



1060 Port Walthall Drive, Colonial Heights, Chesterfield County, VA, 23834
Phone 1-(804)-451-5211

TERMS AND CONDITIONS OF SALE

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this condition apply in these conditions.

Acknowledgement of Order: the acknowledgement of order sent by the Company to the Buyer under condition 2.5.

Buyer: the person, firm or company who purchases the Goods from the Company.

Company: BGB Technology Inc. (registered in the Commonwealth of Virginia under SCC ID #047478092).

Contract: any contract between the Company and the Buyer for the sale and purchase of the Goods, incorporating these conditions.

Delivery Point: the place where delivery of the Goods is to take place under condition 4.

Goods: any goods agreed in the Contract to be supplied to the Buyer by the Company (including any part or parts of them).

1.2 A reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Words in the singular include the plural and in the plural include the singular.

1.4 A reference to one gender includes a reference to the other gender.

1.5 Condition headings do not affect the interpretation of these conditions.

2. APPLICATION OF TERMS

2.1 Subject to any variation under condition 2.3 the Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document). Buyer will be deemed to have assented to all terms and conditions contained herein if any part of the Goods and/or services are shipped or an invoice is presented in connection with said Goods or Services.

- 2.2 No terms or conditions endorsed on, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.
- 2.3 These conditions apply to all the Company's sales and any variation to these conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by the authorized representatives of the Company. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract.
- 2.4 Each order or acceptance of a quotation for Goods by the Buyer from the Company shall be deemed to be an offer by the Buyer to buy Goods subject to these conditions.
- 2.5 No order placed by the Buyer shall be deemed to be accepted by the Company until a written Acknowledgement of Order is issued by the Company or (if earlier) the Company delivers the Goods to the Buyer.
- 2.6 The Buyer shall ensure that the terms of its order and any applicable specification are complete and accurate.
- 2.7 Any quotation is given on the basis that no Contract shall come into existence until the Company dispatches an Acknowledgement of Order to the Buyer. Any quotation is valid for a period of 90 days only from its date, provided that the Company has not previously withdrawn it.

3. DESCRIPTION

- 3.1 The quantity and description of the Goods shall be as set out in the Company's quotation or acknowledgement of order.
- 3.2 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample.

4. DELIVERY

- 4.1 The Goods shall be delivered to the Buyer's place of business or to such other place as is agreed in the Acknowledgement of Order by the Company
- 4.2 The Company shall ship the Goods to the Buyer within 7 days of the shipping date set out in the Acknowledgement of Order.
- 4.3 Any dates specified by the Company for delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice unless otherwise agreed by the Company in the Acknowledgement of Order. If no dates are so specified, delivery shall be within a reasonable time.
- 4.4 Subject to the other provisions of these conditions the Company shall not be liable for any direct, indirect, special, incidental or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence), nor shall any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 180 days.

- 4.5 If for any reason the Buyer fails to accept delivery of any of the Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licenses or authorizations:
- (a) Risk of loss in the Goods shall pass to the Buyer (including for loss or damage caused by the Company's negligence);
 - (b) The Goods shall be deemed to have been delivered; and
 - (c) The Company may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).
- 4.6 The Buyer shall provide at the Delivery Point and at its expense adequate and appropriate equipment and manual labor for unloading the Goods. The cost of any special packing or special handling caused by Buyer's requirements or requests shall be added to the amount of the order. If Buyer causes or requests a shipment delay, or if the Company ships or delivers the products erroneously as a result of inaccurate, incomplete or misleading information supplied by Buyer or its agents or employees, storage and all other additional costs and risks shall be borne solely by Buyer.
- 4.7 If the Company delivers to the Buyer a quantity of Goods of up to 10 % more or less than the quantity accepted by the Company, the Buyer shall not be entitled to object to or reject the Goods or any of them by reason of the surplus or shortfall and shall pay for such goods at the pro rata Contract rate.
- 4.8 The Company may deliver the Goods by separate installments. Each separate installment shall be invoiced and paid for in accordance with the provisions of the Contract.
- 4.9 Each installment shall be a separate Contract and no cancellation or termination of any one Contract relating to an installment shall entitle the Buyer to repudiate or cancel any other Contract or installment.
- 4.10 Claims for damage, shortage or errors in shipping must be reported within one (1) day following delivery to Buyer. Buyer shall have seven (7) days from the date Buyer receives any products to inspect such products and services for defects, nonconformance which are not due to damage, shortage or errors in shipping and notify the Company, in writing, of any defects, nonconformance or rejection of such products. After such seven (7) day period, Buyer shall have no right to reject the products for any reason or to revoke acceptance. Buyer hereby agrees that such seven (7) day period is a reasonable amount of time for such inspection and revocation. Buyer shall have no right to order any change or modification to any product or service previously ordered by the Buyer or its representatives, or cancel any order without the Company's written consent and payment to the Company of all charges, expenses, commissions and reasonable profits owed to or incurred by the Company. Specially fabricated or ordered items may not be canceled or returned, and no refund will be made. The sole and exclusive remedy for merchandise alleged to be defective in workmanship or material will be the replacement of the merchandise subject to the manufacturer's inspection and warranty.

