

**KONTRON CANADA INC.**  
**TERMS AND CONDITIONS OF SALE**

Kontron Canada Inc. ("Kontron") accepts to enter into an agreement with the Buyer pursuant to the following terms and conditions, which are reputed to be part of the Sales Order Confirmation herewith.

**1. OBJECT**

Subject to payment and to the terms and conditions of the agreement, Kontron sells to the Buyer the products described on the Sales Order Confirmation herewith ("Products"). In the event of any conflict between this agreement and any purchase order or other document, the terms of this agreement shall prevail. Kontron reserves its rights to make substitutions or modifications to the Products. It is understood that such substitutions and/or modifications will not affect the performance of the Products.

**2. PURCHASE ORDERS**

Buyer shall issue to Kontron firm purchase orders for each purchase required. All purchase orders are subject to credit approval and confirmation of delivery schedule by Kontron prior to acceptance by Kontron and may require credit enhancement, such as advanced payment, letter of credit or other guarantee, prior to acceptance. Kontron's acceptance of a purchase order shall only occur upon delivery to Buyer of a written acceptance ("Sales Order Confirmation").

**3. COUNTERPART**

The sale is made in consideration of the selling price mentioned on the Sales Order Confirmation herewith, which selling price does not include any applicable federal or provincial Sales tax, duties, freight, charges or assessments of any nature levied by any governmental authority in connection with any transaction under this agreement, unless superseded on the Sales Order Confirmation.

**4. TERMS OF PAYMENT**

The Buyer agrees to pay all amounts due as stated on the Sales Order Confirmation, net 30 days from date of invoice. In case of failure to complete payment under these terms, Kontron can suspend any delivery and/or services and/or technical support, without prejudice to any other rights, and in particular without prejudice to Kontron's right to terminate this agreement. All payments received after 30 days shall accrue interest at the rate equal to the lesser of one and one-half percent (1.5%) per month or the maximum legally permissible rate.

**5. OWNERSHIP OF PRODUCTS**

**5.1. INCOTERMS**

All sales and deliveries of Products shall be "FCA Kontron's designated shipping facility" as defined in Incoterms 2020, as amended unless superseded on the Sales Order Confirmation. Buyer is responsible for all transportation, insurance, duties, taxes and other applicable expenses. These expenses shall be paid by Buyer and shall be added to Kontron's invoice to Buyer if prepaid by Kontron.

**5.2. TRANSFER OF TITLE AND RISK OF LOSS**

The Products remain the property of Kontron until it has received full payment, notwithstanding their delivery to the Buyer. All risk of loss incurred by the parties are defined by the Incoterms indicated in Section 5.1

**5.3. TRANSFER**

As long as the Buyer is not the owner of the Products, the Buyer shall not sell, transfer, assign or cede the Products or its rights pursuant to the agreement without the expressed written consent of Kontron. In any event, any such transfer will not discharge the Buyer of its obligation herewith unless expressly stipulated otherwise by Kontron. Any sale, transfer, assignment or cession made without the expressed written consent of Kontron will not be opposable to Kontron and the latter will remain the owner of the Products until all payments are made.

**5.4. INSURANCE**

The Buyer shall provide and maintain an all risk property insurance on the Products and for all damages caused by the Products for an amount equal to the total sale price of the Products as long as the ownership of the equipment has not been transferred to the Buyer, as stipulated in article 5.2 of the foregoing. Thus, and as long as the ownership has not been transferred to the Buyer, Kontron shall be the sole beneficiary of said insurance policy and shall receive the proceeds of any indemnity paid in any case pursuant to the insurance policy.

**6. CHANGES**

Within thirty (30) days of receipt from Buyer of a request for changes within the general scope of work under an accepted purchase order, Kontron shall respond in writing stating the consequences of such requested change. If such requested change causes an increase or decrease in the cost of the Products and/or the time required for performance, an equitable adjustment reasonably determined by

Kontron shall be made in the price and/or the time required for performance. Such price adjustment may include but not be limited to any rework charges associated with the requested change. Kontron shall have the right in its sole discretion to accept or reject any such requested changes and shall not be required to proceed with the change unless the parties have mutually agreed in writing. All approved change orders shall be considered amendments to the applicable purchase order. If a requested change is not accepted by Kontron, the original purchase order shall remain in effect.

