

MIKRON CORPORATION DENVER TERMS AND CONDITIONS OF PURCHASE

“Buyer” means MIKRON CORPORATION DENVER; “Order” means the terms and conditions on the face any order issued by Buyer, which incorporate and are subject to these terms and conditions, and any other terms and conditions specifically incorporated herein by any other documents in support of or collaborative to this agreement; “Seller” means the vendor to which this Order is issued; and “Products” means the products of Seller described on the face of any order issued by Buyer and all raw material, components, tooling, equipment, and supplies to be delivered by and all services to be provided by Seller hereunder.

1. **Acceptance:** This Order is Buyer’s offer to purchase from Seller the Products. Seller’s commencement of performance or acceptance of this offer in any manner shall constitute acceptance of this offer as written. Unless specifically agreed to in writing by Buyer’s authorized representative, Buyer objects to, and is not bound by, any additional or different terms or conditions. This offer is expressly limited to and made conditional upon Seller’s acceptance of the terms and conditions contained herein, to the exclusion of any and all other terms and conditions, whether the source of such terms and conditions is Seller’s standard terms and conditions, any other document of Seller, any course of dealing, any course of performance, any trade custom or usage, and/or any other source whatsoever.

2. **Delivery:**

(a) Time is of the essence in Seller’s performance of this Order. Seller will make deliveries of the Products in the quantities and at the times specified herein or in releases issued hereunder. If Seller’s deliveries fail to meet Buyer’s delivery schedule, Buyer in addition to its other rights, may (i) require an expedited method of shipment or delivery and Seller shall be responsible to bear any increase in costs incurred because of the expedited transportation method, (ii) terminate this Order, in whole or in part, without further obligation or liability, except for the obligation to pay for Products already accepted by Buyer, or (iii) for delays in delivery of Products of five (5) days or more, Buyer shall be entitled to deduct one percent (1%) from the late Products’ purchase price. Buyer shall also be entitled to deduct an additional one percent (1%) from the late Products’ purchase price, for each additional day of delay in delivery. The deduction for delays pursuant to this subsection shall not exceed twenty percent (20%) of the purchase price of the late Products. In view of the difficulty in calculating the actual damages caused by Seller’s delay in delivery, Buyer shall be entitled to this deduction as liquidated damages, and not as a penalty. The parties agree this amount is reasonable in the light of the anticipated or actual harm caused by delays in delivery and the difficulties of proof of damages..

(b) Buyer will not be liable for Seller’s commitments or production arrangements in excess of the amount or in advance of the time required under Buyer’s delivery schedule set forth in this Order. If Seller delivers Products in advance of Buyer’s delivery schedule, Buyer may either (i) return such Products at Seller’s expense for proper delivery in accordance with Buyer’s delivery schedule; or (ii) withhold payment for such Products until the scheduled delivery date. While the Products are being returned in accordance with (i) of the preceding sentence or being

retained in accordance with (ii) of such sentence, the risk of loss and damage for the Products will remain with Seller.

(c) Title and risk of loss and damage for the Products shall pass to Buyer upon delivery, pursuant to Buyer's delivery schedule, to the point of delivery stated in this Order.

