

Purchase Agreement

The following terms and conditions shall apply to the sale of goods or products (“goods” or “products”) associated with your invoice:

TERMS AND CONDITIONS

The obligations and rights of the party identified by the “sold to” on the Invoice hereof (“Buyer”) and Benchmark Technology Group (“Seller”) shall be governed solely by these terms and conditions. The provisions of any purchase order or other writing, or course of dealing, usage of trade or other conduct, inconsistent herewith shall not constitute a part of this contract of sale. If any of the terms and conditions hereof is not acceptable to Buyer, Buyer shall notify Seller in writing within five (5) business days of Buyer’s receipt of this contract of sale. This is intended by the parties to be a final expression of their agreement and is a complete and exclusive statement of the terms and conditions of such agreement and supersedes all prior and contemporaneous promises, covenants, agreements, understandings, negotiations and discussions between the parties, whether oral or written.

PRICES

The prices and terms of sale stated herein are FOB Seller’s Facility for sales requiring shipment of goods to a location in the U.S.A., or FCA Seller’s Facility (per Incoterms 2010) for sales requiring shipment of goods to a location outside of the U.S.A., and are based on the quantities specified for delivery in a single lot unless otherwise indicated on Seller’s Order Acknowledgment and/or invoice. Unless otherwise specified by Seller, prices for goods sold are for the quantity specified and do not include charges for transportation, insurance, special packaging, marking, applicable sales or use taxes, value added taxes, export or import licenses, fees, taxes, duties and the like. The customer entity designated on the face hereof (“Buyer”) shall bear the cost of such charges in addition to the prices quoted or invoiced. Such prices are subject to increase by Seller (i) for any order change made by Buyer and approved by Seller, and (ii) with respect to multiple orders pursuant to a single purchase order, for any order confirmed after a general price increase made by Seller. Prices are in U.S. dollars.

PAYMENT AND PAYMENT TERMS

Checks/Credit Cards/ACH are accepted subject to collection, and the collection date shall be deemed the payment date. Seller may apply any check received from Buyer against any of Buyer’s obligation(s) to Seller, under this or any other agreement, regardless of any statement appearing on or referring to such check, without discharging Buyer’s liability with respect to any additional amounts owed by Buyer to Seller, and Seller’s acceptance of such check shall not constitute a waiver of Seller’s right to pursue the collection of any remaining balance. Buyer shall pay the entire net amount of each invoice rendered by Seller pursuant to the terms of each such invoice without offset or deduction. Payment shall be made in U.S. dollars. Unless otherwise specified, payment terms are net 30 calendar days from invoice date, subject to Seller’s approval of amount and terms of credit. Seller reserves the right to require payment in advance or C.O.D. or to modify credit terms either before or after shipment of goods. Invoices not paid by due date will have a 1.5% per month late payment charge (or the maximum rate allowable by law, if lower) assessed against any unpaid balance from the invoice due date until the payment date, together with Seller’s cost of collection (including reasonable attorney’s fees).

SHIPMENT, SHIP DATE & VARIATION IN QUANTITY

Goods shall be shipped to Buyer ExWorks (Incoterms 2010) Seller's manufacturing facility. Without Buyer's written instructions, Seller shall select the common carrier but shall not assume liability in connection with the shipment, nor shall the common carrier be construed to be Seller's agent. Transportation charges will be collected on delivery or will be invoiced to Buyer. Goods will be shipped in packaging Seller deems appropriate. If Buyer requests special packaging, Buyer shall pay for and accept responsibility and risk for such packaging. Notwithstanding anything in Buyer's purchase order or in the Incoterms to the contrary, except as provided in Section 10, title of goods shall pass from Seller to Buyer when Seller makes goods available at Seller's facility to the common carrier or to Buyer. Except as provided in Section 10, risk of loss of or damage to goods shall pass from Seller to Buyer when Seller makes goods available at Seller's facility to the common carrier or to Buyer. Seller shall attempt to ship goods within 30 calendar days of the Ship Date; provided, however, that Seller shall not be charged with any liability for any delays or failure to perform due to causes or events covered under Section 8. Shipments may be in installments. Seller's default or delay in shipping the whole or any part or installment of goods shall not affect any other portion thereof.

