

# Nordam Europe Limited – Terms and Conditions of Purchase

Note: “Unless this Purchase Order is issued pursuant to a Long-Term Agreement, the following TNG Purchase Order Terms and Conditions apply to and form part of this Purchase Order.”

**Proprietary Data:** NORDAM reserves all proprietary rights in the information furnished herein. Use of this document is restricted to conveyance of information to customers or vendors of NORDAM and shall not be released, disclosed, used or duplicated for any other purpose without the written permission of NORDAM.

## 1. DEFINITIONS

In these terms and conditions, unless the context otherwise requires, the following terms and expressions shall have the following meanings:

\*Conditions\* mean the standard terms and conditions of purchase set out in this document and any special terms included on the Order.

\*Contract\* means the contract for the sale and purchase of the Goods and/or the supply and acquisition of the Services formed by the Supplier's acceptance of the Order which, however made or communicated, shall be deemed made subject to these Conditions.

\*Nordam Europe Ltd\* means Nordam Europe Limited, company number 3223042, whose registered office is at Hawtin Park, Blackwood, Gwent, NP2 2EU.

\*Delivery Address\* means the address for delivery stated on the Order.

\*Delivery Date\* means the delivery date or period specified on the Order.

\*Goods\* means all those goods and materials described in the Order.

\*Intellectual Property Rights\* means patents, trade marks, service marks, trade names, design rights (whether registrable or otherwise), copyright, know how and other similar rights or obligations whether registrable or not in any country.

\*Order\* means Nordam Europe Ltd's purchase order for the purchase of the Goods and/or purchase of the Services.

\*Price\* means the total price of the Goods and/or Services.

\*Services\* means the services (if any) described in the Order.

\*Specification\* means the plans, drawings, data and other technical information relating to the Goods and/or Services.

\*Standards\* means the safety, technical and regulatory standards of the Goods and/or Services referred to in the Specification.

\*Supplier\* means the person, firm or company to whom the Order is addressed.

\*Writing\* includes E-Mail, cable, EDI, facsimile transmission and comparable means of communication.

## 2. APPLICATION OF TERMS

2.1 These Conditions are the only conditions upon which Nordam Europe Ltd is prepared to deal with the Supplier and they shall govern the Contract to the entire exclusion of all other terms or conditions.

2.2 Each Order for Goods or Services by Nordam Europe Limited from the Supplier shall be deemed to be an offer by Nordam Europe Ltd to purchase Goods or Services from the Supplier subject to these Conditions and no Order shall be accepted until the Supplier either expressly by giving notice of acceptance, or impliedly by fulfilling the Order, in whole or in part accepts the offer.

2.3 No terms or conditions endorsed upon, delivered with or contained in the Seller's quotation, acknowledgement or acceptance of order, specification or similar document will form part of the Contract and the Supplier waives any right it otherwise might have to rely on such terms and conditions.

## 3. VARIATION

No variation to the Order or to these Conditions shall be binding unless made in writing and signed by both parties.

## 4. INSPECTION AND TESTING

(a) Nordam Europe Ltd shall be entitled to:-

(i) inspect and test the Goods, this includes any records associated with the Goods during their manufacture, processing or storage at any reasonable time at the Supplier's works or at the premises of subcontractors and the Supplier shall afford to Nordam Europe Ltd all such facilities as may be reasonably required by Nordam Europe Ltd, 4(a)(i) includes Nordam Europe Ltd regulatory bodies and customers when in conjunction with a surveillance audit.

(ii) require one or more samples to be submitted for inspection and testing prior to despatch of the Goods.

(b) Such inspection and testing shall not constitute acceptance by Nordam Europe Ltd and does not relieve the Supplier or any subcontractor of any responsibility under the Order, whether implied or expressed.

(c) The Supplier shall comply with all applicable regulations or other legal requirements concerning the manufacture, packaging, packing and delivery of the Goods and the performance of the Services.