3. **Packing and Shipping.** The Products must be suitably packed using nonhazardous materials and prepared for shipment to secure lowest transportation rates, comply with carrier regulations, and prevent damage and deterioration. Buyer will not be charged for packaging unless a packaging charge is expressly stated in this Order. Damage to any Products resulting from improper packaging will be charged to Seller. Separate packing sheets shall be provided for the hazardous and nonhazardous materials contained in the same shipment. All Products to be shipped on the same day via the same route shall be consolidated on one bill of lading, unless Buyer authorizes otherwise. Each container shall be marked to show this Order number, gross weight, dimensions, final destination, placards as required (such as "fragile", "top", and stacking limitations) and consecutively numbered with the number that the container represents in the entire shipment (e.g., box 1 of 2 boxes). The container and Order numbers shall be listed on the bill of lading. Unless otherwise expressly stated in the Order, all Products are sold DDP (Incoterms 2010) Buyer's facility. Seller shall make no declaration concerning the value of the Products shipped, except where the tariff rating is subject to the released or declared value. In such case, Seller shall release or declare such value at the maximum value within the lowest rating. Each shipment shall include (i) an original and two (2) copies of a packing slip containing the Order number, Products nomenclature/description; the Products part number; the Products serial number (where applicable); and the quantity of Products and (ii) a certificate of conformance or other appropriate inspection certification in conformance with this Order. In addition, international shipments shall also include an original plus two (2) copies of a commercial invoice complying with the requirements of applicable import laws and supplying Buyer with all applicable international shipping documents, including bills of lading/air waybill, delivery receipts, declarations, manifests and certificates of origin and a clear mark or stamp on the Products and related packaging to indicate the country of manufacture, e.g. "Made in [country]."

4. **Inspection and Acceptance of Products:**

(a) Passage of title and risk of loss pursuant to Section 2(c) above shall not constitute acceptance of the Products.

(b) Buyer may inspect all Products ordered hereunder at all times and places, including during the period of manufacture. Such inspection may at Buyer's option include confirmation of Seller's compliance with required quality control procedures. Seller will permit Buyer and/or its designees access to Seller's facilities at all reasonable times and will provide all tools, facilities and assistance reasonable necessary for such inspection and/or confirmation at no additional cost to Buyer. All Products are subject to final inspection and acceptance anytime after delivery to Buyer.

(c) Notwithstanding any acts of Buyer which may be deemed under applicable law to constitute acceptance of the Products, payment for delivered Products will not constitute acceptance thereof.

(d) . In the event the Products or the tender of delivery of the Products does not conform to the requirements of this Order, in addition to any other remedies available pursuant to this Order, at law or in equity, Buyer shall have the right to (i) hold nonconforming Products after inspection pending a determination to accept or reject any or all of such Products; and/or (ii) reject any Products, in whole or in part, which do not meet the specifications set forth in this Order. Buyer may return any such Products to Seller for reimbursement, credit, replacement or correction as Buyer may direct or Buyer may correct and/or replace such Products at Seller's cost. Any Products rejected by Buyer will be at Seller's risk and expense and Seller will not thereafter tender such Products for acceptance unless the former rejection or requirement of correction is disclosed. Seller will reimburse Buyer for any packaging, handling and transportation costs Buyer incurs with respect to rejected Products.

(e) Buyer may revoke its acceptance of Products at any time, whether or not a substantial modification to the Products has been made, if a defect in the Products which could not have been discovered during the Buyer's normal inspection procedures or which is not normally discovered until the Products are used substantially impairs the value of the Products to Buyer. Title and risk of loss of nonconforming Product shall revert to Seller upon shipment by Buyer if the nonconforming Product is returned to Seller.

(f) Neither Buyer's exercise of nor its failure to exercise, any rights provided hereunder will relieve the Seller from responsibility for such Products as are not in accordance with the Order requirements or impose liability on Buyer therefor.

5. Product Warranties:

(a) Seller warrants that the Products (i) shall conform to the specifications, drawings, samples or other description furnished or specified by Buyer; (ii) shall be merchantable and fit for Buyer's intended purpose; (iii) shall be free from all defects, including defects in materials and workmanship, and, to the extent the Products are designed by Seller, Seller warrants the Products shall be free from defects in design; (iv) shall conform with all representations, descriptions, samples, drawings, plans, specifications, designs and other data supplied by Seller or listed on the front side of this Order; (v) shall be delivered free and clear of any liens and with good title conveyed by Seller to Buyer; and (vi) shall comply in all material respect with all applicable laws (collectively, the "Warranty"). The Warranty is in addition to those warranties available to Buyer by law, if any. Buyer's inspection, approval of a sample, acceptance or payment for the Products shall not constitute a waiver, exclusion or modification of the Warranty. In addition to all other remedies which Buyer may have under this Order or applicable law, Buyer may, at Seller's expense, require Seller to promptly accomplish any correction, repair, replacement, or retrofit which may be required to make the nonconforming Products conform to the Warranty, all without change to the price and without additional cost to Buyer. Removal and reinstallation costs and testing costs related to the replacement or repair of the nonconforming Products shall be paid by Seller. In the event Buyer supplies its customer with a replacement for nonconforming Products in order to expedite a repair, replacement or retrofit,

