

GENERAL TERMS AND CONDITIONS OF SUPPLY OF DISTRIBUTION SERVICES (DS) OF NORMA GROUP

Version 11/2018

Exclusively for use with business persons acting in the course of business when concluding the contract.

1. Scope of Application

1.1. The present General Terms and Conditions of Supply of Distribution Services ("DS Terms") shall apply exclusively to all present and future business relations between any entity of the NORMA Group (hereinafter referred to as "NORMA") and the Purchaser concerning the purchase of movable items ("Products") and any services related to the purchase of Products ("Services") even if they are not explicitly agreed on again. A list of entities of NORMA as amended from time-to-time can be found at NORMA's website

<https://www.normagroup.com/corp/en/about-worldwide/>.

1.2. References by the Purchaser to its own general terms and conditions are hereby rejected. Any purchase order of Purchaser containing or referencing conflicting, different or additional terms, conditions or provisions shall not constitute a waiver, alteration or modification of the present DS Terms. Upon placing an order by Purchaser, but by no later than the receipt of the delivery of the ordered Products or Services, Purchaser recognizes the sole binding nature of these DS Terms. They are an integral part of every contract, quotation or offer of NORMA.

1.3. Any deviating, contradictory or supplementary general terms and conditions, even if known or not expressly objected to by NORMA, shall not become a part of the contract, unless their application has been expressly agreed in writing.

2. Offer and Conclusion of Contract, Documents, Release of Drawings

2.1. Offers by NORMA are non-binding and only to be understood as a request for the submission of an order.

2.2. By placing an order for the Products or Services the Purchaser makes a binding offer to purchase the ordered Products or Services. Purchaser is bound by this offer placed by an order from the time of its receipt by NORMA and for a period of two weeks.

A binding contract only comes into force upon a written confirmation of order issued by NORMA. Oral agreements or commitments shall require NORMA's written confirmation to come into effect. Emails and an exchange via the Electronic Data Interchange (EDI) shall satisfy the written form requirement of this Clause 2.2.

2.3. The Purchaser shall inform NORMA as soon as possible of any unusual kind of stress to which the Products to be delivered will be subjected and point out any other risks which could arise in the course of their use.

2.4. NORMA shall be the exclusive owner and reserves all rights in particular, but without limitation, property rights and copyrights to its sales documents (including, but not limited to, drawings, illustrations, specifications or other documentation relating to the Products). They must neither be exploited nor made available to third parties without prior written approval by NORMA and must be returned to NORMA without undue delay upon request. If quotations, offers or order confirmations refer to NORMA's product catalogue or brochure material, only the most recent released version thereof shall be relevant.

2.5. Purchase orders can only be made by the Purchaser up to a maximum net purchase value equal to the difference between the amount of an agreed credit limit and the amount currently owed to NORMA for Products purchased or otherwise outstanding to NORMA. NORMA reserves the right to apply for the first time or modify a credit limit for the Purchaser at any time by providing eight weeks prior written notice, provided that in such case the Purchaser shall be entitled within such eight weeks period to terminate the agreement with immediate effect and that failing such termination the credit limit shall apply with effect of the first day following expiry of the eight weeks period.

2.6. NORMA reserves the right to assign any claims arising from the business relationship with the Purchaser to any third Party.