#### **7. WARRANTY**

Kontron warrants the Products to comply with the description of the Sales Order Confirmation herewith. In any case, Kontron's liability will be limited to repair and/or replace the Products and/or, at Kontron's sole discretion, credit an amount equivalent to the selling price mentioned in the Sales Order Confirmation herewith as further described in the Complimentary Warranty policy published on Kontron's website at <https://www.kontron.com/support-and-services/kontron-north-america/standard-support/contact-support>.

THE ABOVE WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, ALL OF WHICH ARE EXPRESSLY DISCLAIMED.

#### **8. DAMAGED GOODS**

The Buyer undertakes to use the Products in accordance with the guidelines stipulated in the technical reference manual. Any damage resulting from a wrongful and/or abusive use of the Products will be repaired at the Buyer's expense, including all costs relating to handling and shipping of the Products, to the complete exoneration of Kontron.

#### **9. PRODUCT RETURNS**

All purchase orders are non cancellable and non returnable.

During the warranty period (as stipulated in the Complimentary Warranty policy), all equipment returned to Kontron must have a Return Material Authorization (RMA) number assigned exclusively by Kontron. Kontron cannot be held responsible for any loss or damage caused to the equipment received without a RMA number. As further

described in the Complimentary Warranty policy, the Buyer accepts responsibility for all freight charges for the return of goods to Kontron's plant and Kontron will pay return freight charges back to the Buyer's location (excluding taxes and duties in the event that the equipment is repaired or replaced within the warranty period. The RMA policy is published on Kontron's website at <https://www.kontron.com/support-and-services/kontron-north-america/standard-support/contact-support>.

#### **10. SOFTWARE**

The products may contain software that is governed by the terms and conditions of a License Agreement, published on Kontron website at [www.kontron.com/terms-and-conditions](http://www.kontron.com/terms-and-conditions).

#### **11. INTEGRATION OF EQUIPMENT**

Kontron shall not be liable for any problems, damages or costs associated with the integration, installation or incorporation of the Products with equipment or materials not provided by Kontron.

#### **12. TECHNICAL SUPPORT**

Kontron undertakes to provide technical support services, by telephone or by email as further described in the Complimentary Support policy published on Kontron's website at <https://www.kontron.com/support-and-services/kontron-north-america/standard-support/contact-support>. Kontron representative may go to the Buyer's premises, at a cost to be determined.

#### **13. EXPORT**

The BUYER shall comply with all applicable export/re-export laws, rules, and regulations. The Buyer (including its subsidiaries, affiliates and companies indicated in the shipping addresses provided to Kontron) will not, provide the Products, directly or indirectly, to customers identified on restricted lists. The Buyer also certifies, except as authorized under applicable laws and regulations, the Products, or parts thereof, will not be exported or re-exported, transfer or in any way distribute directly or indirectly, diverted or transshipped to or via any country in violation of any United Nations, United States, European Union or identified on restricted lists or any other applicable embargo. The Buyer shall not be or become involved in the research, design, development, or manufacture of nuclear, chemical or biological weapons, or missile technology activities contrary to applicable export laws and regulations including those of the U.S. and applicable foreign countries, including the regulations and laws covering participation in economic boycotts contrary to applicable anti-boycott laws.

#### 14. **CONFIDENTIALITY**

Many aspects of the design, production and operation of the Products, in any form, are proprietary information and trade secrets of Kontron (“Proprietary Rights”), and such Proprietary Rights shall not be disclosed or otherwise transferred by Buyer or Buyer’s employees to any other person or entity at any time. Buyer shall not modify, reverse engineer, improve or otherwise change any Product or parts thereof, or any of Kontron’s Proprietary Rights related thereto, and shall not use, appropriate or copy any of Kontron’s Proprietary Rights, either for itself or for others. Buyer also agrees not to incorporate or in any way use any of Kontron’s Proprietary Rights or confidential information (disclosed separately or embodied in any of the Products) in its or any other party’s products or businesses.

#### 15. **PROPERTY RIGHTS**

Kontron shall solely own and have exclusive worldwide right, title and interest in and to all patents, trademarks, service marks, copyrights, mask works, trade secrets, and all other intellectual and industrial property rights in any way related to the Products, to Kontron’s Proprietary Rights, and to all modifications, improvements and derivative works related thereto. Title to all of Kontron’s Proprietary Rights embodied in the Products shall always remain with Kontron, and Buyer’s use thereof shall be restricted under a non-exclusive license granted by Kontron. Subject to Buyer’s performance of all obligations hereunder, Kontron hereby grants to Buyer a personal, non-exclusive, non-transferable and indivisible license to use Kontron’s Proprietary Rights only as they are embodied in the Products and for no other purpose. Buyer shall not remove Kontron trademark notices, copyright notices, patent markings or mask work notices on or in the Products or on any other materials supplied by Kontron.

