

Norcon Computers Limited

Purchase Order Conditions

1. Application and interpretation

THESE CONDITIONS SHALL APPLY IN RESPECT OF ALL GOODS AND/OR SERVICES ORDERED UNDER A PURCHASE ORDER UNLESS A WRITTEN CONTRACT SIGNED BY BOTH PARTIES HAS BEEN OR IS SUBSEQUENTLY ENTERED INTO BETWEEN NORCON COMPUTERS LIMITED AND THE SUPPLIER FOR SUCH GOODS AND/OR SERVICES AND THE PARTIES EXPRESSLY AGREE THAT THESE CONDITIONS SHALL NOT APPLY. SAVE AS SET OUT ABOVE (WHERE THESE CONDITIONS SHALL NOT APPLY) THESE CONDITIONS SHALL APPLY TO ALL PURCHASE ORDERS AND SHALL TAKE PRECEDENCE OVER ANY TERMS AND CONDITIONS PROVIDED BY THE SUPPLIER WHETHER BEFORE OR AFTER THE ISSUE OF THE PURCHASE ORDER.

In these conditions, where the context admits:

“Contract” means the agreement between NORCON COMPUTERS LIMITED and the Supplier which incorporates these Purchase Order Conditions and the requirements set out in the Purchase Order, including any Specification(s) referred to or described in the Purchase Order;

“NORCON” means NORCON COMPUTERS LIMITED (registered in England under number 1740750), whose registered office is at Patricia House, 4 Melbourne Business Court, Pride Park, Derby, DE24 8LZ, its successors and/or permitted assigns;

“Goods” means the goods and/or equipment and/or materials to be supplied under the Purchase Order;

“Purchase Order” means the NORCON purchase order used by NORCON to order the Goods and/or Services from the Supplier in accordance with requirements set out in the purchase order;

“Purchase Order Price” means the price (exclusive of VAT) accepted by NORCON as payable to the Supplier for the supply of the Goods and/or Services in accordance with the Purchase Order;

“Specification” means the specifications, drawings, samples and patterns (if any) referred to or described in the Purchase Order against which the Goods and/or Services are to be supplied, and any modifications to them that may be agreed;

“Services” means the services to be supplied under the Purchase Order;

“the Supplier” means the person(s) who undertake(s) to supply the Goods and/or Services under the Purchase Order and its or their successors and/or permitted assigns;

“Warranty Period” means twelve months from the date on which the Goods and/or Services (and, where applicable under clauses 10 and 12, the replaced, repaired and/or re-supplied Goods and/or Services) are actually delivered and/or supplied; (and if the Goods and/or Services are delivered and/or supplied in separate consignments, from the date on which each consignment is actually delivered and/or supplied); or such other Warranty Period as may be stated in the Purchase Order.

2. Specification and standards

Without prejudice to or limitation of NORCON’s statutory rights, the Goods and/or Services supplied shall comply in all respects with the Specification, and if no Specification is referred

to in the Purchase Order, the Goods and/or Services shall be of the best quality appropriate for the purpose (if any) specified by NORCON.

The Supplier shall provide the Services in accordance with any timescales and other instructions set out in the Purchase Order, diligently, in a timely manner and with all due care and professional skill.

When on NORCON's site(s) the Supplier shall comply with all reasonable oral or written directions provided by NORCON.

3. Access and safety

Where the Supplier is required to enter NORCON's premises in order to supply the Services, the Supplier, its employees, agents and subcontractors shall at all times comply with all current applicable laws, regulations and approved codes of practice relating to health, safety, access and security, issued by appropriate authorities and all current policies and written or oral instructions relating to health, safety, access and security issued by NORCON. Please obtain a copy of relevant health and safety policies by contacting NORCON.

4. Delivery

The Supplier shall deliver the Goods and/or Services in accordance with the instructions shown on the Purchase Order (including the delivery address) and any specified delivery date and time of delivery shall be of the essence of this Contract. NORCON will be under no obligation to accept or pay for quantities of Goods and/or Services delivered in excess or in advance of the quantity, date or rate (as appropriate) stipulated by such instructions.

Unless otherwise provided in the Purchase Order, no charge shall be made by the Supplier for packing cases and materials or for delivery to the specified place of delivery.