CANCELLATION, MODIFICATION, SUSPENSION & RESCHEDULING

Cancellation, modification, suspension, or delay in shipment of Buyer's order shall not be accepted on terms which will not fully indemnify and reimburse Seller against losses, costs and expenses arising therefrom; such indemnity to include, without limitation, recovery of all direct costs incurred and a normal profit as well as a standard restocking charge.

CREDIT APPROVAL

Shipments, deliveries and performances of work shall at all times be subject to the approval of Seller's credit department. Seller may at any time decline to make any shipment or delivery or perform any work except upon receipt of payment in advance or upon such other payment terms as are acceptable to Seller's credit department.

SELLER'S LIMITED WARRANTY

Warranty. Except as otherwise provided herein, Seller warrants that goods sold will be free from defects in material and workmanship for 90 days from the date Seller ships such goods to Buyer (the "Warranty Period"), provided such first date of item being put into service is within two hundred seventy (270) consecutive days from the date of shipment by Seller. This warranty covers defects arising under normal use and does not include malfunctions, failures or defects resulting from misuse, abuse, mishandling, accident, neglect, improper or inadequate maintenance, alteration, modification, improper installation or repairs by any party other than Seller. Notwithstanding anything else to the contrary, Seller gives no warranty whatsoever for components or goods, including without limitation memory semiconductors, consigned or sold to Seller by Buyer. The warranty provided is limited to Buyer and may not be assigned. EXCEPT AS SET FORTH HEREIN, SELLER PROVIDES GOODS WITHOUT WARRANTY OF ANY KIND, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE AND EXPRESSLY EXCLUDES ANY SUCH WARRANTIES INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTIES ARISING FROM A COURSE OF DEALING, TRADE USAGE OR TRADE PRACTICE OR ANY WARRANTIES AGAINST ANY INFRINGEMENT OR MISSAPPROPRIATION OF ANY

INTELLECTUAL PROPERTY RIGHT. NO REPRESENTATION OR OTHER AFFIRMATION OF FACT, ORAL OR WRITTEN, INCLUDING WITHOUT LIMITATION STATEMENTS REGARDING CAPACITY, AVAILABILITY, SUITABILITY FOR USE OR PERFORMANCE OF GOODS, WHETHER MADE BY SELLER'S EMPLOYEES OR OTHERWISE, WHICH IS NOT CONTAINED IN THIS AGREEMENT, SHALL BE DEEMED TO BE A WARRANTY BY SELLER FOR ANY PURPOSE OR GIVE RISE TO ANY LIABILITY OF SELLER. BUYER'S REMEDIES SHALL BE LIMITED TO THOSE PROVIDED HEREIN TO THE EXCLUSION OF ALL OTHER REMEDIES INCLUDING WITHOUT LIMITATION INCIDENTAL, SPECIAL, INDIRECT, ON SEQUENTIAL, EXEMPLARY OR RELIANCE DAMAGES.

Warranty Returns. During the Warranty Period, Seller will, at its option and as Buyer's sole and exclusive remedy for any defect or breach of warranty, either credit Buyer for or repair or replace defective goods but only if they are returned to Seller as follows: (1) Before shipping defective goods back to Seller, Buyer shall ensure that said goods are defective and shall obtain a Return Material Authorization ("RMA") number from Seller; (2) Buyer shall include a written explanation for goods return and the appropriate RMA number. (3) Buyer shall pay shipping costs for said goods returned and assume risk of loss of or damage to such goods during shipping. Seller shall pay shipping costs to return repaired or replaced goods to the location from where Buyer shipped defective goods to Seller, and Buyer shall assume risk of loss of or damage to goods once Seller delivers such goods to the common carrier. Goods that are not defective shall be returned to Buyer, and Buyer shall pay for shipping costs and assume risk of loss of or damage to such goods during shipping or otherwise. Title to goods returned pursuant to this Section 5 shall remain with Buyer; provided, however, that the title to the defective goods not returned to Buyer shall pass from Buyer to Seller as of the date Seller ships replacement goods to Buyer or Seller credits Buyer for defective goods. Repair or replacement shall not extend the Warranty Period for said goods.

