



Terms and Conditions (T&C) for Sale

Blue Door Networks T&C's

THESE TERMS AND CONDITIONS ("AGREEMENT") CONSTITUTE A BINDING AGREEMENT BETWEEN BLUE DOOR NETWORKS, LLC ("BDN" or "WE") AND THE COMPANY ("CUSTOMER", "CLIENT" OR "YOU").

1. **Product for Client Use Only.** You agree that you are purchasing Blue Door Networks products and services for your own internal use and not for resell or exportation.

2. **Incorporation.** This Agreement, the related Blue Door Networks "Quotation," and any Blue Door Networks document identified herein, represents the complete and entire agreement between the parties. No other terms, whether written, electronic, or verbal, shall change this Agreement unless the parties jointly and specifically agree. A Blue Door Networks Statement of Work or a Client purchase order are for planning or administrative purposes only and do not change or amend these terms.

3. **Product Availability.** Fulfillment is not guaranteed and is dependent upon availability. Blue Door Networks may cancel part or the entire order if we cannot fulfill it. We may revise or discontinue any product or service and we may utilize the latest design or equivalent products where such interchangeability does not materially affect form, fit, or function, all without notice, yet striving for your satisfaction. Parts used in repair or service may be new or reconditioned.

4. **Payment Terms.** Payment terms are "Net thirty (30) days" from the date of Blue Door Networks' invoice. Blue Door Networks can, and Client agrees, that a full or partial payment may be required in advance at Blue Door Networks' discretion. Past due amounts are subject to a service charge equal to the lesser of 1.5% per month or the maximum rate permitted by law.

5. **Taxes.** You agree to pay any consumption, excise, sales, value added or other tax which may be applicable to the transactions conducted under this Agreement, whether included in the transaction or separately invoiced, unless you furnish Blue Door Networks with a valid exemption certificate.

6. **Order Changes and Cancellation.** A change order, up to and including cancellation, must be in writing and accepted by Blue Door Networks. Should a change occur, Blue Door Networks, at its sole discretion, may issue another Quotation which would be subject to these terms and conditions if ratified by you. If an order is cancelled, the Client will pay (a) for original and return shipping, even if such has already occurred; (b) any restocking fee if such is applicable; and (c) for any service work performed before the cancellation, including custom work, performed by Blue Door Networks or its contractors, including any expenses that are attributed to any service work.

7. **Shipment.** Blue Door Networks' standard product shipment terms are "F.O.B. origin, freight prepaid" unless the Quotation indicates otherwise. Title to, and risk of loss or damage to, the products shall pass to you upon Blue Door Networks' delivery of the products to a carrier for shipment. Title to software will remain with the applicable licensor(s).

Blue Door Networks reserves the right to use its own discretion in the manner and routing of shipments. You acknowledge that Blue Door Networks may receive volume discounts from its carriers and that such discounts will not be credited or refunded to you. Blue Door Networks shall be permitted to deliver products in separate lots.

8. **Delivery of Products & Services.** All sales are final. We will make our best commercially reasonable effort to deliver products or perform services on time and we stand eager to perform. Yet because Blue Door Networks performance is many times based on information that has to be obtained from you, any and all delivery/performance promise dates are approximate. Because of this required cooperation in every aspect of this transaction, Blue Door Networks is not be liable for any breach of contract or held responsible for any costs or expenses incurred by you as a result of Blue Door Networks failure to deliver in the time promised. So that we may perform, you hereby grant to Blue Door Networks and its subcontractors authority to enter the property upon which services are to be performed. If Blue Door Networks is delayed because of you in any way, regardless of intent or lack thereof, you agree to pay costs and expenses, plus Blue Door Networks then-current standard rate of profit for similar work.

9. **Security Interest.** Until you pay in full for all products that are the subject of this transaction, you will grant Blue Door Networks a purchase money security interest in the products listed in the Quotation in the amount of their purchase price plus all attorneys' fees and costs of collection. You will provide reasonable assistance in perfecting this interest including, but not limited to, filing a copy of the order confirmation on Blue Door Networks behalf with appropriate state authorities as a financing statement. Blue Door Networks shall have all rights and remedies of a secured party under the applicable provisions of the Uniform Commercial Code.

10. **Enforcement.** You shall reimburse Blue Door Networks for all attorneys' fees, court costs and other expenses incurred by Blue Door Networks to enforce this Agreement.

11. Confidential Information and Proprietary Rights

11.1 The term Confidential Information as it is used in this Section shall mean all information which is considered confidential or proprietary to Client, the Blue Door Networks, or to a Client of the Client who may have granted Client the right to use one or more of their computer software systems, in whole or in part.