(d) If as a result of any inspection or testing carried out in accordance with Conditions 4(a)(i) and (ii) Nordam Europe Ltd is not satisfied that the Goods comply in all respects with the relevant Contract, or with any other Specification notified to the Supplier by Nordam Europe Ltd, and Nordam Europe Ltd so informs the Supplier within 7 working days of such inspection or testing, the Supplier shall take all such steps as are necessary to ensure compliance.

(e) In the event that any of the Goods fail inspection and/or testing, Nordam Europe Ltd reserves the right to charge the Supplier any costs and expenses incurred by Nordam Europe Ltd for subsequent reinspection and/or testing in respect of travel and accommodation and the Supplier shall be liable to indemnify Nordam Europe Ltd for all such costs and expenses.

## 5. DELIVERY

(a) The Supplier shall deliver the Goods to Nordam Europe Ltd and the Services shall be performed at the Delivery Address during normal working hours unless specified otherwise in the Order. In the event that the Supplier delivers the Goods to the wrong address, Nordam Europe Ltd reserves the right to refuse to accept delivery at that address and/or to charge the Supplier for the costs and expenses of subsequent transfer, and the Supplier shall be liable to indemnify Nordam Europe Ltd for all such costs and expenses.

(b) The Supplier shall deliver the Goods on the Delivery Date. The Supplier shall perform the Services for the period specified in the Order. Time stipulated for delivery of the Goods or performance of the Services shall be of the essence.

(c) In the event of delivery being delayed by a Force Majeure Event, as set out in Condition 16, provided that the Supplier shall give Nordam Europe Ltd notice in writing immediately of such delay, Nordam Europe Ltd shall grant the Supplier such extension of time as may be reasonable.

(d) The Supplier shall properly pack and secure the Goods (in line with either Nordam Europe Ltd's directions or specific industry/product specifications eg, hazardous material shipments), and all despatches must prominently bear the Nordam Europe Ltd order number and Nordam Europe Ltd part codes (if any). Nordam Europe Ltd shall not be obliged to accept delivery in instalments.

(e) If for any reason Nordam Europe Ltd is unable to accept delivery of the Goods at the time when the Goods are due and ready for delivery in accordance with sub-clause (b) above the Supplier shall store the Goods, insure and safeguard them and take all steps to prevent their deterioration until their actual delivery and Nordam Europe Ltd shall be liable to the Supplier for the reasonable costs (including insurance) of his so doing.

(f) Nordam Europe Ltd shall be entitled to reject any of the Goods delivered which are not in accordance with the Contract, or in accordance with any other Specification notified to the Supplier, and shall not be deemed to have accepted any Goods until Nordam Europe Ltd has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent.

(g) The Supplier shall provide Nordam Europe Ltd in good time with any instructions or other information required to enable Nordam Europe Ltd to accept delivery of the Goods or performance of the Services.

(h) Delivery of the Goods or performance of the Services shall be made or completed not later than the Delivery Date and the Supplier shall be liable to Nordam Europe Ltd for any loss, damage, costs or expenses incurred by Nordam Europe Ltd, whether direct, indirect or consequential, if it is delayed or prevented, in whole or in part, from delivering the Goods or performing the Services or otherwise performing its obligations under the Contract for any reason whatsoever except where the Supplier is so delayed or prevented due to a Force Majeure Event, as set out in Condition 16.

(g) The Goods shall remain at the risk of the Supplier until delivery to Nordam Europe Ltd is complete (including off-loading and stacking) when ownership of the Goods shall pass to Nordam Europe Ltd.

## 6. PRICE AND PAYMENT

(a) Subject to the sub clauses below, Nordam Europe Ltd shall pay the Supplier the Price in accordance with the payment terms set out in the Order.

