

Terms of Sale

General

- 1 In these Conditions of Sale: "The Company" means Arrow which is a trading name of Arrow ECS (Ireland) Limited, a company registered in Ireland under number 265593 registered office 19a Rosemount Business Park, Dublin D11 HT35, Ireland. "The Buyer" means the person, the firm or the company ordering or buying goods from the Company. "The Goods" means the goods the subject matter of the relevant order or contract of sale.
- 2 No contract in respect of the Goods between the Company and the Buyer shall exist until the Buyer's order has been accepted by the Company. In the event that the Buyer's order seeks to make the sale subject to terms different from these conditions, acceptance is effected by a formal order acknowledgement and shall be deemed to be a fresh offer by the Company on the basis of these Conditions, in which event (unless these conditions are accepted by the Buyer prior to delivery) acceptance of delivery of the Goods by the Buyer shall constitute acceptance of the Company's offer, and the contract of sale shall be formed at that moment. No conditions or terms stipulated in any other communication or document shall vary or annul any of these conditions except insofar as the conditions are expressly consented to in writing by the Company.
- 3 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 Company shall be subject to correction without any liability on the part of the Company.
- 4 No representation, claim, drawings, illustrations, specification or price given in any advertising or promotional literature of the Company shall form part of the contract unless specifically stated in the accepted order or specification for or of the Goods.
- 5 The Company reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory or EU requirements or, where the goods are to be supplied to the Company's specification, which do not materially affect their quality or performance.

Price

- 6 The provision or display of pricing and other information relating to the goods by the Company to the Buyer does not amount to an offer by the Company to sell the Goods at that price or on any other terms. Supply of such information is only an invitation to treat. An order by the Buyer for the Goods shall be the offer.
- 7 Unless otherwise specified prices payable for the Goods are exclusive of delivery charges, insurance costs, packaging costs or other special handling charges.
- 8 All orders received by the Company are subject to delivery charge for each customer order received. Unless otherwise stated the Company shall enter into a contract for delivery of the order to the address of the Buyer.
- 9 All quotes issued by the Company are valid for 3 working days unless amended in writing with the quote. All quotes are subject to constant currency fluctuation from the date of issue and must be reconfirmed if ordering after the validity period. The prices for the Goods shall be those ruling at the date of despatch and the Company reserves the right to amend its quoted prices at any time prior to that date
- 10 All prices are exclusive of VAT and similar taxes. All such taxes will be levied on you at the time of invoice.
- 11 Where Goods are being price supported in any way, the final invoice price can only be confirmed once all conditions attached to that support have been met. Where Goods sold are price supported by a manufacturer in favour of an end-user customer or have other specific conditions attached, the Buyer must ensure that the Goods are issued at the agreed conditions specific to that support. The Buyer must be able to confirm that all conditions have been met, including confirming the end-user sale by providing, when requested by the Company, the end-user invoice, the end-user purchase order or any other relevant supporting documentation requested. The Buyer agrees that the manufacturer or the Company may audit the Buyers compliance with these conditions. Should a manufacturer not honour a price support for whatever reason, the Company will not for any reason whatsoever be liable and will re-invoice the unsupported amount to the Buyer which will become immediately due. For any further clarification required please refer to the relevant brand manager.

Order Cancellation

- 12 No order (including backorders) which has been accepted by the Company may be cancelled by the Buyer except with the agreement in writing of the Company and the Buyer shall indemnify the Company in full against all loss (including loss of profit), costs (including the cost of labour and materials used), damages, charges and expenses incurred by the Company as a result of the cancellation. Without limiting its rights under this condition in any way, the Company reserves the right to charge the buyer a cancellation/restocking fee of 25% of the price of the goods or services should the buyer cancel the order without prior agreement of the Company.

Despatch

- 13 Unless otherwise specified the price quoted is ex warehouse. An extra amount will be levied to cover delivery and insurance costs. An additional delivery charge may be made to cover any extra costs involved for delivery to an address, which is different to the Buyer's normal delivery address.
- 14 Should expedited delivery be agreed an extra amount may be charged to cover any extra overtime or any other additional costs.

