

# **STANDARD TERMS AND CONDITIONS FOR THE SALE OF GOODS BY ARROW ELECTRONICS (UK) LIMITED**

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# STANDARD TERMS AND CONDITIONS FOR THE SALE OF GOODS BY ARROW ELECTRONICS (UK) LIMITED

## 1. Interpretation a) Definitions

'Purchaser' - The person who accepts a quotation of the Seller for the Goods or whose order for the Goods is accepted by the Seller.

'Manufacturer' - The manufacturer(s) or the manufacturer's regional distributor of the Goods.

'Value Added Goods' - Goods which have been altered or have been incorporated in other goods by the Seller before sale to the Purchaser or goods manufactured by the Seller.

'Goods' - The goods (including any installment of the goods or any parts for them) which the Seller is to supply in accordance with these Conditions and save where inconsistent with these Conditions Goods includes Value Added Goods and Software.

'Seller' - Arrow Electronics (UK) Limited (registered in England under number 2582534)

'Conditions' - The standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in Writing between the Purchaser and the Seller

'Contract' - The contract for the purchase and sale of the Goods

'Software' - The Software which the Seller is to supply in accordance with these Conditions.

'Writing' - Includes electronic data transfer (including but not limited to e-mail), cable, facsimile transmission and comparable means of communication.

'Published Data' - Data in relation to the Goods published in any form including on the Internet or Intranet.

Year 2000 Compliance - Arrow has adopted the Information Technology Association of America (ITAA) definition of Year 2000 compliance for all members of the Arrow Group

- b) Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

## 2. Quotations Orders and Acceptance

- a) The Seller shall sell and the Purchaser shall purchase the Goods in accordance with any quotation of the Seller which is accepted by the Purchaser, or any order of the Purchaser which is accepted by the Seller, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Purchaser.
- b) These Conditions together with the price, quantity and delivery details stated in the Seller's invoice and/or acknowledgement constitute the entire agreement between the Seller and the Purchaser.
- c) These Conditions may not be varied unless so agreed in Writing by a duly authorised employee of the Purchaser and the Seller.
- d) The Seller may, subject to receiving from the Purchaser 60 days prior written notice requesting it, agree to a re-schedule of any order or part thereof provided that the Purchaser shall be bound by the terms of the Seller's written confirmation of the re-schedule.
- e) Orders can be accepted by telephone only if an official order number is quoted by the Purchaser. If a telephone order is confirmed in Writing the Purchaser must mark such written order with any confirmation reference given by the Seller when the order was accepted on the telephone. Otherwise the Seller cannot accept responsibility for any duplication of delivery that may occur and the Purchaser shall be bound to pay for each delivery.
- f) The Goods are supplied only in multiples and/or subject to a minimum order quantity if applicable.
- g) Quotations are valid on day of issue only, after which time they may be altered by the Seller without giving notice to the Purchaser.
- h) The Seller reserves the right to sub-contract its obligations under the Contract.
- i) The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in Writing. In entering into the Contract the Purchaser acknowledges that it does not rely on any such representations which are not so confirmed.
- j) Any advice or recommendation given by the Seller or its employees or agents to the Purchaser or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by the Seller is followed or acted upon entirely at the Purchaser's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed. The provisions of clauses 7 and 16 shall apply to any advice or recommendation given in Writing.
- k) Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