5. NON-DELIVERY

- 5.1 The quantity of any consignment of Goods as recorded by the Company on dispatch from the Company's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.
- 5.2 The Company shall not be liable for any non-delivery or Goods or delivery on non-conforming Goods unless Buyer gives written notice to the Company setting for the basis for such claim. Claims for damage, shortage or errors in shipping must be reported within one (1) day following delivery to Buyer. Buyer shall have seven (7) days from the date Buyer receives any products to inspect such products and services for defects, nonconformance which are not due to damage, shortage or errors in shipping and notify the Company, in writing, of any defects, nonconformance or rejection of such products. After such seven (7)

day period, Buyer shall have no right to reject the products for any reason or to revoke acceptance. Buyer hereby agrees that such seven (7) day period is a reasonable amount of time for such inspection and revocation. Buyer shall have no right to order any change or modification to any product or service previously ordered by the Buyer or its representatives or cancel any order without the Company's written consent and payment to the Company of all charges, expenses, commissions and reasonable profits owed to or incurred by the Company. Specially fabricated or ordered items may not be canceled or returned, and no refund will be made. The sole and exclusive remedy for merchandise alleged to be defective in workmanship or material will be the replacement of the merchandise subject to the manufacturer's inspection and warranty.

5.3 Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

6. RISK/TITLE

6.1 The Goods are at the risk of the Buyer from the time of shipping.

6.2 Ownership of the Goods shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:

- (a) The Goods; and
- (b) All other sums which are or which become due to the Company from the Buyer on any account.

6.3 Until ownership of the Goods has passed to the Buyer, the Buyer shall:

- (a) Hold the Goods on a fiduciary basis as the Company's bailee;
- (b) Store the Goods (at no cost to the Company) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;
- (c) Not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
- (d) Maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer shall produce the policy of insurance to the Company.6.4 The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:
- (e) Any sale shall be effected in the ordinary course of the Buyer's business at full market value; and
- (f) Any such sale shall be a sale of the Company's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.

6.4 The Buyer's right to possession of the Goods shall terminate immediately if:

- (a) The Buyer shall fail to pay its debts generally as they become due; or (ii) or shall commence any bankruptcy or insolvency proceeding with respect to itself, an involuntary insolvency proceeding shall be filed against Buyer, or a custodian, receiver, trustee, assignee for the benefit of creditors, or other similar official, shall be appointed to take

possession, custody or control of the properties of Buyer, and such involuntary insolvency proceeding, petition or appointment is acquiesced to by Buyer or is not dismissed within forty five (45) days; or the dissolution, winding up, or termination of the business or cessation of operations of Buyer; or Buyer shall take any corporate action for the purpose of effecting, approving, or consenting to any of the foregoing; or

- (b) The Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Company and the Buyer, or is unable to pay its debts as they become due or the Buyer otherwise terminates its existence or winds up its operations.; or
- (c) The Buyer encumbers or in any way charges any of the Goods.

- 6.5 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.
- 6.6 The Buyer grants the Company, its agents and employees an irrevocable license at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.
- 6.7 Where the Company is unable to determine whether any Goods are the goods in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have sold all goods of the kind sold by the Company to the Buyer in the order in which they were invoiced to the Buyer.
- 6.8 On termination of the Contract, howsoever caused, the Company's (but not the Buyer's) rights contained in this condition 6 shall remain in effect.