3. Delivery Dates, Delay, Force Majeure

- 3.1. Delivery deadlines and delivery periods are only binding if they have been confirmed by NORMA in writing and Purchaser has disclosed or provided in a timely manner all of the information, Quality Specifications, released plans, documents, approvals and releases to NORMA which are required for the execution of delivery and has paid any agreed advanced payments in accordance with the terms of contract. Agreed periods shall commence on the date of the confirmation of order or the notice of acceptance. In the event of subsequently issued, additional or expanded orders, the periods shall be extended accordingly.
- 3.2. NORMA shall be entitled to make partial deliveries on justified grounds if such partial deliveries are reasonable to Purchaser.
- 3.3. Unforeseeable and unavoidable events outside of NORMA's sphere of influence for which NORMA bears no responsibility (such as force majeure, war, natural disasters, strikes, lock-outs, governmental measures, scarcity of energy and raw materials, damage from fire and explosions, traffic and operational disruptions, cyber-attacks, sovereign acts or similar events) shall discharge NORMA from its duty to make timely delivery for their duration. Agreed periods shall be extended by the duration of the disruption; the Purchaser shall be informed by NORMA without undue delay upon becoming aware of such disruption in an appropriate manner of the occurrence of the disruption. If the end of the disruption is not foreseeable or should it last for more than two months, each Party is entitled to cancel the contract with respect to the affected scope of performance.
- 3.4. If the Purchaser anticipates to be unable to accept delivery of the Products at the agreed delivery time, Purchaser shall forthwith notify NORMA in writing thereof, stating the reason and, if possible, specifying the time when Purchaser will be able to accept delivery.
- 3.5. Regardless of Clause 3.4 above, should Purchaser be in default of acceptance or be in breach of other duties of cooperation, NORMA shall be entitled to store the Products at the risk and expense of Purchaser or to cancel the contract irrespective of any other rights it may have. NORMA shall also, if the Purchaser so requires, insure the Products at the Purchaser's expense.

- 3.6. In the event that deliveries by NORMA are delayed, the Purchaser shall only be entitled to withdraw from the contract, provided that NORMA is responsible for the delay and the Purchaser had set a reasonable period of grace for effecting delivery and that NORMA had not provided the Products, within this period of grace. In the case that NORMA made a partial delivery, the Purchaser can only withdraw from the contract as a whole if the Purchaser cannot use the partial delivery due to the default.
- 3.7. With respect to the deliveries of those Products for which NORMA purchases raw materials and supplier parts from its suppliers, this shall be subject to timely delivery by its own suppliers.

4. Prices

- 4.1. The agreed prices between NORMA and Purchaser are fixed prices, provided the Parties have not agreed otherwise.
- 4.2. All Prices of NORMA are stated ex-work, including one-way packaging, excluding any other costs for shipping and/or insurance costs which shall be calculated separately and added at cost price.
- 4.3. Prices do not include V.A.T. or any other incurred taxes and expenses which will be shown separately on the invoice in the respective legally applicable amount.
- 4.4. In case of an increase of costs irrespective of its kind, but especially in case of an increase of costs for raw materials, NORMA shall be entitled to start price negotiations with Purchaser. Both Parties shall conduct such negotiations applying the principles of good faith. If the Parties do not reach an agreement upon new prices within three (3) months starting such price negotiations by either Party, each Party is entitled to terminate with immediate effect the respective contract or price agreement as well as any supply contracts agreed under such contract or price agreement. Any (accepted) orders performance already has started will be processed after such termination.

5. Payment, Payment Default, Insolvency

- 5.1. NORMA's invoices shall become due for payment without any deduction within 30 days following the receipt of invoice by Purchaser unless otherwise agreed in writing. If this period for payment expires without success, Purchaser shall be in default.

