

Argon Electronics (UK) Limited

Standard Terms & Conditions for Sale

1. INTERPRETATION

1.1 In these conditions:

“Buyer” means the person who accepts a quotation of the Seller for the sale of the Products or whose order for the Products is accepted by the Seller, “Contract Amount” means the price of the goods as stipulated in clause 4, “Postponement Period” means 14 days after the agreed date the Products will be ready for collect on or delivery, where the Buyer notifies the Seller that they require the Products after the agreed date the Products will be ready for collection or delivery, Products means the goods and/or services (including any instalment of the products or any parts for them) which the Seller is to supply in accordance with these Conditions, “Seller” means Argon Electronics (UK) Limited (registered in England under number 7170285); “Conditions” means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in Writing between the Buyer and the Seller; “Contract” means the contract for the purchase and sale of the Products. “Writing” includes electronic mail, facsimile transmission and comparable means of communication.

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

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. BASIS OF SALE

2.1 The Seller shall sell and the Buyer shall purchase the Products in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written order of the Buyer which is accepted by the Seller, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Buyer.

2.2 No variation to the Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller

2.3 The Sellers employees or agents are not authorised to make any representations concerning the Products unless confirmed by the Seller in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.

2.4 Any typographical clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

3. ORDERS AND SPECIFICATIONS

3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in Writing by the Seller s authorised representative.

3.2 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any

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necessary information relating to the Products within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

3.3 The quantity, quality and description of and any specification for the goods shall be those set out in the Sellers quotation (if accepted by the Buyer) or the Buyers order or contract (if accepted by the Seller).

3.4 If the Products are to be manufactured or any process is to be applied to the Products by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, copyright, design trade mark or other industrial or intellectual property rights of any other person which results from the Sellers use of the Buyers specification.

3.5 The Seller reserves the right to make any changes in the specification of the Products which are required to conform with any applicable safety or other statutory requirements or, where the Products are to be supplied to the Seller's specification, which do not materially affect their quality or performance.

3.6 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation.

4. PRICE OF THE GOODS

4.1 The price of the Products shall be the Sellers quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Sellers published price list current at the date of acceptance of the order. All prices quoted, unless specifically stated otherwise on an official quotation are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.

4.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Products to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller. This will include any change in delivery dates, quantities or specifications for the Products 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.

4.3 Except as otherwise stated under the terms of any quotation or in any price list of the Seller, and unless otherwise agreed in Writing between the Buyer and the Seller, all prices are given by the Seller on an ex works basis, and where the Seller agrees to deliver the goods otherwise than at the Sellers premises, the Buyer shall be liable to pay the Seller s charges for transport, packaging and insurance.

4.4 The price is exclusive of any applicable value added tax, and the Buyer agrees to pay amounts equal to any taxes (including Value Added Tax) paid or payable by the Seller charged on the sale or supply of the Products under this Contract or on the Contract.

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5. TERMS OF PAYMENT

5.1 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 Products on or at any time after delivery of the Products, unless the Products are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Products, 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 Products are ready for collection or (as the case may be) the Seller has tendered delivery of the Products.

5.2 The Buyer shall pay the price of the Products within 30 days of the date of the Sellers invoice, notwithstanding that delivery may not have taken place and the property in the Products has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

5.3 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:

5.3.1 cancel the Contract or suspend any further deliveries to the Buyer

5.3.2 appropriate any payment made by the Buyer to such of the Products (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

5.3.3 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 2.5 per cent per annum above the base rate of Barclays Bank Plc until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

6. DELIVERY

6.1 Delivery of the Products shall be made by the Buyer collecting the Products at the Sellers premises at any time but within 14 days (the Delivery Period) after the Seller has notified the Buyer that the Products are ready for collection or, if some other place for delivery is agreed by the Seller, by the Seller delivering the Products to that place.

