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6. **Time for payment.** You must pay us the applicable price for goods immediately the goods are available for you to take delivery, whether or not you actually then take delivery. The only exception is where we have agreed to credit terms for you for the particular order, in which case we will invoice you for the price as soon as the goods are available for you to take delivery and you must pay us the price on the invoice within the trading terms that have been agreed to in your Credit Approval Letter. Even if we have given you credit terms, there may be a requirement for pre-payments to be made on product that we do not source on a regular basis or where you or your customer request modifications to the standard product that would involve any type of branding or software or firmware changes. In these cases, and you will be notified at the time of your order, there may be a requirement to pay the full balance of the order before shipment either from our warehouse or before product is shipped by our suppliers. Any pre-payment or deposit for any order for product that requires any modifications involving branding or software or firmware changes that is cancelled will be forfeited to the extent of any progress work done to modify the product either by us or our supplier. We may apply any pre-payment or deposit from you towards the price, as soon as your order is received.
7. **Postponement of delivery.** If you request that we postpone a delivery, we may immediately or at a later date pack, hold and invoice that part of the goods as if then delivered. You agree to pay (on our request) any storage charges that we incur, and from that time the goods will be at your risk, although they remain our property until full payment is made.
8. **Supply by partial shipments.** We may supply the goods in a particular order, by way of partial or separate shipments. In that case, each shipment is deemed to be supplied under a separate order which is subject to these trading conditions.
9. **Credit.** We may decide to give you credit, but we are not obliged to do so merely because we accept a credit application from you or because we have previously given you credit under an arrangement which has expired or been terminated. If we do allow you credit terms, then you remain bound by these trading conditions. Credit terms are subject to any additional conditions that we set when we notify you of the approval of credit terms. We may decline to give you further credit at any time. If we do decline to give credit, that does not affect the conditions which apply to any amounts which you then owe to us.
10. **Representations in relation to credit approval.** Any credit terms that we extend to you are granted subject to the essential condition that you have made complete disclosure to us in your credit application of all material information relevant to our decision to extend credit and also kept us promptly informed of any material adverse change in

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your financial or business circumstances or of the matters of fact specified in your credit application. If you do not exercise your credit account for 12 months, that approval lapses and if you want further credit you will need to re-apply and we may require updated information.

11. **Overdue payments.** If any amount you owe us is not paid within 7 days of the due date, then at our discretion all money that you owe us on any account becomes immediately payable despite any previously agreed credit conditions. In that case, we may also suspend supply or terminate any outstanding orders (including part orders). You must pay us interest at 2% above the prevailing overdraft rate as listed by the Bank of America. Interest is calculated from the date of delivery (or when the particular goods were available for delivery), on outstanding balances up to and including the day of payment or (if that is not a normal working day for us) up to our next normal working day. Accruing interest is calculated and compounded daily.
12. **Allocation of receipts.** We may apply any payment we receive from you, or on your behalf, to and between any amount that you owe to us or any account you have with us, as we choose.
13. **Securities.** Our rights are not limited by, or because of, any guarantee, indemnity, purchase money or other security interest or other security that we hold in connection with your obligations.
14. **Packaging.** Unless otherwise expressly agreed by us in writing, packaging (if any) will be provided only in accordance with our standard practices. If we agree to any additional or special packaging for you, then you must pay us extra charges, calculated at our ruling rates.
15. **Pricing revision, shortages, pre-delivery damage.** We will not recognize any claim for alleged incorrect pricing or for a shortage in a delivery or for any item being delivered in a damaged state, if the claim is not made within 7 days of delivery. When you or your carrier, sign any delivery or consignment note or similar document on receipt of a delivery, that is conclusive evidence that you have received delivery, without any shortage or damage that would have been visible on taking delivery without unpacking the goods. You carry all risk of goods from the point of delivery, including the risk of damage in transit after delivery.
16. **No right of cancellation.** We are not obliged to accept cancellation of any order once accepted, or the return of any goods once delivered. However, although we do not commit to do so, we may agree to accept a cancellation or return where the goods are standard goods that we normally carry in stock. We are not bound by any decision to

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accept a cancellation or return except where we have issued a Return of Materials Authorization, and then only as specified in the particular Authorization. Subject to what may be specified in the particular Authorization, goods being returned

1. must be returned within 30 days of delivery
2. must be accompanied by a copy of the relevant Authorization
3. must be returned in the same packaging and condition as when delivered.