- 5.2. Purchaser is only entitled to a set-off, if his counterclaim has been finally adjudicated or is uncontested.
- 5.3. Purchaser is only entitled to claim a right of retention to the extent his counterclaim is based on the same contract and is uncontested or finally adjudicated.
- 5.4. In the event that the Purchaser is in default with his payments, NORMA shall be entitled to demand default interest in the statutory amount. The assertion of a claim for further damage caused by such default of payment shall remain unaffected.
- 5.5. In case of default NORMA shall be entitled to call due any accounts not yet due in the current business relationship with Purchaser.
- 5.6. If based on the default of payment of Purchaser NORMA rescinds or terminates the contract and such rescission or termination constitutes a claim for damages of NORMA against Purchaser, NORMA is entitled to claim a lump-sum payment of 5 % of the total value of the contract. Purchaser, however, is entitled to demonstrate that the resulting damage of NORMA due to the default of payment of Purchaser is lower compared to such lump-sum.
- 5.7. If NORMA becomes aware of the risk that Purchaser may possibly not be able to perform after the conclusion of contract, NORMA is entitled to make any still outstanding deliveries only against advanced payment or provision of security. If the advanced payments or securities have not been provided even after the expiration of a reasonable grace period, NORMA may cease making delivery until the advanced payments have been made or the securities have been provided or rescind all of the affected contracts in full or in part. NORMA's assertion of further rights shall remain unaffected.
- 5.8. Payment by Purchaser shall only be deemed effected if NORMA can dispose of the amount.
6. [Shipment, Passage of Risk, Insurance, Excess Deliveries](#)
- Sections 6.1 to 6.3 shall only apply if and to the extent the Parties have not agreed on the Incoterms 2010 or the Incoterms do not provide a corresponding provision:
- 6.1. To the extent the Parties have not agreed otherwise, deliveries by NORMA shall be "Ex Works NORMA".
- 6.2. If the Parties have agreed upon but not specified in detail the delivery of Products, NORMA will determine means of transport and freight forwarder or shipper accordingly. The Products shall be delivered or provided by NORMA in standard packaging and with no corrosion protection.
- 6.3. Risk shall pass to Purchaser upon delivery of the Product to the shipping company or to Purchaser himself. Should delivery or shipment be delayed on grounds for which Purchaser is responsible, risk shall pass to Purchaser on the date of the notification of the readiness of the Product for shipment.
- 6.4. Upon shipment of the Products by NORMA, NORMA will insure the Products at the request of Purchaser and at his costs against damages in transit, breakage, fire and accident.
- 6.5. Depending on the quantity for a position, the following excess deliveries customary in trade shall be permissible and do not constitute a defect in terms of Clause 9 below:
- 6.6. No. of Pieces Permitted excess delivery in %
- | | |
|---------------|-----|
| 11-100 | 20 |
| 101-1000 | 5 |
| 1001 and more | 2.5 |
7. [Retention of Title](#)
- 7.1. NORMA shall retain title to the Products until any and all claims of NORMA arising under its business relationship with Purchaser have been fully paid.
- 7.2. In the event of current accounts, such retention of title shall serve to secure the balance of unpaid balances to which balance NORMA is entitled.
- 7.3. Purchaser shall only be permitted to sell the Products that are subject to the retention of title ("Retained Products" - "Vorbehaltsprodukte") in the ordinary course of business. Purchaser hereby already now assigns its claims from such resale to NORMA and NORMA hereby accepts such assignment. Purchaser is granted the revocable authorization to collect the claims assigned to NORMA in its own name on a trust basis. NORMA may revoke such authorization and the right to resell the Retained Products if Purchaser is in default of any material obligation such as payment to NORMA; in the event of a revocation, NORMA is entitled to collect the respective claim itself. Purchaser is not entitled to pledge the Retained Products, assign

them as security or make other dispositions endangering NORMA's title to them. In case Purchaser sells the Retained Products after processing or transforming or after joining, blending or mixing with other goods or otherwise together with other goods, then the assignment of claim shall be deemed to have only been agreed in the amount of that part which corresponds to the price agreed upon between NORMA and Purchaser plus a safety margin of 10 % of that price.

