



Authorized Reseller Agreement

This Agreement is made in Gallatin, Missouri between WideBand Corporation, a Missouri Corporation, having its principal place of business at 401 West Grand Street, Gallatin, MO 64640 (hereinafter called "WideBand"), and resellers, who are accepted as a WideBand Channel Partner (hereinafter called "Reseller").

BACKGROUND

WideBand markets various computer products under the WideBand® brand name. Reseller desires to be appointed as an authorized WideBand Reseller for certain WideBand® Products, (hereinafter referred to as "Products". Based upon the foregoing, WideBand and Reseller have agreed as follows:

AGREEMENTS

1. Appointment and Acceptance

- a) *Appointment.* WideBand, under the terms of this agreement, hereby appoints Reseller as an authorized WideBand Reseller only for those Products listed in the most current Confidential WideBand Reseller Handbook published on WideBand's web site located at: www.wband.com and any associated updates which may be executed from time to time by WideBand. This Agreement shall not entitle Reseller to purchase or sell any other products marketed by WideBand. The Confidential WideBand Reseller Handbook and associated updates (hereinafter referred to as "Handbook") will include a current WideBand® Product Price List (hereinafter referred to as "Price List").
- b) *Non-Exclusivity.* Reseller's appointment as an authorized WideBand Reseller shall be non-exclusive. WideBand shall have the right to increase or decrease the number of authorized Resellers for the Products from time to time at its sole discretion.
- c) *Acceptance.* Reseller hereby accepts its appointment hereunder.

2. Location and Transshipping Restrictions

The parties recognize that it is in their mutual best interests that the Products be sold through a qualified and effective Reseller network, whereby all Resellers selling the Products meet the standards established by WideBand for its authorized WideBand Resellers. The parties further recognize that if the Products are offered only through that number of locations deemed by WideBand to be adequate to serve the market fully, those Resellers appointed by WideBand to sell the Products will be encouraged to offer the maximum amount of services with respect to the Products, both prior and subsequent to sale, thereby enabling them to compete more effectively against Resellers selling competitive products. Accordingly, Reseller agrees as follows:

- a) *Locations.* Reseller shall not sell or offer the Products for sale from any locations other than that which is stated in this Agreement and any other location for which WideBand has given advanced written authorization.
- b) *Transshipping.* Reseller shall not sell or otherwise transfer the Products to any other person or entity for purposes of further resale, without having secured WideBand's advance written authorization, which may be granted or denied at WideBand's sole discretion. WideBand shall have the right to withdraw any such authorization at any time, at its sole discretion, by written notice to Reseller.

3. Prices & Other Terms and Conditions of Sale

- a) *Prices.* Reseller acknowledges receipt of the WideBand Reseller Handbook which includes the current Price List. The Handbook, any supplementary or replacement documents issued by WideBand to the Reseller, and each of the prices and other terms and conditions of sale contained in all such documents, shall be considered integral parts of this Agreement. WideBand shall have the right to reduce or increase prices to Reseller at any time without advance notice. When a new Price List is issued to Reseller by WideBand, it shall become a part of this Agreement automatically as of the effective date stated thereon, and shall supersede all prior inconsistent Price Lists.
- b) *Taxes.* Prices do not include taxes of any nature. Reseller shall pay applicable taxes when invoiced by WideBand unless Reseller provides WideBand with exemption certificates acceptable to WideBand and the appropriate tax authorities.
- c) *Governing Terms.* Except with respect to matters or programs on which WideBand and Reseller specifically agree in writing or to which WideBand commits in writing, the terms, conditions, and provisions stated in this Agreement, in the Handbook, in any documents generated by WideBand's credit department, and on any WideBand invoices and order acknowledgments apply to all dealings between the parties. ANY DIFFERENT OR ADDITIONAL PROVISIONS CONTAINED IN RESELLER'S PURCHASE ORDERS OR OTHER BUSINESS FORMS SHALL BE DEEMED OBJECTED TO BY WIDEBAND, AND SHALL BE OF NO FORCE OR EFFECT WHATSOEVER, NOTWITHSTANDING ANY FAILURE BY WIDEBAND TO COMMUNICATE FURTHER OBJECTIONS THERETO.



