

## MARUBUN / ARROW STANDARD TERMS AND CONDITIONS OF SALE

### 1. TERMS AND CONDITIONS

All quotations and sales are made only upon these CONDITIONS. This document, and not any purchase order or other BUYER document (which, if construed to be an offer is hereby rejected), will be deemed an offer or counter-offer and is a rejection of any other terms or conditions. BUYER, by accepting any GOODS, making any payments or ordering any GOODS having previously received these CONDITIONS, will be deemed to have assented to these CONDITIONS, notwithstanding any terms contained in any prior or later communication from BUYER. SELLER's failure to object to any document, communication or act of BUYER will not be deemed a waiver of any of these CONDITIONS.

Any addition or change to these CONDITIONS must be specifically and expressly agreed to in writing by a duly authorized officer of SELLER before becoming binding on SELLER.

### 2. INTERPRETATION IN THESE CONDITIONS:

'BUYER' means the person who purchases GOODS from the SELLER;

'GOODS' means the GOODS which the SELLER is to supply in accordance with these Conditions;

"MANUFACTURER" means the supplier or manufacturer or original manufacturer who sells the GOODS to SELLER and which are supplied or sold to BUYER.

'SELLER' means the SELLER named in the price quotations or invoices.

'CONDITIONS' means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes and special terms and conditions agreed in writing between the BUYER and the SELLER which shall be governed and construed in accordance with the laws of the SELLER's domicile;

'CONTRACT' means the contract for the purchase and sale of the GOODS;

'WRITING' includes telex, cable, facsimile transmission and comparable means of communication.

### 3. ORDERS AND SPECIFICATIONS

3.1 No order shall be binding on the SELLER unless and until confirmed in WRITING by the SELLER's authorized representative.

3.2 The quantity, quality and description of any specification for the GOODS shall be those set out in the SELLER's quotation (if accepted by the BUYER) or the BUYER's order (if accepted by the SELLER).

3.3 The GOODS SELLER shipped are all in accordance with MANUFACTURER's specification. Test data and other MANUFACTURER's documentation to support this certification are available in SELLER'S files or can be obtained from MANUFACTURER upon request.

3.4 If the GOODS are made wholly or partly in accordance with a specification submitted by the BUYER, the BUYER shall indemnify the SELLER against all loss, damages, costs and expenses which may be suffered or incurred by the SELLER from 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 BUYER's specification.

3.5 The SELLER may make any changes in the specification of the GOODS which are required to conform with any applicable legal requirements or, where the GOODS are to be

supplied to the SELLER's specification, which do not materially affect their quality or performance.

3.6 No order may be cancelled, rescheduled or reconfigured without SELLER's prior written authorization and, in such event, BUYER will be liable to SELLER for any additional costs and expenses incurred by SELLER. Prices are subject to change by SELLER upon BUYER rescheduling or reconfiguration of orders. In case the part identified overleaf is classified as NCNR ("Non-Cancellable, Non-Reschedulable and Non-Returnable"), such order of the NCNR part may not be cancelled, rescheduled or refunded without SELLER's prior written consent. SELLER shall effect delivery and issue invoice after 30 days (from receipt of the NCNR Parts from MANUFACTURER) if delivery date is not specified.

#### **4. PRICE AND PAYMENT TERM**

4.1 The price of the GOODS shall be the SELLER's quoted price as at the date of delivery of GOODS by SELLER or at any time before delivery, whichever is later.

4.2 Prices do not include any taxes, freight, handling, duty or other similar charges, payment of which will be the sole responsibility of BUYER. Prices are conditioned upon timely payment and any past due balance will accrue interest as stipulated in these CONDITIONS. Freight charges may be constructed on the basis of standard carrier tariffs and may not reflect actual transportation costs.

4.3 The SELLER may, by giving notice to the BUYER at any time before delivery, increase the price of the GOODS to reflect any increase in the cost to the SELLER which is due to any factor beyond the control of the SELLER (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the GOODS which is requested by the BUYER, or any delay caused by any instructions of the BUYER or failure of the BUYER to give the SELLER adequate information or instructions.