7. PRICE

- 7.1 Unless otherwise agreed by the Company in writing, the price for the Goods shall be the price set out in the Acknowledgement of Order published on the date of delivery or deemed delivery.
- 7.2 The price for the Goods shall, unless otherwise stated in the Acknowledgment of Order, be exclusive of any value added tax and all costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Buyer shall pay in addition when it is due to pay for the Goods.
- 7.3 The amount of any sales, excise or other taxes, if any, applicable to the products shall be added to the purchase price and shall be paid by Buyer unless Buyer provides the Company with an exemption certificate acceptable to the taxing authorities. Any taxes which the Company 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 or consumption of any of the products, including taxes upon or measured by the receipts from the sale thereof, shall be for the account of the Buyer, who shall promptly pay the amount thereof to the Company upon demand.
- 7.4 Certain raw and base material prices are at the influence of global commodity markets, as such the Company reserves the right to adjust quotes and prices accordingly at any time.

8. PAYMENT

- 8.1 Subject to condition 8.4, payment of the price for the Goods is due in the currency stated in the Acknowledgement of Order or, if not stated, in United States Dollar (USD) on the last working day of the month following the month in which the Goods are invoiced.
- 8.2 Time for payment shall be of the essence.

- 8.3 No payment shall be deemed to have been received until the Company has received cleared funds.
- 8.4 All payments payable to the Company under the Contract shall become due immediately on its termination despite any other provision.
- 8.5 The Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.
- 8.6 If the Buyer fails to pay the Company any sum due pursuant to the Contract, the Buyer shall be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 3% above the prime rate of interest as published in the Wall Street Journal. Such default interest shall be imposed at a rate that is the highest legally permitted under applicable law.
- 8.7 In the event that payment is not made for the Goods by the Buyer on time in accordance with this condition 8 then the Company shall be entitled to terminate any other contract it has with the Buyer at such time and shall have no further obligation to deliver any goods under any other contract it may have with the Buyer and the Company shall not be liable for any damages to the Buyer under such contract for any failure to deliver such goods.

9. QUALITY

- 9.1 Where the Company is not the manufacturer of the Goods, the Company shall use reasonable endeavors to transfer to the Buyer the benefit of any warranty or guarantee given to the Company.
- 9.2 THE WARRANTIES CONTAIN HEREIN ARE EXCLUSIVE AND ARE GIVEN IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED, IMPLIED OR STATUTORY, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL OTHER OBLIGATIONS AND LIABILITIES.

BUYER ALSO ACKNOWLEDGES THAT THE COMPANY IS NOT RESPONSIBLE FOR (i) the maintenance or other expenses to be incurred in connection with the Goods, (ii) the engineering, design, fabrication work or any other work or service (whether gratuitous or for payment supplied by the Company and/or its agents, suppliers and employees or (iii) the accuracy or reliability of any information, designs or documents furnished to Buyer. The Company neither assumes, nor authorizes any person to assume for it, any other obligation in connection with the sale of its products and/or rendering of its services. Any recommendations made by the Company concerning the use, design, application or operation of the products shall not be construed as representations or warranties, expressed or implied. Failure by the Company to make recommendations or give advice to Buyer regarding the Goods shall not impose any liability upon the Company. The Company warrants that (subject to the other provisions of these conditions) on delivery, the Goods shall conform to the specifications set forth in the purchase order. There are no warranties which extend beyond the description on the face hereof.

- 9.3 The Company shall not be liable for a breach of the warranty in condition 9.2 unless:
- (a) The Buyer gives written notice of the defect to the Company, and, if the defect is as a result of damage in transit to the carrier, within 7 days of the time when the Buyer discovers or ought to have discovered the defect; and
 - (b) The Company is given a reasonable opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by the Company) returns such Goods to the Company's place of business for the examination to take place there.