INDEMNITY AGAINST INFRINGEMENT

Seller's Indemnity Obligation. Except as otherwise provided herein, and subject to the limitation of liability set forth below, Seller shall indemnify, defend and hold harmless Buyer and its subsidiaries from and against (i) actions and litigation alleging that the use or sale of goods infringes upon or misappropriates any 3rd party's US patent ("IP Claims"); provided, however, that the foregoing indemnity and defense obligation is conditioned on the following: (i) Buyer's prompt written notice to Seller of any IP Claim for which indemnity is claimed, (ii) Seller's complete control of the defense and settlement, and (iii) Buyer's complete cooperation in such defense. Notwithstanding the foregoing, Seller shall have no defense or indemnity obligation for or with respect to IP Claims arising out of or in any way related to (i) designs, instructions, specifications or intellectual property not developed by Seller or not furnished by Seller, (ii) components of goods, consigned or sold to Seller by Buyer or specified by Buyer, (iii) the combination of goods with any hardware, products, equipment, materials, text, graphics, software or the like supplied by a party other than Seller, (iv) modification of goods by a party other than Seller, (v) use of goods in a way not specified in writing by Seller, or (vi) components made by someone other than Seller. Seller shall have no obligation for any settlement entered into without Seller's prior written consent.

Buyer's Indemnity Obligation. Except as otherwise provided herein, Buyer shall indemnify, defend and hold harmless Seller and its subsidiaries from and against (i) any form of intellectual property claim arising out of or related to (1) designs, instructions, specifications or intellectual property developed by Buyer or furnished by Buyer, (2) components of goods, consigned or sold to Seller by Buyer or specified by Buyer, (3) combination of goods with any hardware, text, graphics, software or other device supplied

by a party other than Seller, (4) the modification of goods by a party other than Seller, and (ii) liens, liabilities, damages, costs, expenses (including reasonable attorney's fees) and the like arising out of or related to any form of intellectual property claim covered under this Section 6(b); provided, however, that the foregoing indemnity and defense obligation is conditioned on the following: (1) Seller's prompt written notice to Buyer of any such claim for which indemnity is claimed, (2) Buyer's complete control of the defense and settlement, and (3) Seller's complete cooperation in such defense. Buyer shall have no obligation for any settlement entered into without Buyer's prior written consent.

Injunctive Actions. If during the course of any IP Claim covered under Section 8(a) the use or sale of the allegedly infringing goods is finally enjoined, Seller shall, at its option and expense, use commercially reasonable efforts to do one of the following (in addition to its obligations under Section 8(a): (i) procure for Buyer the right to use or sell, as applicable, the allegedly infringing goods, (ii) replace or modify the allegedly infringing goods or the affected part thereof with equivalent non-infringing technology, or (iii) within 30 calendar days of Seller's receipt of said allegedly infringing goods, refund to Buyer an amount equal to the net price paid by Buyer for said allegedly infringing goods.

