

Preamble / Definitions

1. Buyer is Kappa optronics GmbH (hereinafter: the Buyer).
2. Supplier is the Buyer's respective contractual partner who supplies goods, services or software or performs services.
3. Goods comprise all movable items, software, services and other deliveries.
4. Buyer-Furnished Items ("BFI") are materials, tools, documents or data provided by the Buyer.
5. Work Results are all results arising in the performance of the contract (inter alia software, documentation, drawings, data, models, reports).
6. GTCP are these General Terms and Conditions of Purchase.

§ 1 Scope of Application

1. These GTCP apply to all contracts for the purchase of goods, services, contracts for work and services and contracts for work and materials, as well as mixed contracts, by the Buyer.
2. Deviating, conflicting or supplementary terms of the Supplier shall not become part of the contract unless the Buyer expressly agrees to their applicability in writing.
3. These GTCP apply exclusively vis-à-vis entrepreneurs (Unternehmer) within the meaning of section 14 of the German Civil Code (Bürgerliches Gesetzbuch, BGB), legal entities under public law, or special funds under public law.

§ 2 Contract Formation and Contract Documents

1. Purchase orders of the Buyer are binding only if issued in writing or in text form.
2. The Supplier must expressly identify any deviations from the enquiry/purchase order; all agreements, amendments and supplements require written form or text form.
3. The Buyer's purchase order constitutes an offer. Acceptance shall be effected by confirmation issued in writing or in text form within five (5) business days of receipt of the purchase order, or by performance (delivery/service or commencement of performance) within this period. Any acceptance after expiry of this period shall be deemed a new offer by the Supplier.
4. The Supplier shall notify the Buyer without undue delay, at the latest within three (3) business days after receipt of the purchase order, in writing or in text form, of any obvious errors, incompleteness or ambiguities in the purchase order/documents and shall obtain a correction or clarification. If the Supplier only becomes aware of such matters at a later time, the notification shall be made without undue delay after becoming aware.

§ 3 Documents, Ownership, Buyer-Furnished Items, Confidentiality

1. All documents, samples, drawings, models, tools, data and information provided by the Buyer remain the Buyer's property; they may be used exclusively for performance of the specific order. Disclosure to third parties or making them accessible to third parties is not permitted without the Buyer's prior written consent. The Supplier may make the documents accessible only to those employees/subcontractors who strictly need them for contract performance and shall oblige them to confidentiality at least to the same extent.
2. Buyer-Furnished Items ("BFI") shall be stored separately, clearly marked and insured at replacement value against customary risks; maintenance and servicing shall be the Supplier's responsibility. The Supplier hereby assigns to the Buyer any compensation claims arising from such insurance; the Buyer accepts the assignment.
3. Upon request, documents/data including copies/notes shall be returned, destroyed or deleted in compliance with data protection requirements; completion shall be evidenced.
4. The Supplier shall treat all non-public information of the Buyer as strictly confidential; the confidentiality obligation shall survive for five (5) years after termination of the contract. References and advertising only with the Buyer's prior written consent.

§ 4 Performance and Delivery Obligations, Subcontractors

1. The Supplier shall perform in full, free from defects and on time. Partial deliveries require the Buyer's prior consent.
2. Subcontractors may be engaged only with the Buyer's prior written consent; the Supplier shall bind subcontractors to these GTCP, to information and IT security as well as product-safety cybersecurity (including vulnerability handling and notification obligations pursuant to § 14), export control and compliance, and shall be liable for them as for its own fault.
3. The Supplier warrants compliance with all statutory/official requirements and agreed specifications.

