

KINGDOM PTY. LIMITED - TERMS AND CONDITIONS OF SALE

1. **PRICE QUOTATIONS.** (a) Unless otherwise agreed to in writing by Kingdom Pty Ltd (KPL), all quotations expire thirty (15) days after the quotation or, if earlier, the end of the ordering period of any purchase against which the quotation is issued. All prices quoted are valid only if Buyer's requested delivery date (including any change orders) is within three (3) months of the date on which the original order is placed. (b) Unless quoted as such or otherwise agreed to in writing by KPL, all prices quoted are in Australian dollars exclusive of any and all taxes or duties. Such taxes or duties shall be for the Buyer's account and may appear as separate items on KPL's invoice. (c) All prices quoted are fixed in Australian dollars, except where the US\$/A\$ exchange rate moves by more than 1% from the date of quotation to date of order receipt. KPL reserves the right to re-quote. **All prices quoted exclude Goods & Services Tax and freight unless stated on the quotation.** Freight can be estimated after the product selection and dimensions are known.

2. **PAYMENT TERMS.** Unless otherwise agreed to in writing by KPL, Buyer shall pay all invoices issued within SEVEN (7) days from the date of invoice. KPL reserves the right to change the credit terms at any time, when in KPL's opinion Buyer's financial condition or previous payment record of Buyer so warrants. FOURTEEN (14) day payment terms are subject to approval by KPL. Should Buyer become delinquent in the payment of any sum due KPL, after ten (10) days from the date of written notice to Buyer KPL shall not be obligated to continue performance under any agreement with Buyer.

3. **PURCHASE ORDER ACCEPTANCE AND DELIVERY DATES.** Purchase orders are subject to acceptance by KPL which shall notify acceptance within 7 days of receipt of order. Absence of notification will not indicate acceptance. Shipments of any products purchased are subject to KPL's availability schedule. KPL shall make every reasonable effort to meet any delivery date(s) quoted or acknowledged. However, KPL will not be liable for its failure to meet such delivery date(s).

4. **DELAYS IN PERFORMANCE.** KPL shall not be liable for any delay in performance hereunder due to unforeseen circumstances or due to causes beyond its control including, but not limited to, acts of nature, acts of government, labour disputes, delays in transportation, and delays in delivery or inability to deliver by KPL's suppliers.

5. **SHIPMENT, RISK OF LOSS, PASSAGE OF TITLE AND PACKING.** (a) KPL shall ship in accordance with Buyer's shipping instructions. In the absence of specific instructions or if Buyer's instructions are deemed unsuitable, KPL reserves the right to ship by the method which KPL considers to be most appropriate. (b) Unless otherwise agreed to in writing by KPL, risk of loss and damage shall pass to Buyer at the time and place of delivery at the FOB factory point specified by the supplier in its quotations and invoices. (c) **Unless otherwise agreed to in writing by KPL, title to the products shall not pass to Buyer until full and complete settlement for the sale has been received by KPL.** KPL retains a lien on the goods until settlement. (d) Unless otherwise agreed to in writing by KPL, all products shall be packed, for shipment and storage in accordance with standard international commercial practices. All packing will conform to requirements of carrier's tariffs.

6. **ORDER OF PRECEDENCE.** (a) These Terms and Conditions of Sale and any attachments take precedence over Buyer's additional or different terms and conditions, to which notice of objection is hereby given. Acceptance by Buyer is limited to these terms and conditions. Neither KPL's commencement of performance nor delivery shall be deemed or construed as acceptance of Buyer's additional or different terms and conditions. (b) Buyer's purchase of KPL products hereunder represents acceptance of these Terms and Conditions of Sale and any attachments, which together constitute the entire understanding between the parties and supersede any previous communications, representations, or agreements by either party whether verbal or written. No change or modification of any of the terms or conditions herein shall be valid or binding on either party unless in writing and signed by an authorised representative of each party.

7. **CHANGES AND CANCELLATIONS.** (a) If Buyer issues a change order causing a delivery delay or cancels an order less than twenty one (21) days prior to scheduled shipment, buyer shall be subject to a five percent (5%) charge based upon the list price of the affected digital products, and up to a five percent (5%) charge, as determined by KPL, for all other products. (b) In addition, any such change in delivery dates caused by Buyer establishing a delivery date greater than three (3) months from Buyer's original order date shall constitute a new order for the affected products in determining the appropriate list price. (c) If Buyer cancels an order for special equipment or services any time after the order is received by KPL, Buyer may be subject to an additional charge. Special equipment or services are those items not set forth in KPL's current price list.