(b) The Price shall be exclusive of any applicable Value Added Tax (which shall be payable by Nordam Europe Ltd subject to receipt of a VAT invoice) and inclusive of all charges for packaging, packing, shipping, carriage, insurance, delivery of the Goods to the Delivery Address and any duties, imposts or levies other than VAT unless transport is paid for / arranged by Nordam Europe Ltd. In this case the shipping, carriage, insurance and delivery of goods will be the responsibility of Nordam Europe Ltd.

(c) Nordam Europe Ltd reserves the right to set off against the Price any sums owed by the Supplier to Nordam Europe Ltd in respect of Goods and/or Services or other materials and Services under the Contract or otherwise.

(d) In the event that no payment terms have been pre-agreed between the Supplier and Nordam Europe Ltd, Nordam Europe Ltd shall pay for the Goods and/or Services 60 days following the end of the month in which the Goods and/or Services are received or in which the invoice for the Goods and/or Services is received, whichever is the later.

(e) The Supplier must quote the Order reference on all invoices and send them to the address indicated on the Order. Nordam Europe Ltd will return invoices which have no Order reference. Incorrectly addressed invoices may be subject to delay in payment.

(f) Payment by Nordam Europe Ltd shall be without prejudice to any claims or rights which it may have against the Supplier and shall not constitute any admission by Nordam Europe Ltd as to the proper performance by the Supplier of its obligations hereunder.

## 7. WARRANTY AND GUARANTEE

(a) The Supplier warrants and represents to Nordam Europe Ltd that the Goods:-

(i) shall be of good and merchantable quality and fit for the purpose which they are designed to fulfil and for any purpose made known expressly or impliedly by Nordam Europe Ltd to the Supplier and will conform in all respects with the terms of the Order;

(ii) shall be free from defects in design, materials and workmanship;

(iii) shall conform to the Standards and the Specification;

(iv) shall contain appropriate Certificate of Conformity where required;

(v) shall comply with all statutory requirements and regulations relating to the sale of the Goods;

(vi) were manufactured using all reasonable care and skill;

(vii) shall be provided with adequate instructions to enable Nordam Europe Ltd to make full use of the Goods; and

(viii) shall be sold free from all encumbrances.

(ix) In the event that any defects in design, material specification or workmanship is identified by or reported to the supplier during manufacture or in-service use the supplier must notify Nordam Europe Ltd within 5 working days of such notification, so that any recall actions required can be communicated to Nordam Europe Ltd customers.

(b) In respect of the Services, the Supplier warrants and represents to Nordam Europe Ltd that it shall:

(i) perform the Services with reasonable care and skill;

(ii) provide suitable qualified and experienced personnel to carry out the Services or related tasks;

(iii) provide the Services in a timely and efficient manner; and

(iv) provide the Services in accordance with any reasonable instruction notified by Nordam Europe Ltd.

(c) The Supplier warrants and represents to Nordam Europe Ltd that the sale or use of the Goods and the use of the Services does not infringe any Intellectual Property Right of any third party.

(d) If any Goods or Services are not supplied or performed in accordance with the Contract then Nordam Europe Ltd, without prejudice to any of its other rights or remedies, may require the Supplier forthwith either to:

(i) repair the Goods or to supply replacement Goods or Services in accordance with the Contract and within such reasonable time period as Nordam Europe Ltd may stipulate; or

(ii) treat the Contract as discharged by the Supplier's breach and require the refund to Nordam Europe Ltd of the Price (or part thereof) paid by Nordam Europe Ltd in respect of such Goods or Services. Repaired Goods and/or replacement Goods or Services provided in accordance with Condition 7(d) shall be subject to the provisions of this Agreement in the same manner as those originally provided hereunder.

(e) Notwithstanding that Nordam Europe Ltd has inspected and accepted the Goods, the Supplier shall guarantee the Goods for a period of twelve (12) months from the date of delivery to Nordam Europe Ltd and shall investigate the cause of any faults and promptly repair to Nordam Europe Ltd's satisfaction or replace without charge to Nordam Europe Ltd all or any part of the Goods found to be faulty by reason of defective material, design or workmanship within the guarantee period. Nordam Europe Ltd shall despatch the Goods for return carriage paid to the Supplier and the Supplier shall deliver the repaired Goods or replacements free of costs to the destination specified by Nordam Europe Ltd.