- 15 For the avoidance of doubt all invoices are due for payment subject to credit terms from the invoice date regardless of any delay, default or refusal to accept delivery of the goods ordered. The Buyer will be liable for the costs that flow to the Company on foot of the failure by the buyer to accept delivery or on any default on the part of the buyer. All such costs incurred by the Company as a result of the Buyer's default and/or refusal to accept delivery will be charged by way of invoice to the account of the buyer.
- 16 Any date or time quoted for despatch is to be treated as an estimate only. Despatch may be postponed or delayed due to conditions beyond the Company's reasonable control, and in no event shall the Company be liable for any damages or penalties for delay in despatch or delivery.
- 17 The Company may deliver your order in instalments; each instalment will be treated as a separate delivery.

The Goods

- 18 In the event of the Buyer purchasing the Goods by description the provisions of Section 8 of the Supply of Goods and Services Act 1982 and Section 13 of the Sale of Goods Act 1979 (which implies the term that the Goods shall correspond with their description) shall not apply to the contract between the Company and the Buyer.
- 19 The Company makes and gives no warranty condition or representation in regard to the Goods save as herein expressly stated and it shall not be a condition of the contract of sale that the Goods supplied hereunder are fit for the purpose for which the Buyer wants them, whether or not this purpose has been made known to the Company and/or are of merchantable quality. The Buyer accepts that prior to agreeing to purchase the Goods hereunder he has satisfied himself as to their fitness for his purpose and as to their merchantable quality in regard to the use for which he requires them and has not relied upon the Company's skill, judgment or representations, if any, before so satisfying himself.

Third-Party Software

- 20 In these Conditions for Sale the expression "Third-Party Software" means the software programs proprietary to third parties the subject matter of a relevant order which are provided to the Buyer without modification. The Company shall provide any Third-Party Software to the Buyer under the standard licence terms provided by the relevant third parties and the Buyer agrees to be bound by such licence terms. The Buyer shall not copy (except to the extent permissible under applicable law) reproduce, translate, adapt, vary or modify any Third Party Software. The Buyer acknowledges that the only warranties in relation to Third-Party Software are those contained in the licence from the third-party supplier(s) of the same; and that to the extent that any such warranties are given to the Company, it will pass on the benefit of such warranties to the Buyer.

Credit Policy and Payment Information

- 21 Invoices are raised and dated on the date the goods are available for despatch. Provided a credit account has been approved and unless otherwise specifically agreed, all invoices are payable, in full without any offset or deduction, within 30 days date of invoice, or the credit terms agreed with the buyer in writing.
- 22 If credit terms have not been agreed by the Company, payment must be made in full at the time of placing the order for the Goods.
- 23 All invoices are posted or emailed to the Buyer's normal trading address or email address as supplied on the account application form.
- 24 The Buyer must inform the Company within 5 working days from the invoice date of any discrepancies or errors on an invoice. If the Buyer does not, the Company will assume that the Buyer accepts all information noted on the Company's invoice.
- 25 The Company reserves the right to remove credit facilities and stop supplying Goods at any time.
- 26 The Company accepts Cash, Cheques, Draft, Transfer, Visa, MasterCard, Laser and Maestro. Payments by credit card are subject to a transaction fee of 2% on the value of all transactions.
- 27 If any cheque presented in payment of an invoice or account by a Buyer is returned for whatever reason or if an agreed standing order or direct debit arrangement fails to operate there will be a charge of £50.00 charged to the Buyer's account.
- 28 Interest shall be payable on overdue accounts at the rate of 1.5% per calendar month and will be accrued on a daily basis until such time as the account is settled. The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

