

Gcom Sales Terms and Conditions

12/1/06

Unless otherwise stated in writing and approved by Gcom, the following terms shall apply to any purchase of Gcom software ("Software") or hardware, including products whose hardware is designed to be installed in and used with an existing computer system ("Board Level Hardware") and standalone products which are connected to, rather than installed in, other computer systems ("Integrated Hardware"). An agreement will only be binding between Gcom and Customer when Gcom has accepted in writing a Gcom Custom Quote signed by Customer without any addition to these terms and conditions, and references to "agreement" in this document mean the agreement formed by such acceptance and includes these terms and conditions and any contained in the Gcom Custom Quote. Gcom will not be bound by any provision of Customer's purchase order that is inconsistent with these terms and conditions.

Paperwork Required for Each Order

1. A signed and dated **Gcom Custom Quote** or **Customer Purchase Order** inclusive of all details from the Gcom Custom Quote.
2. Payment in accordance with the **Gcom Payment Terms** below.
3. Acceptance of the attached **Gcom Software License Agreement**. The license is also provided with the product and opening of the package acknowledges the Customer's acceptance of the license terms. A signature is not required.

Orders and Shipment

Shipment: Unless otherwise agreed by the parties, all deliveries will be made freight collect FOB Gcom's shipping facility via Gcom's selected courier service or air carrier. In the event Gcom pays shipping charges, such charges will be billed to and payable by Customer. 4.3 Except as otherwise expressly agreed in writing, all applicable customs duties, taxes and costs including transportation and insurance will be borne by Customer. Transfer of title and risk will occur at Gcom's shipping facility.

Cancellation: If Customer cancels delivery of any order, Customer will be liable for a restocking charge of 15% of the price of the cancelled items.

Customer Payment Terms

United States Orders: Upon credit approval, net 30 days terms may be extended. For quickest service, we suggest prepayment by Credit Card, Bank Transfer or Company Check. Payment by company check will result in the order being held until the check clears.

Late Fees: Accounts not paid within terms are subject to a 1.5% monthly (18% annual) finance charge on the unpaid balance..

International Orders: Payment with order by Credit Card, Letter of Credit, Bank Transfer or Company Check. *Checks must be in U.S. funds and drawn on an U.S. bank.* Payment by company check will result in the order being held until the check clears.

Limited Warranty

Software: Please see the applicable Software License Agreement.

Board-Level Hardware: The applicable manufacturer's warranty applies to these products, and Gcom does not provide any additional warranty.

Integrated Hardware: Gcom warrants for a period of one year from receipt by Customer (the "Warranty Period") that the Integrated Hardware will be free from material faults in manufacture and materials as described in the Warranty Defect document included with shipment of the Integrated Hardware. Gcom will not be liable for defects in the Integrated Hardware notified by Customer after expiration of the Warranty Period. This limited warranty does not apply to Integrated Hardware for which Customer has broken the tamper-proof seal or for defects due to extrinsic causes, such as (i) fire, flood, acts of God or other such contingencies beyond the control of Gcom, (ii) failure of Customer to comply with the operating specifications and instructions provided by Gcom or other misuse, abuse or accident, (iii) repair or modification not provided or authorized by Gcom or the combination of the Integrated Hardware with products not provided by Gcom. Gcom does not warrant that the Integrated Hardware will operate uninterrupted or error-free.

In case of a breach of the limited warranty set forth herein, Gcom will, at its option, repair or replace the Integrated Hardware in accordance with the Warranty Defect Document. If Gcom determines that such repair or replacement within a reasonable time is not practicable, Customer may return the Integrated Hardware to Gcom in exchange for a refund of the price Customer actually paid for such Integrated Hardware. Customer acknowledges that this paragraph sets forth Customer's exclusive remedy and Gcom's exclusive liability for any breach of warranty related to the quality of the Integrated Hardware.

EXCEPT AS EXPRESSLY SET FORTH HEREIN, ALL WARRANTIES, CONDITIONS, REPRESENTATIONS AND GUARANTEES WITH RESPECT TO THE BOARD-LEVEL HARDWARE AND INTEGRATED PRODUCTS, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS BY GCOM OR OTHERWISE (INCLUDING ANY WARRANTY OR CONDITION OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT) ARE HEREBY OVERRIDDEN, EXCLUDED AND DISCLAIMED.

Return Policy

Products may be returned for any reason within 30 days of Gcom's first shipment to the Customer. Please request a RMA (Returned Material Authorization) number. The Customer is responsible for:

1. Gcom's Shipping & Handling costs and any return shipping costs of the undamaged product in its original packaging.
2. Professional Services hours provided by Gcom prior to the request for a return authorization number.
3. A 15% restocking fee will be applied against the refund.

Limitation of Liability: GCOM WILL NOT BE LIABLE FOR ANY INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGES WHETHER ARISING FROM NEGLIGENCE, BREACH OF CONTRACT OR OTHERWISE, WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE. IN NO EVENT WILL THE AGGREGATE LIABILITY OF GCOM TO CUSTOMER EXCEED THE TOTAL AMOUNT ACTUALLY PAID BY CUSTOMER TO GCOM FOR THE SPECIFIC SOFTWARE OR HARDWARE THAT DIRECTLY CAUSED THE DAMAGE. THIS SECTION WILL NOT APPLY ONLY WHEN AND TO THE EXTENT THAT APPLICABLE LAW SPECIFICALLY REQUIRES LIABILITY DESPITE THE FOREGOING EXCLUSIONS AND LIMITATIONS.

