

Kontron General Terms & Conditions of Sales

The following General Terms & Conditions of Sales ("Agreement") shall apply to contractual relationship between the supplier/company (referred to hereafter as the supplier/Kontron) and the purchaser / buyer (referred to hereafter as the buyer).

Any changes or deviations to the below Terms & Conditions of Sale must be mutually agreed to by both Parties in written form.

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 of Order Confirmation or Proforma Invoice. Unless otherwise agreed by Kontron, all Purchase order and Kontron's Order Confirmation or Proforma Invoice are non-cancellable and non-returnable (NCNR). In the event of any conflict between this Agreement and any purchase order or other document, the terms of this Agreement shall prevail.

PRICE

Unless otherwise agreed upon in this Order Confirmation or other written agreements by both Parties. And accompanied by additional costs due to the critical supply situation for the components in the global market. Kontron reserves the right to adapt the price in case of unforeseen price increases of components used. The new price also applies to the order which has not been shipped.

PRICE TERM

The Price Term that Kontron deals with the buyer on the Order Confirmation or Proforma Invoice is followed by ICC Incoterms 2020 as amended.

TERMS OF PAYMENT

The Buyer shall pay all amounts per the Order Confirmation or Proforma Invoice of the payment term. In case of failure to complete payment under these terms or any other overdue payment occurs, 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. The overdue payment shall accrue interest at the rate five (5%) percent per year.

CHANGES

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.

END OF LIFE PRODUCT AND ORDER

1. Kontron will provide a provisional Order Confirmation only for the products which are mentioned in subsection 2 of this section.
2. Kontron reserves the right not to honor the order partially or in full if Kontron later discovers that it is not able to manufacture the product, (for example due to component obsolescence; quality issues relating to the manufacturability or reliability of the product and/or its components, parts, assemblies; failure rates in manufacturing, test or screening; non-availability of components, parts, assemblies; missing certifications and/or assurances regarding the provenance, authenticity and/or security of components, parts, assemblies; non-availability of necessary manufacturing data, manufacturing equipment, test procedures, test equipment or experience necessary to operate the same; force majeure).
3. Kontron will make reasonable endeavors to satisfy the ordered quantities however in event that Kontron is unable to deliver the ordered quantities the customer shall not insist on full delivery of the ordered quantities.
4. Kontron reserves the right to adapt the price in case of unforeseen price increases of obsolete components used.
5. For EOL product of orders is non-cancellable and non-returnable. And request T/T in advance or down pay not less than 30% when buyer place an order.

DELIVERY

Kontron reserves the right to change the order delivery date. The partial shipment will be allowed for the order.

TRANSFER OF TITLE AND RISK OF LOSS

Title to the Products shall pass to Buyer upon Kontron's delivery of the Products to a common carrier or to the Buyer's designated location. Upon Kontron's delivery to a common carrier or to Buyer's designated location, Buyer shall bear the entire risk of loss and shall be liable for all loss or damage to the Products.

INSPECTION

Unless Buyer notifies Kontron in writing within thirty (30) days from date of shipment of any Products that said Products are rejected, they will be deemed to have been accepted by Buyer. In order for the notice of rejection to be effective, Buyer must also specify in detail the reason(s) why the Products are being rejected.

FORCE MAJEURE

Kontron shall not be liable for any failure to perform or other loss due to unforeseen circumstances or causes beyond its control, including without limitation acts of God, strikes, material and/or transportation shortages, natural casualties, governmental regulations, war, fire, flood, disasters and civil unrest.

WARRANTY AND RMA

Kontron agrees to repair or replace Products that fail due to a defect during the established Warranty Period of each Product unit to Buyer for (a) Standard Products - within twenty-four (24) months after the shipment date, (b) Custom and Non-standard Products warranty followed per contract, Order Confirmation or Proforma Invoice mentioned.

Buyer shall comply with Kontron's Standard Return Materials Authorization ("RMA") procedure for all warranty claims as set forth in Kontron's operation manual. This limited warranty shall not apply to any Product, or parts thereof, that has had the Serial Number, Model Number, or other identification markings altered, removed or rendered illegible. or damaged by or subject to improper installation or operation, misuse, accident, neglect and/or has been used in any way other than in strict compliance with Kontron's operation and installation manual etc. The detail RMA policy is published on Kontron's website at <https://www.kontron.com/en/support-and-services/kontron-europe-and-asia/support/rma-information/kontron-taipei>

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.

LIMITATION OF LIABILITY

Kontron shall not be liable for any consequential, incidental, special or exemplary damages suffered by buyer and/or end user related to or arising out of this agreement, the transactions contemplated hereby and/or the use or inability to use the products, integration of the products with equipment not provided by Kontron, loss of goodwill or profits and/or from any other cause whatsoever, even if it has been advised of the possibility of such damages. In no event will Kontron's liability for any cause of action relating to this agreement exceed amounts received by Kontron from buyer for the product or service that is the subject of such claim or dispute.

TERMINATION

Buyer shall not terminate or cancel any order, or portion thereof, after it is given to Kontron without Kontron's prior written consent in its sole discretion and subject to the condition that (1) Buyer shall pay to Kontron sum of the price of all Products previously delivered to Buyer, (2) Kontron's actual costs incurred as a result of such termination (e.g., purchase of raw materials and other obligations), which Kontron will attempt to keep as low as possible, and (3) a cancellation fee of twenty percent 20% of Purchase order amount.

GOVERNING LAW AND ARBITRATION

This Agreement is governed by the laws of Taiwan, exclusive of its conflicts of law principles. Any dispute, controversy or claim ("Claim") arising out of or relating to this Agreement, any Kontron quotation, Order Confirmation, Proforma Invoice or any purchase order incorporating this Agreement by reference or to which this Agreement is attached, and any other purchase order issued by Buyer and accepted by Kontron, or the breach, enforcement, interpretation, validity or termination thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be settled by binding arbitration referred to the Chinese Arbitration Association, Taipei in accordance with the Association's arbitration rules. The Seat of arbitration shall be Taipei, Taiwan. The language of arbitration shall be English. The arbitral award shall be final and binding upon both parties. Both parties waive the right, if any, to obtain any award for exemplary or punitive damages or any other amount for the purpose of imposing a penalty from the other in any arbitration or judicial proceeding or other adjudication arising out of or with respect to this Agreement, or any breach hereof, including any claim that this Agreement, or any part hereof, is invalid, illegal or otherwise voidable or void.

AUTHORITY

The persons executing purchase order(s) on behalf of Kontron and Buyer warrant and represent that they have been authorized by their respective board of directors or other governing bodies to bind their respective companies to all of the provisions of the purchase order(s) and this Agreement.