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- 1) All specifications drawings and particulars of weights, dimensions, capacity or other details provided by the Seller are intended to give a general idea of the Goods but will not form part of the Contract unless otherwise agreed in Writing. If the Seller's description of the Goods varies from the Manufacturer's description the Manufacturer's description shall take precedence. The Manufacturer's description is available from the Seller on request in Writing.
- m) The Purchaser shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Purchaser, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.
- n) No order submitted by the Purchaser shall be deemed to be accepted by the Seller unless and until confirmed in Writing by the Seller or by delivery of the Goods.
- o) The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable statutory or EU requirements or, where the Goods are to be supplied to the Seller's specification which do not adversely affect their quality or performance to any material degree or as a result of any change in the Manufacturer's specification of the Goods.
- p) Neither party shall without the prior written consent of the other disclose or use any trade secrets or other instruments of a confidential nature of the other except as properly required for performance of the Contract or as required by law.
3. Price - Exclusions and Adjustment
  - a) The price of the Goods is exclusive of cost of packing, delivery, Value Added Tax ('VAT') but inclusive of the Seller's charges for supplying release certificates and certificates of conformity. Packaging and delivery will be charged in accordance with the Seller's standard rates at the date of supply. VAT will be charged on the total invoice value including without limitation charges for packing and delivery at the rate(s) applicable on the date of supply. Where agreed call offs are not adhered to by the Purchaser, the Seller reserves the right to amend the price structure in accordance with the quantities delivered. Call-off arrangements or scheduled deliveries will only be agreed if the price of each shipment of the Goods exceeds £25.
  - b) The Seller reserves the right at any time prior to delivery of the Goods to adjust the price in proportion to any increase of costs to the Seller between the date of the Contract and the date of delivery including but not limited to any increase as a result of default of the Purchaser, rescheduling costs, the cancellation of any part of an order, non-adherence to agreed call-off or scheduled delivery arrangements and/or any increase in the costs to it of materials, labour, transport taxes or services, any currency fluctuation or any other matter beyond the control of the Seller.
4. Delivery
  - a) Unless time is agreed to be of the essence by a Director of the Seller and the Purchaser in Writing any time or date given by the Seller for delivery is given, and is intended, as an estimate only and the Seller shall not be liable for failure to deliver within the time quoted.
  - b) Delivery of the Goods shall be made by the Purchaser collecting the Goods at the Seller's premises at any time after the Seller has notified the Purchaser that the Goods are ready for collection or, if some other place for delivery is agreed by the Seller, by the Seller delivering the Goods to the agreed place.
  - c) The Goods may be delivered in advance of the estimated delivery date and the Seller shall be entitled to make partial deliveries or deliveries by instalments and these Conditions shall apply to each such instalment or partial delivery. Each instalment shall constitute a separate contract and the failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Purchaser in respect of any one or more instalments shall not entitle the Purchaser to treat the Contract as a whole as repudiated.
  - d) In the event of the Purchaser failing to take delivery of the Goods or failing to give the Seller adequate delivery instructions at the time stated for delivery, the Seller may arrange for storage of the Goods so delivered at the risk and cost of the Purchaser (such cost to include the cost of insurance) or sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Purchaser for the excess over the price under the Contract or charge the Purchaser for any shortfall below the price under the Contract.
  - e) Risk of damage to or loss of the Goods shall pass to the Purchaser in the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Purchaser that the Goods are available for collection or in the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Purchaser wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.
  - f) No claim for damage in transit, shortage of delivery or loss of the Goods will be entertained unless the Purchaser shall have given to the Seller written notice of such damage, shortage or loss with reasonable particulars thereof within fourteen days of receipt of the Goods or in the case of total loss within seven days of receipt of the invoice or other notification of despatch. The Seller's liability, if any, shall be limited to replacing or repairing such Goods or refunding the price and it shall be a condition precedent to any such liability that the Purchaser shall if so requested have returned the damaged Goods to the Seller within fourteen days of request.
  - g) Under-delivery of Goods supplied as tape and reel (representing not more than 5% by value of any order) shall not give the Purchaser any right to reject the Goods delivered or to claim damages and the Purchaser shall be obliged to accept and pay at the contract rate for the quantity of Goods delivered.

