

General Service Conditions of Nord Gear Limited

Definitions

The following definitions apply in these Conditions:

“we”, “our” and “us” mean Nord Gear Limited a company incorporated in England and Wales under number 02970420 whose registered office is at The St Botolph Building, 138 Houndsditch, London EC3A 7AR.

“you” and “your” mean the organisation that has placed an Order for the Services.

“Contract”: the contract between us and you for the supply of the Services in accordance with these Terms once an Order has been accepted by us.

“Goods”: the parts, plant or machinery subject to the Services and described in the Order.

“Order”: an order for Services placed by You, or your acceptance of our quotation.

“Services”: the services provided by us, including but not limited to repairs, overhauls, maintenance, local repairs, modifications and commissioning of the Goods or relevant Nord software.

“Software”: the software contained within certain Goods and which may need to be adjusted as part of the Services, in accordance with the Software Settings.

“Software Settings”: the function specifications and files as provided by you; or as advised by us based on your requirements.

“Terms”: these general service terms and conditions.

Section 1 General

(1) These Terms apply to the provision of the Services in addition to our General Terms of Business, available on our website: https://www.nord.com/en/documentation/forms/details/tob_united-kingdom.jsp. These Terms and our General Terms of Business apply to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by law, trade, custom, practice or course of dealing. In the event of any conflict between these Terms and our General Terms of Business, these Terms shall prevail.

(2) An Order constitutes an offer by you to purchase Services in accordance with these Terms. The Order shall only be deemed to be accepted when we issue written acceptance of the Order or by commencing the provision of the Services (Commencement Date) at which point, and on which date, the Contract shall come into existence. Any quotation given by us shall not constitute an offer, and is only valid for a period of 1 calendar month from its date of issue. Our offers are non-binding, unless and until accepted by you and confirmed by us in writing.

(3) You are responsible for the operating permit for your Goods. If a country-specific operating permit is impaired by an overhaul or modification you are obliged to obtain this at your expense.

(4) Furthermore, you are responsible for compliance with the Machinery Directive 2006/42/EC indicated with the CE label, if renewed inspection of safety relevant requirements and conditions, or a restoration of conformity is necessary due to the replacement or modification of one of our products.

(5) We do not undertake services for functional safety of Goods. You are responsible for compliance with the relevant regulations and standards.

(6) You must notify us in good time and prior to the commencement of any Services, of any hazardous contamination, residues or materials in the Goods, products, , and transportation crates, or at your premises (if the Services will be performed there), as well as other measures or specific instructions which are relevant to the Services.

Section 2 Non-feasible service

(1) In the event that we incur costs in the provision of a cost estimate for Services, or other demonstrable expenses prior to the commencement of the Services, and we are unable to carry out the Services due to reasons beyond our control, these costs will be invoiced to the you in our sole discretion.

In the event that the Services cannot be performed for circumstances attributable to you, we reserve the right to charge for the time spent in our attempts to complete the Services in line with your Order.

(2) In the event that:

a) An alleged fault in the Goods which is subject to an Order cannot be found during an inspection of the Goods

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in question;

- b) General troubleshooting in an attempt to locate an apparent fault in anticipation of Services is required;
- c) Replacement parts cannot be obtained;
- d) You have culpably failed to meet an agreed deadline; or
- e) The contract has been terminated by you or us during provision of the Services,

We reserve the right to charge for all or some of our fees as set out in the Contract, at our sole discretion.

(3) If any of the instances set out in clause 2(2) occurs, we may restore the Goods subject to the Services to their original condition at your explicit request and providing that you meet our costs in doing so.

(4) In the event of non-feasible services occurring, as described in this Section, we are not liable for damage to the Goods, breach of contractual obligations or for damage which has not been caused by our attempts to provide the Services.

Section 3 Costs and cost estimates

(1) The price for the Services will be stated to you on the creation of the Contract, in accordance with the price quotation.

(2) Notwithstanding clause 3(1), prices quoted by us are estimates only and are subject to change. If the Services cannot be performed at the costs quoted in the Contract, or we consider further work to be necessary in the course of provision of the Services, we shall inform you and obtain your agreement to the additional costs that are likely to be incurred in order to complete the Services. Upon such agreement, we shall complete the Services, and be entitled to charge for such additional work. If we do not receive your agreement of the additional costs within 30 days of such notice, then we shall be entitled to cancel the Order or to complete part or all of the Services at our reasonable discretion.

Section 4 Price and payment

(1) We are entitled to demand an appropriate advance payment on creation of the Contract.

(2) The prevailing rate of VAT will be charged in addition to the cost of the Services.