§ 5 Quality Management, Change Management, Product Safety

1. The Supplier shall maintain a documented, industry-appropriate quality management system (e.g., ISO 9001) with regular controls.
2. The Buyer, third parties commissioned by the Buyer who are bound to confidentiality, and -where contractually required- end customers, shall be entitled, upon prior notice, to conduct system, process and product audits at the Supplier; in the event of serious quality issues also on short notice. Access shall be granted to the areas relevant for performance; inspection of order-related documents shall be permitted.
3. Hazardous substances/product regulatory regimes: The Supplier shall ensure compliance with REACH (including SVHC communication), CLP, RoHS, the German Product Safety Act (ProdSG) and, where applicable, CE marking; current safety data sheets and evidence shall be provided/updated without request.
4. Changes to products, processes, materials, suppliers or production sites shall be notified in advance in writing and require the Buyer's consent; impacts on price/schedules/quality shall be agreed by mutual consent.
5. The Supplier shall conduct ongoing product monitoring and shall inform the Buyer without undue delay of safety risks, conformity issues or recall requirements, as well as of security-relevant vulnerabilities that are capable of impairing the product's cyber resilience, including information on affected versions/components and available remedial measures.

§ 6 Prices, Payment Terms, Invoices

1. The agreed prices are fixed prices and shall be DDP Incoterms® 2020 to the destination designated by the Buyer, including packaging, transport, insurance, customs duties and all ancillary costs, unless expressly agreed otherwise.
2. Invoices must include all purchase order data (in particular purchase order number, item number, delivery note number), evidence of performance/delivery, and VAT information compliant with the German VAT Act (UStG). Payment periods shall commence only upon receipt of a complete, verifiable invoice.
3. Payments shall be made within sixty (60) days after complete delivery/performance and receipt of the proper invoice, but not before the agreed delivery/performance date, unless expressly agreed otherwise. Default of payment shall occur—without prejudice to statutory provisions—only after maturity and written reminder. In case of defects, the Buyer is entitled to withhold appropriate payments.

§ 7 Packaging, Transport, Delivery Terms

1. The Supplier is responsible for proper, environmentally friendly packaging; the Supplier shall be liable for damage resulting from defective packaging.
2. Packaging shall be labelled accordingly; where the Supplier claims a free return shipment, the packaging shall be clearly marked accordingly—otherwise disposal shall be at the Supplier's expense.
3. Each delivery shall be accompanied by a complete delivery note; on the shipping date, a dispatch notice shall be transmitted. Each delivery note must mandatorily include a reference to the Buyer's purchase order number. If such reference is missing, the Buyer is entitled to refuse acceptance and/or to suspend payment until a correct delivery note is provided. Where additionally required in the purchase order, specification or Quality Assurance Agreement ("QAA"), the agreed inspection, measurement and test reports, factory certificates/CoCs and other quality evidence shall also be enclosed or transmitted electronically in the agreed form.

§ 8 Delivery Time, Delay, Acceptance, Contractual Penalty

1. Agreed delivery dates and periods are material contractual obligations ("fixed dates") and binding. Timely delivery is determined by receipt of the contract-compliant goods at the agreed destination (DDP Incoterms® 2020). Early deliveries and partial deliveries require the Buyer's prior consent in writing or in text form. If a delivery is made early or in parts without consent, the Buyer is entitled to return the goods at the Supplier's cost and risk or to store them at the Supplier's cost and risk until the agreed delivery date. Acceptance of the delivery does not constitute a waiver of contractual rights; in particular, payment terms and payment periods remain unchanged. Subject to § 6 para. 3, the payment term shall not commence before the agreed delivery/performance date.
2. The Supplier shall inform the Buyer without undue delay in text form of any foreseeable or occurred delay, stating the reasons, the expected duration and the effects on downstream dates, and shall, upon request, submit a binding action and recovery plan (Recovery Plan).
3. Where acceptance is agreed, it shall be effected exclusively by a formal declaration of acceptance by the Buyer. Commissioning, use, further processing or payment shall not replace acceptance.
4. If the Supplier is in delay with delivery or performance, the Buyer may—without prejudice to its statutory and contractual rights—claim a contractual penalty in the amount of 0.75% of the net order value per commenced calendar week, capped at a total of 7.5% of the net order value. The contractual penalty is forfeited even if the Buyer accepts the delayed delivery or performance; its assertion may be reserved until at the latest upon acceptance. Text form is sufficient.
5. In the event of a delivery delay exceeding eight (8) calendar weeks, the Buyer shall, without prejudice to further statutory and contractual rights, be entitled to withdraw from the contract in whole or in part.
6. Further claims for damages remain unaffected; any forfeited contractual penalty shall be credited against a claim for damages due to delay. The Supplier reserves the right to prove that it is not responsible for the delay.

