

## TERMS AND CONDITIONS OF PURCHASE – Arrow

### 1. INTERPRETATION

#### 1. In these Conditions

<b>“Conditions”</b>	the terms and conditions of purchase set out in this Order including any Special Conditions as duly amended pursuant to Condition 2.4;
<b>“Delivery”</b>	the delivery of the Goods in accordance with the INCOTERM specified on the front of this Order;
<b>“INCOTERM”</b>	the International Chamber of Commerce’s International Commercial Terms 2000 (ICC Publication Number 560);
<b>“Goods”</b>	the goods defined on the front of this Order;
<b>“Order”</b>	this Purchase Order;
<b>“Order Price”</b>	the price of the total supply of Goods and/or the total charge for the Services as stated on the front of this Order;
<b>“Packing Instructions”</b>	the packing instructions issued by Arrow from time to time;
<b>“RoHS Regulations”</b>	the Restriction of the Use of Certain Hazardous Substances in Electrical Equipment Regulations 2004;
<b>“Services”</b>	the services defined on the front of this Order;
<b>“Special Conditions”</b>	the special conditions as stated on the front of this Order;
<b>“Supplier”</b>	the supplier as defined on the front of this Order;
<b>“<u>Arrow</u>”</b>	the contracting <u>Arrow</u> company as stated on the front of this Order;
<b>“Tools”</b>	all materials, equipment, tools, patterns, dies, moulds, jigs, drawings, specifications and data supplied or funded by <u>Arrow</u> or supplied to <u>Arrow</u> pursuant to this Order.
<b>“WEEE Regulations”</b>	the Waste Electrical and Electronic Equipment Regulations 2006;

- Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.
- The headings in these Conditions are for convenience only and shall not affect their interpretation.
- In the case of any inconsistency between the Conditions and the Special Conditions, the Special Conditions shall prevail.

## **2. APPLICATION**

1. This Order constitutes an offer by Arrow to purchase the Goods and/or acquire the Services from the Supplier subject to these Conditions.
2. Acceptance by the Supplier of this Order shall occur either expressly by the Supplier's signature and return of Arrow' acknowledgement form or impliedly by the commencement of work under this Order.
3. These Conditions shall apply to the exclusion of any other terms and conditions given to Arrow or subject to which this Order is accepted or purported to be accepted by the Supplier.
4. No variation to this Order shall be binding unless agreed through a formal Order amendment executed by the duly authorised representatives of Arrow and the Supplier.

## **3. SPECIFICATIONS**

1. The quantity, quality and description of the Goods and the Services shall be as specified in this Order.
2. A Certificate of Conformity shall be provided by the Supplier at the time of dispatch and signed by a duly authorised representative of the Supplier who has responsibility for assessing the quality of the Goods and Services supplied. Such Certificate of Conformity shall certify that the Goods and Services comply in all respects with this Order. Such Goods and Services shall be listed on the Certificate of Conformity and Advice Notes in accordance with their descriptions on this Order. [The Certificate of Conformity shall also list all approvals relevant to the Goods and Services purchased.]

## **4. INSPECTION AND TESTING**

1. Arrow shall be entitled to inspect and test the Goods during manufacture, processing or storage at the premises of the Supplier or any third party prior to despatch, and the Supplier shall provide Arrow with all facilities reasonably required for inspection and testing. Such inspection and testing shall not constitute acceptance by Arrow and does not relieve the Supplier of its obligations, whether implied or express.
2. If as a result of inspection or testing Arrow is not satisfied that the Goods will comply in all respects with this Order, the Supplier shall take all necessary steps at its own cost to ensure that the Goods and Services comply with this Order. This obligation shall not relieve the Supplier of its obligations to meet the Delivery dates defined on the front of this Order.

## **5. DELIVERY**

1. The Goods shall be delivered to, and the Services shall be performed at, the Delivery address by the Delivery date as stated on the front of this Order and in each case during Arrow' normal business hours.
2. The Goods shall be marked in accordance with Arrow' Packing Instructions and packed and secured so as to reach their destination in an undamaged condition.
3. The Supplier must provide a packing note with each Delivery quoting this Order number, the item number, part number, description, quantity of Goods and any unloading instructions for receiving the Goods.
4. Current with the dispatch of the Goods, the Supplier shall send Arrow duplicates of all relevant advice notes, release notes and invoices.
5. All packaging materials are deemed non returnable.

