

## TERMS AND CONDITIONS OF SALE

### Acknowledgement of Controlling Terms and Conditions

The sale of goods described here is subject to all of the terms and conditions on both sides of this document INCLUDING TERMS LIMITING WARRANTIES. All sales and quotations made by Titanium Technologies (Seller) are expressly subject to each of the following Terms and Conditions that shall replace all terms and conditions of Buyer's order and of any proposal or quotation to Buyer not agreed to by Buyer and Seller in writing prior to the date hereof. Seller specifically objects to all terms and conditions that may be contained on Buyer's order, or any other document provided to Seller by Buyer.

This acknowledgment includes the following terms and conditions, and unless written notice of objection to any of such terms and conditions (including inconsistencies between Buyer's purchase order and this acceptance) is given by Buyer to Seller promptly on receipt hereof, Buyer agrees that the following terms and conditions shall become part of the contract between Buyer and Seller. This acknowledgment operates as Seller's acceptance of Buyer's purchase order, but such acceptance is made expressly conditional on assent by Buyer to the terms and conditions included in this acknowledgment. Buyer and Seller agree that this acknowledgment, including the following terms and conditions, shall constitute the complete and final agreement between Buyer and Seller in respect of this order and that such terms and conditions and the rights and duties of Buyer and Seller shall be governed by the laws of the State of Michigan. Any disputes between the parties shall be resolved by a court of competent jurisdiction in Oakland County, Michigan. None of the terms and conditions contained in this acknowledgment may be added to, modified, superseded or otherwise altered except by a written instrument signed by an authorized representative of Seller and delivered by Seller to Buyer, and the products received by Buyer from Seller shall be deemed to be delivered only upon the terms and conditions contained in this acknowledgment, except as they may be so added to, modified, superseded or otherwise altered, in a signed writing. This contract may not be assigned, in whole or in part, by either party except with the prior written consent of the other party, except that (1) Seller may assign any of its rights to received payment from Buyer hereunder and (2) Seller may subcontract the performance of any of its obligations hereunder.

### 1. Pricing Terms and Conditions (Prices; Payment Terms)

Prices are subject to change without notice. All orders are accepted subject to Seller's price in effect at time of shipment. All changes in freight rates or transportation charges used by Seller in computing prices and charges shown on this acknowledgment occurring after the date of this acknowledgment will be for the Buyer's account. Seller shall not be liable for any transportation charges incurred at destination such as spotting, switching, drayage, demurrage, pier unloading charges, etc. Standard terms net 30 days with approved credit, unless otherwise specified by Seller on the invoice. Buyer grants Seller a purchase money security interest in goods Seller sells to Buyer and Buyer agrees that Seller may take actions in Buyer's name to perfect that interest as Buyer's attorney in fact.

Seller may withdraw the credit extended to buyer at any time. Any account past due will be subject to terms change to COD. A \$35.00 charge will be assessed on all returned checks. Additional terms and conditions may apply to custom and or special orders. If additional terms and conditions apply, they will be specified on the invoice and or contract. Credits on returned items will be effective on the day of processing, and inspections. Customer credits will not be honored without receiving an invoice/credit from Seller. For authorized discounts on invoices, payments must arrive on or before the due date of the discount, otherwise net terms apply.

## 2. Taxes including duties, fees, tariffs, levies, dues, assessments

Seller reserves the right to charge Buyer with the amount of any taxes which Seller may be required to pay or collect under any existing or future law upon or with respect to the sale, purchase, delivery, storage, processing, use, consumption, servicing or transportation of any of the products sold.

## 3. Delivery

Free shipping may be available in certain instances at Seller's discretion and with Seller's written approval. In all other cases, Buyer is responsible for shipping payment. **All orders will be shipped in pack quantities of 6/pcs or 10/pcs depending on SKU and any quantity less than pack quantity will be at \$.25 per item Pick charge.** Any delivery dates Seller quotes are estimates. Seller cannot guarantee delivery on a specific date of Manufacture, shipment or delivery will be subject to any prohibition, restriction or regulation imposed by the federal government or any state government or any subdivision or agency thereof, and Seller shall not be liable for any delay or failure to perform, in whole or in part cause by any such prohibition, restriction or regulation or other causes beyond Seller's control.