- 9.4 The Company shall not be liable for a breach of the warranty in condition 9.2 if:
- (a) The Buyer makes any further use of such Goods after giving such notice; or
 - (b) The defect arises because the Buyer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or
 - (c) The Buyer alters or repairs such Goods without the written consent of the Company.
- 9.5 Subject to conditions 9.3 and 9.4, if any of the Goods do not conform with the warranty in condition 9.2 the Company shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Company so requests, the Buyer shall, return the Goods or the part of such Goods which is defective to the Company.
- 9.6 If the Company complies with condition 9.5 it shall have no further liability for a breach of any of the warranties in condition 9.2 in respect of such Goods.
- 9.7 Other than as expressly set forth in Section 9.2, there are no warranties which extend beyond the description on the face hereof and/or contained in the purchase order.

10. LIMITATION OF LIABILITY

- 10.1 Subject to condition 4, condition 5 and condition 9, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:
- (a) Any breach of these conditions;
 - (b) Any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and
 - (c) Any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 10.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 10.3 Nothing in these conditions excludes or limits the liability of the Company:
- (a) For death or personal injury caused by the Company's gross negligence; or
 - (b) For any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or
 - (c) For fraud or fraudulent misrepresentation.
- 10.4 Subject to condition 10.2 and condition 10.3:
- (a) The Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price; and
 - (b) The Company shall not be liable to the Buyer for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect or consequential, or which arise out of or in connection with the Contract.

- 10.5 The Buyer shall at its own expense apply for and obtain any permits and inspections required for the installation and/or use of the Goods. The Company makes no promise or representation that the Goods or services will conform to any federal, state or local laws ordinances, regulations, codes or standards, except as particularly specified and agreed upon in writing by an authorized representative of the Company. The Company shall not be responsible for any losses or damages sustained by the Buyer or any other person as a result of improper installation or misapplication of the Goods. Buyer shall defend, indemnify and hold harmless the Company and its agents and employees against any loss, damage, claim, suit, liability, judgment or expense (including, without limitation attorney's fees) arising out of or in connection with any injury, disease or death of persons (including, without limitation Buyer's employees and agents) or damage to or loss of any property or the environment, or violation of any applicable laws or regulations resulting from or in connections with the sale, transportation, installation, use, or repair of the concurrent and/or contributory negligence of Buyer, the Company, or any of their agents, employees or suppliers. The obligations, indemnities and covenants contained in this paragraph shall survive the consummation or termination of the transaction.

11. ASSIGNMENT

- 11.1 The Company may assign the Contract or any part of it to any person, firm or company.
- 11.2 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

12. FORCE MAJEURE

The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 30 days, the Buyer shall be entitled to give notice in writing to the Company to terminate the Contract.

13. GENERAL

- 13.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 13.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 13.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 13.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 13.5 The parties to the Contract do not intend that any term of the Contract shall be enforceable by any person that is not a party to it. There are no third party beneficiaries of this Contract.

13.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by Virginia law and the parties submit to the exclusive jurisdiction of the state and federal courts located in the Commonwealth of Virginia.

14. COMMUNICATIONS

14.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax or by e-mail:

- (a) (In case of communications to the Company) to its registered office or such changed address or e-mail address as shall be notified to the Buyer by the Company; or
- (b) (In the case of the communications to the Buyer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of the Contract or such other address or e-mail address as shall be notified to the Company by the Buyer.

14.2 Communications shall be deemed to have been received:

- (a) If sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or
- (b) If delivered by hand, on the day of delivery;
- (c) If sent by fax on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day; or
- (d) If sent by e-mail on delivery.

14.3 Communications addressed to the Company shall be marked for the attention of the appropriate department (Sales, Quality, and Technical) of BGB Technology Inc. 1060 Port Walthall Drive, Colonial Heights, Virginia, 23834.

15 COMPLIANCE WITH U.S. EXPORT REGULATIONS

The Buyer is hereby placed on notice that the technical data or hardware furnished with this quotation or order acknowledgment may relate to articles controlled by the U.S. Government for export and may, therefore, be subject to export licensing requirements and limitations on disclosure or shipment to foreign nationals under U.S. Law. Federal, criminal and civil penalties may result from any violation of these export provisions. BUYER INDEMNIFIES BGB TECHNOLOGY INC. FROM ANY BREACH OF SUCH REQUIREMENTS AND LAWS FOLLOWING BUYER'S RECEIPT OF EXPORT CONTROLLED DATA OR HARDWARE.