

# Standard Terms and Conditions of

## Kontron Europe GmbH (Kontron)

Current as of 10/2025

### Preamble

The following terms and conditions shall apply to the contractual relationship between Kontron Europe GmbH as the supplier (referred to hereafter as "Kontron") and the purchaser/customer (referred to hereafter as the "customer"); they shall also apply to any further deliveries made or services provided. These terms and conditions shall be applicable in respect of commercial entities (§ 310 (1) of the German Civil Code/BGB) but not in respect of consumers.

#### § 1 General provisions

- (1) Any deviating terms and conditions of the customer that are not expressly recognized by Kontron in writing shall not be binding, even if Kontron does not expressly object to them. Kontron's terms and conditions shall apply exclusively.
- (2) German law is agreed to apply exclusively. The UN Convention on Contracts for the International Sale of Goods (CISG) shall not apply.
- (3) The invalidity of individual provisions of these terms and conditions shall not affect the validity of the remaining provisions. The contractual parties shall be obliged to replace the invalid provision with a valid provision that is equivalent to its economic effect, provided that this does not result in a material change to the content of the terms and conditions; the same applies if a matter requiring regulation is not expressly regulated.
- (4) The place of performance for all obligations arising directly or indirectly from this contractual relationship, including the obligation to pay, shall be Kontron's respective place of business.
- (5) This agreement is subject to the exclusive jurisdiction of the courts of Munich.

#### § 2 Offers, scope of deliveries and conclusion of contract

- (1) Contractual offers made by Kontron are subject to change. An agreement shall not be deemed to be concluded until Kontron has provided written confirmation of the customer's order.
- (2) Kontron reserves the right to make customary technical alterations to the scope of performance (in particular to the design, choice of materials, specification and type of construction), provided these do not unreasonably affect the customer or the usability of the performance. In addition, the customer shall agree to any further changes provided it is not unreasonable to expect the customer to do so. Improvements to the products shall be acceptable insofar as they are reasonable for the customer, taking into account Kontron's interests. The documents on which the offer or order confirmation is based, such as illustrations, drawings, dimensions and weight specifications, are generally to be understood as approximate values only, unless Kontron expressly designates them as binding.
- (3) All industrial property rights in quotes, drawings and other documentation shall be owned solely by Kontron.

#### § 3 Prices and conditions of payment

- (1) Prices are quoted net FCA Kontron's respective place of business, Incoterms®2020, exclusive of packaging and all other handling and transport costs. The applicable amount of value added tax as at the date of the invoice shall also be added to the price.
- (2) Unless otherwise agreed, the purchase price shall be due and payable within fourteen days of invoicing and delivery. However, Kontron is entitled at any time, even within the framework of an ongoing business relationship, to make a delivery in whole or in part only against advance payment. This applies in particular to deliveries worth less than € 2,000.
- (3) In the event that a period of more than 4 months elapses between the date on which the agreement is concluded and the date of delivery, Kontron not being responsible for such delay in delivery, Kontron may duly increase the price taking into account the cost incurred in respect of materials, salaries and other incidental expenses. The customer may withdraw from the agreement in the event of an increase in price of more than 40%.
- (4) If Kontron takes the customer's change requests into account, the resulting additional costs shall be charged to the customer.

- (5) If the payment deadline is exceeded, Kontron may demand the payment of interest in accordance with §§ 288 (2), 247 of the German Civil Code/BGB, subject to the assertion of further claims.
- (6) Kontron may adjust its prices accordingly in the event of changes in customs tariffs, import or export taxes.

#### § 4 Set-off and withholding

The customer may not set off or withhold payments unless the counterclaim is accepted, undisputed or legally established.

#### § 5 Delivery dates, delay, impossibility

- (1) Delivery dates are estimates only and not binding. They shall be extended appropriately if the customer delays or fails to cooperate as required or agreed. The same shall apply in the event of industrial action, in particular strikes or lock-outs, as well as in the event of unforeseen obstacles beyond Kontron's control, e.g. force majeure events (including fire, pandemic, natural disasters), delays in delivery by suppliers, traffic disruptions, shortage of raw materials or energy, as well as delays due to missing permits of the Federal Foreign Office or the Federal Office of Economic Affairs and Export Control (BAFA) etc., even though Kontron has taken proper precautions against the occurrence of such obstacles. Changes requested by the customer to the goods supplied may also lead to a reasonable extension of the delivery period.
- (2) Partial deliveries are permissible. In the case of long-term supply contracts, each partial delivery shall be deemed an independent service.
- (3) Delivery to the customer shall be subject to correct and timely delivery to Kontron. Kontron will notify the customer of any delays. If Kontron is not supplied correctly or on time by its suppliers is not responsible for this, the performance time shall be postponed accordingly. In this case, Kontron may choose to withdraw from the contract with regard to the goods that have not been delivered. Further claims for damages and reimbursement of expenses by the customer against Kontron shall be excluded.
- (4) If a transaction for delivery by a fixed date in accordance with §§ 323 (2), No. 2 German Civil Code/BGB), 376 German Commercial Code/HGB has been agreed in writing, Kontron shall be liable in accordance with the law. Compensation for damages or expenses due to a delay in delivery shall be limited or excluded in accordance with § 11 of these terms and conditions.

