

TERMS AND CONDITIONS OF PURCHASE (applicable from July 2021 until further written notice)

ARROW ALTECH DISTRIBUTION PROPRIETARY LIMITED (“AA”)

1. **INTERPRETATION** “contract” means any contract for the purchase of goods, incorporating these conditions; “goods” and/or “services” means the goods and/or services agreed in the contract to be purchased; “we”, “us” and “our” mean or refer to AA; “you”, “your” or “supplier” mean or refer to the supplier from whom we purchase the goods or services, “business day” means any day (other than a Saturday, Sunday or public holiday) when banks in South Africa are open for business; “harm” means the death of, or injury to, any natural person, an illness of any natural person, any loss of, or physical damage to any property, irrespective of whether it is movable or immovable, any defect or inefficacy in the product or service, and any economic loss that results from the aforementioned forms of harm. Each provision of these conditions is to be construed as a separate provision applying and surviving even if one or other of them is held void or unenforceable.
2. **ACCEPTANCE AND VARIATION OF CONDITIONS** These conditions shall apply to all our orders for the purchase of goods except to the extent that they are varied by the terms of the order or the signature of AA’s standard distribution agreement. These conditions also apply mutatis mutandis where the order is for the provision of services. If the terms and conditions stated in the supplier’s acceptance of the order or in any other communication of the supplier relating to the order are inconsistent with the conditions of the order or contain a provision purporting to override these conditions, the supplier shall be deemed to have accepted these conditions if he supplies goods in compliance or purported compliance with the order. No change to these conditions will be valid unless in writing and signed by us. If there is any conflict between these conditions, the order or any other terms provided by the supplier, the parties agree that these conditions shall prevail in relation to such conflict. In entering into the contract you do not rely on any express or implied representation made by us and any representation does not form part of the contract or a collateral contract unless specifically recorded in writing by us.
3. **VALIDITY** We will accept no responsibility for any order which is not given on one of our standard order forms, unless we otherwise give express notice in writing thereof.
4. **VARIATION OF ORDER** No variation from the specifications contained in the order will be permitted by us, unless such variation shall previously have been approved in writing by our Purchasing Department. In particular, but without limitation, no price increase (arising from whatever cause) will be accepted without such prior written approval.
5. **PACKING** All goods must be packed so as to reach us in good condition and in compliance with these conditions, all relevant international standards for airfreight, sea freight, and road freight as the case may be. Unless otherwise agreed, packaging will be non-returnable. We reserve the right to reject goods or packaging damaged in transit.
6. **DELIVERY** All goods shall be delivered to us as per the incoterm stipulated on the purchase order and, in the event of that goods are not delivered by the delivery date specified in the order (time being of the essence of these conditions and each contract), then (without prejudice to Clause 10 below) such goods shall, at our option, be delivered by courier or other express delivery service as nominated by us at the supplier’s cost. We will accept no responsibility for any goods delivered to us without an advice notification giving us full details and quoting our order number. Labels must also bear our Order Number and the supplier’s name.
7. **SEPARATE DELIVERIES** Where the order is for the sale of goods by a number of separate deliveries, we shall be entitled, at our option, to treat a breach by the supplier under Clause 10 in respect of any delivery either as a breach of contract in respect of that delivery only, entitling us to cancel the order in respect of that delivery, or as a breach of contract affecting the whole order, entitling us to cancel the whole order.
8. **PASSING OF OWNERSHIP AND RISK** The ownership of and risk in the goods shall pass to us on delivery at the address specified in the order, but without prejudice to any rights we may have at law including but not limited to the right of rejection.
9. **PAYMENT**
 - 9.1 Unless otherwise stated in the order, the price quoted by the supplier shall be deemed to be all inclusive, subject to the incoterms stipulated on the purchase order.
 - 9.2 Provided invoices are submitted within 3 (three) days of the goods having been delivered or the services having been completed to our satisfaction, payment will normally be made within 30 (thirty) days after receipt of the statement of account from you.

9.3 Payment by us for any of the goods ordered shall not constitute any admission by us as to the performance by you of your obligations and shall not constitute a waiver of any of our rights hereunder, nor shall such payment terminate any of the supplier's warranties.

