience and expertise; and further recognizing that WanTcom Inc. must itself draw upon its incremental additions to product technology in its design markets to maintain itself as a viable producer of specialized products, Customer hereby agrees that all engineering designs and processes created by WanTcom Inc. in facilitating product development for Customer shall be and remain the property of WanTcom Inc., to be utilized by it in producing other products in the future. Provided, however, in no event shall WanTcom Inc. now, or in the future, withhold such engineering designs and processes from Customer, and to the extent necessary, hereby grants a perpetual and royalty free license to Customer to utilize such designs and processes in the future WanTcom Inc. production of the products produced under this Agreement.

Engineering or design changes suggested by WanTcom Inc. are made in best interest if the parties hereto. However, WanTcom Inc. shall not be liable for any loss or damage arising out of or by reason of or resulting from any such changes, it being understood and agreed that Customer shall assume full responsibility of the failure or success of such changes. Notwithstanding the above, unless specifically agreed to in writing by the parties hereto, all engineering and /or process design work contracted for by the Customer shall remain the sole property of WanTcom Inc., including but not limited to all design documentation, layouts art work and process information. All such work product shall be deemed WanTcom Inc. Confidential Information.

6. TOOLING:

Tooling paid for by WanTcom Inc. shall be and remain the sole and exclusive property of WanTcom Inc. Tooling (excluding screens) paid for by Customer shall be and remain the property of Customer, subject to the following: WanTcom Inc shall retain possession and control of all Customer owned tooling for its exclusive use in producing goods under this order: Customer shall maintain at its expense insurance coverage on all Customer-owned tooling covering all loss or damage; and, if Customer desires to have Customer-owned tooling returned to it following completion of the order, it must prepay all packaging and shipping costs and must pay to WanTcom Inc costs which it incurs in connection with the removal of such tooling.

7. PATENTS:

Customer shall defend, indemnify and hold WanTcom Inc harmless, including its payment of all costs, expenses and attorneys fees, from and against any and all claims of patent infringement brought against, or involving, WanTcom Inc, which arise from its production and / or sales of goods produced in accordance with designs or specifications provided by Customer, or utilizing parts or components designed or provided by Customer.

8. WARRANTIES:

WanTcom Inc warrants that all standard optical switches will conform to WanTcom Inc's published specifications, and will be free from defects in workmanship and materials for a period of one year from the date of manufacture. It is understood and agreed that WanTcom Inc's liability under this warranty is expressly limited to the repair or replacement of nonconforming goods.

WanTcom Inc warrants that all custom products, at the time of delivery, will conform to WanTcom Inc drawings, specifications, approved prototypes and WanTcom Inc prototype design validation testing requirements unless otherwise agreed to by WanTcom Inc and Customer in writing. Product will be free from defects in workmanship and materials as specified by WanTcom Inc workmanship standards. No other express warranty is given and all affirmations and samples or models (other than approved prototypes and samples) made or shown

**WanTcom, Inc., A Wireless And Network Telecommunication Company**

by WanTcom Inc are for illustrative purposes only. It is understood and agreed that WanTcom Inc's liability under this warranty is expressly limited to the repair or replacement of any nonconforming or defective goods as an exclusive remedy, and that WanTcom Inc shall not be liable for such repair or replacement in any event unless Customer's claim is made within two (2) year from the days of shipment. It is further understood and agreed that WanTcom Inc will not accept returned goods for repair or replacement unless Customer gives written notice to WanTcom Inc of its intention to return authorizes such return and issues a return authorization number.

In no event will WanTcom Inc be liable for any indirect or consequential damages of any kind which result from the use or misuse of the goods by any person, nor will WanTcom Inc be liable for any breach of warranty in an amount greater than the purchase price of the goods covered by this Agreement.

THE WARRANTIES EXPRESSED HEREIN ARE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED BY STATUTE, OPERATION OF LAW, OR OTHERWISE, SPECIFICALLY OR FINESSE FOR ANY PARTICULAR PURPOSE.

