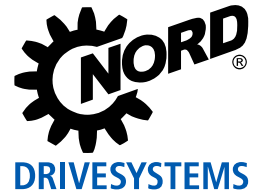


# GETRIEBEBAU NORD

Member of the NORD DRIVESYSTEMS Group



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## **General terms and conditions of Getriebebau NORD GmbH & Co. KG**

### **Section 1 Scope of application**

- (1) The terms and conditions stated below shall form the exclusive basis for all legal relationships between us and our customers.
- (2) Within the meaning of these terms and conditions, customers shall be exclusively traders within the meaning of Section 14 German Civil Code, legal persons under public law, or special funds under public law.
- (3) The version of the general terms and conditions valid at the time of conclusion of contract shall apply. This can be accessed free of charge in a storable and printable form at "[www.nord.com](http://www.nord.com)".
- (4) Any conflicting general terms and conditions of the customer shall only apply if we have given express written consent.

### **Section 2 Conclusion of contract**

- (1) An order by the customer shall be considered a binding offer. At our discretion, we may accept this offer within 30 days by sending an order confirmation, or by delivering the ordered goods to the customer within this term.
- (2) Our offers shall be non-binding. This shall also apply to the configuration of our products in our internet portal. For the contract conclusion at our discretion, item (1) above shall apply.
- (3) When a contract is concluded, any related documentation such as figures, drawings, weights and measurements as well as information in our publications shall only be decisive if expressly designated as binding.

Without our express and binding commitment, the descriptions of features, for example as part of briefings, brochures or advertisements, as well as the information from the internet portal shall not constitute a quality or durability guarantee.

(4) The technical data and designs of our products shall be subject to changes in the interest of technical progress.

### **Section 3 Prices and terms of payment**

(1) Our prices shall apply ex works, excluding packaging, plus the applicable legal value added tax.

(2) Unless otherwise agreed in writing, the price shall be due and paid without deduction within 30 days from invoicing. Upon expiry of the payment period, the customer shall be in default of payment.

(3) For contracts with an agreed delivery time of more than four months, we shall reserve the right to increase prices as a consequence of potential cost increases due to collective agreements or increased material costs. If such an increase exceeds 5% of the original price agreed, the customer shall have the right of withdrawal.

(4) If we become aware that the customer has inadequate assets for the fulfilment of the contract prior to sending our order confirmation, we shall reserve the right to only deliver cash on delivery (immediate payment upon delivery) or on advance payment (immediate payment prior to delivery). Cheques shall only be deemed to be payment after unreserved crediting to our account, whereby we reserve acceptance of the said.

(5) In case of default or other apparent credit unworthiness of the customer after sending our order confirmation, all existing claims against the customer shall become immediately due. In this case, we shall reserve the right to offset incoming payments against the oldest claims, according to Section 367 German Civil Code, initially against the costs and interests there and then against the principal claim. In addition and also in deviation from any existing order confirmation, which has already been sent, we shall also be entitled to only provide outstanding deliveries and services against advance payment, or to withdraw from the contract after a reasonable period of grace. However, the customer shall be entitled to avoid these consequences by provision of security.

(6) The customer shall only be entitled to offset claims uncontested by us or legally established against us. The customer shall only be entitled to exercise a right of retention, if his counterclaim is based on the same contractual relationship.

#### **Section 4 Delivery, passing of risk**

- (1) We shall be entitled to partial deliveries to a reasonable extent.
- (2) Our delivery shall be ex works.
- (3) The delivery shall be effected at the customer's risk (loss, impairments, delays). This shall also apply if we have agreed on Carriage Paid To (CPT). If dispatch is delayed for reasons beyond our control, the risk is passed upon notification of readiness for despatch. The legal passing of risk due to default in acceptance shall remain unaffected.
- (4) At the express written request of the customer, we insure the goods to be sent against all transport risks at his expense.
- (5) Packaging shall be invoiced at cost price. Other agreements shall require our express written confirmation. If the packaging ordinance obliges us to take back the packaging materials used for transport, the customer shall bear the costs of the return transport of the packaging used.
- (6) Our delivery dates shall not be binding, unless they have been expressly stated to be binding in the written order confirmation. If we are unable to meet an agreed delivery date for reasons beyond our control (for example in case of force majeure, official measures, non-culpable events such as strikes, lockout or missing self-delivery by our external suppliers), we will inform the customer without delay and establish a new delivery date as appropriate to the circumstances. Six weeks after a non-binding delivery date has been exceeded, the customer may request the delivery from us, setting a reasonable period of grace. Upon expiration of the period of grace, we are in default in delivery. The events stated in Clause 2 shall not be our responsibility even if they occur during a period of grace set by the customer or during an existing default.
- (7) If the customer is entitled to a compensation for any damage caused by delay, this shall be limited to 0.5% of the agreed price for every complete week of delay in the event of ordinary negligence on our part, but not more than 5% of the of the agreed price (excluding VAT) for the part of the delivery and/or service in respect of which a default exists. After expiry of the set period, the customer shall furthermore be entitled to withdraw from the contract. In the event that the customer withdraws from the contract, he will be refunded with any advance payments. In the event of ordinary negligence on our part, the customer may not claim compensation instead of the payment.
- (8) Design and form changes as well as other variations or changes to the scope of delivery shall remain