- 7.4. Any processing or transforming of the Retained Products by Purchaser shall always be on behalf of NORMA. If the Retained Products are processed together with other goods, NORMA shall acquire the co-ownership in the new product in the ratio of the value of the Retained Product to the other processed items at the time of processing. For the new product created by processing the same provisions shall apply as are applicable for the Products delivered under reservation.
- 7.5. If the Retained Products are joined or blended with other goods, NORMA shall acquire the co-ownership in the new product in the ratio of the value of the Retained Products to the other items at the time of joining or blending. If the joining or blending takes place in such a way that Purchaser's goods are to be considered as the main goods, then it is agreed that Purchaser shall transfer the co-ownership to NORMA on a pro rata basis. Purchaser shall keep the created co-ownership on behalf of NORMA.
- 7.6. Purchaser shall provide NORMA at any time with all requested information about the Retained Products or claims, if any, which are assigned to NORMA under any contract. Accesses to or claims by third parties to the Retained Products shall be immediately reported to NORMA by Purchaser and accompanied by the necessary documents. Purchaser shall at the same time advise the third party of NORMA's retention of title. The costs of a defence against accesses and claims shall be borne by Purchaser.
- 7.7. Purchaser is obliged to treat the Retained Products with due care for the duration of the retention of title and – if possible - to mark them as property of NORMA.
- 7.8. Should the realizable value of the securities exceed all of NORMA's claims which are to be secured by more than 10 %, Purchaser shall be entitled to demand a release to such extent.
- 7.9. In the event Purchaser is in default of any material obligations such as payment to NORMA, NORMA will be entitled to take back the Retained Products and upon rescission of the contract may otherwise realize them for the purposes of satisfying its due claims against Purchaser without prejudice to any other rights NORMA may have. In case of a claim for their return, Purchaser shall grant NORMA or NORMA's agents immediate access to the Retained Products and handover the same. Should NORMA demand the handover under this clause, this shall not be deemed as rescission of the contract.
- 7.10. In case of deliveries into other jurisdictions in which the above provisions governing the retention of title do not have the same security effects as in Germany, Purchaser shall take all measures in order to provide NORMA immediately with equivalent security interests. Purchaser shall cooperate in all activities such as registration or publication which are necessary or beneficial for the effectiveness and enforceability of such security interests.

8. Complaints

- 8.1. Purchaser's rights because of defects in the Products (cf. Section 10 below) require that the Purchaser inspects the Products upon delivery and notifies NORMA without undue delay in writing by indicating the relevant invoice number, but by no means later than one (1) week after delivery; obvious / apparent transport damages and incomplete or obviously false deliveries must be reported to NORMA in writing in each case without undue delay. Hidden defects must be reported to NORMA in writing without undue delay upon their discovery.
- 8.2. The notice of defect shall contain a description of the defect and also the shipping note number in order to enable NORMA to allocate the delivery in question.
- 8.3. In the case of each notice of defect, NORMA shall have the right to inspect and test the rejected Product. For this purposes Purchaser will grant NORMA the required period of time and opportunity to exercise such right. NORMA may also demand from Purchaser that he returns the rejected Product to NORMA at NORMA's expense.

9. Rights in the Case of Defects/Warranty

9.1. The Product shall upon the passage of risk comply with:

- i. the agreed quality; the agreed quality shall exclusively be determined by the specific agreements made by the Parties in writing with regard to the characteristics, features and characteristics of performance of the Product ("Beschaffenheitsvereinbarung" – "Quality Specifications"), and
- ii. the prototypes and/or samples released by Purchaser (if and to the extent such Production Release has been agreed).

NORMA will not assume any general warranty for the fitness of its Products for certain purposes of use pursued by Purchaser unless NORMA has explicitly warranted the fitness of the Product for the intended purpose of use in writing.

Purchaser is solely responsible for the decision on whether a Product that complies with the agreed Quality Specifications is fit for a certain purpose and for the nature of its use.

9.2. In the event of a processing in accordance with the Quality Specifications drafted and/or released by Purchaser (cf. Clause 2.6), the quality shall be judged exclusively according to these Quality Specifications (and possibly other quality agreements made between the Parties). Purchaser shall not be entitled to any warranty claims whatsoever against NORMA for defects in the Product that are based on the Quality Specifications. In particular, Purchaser is solely responsible for the correctness and feasibility of all of the Quality Specifications and supplements which are drafted by Purchaser and delivered to NORMA and released by the Purchaser.

9.3. Information on NORMA's Web site or in the informational materials provided to Purchaser by NORMA, as well as the information describing the Product, shall not be understood as a specific guarantee for a particular quality of the Product; any such quality guarantees must be expressly agreed upon in writing.

9.4. In the following circumstances any warranty rights of the Purchaser against NORMA are excluded:

- i. The Products are manufactured according to the specifications (e.g. drawings, specifications etc.) of the Purchaser and are improper for the intended use of Purchaser,
- ii. improper or incorrect use of the Product,

- iii. inaccurate installation or putting-into operation of the Product by Purchaser or any third party,
- iv. normal wear and tear of the Product and its consumables,
- v. incorrect or improper service and maintenance and/or handling of Product according to the instructions of NORMA,
- vi. any chemical, electro-chemical and/or electrical influences NORMA is not responsible for.

