

TERMS AND CONDITIONS FOR GOODS AND SERVICES 021320-A

These TERMS AND CONDITIONS FOR GOODS AND SERVICES (these “Terms and Conditions”) are the only terms which govern the purchase of the goods (“Goods”) and services (“Services”) and, together with the Goods, the “Work”) by Kocsis Technologies Inc. (“Buyer”), acting through its purchasing organization identified on the accompanying purchase order (the “Purchase Order”), from the seller named on the Purchase Order (“Seller”). Buyer and Seller are referred to herein as a “Party” and, together, as the “Parties”.

1. **Acceptance.** The Purchase Order, including all incorporated schedules, exhibits, and documents, and these Terms and Conditions (collectively, the “Agreement”) is an offer to buy expressly conditioned upon Seller's acceptance of these Terms and Conditions. The Agreement shall comprise the entire agreement between the Parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. The Terms and Conditions prevail over any of Seller's general terms and conditions of sale regardless of whether or when Seller has submitted its general terms and conditions of sale, including, but not limited to, if Seller submits an its terms and conditions of sale with an acknowledgement of the Purchase Order. Fulfillment of the Purchase Order constitutes acceptance of these Terms and Conditions. Any reference herein to any proposal, quotation, or other communication by Seller shall, unless indicated to the contrary, be deemed to be limited to the description of the products or services and as a record of Seller proposed pricing and lead time.
2. **Order of Precedence**
 - a. Notwithstanding anything herein to the contrary, the order of precedence for procurement documents referenced in this Agreement is as follows:
 - i. Change notices to the Purchase Order (each a “Change Notice”)
 - ii. Purchase Order and attachments therein;
 - iii. Additional administrative, quality, and technical requirements;
 - iv. Drawings;
 - v. Specifications listed on the drawings; and
 - vi. Terms and Conditions.
 - b. Seller shall immediately bring any inconsistencies or nonconformance in the Purchase Order to the attention of Buyer in writing upon their discovery. Should Seller fail to contact Buyer to resolve any such conflicts or inconsistencies prior to acceptance and/or commencing the fulfillment process for the Purchase Order, Seller will be solely responsible for any errors resulting from any conflicts or inconsistencies occurring in the Purchase Order. Seller shall provide the Work to Buyer as described and in accordance with the terms of the Agreement, including any Change Notice (defined below) agreed to by the Parties.

- c. Seller acknowledges that time is of the essence with respect to Seller's obligations hereunder and the timely delivery of the Work, including all performance dates, timetables, project milestones and other requirements in the Purchase Order.
3. **Authority and Communication.** All written communications are to be directed to Buyer's purchasing representative (the "Purchasing Representative"). Any agreements resulting from communications from or to any other employee or representative of Buyer following the date of the Purchase Order (the "Effective Date") shall be binding on the Parties only if set forth in a Change Notice issued by Buyer. Seller shall not alter the scope of the Work unless and until Seller receives a written Change Notice from the Purchasing Representative.
4. **Inspection, Access, Oversight and Audit.**
 - a. Except as otherwise agreed in writing, all Goods shall be subject to final inspection and acceptance by Buyer on or after the date of delivery (the "Delivery Date"). Final inspection results supersede the results of any previous inspection of any type by Buyer or Seller.
 - b. The inspection, review, or approval by Buyer of any Work, first article, or proposed drawings, design, procedure, or other document, shall not reduce or otherwise affect Seller's obligations under the Agreement, and Buyer shall have the right to conduct further inspections after Seller has carried out its remedial actions. Drawings, design, procedure, or other document provided by Seller after the Effective Date shall be considered an addition to the Purchase Order only if incorporated via a Change Notice from Buyer.
 - c. If Buyer rejects any portion of the Goods, Buyer shall have the right to require the prompt correction of defective or nonconforming Work by Seller, and Seller shall, at its expense, promptly replace the nonconforming or defective Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective goods and the delivery of replacement Goods and the cost to Buyer of any corrections or repairs to any of its property necessitated by the defective or nonconforming Goods. If correction is impractical, Seller shall bear all risk after notice of rejection and shall, at Buyer's request, promptly make all necessary replacements at Seller's expense. If Seller fails to make prompt replacements of any defective or nonconforming Goods, Buyer may replace them with goods from a third party and charge Seller the cost thereof. No substitutions of materials or accessories shall be made without prior written consent of Buyer on original or replacement Works.
5. **Delivery.**
 - a. Delivery shall be made in accordance with the terms of the Purchase Order, and the Purchase Order number must appear on all shipping documents, invoices, correspondence, and any other documents pertaining to the Purchase Order.