6.2 Any dates quoted for delivery of the Products are approximate only and the Seller shall not be liable for any delay in delivery of the Products howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in Writing. The Products may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

6.3 Where the Products are to be delivered in installments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the installments in accordance with these Conditions or any claim by the Buyer in respect of any one or more installments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

6.4 If the Seller fails to deliver the Products for any reason other than any cause beyond the Sellers reasonable control or the Buyers fault, and the Seller is accordingly liable to the Buyer, the Sellers liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Products.

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6.5 If the Buyer fails to take delivery of the Products, or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Sellers fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:

6.5.1 Store the Products until actual delivery on behalf of the Buyer, whereupon: (a) delivery shall be deemed to have taken place; (b) all risk in the goods shall pass to the Buyer; (c) the Buyer shall be liable for all related costs and expenses (including insurance)

6.5.2 Charge the Buyer interest on the Contract Amount at the rate of 2.5 per cent per annum above the base rate of Barclays Bank Plc. from the end of the Delivery Period or Postponement Period (whichever is applicable) to the actual date of delivery, compounded at monthly intervals.

6.5.3 Sell the Products at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

7. RISK AND PROPERTY

7.1 Risk of damage to or loss of the Products shall pass to the Buyer:

7.1.1 In the case of Products to be delivered at the Sellers premises, at the time when the Seller notifies the Buyer that the Products are available for collection; or

7.1.2 In the case of Products to be delivered otherwise than at the Sellers premises, at the time they leave the Sellers premises or, if the Buyer wrongfully fails to take delivery of the Products, the time when the Seller has tendered delivery of the Products.

7.2 Notwithstanding delivery and the passing of risk in the Products, or any other provision of these Conditions, the property in the Products shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Products and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.

7.3 Until such time as the property in the Products passes to the Buyer, the Buyer shall hold the Products as the Sellers fiduciary agent and bailee, and shall keep the Products separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Sellers property.

7.4 Until such time as the property in the Products passes to the Buyer (and provided the Products 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 Products 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 Products are stored and repossess the Products.

7.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Products which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable.

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8. WARRANTY

8.1 The Seller warrants to the Buyer that the Products marketed by the Seller are believed to be free from defects of workmanship and materials and the Seller undertakes, subject to paragraph 8.3 and 8.4 below, to replace or, at its option, to repair the Products purchased hereunder (other than rubber parts and/or printing heads and/or consumable items) found to be defective, where such defects are a result of faulty materials or workmanship, within three months from their initial use or three months from the date of original delivery, whichever is the first to expire.

8.2 Each claim of the Buyer under this warranty shall be sent in Writing to the Seller specifying the type of Products and nature of the defect. Upon receipt of such written notice, the Seller or its agent or representative shall have the option of testing or inspecting the Products at its location or of having the Products returned to the Seller or to such other address as may be notified to the Buyer, at the buyers expense. Replacement parts, items or Products shall be sent by the Seller to the Buyer ordinary freight pre-paid, subject always to 8.3 and 8.4 below.

8.3 In the event of any claim presented under warranty being found on investigation by the Seller either to be outside the scope or duration of this warranty or the fault being unconfirmed, then the costs of such investigation and repair shall be borne by the Buyer.

8.4 The Seller shall not be liable at any time for damage or defects in the Products or parts caused by improper use, abuse, mismanagement or by using the Products outside the specifications detailed in the manuals and documentation relating to the Products or outside the specific application of the Products.

8.5 This warranty shall not be assigned without the prior written consent of the Seller.

9. LIABILITY

9.1 The Seller shall not be liable to the Buyer for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with these Conditions, the Products, its use or otherwise other than as imposed by law.

9.2 Notwithstanding the generality of 9.1 above, the Seller expressly excludes liability for consequential loss or damage, including but not limited to loss or damage to data or to other Products or property, (whether or not the same may be in the Seller s care, custody or control) or for loss of profit, business, revenue, goodwill or anticipated savings.

9.3 In the event that any limitation or provision contained in these Terms and Conditions be held to be invalid for any reason and the Seller becomes liable for loss or damage that would otherwise have been excluded under this Contract or capable of being excluded in law, such liability shall be subject to other provisions limiting the Sellers liability to the price of the Products.