10. **SUPPLIER'S DEFAULT** It is a condition of the contract that the goods will conform to the requirements of the order in all respects (and, in particular, as to quantity, quality, fitness, part number, description and specification, and the sample supplied, if any) and in accordance with any statements or undertakings made by the supplier or its employees, representatives or agents prior to the acceptance of the order. The supplier undertakes in our favour that any and all of the products provided to us from time to time are free from any defects of whatsoever nature and howsoever arising. If the supplier fails to complete this order strictly according to such requirements, or in accordance with these conditions, or the goods shall prove to be defective within 24 (twenty four) months of delivery, or the goods fail to satisfy the requirements and standards contemplated in clause 19, then, without prejudice to any other rights that we may have, we shall be entitled, at our election:

10.1 to cancel the order, reject the goods and claim any direct or indirect damages, including consequential, special general damages, in which case the supplier shall, in addition, refund the purchase price (or any portion thereof) to us; or

10.2 to call upon the supplier to rectify the defects or replace the goods (at our sole option) at the supplier's own expense including all freight and transport costs. All the obligations in this Clause 10 shall further apply to any such rectified or replacement goods. The supplier shall reimburse us with any additional costs which we may suffer as a result of such failure or defect, and shall indemnify us against any and all actions, proceedings, damages, costs, claims, demands and expenses whatsoever, whether direct, indirect, consequential, special or general damages, resulting therefrom.

11. **FORCE MAJEURE** Neither party shall be liable to the other for any delay or failure in performing its obligations under a contract to the extent that such delay or failure is caused by an event or circumstance that is beyond the control of that party, and which by its nature could not have been foreseen by such party or, if it could have been foreseen but was unavoidable, provided that the supplier has notified us without delay of such an event and the supplier shall use all reasonable endeavours to bring any such events or circumstances to an end and resume performance under the relevant contract. If any events or circumstances contemplated in this clause 11 prevent the supplier from carrying out its obligations under a contract for a continuous period of more than 5 (five) days, we may terminate the relevant contract immediately by giving written notice to the supplier.

12. **DESIGN AND TOOLS** All blueprints, designs, drawings and instructions supplied by us, and all tools, dies, jigs, moulds, and the like specially manufactured in connection with the order (whether supplied by us or not) for the manufacture of the goods shall be our property and shall be surrendered to us forthwith on demand. The supplier shall not furnish any third party with any goods made in accordance with our blueprints, designs, drawings or instructions without the prior written approval of our Purchasing Department.

13. **INSURANCE** The supplier undertakes in favour of us that it has sufficient insurance cover to stand good for any breach of its undertakings, warranties and/or any of its liabilities and/or indemnities which may arise in terms of these conditions and/or in relation to the supply of its goods to us or its provision of services to us.

14. **INDEMNITY** Without prejudice to any other remedy available to us under these conditions or at law, the supplier shall indemnify us against any and all actions, proceedings, damages, costs, claims, demands and/or expenses whatsoever (whether direct or indirect, including direct, indirect, incidental, consequential, special or general damages) in respect of: (a) defective products, product failure and/or defective services, or (b) loss of life or personal injury or damage to property resulting, either directly or indirectly, from any defect in the goods supplied or from compliance with any instructions given by the supplier in connection with the goods or from the execution of any services covered by the order, unless such loss of life or personal injuries or damage to property is directly and exclusively attributable to our sub-contractors or to those in our or their employ; or (c) a breach by you of any of your warranties, obligations or liabilities in terms hereof.

15. **CANCELLATION OF ORDER** Without prejudice to any other rights that we may have, we shall be entitled to cancel the order at any time (without payment of any penalty to the supplier) by written notice if:

15.1 the supplier is placed under liquidation or sequestration (whether provisional or final); or

15.2 the supplier commences business rescue proceedings (as contemplated in Chapter 6 of the Companies Act 2008); or

15.3 execution proceedings are levied or enforced upon any of the property of the supplier and payment in respect of the debt due relating to such execution proceedings and all costs