§ 9 Inspection for Defects, Incoming Goods Inspection, Notice of Defects

1. Prior to dispatch, the Supplier shall perform a careful, documented outgoing goods inspection and ensure conformity.
2. The Buyer's incoming goods inspection is limited to identity and quantity and externally visible transport damage; no further inspection obligations exist.
3. The Buyer shall notify obvious defects, incorrect and short deliveries as well as transport damage within ten (10) business days after delivery; hidden defects within five (5) business days after discovery. Otherwise, sections 377 and 381 of the German Commercial Code (HGB) apply subject to the proviso of paragraphs 1–2.
4. If the Supplier breaches its outgoing goods inspection obligation, it may not invoke a late notice of defects by the Buyer.

§ 10 Warranty, Product Liability, Recall, Limitation Period

1. The Supplier is liable for defects in title and quality in accordance with the law. The limitation period for warranty claims is 36 months from transfer of risk; for defects in title the statutory limitation periods apply.
2. If the Buyer notifies defects, the limitation period is suspended as soon as the Supplier commences defect inspection/remedy (§ 203 German Civil Code (Bürgerliches Gesetzbuch, BGB)).
3. After setting a reasonable deadline, the Buyer may demand remedy of defects or replacement delivery and, in urgent cases/self-remedy, reimbursement of costs.
4. Recalls/warnings/communications with authorities: The Supplier shall bear all costs arising therefrom and shall indemnify the Buyer against third-party claims. This applies accordingly to measures and efforts in connection with security-relevant vulnerabilities or security incidents insofar as these are wholly or partly attributable to the Supplier's deliveries/services (e.g., analysis, hotfix/patch, field action, customer information).

§ 11 Third-Party Rights, Rights of Use, IP

1. The Supplier warrants that deliveries/services do not infringe third-party rights; it shall defend the Buyer against such third-party claims and shall indemnify the Buyer (including necessary costs of legal enforcement/defence).
2. The Buyer shall receive a non-exclusive right of use in Work Results, software, documentation and documents, unlimited in time and territory, for the contractually intended purposes; in the case of development services, the Supplier shall transfer to the Buyer the exclusive rights of use and exploitation to the extent required.
3. References/use of trademarks only with the Buyer's prior written consent.

§ 12 Retention of Title

1. An extended, prolonged, forwarded or processing-related retention of title of the Supplier is not recognised. Title shall transfer unconditionally and irrespective of payment of the purchase price.
2. If, in an individual case, the Buyer accepts an offer to transfer title conditional upon payment of the purchase price, the retention of title shall lapse at the latest upon payment of the purchase price.

§ 13 Spare Parts, Spare Parts Supply, Obsolescence

1. The Supplier shall, to the best of its knowledge and where possible, inform the Buyer at an early stage if it becomes aware that production, distribution or deliverability of the delivery item or material components thereof is to be discontinued or materially restricted (obsolescence/discontinuation). Where possible, such information should generally be provided at least twelve (12) months prior to the planned discontinuation; otherwise without undue delay after becoming aware.
2. In the event of discontinuation, the Supplier shall, upon request, provide the Buyer, to the best of its knowledge and to a reasonable extent, with information that may be relevant for continuation of supply (e.g., available remaining quantities, lead times, successor types/alternatives) and—where available—shall examine the possibility of a last-time buy on market-standard terms. Any further obligations regarding spare parts supply, inventory holding or deliverability beyond the respective purchase order exist only insofar as they are expressly agreed in the purchase order, a specification, a QAA or a framework agreement.

