

INTERPRETATION

1.1 In these Conditions the following words have the following meanings:

Word	Meaning
“The Buyer”	the person(s), firm or company who purchases the Goods from the Company
“The Company”	BBG Distribution Limited (Co Reg No.02695946) whose registered office is at Unit 3, Watford Interchange, Colonial Way, Watford, WD24 4WP.
“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 the 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 In these Conditions references to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.

1.3 In these Conditions references to the masculine include the feminine and the neuter and to the singular include the plural and vice versa as the context admits or requires.

1.4 In these Conditions headings will not affect the construction of these Conditions.

APPLICATION OF TERMS

2.1 Subject to any variation under Condition 2.3, the Contract will be on these Conditions to the exclusion of all other terms and conditions (including any terms and conditions which the Buyer purports to apply under any purchase order confirmation of order, specification or other document, unless the Company expressly agrees otherwise in writing).

2.2 No terms or conditions endorsed upon, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document will 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 and signed by a director of the Company.

2.4 Each order for Goods by the Buyer shall be deemed to be an offer by the Buyer to purchase 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 delivery of the Goods to the Buyer; and

2.6 The Buyer must ensure that the terms of its order and any applicable specification are complete and accurate.

DESCRIPTION

- 3.1 All 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 publicised for the sole purpose of giving an approximate idea of the Goods described in them. They will not form part of this Contract.

DELIVERY

- 4.1 Unless otherwise agreed in writing by the Company delivery of the Goods shall take place at the Company's principal place of business.
- 4.2 The Buyer will take delivery of the Goods within 14 days of the Company giving notice that the Goods are ready for delivery.
- 4.3 Any dates specified for delivery of the Goods are intended to be an estimate. If no dates are so specified, delivery will be within a reasonable time.
- 4.4 Subject to the other provisions of these Conditions the Company will not be liable for any loss (including loss of profit), 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 will any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 90 days.
- 4.5 If for any reason the Buyer will not 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, licences or authorisations:
- 4.5.1 risk in the Goods will pass to the Buyer (including loss or damage caused by the Company's negligence);
 - 4.5.2 the Goods will be deemed to have been delivered; and
 - 4.5.3 the Company may store the Goods until delivery whereupon the Buyer will be liable for all related costs and expenses (including limitation storage and insurance).
- 4.6 The Buyer will provide at its expense at the Delivery Point adequate and appropriate equipment and manual labour for loading and/or unloading the Goods.

NON-DELIVERY

- 5.1 The quantity of any consignment of Goods as recorded by the Company upon despatch 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 of Goods (even if caused by the Company's negligence) unless written notice is given to the Company within 14 days of the date when the Goods would in the ordinary course of events have been received.
- 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.

RISK/TITLE

- 6.1 The Goods are at the risk of the Buyer from the time of delivery.
- 6.2 Delivery to a carrier is to be treated as delivery to the Buyer.
- 6.3 Ownership of the Goods shall not pass to the Buyer until the Company has received in full (cash or cleared funds) all sums due to it in respect of:
- 6.3.1 the Goods; and

- 6.3.2 all other sums which are or which become due to the Company from the Buyer on any account.
- 6.4 Until ownership of the Goods has passed to the Buyer, the Buyer must:
- 6.4.1 hold the Goods on a fiduciary basis as the Company's bailee;
 - 6.4.2 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;
 - 6.4.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods, such as the serial number;
 - 6.4.4 maintain the Goods in satisfactory condition 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; and
 - 6.4.5 hold the proceeds of the insurance referred to in condition 6.4.4 on trust for the Company and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.
- 6.5 The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:
- 6.5.1 any sale shall be effected in the ordinary course of the Buyer's business at full market value; and
 - 6.5.2 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 and the Buyer shall hold such part of the proceeds of sale as represent the amount owed by the Buyer to the Company on behalf of the Company and the Buyer shall account to the Company accordingly.
- 6.6 The Buyer's right to possession of the Goods shall terminate immediately if:
- 6.6.1 the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any Act for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or a resolution is passed or a petition presented to any court for the winding up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or
 - 6.6.2 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 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 within the meaning of section 123 Insolvency Act 1986 or the Buyer ceases to trade; or
 - 6.6.3 the Buyer encumbers or in any way charges any of the Goods.
- 6.7 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.
- 6.8 The Buyer grants the Company, its agents and employees an irrevocable licence 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.

PRICE

- 7.1 Unless otherwise agreed by the Company in writing, the price for the Goods shall be the price set out in the Company's price list published on the date of the written acknowledgement of order issued by the Company.

- 7.2 The price for the Goods shall be exclusive of any value added tax and all costs or charges in relation to loading, unloading, carriage, and insurance all of which amounts the Buyer will pay in addition when it is due to pay for the Goods.
- 7.3 The Company may by giving notice to the Buyer at any time up to 7 days before delivery increase the price of the goods to reflect any increase in the cost to the Company which is due to factors occurring after the making of the contract of sale which are beyond the reasonable control of the Company (including, without limitation, foreign exchange fluctuations, taxes and duties and the cost of labour, materials and other manufacturing costs). Provided that the Buyer may cancel the Contract incorporating these Conditions within 7 days of receipt of any such notice from the Company.