- associated in such execution proceedings are not paid out or the execution proceedings are not discharged, set aside or withdrawn within 14 (fourteen) days; or
- 15.4 a creditor perfects any security held by it in respect of a debt owed to it by the supplier, inter alia, by taking possession of any property of the supplier which secures any such debt; or
- 15.5 if the supplier stops payment of any debt due to us or ceases or threatens to cease to carry on its business or pay its debts as and when they fall due.
- 15.6 In any other case we shall be entitled to cancel this order at any time by giving written notice to the supplier in which event we shall be bound to pay a reasonable sum for any work proved already completed but shall otherwise be free from any liability of whatsoever nature.
- 16 **INTELLECTUAL PROPERTY** The supplier warrants that the goods included in this order do not infringe any patent, registered design, copyright, trademark or trade name or any other proprietary right. The supplier shall reimburse us with any costs which we may suffer as a result of any infringement of its intellectual property, and shall indemnify us against any and all actions, proceedings, damages, costs, claims, demands and expenses whatsoever, whether direct or consequential, resulting therefrom.
- 17 **INSPECTION** We shall have a period of 30 (thirty) days from the date of receipt of the goods (or, if applicable, the date, if later, of completion of installation and/or commissioning by the supplier) within which to inspect the goods. In the meantime, we shall not be deemed to have accepted the goods or be liable to pay for the same.
- 18 **GOVERNMENT CONTRACTS** Where the goods or services ordered are to be used in carrying out, or in connection with, a Government contract or sub-contract, the order is subject to any special conditions stipulated by the Government Department concerned and to these conditions (so far as they are not inconsistent with such special conditions). Details of such conditions will be supplied on request.
- 19 **SUPPLIER WARRANTIES**
The supplier warrants that:
- 19.1 all goods and services supplied pursuant to the order comply with all applicable common law and statutory requirements and in particular (but without prejudice to generality of the foregoing), that:
- 19.1.1 the goods are reasonably suitable for the purposes for which they are generally intended;
- 19.1.2 the goods are of good quality, in good working order and free of any defects of whatsoever nature;
- 19.1.3 the goods are free of any intellectual property infringements of whatsoever nature;
- 19.1.4 the goods will be usable and durable for a reasonable period of time, having regard to the use which they would normally be put and to all the surrounding circumstances of their supply;
- 19.1.5 the goods comply with any applicable standards set under the Standards Act, 8 of 2008 and/or the standards of the South African Bureau of Standards, where applicable; and
- 19.1.6 the goods will be designed, constructed or installed in such manner and with such tools as to be without risk to health and safety and that we have been provided with adequate information as to their proper use and storage;
- 19.2 the packaging and labelling of the goods shall:
- 19.2.1 to the extent applicable, be in accordance with the provisions of the National Environmental Management: Waste Act, 59 of 2008, the Hazardous Substances Act, 15 of 1973, the Standards set in terms of the Standards Act, 8 of 2008 and/or the standards of the South African Bureau of Standards, as well as any regulations published in terms of the aforementioned legislation;
- 19.2.2 display a notice providing us with adequate instructions for the safe handling and use of the goods;
- 19.2.3 in respect of hazardous or unsafe goods, specifically draw our attention to the fact, nature and potential effect, the risks associated with the goods; and
- 19.2.4 as far as is reasonably practicable, be designed so that such packaging can be reduced, re-used, recycled or recovered in accordance with the National Environmental Management: Waste Act, 59 of 2008.
- 19.2.5 Irrespective of whether the harm resulted from the negligence of the supplier, the supplier shall be liable for any harm caused wholly or partly as a consequence of: a. supplying any unsafe goods; b. product failure, product defect or hazard in any goods of any nature whatsoever or howsoever arising; or c. inadequate instructions or warnings pertaining to any hazard arising from or associated with the use of any goods provided by the supplier.