#### § 6 Shipment and transfer of risk

Risk shall pass to the customer as soon as the delivery is handed over to the person carrying out the transportation, or the delivery has left Kontron's warehouse for shipment. Should the shipment be delayed for reasons for which Kontron is not responsible, risk shall pass to the customer as soon as the customer receives notification of the delivery being ready for dispatch.

#### § 7 Retention of title

- (1) Kontron shall retain title to the goods delivered until payment has been made in full. This right of retention of title shall apply until all claims, including future and conditional claims, arising from the business relationship between the customer and Kontron have been satisfied.
- (2) After complete payment the customer may resell, process or integrate the goods with others in the ordinary course of business; in doing so, the customer hereby assigns to Kontron all claims and ancillary rights arising of such resale, processing or integration or other legal grounds (in particular from insurance or tortious acts) in the amount of the final invoice amount (inclusive of value added tax). If the goods delivered are co-owned by Kontron on the basis of the retention of title, the claims shall be assigned in proportion to Kontron's co-ownership share. If the delivered goods are sold with third-party goods that are not owned by the customer, the resulting claims shall be assigned to Kontron in proportion

of the final invoice amount of Kontron's goods to the final invoice amount of the third-party goods. The customer shall remain authorized to enforce such claims even after the assignment, whereby Kontron's authority to enforce them itself shall remain unaffected. Kontron undertakes not to enforce any such claims as long as the customer meets its payment obligations from payments received, is not in default of payment, and no application for the opening of insolvency proceedings has been filed or payment is not suspended. Should any of the aforementioned situations occur, however, the customer must, upon request, disclose the assigned claims and of the debtors, provide all information for enforcement of the claims, hand over the relevant documentation, and notify the debtors (third parties) of the assignment. The aforementioned shall also apply if the customer resells, processes or integrates the purchased goods in breach of contract.

- (3) The retention of title shall also extend to the full value of any products resulting from the processing or integration of the delivered goods, whereby these processes shall be carried out for Kontron so that Kontron shall be deemed to be the manufacturer (§ 950 German Civil Code/BGB). In the event that any delivered goods are processed or integrated in connection with other goods which are not owned by Kontron, Kontron shall acquire co-ownership in proportion to the objective value of the delivered goods; it is agreed hereby that the customer shall in this case store the goods carefully for Kontron.
- (4) In the event of a breach of contract by the customer, in particular with respect to a delay in payment, Kontron shall be entitled to take back the goods provided the deadline for payment as set by Kontron has passed without payment having been received. Kontron may enter the customer's business premises for this purpose. The cost of taking back goods (in particular transportation costs) shall be borne by the customer. Kontron shall also be entitled to prohibit the customer from reselling, processing, combining or integrating into the goods delivered subject to Kontron's retention of title and to revoke the customer's right to enforce its claims (see clause (2) above).
- (5) The securities to which Kontron is entitled shall not be included to the extent that the estimated value of the securities exceeds the nominal value of the claims to be secured by 10%; Kontron shall decide which securities are released.
- (6) If the validity of the retention of title in the country of destination is subject to special conditions or special formal requirements, the customer must ensure that these are met.

#### **§ 8 Defects in quality and title (warranty)**

- (1) Kontron will be liable for defects in the goods delivered in accordance with the following provisions provided the customer has duly complied with its duties of inspection and complaint notification as set out in § 377 German Commercial Code/HGB (the complaint must be notified to Kontron in writing).
- (2) Claims for defects shall only exist in the case of not insignificant defects. If goods are to be incorporated into any total system, the customer must carry out sufficient compatibility and acceptance tests prior to use or resale. Responsibility for the total system shall continue to lie with the customer.
- (3) The customer's claims shall be limited, at Kontron's discretion, to rectification of the defect or delivery of a defect-free item (subsequent performance). In the event of impossibility or failure of subsequent performance, the customer shall be entitled to demand a reduction in price or to withdraw from the agreement. The customer shall reimburse to Kontron any costs incurred in the event that a more detailed inspection of notified defects reveals that there is no defect or that such defect is not the responsibility of Kontron. The costs of providing subsequent performance shall be borne by Kontron, provided the costs are not increased by the fact that the goods having been transported to a location other than the place of performance.
- (4) Any other claims for damages or reimbursement of expenses made by the customer shall be regulated in accordance with § 11.
- (5) The general limitation period for claims resulting from material defects or defects of title is 24 months from delivery. In the event that the goods require installation by Kontron, the limitation period shall commence upon readiness for operation.