§ 14 Data Protection and IT Security

1. The Supplier shall comply with the GDPR and other data protection laws and implement appropriate technical and organisational measures; where processing on behalf is involved, a data processing agreement (AVV) shall be concluded; security incidents shall be reported without undue delay.
2. Delivered software shall comply with the state of the art (IT security/privacy by design); for open-source software, licence obligations shall be complied with (including notice/attribution); copyleft obligations may be triggered only with the Buyer's prior consent.
3. To the extent that goods, software, firmware, components or Work Results delivered by the Supplier constitute "products with digital elements" or affect such products of the Buyer (including their conformity assessment, technical documentation or market surveillance), the Supplier shall support the Buyer, to a reasonable and necessary extent, in complying with applicable product-safety cybersecurity requirements (in particular Regulation (EU) 2024/2847 – Cyber Resilience Act).
4. The Supplier shall maintain, for the delivered products/services, a documented process for handling security vulnerabilities and security risks (recording, assessment, prioritisation, remediation, documentation) and shall provide the Buyer within reasonable timeframes with security-relevant corrections, patches, updates or workarounds, insofar as the cause lies within the Supplier's area of responsibility or is caused by components provided by the Supplier.
5. The Supplier shall inform the Buyer without undue delay of (i) security vulnerabilities that become known to it and are being actively exploited, and (ii) serious security incidents that may affect the security of the delivered products/services or the integrity/availability of data processed or transmitted by them. Unless compelling reasons prevent this, notification shall be made at the latest within 24 hours after becoming aware and shall include at least the key data available to the Supplier

(affected products/versions, initial assessment of impacts, preliminary remedial measures); supplementary information shall be provided thereafter.

6. The Supplier shall support the Buyer in responding to enquiries from authorities, customers or notified bodies insofar as these concern the delivered products/services, in particular by providing order-related evidence, technical information and documentation.

7. The Supplier shall flow down the obligations under this § 14 paras. 3–6 in at least equivalent form to any sub-suppliers used and shall remain responsible for compliance.

8. Confidential information of the Supplier shall be disclosed only to the extent required to fulfil statutory/contractual requirements; the Buyer shall treat such information as confidential in accordance with § 3.

§ 14a Technical Documentation; Component Information

1. Upon request, the Supplier shall provide the Buyer with the order-related information required for technical documentation, risk analyses, conformity assessment and market surveillance in relation to the delivered products/services (e.g., version status, configuration/bills of materials, security-relevant notes, update/support information).

2. Changes to such information shall be notified without undue delay in accordance with § 5 para. 4 and para. 5.

§ 15 Compliance, Export Control, ESG/Code of Conduct

1. The Supplier shall comply with all applicable laws; in particular export control law (EU Dual-Use Regulation 2021/821, the German Foreign Trade and Payments Act (AWG) and the German Foreign Trade and Payments Ordinance (AWV)) and national requirements. US export law (ITAR/EAR) shall not apply to the Buyer unless this is mandatorily required.

2. Upon request, the Supplier shall provide the Buyer with the HS code, country of origin and—where applicable—the export-control classification (EU dual-use number/ECCN/USML), shall obtain required licences/notifications and shall support the Buyer in dealing with enquiries from authorities.

3. The Supplier shall inform KAPPA without undue delay of any applicable export control restrictions and shall provide all information and documentation reasonably required to obtain necessary licences, approvals or end-use documentation. The Supplier shall not request disclosure of customer, end-customer or project information unless such information is strictly required for export control purposes.