Preliminary work

- 29 All work carried out additional to that specified in the relevant quotation or order, whether experimentally or otherwise, shall be charged.
- 30 Retention of Title
1. Owners of the Goods which are subject to this Contract shall not pass to the buyer until they are fully paid for, but the risk in the goods shall be borne by the Buyer from the date that the goods are available for delivery by the Seller or its Agent to the Buyer. For the avoidance of doubt, if the term of credit or the time for payment for the Goods has expired the Company will be entitled to enter the premises of the Buyer for the sole purpose of retrieving the Goods to which they continue to hold the title and for which payment has not been received.
 2. Title in the Goods will not pass to the Buyer until the Company has received in full in cleared funds (i) all sums due to it in respect of the Goods and (ii) all other sums which are or which become due to the Company from the Buyer on any account whatsoever.
 3. The Buyer may use and resell the Goods from the ordinary course of its business before ownership has passed to it, solely on condition that the Buyer will hold such part of the proceeds of sales as represented by the amount owed by the Buyer to the Company in trust for the Company and will account to the Company accordingly.
 4. The Company shall acquire joint property in the new products which are the result of processing and/or mingling the Goods with Goods owned by others. The extent of such joint property is calculated in the proportion of the invoice value of the goods delivered by the Company to the invoice of the value of the other goods.

- 31 On the happening of any of the following events the authority of the Buyer to sell the Goods shall terminate immediately and all the Goods, the property of the Company, shall be immediately delivered to the Company or in the event that they are not so delivered the provisions of Clause 30.1 in so far as it permits the Company to attend at the premises of the Buyer to retrieve the Goods will come into effect immediately:-
- a. any notice to the Buyer or the Company that a receiver, manager, administrator, administrative receiver or similar officer of or over the business or any part of the business of the Buyer is to be or has been appointed;
 - b. any notice to the Buyer or the Company that a petition to wind-up the Buyer is to be or has been presented or any notice of a resolution to wind up the Buyer (other than for the purposes of a bona fide reconstruction or amalgamation on terms previously approved in writing by the Company);
 - c. any decision by the Buyer that the Buyer intends to make an arrangement with its creditors;
 - d. the Buyer (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
 - e. any event occurs, or proceeding is taken, with respect to the Buyer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 31(a) to clause 31(d) (inclusive).
 - f. the Buyer's financial position deteriorates to such an extent that in the Company's opinion the Buyer's capability to adequately fulfil its obligations under this agreement has been placed in jeopardy.

32 For the purposes of Clause 30 and 31 the Company's Goods are identifiable by the manufacturer's serial number and the Buyer covenants at all times under the terms hereof not to do anything to interfere with the impression of the serial number. The Buyer agrees that the products supplied by the Company is generally stand alone and easily identifiable as heretofore outlined and while connected to other systems are easily removed without any damage to the Buyers IT infrastructure simply by removing some cables and a small number of retaining screws. No specialist skill is required. The Buyer accepts that the product is a chattel identifiable by the manufactures serial number.

33 If all or any of the subsections comprised in Clause 30, 31 or 32 are found to be unenforceable then that part of the relevant section to be found so will be removed here from as if it never formed part and the remainder of the section will continue in full force with in effect no reference to the part struck down.

Property and risk

- 34 Notwithstanding the preceding Condition, all risk in respect of the Goods shall be assumed by the Buyer upon delivery of the same to him.
- 35 The Buyer's property and all property supplied to the Company by or on behalf of the Buyer shall, while it is in possession of the Company or in transit to or from the Buyer, be deemed to be at the Buyer's risk and the Buyer shall insure accordingly.
- 36 The Company shall be entitled to make a reasonable charge for the storage of any of the Buyers property left with the Company before receipt of the order notification to the Buyer on completion of the work.

Tax compliance

- 37 The Company may on occasion run promotions either on its own behalf, for other parties or in conjunction with commercial partners. Any tax liabilities which arise as a result of these promotions lies directly with the recipient not with the Company, and where applicable the obligation is on the recipient to declare any benefits received to the relevant tax office as appropriate.
- 38 All undertakings relating to the company and its staff shall be entered into on the basis that they are in compliance with tax regulations pertaining to the United Kingdom. Any undertaking, including but not limited to, promotions and incentive activities, which do not comply with the relevant tax regulations shall be rejected by the Company and shall be deemed to have been null and void from inception. Any incentive offered to staff of the Company without the prior written approval of the Company shall be deemed voidable by the Company.

Loss or Damage in Transit or Non Delivery

- 39 The Buyer shall examine the Goods immediately they are delivered to him. The Company reserves the right to reject claims in respect of shortages or damage in transit or non-delivery of the Goods, or in the case of non-delivery, 5 working days after the due date for delivery.