4. **Credit and Financial Requirements**

- a) *Financial Information.* Reseller represents and warrants to WideBand that Reseller is in a good and substantial financial condition and is able to pay all bills when due. Reseller shall, from time to time, furnish any financial statements or additional information as may be requested by WideBand to enable WideBand to determine Reseller's financial condition.
- b) *Credit.* WideBand shall determine, at its sole discretion, whether to extend credit to Reseller and the amount of credit, if any, to be extended. WideBand shall have the right to change credit limits or any other financial requirements from time to time, at its sole discretion.
- c) *Payments.* Sales will be made on the payment terms in effect at the time that an order is accepted, and Reseller shall pay all invoices when due. Receipt of any check, draft or other commercial paper shall not constitute payment unless and until such instrument has been honored by the appropriate financial institution(s).
- d) *Deductions.* Reseller shall refrain from making deductions of any kind from any payments due WideBand, unless a credit memorandum has been issued by WideBand to Reseller. No payment by Reseller to WideBand of any lesser amount than that due to WideBand shall be deemed to be other than a payment on account, and no endorsement or statement on any check or in any letter or other document accompanying any payment shall create an accord and satisfaction. WideBand may accept any payment without prejudice to WideBand's right to recover any remaining balance or to pursue any other remedy provided in this Agreement, in any Security Agreement(s) executed by the parties, or under applicable law.
- e) *Delinquencies.* If Reseller becomes delinquent in payment obligations or other credit or financial requirements established by WideBand, or if in the sole judgment of WideBand, Reseller's creditworthiness becomes impaired, WideBand shall have any or all of the following rights and remedies in addition to any other rights and remedies provided in this Agreement, in any Security Agreement(s) executed by the parties, or under applicable law:
 - i) WideBand may refuse to accept any new orders, may cancel or delay shipment of any orders accepted previously, or may stop any shipments in transit.
 - ii) If WideBand previously has extended credit to Reseller, and WideBand elects to make further sales to Reseller, WideBand may refuse to extend further credit and may require payment by any method it deems necessary for its protection.
 - iii) WideBand may declare all outstanding amounts immediately due and payable, notwithstanding any credit terms previously in effect. WIDEBAND SHALL NOT BE LIABLE TO RESELLER FOR LOSSES OR DAMAGES OF ANY KIND, AS A RESULT OF THE EXERCISE BY WIDEBAND OF ITS RIGHTS AND REMEDIES HEREUNDER.
- f) *Interest.* INTEREST SHALL ACCRUE ON ALL DELINQUENT AMOUNTS AT THE RATE OF ONE AND ONE-HALF (1-1/2%) PERCENT PER MONTH (EIGHTEEN [18%] PERCENT PER ANNUM), FROM THE DUE DATE OF INVOICE. However, if the maximum rate of interest permitted by applicable law or regulations is less than that provided for herein, the interest shall be reduced to the maximum allowable rate.
- g) *Litigation.* In the event that WideBand institutes litigation to collect sums owed by Reseller, WideBand shall be entitled to an award of reasonable attorneys' fees and costs incurred by WideBand in connection with the litigation, if a judgment in WideBand's favor is entered therein.

5. **Orders and Shipments**

- a) *Acceptance of Orders.* Each of Reseller's orders is subject to WideBand acceptance. In addition to any specific rights of rejection set forth in this Agreement, WideBand shall have the right, for any reason whatsoever, to reject any order, in whole or in part.
- b) *No Damages.* WideBand shall endeavor to ship accepted orders within a reasonable time. HOWEVER, WIDEBAND SHALL NOT BE LIABLE TO RESELLER FOR ANY DAMAGES, WHETHER DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR OTHERWISE, FOR FAILURE TO FILL ORDERS, DELAYS IN SHIPMENT OR DELIVERY OR ANY ERROR IN THE FILLING OF ORDERS.
- c) *Partial Shipments.* WideBand shall have the right to make partial shipments with respect to Reseller's orders, which shipments shall be invoiced separately and paid for when due, without regard to subsequent shipments. Delay in shipment or delivery of any particular installment shall not relieve Reseller of its obligation to accept the remaining installments.
- d) *Risk of Loss.* Regardless of the party paying freight charges, all risk of loss of or damage to the Products in transit shall be borne by Reseller, commencing with the placement of the Products in the custody of a carrier or shipping agent at WideBand's loading dock. WideBand shall provide reasonable assistance to Reseller in connection with any claims against carriers.