Seller shall provide Buyer with a credit for the full price of the Products supplied by Buyer. Without limiting the generality of the foregoing: In the event that any Product defect (i) causes damage to warranted Products, or (ii) renders warranted Products unserviceable, or (ii) directly causes damage to any other part within the equipment in which the Products were installed (“Resultant Damage”), then Seller shall, at Seller's option and expense, correct or procure the correction or replacement of any such damaged or unserviceable Products and Resultant Damage to the condition it was in at the time the damage occurred. If Buyer returns Products pursuant to a warranty claim, the delivery shall be EXW Buyer’s facility (Incoterms 2010, as if Buyer were a seller). Delivery to Buyer of a repaired or replacement Product shall be DDP (Incoterms 2010, as if Seller were a seller) to the destination designated by Buyer. Title and risk of loss for the replacement Products shall pass upon delivery of the replacement Products. Seller authorizes Buyer to offer the terms of this Warranty to Buyer’s customers and to buyers or lessees/sub-lessees or other operators of aircraft on which the Product is installed. During the work to satisfy any Warranty claim to correct Product deficiencies or address performance issues required to meet the applicable specifications, requirements, processes, and provisions of the documents specified in this Order, or as required to comply with applicable law, shall be incorporated at no charge to Buyer.

(b) The Seller agrees that Products furnished under this Order shall be covered by the most favorable commercial warranty the Seller gives to any customer for such Products.

(c) The Warranty shall survive Buyer’s acceptance, use and/or payment and shall run to Buyer and its customers.

(d) Buyer’s review or approval of any samples, drawings, specifications or other data developed by Seller in connection with this Order will not limit Seller’s responsibility under the Warranty or alter the cost, rate of output or delivery requirement of this Order.

(e) Buyer’s specifications and requirements take precedence over industry standards. Seller will advise Buyer in writing if Buyer’s specifications or requirements are not as extensive as industry standards.

6. Infringement Indemnifications: Seller will indemnify and hold harmless Buyer, its officers, employees, agents, successors, assigns, customers, and users of its products from and against any and all losses, expenses, damages, claims, suits and liabilities (including incidental and consequential damages, court costs and attorneys’ fees) arising as a result of any claim that the manufacture, use, sale or resale of any Products infringes any patent, utility model, industrial design, copyright, trademark or other intellectual property right of any third party in any country. Seller will, when requested by Buyer, defend any action or claim of such infringement at its own expense. Seller’s obligations under the preceding two sentences will apply even though Buyer furnishes all or any portion of the design of or specifies all or any portion of the processing for the Products. If the sale and/or use of the Products is enjoined or, in Buyer’s sold judgement, is likely to be enjoined, Seller will, at Buyer’s election and Seller’s sole expense, either procure for Buyer the right to continue using such Products, or replace same with equivalent noninfringing Products, or modify such Products so they become noninfringing, or remove same and refund the purchase price, including transportation, installation, removal and other charges incident thereto.

7. **Improvements:** Seller agrees to disclose and assign to Buyer any improvements, patentable or not, made as a result of this Order or services payable to Buyer under this Purchase Order. Seller shall cooperate fully with Buyer without further compensation should Buyer, at Buyer's expense, apply for a patent involving any such improvement.

