

## Kontron General Purchase Order Terms & Conditions

The following terms and conditions shall apply to all contractual relationships between the seller (the "Seller") and the buyer ("Kontron"); they shall also apply to additional supplies and contracts for services. These terms and conditions form an integral part of each Kontron's purchase order. Any different or additional terms in Seller's acceptance of this offer are hereby objected to. Kontron will not accept conflicting conditions of the Seller, notwithstanding that Kontron may not have objected expressly to such conflicting conditions nor that Kontron may have made reference to communications from the Seller in which the Seller refers to the Seller's conditions.

**1. PRICES AND TAXES.** Unless otherwise specified, the prices set forth in a purchase order include all applicable national and local taxes.

**2. INVOICES.** Seller will submit invoices in duplicate showing the following information: purchase order number; item number; description of item; size of item; quantity of item; unit prices; each applicable tax; extended totals; and any other information specified elsewhere herein. A delivery note must accompany each invoice. Payment of invoice will not constitute acceptance of goods and will be subject to adjustment for errors, shortages, and defects in the goods or other failure of Seller to meet the requirements of a purchase order. Kontron reserves the right to set off such amount owed to Supplier, or withhold payment for goods not provided in accordance with the Order and/or specifications. Kontron's standard payment terms are 120 days net or 14 days with 2% deduction on Kontron's choice.

**3. SUPPLIER'S RETENTION OF TITLE.** Title in the goods shall transfer to Kontron upon delivery unconditionally and without regard to whether or not Kontron has paid the purchase price. However, if in an individual case any retention of title on the part of the seller has been agreed, an (i) expanded, (ii) extended for resale, processing or modification, or (iii) assigned retention of title shall be excluded, such that the retention of title shall apply only until the goods delivered to Kontron in the given case have been paid and only with respect to the respective goods delivered. Where the goods delivered to Kontron are subject to processing, alteration, combining, mixing or blending, we shall be deemed the manufacturer of such goods and shall by virtue of such action acquire co-title or full title to the end product in accordance with statutory provisions.

**4. OVERSHIPMENTS.** Kontron will pay only for quantities ordered. Over shipments will be held by Kontron at Seller's risk and expense for a reasonable time awaiting shipping instructions. Return shipping charges for excess quantities will be at Seller's expense.

**5. PACKING AND SHIPMENT.** Unless otherwise specified, Seller will package and pack all goods in a manner which is (i) in accordance with good commercial practice, (ii) acceptable to common carriers for shipment at the lowest rate for the particular goods, (iii) in accordance with I.C.C. regulations, and (iv) adequate to insure safe arrival of the goods at the named destination. Seller will mark all containers with necessary lifting, handling, and shipping information and with purchase order numbers, date of shipment, and the names of the consignee and consignor. An itemized packing list must accompany each shipment. No partial or complete delivery will be made prior to the due date or dates shown unless Kontron has given prior written consent.

**6. INCOTERMS 2010.** The Goods shall be delivered in accordance with INCOTERMS 2010 DDP, to the point of delivery specified in the Order or Kontron's place of business if no other point of delivery has been specified by Kontron.

**7. WARRANTY.** Seller warrants that all goods delivered (i) will be free from defects in workmanship, material, manufacture and rights of third parties, (ii) will comply with the requirements of a purchase order, including any drawings and agreed specifications incorporated herein or samples furnished by Seller, (iii) where design is Seller's responsibility, will be free from defects in design, and (iv) are new and unused at the date of delivery. Seller further warrants that all goods purchased hereunder will be of merchantable quality and will be fit for any particular the purposes expressly or impliedly made known to Seller in the Order or related documents intended by Kontron. They are in addition to all other warranties, whether expressed or implied, and will survive any delivery, inspection, acceptance or payment by Kontron. All warranties run to the benefit of Kontron Kontron's approval of Seller's materials or design will not relieve Seller of any warranties. If any goods delivered do not meet the warranties specified herein or otherwise applicable, Kontron may, at its option, (i) require Seller to correct any defective or nonconforming goods by repair or replacement at no cost to Kontron, or (ii) return such defective or nonconforming goods to Seller at Seller's expense and recover from Seller the order price thereof, or (iii) correct the defective or nonconforming goods itself and charge Seller with the cost of such correction. The warranty period shall be thirty six (36) months from date of Delivery, or such other time period stated in the Order or otherwise expressly agreed in the Contract.