Where we do accept a cancellation or return of goods, you may be required to pay a cancellation and re-stocking fee set by us, not exceeding 10% of the full original price for the particular goods. We may offset the fee against any credit and issue you with a credit note or refund (as we choose) for any balance. Any order you cancel, which was prepaid by using a credit card that incurs a merchant fee will be credited less this fee as surcharged to Alloy Logistics.

17. **Intellectual property rights.** Nothing in our dealings with you will confer any express or implied right on you in relation to any of our intellectual property and you must be aware that we do not have the right to grant you any express or implied rights in relation to the intellectual property of any manufacturer or other third party. Where expressly or by implication a manufacturer intends or might be presumed to intend that you have rights to use firmware or software that comes with particular goods supplied by us which have been paid for by you, you will have our tax invoice as evidence to support your claim to those rights, but ultimately that is a matter between you and the manufacturer. This does not limit clause 31.
18. **Manufacturer.** We will use our reasonable endeavours to obtain for you the benefit of any warranty from the manufacturer of any goods that we supply to you. This provision does not require us to commence legal proceedings or incur legal costs. We endeavour to ensure that goods supplied by us are sourced from reputable and qualified manufacturers based on appropriate product model or type certifications, by making preliminary inquiries about suppliers and by making preliminary checks or certifications. It is not practicable for us to test individual items for compliance or defects prior to supply.
19. **Sale by description.** We sell goods sourced from manufacturers and other suppliers and sell to you based on description. You decide what purpose to use those goods for or for which to re-supply those goods. Any details, performance figures or specifications or the like that we provide, are approximations provided by us in good faith based on advice from the relevant manufacturer or supplier to us. They do not represent any endorsement by us or reflect any independent assessment by us, and are provided only for general guidance. A particular performance figure or specification must be interpreted after allowing an approximation tolerance and even then may not be obtainable or applicable in all circumstances. We are not supplying any service or

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advice of any nature. This condition applies despite any comment or representation made or implied by us. We intend that you do not rely on any advice from or representation by us unless made in writing and signed by one of our directors. In relation to any order we do not intend you to rely on any prior agreement, representation or negotiation by us or by any agent of ours or by any third party, unless made by us in writing and signed by one of our directors.

20. **No other representations.** We rely on the following warranties from you as essential conditions. You have not relied on any representation made or implied by us or arising out of or implied by our conduct, nor upon any description, illustration or specification contained in any document produced by us, including any catalogue or publicity material, unless made in writing for the purposes of this transaction and signed by one of our directors. To the extent that we have made or implied, or by conduct given rise to or implied, any representation that is not expressly stated in these conditions, you are not proceeding in reliance on the representation because you have had and taken the opportunity to independently check and form your own view about the significance, and the accuracy or otherwise, of the representation. Without limitation, you acknowledge that you are not relying on being able to make any claim against us, for any representation made or conduct occurring before, under or in connection with any order, beyond the claims that can be made, and the limits applying, as provided in these trading conditions.
21. **Spare parts.** We are not in a position to offer any assurance that spare parts or service will be available for particular goods. We are not liable if we are unable to obtain spare parts, or to provide service, for particular goods supplied.
22. **Estimated delivery times.** Delivery times are estimates only and we are not liable for delays in delivery.
23. **Unexpected delay.** This condition applies if something happens which is beyond our reasonable control which makes it impossible, more difficult or more expensive for us to perform our obligations in our usual way. In those cases, we may wait until it is again possible for us to perform our obligations in our usual way without additional difficulty or expense and we are not liable for any delay (or failure to deliver) which results. Without limiting those general words, that applies where we have problems due to accidents, strikes, transport difficulties or unavailability or shortages of stock.
24. **Limitation of Liability, Remedy and Damages.** The liability of the Company arising out of possession or use of the Product or any technical advice relating thereto is limited to the warranty obligations set forth above in the Warranty Article and in no event shall the Company's liability, whether based in contract, warranty, negligence or other tort,

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strict liability, or otherwise exceed the purchased price of the Product in question. Upon the expiration of the applicable Warranty period stated herein, all such liability whether based in contract, warranty, negligence or other tort, strict liability, or otherwise shall be deemed waived unconditionally and absolutely. The foregoing shall constitute the sole and exclusive remedy of the Customer, and the sole and exclusive liability of The Company. IN NO EVENT SHALL THE COMPANY BE LIABLE FOR CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR EXEMPLARY DAMAGES INCLUDING, BUT NOT LIMITED TO LOSS OF PROFITS, LOSS OF SAVINGS OR REVENUE, LOSS OF USE OF THE PRODUCT OR ANY ASSOCIATED EQUIPMENT, COST OF ANY SUBSTITUTE FOR THE PRODUCT, DOWNTIME, CLAIMS OF THEIR PARTIES, AND INJURY TO PROPERTY. THIS LIMITATION SHALL APPLY NOTWITHSTANDING A FINDING THAT ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