PAYMENT

- 8.1 Except where the Buyer is dealing as consumer, payment of the price for the Goods is due within 30 days of the date of the Company's invoice. Where the Buyer is dealing as consumer, payment of the price of the Goods is due on delivery of the Goods.
- 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 clear funds.
- 8.4 All payments payable to the Company under the Contract shall become due immediately upon termination of this Contract despite any other provision.
- 8.5 The Buyer shall make all payments due under the Contract 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 has an approved credit account and the Buyer fails to pay to the Company any sum due pursuant to the Contract the Buyer will be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 2% above the base lending rate from time to time of Barclays Bank Plc on a daily basis until payment is made, whether before or after any judgement.

QUALITY

- 9.1 Where the Company is not the manufacturer of the Goods, the Company will endeavour to transfer to the Buyer the benefit of any warranty or guarantee given to the Company.
- 9.2 The Company warrants that (subject to the other provisions of these Conditions) upon delivery and for a period of 6 months from the date of delivery the Goods will be of satisfactory quality within the meaning of the Sale of Goods Act 1994.
- 9.3.1 The Company shall not be liable for breach of the warranty in 9.2 unless:
- 9.3.1.1 the Buyer gives written notice of the defect to the Company within 14 days of delivery; and
- 9.3.1.2 the Buyer has obtained a valid return authorisation from the Company. An authorisation can be obtained from Product Support on:
Tel: 01923 205630
Fax: 01923 205631
Email: tech@bbg.eu.com
- 9.3.1.3 the Company is given a reasonable opportunity after receiving the notice of examining such Goods which may be at the Buyer's cost, and the Buyer if asked to do so by the Company returns the Goods to the Company at the Buyer's cost for the examination to take place there.
- 9.3.2 all returned goods are to be packaged for transit, and accompanied by proof of customer purchase and the return authorisation number.

9.3.3 the address for returning Goods (unless advised otherwise) is:

BBG Distribution Limited
Unit 3 Watford Interchange
Colonial Way, Watford
Hertfordshire WD24 4WP

9.3.4 Stock returns will only be accepted with prior written authorisation and will be subject to a re-stocking charge at the discretion of the company which shall be based upon the condition and state of repair of the stock returns at the dealer price current at the time of return (including any applicable discounts). Special orders for non-stocked items are non-returnable save with the prior written authorisation of a director who shall be entitled to use his absolute discretion.

9.4 The Company shall not be liable for a breach of the warranty in condition 9.2 if:

9.4.1 the Buyer makes any further use of such Goods after giving notice; or

9.4.2 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 is none) good trade practice; or

9.4.3 the Buyer alters or repairs such Goods without the written consent of the Company; or

9.4.4 the serial number on the Goods has been altered or defaced.

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 the 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, at the Buyer's expense, 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 the warranty in condition 9.2 in respect of such Goods.

9.7 Any Goods replaced will belong to the Company and any repaired or replacement Goods will be guaranteed on these terms for the unexpired portion of the 6 months period.

CANCELLATION

10.1 The Company may cancel the Contract at any time before the Goods are delivered by giving written notice.

10.2 On giving such notice the Company shall promptly repay to the Buyer any sums paid in respect of the price of Goods.

10.3 The Company shall not be liable for any loss or damage whatever arising from such cancellation.

LIMITATION OF LIABILITY

11.1 Subject to 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:

11.1.1 any breach of these Conditions; and

11.1.2 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

11.2 Except where the Buyer is dealing as consumer, all warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods 1979) are, to the fullest extent permitted by law, excluded from the Contract.

11.3 Nothing in these Conditions excludes or limits the liability of the Company for death or personal injury caused by the Company's negligence or fraudulent misrepresentation.

11.4 Subject to condition 11.2 and 11.3:

11.4.1 the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the Contract price; and

11.4.2 the Company shall not be liable for any indirect loss or damage (whether for loss of profit, loss of business, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation (howsoever caused) which arise out of or in connection with the Contract.

12 ASSIGNMENT

12.1 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

12.2 The Company may assign the Contract or any part of it to any person, firm or company.

13 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, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either parties 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 60 days, the Buyer shall be entitled to give notice in writing to the Company to terminate the Contract.

14 GENERAL

14.1 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.

14.2 If the provision of the Contract is found by a 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 force and full effect.

14.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract

14.4 Any waiver by the Company of any breach of, or any default under, any provision of the Contract by the Buyer will not be deemed to be a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.

14.5 English law shall govern the formation, existence, construction, performance, validity and all aspects of the Contract and the parties submit to the exclusive jurisdiction of the English courts.

15 CREDIT ACCOUNTS

15.1 All credit accounts are given at the Company's discretion and may be cancelled at any time.

15.2 The Company reserves the right to impose a credit limit on an account and may suspend credit facilities should the limit be exceeded, or the account be outside terms.

16 COMMUNICATIONS

- 16.1 All communications between the parties about this Contract must be in writing and delivered by hand or sent by pre-paid first class post or sent by facsimile transmission:
- 16.1.1 (in case of communications to the Company) to its registered office or such changed address as shall be notified to the Buyer by the Company; or
 - 16.1.2 (in the case of 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 this Contract or such other address as shall be notified to the Company by the Buyer.
- 16.2 Communications shall be deemed to have been received:
- 16.2.1 if paid by pre-paid first class post, 2 days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting);
 - 16.2.2 if delivered by hand, on the day of delivery;
 - 16.2.3 if sent by facsimile transmission on a working day prior to 4.00 pm, at the time of transmission and otherwise the next working day.
- 16.3 Communications addressed to the Company shall be marked for the attention of a director.