(3) If we become aware that you have inadequate assets for fulfilment of the Contract prior to sending our Order confirmation, we reserve the right to only provide the Services against immediate payment or payment in advance. Cheques are only deemed to be payment after unreserved crediting to our account, whereby we reserve acceptance of the said cheque.

(4) In case of arrears of payment or your other credit unworthiness becomes apparent after sending our order confirmation, all existing amounts due for payment by you fall due immediately. In this instance, we reserve the right to account incoming payments against the oldest claims, initially against the said costs and interests and then against the main claim. In addition, in deviation from any existing order confirmation which has already been sent, we are also entitled to provide outstanding deliveries and services against advance payment or to withdraw from the Contract.

(5) In some instances, we reserve the right to ask you for a deposit to be paid prior to commencement of the Services. Any such request shall be confirmed in our quotation. In all cases, we shall invoice you (for the balance or for payment in full, as appropriate) on completion of the Services.

(6) You shall pay each invoice submitted by us:

(a) within 14 days of the date of the invoice, or in accordance with any credit terms agreed by the Supplier and confirmed in writing to you; and

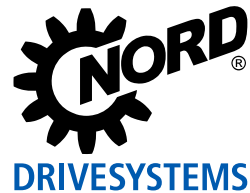
(b) in full and in cleared funds to a bank account nominated in writing by us, and time for payment shall be of the essence of the Contract.

(7) All amounts payable by you under a Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under a Contract by us to you, you shall, on receipt of a valid VAT invoice from us, pay to us such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

(8) If you fail to make a payment due to us under the Contract by the due date, then, without limiting our remedies, you shall pay interest on the overdue sum from the due date until payment of the overdue sum, in accordance with the Late

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Payment of Commercial Debts (Interest) Act 1998.

Section 5 Your obligations

(1) You shall:

- (a) ensure that the terms of the Order are complete and accurate;
- (b) co-operate with us in all matters relating to the Services, including the provision and availability of your personnel in providing technical assistance, if required;
- (c) provide us, our employees, agents, consultants and subcontractors, with access to your premises, office accommodation and other facilities as reasonably required by us;
- (d) provide us with such information and materials as we may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- (e) prepare your premises for the supply of the Services, where applicable
- (f) obtain and maintain all necessary licences, permissions and consents and all appropriate insurance which may be required for the Services before the date on which the Services are to start;
- (g) comply with all applicable laws, including health and safety laws;
- (h) keep all materials, tools, equipment, documents and other property belonging to us (Nord Materials) at your premises in safe custody at your own risk, maintain the Nord Materials in good condition until returned to us, and not dispose of or use the Nord Materials other than in accordance with our written instructions or authorisation; and
- (i) comply with any additional obligations as set out in the Contract or otherwise agreed between us.

(2) If our performance of any of our obligations under the Contract is prevented or delayed by any act or omission by you or failure by you to perform any relevant obligation (Default):

- (a) without limiting or affecting any other right or remedy available to us, we shall have the right to suspend performance of the Services until you remedy the Default, and to rely on the Default to relieve us from the performance of any of our obligations in each case to the extent the Default prevents or delays our performance of any of our obligations;
- (b) we shall not be liable for any costs or losses sustained or incurred by you arising directly or indirectly from our failure or delay to perform any of our obligations as set out in this clause; and
- (c) you shall reimburse us on demand for any costs, expenses or losses sustained or incurred by us arising directly or indirectly from the Default, including but not limited to, damage to or loss of our plant, equipment or tools used during the provision of the Services.

(3) In the case of provision of programming services you must indicate the relevant information relating to interfaces or provide such information prior to provision of the programming service.

(4) Any assistance by you must ensure that the Services can commence immediately on arrival of our personnel and can be carried out without delay up to the point of completion of the Services. If it is necessary for us to supply plans and instructions, we shall provide these to you in good time.

(5) If we supply a replacement part in the provision of the Services, you must check that there is no impairment of the function of the replacement part. We only provide information regarding the technical characteristics of the replacement part. Compatibility of all technical characteristics of the replacement part is not evaluated by us.

Section 6 Transport

(1) Unless otherwise agreed in writing, transportation of the Goods subject to the Contract to and from your premises or our premises, including any packaging and loading shall be carried out at your expense. Otherwise you shall deliver the Goods subject to the Contract to us at your expense and collect them after completion of the Services.

(2) Transportation of the Goods is entirely your risk. We accept no responsibility for damage, delay or any other loss or damage caused during the transportation, loading and unloading of the Goods, howsoever caused.