25. **Other damages claims excluded.** Except as stated above, we are not liable for, and you do not rely on being able to claim against us for, any loss or damage or consequential damage under or in relation to any agreement for us to supply goods, services, firmware or software or anything done or omitted in that regard or for that purpose, or in relation to any representation or conduct before, under or in respect of any order, and whether or not the possibility or potential extent of the loss or damage or Consequential Damage was known or foreseeable whether in contract or for negligence or any other tort or for reach of statutory, fiduciary or other duty (if any) and whether or not the act or conduct was authorised or required. Consequential Damage in these trading conditions includes loss of use, lost production, lost income or profits, loss of opportunity, lost savings, increased or wasted expenses, delay or lost time, loss of or damage to goodwill, increased operating costs, wasted or increased financing costs, loss of or damage to data or records, loss of or unavailability of or damage to tangible or intangible property, claims made against you by others, losses or costs or expenses associated with identification, investigation, assessment, repair, replacement or servicing and any other economic loss or damage and any other special, indirect or consequential loss or damage.
  
26. **Variations in specifications.** We reserve the right to vary the specifications or performance criteria of any product from time to time and to obtain products from different sources, at our absolute discretion. We may do that without telling you provided we have reasonable grounds for believing that the alternative product offered is substantially similar to that previously offered or represents an improvement.
  
27. **Assignment and Subcontractors.** We may, and you must not, assign any part or the whole of any right or benefit of any contract we have with you. We may choose to use one or more subcontractors to fulfil our obligations under any contract we have with you.

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28. **Ownership passes to you on payment.** Until you have paid the full price (including any associated charges), for everything in a particular order (Goods), we remain the owner of the Goods and also any actual or implied licence (Licence) for you or anyone else (including but not limited to any customer of yours), to use or resupply any firmware or software supplied by us, including any licence from any third party, is temporary and subject to the following. A payment by check does not count until we receive payment on the check. Until you become the owner of any Goods, we may enter into any premises or vehicle if we have reasonable grounds to expect that we may find any part of the Goods there. If you default in paying any part of the price or associated charges in connection with an order we may re-take possession of any of the Goods and we may terminate the Licence (including in relation to anyone else) by notice to that effect to you. That applies even if we hold some negotiable instrument or security for the amount unpaid. If you resell any of the Goods (even if mixed with other goods) before becoming the owner, or do anything towards passing any Licence to someone else, then you are acting as our selling agent although only to the absolute minimum extent necessary to protect our ownership and the temporary nature of the Licence. Until you become the owner of particular Goods, you must store those Goods separately from all other goods and in such a way as to allow the particular Goods to be identified and to allow them to be identified as ours and keep them fully insured at your expense. If any Goods, despite us remaining the owner, are sold by you or are the subject of any insurance claim, then the proceeds of sale or from any insurance claim belong to us and you must keep the proceeds separate and hold the proceeds in trust for us. That applies even if the Goods are mixed with other goods. These provisions apply even if we have agreed to extend you credit in relation to the supply of the Goods or the Licence.
- You may not, and you must not attempt to, create any security interest over any Goods or Licence.
29. **Responsibility for goods** once they leave our premises. We are responsible for goods only while the goods remain on our premises. Once goods leave our premises and accepted by you or your agent upon delivery, you are responsible for them and from then, they are at your risk. We strongly recommend that you arrange to insure the goods for their full reinstatement value from that time and make sure your insurer is aware that ownership still will not pass to you until payment (see above).
30. **Acceptance of Goods and Invoicing.** Once you take delivery of goods supplied by us, you acknowledge that all of our Trading conditions are applicable and supersede any conditions or terms contained in your purchase order. You agree to receive Invoices and Statements either by mail or via an email attachment, and agree that the evidence of the “dispatch” of an email is also prima facie evidence of the “receipt” of the email.

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Unless the contrary is proven, the time of receipt will be deemed to be one minute (60) seconds after the time of “dispatch” of the email.