8. **Changes:** Buyer may at any time by a written order but without notice to sureties change drawings, designs, specifications, materials, packing, time and place of delivery or method of transportation. If any such change increases or decreases the cost or time required for Seller's performance hereunder, an equitable adjustment will be made and this Order will be modified in writing accordingly. Any claim by Seller for any adjustment hereunder must be made within ten (10) days of the date Seller is first notified of the change. If Seller's claim includes any cost for property made obsolete as a result of the change, Buyer may prescribe the manner in which such property will be disposed. Pending the resolution of any dispute regarding any such adjustment, Seller will diligently pursue the Order as changed. No change to specifications, terms and conditions, design, material, process, procedures, or practice is to be made by Seller without written authorization by Buyer.

9. **Force Majeure:** If, due to forces beyond its control, Buyer determines to alter Buyer's delivery schedule to delay delivery, the provisions of this paragraph (rather than the preceding paragraph) will control. Seller will hold any such delayed Products at the direction of Buyer and will deliver them when the cause affecting the delay has been removed. Buyer will be responsible only for Seller's direct additional costs (excluding interest on the purchase price) incurred in holding the Products or delaying performance at Buyer's request.

10. **Termination for Convenience:** Buyer may terminate this Order or any part of it for its convenience by written notice to Seller. Upon receipt of notice of termination, Seller will immediately stop all work hereunder and cause any of its suppliers or subcontractors to cease such work. Buyer will pay Seller for all Products which a) are ready for shipment in accordance with this Order's delivery schedule prior to Seller's receipt of the termination notice and (b) conform to all requirements of this Order. Buyer will not pay for any work done after Seller's receipt of notice of termination, nor for any costs incurred by Seller's suppliers or subcontractors which Seller could have reasonably avoided. All Products for which cost is incurred shall be delivered to Buyer.

11. **Termination for Cause:** Buyer may terminate this Order or any part hereof for cause in the event of a Default by Seller. "Default" means (a) Seller's failure to comply with any of the terms and conditions of this Order; (b) Seller's failure to give Buyer, upon request, reasonable assurances of Seller's future performance; (c) insolvency, bankruptcy, liquidation, or dissolution of Seller; or (d) any other event which causes reasonable doubt as to Seller's ability to render due performance hereunder. If after termination for Default, it is determined that Seller was not in Default, the rights and obligations of the parties will be the same as if the termination was for Buyer's convenience pursuant to Section 10.

12. **Default – Cancellation:** In the event of Default, Buyer may, upon written notice to Seller but without further liability to Seller, (a) waive all or any part of the Default; (b) agree in writing to any change in or modification of this Order as Buyer may in its judgement deem advisable; (c) cancel this Order in whole or in part; (d) purchase Products in substitution for

those to be supplied by Seller hereunder and charge Seller for any excess cost resulting therefrom; and/or (e) exercise any other rights or remedies Buyer may have under applicable law. Seller's liability for Default will include Buyer's reasonable costs, attorneys' fees and incidental and consequential damages.

13. Proprietary Information – Confidentiality – Advertising:

(a) Seller will consider all information furnished by Buyer hereunder (including drawings, specifications, or other documents prepared by Seller for Buyer in connection with this Order) to be confidential and a trade secret and will not disclose any such information to any other person, or use such information itself for any purpose other than performing under this Order, unless Seller obtains Buyer's prior written permission. Seller will not advertise or publish the fact that Buyer had contracted to purchase Products from Seller, or disclose any information relating to the Order without Buyer's written permission.

(b) The Seller agrees to insert the above provision, Paragraph 13 in all subcontracts.

(c) Buyer retains all rights in designs, drawings, specifications, and other data or papers furnished Seller in connection with the Order. Upon completion of the work, Seller shall promptly return to Buyer all designs, drawings, specifications and other data or papers furnished by Buyer, together with all copies or reprints then in Seller's possession or in control.