Late Delivery

- 40 Whilst the Company will endeavour to deliver the Goods in accordance with the Buyer's requirements, the Company will not be held liable for any consequences of late delivery howsoever caused.

Defective products

- 41 The Company's liability (both in contract and in tort) in respect of defects in the Goods shall be limited to the replacement of faulty items or material, or the issue of credit notes in respect thereof, or the granting of a refund or such other compensatory measures as the Company at its discretion considers appropriate in the circumstances. Such measures shall relate only to the actual faulty items or their value, and the Company shall not in any circumstances be under any liability to the Buyer in respect of : - (a) any indirect or consequential loss or damage, sustained by the Buyer howsoever caused; or (b) any economic losses (including, without limitation, loss or revenues, profits, contracts, business or anticipated savings); or (c) any expenditure incurred by the Buyer in respect of Goods alleged to be defective; or (d) any Goods which have been processed in any way by the Buyer or damaged after the risk in the Goods has passed to the Buyer; or (e) any liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Company's approval; or (f) any liability under any warranty, condition or guarantee (whether express or implied) if the total price for the Goods has not been paid by the due date for payment; or (g) any loss of goodwill or reputation; provided, always that these Conditions do not exclude or restrict the Company's liability for death or personal injury from its negligence.

Buyer's Warranty

- 42 These Conditions of Sale are for use in the business-to-business context and the Buyer warrants that he is not a consumer

Intellectual Property Rights

43 The Buyer shall be responsible for any infringement with regard to patent, utility, model, trademark, design, copyright or other intellectual property right in any country without exception when such infringement is due to the Company having followed the design or instruction furnished by the Buyer. The Buyer shall be liable for and indemnify the Company against all loss, damages and expenses suffered or incurred by the Company as a result of any such infringement. In case any dispute and/or claim arises in connection with the above infringement, the Company reserves every and all rights to cancel and make null and void the contract at its discretion and hold the Buyer responsible for any loss caused thereby to the Company. Nothing herein contained shall be construed as transferring any patent, utility model, trademark, design or copyright in the Goods or in any product that the Goods can produce and all such rights are to be expressly reserved to the true and lawful owners thereof. In relation to any Third Party Software, the Buyer acknowledges that nothing contained in these Conditions of Sale shall be construed as an assignment of any intellectual property rights in the Third Party Software.

Export Control

44 The Buyer shall not resell outside of the United Kingdom any of the Goods and will not resell such goods within the United Kingdom to a purchaser knowing (or being given reasonable grounds to suspect by the purchaser) that the purchaser intends to export such goods without first obtaining such licences as may be required or a copy of such licences obtained by the purchaser.

Force Majeure

45 The Company reserves the right to cancel, vary or suspend the operation of contract of sale if events occur which are in the nature of force majeure including (without prejudice to the generality of the foregoing) fire, floods, storm, plant breakdown, strikes, lock-outs, riots, hostilities, non-availability of materials or supplies or any other event outside the control of the Company and the Company shall not be held liable for any breach of contract resulting from such events.

Cancellation

46 The Company may withhold or cancel further or any deliveries under the contract of sale or may recover all losses resulting there from if any of the events set out at Condition 31 occurs or if the Buyer: - (a) fails to make payment on the due date under any contract with the Company; or (b) is in breach of any of the terms and conditions contained herein (notwithstanding that on a former occasion or occasions it has waived its rights). The exercise of rights under Condition 30 31 or 32 shall be without prejudice to the Company's other rights of remedies.

Applicable Law & Jurisdiction

47 These Conditions of Sale and any dispute or claims arising out or in connection with it or its subject matter or formation shall be construed in accordance with the laws of The Republic of Ireland. The Company and the Buyer agree that the courts of The Republic of Ireland shall have non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Conditions of Sale or its subject matter or formation.

Severability

48 If any provision of these Conditions is held by a court or other competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.

Assignment

49 The Company may subcontract, assign or transfer its obligations or rights to a competent third party whether in whole or in part. The Buyer may not assign or transfer any of its obligations.

Notices

50 Any notice required to be given by either party to the other under these Conditions shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant times have been notified pursuant to this provision to the party giving notice.