9. TAXES:

Prices do not include sales, use, excise or similar taxes. As and where necessary Customer shall provide WanTcom Inc with a tax exemption certificate acceptable to the appropriate taxing authorities and, in addition to the prices, Customer shall pay to WanTcom, Inc. the amount of all governmental taxes, excises or other charges (except taxes measured by net income) that WanTcom Inc may be required to pay in respect to the sales order.

10. DELAY OR CANCELLATION:

In the event that Customer desires to cancel this Agreement or delay production or delivery of the goods, it shall give eight (8) weeks written notice thereof to WanTcom Inc. Such rescheduled shipments must be within sixty (60) days of the original scheduled ship date, and remain within the original contract period. WanTcom Inc reserves the right to approve any such request for delay or cancellation pending agreement on reimbursement of the costs attributable to the delay or cancellation. All additional costs to WanTcom Inc resulting from any such action by Customer, including but not limited to additional cost in materials, labor, overhead and engineering, will be paid by Customer. In the event that the goods are standard goods normally carried as stocks in trade by WanTcom Inc, Customer shall pay any additional restocking costs incurred by WanTcom Inc resulting from any such action by Customer.

In event of the Customer delay s production or delivery of the goods, the Customer shall pay to WanTcom Inc the carrying costs incurred by WanTcom Inc for the period the delay. Such carrying costs will include, but not be limited to, material handling costs, re-tooling charges, additional production set-up costs and interest carrying costs.

In the event of this Agreement is cancelled or if less than the total order quantity is shipped within the lesser of a twelve month period or the term of the order, the Customer shall pay, and WanTcom Inc will bill the Customer for the quantity actually shipped, not at the unit price stated in the sales order, but at the appropriate price for the quantity actually shipped.

In the event this Agreement is cancelled the Customer shall pay a unique materials charge. This charge will include the price of all materials in stock and on order for the sales order. WanTcom Inc will make reasonable efforts to return and cancel all material for the sales order and reduce the unique materials charge accordingly.

11. PAYMENT TERMS:

Unless otherwise stated on the face of the sales order, Customer with approved NET 30 account shall pay payment in U.S. dollars within thirty (30) days from the date of billing, and Customer shall pay all charges and expenses incurred in connection with the delivery, including without limitation, freight, taxes, insurance on goods and duties. Delinquent payments shall bear interest at the rate of eighteen percent (18%) per annum from the date that they first become delinquent until paid; provided, however, that in the event such interest rate exceed the highest rate permitted by applicable law, the interest rate shall be adjusted downward to such highest allowable rate. Customer agrees to pay to WanTcom Inc any and all expenses or costs it incurs, including all reasonable attorneys fees, in collecting delinquent payments.

12. AGREEMENT:

This Agreement expresses the entire agreement between the parties hereto and there are no understandings or agreements, written or oral, not incorporated herein; provided, however, that clerical errors are subject to revision. In the event that Customer has submitted an order which contains provisions inconsistent with the terms, covenants and conditions hereof, this Agreement shall supersede and take precedence over such order, and in this regard, it is specifically understood and agreed that unless written notice of objection to the terms, covenants and conditions of this Agreement is made by Customer within ten (10) working days after this Agreement received by Customer this Agreement shall be deemed to be accepted by Customer.

Except as otherwise provided herein to the contrary, this Agreement may not be modified, amended, cancelled, or rescinded unless by a writing duly signed and executed by the parties hereto.

The terms, covenants and conditions hereof shall fully and complexly bind the heirs, executors, administrators, legal representatives, successors, and assigns of the parties hereto as if they had been specifically mentioned in each of said terms, covenants and conditions. All agreements arising pursuant to the sales order and the terms covenants and conditions hereof shall be governed by the laws of the State of Minnesota, USA.