4.4 Prices are also subject to change in response to MANUFACTURER price increases, whereupon, BUYER may only cancel the undelivered portion of any affected order by delivering written notice to SELLER PRIOR to the shipment thereof and within 10 days of its receipt of notice of the price increase PROVIDED this provision does NOT apply to NCNR purchase orders.

4.5 Unless otherwise stated in the terms of the subject quotation or, if no quotation is made, then in any price list of the SELLER, or any last date agreement signed between the parties, then all prices are FOB SELLER facilities (that is, ex-works basis).

#### **5. TERMS OF PAYMENT**

5.1 SELLER reserves the rights to issue invoice at any time after delivery of GOODS and BUYER shall settle the invoice by the due date stated on the invoice or, where not so stated, within 30 days from the date of the invoice.

5.2 Subject to any special terms agreed in WRITING between the BUYER and the SELLER, the SELLER shall be entitled to invoice the BUYER for the price of the GOODS on or at any time after delivery of the GOODS, unless the GOODS are to be collected by the BUYER or the BUYER wrongfully fails to take delivery of the GOODS, in which event the SELLER shall be entitled to invoice the BUYER for the price at any time after the SELLER has notified the BUYER that the GOODS are ready for collection or (as the case may be) the

SELLER has tendered delivery of the GOODS.

5.3 The BUYER shall pay the price of the GOODS without any deduction within the credit term allowed by the SELLER in WRITING, and 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 BUYER. The time of payment of the price shall be of the essence of the CONTRACT.

5.4 If the BUYER 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

- (a) cancel the CONTRACT or suspend any further deliveries to the BUYER (whether under the same CONTRACT to which the failure relates or under any other CONTRACT); and
- (b) appropriate any payment made by the BUYER to such of the GOODS (or the GOODS supplied under any other CONTRACT between the BUYER and the SELLER) as the SELLER may think fit (notwithstanding any purported appropriation by the BUYER); and
- (c) charge the BUYER interest (both before and after any judgment) on the amount unpaid, at the rate of 2.5 per cent per annum above the prime rate or the maximum lending rate permissible by the laws of the SELLER's domicile, whichever is higher.

5.5 SELLER may at any time in its absolute discretion assign accounts receivable to any SELLER affiliate. The BUYER is hereby expressly notified that any credit balance or other sum owed to BUYER which remains unclaimed by BUYER for a period of 18 months from the date of cause of claim, will be absolutely forfeited by the SELLER as administration charges and the BUYER hereby waives any claims it may have on such amounts.

## **6. DELIVERY**

6.1 SELLER will not be liable for any failure or delay in its performance or in the delivery or shipment of GOODS, or for any damages suffered by BUYER by reason of such failure or delay, when such failure or delay is caused by, or arises in connection with, any fire, flood, accident, riot, earthquake, severe weather, war, governmental interference or embargo, strike, shortage of labor, fuel, power, materials or supplies, delay in delivery by SELLER's suppliers or MANUFACTURERS or any other cause or causes beyond SELLER's reasonable control. SELLER reserves the right to cancel without liability any order, the shipment of which is or may be delayed for more than 30 days by reason of any such cause. SELLER reserves the right to allocate in its sole discretion among BUYERS or potential BUYERS, or defer or delay the shipment of, any product which is in short supply. The GOODS may be delivered by the SELLER in advance of the quoted delivery date upon giving reasonable notice to BUYER.

6.2 Where the GOODS are to be delivered in installment, each delivery shall constitute a separate CONTRACT and any default by the SELLER relating to any one or more of the installment (whether in respect of delivery, quality or otherwise) shall not entitle the BUYER to treat the Contract as a whole as repudiated.

6.3 If the BUYER fails to take delivery of the GOODS or fails to give the SELLER adequate delivery instructions at the time stated for delivery then, without prejudice to any other right or remedy available to the SELLER, the SELLER may store the GOODS until actual delivery and charge the BUYER for the reasonable costs (including insurance) of storage; or sell the GOODS at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) charge the BUYER for the shortfall (if any) below the price under the CONTRACT.

6.4 In the absence of prior agreement as to shipping, SELLER may select a carrier. BUYER will pay for storage charges if GOODS are held by SELLER at BUYER's request pending instructions or rescheduled delivery.