9.5. NORMA shall remedy defects at its own election by removing the defect or by delivery of a replacement free from any defect, both free of charge to Purchaser (together: "Supplementary Performance").

9.6. NORMA shall bear the costs of transport, travel, labor and materials which accrue for the purpose of Supplementary Performance. If the notice of defect proves to be unjustified due to willful misconduct or gross negligence and if Purchaser was aware of this fact prior to notifying the defect, Purchaser shall be liable to NORMA for the reimbursement of all the expenses (e.g. travel and shipping costs) and damages incurred in this context.

9.7. NORMA shall be entitled to refuse Supplementary Performance, if such Supplementary Performance is only possible upon unreasonable costs. The assessment, if such costs are unreasonable is based on the circumstances of each single case. Indications for such disproportion of costs being on hand shall be especially, if the costs of the chosen kind of Supplementary Performance exceed by at least 20 % compared to the costs for the alternative kind of Supplementary Performance (so-called relative disproportion) or if the costs for Supplementary Performance exceed by 150% of the value of a defect-free Product or by 200 % of the defect-based reduced value of the Product (so-called absolute disproportion).

9.8. Should the Supplementary Performance fail, should such remedy be unreasonable for Purchaser or should NORMA have refused Supplementary Performance pursuant to Clause 9.8 above or Section 439 subs. 4 of the German Civil Code, Purchaser may, at his option in accordance with the statutory provisions, rescind the contract, reduce the purchase price and/or claim damages pursuant to Clause 10 or the reimbursement of his expenses.

- 9.9. The limitation period for Purchaser's rights due to defects shall be 12 months from the delivery of the Product to Purchaser. The statutory limitation periods shall apply for Purchaser's claims for damages due to reasons other than defects of the Product and with respect to Purchaser's rights in the event of the fraudulent nondisclosure of defects or defects caused by willful misconduct, as well as in the case of Products that have been used for structure works in accordance with their customary manner of use and have caused the defectiveness of such structure.
10. [Limitation of liability, Product Liability](#)
- 10.1. For the breach of material contractual duties or "cardinal duties" caused by slight negligence, the amount of NORMA's liability shall be limited to the typically foreseeable damage at the time of entering into the contract. Material contractual duties (or cardinal duties) are those duties which create the legal position for Purchaser that the content and purpose of the contract was specifically supposed to grant to him, as well as those duties whose performance make the orderly fulfillment of the contract possible in the first place and upon the performance of which Purchaser regularly relies and may regularly rely.
- 10.2. NORMA shall not be liable for the slight negligence breach of contractual duties other than those stated in Clause 10.1.
- 10.3. In all other respects, Purchaser's statutory claims to damages shall remain unaffected; in particular, NORMA shall be fully liable in the event of willful misconduct and gross negligence.
- 10.4. Unless otherwise stated in these DS Terms there shall be no liability for either Party towards the other Party for loss of production, loss of profit, loss of use, loss of contracts or for any other consequential or indirect damages whatsoever.
- 10.5. The above-mentioned limitations of liability in Clauses 10.1, 10.2 and 10. 4 do not apply in case of mandatory statutory liability (including, but not limited to the Product Liability Act), or in the case of culpable personal injury or damage to health, or loss of life when these can be attributed to NORMA, guarantees given by NORMA or fraudulently undisclosed defects.
- 10.6. If Purchaser sells the Product, he shall indemnify NORMA within their internal relationship from any product liability claims of third parties, provided he is responsible for the defect causing such liability.
11. [Disputes and Applicable Law](#)
- 11.1. The competent court of jurisdiction at the location of the respective supplying entity of NORMA is the exclusive court of jurisdiction for all disputes arising under the contractual relationship. NORMA is entitled, however, to sue Purchaser at any other court having statutory jurisdiction.
- 11.2. These DS Terms and the relevant contract have to be construed according to the laws of Germany, excluding, however, the provisions of the United Nations Convention on Contracts for the International Sale of Goods.
12. [Confidentiality, Final Provisions](#)
- 12.1. All documents, sketches, designs, drawings, calculations and other documents provided or otherwise disclosed to the Purchaser shall remain the property of NORMA. Purchaser shall ensure that they are treated confidential, i.e. that they are not disclosed to any third parties or used for any purposes other than for the purposes hereof. In particular, without limitation, without limitation, Purchaser shall treat confidential all prices and other terms and conditions agreed with NORMA.
- 12.2. If a provision of the contract and/or these DS Terms, should be or become invalid as a whole, or in part then this does not affect the validity of the remaining provisions.
- 12.3. The Parties undertake in such case to replace the invalid provision by such valid provision that comes as close as possible to the commercial purpose of the invalid provision.
- 12.4. Purchaser may not assign his claims against NORMA to third parties without the written consent of NORMA.
- 12.5. Changes and supplements to the contract between NORMA and Purchaser and/or to these DS Terms and side agreements must be in writing. This shall also apply to modifications of this written form requirement.
13. [Anti-Corruption and Anti-Money Laundering Contractual Provisions](#)
- 13.1. Purchaser represents and warrants to NORMA that:
- 13.1.1. in carrying out its responsibilities under any contract including these DS Terms, neither Purchaser nor any director, officer, employee, agent, or shareholder thereof shall, directly or indirectly, pay, promise to pay,