*8. **ACCEPTANCE OF PRODUCTS.** Acceptance shall be accomplished by using applicable test procedures or programs established by KPL. If installation by KPL is not included in the purchase price, acceptance shall be presumed unless Buyer demonstrates within seven (7) days of delivery that the products do not perform to KPL's established test procedures or programs. If installation by KPL is included in the purchase price, acceptance shall occur at the installation site when KPL demonstrates that the applicable diagnostic or verification programs work properly or the product is otherwise demonstrated to be in normal operating condition. If installation is scheduled or delayed by Buyer more than six (6) days after delivery, Buyer shall be deemed to have accepted the products on the seventh (7th) day from the date of shipment.

9. **PATENT AND COPYRIGHT INDEMNITY.** (a) KPL or its manufacturer shall, except as otherwise provided below, defend or settle any claim made or any suit or proceeding brought against Buyer so far as it is based on an allegation that any product furnished hereunder infringes a patent or copyright of the country in which Buyer takes delivery of said product, if notified promptly in writing and given information, assistance and the sole authority to defend or settle same at KPL's or its manufacturers expense. In case said product is in such suit held to infringe and the use of said product is enjoined or in the case of a settlement as referred to above, KPL shall have the option, at its own expense, to procure for Buyer the right to continue using said product; or replace same with a non-infringing product; or modify same so it becomes non-infringing; or refund the depreciated value of said products and accept return of same. KPL shall have no liability for any infringement of patents, copyrights, trademarks, or other intellectual property rights resulting from compliance with Buyer's designs, specifications, or instructions, modification of said product, use of said product other than as specified in relevant KPL publications or use of said product with products not supplied by KPL. (b) With respect to any product furnished hereunder for OEM purposes, when Buyer sells said product to a Customer, the Buyer's customer shall have the rights under paragraph 9 (a) with respect to the patents of the country in which the Buyer's customer takes delivery of said product, provided Buyer's customer assumes the obligations under this paragraph 9, and Buyer's rights shall extend to the patents of the country in which Buyer's customer takes delivery of said product. (c) The foregoing states the entire liability of KPL for infringement of intellectual property rights by products furnished hereunder.

10. **COPYRIGHTED MATERIALS.** Unless otherwise agreed to in writing by KPL or its manufacturers, KPL or manufacturer's copyrighted material (software and printed documentation) may not be copied except for archive purposes, to replace a defective copy, or for program error verification.

11. **LICENSED PRODUCTS - SOFTWARE.** With respect to those products which KPL or manufacturer licenses (software and related documentation) and which are supplied hereunder, the word "purchase" or similar or derivative words is understood to mean "license", and "Buyer" or similar or derivative words is understood to mean "Licensee". Title to licensed products shall remain with KPL and/or KPL's suppliers and manufacturers, notwithstanding anything to the contrary herein.

12. **WARRANTY.** KPL products are warranted against defects in materials and workmanship. If KPL receives notice of such defects during the warranty periods, KPL shall, at its option, either repair or replace products which prove to be defective. KPL software and firmware products which are designed by KPL for use with a product, when properly installed on that product, are warranted not to fail to execute their programming instructions due to defects in materials and workmanship. If KPL receives notice of such defects during the warranty period, KPL shall repair or replace software media and firmware which do not execute their programming instructions due to such defects. KPL does not warrant that the operation of the software, firmware or hardware shall be uninterrupted or error free. If KPL is unable, within a reasonable time, to repair or replace any product to a condition as warranted, Buyer shall be entitled to a refund of the purchase price upon return of the product to KPL. (a) **Supplemental Statement:** Supplemental statements setting forth the duration and implementation of warranty and installations are available for most product types and are bound into instruction manuals or displayed on web sites. These statements, if applicable to purchased products, are attached hereto and incorporated herein. (b) **Duration and Commencement of Warranty Period:** The warranty period for each product is specified in the supplemental statement of warranty and installation attached hereto and incorporated herein. The warranty period begins either on the date of arrival at customer's site or, where the purchase price includes installation by KPL, on the date of installation. If Buyer schedules or delays delivery at customer's site or installation more than six (6) days from the date the product is available for delivery or installation, the warranty period begins on the seventh (7th) day from the date the product is so available. (c) **Place of Performance:** Warranty services for products sold by KPL will be performed at KPL repair depot facility at no charge on return of the product to KPL. Warranty and installation services will be performed at Buyer's facility only upon KPL's prior agreement and Buyer shall pay KPL's round-trip travel expenses and applicable additional expenses for such services. On-site warranty services are provided only at the initial point of delivery or installation. If products eligible for on-site warranty and installation services are removed from the initial installation point, the warranty will remain in effect only if Buyer purchases additional inspection or installation services at the new site. For product warranties requiring return to KPL, products must be returned to a service facility designated by KPL. Buyer shall prepay shipping charges (and shall pay all duties and taxes) for products returned to KPL for warranty service. Except for products returned to Buyer from another country, KPL shall pay for return of products to Buyer. Installation and warranty services outside the country of initial purchase are included in KPL's product price only if Buyer pays KPL international prices. Service outside the country of initial purchase is subject to the conditions regarding KPL service travel areas and initial installation point described above. (d) **Limitation of Warranty:** The foregoing warranty shall not apply to defects resulting from: 1. Improper or inadequate maintenance or support by Buyer. 2. Buyer supplied software or interfacing. 3. Unauthorised modifications or misuse. 4. Operation outside the environmental specifications for the product, or 5. Improper or unsatisfactory site preparation and maintenance. SUBJECT TO PARAGRAPH (e) THE WARRANTY SET FORTH ABOVE IS EXCLUSIVE AND EXCEPT AS PROVIDED BELOW NO OTHER WARRANTY, WHETHER WRITTEN OR ORAL, IS EXPRESSED OR IMPLIED. KPL SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. (e) **There are several Commonwealth, State and Territorial laws** which imply certain conditions, warranties and liabilities into contracts for the supply of goods and services. Except to the extent permitted by such laws, these terms and conditions of sale and any supplemental statements attached hereto and incorporated herein do not exclude, restrict or modify the application or effect of any such implied conditions, warranties or liabilities.