## **6. TRANSFER OF RISK AND PROPERTY**

Risk and property in the Goods shall pass to Arrow upon delivery.

## **7. ORDER PRICE**

1. The Order Price is stated on the front of this Order and has been agreed based upon these terms and conditions.
2. The Order Price includes all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the Delivery address and all taxes, duties, imposts or levies except for UK VAT, which will be charged in addition subject to the presentation by the Supplier of a valid UK VAT invoice.

## **8. TERMS OF PAYMENT**

1. The Supplier shall invoice Arrow following the Delivery of the Goods or Services.
2. In order for the invoice to be valid it must state:
  - 8.2.1. the purchase order number;
  - 8.2.2. the Goods and Services to which it relates;
  - 8.2.3. the Supplier's VAT number ;

8.2.4. the Supplier's bank, account number, sort code and address;

8.2.5. the invoice number;

8.2.6. the date of the invoice;

8.2.7. the name of the Arrow contracting company and its full address; and

8.2.8. the Order Price [and the total amount due].

3. Arrow shall pay the Supplier within 45 days of receipt of a valid and properly submitted invoice. Payment may be delayed if the Supplier fails to supply all or any necessary information required to process the invoice.
4. Arrow shall be entitled to set off against the Order Price any sums owed to Arrow by the Supplier.
5. In the event that Arrow does not make payment of a correct and validly submitted invoice within 45 days of its receipt, the Supplier is thereafter entitled to charge interest on that late payment at a rate of 4% per annum above Bank of England's base rate calculated on a daily basis until the actual date of payment.

## 9. QUALITY OF GOODS AND LIABILITY

1. This Order is placed on the condition that the Goods:

9.1.1. will be of satisfactory quality and fit for the purposes for which they are being procured by Arrow; and

9.1.2. will comply with the latest applicable harmonised European Standards where such exist or where such harmonised standards do not exist, the latest applicable specification of the International Standards Organisation or the British Standards Institute.

9.2 Without prejudice to any other rights Arrow may have, whether implied by statute or otherwise, the Supplier shall, at Arrow' option, promptly repair, replace or refund the cost of the Goods which are or become defective for a period of 18 months from the date of Delivery or if the Goods are for resale by Arrow for a period of 12 months from the date of Delivery to Arrow' customer.

9.3 The Supplier shall warrant any items repaired or replaced for an additional period of a 12 months from the date of repair or replacement.

9.4 The Supplier warrants to Arrow that the Services will be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standard of quality as it is reasonable for Arrow to expect in all the circumstances and will comply with all applicable regulations and other legal requirements concerning the performance of the Services.

## 10. COMPLIANCE WITH REGULATIONS

The Suppliers warrants, undertakes and represents that:

1. it will establish, maintain and demonstrate to the reasonable satisfaction of Arrow a system and organisation compliant with the requirements of ISO 9001 and ISO 14001;
2. all Goods supplied to Arrow come within the scope of the WEEE Regulations and RoHS Regulations and are fully compliant with such Regulations;
3. it will comply with all current health and safety regulations during the period of this Order;
4. will identify to Arrow any Goods that are controlled by the Montreal Protocol; and
5. it will comply will all relevant statutes, statutory rules, orders, directives, regulations and British and EU standards in force at the time of delivery.

## 11. RIGHT TO REJECT

1. Without prejudice to any other remedy, if any Goods or Services are not supplied or performed in accordance with this Order, then Arrow shall be entitled to reject any goods Delivered and shall not be deemed to have accepted any Goods until Arrow has had a reasonable time (in any event not more than 30 days) to inspect them following Delivery or in the event of latent defect, not more than 30 days from when the latent defect becomes apparent.
2. The Supplier shall collect rejected Goods within 10 days notice by Arrow. In the event that the Supplier does not collect the rejected Goods, Arrow shall return the goods to the Supplier and debit the Supplier's account with a £250.00 administration charge and all costs relating to the return of those Goods.
3. The Seller shall not sell faulty or surplus Goods manufactured under this Order bearing the name of Arrow or its trade mark.