reserved for the entire delivery period, as long as the changes or variations are reasonable for the customer, taking into account our interests.

## **Section 5 Obligations to cooperate, and acceptance**

### **I. Within the framework of concluded sales contracts**

The customer shall be obliged to accept the goods awaiting dispatch. If he does not meet this obligation, we shall be entitled to set a period of grace of two weeks. After expiry of the set period, we will withdraw from the contract at our discretion, and claim compensation. Compensation for loss of profit is 15% of the purchase price. It shall be valued higher or lower, if we provide evidence of a higher profit, or if the customer provides evidence that the lost profit was lower or that no profit arose at all. Furthermore, in case of standard parts, the expenses for disassembly and storage may be claimed as further compensation items. In case of custom-made products, the production and scrappage costs shall be refunded.

### **II. Within the framework of concluded works contracts**

(1) The performance object of a works contract is the achievement of a certain performance result (for example within the framework of a repair order).

We shall decide at our own discretion on the deployment of employees and shall reserve the right to replace employees at any time. If necessary, we may also deploy subcontractors to render the performance.

(2) If we render the performance at a customer site, he shall create the necessary conditions so that we can access the performance object, and he shall support us in rendering the performance. In particular, he provides suitably qualified personnel to clarify technical and organisational issues for the complete period of performance provision.

(3) As soon as we have rendered the performance/partial performance in full, we will present the performance result to the customer for acceptance/partial acceptance. The customer shall fully check the performance result within a period of seven calendar days and provide us with a written acceptance/partial acceptance or with a written notification on any defects. If there is no statement from the customer within this period or acceptance, the performance result shall be considered accepted/partially accepted. Defects, which decrease the use of the performance result only insignificantly shall not give any entitlement to refuse acceptance/partial acceptance. If we receive a written list of defects from the customer in time, we will remedy the legitimate deficiencies stated in this list and will provide the performance result again for acceptance/partial acceptance. In case a works contract has several individual items, which the customer can deploy independently, those individual items shall be

accepted separately and independently.

### **Section 6 Reservation of title**

(1) All goods delivered by us shall remain our property until full settlement of all our claims – irrespective of their legal grounds. In the case of a current account, the reserved ownership shall be the security for our balance claim.

(2) As long as the customer is not in default towards us, or as long as his assets or creditworthiness do not significantly deteriorate, he may sell the goods being our ownership in the normal course of business on its normal terms. As a security for all of our claims from the business relationship, the customer shall assign to us, already now, all claims in the amount of the final invoice amount (including VAT), accrued to him from resale to his customers or third parties – irrespective of whether the goods are resold with or without processing. We shall accept this assignment. The customer shall be entitled to collect these claims even after the assignment to us. Our right to collect the claims ourselves shall remain unaffected; however, we shall commit ourselves not to collect the claims as long as the customer is not in default, or as long as his assets or creditworthiness do not significantly deteriorate. In this case, we may demand that the customer discloses the assigned claims and their debtors, provides us with all the particulars required for collection, delivers the corresponding documents and notifies the debtor (third party) of the assignment.

(3) The processing or modification of goods delivered by us shall always be on our behalf without any obligations resulting for us thereof. If the goods are processed using objects not being our ownership, we shall acquire the joint ownership of the new item in proportion of the value of our product to the other processed objects at the time of processing. For the item produced by processing, the same shall apply as for the reserved goods.