11.2 Confidential Information shall be deemed to include, but not be limited to, the Trade Secrets, the Proprietary Software, all components of the computer software systems which are used in the conduct of business whether or not those systems are owned by Client or by the Client, and all other

information or material relating to the business affairs or procedures of Client or a Client of the Client and its subsidiaries or affiliates.

11.3 With respect to protection of the confidentiality of Confidential Information, Blue Door Networks and Client hereby agree as follows: (a) Confidential Information will not at any time be disclosed, in whole or in part, to any other firm or organization or to any other person who is not of necessity authorized by Client to use the Confidential Information, nor will Blue Door Networks or Client use Confidential Information for any purpose other than in the performance of their authorized duties under the terms of this Agreement; (b) Blue Door Networks and Client agree they will not copy or reprint Confidential Information, in whole or in part, except as may be required in performance of duties required under this Agreement; and (c) Blue Door Networks and Client will protect any Confidential Information which is in their possession by not removing it from an authorized site without prior written permission of the other party to this Agreement. Pursuant to the above, Blue Door Networks may be required to execute a Non-Disclosure Agreement as required by a client of the Client from time to time.

11.4 Items will not be considered Confidential Information if (a) Already available to the public other than by a breach of this Agreement, (b) Disclosed to Blue Door Networks by a third party under no obligation of confidentiality to Client and not in connection with the Services provided by Blue Door Networks under this Agreement and such authorized prior disclosure by a third party can be evidenced by a dated writing; or (c) Independently developed by Blue Door Networks outside the Services rendered pursuant to this Agreement and such independent development can be adequately documented.

The obligation of confidentiality under this Agreement shall not include information disclosures required by law or judicial or governmental order; however, Client shall be informed of such compelled disclosure and shall be entitled to appeal or challenge such disclosure prior to Blue Door Networks disclosing Confidential Information or adhering to any type of governmental or third party subpoena.

11.5 The products of this Agreement shall be the sole and exclusive property of the Client, free from any claim or retention of rights thereto on the part of the Blue Door Networks. Blue Door Networks shall have no right to disclose or use any of said products for any purpose whatsoever, and Blue Door Networks acknowledges that such products are proprietary to Client having been secretly developed for Client's business and sole use.

11.6 Client and Blue Door Networks obligations under this Section shall remain in full force and effect upon completion or other termination of this Agreement and for a period of one (1) year thereafter.

12. **Warranties.** Blue Door Networks is a value added reseller [VAR] and passes through to the Client all manufacturer product warranties, including, but not limited to, that all products will be free from defects in material and workmanship for a period commencing on the date of

shipment and continuing until expiration of the appropriate and applicable manufacturer standard warranty period for such product as set forth in Blue Door Networks database at the time of shipment of such product. As a VAR, Blue Door Networks may provide to the Client its own services and in such a case, warrants that such services performed by Blue Door Networks hereunder shall be performed in a professional and workmanlike manner and shall be free from defects in material and workmanship for ninety (90) days from completion. If products or services fail to meet their respective warranties hereunder, Blue Door Networks will, at its sole option, either: (i) refund the amount received by Blue Door Networks for defective products or services, (ii) repair or replace any defective product free of charge or (iii) re-perform services of the type originally performed free of charge. The foregoing is contingent upon (i) you returning the defective product to Blue Door Networks (F.O.B. Blue Door Networks' facility) or (ii) Blue Door Networks receiving written notice of defective services, prior to the expiration of the applicable warranty period. The warranty set forth herein extends solely to you and does not extend to any product or service that has been misused, modified, repaired by anyone other than Blue Door Networks, improperly installed, or otherwise abused. Any and all warranties granted hereunder shall be void if any portion of the purchase price has not been paid, in which case no warranty shall apply. EXCEPT AS EXPRESSLY PROVIDED HEREIN, Blue Door Networks MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED. ALL WARRANTIES, EXPRESS OR IMPLIED, OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE ANY WARRANTY OF NONINFRINGEMENT OR ANY WARRANTY ARISING FROM A COURSE OF DEALING, USAGE OF TRADE OR TRADE PRACTICE ARE HEREBY EXPRESSLY DISCLAIMED. Blue Door Networks DOES NOT ACCEPT ANY LIABILITY BEYOND THE REMEDIES SET FORTH HEREIN.