## 12. SPARES

All Orders are placed by Arrow on condition that spare parts and form, fit and function replacements for the Goods will be available to Arrow at fair and reasonable prices for a period of 20 years from the date of this Order. The Supplier shall give Arrow a minimum of 12 months written notice prior to the Goods or spare parts being made obsolete.

## 13. TOOLS

Tools must only be used for the performance of this Order. The Supplier shall at its own cost ensure the safe custody of all Tools and upon completion or termination of this Order, the Supplier shall return all Tools to Arrow free of charge..

## 14. CONFIDENTIALITY/PUBLICITY

1. During the performance of this Order and for a period of 7 years following the Order date, the Supplier shall not disclose any information received, used or developed by the Supplier to any third party or any other person who does not need to know such information for the purposes of performing this Order.
2. Save as required by law, the Supplier shall not make public the existence or the terms of this Order without the prior written consent of Arrow.

## 15. INTELLECTUAL PROPERTY RIGHTS

1. The Supplier shall not acquire or retain, or appropriate for its own use, any right, title, or interest in Arrow' intellectual property. The Supplier shall not take any action that might impair in any way any right, title or interest in Arrow' intellectual property.
2. Each party shall remain the sole owner of all intellectual property rights developed or acquired before the Order date.
3. The Supplier hereby grants to Arrow a non-exclusive, worldwide, royalty-free licence, to exploit any intellectual property rights needed for the use of the Goods by Arrow and its customers and to sub-license the same, for use of the Goods by Arrow and its customers.
4. The Supplier warrants that it has the right to grant such licence and indemnifies Arrow against any third party infringement of such intellectual property rights by Arrow or its customers.
5. All rights in intellectual property created by the Supplier in performance of its obligations shall vest exclusively in Arrow.

## 16. EXPORT CONTROLS

1. The Supplier warrants that all information and export classifications provided by the Supplier to Arrow in respect of the Goods are true and accurate and comply with all applicable export control regulations and that performance of the Supplier's obligations under the Conditions will not contravene any applicable export control regulations.
2. The Supplier shall ensure that all and any export licences necessary for the timely performance of its obligations under the Conditions are maintained at all times. Failure or delay by the Supplier in performing this obligation shall entitle Arrow to terminate this Order.
3. The Supplier shall as soon as such information is available, provide Arrow with all information necessary to assess the export and re-export restrictions affecting the Goods.
4. The Supplier shall ensure that the following information clearly appears on all delivery documentation:
  - 16.4.1. the export licences obtained in respect of the Goods;
  - 16.4.2. any other relevant information relating to such licences; and
  - 16.4.3. any EC regulations applicable to the Goods, and the restrictions to be applied.
5. If the Supplier is not compliant with any of Condition 16, the Supplier shall notify Arrow immediately by written notice.

## 17. INDEMNITY

The Supplier shall indemnify Arrow in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by Arrow as a result of or in connection with:

1. the breach of any warranty given by the Supplier in relation to the Goods or the Services;

2. any claim that the Goods infringe, or their importation, use or resale, infringes, the patent, copyright, design right, trade mark or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any Specification supplied by Arrow;
3. any liability under the Consumer Protection Act 1987 in respect of the Goods;
4. any act or omission of the Supplier or its employees, agents or sub-contractors in supplying, delivering and installing the Goods or in the performance of the Services; and
5. The Supplier indemnifies Arrow from all claims and all direct, indirect or consequential liabilities (including direct loss of profits) costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by Arrow as a result of or in connection with any breach by the Supplier of any its obligations under Conditions 10, 12, 13, 14, 15, 16 or 17.

## 18. INSURANCE

1. Without limiting the Supplier's liability under this Order, the Supplier shall obtain and maintain for the duration of this Order at a minimum the following insurance cover:
  - 18.1.1. third party;
  - 18.1.2. property damage;
  - 18.1.3. product liability; and
  - 18.1.4. professional indemnityto a sufficient level to cover the risks associated with this Order.
2. Upon request, the Supplier must provide copies of relevant insurance certificates.
3. The Supplier shall immediately inform Arrow of anything that might affect the insurance cover under this Order.