Limitation of Indemnity. THE INDEMNITY CONTAINED IN THIS SECTION 8 STATES THE ENTIRE LIABILITY OF EACH PARTY TO THE OTHER WITH RESPECT TO THE MISAPPROPRIATION OR INFRINGEMENT OF ANY GOODS, OR ANY PARTS THEREOF, OF ANY PATENTS, TRADEMARKS, TRADE SECRETS, COPYRIGHTS, MASK WORKS OR OTHER INTELLECTUAL PROPERTY RIGHTS OF ANY PERSON AND IS IN LIEU OF WARRANTIES OR REPRESENTATIONS, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, IN REGARD THERETO. EACH PARTY'S REMEDIES SHALL BE LIMITED TO THOSE PROVIDED HEREIN TO THE EXCLUSION OF OTHER REMEDIES INCLUDING WITHOUT LIMITATION INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR RELIANCE DAMAGES. IN NO EVENT SHALL SELLER'S TOTAL LIABILITY TO BUYER EXCEED THE PURCHASE PRICE OF THE ALLEGEDLY INFRINGING GOODS.

PROPERTY AND OWNERSHIP RIGHTS

Seller's design, development or manufacture of a good for Buyer shall not be deemed to produce a work made for hire and shall not give to Buyer any patent, copyright or any other intellectual property right interest in the good or any portion thereof. Such rights shall remain Seller's property. Tooling, fixtures, test equipment, models, patterns, molds, processing, software and technology and other proprietary information of Seller whether or not made for, obtained or developed by Seller for the performance of this agreement, shall remain Seller's sole property. Buyer's payment of any costs or expenses relating to any of the foregoing (including without limitation non-recurring expenses) shall not be deemed to grant Buyer any ownership interest therein. Seller offers goods for sale and sells goods subject in every case to the condition that such sale does not convey any license, expressly or by implication, estoppel or otherwise, under any patent, copyright, mask work or the like with respect to which Seller can grant licenses covering complete equipment, or any compilation, assembly, combination, method or process in which any such goods are used as components. Seller reserves its rights under such patents, copyrights, mask works or the like.

ASSIGNMENT AND BINDING EFFECT

Buyer shall not assign its rights or obligations under this Agreement or any interest therein without Seller's prior written consent. Any assignment without such consent shall be void and have no force and effect. This Agreement shall be binding and inure to the benefit of the parties hereto, their successors and permitted assigns, and their legal representatives.

FORCE MAJEURE

Seller shall not be liable for delay or failure to perform if such delay or failure is due to causes or events beyond Seller's control, even if foreseeable by either party, including without limitation suppliers' delay, act of God, labor disturbance or strike, war, fire, explosion, earthquake, accident, adverse weather, inability to secure transportation, governmental act or regulation, Seller's inability to obtain materials, shortage of materials or any other causes or events beyond Seller's control. Consequently, the Ship Date shall be extended for a period equal to the delay. Without liability to Buyer, Seller reserves the right to (i) allocate among customers or potential customers, or (ii) defer or delay the shipment of, goods that are in short supply.

CONSIGNED MATERIAL

Consigned Components. In consideration of Seller's agreement to accept Buyer's consignment of components, if any, for use in the manufacture of goods, Buyer agrees that, notwithstanding anything else contained in this agreement or otherwise, Buyer bears the risk of loss of or damage to consigned components and shall release Seller from liability for loss to consigned components, including without limitation loss resulting from Seller's negligence or yield loss, and further shall waive rights of subrogation against Seller in the event of such loss. At all times, Buyer shall hold title to consigned components. Buyer shall ship consigned components to Seller DDP (Incoterms 2010) Seller's manufacturing facility.

Defective, Faulty or Damaged Consigned Components. Seller shall return consigned components damaged at delivery, damaged through yield loss, defective or faulty, to Buyer ExWorks (Incoterms 2010) Seller's manufacturing facility. The quantity of goods ordered shall be automatically reduced as necessary due to the return of said consigned components.

BUYER'S DUTY TO GIVE TIMELY NOTICE OF SELLER'S BREACH

Buyer shall notify Seller in writing within 30 calendar days of Buyer's discovery of any defective performance, failed performance or other breach of this agreement by Seller. Buyer's failure to provide such notice to Seller within this specified period constitutes a waiver of the defective or failed performance or other applicable breach by Seller.