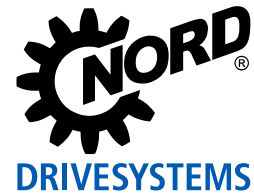
(3) In the event the Goods are in our possession, but you delay acceptance of the Contract, we may charge a storage fee for storage of the Goods at our premises. At our discretion, the Goods may also be stored elsewhere. We accept no liability for the Goods during any such storage period and the costs and risks of storage shall be borne by you.

Section 7 Period of service, delays

(1) Time is not of the essence for the completion of the Services. Any time periods for completion of the Services contained within the Contract are estimates only and shall not bind us to complete the Services within any such time period.

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(2) Any request for the Services to be completed within a specific time period must be provided in advance of the Commencement Date and must be accompanied by a precise scope of work in the Contract. We shall use reasonable endeavours to meet any such specific time period.

(3) In the event of additional and extended Orders or in the case of necessary additional work agreed between the parties, any agreed period for completion of the Services shall be extended accordingly.

(4) If the provision of the Services is delayed due to industrial disputes, in particular strikes and lock-outs, or the occurrence of circumstances beyond our control, the deadline for performance of the Services shall be extended to a reasonable extent for as long as such obstructions demonstrably have a significant effect on the provision of Services. Should the obstruction continue for longer than 6 months then either party may terminate the Contract with immediate effect by providing written notice to the other.

Section 8 Acceptance

(1) You are obliged to accept services upon their completion and once any contractually provided acceptance testing of the Goods has been performed. We shall use our reasonable endeavours to eliminate the defect if the Services prove not to be compliant with the contract or the acceptance tests. We shall perform no more than 3 re-tests if the initial acceptance test indicates that the Services have not remedied the apparent fault in the Goods, or otherwise fulfilled the purpose of the Contract.

Re-testing shall not take place for cosmetic defects or due to a circumstance for which you are responsible. You may not refuse acceptance if no significant defect exists.

(2) If you delay acceptance for reasons for which we are not responsible, acceptance is deemed to have been made after the expiry of two weeks after the acceptance testing has completed or in the absence of acceptance testing, our notification that the Services are complete.

(3) On acceptance, we are no longer liable for defects which are attributable to us if you have not reserved a claim for a particular defect.

Section 9 Reservation of title, extended lien

(1) We reserve the right of ownership to all accessories, spare parts and replacement units until receipt of all payments resulting from the Contract.

(2) We are entitled to a right of lien for our claims arising from the Contract on the Goods that come into our possession due to the Contract. The right of lien can also be claimed for claims from previously supplied deliveries and services if these are in association with the Goods. The right of lien only applies to other claims from the business relationship if these are undisputed or legally binding.

Section 10 Claims for defects

(1) With regard to the type, extent and characteristics of the Services to be provided, the details stated in the Contract are definitive.

(2) You must give us written notification of faults promptly and in a comprehensible form together with the necessary information for rectification of the fault.

(3) At our discretion, we shall provide rectification of faults which are acknowledged by us by means of remedy of the fault (reworking) or by delivery of a fault-free item (replacement delivery).

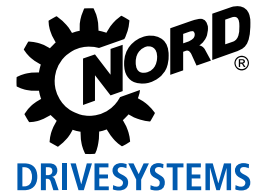
(4) If the Goods in need of repair or replacement are under warranty, you may make warranty claims for the work completed under the Contract until the expiry of the warranty period for components which are installed to remedy the fault. Proof of the relevant warranty is required in order to make such a claim. Remedy of a fault under warranty does not constitute a recommencement of the limitation period set out in this clause.

(5) Components in the Goods that are replaced become our property.

(6) In the event that we provide a warranty for the Services carried out, warranty claims for defective Services are subject

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to a period of limitation of one year after acceptance of the Services in accordance with Section 8.

(7) Warranty claims are excluded if the fault 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 relevant Contract or manufacturer's guidelines; improper treatment; unsuitable operating materials; substitute materials; use of oils and/or greases which are not approved by us; mechanical, chemical, physical, electro-mechanical, electro-chemical and/or electrical influences; actions by third parties.

(8) Furthermore, warranty claims are excluded if you carry out or commission reworking, modifications or repairs without previously providing us with opportunity for remedy or obtaining our written permission.

Section 11 Liability

(1) Nothing in these Terms or a Contract will limit or exclude our liability for:

- i. Death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors (as applicable);
- ii. Fraud or fraudulent misrepresentation;
- iii. Breach of these terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); or
- iv. Any matter in respect of which it would be unlawful for us to exclude or restrict liability.