## 8. LIABILITY AND INDEMNITY

- (a) In addition to and without prejudice to the generality of these Conditions, the Supplier undertakes to keep Nordam Europe Ltd fully indemnified against all liability, loss, damage, costs and expenses (including but not limited to legal expenses) directly or indirectly arising from or incurred or paid by Nordam Europe Ltd in relation to:-
- (i) any damage to Nordam Europe Ltd's property and any claims for loss, injury or death to any third party or the property of any third party by reason of the Supplier's negligence or any act or omission on the part of employees, subcontractors or agents of the Supplier arising out of the execution of the Order or the failure to adequately insure against this liability;
  - (ii) failure of the Goods to be of good and merchantable quality and fit for the purpose for which they were designed to fulfil or other purpose made known expressly or impliedly by Nordam Europe Ltd to the Supplier;
  - (iii) any defect or fault discovered in the Goods including, without limitation, defects in design, materials and workmanship;
  - (iv) failure of the Goods to conform to the Standards and the Specification;
  - (v) failure of the Goods to comply with all statutory requirements and regulations relating to the sale of the Goods;
  - (vi) any encumbrance over the Goods;
  - (vii) failure to provide the Services with reasonable care and skill;
  - (viii) failure of the Supplier to provide suitable qualified and experienced personnel to carry out the Services or related tasks;
  - (ix) failure to provide the Services in a timely and efficient manner;
  - (x) any claim for infringement of any Intellectual Property Rights which arises as a result of the sale or use of the Goods or Services; and
  - (vi) delivery of the Goods or performance of the Services after the Delivery Date.
- (b) Nordam Europe Ltd shall not be liable to the Supplier in contract, tort, misrepresentation or otherwise including any liability for negligence or for breach of statutory duty for:
- (i) any loss of revenue, business, contracts, or profits; or
  - (ii) any indirect or consequential loss, howsoever arising.
- (c) Nordam Europe Ltd's aggregate liability in contract, tort or otherwise, including negligence, howsoever arising out of or in connection with the Contract shall be limited to the Price under the Contract.
- (d) Nothing in this Contract shall limit the liability of either party for death or personal injury resulting from negligence, fraud or deceit of either party or any other liability to the extent that it cannot be limited by law.

## 9 CONFIDENTIALITY

- (a) The parties shall treat each Order as confidential and, in particular, the Supplier shall not make use of the name Nordam Europe Ltd or the name of Nordam Europe Ltd's customers or suppliers for any advertisement, announcement or publicity without the prior written consent of Nordam Europe Ltd.
- (b) The Specification and all information supplied therewith, both of which contain Intellectual Property Rights, shall remain the property of Nordam Europe Ltd and are confidential. The Supplier shall not without the prior written consent of Nordam Europe Ltd use the Specification except for the purpose of the Order and shall not communicate such information to third parties except insofar as may be necessary for the purpose of the Order. The Supplier will ensure that third parties who are given confidential information keep that information confidential.
- (c) On completion of the Order or the termination of the same, at the request of Nordam Europe Ltd, the Supplier must return to Nordam Europe Ltd the Specification and any other documentation provided to the Supplier by Nordam Europe Ltd.