- b. Seller shall deliver the Goods in the quantities and on the date(s) specified in the Purchase Order or as otherwise agreed in writing by the Parties (the “Delivery Date”). Seller shall furnish all resources necessary, including assistance of Buyer in select cases, to assure compliance with the established Delivery Date. All deliveries shall be strictly in accordance with the schedules set forth in this Purchase Order. Seller shall indemnify Buyer against any losses, claims, damages, and reasonable costs and expenses directly attributable to Seller's failure to deliver the Goods on the Delivery Date.
- c. The Buyer accepts underruns and overruns of + or – 5% (quantity) according to the following criteria:
 - i. Underruns will only be accepted, at Buyer’s discretion, on orders with a quantity that is a multiple of 5. All other orders must be completed in full.
 - ii. Buyer reserves the right, in its sole discretion, to deny any underrun based on the past performance of Seller, including but not limited to multiple past underruns of the same part—leaving the Buyer’s inventory lagging, history of part and/or Seller nonconformance issues, or current production need.
 - iii. Overruns and underruns outside the acceptable 5% (quantity) must be approved by the Purchasing Representative before shipment. Buyer will reject all orders outside the acceptable + or – 5% (quantity) allowance that do not have the prior written approval of the Purchasing Representative and any such rejected Goods will be returned at the expense of Seller.
 - iv. If an overrun increases the quantity of the order into the next price break level agreed to by the Parties, Buyer will pay the reduced price for the entire quantity of the Goods delivered, including, but not limited to, the overrun.
 - v. Purchasing Representative shall accept overruns over 10% in quantity only with an accompanying discount in price agreed to by the Parties prior to shipping.
 - vi. If an overrun is within the acceptable 5% (quantity) limit but increase the total price set forth in the Purchase Order by more than 5%, Seller shall obtain the express written consent of the Purchasing Representative prior to shipment.
- d. If Seller reasonably expects that it will fail to deliver the Goods by the Delivery Date, Seller shall immediately notify Buyer in writing of the reason and estimated length of the delay. This notice shall be informational only and shall not reduce or otherwise affect or alter Seller's obligations under the Agreement. Seller shall use its best efforts to minimize the delay to the maximum extent possible. Unless agreed to in a writing signed by the Purchasing Representative, Seller shall bear the cost of all expenses associated with Seller’s failure to deliver the Goods by the Delivery Date. Historic late deliveries by Seller will be considered when awarding future Purchase Orders.
- e. At the request of Buyer, Seller shall develop and maintain, in a form acceptable to Buyer, a comprehensive Activity/Task based schedule reporting on current and

projected milestone dates for the Purchase Order (a “Delivery Schedule”). If necessary, Buyer may provide, at no cost to Seller, assistance in the development of the Delivery Schedule, and Seller shall update the Delivery Schedule on at least a bi-weekly basis. The Delivery Schedule will contain:

- i. a comprehensive activity-based listing for all major hardware and documentation deliverables required by the Purchase Order;
 - ii. a detailed list of any processes performed outside of Seller’s facility (outside processing), including any such process performed by a subcontractor of Seller; and
 - iii. if the Delivery Schedule includes delays in processes that will cause a delivery after the Delivery Date, an explanation of the delay, projected length of delay/impact on adjusted Delivery Date, and measures being taken to minimize the delay; provided, however, if the delay results or arises from Buyer’s failure to timely approve a request from Seller, Seller shall clearly explain Buyer’s role in and responsibility for any such delay.
- f. If Seller is unable to meet the Delivery Date for any reason, Buyer may, at its sole discretion: (i) terminate this Agreement in accordance with Section 13; (ii) purchase replacement goods for the undelivered portion of the Purchase Order from a third party and charge Seller the excess cost, if any, of such replacement goods over the Goods; or (iii) require partial shipments of the completed Goods.
- g. Seller shall be responsible for packaging, loading, and securing of each shipment in accordance with the specifications and requirements of the Purchase Order or, if not expressly included in the Purchase Order, in a manner to ensure that the Goods are delivered in undamaged condition.