(4) If the goods are inseparably combined or blended with objects not being our ownership, we shall acquire the joint ownership of the new item in proportion of the value of our product to the other combined or blended objects at the time of combining or blending. If combining or blending is done in a way that the customer's item is to be considered the main item, it shall be agreed that the customer assigns proportional joint ownership to us. The customer shall hold the sole or joint ownership for us.

(5) To secure our claims against him, the customer shall also assign all claims against a third party, which accrue to him through the connection of the product with a real estate.

(6) Pledging, security assignments or other dispositions shall be prohibited for the customer.

(7) Where the customer acts contrary to the contract, in particular in the event of default, the issue of an arrest order to asset disclosure, an asset disclosure, or the request for the opening of insolvency proceedings on his assets, we shall be entitled, after setting a reasonable period, to regain ownership of the goods still in the possession of the customer without implying a withdrawal. For this purpose, the customer shall already allow us access to his business headquarters during office hours to record the goods.

(8) The customer shall inform us in writing of any third-party access to the reserved goods immediately after discovery. The customer shall be liable for all costs incurred for the prohibition of such access, in particular by the institution of third-party proceedings, if the reimbursement of expenses cannot be obtained from the respective third party.

(9) We shall be obliged at our discretion and upon customer request to release our securities as far as their value exceeds the claims to be secured by more than 20%.

## **Section 7 Warranty**

### **I. Within the framework of concluded sales contracts**

(1) With regard to the type, extent and quality of the goods, the details stated in the order confirmation shall be exclusively definitive. Other public statements by us shall not be relevant for the agreed quality of the goods.

(2) The customer's warranty claims shall require his compliance with his legal obligations to inspect and to give notice. The customer has to allow us the necessary time and opportunity to inspect the notified defect and, in particular, has to provide the goods for this purpose.

(3) For defects acknowledged by us, we shall provide rectification at our discretion by means of remedy of the defect (reworking) or by delivery of a defect-free item (replacement delivery). Our legal right of refusal shall remain unaffected.

(4) If three reworking attempts or replacement deliveries are fruitless, the customer may withdraw from the contract or demand reduction of the purchase price. The obligation to give notice of defects according to Paragraph 2 shall remain in effect in the event of failure of rectification.

(5) For components, which are installed to remedy the defect, the customer may make warranty claims for the goods based on the purchase contract until the expiry of the warranty period. Remedy of a defect under warranty shall not constitute a recommencement of the limitation period for the goods.

(6) Replaced components shall pass into our ownership.

(7) Warranty claims according to this Section 7 I for defective goods shall expire one year after delivery. This reduction of the period of limitation shall not apply to the following claims according to Section 8 (1). For these, the statutory warranty period of two years shall apply.

(8) Warranty claims shall be excluded if the defect is due to one of the following causes: unsuitable or improper use; excessive use; incorrect installation or commissioning; natural wear and tear; operation under conditions, which deviate from those stated in the order confirmation; illegal treatment; unsuitable operating materials; substitute materials; use of oils and/or greases, which are not approved by us; mechanical, chemical, physical, electromechanical, electrochemical and/or electrical influences; actions by third parties. Furthermore, warranty claims shall be excluded if the customer carries out or commissions reworking, modifications or repairs without previously providing us with the opportunity for remedy or obtaining our written permission.

(9) Transport and packaging costs for the notified and repaired goods or replacement delivery shall be charged to the customer.

## II. Within the framework of concluded works contracts

(1) With regard to the type, extent and quality of the performance result to be achieved, the details stated in the order confirmation shall be exclusively definitive. Other public statements by us shall not be relevant for the achievement of the performance result.

(2) The customer shall give us written notification of defects in a comprehensible form together with the necessary information for remedy.

(3) For defects acknowledged by us, we shall provide rectification at our discretion by means of remedy of the defect (reworking) or by delivery of a defect-free item (replacement delivery). Our legal right of refusal shall remain unaffected.

(4) If three reworking attempts or replacement deliveries are fruitless, the customer may withdraw from the contract or demand reduction of the payment or remedy the defect himself and demand reimbursement of the necessary expenses. The obligation to give notice according to II (2) shall remain in effect in the event of failure of rectification.

(5) For components, which are installed to remedy the defect, the customer may make warranty claims for the work based on the works contract until the expiry of the warranty period. Remedy of a defect under warranty shall not constitute a recommencement of the limitation period for the work.

