

1. These Terms and Conditions of Sale (this "Agreement") shall apply to, and govern the sale of, any products (collectively, the "Products") by WireXpress and/or one of its affiliates or subsidiaries identified in the applicable quote, order document, or credit application (the "Seller") to the applicable customer identified in such quote, order document, or credit application ("Customer"). This Agreement constitutes the entire, integrated agreement between the parties with respect to the subject matter of this Agreement, and shall apply to any subsequent purchases made by Customer from Seller. Any and all discussions, understandings, agreements, representations, courses of dealings, customs, and usages of trade heretofore made or engaged in by the parties with respect to the subject matter hereof are hereby deemed to be merged into this Agreement, which alone fully and completely expresses the parties' agreement. Notwithstanding the foregoing, in the event that Seller and Customer are parties to a mutually executed and negotiated agreement that governs the supply and use of the Products (the "Existing Agreement"), the terms and conditions of such Existing Agreement shall be deemed to supersede this Agreement for the specific purpose set forth therein. Seller objects to and shall not be bound by any additional or different terms, whether printed or otherwise, in any purchase order or other communication from Customer to Seller, unless specifically agreed to in a separate writing signed by the parties and only with respect to those Products intended to be covered by that executed document. The execution of a Customer order document shall not be deemed, in and of itself, to evidence Seller's assent to any terms and conditions contained or referenced thereon. Such additional or different terms shall be deemed a material alteration of this Agreement, and Customer shall be deemed to have accepted this Agreement without such additional or different terms. This Agreement may be updated periodically by Seller. Each revision will be identified by the next revision number and effective date. Any subsequent revisions will be effective only to quotes or orders issued on or after the date of the revision to such terms and conditions. Customer's acceptance or use of the Products constitute acceptance of this Agreement. In the event that Seller will be providing services, Seller's service terms, found [here](#), shall apply in addition to the terms of this Agreement.

2. Any change in Product specifications, quantities, destinations, shipping schedules, or any other aspect of the scope of goods must be agreed to in writing by Seller, and may result in a price and delivery adjustment by Seller. If all or part of the contract is terminated by modification or rescission, Customer, in the absence of a contrary written agreement between Seller and Customer, shall pay termination charges equal to Seller's costs associated with the contract, as determined by generally accepted accounting principles, plus a reasonable profit on the entire contract. Cost shall include any amount Seller must pay to its suppliers due to any termination by Seller of a purchase order or contract for Products intended for Customer. If Customer orders any Special Stock Products (as defined herein) from Seller, Customer will not be able to cancel such order in the event the Special Stock Product is already in Seller's possession or in transit to Seller, plus Customer must pay for any manufacturer cancellation charges for unshipped items. The term "Special Stock Product" shall be deemed to mean any inventory from Seller which Seller produce or procures for Customer and such inventory is nonstandard or not readily saleable to other customers of Seller. Seller may, in its discretion, require an advance deposit of up to 100% of Seller's selling price for any Special Stock Product ordered by Customer hereunder.

3. Payment of the purchase price for Products sold by Seller to Customer shall be in the amounts set forth on each invoice, and Customer agrees to pay all charges in accordance with the amounts established in said invoices. The entire outstanding balance due to Seller on all invoices shall become due in full immediately upon default in the payment of any invoice. Customer will pay a service charge of \$50.00 or the maximum allowed by law for each check returned by Customer's bank. In addition, in the event of Customer fails to pay all charges in accordance with this Agreement, Customer shall pay Seller all costs and expenses of collection, suit, or other legal action brought as a result of non-payment, including all reasonable attorneys' fees and collection costs, incurred pre-suit, through trial, on appeal, and in any administrative or bankruptcy proceedings.