## 10 TERMINATION

- (a) Without prejudice to any claim or right it might otherwise make or exercise Nordam Europe Ltd shall have the right forthwith to terminate the Order by notice prior to the Delivery Date or if the Supplier commits any breach or non-observance of any of the Conditions, including a failure to deliver by the Delivery Date, whereupon Nordam Europe Ltd shall be entitled:
- (i) to return to the Supplier at the Supplier's risk and expense any of the Goods and/or Services already delivered and to recover from the Supplier any monies paid by Nordam Europe Ltd in respect of such Goods and/or Services; and
  - (ii) to recover from the Supplier any additional expenditure incurred by Nordam Europe Ltd in obtaining other Goods and/or Services in replacement of the Goods and/or Services.
- (b) Nordam Europe Ltd shall be entitled to terminate the Contract without liability to the Supplier by giving notice to the Supplier if:-
- (i) the Supplier makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or
  - (ii) an encumbrancer takes possession, or a receiver is appointed of any of the property of the Supplier; or
  - (iii) the Supplier ceases, or threatens to cease, to carry on business; or
  - (iv) Nordam Europe Ltd reasonably apprehends that any of the events mentioned above is about to occur in relation to the Supplier and notifies the Supplier accordingly.
- (c) Nordam Europe Ltd shall be entitled to cancel the Order in respect of all or part only of the Goods and/or the Services by giving notice to the Supplier at any time in which event Nordam Europe Ltd's sole liability shall be to pay to the Supplier the Price for the Goods and/or Services supplied prior to such cancellation date. Nordam Europe Ltd shall have no further liability to the Supplier as a result of any such cancellation.

## 11 NOTICES

All notices, demands, or other communications under this Contract shall be given or made in writing and shall be delivered personally or sent by first class post or facsimile transmission, addressed to the other party at the address set out in the Contract or at such other address as may be designated by notice from such other party. Any notice, demand or other communication sent by first class post shall be deemed to have been delivered (in the absence of evidence of earlier receipt) two days after the date of mailing. Any notice, demand or communication given by facsimile transmission shall be deemed to have been delivered on the next working day following transmission.

## 12 SPARES SUPPORT

The Supplier shall keep spare parts for the Goods for a period of ten (10) years from the date of the Order and where the Goods or spare parts thereof are to be made obsolete, the Supplier will give Nordam Europe Ltd at least twelve (12) months' notice in writing. Service bulletins and technical changes can be made at any time in line with OEM guidelines and requirements.

## 13 ASSIGNMENT/SUB-CONTRACTING

- (a) The Supplier shall not assign or sub-contract the Contract or any part of it without the prior written consent of Nordam Europe Ltd.
- (b) In any case, where the Contract is assigned or sub-contracted in accordance with Condition 13(a) above, the Supplier will ensure that the assignee or sub-contractor, as the case may be, agrees to be bound by the Contract and these Conditions, and such assignment or sub-contract shall in no way limit or affect the obligations or liability of the Supplier hereunder.
- (c) Nordam Europe Ltd shall be entitled to assign or novate the rights and liabilities under this Contract to any affiliate of Nordam Europe Ltd at any time.

## 14 AMENDMENTS

No amendment, interpretation or waiver of any of the provisions of the Order, the Contract or these Conditions shall be effective unless made in writing and signed by the authorized representatives of Nordam Europe Ltd and the Supplier.

## 15 ENFORCEMENT

The failure to enforce or to require the performance at any time or times of any of the provisions of the Contract or these Conditions shall not be construed to be a waiver of such provision, and shall not affect either the validity of the Contract or these Conditions or any part thereof or the right of any party thereafter to enforce each and every provision in accordance with the terms of the Contract and these Conditions.

## 16 FORCE MAJEURE

Neither party shall be liable to the other under the Contract, for any loss or damage which may be suffered by the other party due to any cause beyond the first party's reasonable control including any act of God, severe weather, failure or shortage of power supplies, flood, drought, lightning or fire, the act or omission of Government, war, military operations, acts of terrorism or riot, strike or lock-out, trade dispute or labour disturbances (a "Force Majeure Event"). A Force Majeure Event shall not include the delay or failure in manufacture, production or supply by third parties of the Goods or Services.