- 20 **ANTI-CORRUPTION AND BRIBERY** The supplier agrees that it will not directly or indirectly, pay, offer, promise to pay or authorize the payment of, any monies or financial or other advantage in violation of any anti-corruption laws and in particular (but without prejudice to the generality of the foregoing) the Prevention and Combating of Corrupt Activities Act 2004, the UK Bribery Act 2010 and the US Foreign Corrupt Practices Act 1977. Further, the supplier confirms that it has not taken nor will take directly or indirectly, any action that would cause its officers, directors, employees and/or affiliates to be in violation of any anti-corruption laws including but not limited to the Prevention and Combating of Corrupt Activities Act 2004, the UK Bribery Act 2010 and the US Foreign Corrupt Practices Act 1977. In circumstances where we determine, in good faith, that the supplier has breached this provision we will be entitled, in addition to our other rights, to terminate any contract with the supplier by giving written notice with immediate effect. The supplier will indemnify us from any claims, suits, investigations, penalties and fines of any kind arising from any breach of this provision. This provision shall survive the termination of any contract.
- 21 **STIPULATIO ALTERI** These conditions constitute a stipulatio alteri in favour of any entity within the Allied Electronics Corporation Limited group of companies capable of acceptance at any time. Save for the aforementioned, no part of these conditions shall constitute a stipulatio alteri in favour of any person who is not a party to these conditions.
- 22 **NO WAIVER** Payments by us for any goods or services ordered shall not constitute a waiver of any of our rights in terms of these conditions, at law or otherwise, nor shall such payment terminate any of the supplier's obligations.
- 23 **NOTICES** Notices may be sent by first-class post or courier service to the parties' registered offices and shall be deemed served either 48 hours after posting (South Africa) or 5 (five) days after posting (outside of South Africa).
- 24 **HEADINGS** The headings to the paragraphs of these conditions are inserted only for convenience of reference and shall not affect their interpretation.
- 25 **LAW AND JURISDICTION** The construction, validity and performance of all our contracts shall be governed by the laws of the Republic of South Africa. The parties acknowledge and agree that all disputes arising out of or in connection with this Agreement, its implementation and/or termination shall be determined and settled under the rules of the Arbitration Foundation of Southern Africa in force from time to time by one or more arbitrators appointed in terms of such rules. Unless otherwise agreed in writing between the parties, the arbitration proceedings shall be conducted at Sandton, Gauteng. Nothing in these conditions shall, however, prevent a party from applying to any court of competent jurisdiction for any urgent or interim relief and/or conservatory measures.
- 26 **CONFIDENTIALITY**
- 26.1 The Supplier agrees that:
- 26.1.1 all Confidential Information disclosed to it by AA is a valuable, unique and a special asset proprietary to AA and may also incorporate proprietary information; and
- 26.1.2 the undertakings given in this clause 33 are necessary to protect AA's business and are reasonable both as to content and duration.
- 26.2 The Supplier acknowledges and agrees:
- 26.2.1 that this confidentiality clause shall be binding upon the Supplier, all persons employed by the Supplier (including but not limited to, professional advisors, agents, consultants, employees and staff) and the Supplier undertakes to procure that such persons are made aware of the confidential nature of the Confidential Information and act in accordance with agreed controls to protect such confidentiality;
- 26.2.2 to hold, and to ensure that its officers, directors and employees hold the Confidential Information in the strictest confidence and act in accordance with agreed controls to protect such confidentiality, and not to make use of the Confidential Information other than for the performance of its obligations in terms of these standard terms and conditions;
- 26.2.3 not to use or exploit the Confidential Information for its commercial benefit or derive any financial benefit of the same;
- 26.2.4 to release the Confidential Information only to those persons who are required to know same and not to release or disclose the Confidential Information to any other party other than contemplated in these Standard Terms and Conditions and any purchase order pursuant to that;
- 26.2.5 to Process AA's Personal Information and where applicable AA's Data Subjects in connection with and for the purposes of the supply of the Goods and/or the provision of the Services and as such will act as the Operator for purposes of POPIA. Unless required by law the Supplier shall Process Personal Information only in accordance with these Standard Terms and Conditions or for the purposes connected with the provision of the Services or as specifically otherwise instructed or authorised by AA in

- writing or in accordance with the Supplier's technical and organisational security measures as agreed to by the Parties;
- 26.2.6 to Process the Personal Information in relation to the Services separately from any Personal Information, data and property relating to any other third party, and may not be combined or merged with information of another party unless otherwise agreed to in writing by AA;
 - 26.2.7 that the Confidential Information in its possession is the property of AA and, any computer software, program disks, documents, writings, written instructions, notes, memoranda or records of whatever nature relating to the Confidential Information shall be returned to the AA within 14 (fourteen) days of termination of this Contract; and
 - 26.2.8 that no copies or extracts, regardless of the format, manner or medium in which Confidential Information may be retained, stored or reproduced except to the extent required by law.
- 26.3 Further, the Supplier acknowledges and agrees that the disclosure of the Confidential Information to any unrelated third party shall be unlawful and in breach of these Standard Terms and Conditions, unless or until the Supplier can reasonably demonstrate that the Confidential Information (or the relevant portion thereof):
- 26.3.1 is already in the public domain through no fault of its own;
 - 26.3.2 has been lawfully obtained from any third party who/which was under no obligation to keep such communication, information or material confidential;
 - 26.3.3 is already lawfully known to the Supplier at the time that it receives such information (and the Supplier is under no prior obligation to keep such information confidential); or
 - 26.3.4 is disclosed by the Supplier to satisfy the order of a court of competent jurisdiction or the demand or direction of a governmental or regulatory body, or to comply with the provisions of any law or regulation in force from time to time, provided that in these circumstances the Supplier shall:
 - 26.3.4.1 disclose only that portion of the Confidential Information which it is legally required to disclose; and
 - 26.3.4.2 undertake to protect the confidentiality of such Confidential Information to the fullest extent practicable.