4. Customer shall pay the purchase price for Products within the time indicated on the face of the quote, unless otherwise agreed to by the parties in writing. In the event Customer fails to pay the total purchase price within the time indicated on the face of the quote or other written agreement, the maximum allowable charge and/or interest allowed by applicable laws shall be applied to all past due accounts commencing from the due date of the invoice until paid. Seller shall also be entitled, in addition to all other remedies available at law or in equity, to recover reasonable attorneys' fees and/or other expenses in collecting the purchase price or otherwise enforcing or successfully defending itself in respect of this Agreement. Cash discounts do not apply to cases, reels, spools or transportation charges. The purchase price for the Products is F.O.B. first point of shipment, unless otherwise agreed to in writing. Seller may set off any amount due from Customer to Seller, whether or not under this Agreement, from any amounts due to Customer. Title to and risk of loss of the Products pass to Customer upon delivery to the carrier at the F.O.B. shipping point. Unless otherwise agreed to in writing, title to any software associated with a Product shall not pass to Customer and, strictly to the extent permissible under any license agreement related to such software, Customer shall be granted a limited license to use the software in connection with the Product, strictly in accordance with the license agreement, and Customer agrees to be bound by any license terms pertaining to software associated with a Product sold hereunder. To the extent permitted under applicable law, Customer agrees to defend and indemnify Seller, including paying for Seller's reasonable attorneys' fees for counsel of Seller's choosing, from any claims or lawsuits in which it is alleged that such license agreement was breached or violated by reason of the actions of Customer.

5. Seller will not accept returns of Products or the taking of financial credits by Customer unless previously authorized by Seller via a written Return Material Authorization ("RMA"). Returns shall be subject to Seller's current RMA policy, which will be made available upon request.

6. In the event that Customer is providing a forecast or requiring Seller to stock Products, Customer acknowledges and agrees it will be responsible for all excess and obsolete inventory, including, but not limited to, any inventory that is held by Seller and not consumed by Customer (a) prior to the discontinuation of usage of a particular part number, or (b) during the preceding six (6) month period (collectively, "E&O"). Seller reserves the right to call a Periodic Business Review ("PBR") which shall be attended by representatives of both parties for the purpose of E&O analysis and disposition. Resolution for E&O inventory shall be completed within ten (10) days of the PBR unless otherwise agreed upon at the PBR.

7. Prices on Seller's website, catalogs or in Seller quotes are subject to change without notice. All prices listed on a Seller quote will be deemed to expire and become invalid if not accepted within ten (10) calendar days from the date of issue, unless otherwise noted by Seller in writing. Seller, in its sole discretion, may extend such ten (10) day period; however, such extensions of pricing, if made, are for Customer's convenience only and Seller shall be free at any time after such initial ten (10) day period to adjust the prices contained on such quote. In addition, any mathematical, stenographic or clerical errors are not

binding on Seller. Except where specifically stated by Seller, prices shown do not include any sales, excise, or other governmental tax or charge payable by Seller to any federal, state or local authority. Any tax or other governmental charge upon the provision of services, or the production, sale, shipment, transfer, consumption, or use of the Products which Seller is required to pay or collect from Customer shall be paid by Customer to Seller at the time of payment for the Product, unless Customer furnishes Seller with exemption certificates acceptable to taxing authorities. Such amount shall be due whether or not included on the invoice.

8. Shipping date or other applicable performance date is estimated on the basis of immediate receipt by Seller of Customer's order and all information, drawings and approvals to be furnished by Customer, and the absence of delays, direct or indirect, resulting from or contributed to by circumstances beyond Seller's reasonable control. Seller will in good faith endeavor to ship Products or perform services by the estimated date. Seller shall have the right to make partial shipments. All changes in specifications or the shipping or performance date requested by Customer will only be effective if set forth in a writing signed by the parties, and where such changes affect Seller's time or cost of performance, an equitable adjustment in estimated shipping/performance date or purchase price, or both, will be made. If no packaging, loading or bracing requirements are stated, Seller will comply with minimum specifications for the method of transportation specified. If no method of transportation is specified, shipment will be by a reasonable method of transportation determined by Seller in its sole discretion.

9. Customer shall promptly submit all claims for shortages in writing to Seller once Customer receives the Products; otherwise such claims shall be waived. Quantities are subject to normal manufacturer allowances. In the case of wire and cable, such allowances are plus 10% and minus 5%. The purchase price for Products will equal the unit price multiplied by the quantity shipped.