6.5 GOODS are deemed accepted by BUYER unless BUYER notifies SELLER in writing within 10 days (or such other time as agreed or set out in the purchase order) of delivery of GOODS any shortages, damage or defect. No returns may be made for any reason without notification within time as above said as well as with a Return Authorization Form issued by SELLER. If BUYER refuses to accept tender or delivery of any GOODS or returns any GOODS without authorization from SELLER, such GOODS will be held by SELLER for 7 days, after which the SELLER is entitled to dispose of the GOODS as it sees fit, without prejudice to claiming against the BUYER for the full amount of purchase price of the GOODS and any other costs, expenses, charges, damages and loss as may be suffered by the SELLER

## **7. RISK AND PROPERTY**

7.1 Risk of damage to or loss of the GOODS shall pass to the BUYER:- (a) in the case of GOODS to be delivered at the SELLER's premises, at the time when the SELLER notifies the BUYER that the GOODS are available for collection; or (b) in the case of GOODS to be delivered otherwise than at the SELLER's premises, at the time of delivery or, if the BUYER wrongfully fails to take delivery of the GOODS, the time when the SELLER has tendered delivery of the GOODS.

7.2 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 BUYER 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 BUYER for which payment is then due.

7.3 SELLER retains a purchase money security interest in all GOODS sold by SELLER to BUYER and in the proceeds of any resale of such GOODS, until the purchase price and any other charges due to SELLER have been paid in full. BUYER agrees to execute any financing statements SELLER may request in order to protect SELLER's security interest and hereby authorizes SELLER to execute and irrevocably appoints SELLER as its attorney to execute or enforce such financing statements. Upon any breach by BUYER of these CONDITIONS, SELLER will have all rights and remedies of a secured party under applicable law, which rights and remedies will be cumulative and not exclusive. BUYER is responsible for all costs and expenses incurred by SELLER in collecting any sums owing by BUYER (which may include, but are not limited to, collection agency and reasonable attorney's fees). The BUYER shall bear all costs of the SELLER in enforcing any judgment or collection effort arising from BUYER's breach. SELLER shall have the right to offset any sums owed by the SELLER or its associate company or subsidiary against any sums owed by BUYER to SELLER or its associate company or subsidiary.

7.4 Until the property in the GOODS passes to the BUYER, the BUYER shall keep the GOODS separate from those of the BUYER and third parties and properly stored, protected and insured and identified as the SELLER's property, but shall be entitled to resell or use the GOODS in the ordinary course of its business.

7.5 Until the property in the GOODS passes to the BUYER (and provided the GOODS are still in existence and have not been resold), the SELLER shall be entitled at any time to require the BUYER to deliver up the GOODS to the SELLER and, if the BUYER fails to do so

forthwith, to enter upon any premises of the BUYER or any third party where the GOODS are stored and repossess the GOODS.

## **8. WARRANTIES AND LIABILITY\***

8.1 SELLER warrants those GOODS assembled or customized by it against defects caused solely by faulty assembly or customization for 14 days after delivery. All other GOODS, and the components and materials utilized in any assembled or customized GOODS, are covered by, and subject to, the terms, conditions, and limitations of the MANUFACTURER's standard warranty, which warranty is expressly in lieu of any other warranty, express or implied, of or by SELLER or the MANUFACTURER. BUYER's exclusive remedy, if any, under these warranties is limited, at SELLER's election, to any one of (a) refund of BUYER's purchase price, (b) repair by SELLER or the MANUFACTURER of any GOODS found to be defective, or (c) replacement of any such GOODS. BUYER acknowledges that except as specifically set forth or referenced in this paragraph, THERE ARE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, IN ADVERTISING MATERIALS, BROCHURES, OR OTHER DESCRIPTIVE LITERATURE) BY SELLER OR ANY OTHER PERSON, EXPRESS OR IMPLIED, AS TO THE CONDITION OR PERFORMANCE OF ANY GOODS, THEIR MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE. SELLER ASSUMES NO RESPONSIBILITY OR LIABILITY WHATSOEVER FOR MANUFACTURER'S GOODS SPECIFICATIONS OR THE PERFORMANCE OR ADEQUACY OF ANY DESIGN OR SPECIFICATION PROVIDED TO SELLER BY OR ON BEHALF OF BUYER. Use of the BUYER's part number on the CONTRACT or on any GOODS is for convenience only and does not constitute any representation by SELLER with respect to the performance, specifications, or fitness of any part for any purpose.