13. **Limitation of Liability.** IN NO EVENT SHALL BLUE DOOR NETWORKS LIABILITY FOR ANY CLAIM WHATSOEVER EXCEED THE COST OF THE PRODUCTS AND/OR SERVICES GIVING RISE TO THE CLAIM, WHETHER BASED IN CONTRACT, WARRANTY, INDEMNITY OR TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE. IN NO EVENT SHALL Blue Door Networks BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUES, PROFITS OR OPPORTUNITIES), HOWEVER CAUSED, ON ANY THEORY OF LIABILITY, WHETHER OR NOT Blue Door Networks HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

14. **Indemnification.** Blue Door Networks shall indemnify and hold harmless Client, its subsidiaries, their officers, directors, agents and employees from any claims for loss, cost, damage, expense or liability by reason of bodily injury (including death) or tangible property damage arising out of, as a result of, or in connection with, Blue Door Networks performance under this Agreement. Client shall indemnify and hold harmless Blue Door Networks, its subsidiaries, their officers, directors, agents and employees from any claims for loss, cost, damage, expense or liability by reason of bodily

injury (including death) or tangible property damage arising out of, as a result of, or in connection with, Client's performance under this Agreement. Blue Door Networks shall carry the appropriate liability insurance, automobile liability, and Worker's Compensation insurance coverage while providing Services hereunder and agrees to indemnify and hold Client harmless from any and all expenses connected with any claims made by the Blue Door Networks for injuries, death or dismemberment incurred at Client's Site except for claims for such injuries caused by the negligent actions or omissions or willful wrongdoing of Client. The term "Client's Site" as used in this Agreement shall mean the Client's address listed in the preamble to this Agreement, or any site at which Client conducts its business, including, but not limited to Clients of the Client. Blue Door Networks shall indemnify and hold harmless the Client, its officers and employees from any and all state government claims regarding the Blue Door Networks' failure to pay for employment taxes, including, but not limited to FICA and income withholding taxes (together with any fines, penalties, assessments or other such amounts) due hereunder as a result of, or in connection with, Blue Door Networks' performance of this Agreement.

15. Intellectual Property. Blue Door Networks, its vendors and/or its licensors, retain all intellectual property rights, including but not limited to patent, copyright, trademark and trade secret rights, as well as enhancements, revisions, updates, upgrades, modifications, and derivative works thereto, in its Products, including but not limited to all proprietary data, processes, methodologies, functional and technical architectures, algorithms, procedures, software code, whether in source or object code, and software related components and documentation, if any, provided in connection with the Products and Deliverables developed for or provided to Client ("Materials"). Upon payment of applicable charges, Client shall have a world-wide, non-exclusive right to use Products and Deliverables for its own internal business purposes. Client agrees not to reproduce or to make available or disclose to anyone else any Materials, except to Client's employees, agents and contractors who are involved in the utilization of the Materials and who are bound in writing to preserve the confidentiality thereof. Client agrees that its contractors shall be deemed agents of Client and therefore Client shall have the same liability for its contractors as Client has for its employees and agents. Client agrees that it will not reverse engineer, disassemble, decompile, or decode the Materials or any portion of them without the prior written consent of Blue Door Networks.

16. Software. All software is provided subject to the license agreement that is part of the software package. You agree to comply with the terms and conditions of such license agreement and all other proprietary restrictions that are affixed to, or provided with, any products. You shall defend, indemnify and hold harmless Blue Door Networks, its parent companies, subsidiary companies and companies under common control therewith, and its and their officers, directors, employees, agents, representatives, attorneys, subcontractors, vendors and suppliers, from and against any and all claims, damages, losses or expenses, including,

without limitation, attorneys' fees, and amounts paid in settlements of claims or suits, which arise out of your failure to abide by such license agreements or other proprietary restrictions relating to such products.

17. Force Majeure. Except for your payment of the purchase price or fees, neither party shall be liable for any delay or failure to perform to the extent caused by fire, flood, explosion, war, riot, embargo, labor disputes, compliance with any laws, regulations, orders, acts or requirements from the government, civil or military authorities, terrorist attacks, acts of God, or any act or event of any nature reasonably beyond such party's control. If either party is so delayed in its performance, it shall promptly notify the other party thereof and use its reasonable efforts to minimize the consequences of any delay or failure of performance resulting from a Force Majeure event.

18. Severability. Should any provision of this Agreement be declared by any court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected thereby, it being the intent of the parties that they would have executed the remaining portion without including any such part or portion which for any reason was declared invalid.

19. Venue and Choice of Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, excluding its conflict of law's provisions and excluding the United Nations Convention on the International Sale of Goods. The parties hereby submit to the exclusive jurisdiction and venue of the state and federal courts situated in or near McLean, Virginia.

20. Transferability. Neither party may sell, assign or transfer its rights, duties or obligations under this Agreement without the prior written consent of the other party; provided, however, that Blue Door Networks may (i) assign its rights, duties and obligations hereunder to any parent company, subsidiary company or company under common control therewith, or to any successor in interest to all or substantially all of the business or assets of Blue Door Networks and (ii) subcontract the manufacture of products and/or performance of services, without your consent. To the extent that assignment is permitted, this Agreement shall inure to the benefit of and be binding upon each party and its permitted successors and assigns.