9.4 The Seller does not exclude liability for death or personal injury to the extent that the same arises directly from the negligence of the Seller or its employees. 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 Sellers obligations in relation to the Products, if the delay or failure was due to any cause beyond the Sellers reasonable control.

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9.5 Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Seller's reasonable control:

9.5.1 Act of God, explosion, flood, tempest, fire or accident

9.5.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition

9.5.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

9.5.4 import or export regulations or embargoes

9.5.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party)

9.5.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery

9.5.7 power failure or breakdown in machinery.

10. COPYRIGHT, PATENTS, TRADEMARKS AND INTELLECTUAL PROPERTY RIGHTS

10.1 The Buyer acknowledges that any and all of the trade marks, trade names, copyrights, patents and other intellectual property rights used or embodied in or in connection with the Products including software, hardware and other parts thereof in which the Seller or the respective manufacturer, developer or third party has an interest in and shall remain the sole property of the Seller or such manufacturer, developer or third party. The Buyer shall not, during or at any time after the completion, expiry or termination of this Contract, in any way question or dispute the ownership of any such rights.

10.2 In the event that new inventions, designs or processes evolve in performance or as a result of this Contract, the Buyer acknowledges that the same shall belong to the Seller unless otherwise agreed in Writing by the Seller.

10.3 The Buyer shall indemnify the Seller fully against all liabilities, costs and expenses which the Seller may incur as a result of work done in accordance with the Buyer's specifications involving infringement of any patent or other proprietary right.

11. INSOLVENCY OF BUYER

11.1 This clause applies if:

11.1.1 the Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or

11.1.2 an encumbrance takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or

11.1.3 the Buyer ceases, or threatens to cease, to carry on business; or

11.1.4 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.

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11.2 If this clause applies 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 Products have been delivered but not paid for the Price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

12. EXPORT TERMS

12.1 In these Conditions Incoterms means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.

12.2 Where the Products are supplied for export from the United Kingdom, the provisions of this Clause 12 shall (subject to any special terms agreed in Writing between the Buyer and the Seller) apply notwithstanding any other provision of these Conditions.

12.3 The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Products into the country of destination and for the payment of any duties on them.

12.4 Unless otherwise agreed in Writing between the Buyer and the Seller, the Products shall be delivered FOB the air or sea port of shipment and the Seller shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.

12.5 The Buyer shall be responsible for arranging for testing and inspection of the Products within 30 days of delivery. The Seller shall have no liability for any claim in respect of any defect in the Products which would be apparent on inspection and which is made after 30 days after delivery.

12.6 Payment of all amounts due to the Seller shall be made by irrevocable letter of credit opened by the Buyer in favour of the Seller and confirmed by a bank in the territory making the purchase acceptable to the Seller or, if the Seller has agreed in Writing on or before acceptance of the Buyers order to waive this requirement, by acceptance by the Buyer and delivery to the Seller of a bill of exchange drawn on the Buyer payable 60 days after sight to the order of the Seller at such branch of Bank in England as may be specified in the bill of exchange.

12.7 The Buyer undertakes not to offer the Products for resale in any country notified by the Seller to the Buyer at or before the time the Buyers order is placed, or to sell the Products to any person if the Buyer knows or sells the Products in any such country or has reason to believe that that person intends to try.

12.8 The Buyer shall be responsible for the timely provision of any end user undertakings and associated documentation required by the Seller for the purpose of obtaining an export licence.

12.9 The Seller shall not be liable in any way whatsoever for delays in delivery as a result of the Buyer to comply with 12.8, and reserves the right to refuse to deliver if the Buyer or end user is unable to comply with appropriate export control regulations.

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13. GENERAL

13.1 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 or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

13.2 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

13.3 If any provision of these Conditions is held by any 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 thereby.

13.4 The Contract shall be governed by the laws of England, and the Buyer agrees to submit to the non-exclusive jurisdiction of the English courts.