13. **LIMITATION OF REMEDIES AND LIABILITY.** SUBJECT TO PARAGRAPH 12(e) THE REMEDIES PROVIDED HEREIN ARE BUYER'S SOLE AND EXCLUSIVE REMEDIES. IN NO EVENT SHALL KPL BE LIABLE FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS) WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY. The foregoing limitation of liability shall not apply in the event that any KPL product sold hereunder is determined by a court of competent jurisdiction in Australia to be defective and to have directly caused bodily injury, death or property damage; provided, that in no event shall KPL's liability for property damage exceed the greater of A\$50,000 or the purchase price of the specified product that caused such damage.

14. **NUCLEAR AND AVIATION APPLICATIONS.** KPL products are not specifically designed, manufactured or intended for sale as parts, components or assemblies for the planning, construction, maintenance, operation or use of any nuclear facility nor for the flight, navigation or communication of aircraft or ground support equipment. Any Buyer using KPL products for these applications agrees that, except as otherwise provided herein, KPL is not liable, in whole or in part, for any claims or damages arising from such use. If Buyer uses KPL products for these applications, Buyer agrees to indemnify and hold KPL harmless from any claims for loss, cost, damage, expense or liability arising out of or in connection with the use and performance of KPL's products in such nuclear or aviation applications. Test equipment used in a static application which is not a functional part, component or assembly of an aircraft and is not attached to or utilised in the flight of an aircraft is not subject to this paragraph.

15. **U.S. EXPORT ADMINISTRATION REGULATIONS.** KPL shall take all steps necessary to obtain at KPL's expense all required licences from the United States Office of Export Administration, The Japan Min. Ind., Trade & I and/or other appropriate authorities to permit the exportation from the United States, Japan or other countries and delivery to Buyer of products and documentation. Any agreement is subject to the obtaining of said export license. Such products and documentation shall not be dealt with by the Buyer in violation of the export licenses and/or applicable regulations. Buyer acknowledges its awareness of said regulations and shall upon KPL's request, furnish all information and documentation necessary for KPL to obtain such licences.

16. **MISCELLANEOUS.** (a) Except as may be prohibited by applicable law, in the event of any insolvency or inability to pay debts as they become due by a party hereto, or voluntary or involuntary bankruptcy proceeding by or against a party hereto, or appointment of a receiver or assignee for the benefit of creditors, the other party may elect to cancel any unfulfilled obligations hereunder. (b) Any required notices shall be given in writing at the address of each party set forth in the attachments hereto, in the formal product quotations or orders, or to such other address as either party may substitute by written notice to the other. (c) Neither party may assign or transfer any of the rights, duties, or obligations herein, without the prior written consent of the other, and any purported attempt to do so shall be null and void. (d) KPL's failure to exercise any of its rights hereunder shall not constitute or be deemed a waiver of forfeiture of such rights. (e) No Government Procurement Regulations shall be included hereunder as binding on either party unless specifically agreed to in writing prior to incorporation herein. (f) Stenographical, typographical and clerical errors are subject to correction. (g) Any dispute regarding the interpretation or validity hereof shall be governed by the laws of the State of New South Wales. The parties hereby agree that any dispute relating to the products sold hereunder shall be subject to the jurisdiction of the courts within the State of New South Wales in Australia.