

Kontron Technology A/S
Dr. Neergaards Vej 5D, DK-2970 Hørsholm, Denmark

Ordinary Terms of Sale and Delivery

Rev. 4, January 2009

Unless otherwise expressly stated, these terms and conditions shall apply to all deliveries covered by order confirmation or other contractual relationships, including tangible goods as well as advice and similar intangible supplies. Kontron Technology A/S, hereinafter referred to as the Seller, is not bound by any terms and conditions of purchase stated in the Buyer's order unless such terms and conditions comply with the order confirmation or other contractual relationships.

1.0 Prices

- 1.1 The offer made by the Seller will remain in force for 20 days and include only the deliveries comprised by the offer.
- 1.2 All prices given in the Seller's offer are current prices. The Seller reserves the right to adjust all prices, e.g. for cost price or currency fluctuations.
- 1.3 A dispatch fee of USD 150 is charged for deliveries worth less than USD 2,500.00.
- 1.4 When the Seller has sent a written order confirmation, the order to purchase is considered binding. Changes can only be effected with the consent of the Seller. If cancellation is accepted, a fee of 20% of the amount of the order is charged.

2.0 Delivery and dispatch

- 2.1 The time of delivery is fixed by the Seller at his discretion.
- 2.2 Notwithstanding delivery is considered to have been effected ex. works and the risk of the product sold has passed to the Buyer, the Seller will, on Buyer's request, make arrangements for the dispatch of the products. In such case the Seller will decide whether the products will be sent together or as several consignments.
- 2.3 If the delivery is delayed in whole or in part, the Seller is not liable unless it can be proven that the delay is due to errors or negligence on the part of the Seller and if the Buyer can prove that he has suffered a documented loss. Damages cannot exceed more than 10% of the invoice value of the delayed delivery, exclusive of VAT and import levy. In case of delay, the Seller will never be liable for the Buyer's direct or indirect losses, including loss of business or profit.
- 2.4 For Buyers in Germany provisions of Retention of Title apply as referred to in Seller's homepage www.kontron.com. An appendix of the provisions is enclosed for German Buyers.

3.0 Transfer of risk

- 3.1 The risk of accidental loss of products is transferred to the Buyer at delivery. The delivery is ex works, cf. INCOTERMS 2000.

4.0 Description of products

- 4.1 All information on design, weight, dimensions, capacity, technical specifications, etc., given in e.g. catalogues, user's manuals, prospects, advertisements, illustrations and price lists is only binding to the extent when expressly referred to in the Seller's order confirmation.

5.0 Payment

- 5.1 The Seller's terms of payment are, unless otherwise stated, 30 days net from the date of invoice. If payment is not effected before the last date of payment, interest will be calculated on the sales price, at present in the amount of 2% for each month or fraction thereof following the date of payment. Any credit given is subject to credit approval at the Seller's credit insurance company.
- 5.2 Even if the Buyer may have a counterclaim against the Seller, such claim cannot be set off against the sales price unless the claim is acknowledged by the Seller.

6.0 Applicability of the products

- 6.1 Only upon written approval from management of the Seller may the Seller's products be applied as critical components of the Buyer's equipment, such as, but not limited to, application in resuscitation equipment, airplanes, nuclear power stations and within the space industry. Furthermore, reference is made to the note in the manual pertaining to each product.