## 4. Risk of Loss; Loss or Damage in Transit

Terms of shipment shall be F.O.B. Seller's shipping points. Risk of loss shall pass to Buyer when the products are delivered to the carrier, or to Buyer or Buyer's agent, whichever first occurs. In case of loss or damage in transit or failure to receive shipment within a reasonable time, Buyer must immediately notify in writing carrier's agent at destination and Seller. This action is necessary in order to preserve the right to damages from the carrier and to substantiate a formal claim when presented. Seller shall not be liable for any damage, loss or expense resulting from anything occurring during, or attributable to, transportation.

## 5. Inspection by Buyer

Where inspection is made by Buyer, Buyer's inspector(s) shall be deemed the agent(s) of Buyer to accept products on Buyer's behalf with authority to waive specified tests or details of test procedure, and to accept products which may deviate from formal specifications.

## 6. Permissible Variations

Unless otherwise agreed upon in writing, all products shall be furnished subject to Seller's standard manufacturing variations and practices and within limits and sizes Seller produces. Products purchased are subject to customary quantity variations recognized by trade practice.

## 7. Cancellation

The Contract resulting from the acknowledgment and acceptance of Buyer's order cannot be cancelled, terminated or modified by Buyer in whole or in part except with Seller's consent in writing and then only upon terms and conditions then to be agreed upon which shall include protection of Seller against all loss.

## 8. Warranty Exclusions

This Warranty does not cover:

1. Products damaged in the process of being installed;
2. Products not specifically designated by Titanium Technologies;
3. Titanium Technologies products not supplied directly by Titanium Technologies or through channels approved by Titanium Technologies;
4. Defects resulting from an improper design / application, installation, use, maintenance, repair, or any alterations, misuse, neglect, accident or abuse, or otherwise damaged by the Buyer;
5. Deterioration due to normal wear and tear or aging or damage caused by outside natural occurrences, such as lightning, fire, floods, acts of nature, or the like;
6. Damage caused by moisture, corrosion, power surges, electro-magnetic interference (EMI) or radio frequency interference (RFI) shall not constitute a defect in materials or workmanship.

## 9. Claim / Warranty Limitations

THIS WARRANTY IS NOT ASSIGNABLE.

TO THE EXTENT PERMITTED BY LAW, AND SUBJECT TO ITEMS BELOW, THIS LIMITED WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES EITHER EXPRESS, IMPLIED OR STATUTORY AND THE REMEDIES PROVIDED FOR IN THE PRECEDING PARAGRAPHS CONSTITUTE THE SOLE RECOURSE OF THE BUYER AGAINST TITANIUM TECHNOLOGIES AND TITANIUM TECHNOLOGIES' AUTHORIZED DISTRIBUTORS/DEALERS FOR BREACH OF ANY OBLIGATIONS TO THE BUYER WHETHER THE CLAIM IS MADE IN TORT OR IN CONTRACT, INCLUDING CLAIMS BASED ON WARRANTY, NEGLIGENCE, STRICT LIABILITY, FRAUD, MISREPRESENTATION, OR ANY OTHER LEGAL THEORY WHATSOEVER. TITANIUM TECHNOLOGIES LIMITS THE DURATION AND REMEDIES OF ALL STATUTORY AND IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES AGAINST HIDDEN OR LATENT DEFECTS TO THE DURATION OF THIS LIMITED WARRANTY.

TO THE EXTENT PERMITTED BY LAW, THERE ARE NO WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE, WHICH EXTEND BEYOND THE STATED WARRANTY. TO THE FULL EXTENT PERMITTED BY LAW, IN NO CASE SHALL TITANIUM TECHNOLOGIES BE LIABLE TO ANYONE FOR ANY CONSEQUENTIAL, INCIDENTAL, DIRECT, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES OR LOSSES OF ANY NATURE WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOSS OF DATA, LOSS OF ELECTRONICALLY STORED INFORMATION (ESI), LOSS OF PRIVACY, LOST PROFITS OR COMMERCIAL LOSS, BUSINESS INTERRUPTION AND LOSS OF CONFIDENTIALITY, ARISING OUT OF OR RELATING IN ANY WAY TO THE PRODUCT AND/OR BREACH OF THIS OR ANY OTHER WARRANTY OR CONDITION, EXPRESS OR IMPLIED, OR UPON ANY OTHER BASIS OF LIABILITY WHATSOEVER, EVEN IF THE LOSS OR DAMAGE IS CAUSED BY TITANIUM TECHNOLOGIES' OWN NEGLIGENCE OR FAULT AND EVEN IF TITANIUM TECHNOLOGIES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES. NOTWITHSTANDING THE FOREGOING AND EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE, THE ENTIRE LIABILITY OF TITANIUM TECHNOLOGIES UNDER ANY PROVISION OF THIS LIMITED WARRANTY SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY THE ORIGINAL BUYER FOR THE PRODUCT.