27. DATA PROTECTION

- 27.1 In performing its obligations under these Standard Terms and Conditions, the Supplier shall:
- 27.1.1 comply with the provisions of the prevailing privacy and data protection legislation governing the collection, use and processing of Personal Information as defined in POPIA and where applicable UKGDPR and EUGDPR and the ePrivacy Directive and any laws implementing the foregoing or implemented in European Union Member States hereunder;
 - 27.1.2 not process Personal Information for any purpose other than to perform its obligations under these Standard Terms and Conditions and ensure that such processing will not place AA in breach of POPIA or any other applicable privacy and data protection laws or stated requirements;
 - 27.1.3 only act on the instructions of AA in collecting, processing and utilising the Personal Information (and for avoidance of doubt, these Standard Terms and Conditions shall constitute such instructions);
 - 27.1.4 not disclose or otherwise make available the Personal Information to any third party other than authorised staff or sub-contractors who require access to such Personal Information strictly in order for the Supplier to carry out its obligations pursuant to these Standard Terms and Conditions and ensure that such staff and any other persons that have access to the Personal Information are bound by appropriate and legally binding confidentiality and non-use obligations in relation to the Personal Information;
 - 27.1.5 take appropriate, reasonable technical and organisational measures to ensure that the integrity and confidentiality of the Personal Information in its possession or under its control is secure and that such Personal Information is protected against accidental loss, destruction, damage, unlawful access or processing;
 - 27.1.6 immediately notify AA in case of possible infringements of the applicable data protection legislation, the terms of this clause or other irregularities by the Supplier, its staff or any other party acting on behalf of the Supplier in relation to AA's Personal Information; and
 - 27.1.7 at AA's option, return or destroy the Personal Information once it is no longer required for the purposes of performing obligations under these Standard Terms and Conditions or any directly related purpose.
- 27.2 The Supplier hereby indemnifies and holds harmless AA, its affiliates and their respective staff, successors, cessionaries and assignees, from any and all losses, costs, expenses and damage, including consequential losses and damage as well as penalties and fines arising

from the Supplier's non-compliance with the provisions of this clause and any relevant data protection legislation.

27.3 The Supplier acknowledges that AA may, on reasonable notice, investigate the steps it is taking to comply with any applicable privacy and data protection laws.

27.4 It is recorded and agreed that where it may be necessary for the Supplier as Operator to transfer Personal Information to a sub-processor for Processing for the purposes agreed to in the order the Supplier as Operator hereby agrees that it hereby indemnifies and holds AA harmless from any and all losses arising from any claim or action brought against AA. by any party, including by any regulator, arising from or due to the Supplier's or the offshore sub-processor's breach of the obligations contained in this Contract in relation to the lawful Processing of Personal Information in South Africa or anywhere else in the world.

27.5 The Supplier agrees that breach of this clause shall be regarded as a material breach of these Standard Terms and Conditions which forms the basis of the Contract between the Parties.

27.6 The obligations contained in this clause shall endure, even after the termination of the Contract for whatever reason.

28. **INFORMATION AND CYBER SECURITY**

28.1 Should the Supplier have access to or be integrated, in any way, into AA's information or technology and/or communications systems ("**AA IT Network**"), the Supplier's Information Technology Infrastructure must be designed in such a way as to ensure that it connects to and communicates and/or transfers data to the AA IT Network in a secure manner.

28.2 It is the Supplier's sole responsibility to provide and continuously ensure a secure connection between its information technology and communications systems and AA's IT Network and/or any other network, as the case may be.

28.3 The Supplier shall establish and maintain any appropriate measures, including but not limited to: the installation of firewalls, the application of authentication measures, the encryption of data, the installation of antivirus programs, and any other appropriate measures, to ensure the protection of any information technology, communications systems, services, data as well as the AA IT Network against any kind of security breaches, unauthorised access, interference, intrusion, leakage and/or theft of data or information.

28.4 The Supplier hereby indemnifies AA from and against any and all loss, damage, costs, expenses and/or liabilities, which AA may suffer or incur arising from or as a result of any breach of this clause 35, including any claim or action by any third party arising out of such breach, save to the extent that the loss damage, costs, expenses and/or liabilities arises out of the gross negligence or willful intent of AA.