

KIENTEC SYSTEMS, INC.
TERMS AND CONDITIONS OF SALE

- I. **GOVERNING PROVISIONS.** These Terms and Conditions of Sale ("Ts&Cs") govern all quotations made and purchase orders or releases (hereinafter "purchase orders") accepted by Seller. Acceptance of Buyer's purchase order is made only on the express understanding and condition that, insofar as these Ts&Cs conflict with any Ts&Cs on Buyer's purchase order, Buyer's Ts&Cs must be accepted in writing by Seller in order to bind Seller.
- II. **PRICES.** Prices are as set forth on the applicable written quotation. Written quotations are valid for 30 days.
- III. **PAYMENT.** Unless otherwise stated in Seller's quotation, payment terms are Net 30 days from invoice date. No discounts are authorized. Seller may at any time, without notice, change or suspend credit terms, stop shipment or cancel unfilled purchase orders when, in Seller's sole discretion, the financial condition of Buyer or its account so warrants, or when delivery is delayed through any fault of Buyer, or when Buyer is delinquent on any payment for invoiced products or services. Invoices not paid shall be subject to a service charge of 1.5% per month on the past due amount. Without limiting the above provisions, in the event Buyer does not pay all amounts due and owing within allowed payment terms, Seller may withhold further shipments until acceptable payment is made. Shipment holds shall not constitute Seller's breach and Seller, in its sole discretion, may continue to perform in accordance with Buyer's purchase order.
- IV. **TAXES.** Prices quoted for products do not include any applicable federal, state or local taxes, all of which shall be paid by Buyer. In States where Seller has nexus, Buyer may be invoiced for applicable taxes unless Buyer furnishes a valid resale or tax exemption certificate.
- V. **SHIPMENTS/RISK OF LOSS/DELIVERY.** Unless otherwise stated in Seller's quotation, all shipments will be F.O.B. point of shipment. All risks of loss and damage shall pass to Buyer upon shipment. Delivery and shipment dates are estimates only, are not guaranteed, and are determined from the date Buyer's purchase order is received. Seller's failure to ship or deliver as scheduled shall not entitle Buyer to cancel a purchase order or to damages of any kind. Buyer's acceptance of all or part of a shipment shall constitute Buyer's waiver of all claims for delayed shipment. In the event that, pursuant to a valid, accepted purchase order, Seller has commenced manufacture and established a shipment schedule, and Buyer requests delayed shipment(s), Seller shall charge Buyer an inventory holding charge equal to 2% of the value of held inventory per month of delay. Seller shall invoice Buyer for such charge and such charge shall be paid in accordance with Section III hereof.
- VI. **CANCELLATION.** Buyer shall have no right to cancel a purchase order without first obtaining Seller's prior written consent, which shall be given at Seller's sole and absolute discretion. Cancellation charges for special, custom, or standard products or services shall be 100% of all costs incurred to the time of cancellation.
- VII. **ACCEPTANCE.** All shipments falling within the acceptance level set forth by Seller's specifications shall be accepted by Buyer by the lot and, once accepted, nonconforming items within the lot shall not be returnable for replacement or credit. Except as otherwise provided in these Ts&Cs, in the event a shipment does not conform to the required acceptance level, the shipment may be returned to Seller upon obtaining Seller's prior written verification and approval. Nonconforming products returned to Seller shall be separately packaged, and marked to clearly identify the shipment. Shipping charges shall be prepaid and reimbursed by Seller to Buyer in the event Seller determines the products to be defective. In the event Seller determines that returned products are not defective, shipping charges shall be Buyer's responsibility. In no event shall Seller be responsible for packing, inspection, labor or other charges in connection with products returned for inspection. Buyer's failure to return products as provided in these Ts&Cs within thirty 30 days of Buyer's receipt of Seller's approval for such return shall terminate Seller's obligation with respect to any such nonconforming products.