7.0 Liability for defects

- 7.1 The Buyer shall examine and test each delivery thoroughly immediately upon receipt.
- 7.2 The Seller does not undertake any liability for fitness for a particular purpose contemplated by the Buyer.
- 7.3 If the Buyer intends to invoke any defects of the products supplied, he must immediately notify the Seller in writing.
- 7.4 In case of complaint, the Buyer is not entitled to dispose of the products or return them to the Seller without the Seller's written approval thereof.
- 7.5 If the products or any part thereof should prove to be defective, the Seller is entitled to decide whether to remedy the defect or to replace the product by products of a satisfactory quality. If the Seller offers to remedy the defect or replace the product, the Buyer is not entitled to rescind the contract of sale, or demand proportionate price reduction or damages because of the defect. The Seller is not liable for any delay caused by the remedy or replacement.
- 7.6 The Seller is not liable for any defects due to unusual wear and tear, damage, insufficient maintenance, incorrect installation or repairs carried out by another person than the Seller.
- 7.7 In case of remedying of defects, etc., shipment of products delivered is effected at the Buyer's account.
- 7.8 The Seller is not liable for any defects of the products delivered, except as following from clause 7.5 above.
- 7.9 Products accepted by the Seller as return goods for other reasons than those listed above, on condition that the products are unused/undamaged and still in original sealed packaging, will be credited at the sales price less 20%.

8.0 General limitation of liability

- 8.1 Unless otherwise agreed by the parties in writing, the Seller's liability for damage or loss incurred by the Buyer because of non-performance or misconduct incurring liability is limited to the sales price of the products delivered. In no event shall Seller be liable

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for loss of profits, special, incidental or damages out of any sale in accordance with these terms of sale and delivery. The above limitation of liability and exclusion of liability does not apply in circumstances of an intentional nature or in case of the Seller's grossly negligent conduct.

9.0 Product liability

9.1 The Seller is only liable for personal injury if provable that the injury is due to errors or negligence committed by the Seller or any persons for whom the Seller is liable.

9.2 The Seller is not liable for any damage to real property or chattels personal occurring while the products are in the Buyer's possession.

9.3 The Seller is not liable for any damage to products manufactured by the Buyer or to products in which such products form part.

9.4 The Seller is not liable for any loss of profit, loss of earnings or any other indirect loss.

9.5 To the extent that the Seller should incur product liability towards a third party, the Buyer shall indemnify the Seller to the same extent as the Seller's liability is restricted pursuant to clauses 7.0 and 8.0.

9.6 If any third party should claim damages from one of the parties to this contract, this contractual party must notify the other contractual party immediately.

9.7 The Seller and the Buyer are reciprocally obliged to accept litigation at a court of law hearing a case on damages instituted against one of them because of a defect claimed to have been caused by the products delivered. The mutual relationship between the Seller and the Buyer shall be settled by arbitration pursuant to clause 15.0.

10.0 Warranty and Disclaimer

10.1 For a period of 24 months following delivery of the products, the Buyer is entitled to replacement goods if any errors or defects arise in the products delivered. This warranty only covers products, which are listed in the Seller's official price list, provided that the product has been applied in accordance with the manual pertaining to the product. Except for this warranty, Seller makes no other warranties of merchantability and fitness for a particular purpose.

10.2 Seller conducts a Return Material Authorization policy as referred to in Seller's homepage www.kontron.com (RMA procedure DK). Unless expressly agreed these conditions will apply to all deliveries.

11.0 Force majeure

11.1 The Seller will be exempt from liability in the following circumstances, when they occur after the conclusion of the contract and hinder its fulfillment: industrial dispute and other events which the parties do not control, such as fire, war, mobilization, requisition, seizure, currency restrictions, rising, lack of means of transport, general scarcity of goods, rejection of work, explosion, strike, lockout, acts of God, and long-term failure of energy supply, as well as delayed deliveries from sub-suppliers due to any of the situations referred to in this clause.

11.2 The party, which intends to rely on any of the circumstances listed in clause 11.1, must notify the other party in writing of its commencement and termination.

11.3 Either party is entitled to terminate the contract by written notice to the other party when the contract cannot be performed within a period of 60 days because of any of the circumstances listed in clause 11.1.

12.0 Infringement of exclusive right, etc.

12.1 The Seller's products are covered and protected by the legislation on intellectual property rights in force at any time and by international treaties. Any copying, processing, reverse engineering, etc., is prohibited. Furthermore, any specification, specimen, computer code, list of customers or potential customers or other business information is the property of the Seller, and the Buyer is not entitled to pass on any information thereon unless otherwise agreed with the Seller in writing. The Buyer is, however, entitled to pass on the Seller's manuals to the Buyer's customers.