(6) Replaced components shall pass into our ownership.

(7) Warranty claims according to this Section 7 II for poor works shall expire one year after acceptance of the performance. This reduction of the period of limitation shall not apply to the following claims according to Section 8 (1). For these, the statutory warranty period of two years shall apply.

(8) Warranty claims shall be excluded if the defect is due to one of the following causes; unsuitable or improper use; excessive use; incorrect installation or commissioning; natural wear and tear, operation under conditions, which deviate from those stated in the order confirmation; illegal treatment; unsuitable operating materials; substitute materials; use of oils and/or greases, which are not approved by us; mechanical, chemical, physical, electromechanical, electrochemical and/or electrical influences; actions by third parties. Furthermore, warranty claims shall be excluded if the customer carries out or commissions reworking, modifications or repairs without previously providing us with the opportunity for remedy or obtaining our written permission.

(9) Transport and packaging costs for the notified and repaired work or replacement delivery shall be charged to the customer.

### **Section 8 Liability**

(1) We shall be liable for compensation – regardless of the legal grounds – only in case of intent and gross negligence. We, however, shall also be liable in the event of ordinary negligence for damages resulting from

- the injury of life, body or health;
- the breach of contractual obligations. In this case, however, our liability shall be limited to the replacement of the foreseeable, typically occurring damage.

The aforementioned limitations of liability shall not apply if we fraudulently concealed a defect or accepted any liability. The same shall be valid for claims by the buyer according to the Product Liability Act.

(2) Our exclusion or limitation of liability to that extent shall also apply to the liability of our legal representatives, employees and agents.

(3) We shall assume no liability for data networks, servers or data lines to our data centre, and the constant availability of our internet portal.



## **Section 9 Copyright**

We shall reserve any property rights and copyrights related to figures, drawings, patterns and other documentation. The customer shall only be entitled to contractual use. Any further use/deployment, in particular the disclosure to third parties, shall require our prior written permission.

## **Section 10 Data protection**

- (1) The personal data provided voluntarily by the customer during the offer preparation will be used strictly in line with the Federal Data Protection Act (Bundesdatenschutzgesetz, BDSG) and the German Telemedia Act (TMA).
- (2) Personal customer data shall only be collected insofar as the customer voluntarily provides such data when using the internet portal. The data shall only be processed and forwarded to third parties in so far as it is necessary for the implementing the contractual relationship between us and the customer. The data is therefore forwarded to the shipping company contracted to deliver your order, and, if required, to the financial institute authorised to process the payment. There shall be no further forwarding of data to third parties.
- (3) The customer shall be entitled to request at all times information free of charge about his personal data stored, and optionally, rectification, blocking and erasure of said data.
- (4) We shall reserve the right to establish usage profiles by means of the data collected, for the purpose of promotion, market research or user-oriented presentation of our services using pseudonyms. The customer shall be entitled to object to this usage at any time.
- (5) The contents of the data protection information ("privacy policy statement") as defined in this Section 10 are available to the customer at all times at "[www.nord.com](http://www.nord.com)".

## **Section 11 General conditions, place of fulfilment, place of jurisdiction, applicable law**

- (1) The provisions above shall fully depict the agreement, which has been concluded. There shall be no ancillary restraints. Amendments and supplements must be made in writing. The same shall apply to modifications of this written form clause.
- (2) If individual provisions are or become void or invalid as a whole or in part, this shall not prejudice the effect of the remaining provisions. Instead of the omitted or invalid provisions of this contract, the statutory law

(Section 306 (2) German Civil Code) shall apply. In case this statutory law is not available for the respective case (regulatory gap) or will lead to an unacceptable result, the parties will enter into negotiations to agree on an effective provision instead of the omitted or invalid provision, that approximates the economic purpose. Both parties shall undertake to express the respective declarations of intent.

(3) The place of fulfilment for all contractual obligations is Bargteheide.

(4) The place of jurisdiction for companies, legal persons under public law or special funds under public law is Hamburg. If a legal dispute is within the jurisdiction of the district courts, the district court Hamburg-Mitte is accepted as the competent court.

(5) The law of the Federal Republic of Germany shall apply, with the exclusion of all international and supra-national legal (contract) regulations, in particular UN sales law.

As of: 9 April 2020