**8. INSPECTION AND ACCEPTANCE.** Notwithstanding any prior inspection or payments, all goods will be subject to final inspection and acceptance at Kontron's plant within a reasonable time after delivery. In case any item is defective in material or workmanship, or otherwise not in conformity with the requirements of this order, Kontron will have the right to reject it, to require its correction or to accept it with an adjustment in price. Any item that has been rejected or required to be corrected must be replaced or corrected by and at the expense of Seller promptly after notice. If, after being requested by Kontron, Seller fails to promptly replace or correct any defective item, then Kontron (i) may, by contract or otherwise, replace or correct such item and charge to Seller the cost occasioned thereby, (ii) may, without further notice, cancel a purchase order for default, or (iii) may require an appropriate reduction in price.

**9. CHANGE ORDERS.** The Kontron may at any time, by a written order, suspend performance hereunder, increase or decrease the ordered quantities, change the due date or make changes in any one or more of the following: applicable drawings, designs or specifications; method of shipment or packing; and/or place of delivery.

**10. DELAYED DELIVERY.** It is understood and agreed that time is of the essence for each order. If delivery of the Goods does not comply with the agreed delivery date(s) then, without prejudice to any other rights which it may have, Kontron reserves the right to: (i) terminate the Contract in whole or in part; (ii) refuse any subsequent delivery of the goods which Seller attempts to make; (iii) recover from Seller any expenditure reasonably incurred by Kontron in obtaining the goods in substitution from another supplier; (iv) claim damages for any additional costs, loss or expenses incurred by Kontron which are reasonably attributable to Seller's failure to deliver the goods on the agreed delivery date; and (v) claim additional compensation for liquidated damages.

**11. TERMINATION FOR CONVENIENCE.** At any time for convenience, Kontron may terminate work under a purchase order, in whole or in part, by written notice, unless otherwise expressly stated in the relevant order. Upon such termination, Seller will, to the extent and at the times specified by Kontron, stop all work under a purchase order, place no further orders for materials to complete the work, assign to Kontron all Seller's interest under terminated subcontracts and

orders, settle all claims thereunder after obtaining Kontron's approval, protect all property in which Kontron has or may acquire an interest, and transfer title and make delivery to Kontron of all articles, materials, work in process, and other things held or acquired by Seller in connection with the terminated portion of a purchase order. In such event Kontron shall pay to Seller the value of the already delivered but unpaid parts of the goods and proven direct costs reasonably incurred by Seller for the undelivered and unpaid parts of the goods, however in no event more than the agreed purchase price for the goods under the respective order. No further compensation shall be due to Seller.

**12. WAIVER.** The failure of Kontron to enforce at any time any of the provisions of a purchase order, to exercise any election or option provided herein, or to require at any time the performance by Seller of any of the provisions herein will not in any way be construed to be a waiver of such provisions.

**13. REMEDIES.** The remedies stated herein are in addition to all other remedies at law or in equity.

**14. INDEMNIFICATION.** Seller agrees to indemnify Kontron, its agents, customers, successors, and assigns against any loss, damage, and liability (including costs and expenses) for actual or alleged infringement of any patent, copyright or trademark arising out of the use or sale of the goods delivered by Seller to Kontron, its agents or customers provided, however, that Kontron must notify Seller of any suit, claim or demand involving such infringement and permit Seller to defend against or settle the same. If any injunction is issued as the result of any such infringement, Seller agrees, at Kontron's option, to (i) refund to Kontron the amounts paid to Seller for the goods covered by the injunction, or (ii) furnish Kontron with acceptable and non-infringing goods. Seller agrees to indemnify Kontron against any and all liability and expense resulting from any alleged defect in the goods, whether latent or patent, including allegedly improper construction and design, or from the failure of the goods to comply with specifications. Seller warrants that there are no liabilities for royalties, mechanics liens or other encumbrances on the goods supplied and agrees to indemnify Kontron against any such liabilities. The above indemnifications are in addition to all other rights of indemnification of Kontron against Seller. The Indemnification applies whether or not Seller may have been negligent or at fault and does not limit any further rights of Kontron. In the event Seller cannot fulfill Kontron's above request, Kontron shall be entitled to terminate the order, to reclaim all sums which Kontron has paid to Seller under the order and to claim compensation for any and all costs, losses or damages incurred.