6. Seller Obligations. Seller shall:

- a. comply with all applicable executive orders and federal, state, municipal, and local laws of the state in which the Goods will be produced, or where the Services are to be performed, including all applicable laws, codes and standards, such as ASME and ASTM.
- b. maintain a quality control and inspection system acceptable to Buyer, and its customer;
- c. provide Buyer with periodic phone conferences, status report submittals, or other reasonable and mutually agreeable oversight activities.
- d. at the request of Buyer, provide to Buyer a report of all of Buyer’s open Purchase Orders (an “Open Order Report.”), which shall set forth the contract dock date, estimated dock date, any areas of concern, and the risk level of late delivery for each Purchase Order and Line, if applicable; provided, however, Buyer shall

provide, at no cost to Seller, assistance in the development of the Open Order Report at the request of Seller.

- e. promptly notify Buyer of any change in company status including, but not limited to bankruptcy, insolvency, change of ownership or control, strike, or work stoppage.
 - f. maintain complete and accurate records relating to the provision of the Services under this Agreement, including records of the time spent and materials used by Seller in providing the Services in such form as Buyer shall approve.
 - g. require each Permitted Subcontractor (defined below) to be bound in writing by the confidentiality provisions of this Agreement;
 - h. ensure that all persons, whether employees, agents, subcontractors, or anyone acting for or on behalf of the Seller, are properly licensed, certified or accredited as required by applicable law and are suitably skilled, experienced and qualified to perform the Services;
 - i. ensure that all of its equipment used in the provision of the Services is in good working order and suitable for the purposes for which it is used, and conforms to all relevant legal standards and standards specified by the Buyer
7. **Price.** The price of the Goods and Services is the aggregate price stated in the Purchase Order (the “Price”). Unless otherwise specified in the Purchase Order, the Price shall include, and the Purchase Order shall separately list, all packaging, transportation costs, insurance, and other fees applicable to the Goods. No increase in the Price is effective, whether due to increased material, labor or transportation costs or otherwise, without the prior written consent of the Purchasing Representative
8. **Payment Terms.** Seller shall issue an invoice to Buyer on or any time after the completion of delivery and only in accordance with these Terms. Buyer shall pay all properly invoiced amounts due to Seller, except for any amounts disputed by Buyer in good faith. Without prejudice to any other right or remedy it may have, Buyer reserves the right to set off at any time any amount owing to it by Seller against any amount payable by Buyer to Seller under this Agreement.
9. **Ownership.**
- a. All information, including but not limited to data, drawings, designs, software and specifications, and all innovations contained therein generated or developed under the scope of this Agreement by Seller at Buyer's expense shall be the property of Buyer and shall not be used by Seller for any purpose other than the performance of Work under this Agreement without the express prior written consent of the Purchaser Representative.

- b. Title to materials (or goods or information developed) furnished under this Agreement shall be deemed transferred to Buyer or Buyer's customer as payments are made, and in the same proportion as the cumulative payments bear to the Price. In the event payments are made by Buyer prior to delivery, Seller shall execute and deliver such security agreements, financing statements, and other documents as may be deemed necessary by Buyer to protect its rights therein. Seller warrants that the Work will be free and clear of all liens, claims and encumbrances at the time of delivery.
10. **Risk of Loss.** risk of loss passes to Buyer upon delivery of the Goods at the destination designated in the Purchase Order.
11. **Change Notices.**
 - a. Buyer may, by issuing a notice to Seller via the Purchaser Representative (a "Change Notice"), make changes in the Work. The terms set forth in each Change Notice issued to Seller shall be incorporated herein, and Seller shall comply with such all such terms therein.
 - b. If the terms of a Change Notice significantly increase Seller's cost or time for performance, Seller shall, no later than thirty (30) days following receipt of a Change Notice, issue a new quote (a "Price Update") to the Purchasing Representative for Buyer approval; provided, however, if Seller fails to timely deliver a Price Update to Buyer, Seller shall be deemed to have accepted the terms of the Change Notice. Buyer shall indicate its acceptance of the Price Update in writing to Seller; provided, however, if Buyer does not accept a Price Update, Buyer may terminate the Agreement in accordance with Section 13.
 - c. Seller shall, at Buyer's request, proceed with the change set forth in a Change Notice pending resolution of any dispute set forth in a Price Update. All Work shall conform with the terms of the most current Change Notice at delivery, and Buyer may reject any Work that fails to meet the terms of any Change Notice.
12. **Subcontracting.** Seller shall not, without the prior written approval of the Purchasing Representative, enter into agreements with or otherwise engage any person or entity, including all subcontractors and affiliates of Seller, other than Seller's employees, to provide any Services to Buyer (each such approved subcontractor or other third party, a "Permitted Subcontractor"). Buyer's approval shall not relieve Seller of its obligations under the Agreement, and Seller shall remain fully responsible for the performance of each such Permitted Subcontractor and its employees and for their compliance with all of the terms and conditions of this Agreement as if they were Seller's own employees. Nothing contained in this Agreement shall create any contractual relationship between Buyer and any Seller subcontractor or supplier.
13. **Termination.** Buyer may terminate this Agreement as follows:

- a. By written notice to Seller if Seller fails to remedy a material breach of this Agreement within thirty (30) days of written notice of such breach from Buyer;
 - b. Immediately by written notice to Seller if Seller ceases to carry on its business or the division of its business in which this Work was commissioned or the Seller is declared insolvent, declares bankruptcy, or changes ownership.
 - c. For any reason upon thirty (30) days written notice to Seller.
14. **Warranty.** The Seller warrants that as from the date of delivery to Buyer for a period of 12 months the Goods and all their component parts, where applicable; (i) are free from any defects in design, workmanship, construction or materials; (ii) conform to applicable specifications; (iii) are fit for their intended purpose; (iv) are merchantable; (v) except as explicitly set forth herein, are free and clear of any liens, security interests, or other encumbrances; and (vi) do not infringe or misappropriate any third party's patent or other intellectual property rights. The Seller warrants that it shall perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement. The warranties set forth in this Section 14 are cumulative and in addition to any other warranty provided by law or equity Any applicable statute of limitations runs from the date of Buyer's discovery of the noncompliance of the Goods or Services with the foregoing warranties. If Buyer gives Seller notice of noncompliance pursuant to this Section, Seller shall, at its own cost and expense, promptly (i) replace or repair the defective or nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or nonconforming goods to Seller and the delivery of repaired or replacement Goods to Buyer, and, if applicable, (ii) repair or re-perform the applicable Services.
15. **Confidential Information.** All non-public, confidential or proprietary information of Buyer, including but not limited to, all Buyer Furnished Property (defined below) specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Buyer to Seller, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the purpose of performing this Agreement and may not be disclosed or copied unless authorized in advance by Buyer in writing. Any Buyer proprietary information developed by Seller under this Agreement shall be considered a work for hire, for which Buyer may apply copyright or other form of intellectual property protection in its own name. In addition, Seller may not use any Work done for Buyer, either Work-in-Progress or completed goods, or any of Buyer's confidential or proprietary information in any promotional material, including but not limited to websites, case studies, brochures, or flyers, without the prior written consent of and an executed photo release from Buyer. Upon Buyer's request, Seller shall promptly return all documents and other materials received from Buyer. Buyer shall be entitled to injunctive relief for any violation of this Section 15.