10. Seller is a reseller of Products only, and as such does not provide any warranty for the Products it supplies hereunder. Notwithstanding the foregoing, Seller hereby transfers and assigns any and all transferable warranties made to Seller by the manufacturer of the Products and any intellectual property indemnity from the manufacturer of such Products to Customer. Customer will inspect the Products upon delivery and will, within ten (10) business days of delivery, notify Seller in writing of any defect in the Products so that Seller may place the Product manufacturers on notice of the same, otherwise such Products will be considered accepted. Customer's sole and exclusive remedy for any alleged defect, failure, inadequacy, or breach of any warranty related to Products shall be limited to those warranties and remedies provided by the manufacturers of those Products all of which are hereby assigned by the Seller to Customer. This warranty does not cover wear and tear and shall be ineffective and shall not apply to products that have been subjected to misuse or abuse, neglect, accident, damage, or improper installation, or maintenance, including, but not limited to, the usage of the Product not in accordance with the manufacturers specifications or instructions.

11. Customer further acknowledges and agrees that although Seller may provide Customer with suggestions or advice regarding Product or installation recommendations, such suggestions or advice shall not be deemed to be a recommendation, endorsement or guarantee. Customer acknowledges that in that the event it follows such suggestions or advice, it does so at its own risk, and, except as provided herein, Seller shall have no liability for any claims, damages, liabilities and losses relating to such suggestions or advice.

12. THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF, AND SELLER DISCLAIMS AND CUSTOMER WAIVES, ALL OTHER WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND OF ANY OTHER TYPE, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW (STATUTORY OR OTHERWISE). IN THE EVENT DISCLAIMER OF WARRANTY STATEMENTS ARE DISALLOWED IN THE GOVERNING JURISDICTION STATED IN SECTION 18 BELOW, SUCH EXPRESS OR IMPLIED WARRANTIES SHALL BE LIMITED IN DURATION TO THE WARRANTY PERIOD (OR THE MINIMUM PERIOD REQUIRED BY THE APPLICABLE LAW).

13. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES, HOWEVER ARISING; PROVIDED, HOWEVER, THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO DAMAGES ARISING FROM (A) PERSONAL INJURY (INCLUDING DEATH) OR TANGIBLE PROPERTY DAMAGE ARISING FROM A PARTY'S NEGLIGENCE; (B) A PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD; (C) A PARTY'S VIOLATION OF ANY APPLICABLE LAW OR REGULATION; (D) A PARTY'S BREACH OF ANY CONFIDENTIALITY OBLIGATIONS ARISING UNDER THIS AGREEMENT; OR (E) A PARTY'S ACTUAL INFRINGEMENT OF US INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY. IN ADDITION, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, NEITHER PARTY'S LIABILITY ON ANY CLAIMS FOR DAMAGES OR CHARGES ARISING OUT OF OR CONNECTED WITH THIS AGREEMENT OR THE MANUFACTURE, SALE, DELIVERY OR USE OF THE PRODUCTS SHALL EXCEED THE PURCHASE PRICE OF THE PRODUCTS GIVING RISE TO THE CLAIM.

14. Seller shall not be liable for any failure to perform its obligations under the Agreement resulting directly or indirectly from, or contributed to or by acts of God, acts of Customer, acts of terrorism, civil or military authority, fires, strikes or other labor disputes, accidents, floods, war, riot, inability to secure material or transportation facilities, dissolution of the applicable manufacturer's business, acts or omissions of carriers, or any other circumstances beyond Seller's reasonable control.

15. To the extent permitted under applicable law, if Customer furnishes specifications to Seller for use in the manufacture of the Products, Customer will indemnify and hold Seller harmless against any claim of intellectual property infringement which arises out of Seller's compliance with the specifications.

16. Each party shall comply with all applicable laws, statues, rules and regulations, including but not limited to, all applicable export and import, anti-bribery and corruption, environmental protection, and health and safety laws. To the extent permitted under applicable law, each Party will indemnify and hold the other Party harmless for any damages arising from its violation of any such laws, statutes, rules, and regulations.