**15. NONDISCLOSURE OF CONFIDENTIAL MATTER.** Seller will not quote for sale to others, without Kontron's written authorization, any goods purchased under Kontron's specifications or drawings. All specifications, drawings, samples, documents and other data furnished by Kontron will be treated by Seller as strictly confidential information, will remain Kontron's property, and will be returned to Kontron on request. The same applies to commercial or technical details and business or company secrets. Any such confidential information shall not be made available to third parties without the consent of Kontron.

**16. ASSIGNMENTS.** No right or obligation under a purchase order (including the right to receive monies due) may be assigned by Seller without the prior written consent of Kontron. Kontron may assign, transfer or encumber an order at any time.

**17. NOTICE OF DELAYS.** Whenever any event delays or threatens to delay the timely performance of a purchase order, Seller will immediately notify Kontron of such event and furnish all relevant details. Receipt by Kontron of such notice will not constitute a waiver of the due dates hereunder.

**18. LICENSE.** Seller, as part consideration for a purchase order and without further cost to Kontron, hereby grants to Kontron an irrevocable, non-exclusive, royalty free license to use, sell, manufacture, and cause to be manufactured products embodying any inventions and discoveries made, conceived or actually reduced to practice in connection with the performance of a purchase order. Kontron shall be the sole owner of all results and associated intellectual property rights arising out of or deriving from fulfillment of the order. When inventions or results that can be protected under industrial property rights are produced within the framework of the order, the registration of industrial property titles is carried out exclusively by Kontron, at its initiative, on its own behalf and at its own expense. With regards to copyright the Seller assigns and Kontron acquires all proprietary rights on creations that can be protected by copyright within the framework of the order, as and when they are created, exclusively and definitively throughout the term of legal protection, worldwide. The Seller assigns the rights to use, reproduce, represent, disseminate, adapt, translate, modify, commercialize, exploit byproducts of, and reassign the said works.

**19. GOVERNMENT CONTRACTS.** If a purchase order is issued for any purpose that is either directly or indirectly connected with the performance of a prime contract with the government or a subcontract thereunder, the statutory regulations require to be inserted in contracts or subcontracts will be deemed to apply to the relevant purchase order.

**20. APPLICABLE LAW.** These Terms and Conditions and each purchase order will be governed by the laws of Germany. The provisions of the UN Convention for the International Sale of Goods (CISG) are excluded from this contract. The contractual language is English. The place of performance within its legal meaning is the place of business of Kontron. The competent court of jurisdiction shall be at the place of business of Kontron.

**21. RELOCATION.** In case seller relocates the business, Kontron must be notified in writing before the move.

**22. SUB-CONTRACTORS.** Unless expressly stipulated to the contrary, the Seller is responsible concerning the choice of its subcontractors and suppliers. In any event, the Seller remains liable for overseeing the latter and is solely answerable and liable for the proper execution of the Order. In case supplier changes any of the sub-contractors related to Kontron's products, a written approval of the new sub-contractor from Kontron is required.

**23. NONCONFORMITY REQUIREMENT.** Suppliers and sub-tier suppliers are required to inform Kontron in the event of non-conformity has been identified. Arrangements to address the non-conformity shall be established.

**24. ACCESS.** Suppliers and sub-tier suppliers are required to provide access to their facility to Kontron, Kontron's customers and regulatory authorities. At any time prior to delivery and during Seller's business hours, Kontron shall have the right to (i) inspect the goods and Seller's manufacturing units upon providing reasonable notice.

**25. CHANGES.** The supplier is required to notify Kontron of any changes in product and/or process definition and, where required, obtain Kontron's approval.

**26. INFORMATION FLOW DOWN.** The supplier is required to flow down to sub-tier suppliers the applicable requirements in the purchasing documents, including key characteristics where required.

**27. RECORD RETENTION.** All documentation related to Kontron P.O.'s (including sub-contractors) must be retained by the supplier for a period of 10 years.