6. **Product and Parts Changes**

Unless otherwise provided by applicable law, WideBand may change the design and/or specifications of any or all WideBand Products or parts or may discontinue selling any Products or parts at any time. WIDEBAND SHALL NOT BE LIABLE TO RESELLER FOR ANY DAMAGES, WHETHER DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR OTHERWISE, RESULTING FROM ANY DISCONTINUATION OR CHANGES IN PRODUCTS OR PARTS. In the event of changes, WideBand shall have no obligation whatsoever to incorporate such changes or similar changes in any Products or parts previously sold by WideBand to Reseller.



7. **Exclusion of Warranties and Damages for Defects**

- a) *No Warranties to Reseller.* WideBand affords an express warranty to end users of the Products, but makes no other warranties to Reseller. Any and all implied warranties with respect to Products or parts sold by WideBand to Reseller, INCLUDING BUT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, hereby are excluded.
- b) *Warranty by Reseller.* If Reseller elects to offer a warranty to end users with respect to WideBand® Products in addition to the warranty afforded to end users by WideBand, said warranty shall be in Reseller's name only, and Reseller shall not represent to end users (either expressly or by implication) that WideBand has any responsibility under such warranty.
- c) *No Damages.* Unless otherwise provided by applicable law, WideBand's liability, if any, to Reseller for any allegedly defective Product or part shall be limited to repair or replacement of the Product or part, at WideBand's option, and WideBand's LIABILITY, IF ANY, FOR DAMAGES RELATING TO DEFECTIVE PRODUCTS OR PARTS SHALL NOT EXCEED RESELLER'S PURCHASE PRICE FOR THE PRODUCTS OR PARTS IN QUESTION.

8. **Stock Adjustments**

No Products may be returned to WideBand by Reseller for credit or replacement because of Reseller's desire to adjust its stock of the Products, unless advance written authorization has been obtained from WideBand. In the event that WideBand repurchases any of the Products from Reseller or otherwise credits Reseller's account for the purchase price of any of the Products, such repurchase or credit shall be treated as a reduction in Reseller's purchases for purposes of determining whether Reseller is in compliance with any minimum purchase requirements established by WideBand, and for any other purposes relevant to this agreement.

9. **Trade Practices**

- a) *Business Conduct.* Reseller shall conduct its operations in a manner which will not affect adversely, the high image, credibility and reputation of WideBand or the Products.
- b) *Best Efforts.* Reseller shall use its best efforts to stimulate and increase interest in the Products, shall consistently encourage the purchase of the Products by Reseller's customers, and at all times shall represent the Products fairly in comparison with competitive products from other suppliers.
- c) *Unfair Trade Practices.* Reseller at no time shall engage in "bait and switch" or any other unfair trade practices with respect to the Products, and shall make no false or misleading representations with respect to WideBand or the Products. Reseller shall make no representations with respect to WideBand® Product specifications or features, except such as may be approved in writing or published by WideBand.
- d) *Complaints.* If Reseller becomes aware of any complaints or claims concerning WideBand or WideBand® Products by end users or others, Reseller shall advise WideBand promptly.

10. **Compliance with Applicable Laws**

To the extent not otherwise required in this Agreement, Reseller shall comply with all applicable federal, state and local laws and regulations in performing its obligations hereunder and in any of its dealings with the Products.