16. **Taxes and Expenses.** The prices set forth in the Purchase Order do not include any applicable foreign, federal, state, and local taxes or miscellaneous changes such as duties, customs, tariff, imports, and surcharges. All such taxes and charges shall be itemized separately on Seller's invoice.
17. **Buyer Furnished Property.** The following terms apply to any tools, patterns, equipment, material, gauges or other property which is supplied to Seller by Buyer (hereinafter "**Buyer Furnished Property**"):
- a. Seller shall not use Buyer Furnished Property on any other work, including other Buyer projects not specified in Buyer Furnished Property provisions within this Agreement, without the prior written consent of Buyer.
 - b. Upon completion or termination of this Agreement or upon written request from Buyer, Seller shall return all Buyer Furnished Property.
 - c. Title to Buyer Furnished Property shall remain with Buyer, and Seller shall segregate and clearly mark Buyer Furnished Property to show Buyer.
 - d. Upon reasonable notice, Buyer shall have the right to enter Seller's premises to inspect and/or remove Buyer Furnished Property.
 - e. Seller shall inspect all Buyer Furnished Property upon receipt. Seller must inform Buyer via written notice within five (5) days of receipt of Buyer Furnished Property of any defect and provide an explanation and documentation of such defect. The correction or replacement of such defective property shall be the responsibility of the Buyer. If Seller fails to bring defects to the Buyer's attention within five days of receipt of the Buyer Furnished Property, Seller shall be responsible for the costs and expense of repairing or replacing, at Buyer's sole discretion, any defects and damages found on Buyer Furnished Property upon return to Buyer will be considered the fault of the Seller.
 - f. Upon delivery to Seller, Seller shall bear the risk of loss or damage to Buyer Furnished Property. Risk of loss or damage shall transfer to Buyer when such Property is returned to Buyer.
 - g. Seller shall, at its expense, perform all maintenance, repairs and replacements necessary with respect to Buyer Furnished Property so that it may remain suitable for use and may be returned to Buyer in as good condition as when received, except for reasonable wear and tear or consumption of materials necessarily resulting from their use.
18. **Survival.** Sections 4 ("Inspection, Access, Oversight and Audit"), 9 ("Ownership") 14 ("Warranty"), 15 ("Confidential Information"), 17 ("Buyer Furnished Property"), and 21 ("Miscellaneous") shall survive the termination or expiration of this Agreement.

19. **Indemnity.** Seller agrees to indemnify and save harmless Buyer, its executives, directors, employees, representatives, and stake holders from any responsibility and liability for any and all claims, demands, losses, legal actions for personal injuries, property damage and pollution (including reasonable inside and outside attorney's fees) arising from or relating: (a) the use of any Buyer Furnished Property; (b) any failure of Seller to comply with patents, laws, regulations, or ordinances; or (c) the acts or omissions of Seller in the performance of this Agreement.
20. **Dispute Resolution.** The laws of the State of Illinois apply to this Agreement. The Parties shall first negotiate all claims, disputes, or controversies arising under, out of or in connection with this Agreement in good faith. If the Parties are unable to resolve the matter following good faith negotiations, the matter shall be resolved by binding arbitration. Each Party hereby waives any right it may otherwise have to the resolution of such matter by any means other than binding arbitration pursuant to this Section 20. Whenever a Party shall decide to institute arbitration proceedings, it shall provide written notice to that effect to the other Parties involved in this Agreement; including the end Customer if necessary, and the arbitration proceedings shall commence no less than sixty (60) days following the date of such notice, during which time the Parties shall continue good faith negotiations to resolve the matter without arbitration. Any arbitration hereunder shall be conducted in the English language under the commercial arbitration rules of the American Arbitration Association. Any such arbitration shall be conducted in Chicago, Illinois by a panel of three arbitrators: Buyer and Seller shall each appoint an arbitrator of their respective choosing; and the American Arbitration Association shall appoint the third arbitrator. The panel of arbitrators shall have the authority to grant specific performance. Judgment upon the award so rendered may be entered in any court having jurisdiction or application may be made to such court for judicial acceptance of any award and an order of enforcement, as the case may be. In no event shall a demand for arbitration be made after the date when institution of a legal or equitable proceeding based on the claim, dispute or controversy in question would be barred under this Agreement or by the applicable statute of limitations. The prevailing Party in any arbitration in accordance with this Section 20 shall be entitled to recover from the other Party, in addition to any other remedies specified in the award, all reasonable costs, attorneys' fees, and other expenses incurred by such prevailing Party as a result of such arbitration.
21. **Miscellaneous.**
- a. **Assignment.** Seller shall not assign, transfer, delegate or subcontract any of its rights or obligations under this Agreement without the prior written consent of Buyer. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the Seller of any of its obligations hereunder. Buyer may at any time assign or transfer any or all of its rights or obligations under this Agreement without Seller's prior written consent to any affiliate or to any person acquiring all or substantially all of Buyer's assets.
 - b. **Relationship of the Parties.** The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed

as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

- c. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.
- d. Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a “Notice”) shall be in writing and addressed to the Parties at the addresses set forth on the face of the Purchase Order or to such other address that may be designated by the receiving Party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving Party, and (b) if the Party giving the Notice has complied with the requirements of this Section.
- e. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
- f. Amendment and Modification. These Terms and Conditions may only be amended or modified in a writing stating specifically that it amends these Terms and Conditions and is signed by an authorized representative of each Party.