WITHOUT LIMITING THE "WARRANTY EXCLUSIONS" ABOVE, IN NO EVENT SHALL TITANIUM TECHNOLOGIES OR ITS APPROVED DISTRIBUTORS OR CERTIFIED INSTALLERS BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL OR

CONSEQUENTIAL DAMAGES (REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING NEGLIGENCE), INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR ECONOMIC DAMAGE ARISING OUT OF THE FAILURE OF THE PRODUCT(S). THE LIABILITY OF TITANIUM TECHNOLOGIES AND ITS APPROVED DISTRIBUTORS IN RESPECT OF ANY CLAIM OR DAMAGE ARISING OUT OF OR CONNECTED WITH THIS WARRANTY OR THE MANUFACTURE, SALE, DELIVERY, INSTALLATION OR USE OF THE PRODUCT(S) WILL NOT EXCEED THE TOTAL OF THE ORIGINAL PURCHASE PRICE OF THE PRODUCT(S). CONSEQUENTLY, TITANIUM TECHNOLOGIES SHALL HAVE NO LIABILITY FOR ANY PERSONAL INJURY, PROPERTY DAMAGE OR OTHER LOSS BASED ON ANY CLAIM AT ALL INCLUDING A CLAIM THAT THE PRODUCT FAILED TO GIVE WARNING.

If Titanium Technologies breaches any condition or warranty implied in favor of the Original Buyer, by any other applicable law which cannot lawfully be excluded, then to the extent permitted by applicable law the liability of Titanium Technologies to the Original Buyer is limited to:

- 9.1 The replacement of the goods or the supply of equivalent goods;
- 9.2 The repair of the goods;
- 9.3 The payment of the cost of replacing the goods or of acquiring equivalent goods; or
- 9.4 The payment of the cost of having the goods repaired, at the election of Titanium Technologies.

Buyer assumes all risk and liability for loss, whether such claim is made by Buyer, Buyer’s customers, or other third parties.

Markings, approvals, components and specifications may vary based on materials and / or suppliers. Seller shall not be liable for these variations.

In lieu of any other warranty, Seller provides the original Buyer with a **LIMITED WARRANTY**, subject to the conditions set forth herein. Seller warrants to the original Buyer that Seller’s products will be free from defects in material and workmanship for the Warranty Period described in Table 1 below.

**Table 1: Titanium Technologies Datacom Products Covered and Warranty Period**

Item	Cat 3	Cat 5e	Cat 6	Cat 6A	Other
<b>Bulk Cable</b>		Lifetime	Lifetime	Lifetime	
<b>Faceplates</b>					1 Year
<b>Keystone Jacks</b>	1 Year	2 Years	2 Years	2 Years	
<b>Patch Cable</b>		Lifetime	Lifetime	Lifetime	
<b>Patch Panel</b>		10 Years	10 Years	10 Years	
<b>Surface Boxes</b>					1 Year

In the event Seller’s product covered by this Limited Warranty is found to be defective during the applicable, then Seller will repair or replace and defective products with the same or equivalent products, but only if original Buyer meets all of the following conditions: (1) original Buyer must promptly notify Seller of any warranty claim during the applicable Warranty Period as soon as practicable after having notice of a potential warranty claim; (2) original Buyer must provide Seller with the date of purchase; (4) original Buyer must provide Seller with proof of purchase; (5) original Buyer must provide Seller with the allegedly defective

product; and (6) the allegedly defective product must be determined to be defective. This is a parts-only warranty and does not include labor costs.

## 10. Technical Advice and Other Services

Buyer is responsible for the design, processing, testing and labeling of any product that Buyer makes using products Buyer buys from Seller and Buyer will not rely on anything on Seller's web site or any statement by Seller about the suitability of products or services Seller provides. Buyer has tested and investigated products sold by Seller enough to form an independent judgment concerning their suitability for the use, conversion or processing intended by Buyer and will not make any claim against Seller based on Seller's advice, statements, information, services or recommendations.