11. **Trademarks and Tradenames**

- a) *WideBand Ownership.* Reseller acknowledges the exclusive ownership by WideBand or WideBand's parent, subsidiaries or affiliates of all WideBand trademarks utilized in connection with the Products (hereinafter called collectively "WideBand trademarks"). Reseller does not now have and shall not acquire by virtue of this Agreement, any rights in or to WideBand trademarks.
- b) *No Additional Trademarks.* Reseller shall refrain from affixing any additional trademarks to WideBand® Products or otherwise utilizing WideBand trademarks in combination with any other trademark(s). Reseller further shall refrain from affixing any WideBand trademark to Products other than WideBand® Products.
- c) *Scope of "Trademarks".* As used herein, the term "trademarks" shall include all marks, names, slogans, labels, logos and designs used by WideBand, whether registered or unregistered.
- d) *Business Name.* Reseller shall refrain from utilizing any WideBand trademark (or any confusingly similar trademark) in Reseller's corporate or business name.

12. **Duration of Agreement/Termination**

- a) *Termination Provisions.* This Agreement shall remain in effect until terminated by mutual decision of the parties, or at the election of either party, as provided herein. Either Reseller or WideBand shall have the right to terminate this Agreement at will, with or without cause, at any time. If the termination is without cause, thirty (30) days advance written notice must be provided by the terminating party to the other party. EACH PARTY ACKNOWLEDGES THAT SUCH PERIOD IS ADEQUATE TO ALLOW IT TO TAKE ALL ACTIONS REQUIRED TO ADJUST ITS BUSINESS OPERATIONS IN ANTICIPATION OF TERMINATION. If the termination is



for cause, advance written notice may be provided at the option of the terminating party, but shall not be required. "Cause" for purposes of this paragraph shall include, but not necessarily be limited to, the following:

- i) In the case of termination by Reseller, cause shall exist if WideBand breaches any provision of this Agreement.
 - ii) In the case of the termination by WideBand, cause shall exist under any of the following circumstances:
 - a) Failure of Reseller to comply with any marketing requirements set forth in the Handbook.
 - b) Any breach by Reseller of the provision of this Agreement.
 - c) The withdrawal of any present principal from Reseller's business, the addition of any new principal, the sale or transfer of all or any part of Reseller's business or of any authorized location, or any other change in the management or control of Reseller's business.
 - iii) Cause shall exist for termination by either party if the other party attempts to assign this Agreement, except under circumstances permitted under the provisions of paragraph 15 of this Agreement, liquidates or terminates its business, is adjudicated as bankrupt, makes an assignment for the benefit of creditors, invokes the provisions of any law for the relief of debtors, or files or has filed against it any similar proceeding.
- b) *Notification.* All notices and demands of termination by either WideBand or Reseller that they may be required or desire to serve upon the other under the terms of this Agreement shall be in writing and shall be served by courier or by mail at the addresses set forth in this agreement or at such other addresses as are designated hereafter by the parties in writing. If by courier, service shall be deemed complete upon delivery. If by mail, service shall be deemed complete upon mailing.
 - c) *Final Orders.* Upon any termination of this Agreement, any orders outstanding and unshipped as of the termination date shall be deemed canceled, and WideBand shall have no obligation to fill same. If this Agreement is terminated by either party with advance notice, WideBand shall have the right to reject all or any portion of any orders received from Reseller during the period after notice but prior to the effective date of termination (hereinafter call "the final period"), if availability of the Products is insufficient at that time to meet the needs of WideBand and its customers fully. In any event, WideBand may limit shipments during the final period to an amount not exceeding Reseller's average monthly purchases from WideBand during the three (3) months prior to the month in which notice of termination is provided. Notwithstanding any credit terms made available to Reseller prior to that time, any of the Products shipped by WideBand to Reseller during the final period must be paid for by certified or cashier's check prior to shipment.
 - d) *Acceleration.* Termination of this Agreement by WideBand for cause automatically shall accelerate the due date of all of Reseller's outstanding invoices for the Products, so that they shall become due and payable immediately on the effective date of termination, even if longer terms had been provided previously.
 - e) *No Damages.* THIS AGREEMENT IS BEING EXECUTED BY THE PARTIES WITH FULL UNDERSTANDING OF THE AFORESAID TERMINATION PROVISIONS. NEITHER PARTY SHALL BE LIABLE TO THE OTHER BECAUSE OF THE EXERCISE OF ITS TERMINATING RIGHTS, WHETHER FOR COMPENSATION, REIMBURSEMENT FOR INVESTMENTS OR EXPENSES, LOST PROFITS, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR DAMAGES OF ANY OTHER KIND OR CHARACTER.
 - f) *Surviving Obligations.* Notwithstanding the provisions of subparagraph D hereof, the termination of this Agreement shall not affect Reseller's obligations to satisfy any outstanding indebtedness to WideBand and shall not relieve Reseller of any of its other obligations hereunder with respect to Products remaining in Reseller's inventory.