12.2 The Seller shall indemnify the Buyer for all claims or costs in connection with any lawsuit against the Buyer for violation of patent or trademark rights in the products.

12.3 The Buyer shall notify the Seller immediately if any such claim is made and authorize the Seller to conduct litigation or settle a dispute on alleged infringements at its own account.

12.4 The Seller is entitled, at its own choice and account, to obtain the right to continued use of equipment on behalf of the Buyer or to replace/modify the equipment so as to terminate the infringement. If such measures are not possible, the Buyer undertakes to return the equipment without undue delay upon written request from the Seller. In such situation, the Buyer's account will be credited with the price of the equipment returned less depreciation. Such depreciation is made at equal installments each year of the normal useful life/period of service as determined by the Seller.

12.5 The Seller's liability for infringement of intellectual property rights is restricted to the situations referred to in the clauses 12.1, 12.2, 12.3 and 12.4 above. No further claims for damages can be raised against the Seller.

13.0 Software

13.1 Software licence

Licensed software including subsequent new versions and components thereof and relevant documentation must only be used on the central processing unit on which it was initially installed. Software may only be copied for backup purposes provided the copyright notice from the original copy is included and provided it is copied for use on that central processing unit only. The Buyer shall protect the software from access by third parties. Persons exercising the Buyer's right to use the software on the Buyer's behalf shall not be deemed to be third parties. Seller shall retain all exploitation rights in relation to the software. Should Buyer act in breach of these license provisions, Seller shall be entitled to terminate the license and to demand the return of the software and all components and copies thereof, provided a written warning notice specifying a deadline as given by Seller has passed without remedial action having been taken. The Buyer shall be responsible for ensuring valid use of the software and, as applicable, its further distribution. The license shall be deemed to have been granted on delivery of the software. The license fee shall fall due at the same time. The terms and conditions governing the software shall be considered accepted when the Buyer accepts the software. Source programs shall not be provided unless a special written agreement has been made in this respect.

13.2 Software warranty

13.2.1 In line with the current technological status quo, software is never completely defect-free as regards its structure. In the case of major defects, instructions given for bypassing the consequences of the defect shall be deemed to constitute sufficient subsequent performance.

13.2.2 Seller does not warrant that the program functions will be adequate for the customer's requirements or that they will work in the combination chosen by the customer. In line with the current technological status quo, no guarantee can be given in respect of the software's operation being uninterrupted or defect-free nor that all possible defects have been completely removed.

13.2.3 Liability for defects in respect of the replacement or loss of data resulting from a delivery of software shall be excluded from this agreement. The customer is obliged to secure its data accordingly.

13.2.4 Due to the particularities of the individual programs, the scope of applicable liability for defects can not be notified to the customer in a legally binding manner in the offer or product description.

14.0 International relations

14.1 The Buyer is responsible in every respect and at his own account for obtaining and maintaining all export and import licenses necessary for the Buyer with relation to the Buyer's acquisition and resale of the Seller's products.

14.2 The Buyer is responsible in every respect and at its own account for ensuring that the Seller's products comply with the national legislation of the country or countries in which the Buyer markets the Seller's products.

14.3 The Buyer shall indemnify the Seller for any claim, loss or fine related to the Buyer's non-compliance with clauses 13.1 and 13.2.

15.0 Arbitration

15.1 Any dispute arising out of or in connection with the delivery of products shall be settled finally and conclusively and with binding effect in accordance with the "Rules of Procedure of the Danish Institute of Arbitration (Copenhagen Arbitration)". Each party shall appoint one arbitrator, while the Chairman of the arbitration will be appointed by the Institute. If a party has not appointed an arbitrator within 30 days of having submitted or received notice of the request for arbitration, such arbitrator will also be appointed by the Institute in conformity with the said Rules. The place of arbitration shall be Copenhagen. Danish law shall apply except for the Danish conflict of laws rules.

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