or authorize the payment of any money, or give, promise to give, or authorize the giving of anything of value to any official or employee of any government, or of any agency or instrumentality of any government (including any official or employee of the country of use or of any of its agencies or instrumentalities or political subdivisions) or of any of its agencies or instrumentalities or political subdivisions), or to any political party or official thereof, or to any candidate for political office (including any party, official, or candidate in the country of use), or to any official or employee of any public international organization, for the purpose of influencing any act or decision of such official or employee or otherwise promoting the business interests of NORMA in any respect. Purchaser further represents and warrants that no payment, authorization, promise, or gift of the sort described in this paragraph has been made prior to the date of the relevant contract (including these DS Terms).

13.1.2. Neither Purchaser nor any of its subsidiaries, directors, officers, employees or agents, shall use Purchaser's relationship with NORMA to attempt to disguise the sources of illegally-obtained funds. Purchaser further represents and warrants that no such attempt of the sort described in this paragraph has been made prior to the date of the relevant contract (including these DS Terms).

13.1.3. Purchaser agrees to comply with the terms of NORMA's Code of Conduct and its sub-policies which can be found on NORMA's website ([http://www.norma-group.com/norma.nsf/id/CR- Compliance-Policies](http://www.norma-group.com/norma.nsf/id/CR-Compliance-Policies)), as amended from time to time by NORMA.

13.2. Notwithstanding any other provision of these DS Terms, NORMA may immediately suspend the relevant contract, and any payments required under the relevant contract (including these DS Terms), in the event it should receive information which it determines in good faith and in its sole discretion to be evidence of a breach by Purchaser of any undertaking in subsections 13.1.1, 13.1.2, or 13.1.3 above.

13.3. In the event of receipt of such evidence and/or such suspension, NORMA shall have the right to audit Purchaser in order to satisfy itself that no breach has occurred, and Purchaser shall fully cooperate with any such audit or related inquiry by NORMA. NORMA shall consult with Purchaser and may thereafter immediately terminate the relevant contract (including these DS Terms) by written notice, effective immediately, if NORMA, acting in good faith and in its sole discretion, is reasonably satisfied that such a breach has occurred, or that Purchaser has failed to cooperate fully with NORMA's audit or related inquiry.

13.4. In no event shall NORMA be obligated to take any action under a contract and/or these DS Terms if NORMA, acting in good faith and in its sole discretion, believes that to do so would cause NORMA to be in violation of any nation's or territory's laws, including but not limited to the U.S. Foreign Corrupt Practices Act.