4. Design and technical data of Kappa optronics GmbH may—particularly depending on the respective project or product—be subject to export-control restrictions. Such data may not be exported from Germany nor disclosed, transmitted or made accessible to third parties, including subcontractors or affiliated companies, without Kappa's prior explicit written consent. The Supplier shall pass this obligation on to all sub-suppliers and vicarious agents engaged by it. The Supplier undertakes to comply with all relevant export-control regulations and to inform Kappa without undue delay if a disclosure or export could require official licences.

5. The Supplier shall support the Buyer with risk analyses, remedial measures and audits; it shall flow down the Code of Conduct to sub-suppliers and contractually enforce compliance.

6. To the extent that customers, authorities or other clients of the Buyer require offset, industrial, participation, local-content or similar obligations in connection with a project, the Supplier shall support the Buyer to a reasonable extent, in particular by

a) providing project-related information and evidence (e.g., value added shares, origins, supply chain/subcontractor data, compliance statements),

b) participating in audits/reports vis-à-vis customers/authorities, to the extent legally permissible, and

c) supporting the identification of possible local sourcing/manufacturing opportunities, provided the Buyer requests this in writing.

The specific scope, deadlines, confidentiality, costs and remuneration of such support shall be set out exclusively in a separate written agreement (project/offset annex or individual agreement). Without such an agreement, the Supplier is not

obliged to provide services beyond the cooperation and information obligations set out in sentence 1 or that cause significant additional costs.

The Supplier shall ensure that the support does not lead to violations of export-control, anti-corruption, antitrust or confidentiality regulations.

§ 15 a Export Control / Sanctions (No-Russia / No-Belarus Clause)

1. The Supplier undertakes, irrespective of whether this was known to the Supplier at the time of contract conclusion or delivery, neither directly nor indirectly to

- export or re-export to Russia or Belarus, nor
- make available for use in Russia or Belarus,

any goods, software, technologies, technical data and other services obtained from the Buyer that fall within the scope of Article 12g of Regulation (EU) No. 833/2014 and/or Article 8g of Regulation (EC) No. 765/2006.

2. The Supplier undertakes to enforce this obligation with reasonable efforts along the downstream supply and distribution chain and to implement appropriate contractual flow-down obligations as well as an appropriate monitoring mechanism.

3. Any breach or substantiated suspicion of a breach shall be communicated to the Buyer without undue delay. Upon request, the Supplier shall provide the Buyer within two (2) weeks with all information required for a compliance review.

4. A breach of this provision constitutes a material breach of a material contractual element and entitles the Buyer, without prejudice to further rights,

- to extraordinary termination and/or withdrawal, and
- to assert claims for damages.

5. To the extent the Supplier is subject to notification obligations, it shall fulfil its official notification and cooperation obligations without undue delay; otherwise it shall fully support the Buyer in doing so.

§ 16 Insurance Obligations

1. The Supplier shall maintain public and product liability insurance with a minimum coverage of EUR 10 million per loss event and shall provide evidence thereof upon request.

2. Insurance coverage shall be maintained for the entire term of the contract.

§ 17 Indemnification

The Supplier shall indemnify the Buyer against all third-party claims resulting from infringements of IP rights, product liability, recalls, warnings, official measures or other breaches of duty, and shall bear the necessary costs of legal defence.

§ 18 Long-Term Supplier Declarations and Supplier Declarations

Upon request, the Supplier shall provide long-term supplier declarations, origin and preference evidence free of charge and without undue delay.

§ 19 Escrow

In the event of software delivery, the Buyer may require the conclusion of an escrow agreement with a neutral escrow agent/trustee to ensure access to source code and documentation in cases such as insolvency or discontinuation of maintenance.

§ 20 Assignment, Set-Off, Retention

1. The Supplier may assign or transfer rights and obligations under the contract only with the Buyer's prior written consent.
2. The Buyer shall be entitled to rights of set-off and retention to the extent provided by law. The Supplier shall have set-off rights only in respect of undisputed or finally adjudicated counterclaims arising from the same contractual relationship; the Supplier's rights of retention shall apply accordingly.