Confidential Information: Customer acknowledges that it may receive confidential information of Gcom relating to Gcom, its activities, products, suppliers and customers (the "Confidential Information"). Customer will take all reasonable precautions to protect the confidentiality of the Confidential Information. Customer may not use or disclose such Confidential Information without the prior written consent of Gcom. If authorized in accordance with this paragraph, Customer may only disclose Confidential Information if the third party is under an obligation to comply with use and non-disclosure obligations at least as stringent as those applicable to the Confidential Information under these Terms and Conditions. Upon request from Gcom at any time, Customer will return or destroy any Confidential Information it has in its possession. Customer will have no confidentiality obligation with respect to information that (i) it knew or independently developed before receipt from Gcom, (ii) it lawfully obtained from a third party without breach of any confidentiality obligation, (iii) became available to the public other than as a result of any act or omission by Customer or (iv) Customer is required by court order or other government authority to use or disclose such Confidential Information.

Ownership of Intellectual Property: Customer acknowledges and agrees that Gcom and its licensors own and will retain all right, title and interest in and to all intellectual property and proprietary rights relating to the Software and Hardware, including all patents, trademarks, service marks, inventions, copyrights, trade secrets and know-how relating to the design, manufacture, operation or service of the Products, whether or not specifically recognized or perfected under the laws of Customer's jurisdiction. Customer will not take any action that jeopardizes Gcom's proprietary rights or acquire any rights in such intellectual property and proprietary rights. Customer agrees and acknowledges that Gcom or its licensors will own all rights in any modification, adaptation or derivative of the Hardware or Software, including any improvement or development thereof and hereby assigns and agrees to assign any rights it may acquire in such works. To the extent such rights may be inalienable, Customer agrees to waive and to cause its employees or contractors to waive and agree not to exercise such rights and if such waiver and agreement are deemed invalid, to grant to Gcom or its licensors the exclusive, perpetual, irrevocable, worldwide and royalty free right to use, market and modify any such items without any obligation of attribution or consent. At Gcom's request, Customer will obtain the execution of any instrument that may be appropriate to assign or license these rights to Gcom or its licensors or perfect these rights in Gcom's or its licensors' names.

Customer acknowledges that all trademarks registered by Gcom are owned by Gcom or its licensors (the “Gcom Trademarks”). Nothing herein conveys to Customer any right, title or interest in the Gcom Trademarks, and Customer may not use the Gcom Trademarks without Gcom’s prior written consent, which consent will be granted in Gcom’s sole discretion. Customer will not alter or remove any Gcom Trademarks applied to the Hardware or Software. At no time will Customer challenge or assist others to challenge the Gcom Trademarks or attempt to register any trademarks, service marks or trade names confusingly similar to those of Gcom or its licensors. Any authorized use by Customer of the Gcom Trademarks will inure to the benefit of Gcom.

Governing Law and Arbitration: These Terms and Conditions and any agreement made in connection therewith will be governed and construed according to the laws of the State of Illinois without regard to any conflict of laws provisions. The parties hereby exclude application of the United Nations Convention on Contracts for the International Sale of Goods from this agreement.

In the event of a dispute arising out of or relating to this agreement or the existence, validity, breach or termination thereof, that cannot be resolved by the parties pursuant to negotiation, such dispute will be settled by arbitration in accordance with the Commercial Arbitration Rules and Supplementary Procedures for International Commercial Arbitration (if applicable) of the American Arbitration Association. All such arbitrations will be held in Chicago, Illinois, U.S.A. The parties expressly agree that the arbitrator(s) will be empowered to, at Gcom’s request, issue injunctive relief. The decision and award rendered by the arbitrator(s) will be final and binding and may be entered as a judgment in and enforced by any court of competent jurisdiction. Nothing in this paragraph will prevent Gcom from seeking interim injunctive relief against Customer in the courts having jurisdiction over Customer to protect Gcom’s intellectual property or confidential information.

Compliance with Laws: Customer will comply with all laws, regulations and other legal requirements within its jurisdiction that apply to this agreement, including tax, foreign exchange legislation and data protection laws. Customer acknowledges that the Software, Hardware and related technical information, documents and materials are subject to applicable export controls, including without limitation the U.S. Export Administration and other applicable laws. Customer agrees that it will comply strictly with these regulations and no export, re-export or otherwise transfer directly or indirectly, the Hardware, Software or any related technical information, documents or materials, or any direct product thereof to any destination, company or person restricted or prohibited by these export controls, unless Customer has obtained the prior written authorization from Gcom and the applicable governmental organization.

Termination by Gcom: Gcom may terminate any confirmed order that has not yet shipped in the event Customer (i) is dissolved, is declared bankrupt, or has otherwise become unable to pay its debts when due, (ii) the business of Customer has been discontinued or (iii) Customer materially breaches any obligation under the agreement, including these Terms and Conditions and does not remedy such breach within thirty days after receiving written notice of default from Gcom.

Miscellaneous: These Terms and Conditions, those terms contained in the Gcom Custom Quote and any written order confirmation sent by Gcom will constitute the entire understanding between the parties with respect to the subject matter therein and supercede any prior proposal or representation. Any alterations to, additions to, amendments, deletions, modifications or waivers of the agreement will be binding only if the authorized representatives or both parties have agreed to them in writing. Customer may not assign or transfer this agreement in whole or in part without the prior written consent of Gcom. Gcom may assign this agreement or its rights or obligations hereunder upon notice to Customer. Any attempted assignment in violation of this paragraph will be void and of no force or effect. If any provisions of these Terms and Conditions is held by a court of competent jurisdiction to be unlawful or unenforceable, such holding will in no way affect the validity or enforceability of the remaining provisions.