SUBSTITUTIONS AND MODIFICATIONS

Seller reserves the right to make substitutions and modifications in the specifications of goods sold by it if such substitutions or modifications do not cause a material adverse affect on overall performance.

GENERAL PROVISIONS

Integration. This agreement constitutes the entire understanding between Buyer and Seller with respect to the subject matter hereof and supersedes prior agreements, discussions and understandings between Buyer and Seller; however, if there is a pre-existing written contract covering the sale of goods from Seller to Buyer, this order shall be subject to such pre-existing contract and, unless otherwise provided in such pre-existing contract, the terms and conditions of this agreement. If terms and conditions contained in the "Terms and Conditions" section of this agreement conflict with the terms and conditions contained on the face of this agreement, the latter shall apply. This agreement may not be modified, supplemented, qualified or interpreted by any trade usage or prior course of dealing not set forth herein. Buyer acknowledges that it has not entered into this agreement in reliance upon any

warranty or representation by any person or entity, except for such warranties or representations set forth herein.

Choice of Law. The U.N. Convention on Contracts for the International Sale of Goods shall not apply to this Agreement; rather this agreement shall be construed, enforced and governed in accordance with Georgia state laws without giving effect to choice of law provisions thereof.

Jurisdiction; Venue. The jurisdiction and venue of any action shall be the Superior Court of Georgia for the County of Forsyth or the U.S. District Court for the Northern District of Georgia, and each party submits itself to the jurisdiction and venue of such courts.

Severability. If any term or provision of this agreement is held to be illegal, invalid, unenforceable or in conflict with any law of any governmental entity with jurisdiction over this agreement, this agreement shall continue in force without such provision or as changed and interpreted to give best effect to the parties' intentions.

Import; Export. Laws, regulations, orders or other restrictions on the export from the U.S.A. of any technology, products incorporating technology or information pertaining thereto that may be imposed by the U.S.A. government or any agency thereof apply. Notwithstanding anything else to the contrary, Buyer shall not export or re-export, directly or indirectly, any technology, products incorporating technology or information pertaining thereto to any country for which the U.S.A. government or any agency thereof requires an export license or other governmental approval at the time of export or re-export without first obtaining such license or approval. Seller shall provide information under its control for Buyer to obtain any import or export licenses required for Buyer to receive or ship goods sold.

U.S. Govt. Contract Provisions and Clauses. If goods purchased are sold, or are incorporated into products that are sold, under a U.S. Government contract, Seller rejects provisions or clauses required to be passed on to Seller pursuant to said contract and such provisions or clauses shall not be deemed included or binding on Seller unless accepted in writing by Seller's authorized representative.

Waivers; Amendments. This Agreement may be amended, changed, modified, waived or discharged, but only if it is in writing and signed by an authorized representative of the party against whom enforcement is sought.

Delays; Omissions. No delay or omission to exercise any right, power or remedy accruing to any party upon any breach or default of the other party under this agreement shall impair any such right, power or remedy, nor shall it be construed to be a waiver of any such breach or default. Waiver, permit, consent or approval of any kind or character of any breach or default must be in writing signed by an authorized representative of the party against whom enforcement is sought.

Mediation. If any dispute arises out of or related to this agreement, the parties shall first to try in good faith to settle the dispute by mediation in the County of Forsyth. Either party may initiate mediation by delivering a written request to the other party. Within 10 calendar days of such request, the parties shall confer to select a mediator. If the parties fail to agree upon a mediator, either party may request that the Judicial Arbitration and Mediation Services (JAMS) appoint a mediator.

Litigation Expenses. The prevailing party in any action or proceeding to enforce or interpret this agreement shall be entitled to recover its reasonable expenses including without limitation attorney's fees and fees on any appeal.

Errors. Stenographic and clerical errors in sales made under this agreement are subject to correction.