## 11. Remedies

Lack of on-time payment by Buyer or degradation of Buyer's credit allows Seller to enact the following conditions:

- 11.1 Any payment due from Buyer and not timely made shall be subject to a service charge equal to 1.5% per month or, if less, the maximum amount permitted by applicable law, until paid. In case Buyer shall fail to make payments in accordance with the terms as set forth in this acknowledgment, Seller in addition to its other rights and remedies may at its option defer further shipments until such payments are made, or may terminate the contract, and Buyer shall not have any cause of action or be entitled to any off-set, counterclaim or recoupment against Seller by reason of any such action.
- 11.2 If, in Seller's sole judgment, Buyer's credit shall become impaired at any time, Seller shall forthwith have the right to decline to make deliveries hereunder except for cash until such time as said credit has been re-established to Seller's satisfaction, or, in Seller's sole discretion, and in addition to any other rights or remedies available to it, to immediately terminate this Contract without any liability to Buyer.
- 11.3 If Buyer fails to pay any amount when due or is otherwise in default with respect to any of the terms or conditions of this or any other Contract with the Seller, Seller may, at its option, without prejudice to any other legal remedy or remedies, defer making further deliveries hereunder until such default is remedied and/or may declare the obligation of the Buyer for all articles already delivered, and all loss and damage with respect to any articles remaining to be delivered, to be due forthwith.

## 12. Force Majeure

Failure of Seller to make any deliveries hereunder when due, if caused by any reason beyond its control, including, but not limited to Acts of God or the public enemy, fire, explosion, perils of the sea, flood, drought, war, riots, sabotage, accident, embargo, government priority, requisition or allocation or other action of any governmental authority, inability of Seller to obtain raw materials or to obtain from its regular source of supply any product covered by this Contract which it does not manufacture, regardless of reason, or any circumstance of like or different character beyond the reasonable control of Seller, or by interruption of or delay in transportation, shortage or failure of supplies of material / equipment, labor trouble, or by compliance with order or request of the U.S. Government or any officer, department, agency or committee thereof, or by

compliance with request of any manufacturer of material for purposes of producing articles for national defense, shall not subject Seller to any liability to Buyer.

### 13. Returns

Seller requires that all returns have a Return Merchandise Authorization (RMA) number that must appear on the outside packaging of any returned goods.

- 13.1 Buyer must supply the part number(s), quantity, original invoice number, and reason for return in order to get an RMA number.
- 13.2 Accepted merchandise will be exchanged for same merchandise, other merchandise (stock rotation) or credit at the discretion of Seller.
- 13.3 Other than return of defective items, all requests must be submitted within 10 days of merchandise receipt. A 15% restocking fee may apply.
- 13.4 **All stock returns must be in re-sellable condition. All parts, packaging, & manuals must be included and it is packed as it came from Seller.**
- 13.5 Seller will notify the customer of any discrepancies on returned items within 48 hours of receiving the item in our warehouse.
- 13.6 RMA numbers are valid for 30 days from issue date.
- 13.7 All freight charges are customer's responsibility.

### 14. Waiver

Failure on the part of Seller to enforce at any time, or for any period of time, any of the provisions of this Contract shall not be deemed or construed to be a waiver of such provision or of the right of Seller to thereafter enforce each and every such provision.

### 15. Legal Fees

In the event Seller must initiate legal proceedings or retain a collection agency in order to secure its rights hereunder, Seller shall be entitled, in addition to all other remedies available at law and/or equity, to recover from Buyer its fees associated therewith including, but not limited to, reasonable attorneys' fees, collection fees, expert witness costs and court costs.

### 16. Validity of Contract

If any provision of this Contract is or becomes or is deemed invalid, illegal or unenforceable in any jurisdiction, then:

- 16.1 such provision shall be construed or deemed amended to conform to applicable laws so as to be valid and enforceable, or, if it cannot be so construed or deemed amended without materially altering the intention of the parties, it shall be stricken,
- 16.2 the validity, legality and enforceability of such provision will not in any way be affected or impaired by it in any other jurisdiction, and
- 16.3 the remainder of this Contract shall remain in full force and effect.

#### 17. Definition of Seller – Buyer Relationship

The relationship between Seller and Buyer shall be that of independent contracting parties and Buyer shall make no representation to the contrary.