13. **Repurchase Option**

Within ten (10) days following the effective date of any termination of this Agreement, Reseller shall submit to WideBand a list of all WideBand® Products sold by WideBand to Reseller and remaining in Reseller's inventory as of the effective date of termination. WideBand shall have the option to repurchase any or all of said Products, but shall not be required to do so. If WideBand desires to exercise its option hereunder, it shall notify Reseller within thirty (30) days after receipt of the Product list from Reseller. Upon receipt of such notice, Reseller, at its expense, shall cause those Products selected by WideBand for repurchase to be delivered to WideBand's Independence, Missouri location or to such other location in the USA as WideBand may designate. WideBand shall have the right to inspect all returned merchandise before establishing final disposition, and shall be entitled to reject and return to Reseller, freight collect, any Products which, in WideBand's sole judgment, are in unacceptable condition. Reseller shall be credited for any accepted Products at the net invoice process at which such Products were purchased originally by Reseller, less any allowances which WideBand may have provided to Reseller with respect to such Products, and less the costs of any necessary repair, refurbishing or repackaging.

14. **Force Majeure and Damage Exclusions**

Apart from any specific provisions in this Agreement excusing either party's performance or limiting its liability:

- a) *Force Majeure.* Either party shall be excused from any failure or delay in performance (with the exception of any failure or delay by Reseller in making payments to WideBand) resulting directly or indirectly from product shortages, inability to obtain raw materials from usual sources or supply, transit failure or delay, labor restrictions, fire, flood or other acts of nature, accident, wars, civil disturbances, or any other cause(s) beyond such party's reasonable control.