§ 21 Force Majeure

1. Force majeure releases the affected party, for the duration and to the extent of the disruption, from its obligations; the other party shall be informed without undue delay.
2. The parties shall negotiate an appropriate contract adjustment; if the disruption lasts longer than sixty (60) days, either party may terminate extraordinarily.

§ 22 Termination, Insolvency Notifications

1. The Buyer may, for good cause, terminate contracts extraordinarily and/or withdraw, in whole or in part; good cause includes in particular serious breaches of duty, violations of compliance/export control/Code of Conduct, serious quality issues, frustration of purpose for technical/material reasons, and material deterioration of the Supplier's financial circumstances.
2. Statutory rights of the Buyer, in particular rights of withdrawal pursuant to sections 323, 324, 326 para. 5 German Civil Code (Bürgerliches Gesetzbuch, BGB) as well as claims for damages, remain unaffected.
3. The Supplier shall inform the Buyer without undue delay of the filing of an insolvency petition (own petition or creditor petition), dismissal for lack of assets, as well as of any material change in shareholding structures insofar as this may jeopardise contract performance. Breach of the notification obligations gives rise to a right of extraordinary termination. Pending clarification, the Buyer is entitled to withhold payments, suspend performance and/or require appropriate security.
4. Upon termination of the contract, the Supplier shall surrender without undue delay all documents, tools and Buyer-Furnished Items ("BFI").

§ 23 Final Provisions, Place of Jurisdiction, Governing Law, Place of Performance

1. Amendments and supplements to these GTCP as well as legal declarations in connection with these GTCP require written form or text form (sections 126, 126b German Civil Code (Bürgerliches Gesetzbuch, BGB)). This also applies to any waiver of this formal requirement.
2. If individual provisions of these GTCP are or become invalid or unenforceable, this shall not affect the validity of the remaining provisions. In place of the invalid or unenforceable provision, such valid and enforceable provision shall be deemed agreed as comes closest to the economic purpose of the original provision.
3. The place of performance for deliveries/services of the Supplier and for payments of the Buyer shall, unless otherwise agreed, be the Buyer's registered office.
4. German law shall apply exclusively; the UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.
5. The exclusive place of jurisdiction for all disputes arising out of or in connection with these GTCP and the contracts based thereon shall, to the extent legally permissible, be Göttingen (Germany). However, the Buyer is also entitled to bring claims against the Supplier at the place of performance or at the Supplier's general place of jurisdiction.
6. These GTCP are intended to clearly allocate rights and obligations and to ensure quality, product safety, compliance (including export control) and schedule/cost stability.

In the event of inconsistencies between documents, and to the extent legally permissible and unless otherwise individually agreed, the following order of precedence shall apply:

- a. Individually negotiated contractual terms (in particular written special agreements, PO addenda, change agreements),
 - b. these General Terms and Conditions of Purchase (GTCP) of the Buyer,
 - c. technical specifications, drawings, CE documentation, operating and safety instructions issued or approved by the Buyer,
 - d. Quality Assurance Agreements ("QAA") and the Buyer's Supplier Code of Conduct/ESG requirements,
 - e. documents of the Supplier (e.g., general terms and conditions, manuals, data sheets), only insofar as expressly recognised by the Buyer in writing.
7. These GTCP and the individually negotiated contractual terms constitute the entire agreement for the respective contract. Deviating purchasing/delivery terms of the Supplier shall not become part of the contract unless the Buyer has expressly recognised them in writing. A mere reference to, or transmission of, conflicting terms is not sufficient.
8. Contract-related communications may be made in writing or in text form. Service in the legal sense may be effected by registered mail to the Supplier's address stated in the purchase order; electronic service is permissible provided receipt can be proven (e.g., qualified acknowledgement of receipt).
9. Any failure to assert rights, repetition or delayed exercise of rights by the Buyer shall not constitute a waiver of such rights. Any waiver requires written form or text form.