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- h) Subject to sub-clause (f) above if the Seller fails to deliver the Goods (or any installment) for any reason other than any cause beyond the Seller's reasonable control or the Purchaser's fault, and the Seller is accordingly liable to the Purchaser, the Seller's liability shall be limited to the excess (if any) of the cost to the Purchaser (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.
- i) The Goods will be packed to the Seller's normal specification in non-returnable packaging.
5. Payment
- a) Liability for payment shall arise on delivery of the Goods to the Purchaser or such person as the Purchaser may direct unless the Purchaser wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Purchaser for the price at any time after the Seller has tendered delivery of the Goods and payment in full (without taking into account any deduction or claim for set off or counterclaim) shall be due on or before the 30th day from the date of the invoice ('due date'). If the Purchaser fails to pay the price on the due date then all outstanding invoices rendered by the Seller to the Purchaser under any contract shall become immediately payable.
- b) The Seller shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Purchaser. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- c) The Seller may in its unfettered judgement withdraw the credit terms described in sub-clause (a) hereof and/or any other credit terms that may have been agreed in Writing between the Seller and the Purchaser and substitute either cash on delivery terms whether for the Goods already delivered or otherwise or terms whereby, in the case of partial delivery of an order already made, the Purchaser shall pay all sums outstanding on the said partial delivery or deliveries and make immediate advance payment in respect of the remainder of the total order.
- d) No cash or other settlement discount will be allowed unless specified in Writing by the Seller and the Seller reserves the right to withdraw any such discount when payment is not made in accordance with sub-clause (a) hereof.
- e) If the Purchaser fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
- (i) cancel the Contract or suspend any further deliveries to the Purchaser;
  - (ii) appropriate any payment made by the Purchaser to such of the Goods (or the goods supplied under any other contract between the Purchaser and the Seller or any Group Company) as the Seller may think fit (notwithstanding any purported appropriation by the Purchaser); and
  - (iii) charge the Purchaser interest (both before and after any judgment) on the amount unpaid, at the rate of 6 per cent per annum above Midland Bank PLC's base rate from time to time, until payment in full is made.
6. Transfer of Property
- a) Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Purchaser until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Purchaser for which payment is then due.
- b) Until such time as the property in the Goods passes to the Purchaser, the Purchaser shall hold the Goods as the Seller's fiduciary agent and bailee but shall be entitled to resell or use the Goods in the ordinary course of its business.
- c) Until such time as the property in the Goods passes to the Purchaser (and provided the Goods are still in existence and have not been resold), the Seller shall be entitled at any time to require the Purchaser to deliver up the Goods to the Seller and, if the Purchaser fails to do so forthwith, to enter upon any premises of the Purchaser or any third party where the Goods are stored and repossess the Goods.
- d) During such time as the property in the Goods remains in the Seller, the Purchaser shall store or otherwise keep the same in such a way as to clearly indicate at all times that the said property remains in the Seller and shall not remove, obscure or delete any labels or marks placed on the Goods which may enable the Goods to be identified as the Seller's and shall grant the Seller access to any of its premises for the purpose of inspecting the Goods.
- e) If, while the Goods are in the possession of the Purchaser yet the property in the Goods remains in the Seller, the Goods become removable constituents or components of other goods, the Seller shall at its discretion, remove its Goods (if they can be removed without damaging the goods) or become the owner of those goods to the extent that the Purchaser is indebted to the Seller and accordingly sub-clauses (a) to (d) hereof shall in so far as it is possible apply to such goods and if the Seller takes possession of such in accordance with sub-clause (c) hereof it shall have the right to sell such goods provided that it accounts to the Purchaser for any proceeds of sale which exceed the cost of the Goods, repossession, storage and sale.
7. Warranty
- a) In the ordinary course of its business the Seller is a distributor which purchases the Goods from the Manufacturer and makes no alterations whatsoever thereto before sale to the Purchaser. In so far as it is practicable the Seller maintains the integrity of and sells the Goods in the Manufacturer's packaging. In all cases, the Purchaser has knowledge of the origin of the Goods it orders and all orders are placed in that knowledge and at the specific request of the Purchaser.