## 19. TERMINATION

1. Arrow shall be entitled to cancel this Order in respect of all or part only of the Goods and/or the Services by giving notice to the Supplier at any time prior to delivery or performance, in which event Arrow' sole liability shall be to pay to the Supplier a fair and reasonable price for all Goods delivered or in a deliverable state or Services provided at the date when such notice is given but in no event shall such payment exceed the value of the Order Price.
2. Arrow shall be entitled to cancel this Order without liability to the Supplier by giving notice to the Supplier at any time if:
  - 19.2.1. the Supplier breaches any of its obligations under this Order;
  - 19.2.2. the Supplier makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction);
  - 19.2.3. the financial position of the Supplier deteriorates to such an extent that in the reasonable opinion of Arrow the capability of the Supplier adequately to fulfil its obligations under this Order has been placed in jeopardy;
  - 19.2.4. any material change occurs in the management, ownership or control of the Supplier;
  - 19.2.5. an encumbrancer takes possession, or a receiver is appointed of any of the property or assets of the Supplier;
  - 19.2.6. the Supplier ceases, or threatens to cease, to carry on business; or
  - 19.2.7. Arrow reasonably apprehends that any of the events mentioned above is about to occur in relation to the Supplier and notifies the Supplier accordingly.
3. In the event of termination pursuant to Condition 19.2, Arrow shall be entitled to recover any or all additional costs incurred.

## 20. ASSIGNMENT AND SUB-CONTRACTING

1. The Supplier shall not assign or sub-contract this Order or any part of it without Arrow' prior written consent. All sub-contracts shall be the responsibility of the Supplier and be placed subject to conditions which fully protect the interests of Arrow.

2. No such assignment or sub-contracting shall relieve the Supplier from its obligations under this Order.
3. Upon notice to the Supplier, Arrow shall be entitled to assign its obligations to any Arrow group company.

## 21. NOTICES

Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office and shall be deemed to have been properly served at the time when in the ordinary course of transmission it would reach its destination.

## 22. WAIVER

No waiver by Arrow of any breach by the Supplier shall be considered as a waiver of any subsequent breach of the same or any other provision.

## 23. SEVERABILITY

If any provision of this Order is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the provisions of this Order and the remainder of the provision in question shall not be affected thereby.

## 24. JURISDICTION AND APPLICABLE LAW

The Contract shall be governed by the laws of England and shall be subject to the exclusive jurisdiction of the English courts.

## 25. THIRD PARTY RIGHTS

In any event, and notwithstanding anything to the contrary herein, nothing in this Agreement is intended to, or shall, confer any benefit on any third party (whether referred to herein by name, class, description or otherwise) or shall confer any right of any third party to enforce a term contained in this Agreement.

## 26. RELATIONSHIP OF THE PARTIES

The relationship of the Parties hereunder is one of potential main contractor and subcontractor in respect of the project. No relationship of agency, joint venture or partnership shall exist or shall be deemed to exist between the Parties and in particular, it is expressly understood that the Supplier shall not have the authority to bind Arrow in any way, nor shall the Supplier purport or attempt to bind Arrow in any way. The Supplier shall indemnify Arrow in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by Arrow as a result of or in connection with any failure by the Supplier to strictly comply with the provisions of this clause 26 including without limitation any attempt to bind Arrow in any way.”

## 27. PUBLICITY

The Supplier agrees that it shall not disclose the existence of this Agreement or use the name of Arrow in any publicity without the prior written consent of Arrow.

## 28. SURVIVAL

28.1 All rights and obligations of the Parties shall cease to have effect immediately upon termination or expiry of this Agreement, save that the following shall continue in full force and effect, notwithstanding any such termination or expiry, (whatever the reason)

28.1.1 Clauses which are expressed to survive its termination or expiry, or which from their nature or context, it is contemplated that they are to survive termination or expiry, including, without limitation, Clauses 10, 12, 13, 14, 15, 16, 17 and 24; and

28.1.2 Any provision of this Agreement necessary for its interpretation or enforcement; and

28.1.3 Any and all parts of this Agreement existing at the date of such termination or expiry but not terminated pursuant to this Agreement

28.2 Termination or expiry of this Agreement shall be without prejudice to the respective rights and liabilities of each of the Parties accrued prior to such termination or expiry.