8.2 The above warranty is given by the SELLER subject to the following conditions: (a) 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 BUYER; or from fair wear and tear, willful damage, negligence, abnormal working conditions, failure to follow the SELLER's instructions (whether oral or in writing), misuse or alteration or repair of the GOODS without the SELLER's approval; (b) the SELLER shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the GOODS has not been paid by the due date for payment.

8.3 Subject as expressly provided in these Conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

8.4 Except for the warranty coverage referenced in this Article 8, NEITHER SELLER NOR ITS MANUFACTURERS WILL HAVE ANY LIABILITY OR OBLIGATION TO BUYER OR ANY OTHER PERSON FOR ANY CLAIM, LOSS, DAMAGE, OR EXPENSE CAUSED IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, BY THE INADEQUACY OF ANY GOODS FOR ANY PURPOSE, BY ANY DEFICIENCY OR DEFECT IN ANY GOODS (WHETHER OR NOT COVERED BY ANY WARRANTY), BY THE USE OR PERFORMANCE OF ANY GOODS OR BY ANY FAILURE OR DELAY IN SELLER'S PERFORMANCE HEREUNDER, OR FOR ANY SPECIAL, DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, HOWEVER CAUSED, INCLUDING, WITHOUT LIMITATION, PERSONAL INJURY OR LOSS OF BUSINESS OR PROFIT, WHETHER OR NOT BUYER WILL HAVE INFORMED SELLER OF THE POSSIBILITY OR LIKELIHOOD OF ANY SUCH DAMAGES.

8.5 Any claim by the BUYER which is based on any defect in the quality or condition of the GOODS or their failure to correspond with specification shall (whether or not delivery is refused by the BUYER) be deemed waived absolutely unless notified to the SELLER within 14 days from the date of delivery and the BUYER shall be bound to pay the price as if the GOODS had been delivered in accordance with the CONTRACT.

8.6 The SELLER shall not be liable to the BUYER or be deemed to be in breach of the CONTRACT by reason of any delay in performing, or any failure to perform, any of the SELLER's obligations in relation to the GOODS, if the delay or failure was due to any cause beyond the SELLER's reasonable control including (without limitation) any delay, default or failure on this part of the MANUFACTURER(s) or ultimate MANUFACTURER(s) who supply directly or indirectly the GOODS to the SELLER for resale to the BUYER.

8.7 The performance of any value-added service may void the MANUFACTURER's warranty and render products non-returnable. Orders incorporating such services are, accordingly, non-cancelable and the products are non-returnable. Any third party value-added service provider is deemed to be an agent of BUYER.

8.8 Any software or intellectual property included in or relating to GOODS is supplied by the MANUFACTURER. SELLER makes no representation or warranty with respect thereto and will have no liability in connection therewith.

8.9 BUYER agrees to comply with the MANUFACTURER's or other requirements with regard to proprietary and similar rights in and to such software and its intellectual property (including any requirement to enter into a separate license agreement and prohibitions against duplicating or disclosing the same), even if the seal on any "shrink wrapped" software has been broken by SELLER, and will indemnify SELLER against and hold it harmless from any and all liability, cost or expense arising from a breach or purported breach of such requirements.

8.10 SELLER total liability to BUYER for all damages, losses and causes of action shall IN ANY EVENT NOT exceed USD1000 or the total purchase price of the subject GOODS, whichever the lesser amount.

\* Where the Competition and Consumer Act 2010 of Australia ("**CCA**") applies, Article 8 of these Conditions applies and operates to the fullest extent consistent with and permitted by the CCA, but otherwise shall be read to the extent necessary to ensure these terms do not contravene any part of the CCA.