31. **Default.** In addition to our right of termination where a payment is overdue (see above), we also have the right to terminate all outstanding orders we have accepted from you if you fail to remedy any breach of your obligations within 7 days of a written notice from us that specifies the obligation and requires you to remedy the breach or observe the obligation (as the case requires), or immediately if an event of insolvency occurs in relation to you. If we duly terminate an outstanding order, you remain liable for (and we may recover from you) loss of bargain damages and also damages in respect of the breach on which termination was based. Event of insolvency means the happening of any of these events in relation to you –
- (a) you becoming an insolvent or;
  - (b) under administration, or an externally-administered body corporate, or;
  - (c) any application is made or other action taken which could result in that circumstance; or you are, or state that you are insolvent or unable to pay your debts as they fall due, or;
  - (d) you cease to carry on your business or any material part of it, or threaten to do so, or;
  - (e) any writ of execution, garnishee order, Mareva injunction or similar order, attachment, distress or other process is made, levied or issued against or in relation to any of your assets; or;
  - (f) anything analogous or having substantially similar effect to any of the circumstances or events specified above, happens in relation to you under the law of any applicable jurisdiction.
32. **Certificate of debt.** You are bound by any certificate signed by any of our directors or lawyers which shows any amount or calculation relevant to what you owe us. The only exception is where you can prove the certificate is wrong.
33. **Finance company arrangements (if any).** If you wish to lease or to finance the purchase of goods from us through a financier then our trading conditions still apply (with only the minimum changes necessary) between you and us. Our trading conditions still regulate our rights, obligations and liabilities both to you and to the financier and you must indemnify (protect) us against any claim to the contrary by the financier.
34. **Waiver.** We do not waive any right, power, privilege or remedy because of any failure, delay, relaxation or indulgence on our part; nor does any single or partial exercise of any right, power, privilege or remedy preclude any other or further exercise of that or



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any other right, power, privilege or remedy. No waiver is valid or binding on us unless in writing, duly signed by one of our authorized officers.

35. **Blanks.** We may complete blanks, and correct any obvious errors, in any documentation relating to an order.
  
36. **Trade Markings and IP Rights.** You may refer to goods acquired from us by their associated names, including associated trademarks and logos, provided that such reference is not misleading nor prejudicial in any way to us or our or our suppliers' intellectual property rights. You may not remove or alter any serial numbers, trademarks or other markings or get-up, nor may you co-brand or co-logo any goods provided by us. You do not acquire any right to any of our intellectual property. You must not incorporate any of our trademarks into your trademarks, company names, Internet addresses, domain names, or any other designations.
  
37. **Publicity.** We may use your name in promotional materials, including press releases, presentations and customer references regarding the sale of any goods. You give us that permission free of charge for worldwide use in any medium. However, we will obtain your prior approval for publicity that contains quotes or endorsements attributed to you.
  
38. **IP Infringement.** If there is any allegation or apprehension that any goods we have supplied to you infringe the rights of others you must notify us and must give us the opportunity to modify, alter or substitute the alleged infringing item or items. This provision is in addition to our other rights.
  
39. **Privacy Policy.** The Company respects the privacy of its Customers. The Company's Privacy Policy applies to Customers. The Privacy Policy can be viewed on the Company website [www.alloy.com.ph/privacy](http://www.alloy.com.ph/privacy)
  
40. **Export.** In the event that the ultimate destination of the Products is outside the Philippines, the Customer shall be responsible for the timely obtaining of and the costs of obtaining any required authorization such as an Export License, Import License, Exchange Permit or any other governmental authorization even though any such authorization may be applied for by Company. Company and Customer shall assist each other in every reasonable manner in securing such authorization as may be required. Company shall not be liable if any such authorization is delayed, denied, revoked, restricted or not renewed and Customer shall not thereby be relieved of its obligations hereunder.
  
41. **Miscellaneous.** This contract contains the complete and exclusive agreement among the parties and supersedes prior understandings whether written or oral. Unless The

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Company has provided written consent, a partial or complete assignment of right(s) or delegation of obligation(s) shall be void. This contract may not be changed, renewed, extended, or modified in any manner. Neither course of performance, nor course of dealing, nor usage of trade shall be used to qualify, explain or supplement any of the terms of this contract. Any failure of the Company anytime, or from time to time, require the performance of the Customer of any other items and conditions of the contract shall not constitute a waiver by The Company of these Conditions of Sale and shall not affect or impair the Sales Agreement in any way. This contract shall be interpreted and governed by the laws of the State of California. This agreement (including any specifications or other documents incorporated by reference to the Company's quotation) constitutes the entire understanding between the Customer and the Company concerning the subject hereof and any representation, promise, course of dealing or trade usage not contained herein will not be binding. No modification, amendment, rescission, waiver or other changes of this agreement or any part thereof shall be binding on the Company unless consented to in writing by the Company's authorized representatives.

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