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- b) Unless specifically otherwise agreed in writing by the seller, the buyer acknowledges that products sold by the seller are not intended for and will not be used in life support systems, human implantation, nuclear facilities or systems or any other application where product failure could lead to loss of life or catastrophic property damage. The buyer will indemnify and hold the seller harmless from any loss, cost or damage resulting from the buyer's breach of the provisions of this paragraph.
- c) No Prohibited Use of the Goods shall be made by the Purchaser without the prior authority of the Seller in Writing. Where the Purchaser or any third party supplied by it makes any Prohibited Use of the Goods without the Seller's prior authority in Writing the Purchaser shall indemnify and keep indemnified the Seller from and against all loss and damage or liability whether criminal or civil suffered and legal costs and fees incurred due to such Prohibited Use.
- d) Where the Purchaser itself supplies a third party with the Goods supplied to it by the Seller the Purchaser shall itself stipulate that no Prohibited Use is to be made of the Goods without the Purchaser's authority in Writing. The Purchaser shall not give such prior written authority without first obtaining the Seller's prior authority in Writing so to do. "Any information supplied by the Seller regarding Year 2000 Compliance of Goods is supplied in reliance upon information supplied by the Manufacturer. The Seller has not independently verified the accuracy of the information supplied by the Manufacturer nor has it performed any independent assessment of the Goods or information supplied. The Purchaser irrevocably acknowledges and accepts that such information (whether oral or in writing) shall not be guaranteed or warranted as to its accuracy by the Seller nor shall it be deemed to be a representation which induced the Purchaser to enter into the Contract. Without prejudice to the generality of the foregoing the Seller gives no guarantee or warranty that the Goods are Year 2000 Compliant".
- e) The Seller warrants that it will use its reasonable endeavour to enquire of the Manufacturer that the Goods are millennium compliant and where they are not the Seller will use reasonable endeavours to notify the Purchaser if it has purchased such Goods within the last 12 months or places an order for such Goods. Subject to sub-clause (f) and clause 16, in the event that the Seller is in breach of this warranty then it will at its option either replace, repair or issue a credit note to the Purchaser for such Goods or a proportionate part thereof.
- f) Where the Purchaser wishes to rely on any provision contained in sub-clauses 7 (e) (g) (h) (i) or (k) it shall be a condition that:
- (i) the Seller is notified in Writing within 7 days of discovery of any defect by the Purchaser and in any event not later than three months from the delivery date and if the Purchaser does not notify the Seller accordingly the Purchaser shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure and the Purchaser shall be liable to pay the price as if the Goods had been delivered in accordance with the Contract;
  - (ii) the defective Goods are returned to the Seller, with its prior approval, properly packed and accompanied by a letter giving full details of the Purchaser's original order number, the return authorisation number, the date of purchase and the reason why the Goods are believed to be defective. Transportation charges shall be prepaid by the Purchaser and any items incorporated into the Goods by the Seller must be removed prior to return.
  - (iii) examination by the Seller of such Goods shall disclose to its satisfaction that such defects exist and have not been caused by fair wear and tear, wilful damage, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in Writing) mis-use, neglect, improper installation, improper repair, alteration or accident;
  - (iv) the Seller shall be under no liability under the warranties in this clause (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date;
  - (v) the Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Purchaser.
- g) "The Seller warrants that it will so far as it is able so to do give the Purchaser the benefit of any express guarantee or warranty by the Manufacturer of the Goods (subject always to the terms, conditions and limitations of any such guarantee or warranty) and of any other rights which the Seller has against the Manufacturer. The Purchaser's remedies in respect of any claim that the Goods are defective or not in accordance with the Contract or any express description or representation or in respect of any condition or warranty implied by law or any other claim in respect of the Goods or any workmanship in relation thereto (whether or not involving negligence on the part of the Seller) shall in all cases be limited to enforcement of the above mentioned liabilities of the Manufacturer and the Seller shall not in any circumstances be liable for damages, compensation, costs, expenses, losses or other liabilities whether direct or consequential and any other remedy which would otherwise be available in law is hereby excluded except to the extent that such exclusion is prohibited by any rule of law".
- h) Subject to clause 16 and sub-clause (f) above where Value Added Goods are found to be defective by reason of faulty materials or poor workmanship on the part of the Seller, the Seller will at its option either replace, repair or issue a credit note to the Purchaser for such Goods or a proportionate part thereof.