- (6) The place of performance for subsequent performance shall be the customer's place of business, unless the law provides that it should be Kontron's place of business. Subsequent performance may be refused to the extent that the costs increase as a result of the customer moving the item to a different location and subsequent performance becomes disproportionate as a result.

#### **§ 9 Software**

##### **(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 customer shall protect the software from access by third parties. Persons exercising the customer's right to use the software on the customer's behalf shall not be deemed to be third parties.

All exploitation rights to the software shall remain with Kontron. If the customer acts in breach of these licence provisions, Kontron shall be entitled to terminate the licence following an unsuccessful warning and to demand the return of the software and all components and copies thereof. The customer shall be responsible for ensuring that the use of the software is permissible and that it can be redistributed.

The licence shall be deemed granted upon delivery of the software. At the same time, the licence fee shall become due. Upon acceptance of the delivery, the software terms and conditions shall be deemed to have been accepted.

The provision of source programs requires a special written agreement.

##### **(2) Software warranty**

The following provisions shall apply in addition to the provisions in §§ 8, 10 and 11 of these terms and conditions:

(2.1) According to the current state of technology, software is never completely defect-free. In the case of major defects, the instruction to circumvent the effects of the defect shall also be deemed sufficient rectification.

(2.2) Kontron does not warrant that the program functions will meet the customer's requirements or that they will work in the combination chosen by the customer. According to the current state of technology, uninterrupted or defect-free operation or the complete elimination of all possible defects cannot be guaranteed.

(2.3) Any liability for defects for the replacement or loss of data resulting from a software delivery is excluded. The customer is obliged to secure its data accordingly.

#### **§ 10 Infringement of industrial property rights**

- (1) Kontron shall indemnify the customer against all payment obligations that have been legally established or comparatively created under an out-of-court settlement with Kontron's consent and that are based on the breach of a delivered product against a German patent or other industrial property right. This is subject to the customer notifying Kontron without delay in writing of all claims asserted against the customer and any subsequent legal action, authorizing Kontron to conduct and conclude the legal action independently and providing appropriate support.
- (2) Kontron may, at its own discretion, within the scope of subsequent performance:
  - procure for the customer the right to continue using the product;
  - replace the product or modify it in such a way that it no longer infringes industrial property rights; or
  - if the aforementioned courses of action are not feasible for Kontron at commercially acceptable conditions, take back the product and credit the customer with the reduced value in accordance with depreciation principles.
- (3) §§ 8, 9 and 11 apply analogously.

## **§ 11 General liability**

- (1) Unless otherwise stated in these terms and conditions, including the following provisions, Kontron shall be liable for breaches of contractual and non-contractual obligations in accordance with the statutory provisions.
- (2) Within the scope of fault-based liability, Kontron shall be liable for damages, irrespective of the legal grounds, only in the event of intent and gross negligence. In the event of simple negligence, Kontron shall be liable, subject to statutory limitations of liability (e.g. care in our own affairs; insignificant breach of duty), only
  - a) for damages resulting from injury to life, body or health,
  - b) for damages resulting from the breach of an essential contractual obligation (obligations whose fulfillment is essential for the proper execution of the contract and on whose compliance the customer relies and may also rely). In this case, however, Kontron's liability shall be limited to compensation for foreseeable, typically occurring damage.
- (3) The limitations of liability arising in accordance with this § 11 (2) shall also apply to third parties and in the event of breaches of duty by persons whose fault Kontron is responsible for in accordance with statutory provisions. Insofar as a defect has been fraudulently concealed and a guarantee for the quality of the goods has been assumed in writing according to § 444 German Civil Code/BGB, the limitations of liability shall not apply. This also applies to claims of the customer under the German Product Liability Act.
- (4) The customer may only withdraw from or terminate the contract due to a breach of duty that does not result from a defect in the event that Kontron is responsible for the breach of duty. This § 11 shall apply analogously in relation to the reimbursement of expenses.

## **§ 12 Export und re-export**

- (1) Deliveries by Kontron shall be subject to the grant of an export licence by the US Department of Commerce or US Department of State or by the relevant authority of a different country of delivery or an export permit from the Federal Foreign Office or the Federal Office of Economic Affairs and Export Control (BAFA).
- (2) In view of Kontron's import licence, goods and technological know-how delivered by Kontron are intended for use and destination in Germany. Any re-export by the customer must be authorised and is subject to German foreign trade laws and the US export regulations, the observance of which is the customer's responsibility.

## **§ 13 Field of use of goods**

Use of Kontron's goods in the field of security shall not be permissible unless clearance has been obtained from Kontron. This shall apply in particular in respect of use in the aviation and aerospace industry, the military and the fields of medical engineering and automotive engineering.