#### 16. **INDEMNITY**

Buyer shall indemnify, defend and hold Kontron harmless from all claims, damages, expenses, liabilities and losses, including without limitation attorney’s fees and costs incurred that in any way arise out of or relate to (a) the manner in which Buyer and/or any of its customers or end users use or operate the Products; (b) any personal injuries, property damages or other losses resulting or occurring from the willful or negligent acts or omissions of Buyer, its customers or end users; (c) defects or other problems with other component parts, equipment or materials produced or supplied by anyone other than Kontron and that may be used with the Products; and/or (d) Buyer’s transactions with its customers, end users or other parties regarding the Products.

#### 17. **LIMITATION OF LIABILITY**

In no event will Kontron be liable for any defect in hardware or software, loss or inadequacy of data of any kind, or for any direct, indirect, incidental or consequential damages in connection with or arising out of the performance or use of the Products. Kontron’s liability will in no event exceed the purchase price of the Products.

UNLESS OTHERWISE AGREED IN WRITING BY KONTRON, THE KONTRON PRODUCTS SOLD HEREUNDER ARE NOT DESIGNED NOR INTENDED FOR ANY USE IN THE AVIATION AND AEROSPACE INDUSTRY, THE MILITARY AND FIELDS OF MEDICAL ENGINEERING AND AUTOMOTIVE ENGINEERING. Should Buyer purchase or use Kontron’s Products for any such unintended use, Buyer shall indemnify and hold Kontron and its directors, officers, subsidiaries, subcontractors and affiliates harmless against all claims, costs, damages, and expenses, and reasonable attorney fees arising out of, directly or indirectly, any claim of product liability, personal injury or death associated with such unintended use, even if such claim alleges that Kontron or its subcontractor was negligent regarding the design or manufacture of the Kontron Product or any of its parts.

#### 18. **FORCE MAJEURE**

Kontron will not be held responsible for any damage and/or delay in manufacturing and/or delivering of the equipment due to force majeure. Force majeure includes, without limitation, any act of God, strike, partial or complete lockout or strike, fire, riot, epidemic, pandemic, intervention of any governmental, municipal or civil authority, compliance with any regulation and/or by-laws of any governmental authority.

#### 19. **ENTIRE AGREEMENT AND GOVERNING LAWS**

Kontron and the Buyer hereby recognize the present agreement as being a faithful and complete representation of the agreement entered between them, and consequently nullifies any other past verbal or written agreement, and formally waive the right to use any discussion or negotiation preceding its signature. The present agreement shall be governed and interpreted according to the laws of the province of Quebec. Kontron and the Buyer recognize and accept the above-mentioned conditions as well as the terms of the Sales Order Confirmation herewith. This Agreement is the sole and entire agreement between the parties

(except for the price or the shipment schedule for the Products contained in Kontron's quotation or Buyer's purchase order accepted by Kontron which shall be incorporated herein subject to the terms hereof) and shall supersede all prior or contemporaneous written or oral understandings, representations or communications and/or other terms in any purchase order or other document, now or hereafter delivered. The provisions of this Agreement shall apply to any and all purchase orders or requests for Products submitted by Buyer to Kontron at any time in the future, without the need for either party to execute this Agreement. No modification of this Agreement shall be valid unless in writing and signed by an authorized representative of Kontron.

20. **ASSIGNMENT**

Kontron may assign, from time to time, the present agreement and any rights, benefits and obligations under this agreement.

21. **SEVERABILITY**

If any provision of this Agreement is held by an arbitrator or a court of competent jurisdiction to be void, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

22. **WAIVER**

Kontron shall not be deemed to waive any default of any provision of this Agreement unless Kontron signs a written waiver.

23. **SURVIVAL**

All of the provisions of Sections 14, 15, 16, 17, 18 and 20 of this Agreement shall survive the termination or expiration of this Agreement. Sections 14 and 15 shall be specifically enforceable by injunctive and other relief against Buyer in the event of Buyer's breach since both parties agree that Kontron will be irreparably harmed and money damages would be inadequate compensation to Kontron for Buyer's breach. In the event of such breach, Kontron shall be entitled to injunctive relief against Buyer in addition to any other remedies to which it is entitled.