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- i) The Seller warrants to the Purchaser that all advice given by the Seller to the Purchaser in Writing will be accurate in all material respects. The sole liability of the Seller in respect of any breach of this warranty (except for death or personal injury arising from the Seller's negligence) shall be to replace the Goods or issue a credit note for the price of the Goods in respect of which the advice was given. Any information supplied by the Seller that the Goods are millennium compliant will be based upon information supplied by the Manufacturer for which the Seller cannot accept liability, *subject to sub-clause (e)*.
- j) The Seller gives no warranty in respect of the future availability of identical goods already sold to the Purchaser.
- k) The Seller warrants to the Purchaser that the Software shall provide if properly used the facilities and functions set out in the Published Data. The Purchaser acknowledges that the Software is of such complexity that it may have certain defects on delivery and the Purchaser agrees that the Seller's sole liability shall be for the Seller to use its reasonable endeavours to provide corrections of documented program errors. If the Seller fails within a reasonable time to correct non-conforming Software its liability therefor shall be to replace the Software or to issue a credit note for the Software or a proportionate part.
- l) These warranties are not assignable and accordingly the Seller will not accept warranty returns directly or indirectly from the Purchaser's own customers or from the users of the Goods. Nothing in this clause shall have the effect of creating any privity of contract between the Seller and the Purchaser's own customers or the users of the Goods
- m) Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 8. Force Majeure  
The Seller shall not be under any liability of whatsoever kind for failure to perform or delay in performance in whole or in part of its obligations under the Contract due to causes beyond the control of either of the Seller or of the Seller's suppliers, including, but not limited to, acts of God, acts of the Purchaser or a third party, war, sabotage, insurrection, government regulations, embargo's, strikes, labour disputes, illness, flood, fire or tempest causing delay in delivery to the Seller or the Seller's suppliers or shortage of any goods or materials. In any such event the Seller may, without liability, cancel or vary the terms of the Contract including, but not limited to, extending the time for performing the Contract for a period of time at least equal to the time lost by reason of such event.
- 9. Cancellation and Returned Goods
  - a) Orders for the Goods not normally stocked by the Seller and which are procured by the Seller to satisfy the Purchaser's requirements are non-cancellable, non-returnable and the agreed delivery date for those Goods cannot be altered by the Purchaser.
  - b) Except under the warranties contained in clause 7 hereof, no returns may be made without the previous consent of the Seller in Writing and such Goods must be returned to the Seller in their original condition and suitably packaged at the Purchaser's risk and expense.
  - c) If the Seller agrees to accept cancellation of an order or part thereof the Seller reserves the right to charge the Purchaser a cancellation fee of 20% of the total order price provided always that if the Goods were purchased by the Purchaser exclusively for the Contract a cancellation fee of 100% of the total order price will be payable.
  - d) The Seller shall be entitled to cancel the Contract without penalty or payment of damages if it is unable to purchase the Goods from the Manufacturer for whatever reason (save as a result of its default) including but not limited to termination of any agency, distribution or franchise agreement made between the Manufacturer and the Seller or the Manufacturer's right to manufacture the Goods being terminated. Prior to terminating the Contract the Seller will use its reasonable endeavours to source the Goods or goods of the same or materially similar specification from a third party.
- 10. Patent Rights
  - a) The sale of the Goods by the Seller and the publication of any information or technical data relating thereto does not imply freedom from patent, copyright, registered design or other industrial or intellectual property rights in respect of any particular application of the Goods.
  - b) If the Goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with a specification submitted by the Purchaser, the Purchaser shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Purchaser's specification.
  - c) Copyright to any Software whether on its own or in conjunction with other Goods shall remain vested in the copyright owner and the Purchaser shall not reproduce or adapt such Software in whole or in part without the prior agreement of the copyright owner.

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## 11. Breach & Financial Conditions & Termination

- a) If any of the Purchaser's obligations to the Seller are not fulfilled or if the Purchaser's financial condition at any time does not, in the Seller's unfettered judgement, justify continuance of the Contract on the terms of payment specified, the Seller may, without prejudice to any other rights it may have, cancel any outstanding order or suspend any deliveries or manufacture of any of the Goods unless the Purchaser makes such payment for the Goods ordered as the Seller may require.
- b) If the Purchaser commits any breach of the terms and conditions of the Contract or suffers distress or execution or becomes insolvent or commits an act of bankruptcy or has a receiver or an administrative receiver or an administrator appointed to the whole or any part of its assets or if an order shall be made or a resolution passed for winding up the Purchaser unless such order or resolution is part of a scheme of reconstruction of the Purchaser or is unable to pay its debts as they fall due or an encumbrancer takes possession of any of the property or assets of the Purchaser, the Seller may without prejudice to any rights which may have been accrued or which may accrue to it under these Conditions or otherwise, terminate the Contract summarily by notice in Writing.

## 12. Export

- a) Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 12 shall (subject to any special terms agreed in Writing) apply notwithstanding any other provision of these Conditions.
- b) The Purchaser shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them.
- c) Incoterms shall not be incorporated into the Contract.
- d) The Purchaser shall be responsible for arranging for testing and inspection of the Goods at the Seller's premises before shipment. The Seller shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.
- e) Payment of all amounts due to the Seller shall be made by irrevocable letter of credit opened by the Purchaser in favour of the Seller and confirmed by a bank acceptable to the Seller or, if the Seller has agreed in Writing on or before acceptance of the Purchaser's order to waive this requirement, by acceptance by the Purchaser and delivery to the Seller of a bill of exchange drawn on the Purchaser payable 60 days after sight to the order of the Seller at such branch of the bank in England as may be specified in the bill of exchange.
- f) The Purchaser undertakes not to offer the Goods for resale outside the United Kingdom or any other country notified by the Seller to the Purchaser at or before the time the Purchaser's order is placed, or to sell the Goods to any person if the Purchaser knows or has reason to believe that that person intends to resell the Goods in any such country.
- g) All Goods shall be paid for and damages payable under these Conditions shall be paid in Sterling.
- h) The Seller hereby excludes liability in respect of any claim that the Goods infringe or that their use or resale infringes the patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person. In the event that any such claim is made the Purchaser shall:
- (i) promptly notify the Seller of the allegation.
  - (ii) allow the Seller to dispute or defend the allegation and any legal proceedings relating to it in such manner as the Seller thinks fit and to have sole control, at its expense of any litigation and/or negotiations relating thereto.
  - (iii) not, without the Seller's consent in Writing, make any admission of liability.
- i) The Purchaser shall comply with the export control regulations of the United Kingdom and the United States of America and shall indemnify the Seller and any Group Company against all loss, damages, costs and expenses awarded against or incurred by the Seller or any Group Company as a result of the breach of the said regulations