(d) Buyer retains all rights in designs, drawings, specifications, and other data or papers developed by Seller specifically in connection with performance of this Order. Upon completion of the work, Seller shall promptly provide to Buyer all designs, drawings, specifications and other data or papers developed by Seller, together with all copies or reprints then in Seller's possession or control.

(e) All Products provided by Seller become the sole and exclusive property of Buyer.

(f) Unless otherwise agreed in writing, no information disclosed in any manner or at any time by Seller to Buyer will be deemed secret or confidential, and Seller will have no rights against Buyer with respect thereto except such rights as may exist under patent laws.

14. License to Repair; Use of Copyrighted Material: Seller hereby grants to Buyer a nonexclusive, royalty-free irrevocable, worldwide license to repair, rebuild, reconstruct and relocate the Products. Seller also grants to Buyer a nonexclusive, paid-up, irrevocable, worldwide license to use all copyrighted material of Seller which are furnished to Buyer during the course of Seller's performance hereunder and which relate to any Products. Without limiting the generality of the foregoing, Buyer's use of such copyrighted materials pursuant to such license may include reproduction, distribution to customer and others and public display.

15. Insurance: Seller will maintain and require its subcontractors to maintain (i) public liability and property damage insurance, including contractual liability (both general and vehicle) in amounts sufficient to cover obligation set forth above, and (ii) workers' compensation and employer's liability insurance covering all employees engaged in the performance of this Order for claims arising under any applicable worker's compensation, occupation, disease or health and safety laws and/or regulations. Seller will furnish certificates evidencing such insurance which

will expressly provide that no expiration, termination or modification will take place without thirty (30) days written notice to Buyer.

16. **Stop Work Order:** Buyer may, at any time, by written order to Seller and at no charge to Buyer, require Seller to stop all, or any part, of the work called for by this Order for less than twenty-four (24) consecutive months, or any other period of time agreed upon. Upon receipt of such a written order, Seller shall immediately comply with its terms. During the suspension, Buyer may issue written notice to restart the Order or any part of it and Seller shall resume work within ten (10) days of such notice or terminate the work covered by such stop work order in accordance with Section 10 (Termination for Convenience) or Section 11 (Termination for Cause).

17. **Buyer's Property:**

(a) Buyer will retain title to any property Buyer furnishes to Seller. Seller will not alter or use such property for any purpose other than that specified by Buyer or for any other person without the prior written consent of Buyer. Seller will keep adequate records of such property which records will be made available to Buyer upon request and will store, protect, preserve, repair and maintain such property in accordance with sound industrial practice, all at Seller's expense.

(b) If Buyer's property become lost or damaged while in Seller's possession, Seller will indemnify Buyer or replace such property at Seller's expense, in accordance with Buyer's request. At the completion, cancellation or termination of this Order for which Buyer's property was required, Seller will request disposition instructions for all such property, or the remainder thereof, whether in its original form or in semiprocessed form. Seller will make such property available to Buyer at Buyer's request, in the manner directed by Buyer including preparation, packaging and shipping as directed. Expenses for preparation for shipment will be for Seller's account and shipment will be made DDP (Incoterms 2010) Buyer's facility.

18. **Taxes:** Seller's prices will be exclusive of any federal, state or local sales, use or excise taxes levied upon, or measured by, the sale, the sales price, or use of the Products. Seller will list separately on its invoice any such tax lawfully applicable to the Products and payable by Buyer with respect to which Buyer does not furnish to Seller lawful evidence of exemption.

19. **Setoff:** All claims for money due or to become due from Buyer will be subject to deduction or setoff by Buyer for any counterclaim arising from this or any other transaction with Seller.

20. **Notice of Delay:** Seller will immediately give Buyer a detailed written notice of any event (including an actual or potential labor dispute) of which Seller becomes aware and which may delay Seller's timely performance of this Order.