17. Neither Party will disclose or make available to any third party the disclosing party's data or other confidential, non-public or proprietary information regarding without the disclosing party's prior written consent. In addition, Customer shall comply with Seller's business privacy policy found [here](#). This Agreement shall be governed, interpreted and construed according to the substantive laws of the State of Illinois, U.S.A. without regard to principles of conflicts of law thereof and shall not be governed by the U.N. Convention on the International Sale of Goods. If any dispute or controversy shall arise with respect to this Agreement, such dispute or controversy will be settled in the state or federal courts located in Chicago, Illinois, in which case the

parties hereby consent to the exclusive jurisdiction and venue of such courts, and agree that they shall not contest or challenge the jurisdiction or venue of such courts.

18. No amendments, modifications, waivers, rescission, or termination of this Agreement can be made through the parties' course of dealings and no such change can be made except in a single writing signed by the parties hereto. Failure by Seller to exercise any right or remedy under the Agreement will not be deemed a waiver of such right or remedy unless in writing signed by Seller, nor shall any waiver be implied from the acceptance of any payment. No waiver by Seller of any right shall extend to or affect any other right, nor shall a waiver by Seller of any breach extend to any subsequent similar or dissimilar breach. The Agreement shall be for the benefit of the parties and not for the benefit of any other person. Customer may not assign this Agreement without the express written approval of Seller. Any cause of action that Seller has against Customer may be assigned without Customer's consent to WireXpress or to any affiliate, parent or subsidiary of WireXpress. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be limited or eliminated to the minimum extent required by that jurisdiction, and the remaining provisions of the Agreement will remain in full force and effect.

If Customer is to be granted credit accommodations under a credit application (the "Application") in connection with this Agreement, the following additional terms and conditions shall apply:

19. Upon approval of this Application, Seller, in their sole discretion, and notwithstanding any request of Customer, will assign Customer a maximum credit line, and shall have the right to increase, decrease, or terminate Customer's credit privileges or to require guarantees, security or payment under this Application at any time without prior notice to Customer, except as otherwise provided by law.

20. Payment of the purchase price for goods and/or services sold by Seller to Customer shall be in the amounts set forth on each invoice, and Customer agrees to pay all charges in accordance with the amounts established in said invoices. The entire outstanding balance due to Seller on all Invoices shall become due in full immediately upon default in the payment of any invoice.

22. If this Application is not approved in full or if any other adverse action is taken with respect to Customer's credit with Seller, Customer has the right to request within sixty (60) days of Seller's notification of such adverse action, a statement of specific reasons for such action, which statement will be provided within thirty (30) days of said request. The federal Equal Credit Opportunity Act prohibits creditors from discrimination against credit Customers on the basis of race, color, religion, national origin, sex, marital status, or age (provided that Customer has the capacity to enter into a binding contract), because all or part of Customer's income derives from any public assistance programs, or because Customer has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning the creditor is the Federal Trade Commission, Washington, D.C.

23. Customer hereby agrees to immediately notify Seller of any agreement to sell or otherwise transfer ownership or possession of more than 20% of the assets or business of Customer, or to sell more than 20% of the capital stock or other ownership interest of Customer.

24. Customer certifies that it is solvent and that it will advise Seller immediately if it becomes insolvent. Customer agrees to send Seller written notice of any changes in the form of ownership of Customer's business within five (5) days of such changes. Customer agrees to neither order nor accept goods from Seller while Customer is insolvent within the meaning of Section 1-201(23) of the Uniform Commercial Code. Every order placed, or delivery accepted, while Customer is insolvent shall constitute a written misrepresentation of solvency to Seller within the meaning of Section 2-702(2) of the Uniform Commercial Code.

25. This Agreement shall be effective and applicable to any purchases made by Customer from the Seller pursuant to any credit established hereunder, regardless whether the amount or terms of credit provided by Seller to Customer is altered pursuant to the terms hereof.

Effective as of April 1, 2017  
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