- b) **Damage Exclusions.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL OR SPECIAL DAMAGES IN CONNECTION WITH ANY MATTERS RELATING DIRECTLY OR INDIRECTLY TO THIS AGREEMENT OR ANY OTHER ASPECT OF THE BUSINESS RELATIONSHIP OF THE PARTIES, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES BY THE OTHER PARTY.
15. **Assignment and Notice of Sale**
Reseller may not assign, transfer or sell all or any of its rights under this Agreement (or delegate all or any of its obligations hereunder) without the advance written consent of WideBand. If a sale or other transfer of the business conducted by Reseller is contemplated (whether by transfer of stock, assets or otherwise), Reseller shall notify WideBand in writing not less than thirty (30) days prior to effecting such transfer, but such notice shall not obligate WideBand to deal with the transferee. WideBand may assign this Agreement only to a parent, subsidiary or affiliated firm or to another entity in connection with the business assets. Subject to these restrictions, the provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their successors and their permitted assigns.
16. **Mutual Release and Limitations on Future Claims**
a) **Release.** Except as reserved herein, in consideration of their mutual execution of this Agreement, WideBand and Reseller agree to and do hereby release each other of and from all manner of actions, suits, contracts, controversies, damages, claims and demands whatsoever, whether known or unknown, whether in law or in equity, whether under laws or regulations of federal, state or municipal governments, or under the common law, which such parties or their respective successors or assigns ever had, now have, or which they or any of them hereafter can, shall or may have against the other party by reason of any matter, cause or thing whatsoever, from the beginning of time until the date hereof. If Reseller previously has purchased merchandise from WideBand, WideBand reserves its rights against Reseller for payment of any outstanding indebtedness.
b) **Limitations Period.** Notwithstanding any contrary statute(s) of limitations, and except as otherwise provided herein, both WideBand and Reseller agree that any action hereafter arising out of the relationship between WideBand and Reseller, including any action for alleged breach of this Agreement, shall be barred unless commenced by the aggrieved party within one (1) year after the cause of action relating to such matter first accrues. The aforesaid one (1) year limitation shall not apply to any actions by WideBand against Reseller arising from any delinquencies in payment with respect to purchases from WideBand.
17. **Relationship of the Parties**
The relationship between WideBand and Reseller is that of buyer and seller only. Nothing stated in this Agreement shall be construed as creating the relationships of employer and employee, franchiser and franchisee, master and servant, principal and agent, partnership or joint venture between the parties. Reseller shall be deemed an independent contractor at all times, and shall have no express or implied right or authority to assume or create any obligation on behalf of WideBand.
18. **Waiver**
The waiver by either party of any of its rights or any breaches of the other party under this Agreement in a particular instance shall not be construed as a waiver of the same or different rights or breaches in subsequent instances. All remedies, rights, undertakings and obligations hereunder shall be cumulative, and none shall operate as a limitation of any other.
19. **Notices**
All notices and demands of any kind which either WideBand or Reseller may be required or desire to serve upon the other under the terms of this Agreement shall be in writing and shall be served by courier or by mail at the addresses set forth in this agreement or at such other addresses as are designated hereafter by the parties in writing. If by courier, service shall be deemed complete upon delivery. If by mail, service shall be deemed complete upon mailing.
20. **Paragraph Headings and Language Interpretations**
The paragraph headings contained herein are for reference only and shall not be considered substantive provisions of this Agreement. The use of a singular or plural form in this Agreement shall include the other form, and the use of masculine, feminine, or neuter gender shall include the other genders.
21. **Severability**
In the event that any of the provisions of this Agreement or the application of any such provisions to the parties hereto with respect to their obligations hereunder shall be held by a court of competent jurisdiction to be unlawful or unenforceable, the remaining provisions of this Agreement shall not be affected, impaired, or invalidated in any manner.
22. **Entire Agreement**
This Agreement, together with any other documents incorporated herein by reference, constitutes the entire Agreement between the parties hereto pertaining in any manner to the subject matter hereof, and contains all of the covenants and undertakings between the parties with respect to such subject matter. Each party to this Agreement acknowledges that no written or oral representations, inducements, or promises



have been made which are not embodied herein. IT IS THE INTENTION AND DESIRE OF THE PARTIES THAT THE EXPRESS PROVISIONS OF THIS AGREEMENT NOT BE SUBJECT TO VARIATION BY IMPLIED COVENANTS OF ANY KIND. Except as otherwise provided herein, any and all prior or contemporaneous written or oral agreements between the parties pertaining in any manner to any WideBand® Products, presently or previously marketed by WideBand, expressly are superseded and canceled by this Agreement. Notwithstanding anything contained herein, this Agreement shall not be deemed to supersede or otherwise impair in any manner, any security Agreement(s) as may have been executed previously by the parties. Except as otherwise provided in this Agreement, this Agreement may not be modified, supplemented, or amended, excepted by written instrument executed by both parties.

23. **Applicable Law, Forum Selection, and Consent to Jurisdiction**

THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED IN ALL RESPECTS IN ACCORDANCE WITH THE LAWS OF THE STATE OF MISSOURI, WITHOUT REGARD TO MISSOURI'S CONFLICTS OF LAW PRINCIPLES ANY LITIGATION INSTITUTED BY RESELLER AGAINST WIDEBAND RELATING TO ANY BREACH OR TERMINATION OF THIS AGREEMENT OR OTHERWISE RELATING DIRECTLY OR INDIRECTLY TO THIS AGREEMENT MUST BE FILED BY RESELLER BEFORE A COURT OF COMPETENT JURISDICTION IN MISSOURI. RESELLER HEREBY CONSENTS IRREVOCABLY TO THE JURISDICTION OF THE MISSOURI COURTS OVER ITS PERSON IN THE EVENT THAT WIDEBAND ELECTS TO INSTITUTE LITIGATION AGAINST RESELLER IN MISSOURI RELATING DIRECTLY OR INDIRECTLY TO THIS AGREEMENT. IN SUCH EVENT, SERVICE SHALL BE CONSIDERED EFFECTIVE IF SENT BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, POSTAGE PREPAID.

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