21. **Payments:** Buyer will pay the prices stipulated on this Order for Products delivered and accepted, less deduction, if any, as herein provided, but only upon submission by Seller of an invoice. The prices for Products will not be subject to any variation without the proper written consent of Buyer.

22. **Remedies:** The rights and remedies provided Buyer herein will be cumulative and in addition to any other or further remedies provided by law or equity. Buyer's waiver of a breach of provision hereof will not constitute a waiver of any other breach or of such provision.

23. **Severability:** Any provision of this Order which is finally determined to be unlawful will be deemed severed from this Order and every other lawful provision of this Order will remain in full force and effect.

24. **Assignment and Subcontracting:** No part of this Order nor any interest therein or claim thereunder may be assigned or subcontracted without the prior written approval of Buyer.

25. **Discounts:** Discount time will be computed from date of delivery or from receipt of correct invoices, prepared in accordance with the terms of this Order, whichever date is later. Payment date, for discount purposes, is when check is mailed provided the check is ultimately honored.

26. **Extra Charges:** No additional charges of any kind, including charges for boxing, packing, cartage, or other extras will be allowed unless specifically agreed to in writing in advance.

27. **Compliance with Laws:**

26.1 In the performance of this Order, Seller will fully comply with all applicable law and will hold Buyer harmless from any liability resulting from Seller's failure to comply.

26.2 This Order will be governed by the laws of the state of Colorado, U.S.A.

26.3 **OSHA:** Seller warrants that all Products shall be designed (if not of Buyer's design), manufactured and assembled so as to comply with the Occupational Safety and Health Act of 1970, as amended, and any and all federal, state and local acts, regulations or codes to the extent that the provisions and standards set forth therein apply to all Products provided. This compliance shall be limited to all standards in effect, regulations issued and/or interpretations made (in citations or judgments) prior to the Delivery Date. Seller shall indemnify and hold Buyer harmless for any loss, damage, fine or penalty directly or indirectly resulting from any breach of the warranty set forth in the first sentence of this Section 29.1

26.4 **Executive Orders:** The provisions of the following sections of the Federal Acquisition Regulations (48 C.F.R. Part 52) are incorporated herein by this reference: (a) 52.222-26, Equal Opportunity (APR 1984); (b) 52.222-35, Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1984); and (c) 52.222-36, Affirmative Action for Handicapped Workers (APR 1984).

26.5 **Fair Labor Standards:** Seller warrants that Products and or services furnished hereunder will be made in compliance with the Fair Labor Standards Act of 1938, as amended.

26.6 **Other Laws:** In the performance of this Agreement, Seller will fully comply with all other applicable laws and will hold Buyer harmless from any liability directly or indirectly resulting from Seller's failure to so comply.

28 **Indemnification:**

(a) Seller hereby releases and agrees to indemnify, defend and hold Buyer, its affiliates, directors, officers, employees and agents harmless from and against any and all liabilities, claims, demands, suits, damages and losses of and by third parties (including, without limitation, all reasonable attorneys' fees, costs and expenses in connection therewith or incident thereto) for deaths of or injuries to any persons whomsoever (including without limitation Buyer's employees) and for loss of, damage to, or destruction of any third party property whatsoever, in any manner arising out of or in any way connected with the Products provided by Seller, to the extent such claim or liability results from the negligence or willful misconduct of Seller, its directors, officers, employees, or agents, or from the breach of any duty imposed by applicable law upon Seller or upon any of its directors, officers, employees, or agents.

(b) Seller will be liable for loss or damage to Buyer property while such Buyer property is in Seller's care, custody or control.

29 **Attorneys' Fees:** In the event of litigation or arbitration between Buyer and Seller to enforce this Order or for damages or any other remedy for breach thereof or hereof, the substantially prevailing party shall be awarded reasonable attorneys' fees to be taxed as costs in addition to any other remedy or judgment awarded pursuant to the litigation or arbitration.