- VIII. **WARRANTY.** Seller warrants the products to be free from defects in materials and workmanship for a period of 6 months from the date of shipment. Seller's sole obligation for nonconforming products shall be to repair or replace such products at a location designated by Seller or to credit the purchase price of such products, at Seller's sole option. EXCEPT AS SET FORTH ABOVE, SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, OF ANY NATURE WHATSOEVER, INCLUDING THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- IX. **LIMITATION OF LIABILITY.** IN NO EVENT SHALL SELLER BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER, WHETHER IN CONTRACT, TORT OR OTHERWISE, EVEN IF SELLER IS OR SHOULD BE AWARE OF THE POSSIBILITY THEREOF.
- X. **TITLE.** Title to products sold hereunder shall pass to Buyer upon delivery of the products to the carrier. Notwithstanding such passage of title, however, Seller shall retain a purchase money security interest in the products and any proceeds from the sale thereof. Buyer shall execute any and all documents necessary to perfect such security interest.
- XI. **PATENTS.** Buyer shall indemnify, defend and hold harmless Seller from and against any expenses, costs or losses resulting from alleged infringement of any intellectual property rights arising from Seller's compliance with Buyer's designs, specifications or instructions. Seller gives no warranties of non-infringement with respect to the products or services.
- XII. **TOOLING.** Seller, charging in full or part, shall maintain in good condition and for a reasonable period all tooling, molds, fixtures, etc. ("Tooling"). Provided, however, Seller shall have the right to scrap Tooling inactive for more than 12 months with any resulting value belonging to Seller to offset maintenance and storage costs. Seller shall not charge Buyer additional amounts for the use of Tooling in connection with Buyer's subsequent orders for products of the same specification. Seller shall have the right to use Tooling for other customers' orders unless specifically prohibited by a written agreement between Seller and Buyer. Due to its proprietary nature, under no circumstances will Seller deliver Tooling to Buyer and Buyer, acknowledging same, expressly waives any rights to demand delivery of Tooling. Seller shall destroy Tooling at Buyer's request and will allow Buyer to witness such destruction and/or will provide a certification to Buyer of same.
- XIII. **FORCE MAJEURE.** Seller shall not be liable for any delay in performance or inability to perform occasioned by any causes beyond its control or beyond the control of its suppliers, manufacturers, processors, or finishers including, but without limiting the generality of the foregoing, fires, strikes, lockouts, labor difficulties, earthquakes, hurricanes, embargoes, floods, delays by carriers, orders, rules or regulations of any foreign and/or domestic governmental authorities, trade associations or any other agency having control over export or import, voluntary quotas, restrictions, controls, unavailability or shortage or delay of any transportation. Intervention of any such cause(s) shall give Seller the right, without liability to Buyer of any kind, to terminate this contract with respect to all or any portion of the products or services affected thereby or, upon removal of the cause, to resume deliveries in such proportions as it may determine, until the entire quantity purchased hereunder has been delivered.
- XIV. **ASSIGNMENTS AND SUBCONTRACTS.** Seller expressly reserves the right to assign or subcontract all or any portion of a purchase order without Buyer's consent.
- XV. **ARBITRATION.** Any unresolved dispute arising pursuant to this contract shall be settled by arbitration. The arbitration shall be conducted in Florida in accordance with the rules of the American Arbitration Association. Each party shall pay its own expenses associated with the arbitration, including 50% of the expenses of the neutral arbitrator(s). The judgment of the arbitrators shall be binding and entered in any court having jurisdiction thereof.
- XVI. **GENERAL.** The laws of the State of Florida, USA, govern this contract. This contract is the complete and exclusive statement of the agreement between the parties and supercedes all proposals, oral or written, and all other communications between the parties relating to the subject matter of this contract. Any Ts&Cs of any purchase order or other instrument issued by Buyer in connection with this contract which are in addition to, and consistent with or different from the terms and conditions of this contract shall be of no force or effect. Only a written instrument duly executed by authorized representatives of Seller and Buyer may modify this contract. If any legal action, arbitration, or other proceeding is brought to enforce or interpret the terms of this contract, the prevailing party shall be entitled to recover reasonable attorney's fees and costs. Any waiver by either party of any condition, part, term or provision of this contract shall not be construed as a waiver of any other condition, part, term or provision or a waiver of any future event or circumstance. If any provision of this contract is held invalid or unenforceable, the remainder of the contract shall continue in full force and effect.