## 13. Intellectual Property Rights

- a) Without prejudice to clause 12 if any claim is made against the Purchaser, in respect of the Goods supplied in the United Kingdom that the Goods infringe or that their use or resale infringes the patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person, then unless the claim arises from the use of any drawing, design or specification supplied by the Purchaser, the Seller shall indemnify the Purchaser against all loss, damages, costs and expenses awarded against or incurred by the Purchaser in connection with the claim, or paid or agreed to be paid by the Purchaser in settlement of the claim, provided that:
- (i) the Seller is given full control of any proceedings or negotiations in connection with any such claim;
  - (ii) the Purchaser shall give the Seller all reasonable assistance for the purposes of any such proceedings or negotiations;
  - (iii) except pursuant to a final award, the Purchaser shall not pay or accept any such claim, or compromise any such proceedings without the consent of the Seller (which shall not be unreasonably withheld);
- b) The Purchaser shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Purchaser may have in relation to such infringement, and this indemnity shall not apply to the extent that the Purchaser recovers any sums under any such policy or cover (which the Purchaser shall use its best endeavors to do);

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- (c) The Seller shall be entitled to the benefit of, and the Purchaser shall accordingly account to the Seller for, all damages and costs (if any) awarded in favour of the Purchaser which are payable by, or agreed with the consent of the Purchaser (which consent shall not be unreasonably withheld) to be paid by, any other party in respect of any such claim; and
- (d) Without prejudice to any duty of the Purchaser at common law, the Seller shall be entitled to require the Purchaser to take such steps as the Seller may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which the Seller is liable to indemnify the Purchaser under this clause.
14. Notices  
Any notice to be given hereunder shall be in Writing and shall be deemed to have been duly given if sent or delivered to the party concerned at its last known principal place of business and shall be deemed to have been served, if sent by post, 2 working days after posting.
15. Documents  
The Seller will supply one invoice and one packing note for each consignment of the Goods notwithstanding that the consignment may comprise more than one package unless specified by the Seller in Writing.
16. Liability  
a) These Conditions expressly set out the Seller's entire liability in respect of the Goods and any representation made in Writing in relation to the Goods. The Seller's liability under these Conditions shall be in lieu of and to the exclusion of all other warranties, conditions, terms and liabilities express or implied statutory or otherwise save for death or personal injury caused by the Seller's negligence and the Seller's liability, if any, under Section 2 of the Consumer Protection Act 1987. Save as expressly provided in these Conditions the Seller shall not be under any liability whether in contract, tort (including negligence) misrepresentation or otherwise, in respect of defects in the Goods, failure to correspond to specification, or sample, advice or for any damage or loss resulting from such defects, failure or advice.
- b) In no event shall any breach of contract on the part of the Seller or misrepresentation or tort (including negligence) or failure of any kind on the part of the Seller or that of its employees, agents or sub-contractors give rise to any liability for loss of revenue or any consequential loss, economic loss or other loss of turnover, profits, business or goodwill.
17. Waiver  
Failure by the Seller to enforce at any time or for any period any one or more of the Conditions shall not be a waiver of them or of the right at any time subsequently to enforce all of the Conditions.
18. Applicable Law  
The Sellers quotations and the Contract between the Seller and the Purchaser shall be governed by English law and the Purchaser hereby irrevocably submits to the jurisdiction of the English courts.
19. Severance and Headings  
Where any Condition is held to be wholly or partially invalid or unenforceable, then such Condition (or the invalid or unenforceable part thereof) shall be treated as severable and the remaining Conditions and the remaining part of that Condition (if any) shall be unaffected by such invalidity or un-enforceability. Headings are for convenience only and shall not affect the construction of the Conditions.
20. Third Party Rights  
The Contracts (Rights of Third Parties) Act 1999 shall not apply to the agreement between the Seller and the Purchaser for the purchase of Goods and no person other than the parties to such agreement shall have any rights under it, nor shall it be enforceable under that Act by any person other than the parties to it.

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