(2) Subject to clause 11(1), we shall not be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit or indirect or consequential loss arising under or in connection with these Terms or the Contract (including any such losses that may result from our deliberate personal repudiatory breach of the Terms or Contract); and our total liability to you in respect of all other losses arising under or in connection with these Terms or the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, including losses caused by our deliberate personal repudiatory breach, will not exceed the price of the Services. Any claim made under these Terms or a Contract shall be limited to the price paid for the Services.

(3) If the Goods are damaged by us, we shall have the option of repairing these at our expense, providing new Goods or providing a replacement at our discretion.

(4) All claims by you, for whatever reason, are subject to the statutory periods of limitation from the date that the action giving rise to a claim occurred.

Section 12 Software

(1) In the case of provision of Services involving Software or relating to the Software Settings, any settings required by you must be provided to us prior to commencement of the Services. Alternatively, if you require us to advise on the appropriate settings required, then you must notify us of your function specification requirements prior to commencement of the Services. Your use of the Software is on the basis of a non-exclusive licence being granted by us.

(2) In addition, the following provisions apply in association with Software Settings provided by us.

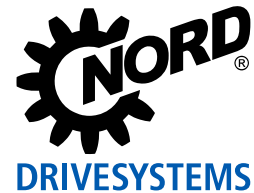
- a) Claims of defects are excluded if we cannot replicate any error, or where satisfactory evidence of the fault cannot be provided by you, or where such defects are due to: (i) factors which were not known at the time of completion of the Services; (ii) modifications by third parties; (iii) misuse or incorrect use by you or (iv) incompatibility with the IT environment used by you. Trial operation and acceptance of the Software Settings prior to use in production is your responsibility;
- b) Data backup is your responsibility;
- c) In the case of Software Settings, the function specifications provided by you will be implemented as closely as possible. We accept no warranty that use of the Software Settings does not infringe patents or registered designs of third parties.

Section 14 Compensation by customers

(1) You shall indemnify us against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by us

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arising out of or in connection with:

- (a) any breach of your obligations contained within Section 5;
- (b) your breach or non-performance of these Terms or a Contract;
- (c) the enforcement of these Terms;
- (d) any claim made against us by a third party arising out of or in connection with the provision of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of these Terms by you, your employees, agents or subcontractors;
- (e) any claim made against us by a third party for death, personal injury or damage to property arising out of or in connection with your defective products, plant or machinery, to the extent that the defect in your products, plant or machinery is attributable to the acts or omissions of you, your employees, agents or subcontractors.

Section 15 Termination

- (1) Without affecting any other right or remedy available to us, we may terminate a Contract by giving you written notice.
- (2) Without affecting any other right or remedy available to us, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
 - (a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 10 days of that party being notified in writing to do so;
 - (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
 - (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
 - (d) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- (3) Without affecting any other right or remedy available to us, we may terminate a Contract with immediate effect by giving written notice to you if:
 - (a) you fail to pay any amount due under the Contract on the due date for payment; or
 - (b) there is a change of control of your organisation.
- (4) Without affecting any other right or remedy available to us, we may suspend the supply of Services under a Contract or any other contract between us and you if you fail to pay any amount due under a Contract on the due date for payment, you become subject to any of the events listed in Clause 13(2)(b) to Clause 13(2)(d), or we reasonably believe that you are about to become subject to any of them.
- (5) On termination of a Contract:
 - (a) you shall immediately pay to us all of our outstanding unpaid invoices and, in respect of Services supplied but for which no invoice has been submitted, we shall submit an invoice, which shall be payable by you immediately on receipt;
 - (b) you shall return all of our materials, tools, parts and equipment in your possession which have not been paid for. If you fail to do so, then we may enter your premises and take possession of them. Until they have been returned, you shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- (6) Termination or expiry of a Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- (7) Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

Section 16 General

- (1) Unless otherwise stated in the Contract, the place of fulfilment of the Contract is our place of business.
- (2) Any notice given by either party to the other party shall be in writing addressed to that other party at its registered office or principal place of business.

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- (3) A person who is not a party to these Terms or a Contract shall not have any rights under or in connection with it.
- (4) Except as set out in these Terms, no variation of a Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- (5) A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- (6) If any provision or part-provision of these Terms or a Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Clause 15 shall not affect the validity and enforceability of the rest of these Terms.
- (7) These Terms and the Contract constitute the entire agreement between the parties and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into a Contract it does not rely on and all have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- (8) These Terms, a Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or their subject matter or formation, shall be governed by, and construed in accordance with, the laws of England. The courts of England shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these Terms or its subject matter or formation.