## **9. EXPORT CONTROL**

9.1 BUYER understands that the GOODS may be subject to export, re-export, or other restrictions under the laws of the country of manufacture, the country of the seller/distributor, and the country in which the BUYER resides. Therefore, BUYER, on behalf of itself, its subsidiaries and affiliates, warrants and agrees to abide by all applicable laws and regulations relating to the export and re-export of such commodities, software, and/or technology and the direct products thereof in relation to GOODS obtained by BUYER and its subsidiaries and affiliates. In particular:

- BUYER understands that U.S. origin commodities, software, and/or technology, exported from the U.S., and/or foreign manufactured products made with U.S. origin technology or more than de-minimis U.S. GOODS content are subject to U.S. re-export laws. In the event of re-export, BUYER agrees to ensure that the required permissions (license, license exception, etc., as applicable) will be obtained.

- BUYER certify that the commodities, software, and/or technology will not be used, sold, re-exported or incorporated into products used directly or indirectly, in the design, development, production, stockpiling, or use of chemical or biological weapons, nuclear programs (including activities related to nuclear explosive devices, nuclear reactors, and nuclear fuel-cycle activities), missiles (including cruise and ballistic missile systems, space launch vehicles, sounding rockets, target drones, remotely piloted vehicles, and reconnaissance drones), and maritime nuclear propulsion projects except as authorized under applicable laws and regulations relating to the export and/or re-export of these items.
- BUYER certify that the commodities, software, and/or technology will not be sold, re-exported or incorporated into products for use by military, police, or intelligence entities, or for any space applications except as authorized under applicable laws and regulations relating to the export and/or re-export of items to such entities.
- BUYER certify that the commodities, software, and/or technology will not be used directly or indirectly, sold, re-exported or incorporated into products for the foreign vessels or aircraft except as authorized under applicable laws and regulations relating to the export and/or re-export of these items.
- BUYER certify that the commodities, software, and/or technology will not be used directly or indirectly, sold, re-exported or incorporated into products for the benefit of those named by the U.S. government on the Entity List at Part 744 of the Export Administration Regulations, or to persons designated by the U.S. government as Specially Designated Global Terrorists (SDGTs), Specially Designated Terrorists (SDTs), Foreign Terrorist Organizations (FTOs) on the Specially Designated National (SDN) list, or to persons on the SDN List followed by the suffix FRYM (relating to U.S. sanctions on the Federal Republic of Yugoslavia and Montenegro).
- BUYER certify that the commodities, software, and/or technology will not be used directly or indirectly, sold, re-exported or incorporated into products that constitute general purpose microprocessors for military end-uses or military end-users.
- BUYER certify that no commodities, software, and/or technology obtained from SELLER, its subsidiaries and/or affiliates, or of U.S. origin will be exported or re-exported (directly or indirectly), diverted, or transshipped to or via any country in violation of U.S. unilateral or U.N. economic embargo.

9.2 The GOODS SELLER sells may have been imported. Country of origin information is as provided to SELLER by its MANUFACTURERS and is, where applicable, printed on the products or the manufacturer's innermost packaging.

## **10. INSOLVENCY OF BUYER**

- (a) If the BUYER makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
- (b) An encumbrance takes possession, or a receiver is appointed, of any of the property or assets of the BUYER; or
- (c) The BUYER ceases, or threatens to cease, to carry on business; or
- (d) The SELLER reasonably apprehends that any of the events mentioned above is about to occur in relation to the BUYER and notifies the BUYER accordingly. Then, without prejudice to any other right or remedy available to the SELLER, the SELLER shall be entitled to cancel the CONTRACT or suspend any further deliveries under the CONTRACT without any liability to the BUYER, and if the GOODS have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

**11. ANTI-BRIBERY**

SELLER and BUYER each certifies that it complies with all applicable laws and regulations including anti-bribery regulations (e.g. U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act) in the jurisdictions where it operates.

**12. CONFIDENTIALITY**

BUYER agrees to use reasonable measures, but in any event no less than the standard applied in handling its own confidential / proprietary information, in handling and maintaining in confidence any confidential / proprietary information as disclosed by SELLER.

**13. SEVERABILITY**

In the event that any CONDITIONS herein shall be held invalid or unenforceable by a court of competent jurisdiction, such shall not negate the validity or enforceability or any other CONDITIONS hereof.