## 17 DATA PROTECTION

- (a) In this Condition, in addition to the terms defined in Condition 1, the following expressions shall have the following meanings:
- "Personal Data" means information defined as such in the current EU Data Protection Directive or information treated as personal data under any other law or regulation applicable to the information.
  - "Applicable Data Protection Law" means the current EU Data Protection Directive or other applicable law or regulation as amended from time to time.
- (b) The parties acknowledge that in providing the Goods and Services, the Supplier may process Personal Data, and/or disclose it to third parties. The Supplier shall have in place adequate technical and organisational security measures so that the confidentiality of this processing complies with applicable data protection laws.

## 18 ENTIRE AGREEMENT

- (a) The Contract together with these Conditions represents the entire understanding between the Supplier and Nordam Europe Ltd in relation to its subject matter and supersedes all prior agreements, understandings or arrangements made by either party, whether oral or written.
- (b) Where special conditions specified by Nordam Europe Ltd are stated on the face of the Order, such special conditions shall apply equally with these Conditions, except that where there is any inconsistency between the two, the special conditions stated on the face of the Order shall apply.
- (c) No variation to the Contract shall be effective unless reduced to writing and signed by or on behalf of a duly authorised representative of each Party.

## 19 AUTHORITY

Each party to the Contract represents and warrants that it has the full legal right, power and authority to perform its obligations under the Contract and these Conditions and that the person executing the Contract has been duly authorised to sign the Contract on behalf of such party.

## 20 SEVERABILITY

In the event that any one or more of the provisions contained in the Contract or these Conditions shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of the Contract or these Conditions, but the Contract or these Conditions shall be construed as if such invalid, illegal or unenforceable provision had never been set forth herein, and the Contract and these Conditions shall be carried out as nearly as possible according to their original terms and the remaining provisions of the Contract shall continue in full force and effect.

## 21 LAW

The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English and Welsh law and the parties submit to the exclusive jurisdiction of English and Welsh Courts.

## 22 RIGHTS OF THIRD PARTIES

The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

## 23. COMPLIANCE WITH APPLICABLE LAWS:

- a. "Applicable Law" means any applicable statute, treaty, regulation, order, procurement policy, rule, license or certificate of a government, and includes the (i) regulations of EASA and the FAA, including without limitation, Federal Aviation Regulation 121 Appendix I & J – Anti drug and Alcohol Misuse Prevention Program; (ii) the Export Administration Regulations of the U.S. Commerce Department's Bureau of Industry and Security ("EAR"); (iii) the International Traffic in Arms Regulations of the U.S. State Department's Directorate of Defense Trade Control ("ITAR"); (iv) rules and regulations of the U.S. Treasury Department's Office of Foreign Assets Control; and (v) all export and import laws of Seller's country and of the United States.
- b. "EASA" means European Aviation Safety Agency or any successor organization.
- c. "FAA" means the Federal Aviation Administration of the United States Department of Transportation or any successor organization.
- d. Seller represents and warrants that:
- i. The Products and Seller's performance under this Order shall comply with all Applicable Law;
  - ii. Seller is fully authorized under all Applicable Law to receive all relevant Intellectual Property, raw materials, supplies and services in accordance with the terms of this Order; and
  - iii. Seller is fully authorized under all Applicable Law to supply Products in accordance with the terms of this Order.
- e. Seller will be fully responsible for and defend, indemnify and hold Buyer and Buyer's customers harmless from all fines, penalties and damages resulting from any breach by Seller of any of the representations, warranties, covenants and agreements contained in this Order. This Section 22 shall survive the termination or expiration of this Order.

## 24. ETHICS:

NORDAM is committed to conducting its business fairly, impartially, and in an ethical and proper manner. Supplier verifies that Supplier has read and understands NORDAM's Standard for Ethical Business Conduct found at [http://www.nordam.com/myNordam/public\\_documents.aspx](http://www.nordam.com/myNordam/public_documents.aspx) and shall comply with the Standard while performing its obligations to NORDAM.