Each delivery of Goods shall be accompanied by a delivery advice note which must clearly show the quantities being delivered and the Purchase Order number. Failure to set out such detail may cause delays in acceptance of the delivery.

5. Invoices

Invoices must be forwarded to NORCON in accordance with the instructions contained in the Purchase Order. Unless otherwise agreed in writing, invoices must be submitted no earlier than the delivery date of each consignment of Goods and/or Services and must show any applicable trade or settlement discount, the Purchase Order number and the delivery advice note number for the Goods. Any invoices without the Purchase Order number shall not be paid by NORCON.

6. Payment

NORCON shall, in respect of Goods and/or Services which have been delivered and accepted in accordance with these conditions and for which NORCON has received a valid, correct and undisputed invoice, pay the Supplier in respect of that invoice within 60 days from the receipt of that invoice), unless otherwise stated in the Purchase Order.

7. Quality assurance

Any costs incurred by the Supplier in arranging compliance with the quality standards required by NORCON shall be borne by the Supplier.

8. Assignment and sub-contracting

The Supplier shall not, without the prior written consent of NORCON assign or transfer or purport to assign or transfer any of its rights or obligations under this Contract.

The Supplier shall not without the prior written consent of NORCON (such consent not to be unreasonably withheld) subcontract this Contract or any part thereof. Any consent given by NORCON shall not relieve the Supplier from its obligations under this Contract.

The Supplier shall be responsible for any acts, defaults, or neglects of any subcontractor, its employees and agents in the supply of any Services or any part thereof as if they were the acts, defaults, or neglects of the Supplier.

9. Intellectual property rights

The Supplier shall indemnify NORCON against all loss, damage, costs and expenses for which NORCON is or becomes liable in connection with any claim or allegation that the use of or possession of the Goods and/or any deliverables supplied pursuant to the Services infringes or is alleged to infringe any third party's intellectual property rights.

10. Rejection and replacement

Without prejudice to or limitation of its statutory rights NORCON may, within the Warranty Period, notwithstanding the use or continued use by NORCON of the Goods after the right to reject them has arisen and/or notwithstanding that the Services have been provided, reject by notice in writing (without liability to NORCON) any Goods and/or Services which, in the opinion of NORCON, are not of satisfactory quality and/or fit for their purpose and/or not in accordance with the Specification and/or the Purchase Order.

Without prejudice to NORCON's other rights and remedies, the Supplier shall in any event indemnify NORCON against all costs and expenses incurred by NORCON as a result of the Supplier's original supply of the rejected Goods and/or Services (including, without limitation, NORCON's warehousing and carriage charges).

The Supplier shall remove rejected Goods within 14 days of the date of NORCON's notice of rejection, failing which NORCON may (at its sole option) deliver them to the Supplier, in either case at the Supplier's cost and risk.

Where such rejected Goods and/or Services form part of a series of consignments, nothing in this clause shall prevent NORCON from accepting subsequent consignments if the Goods and/or Services contained within such subsequent consignments are acceptable to NORCON.

11. Value added tax

The Supplier, if registered for VAT, will supply a valid VAT invoice, including a statement of how the supply in question is rated for the purposes of tax, and show separately any relevant rates of tax relating to the Goods and/or Services. The Supplier shall provide further information as may reasonably be required in relation to any such invoice.

12. Warranty

Without prejudice to NORCON's other rights and remedies, if during the Warranty Period, any defect occurs in any of the Goods and/or Services due to the material, workmanship, performance or design of the Goods and/or Services not being in accordance with this Contract or any applicable statutory or regulatory standards, the Supplier shall as soon as practicable and in any event within a reasonable time as stipulated by NORCON replace or repair such defective Goods and/or, at NORCON's option, re-supply the Services or remedy the defect in such Services, at its own expense. Goods replaced or repaired and/or defects remedied in Services or Services re-supplied under this clause shall be subject to a fresh warranty commencing on the actual date of delivery of the repaired or replaced Goods and/or remedied or re-supplied Services and continuing for the Warranty Period.

13. Title and risk

Title in the Goods will pass to NORCON upon payment to the Supplier of the Purchase Order Price (or part thereof), save where payment (either in whole or in part) is made for the Goods prior to their delivery to NORCON, or where NORCON has supplied materials to be incorporated in the Goods, in which cases clause 13(b) shall apply.

Where under clause 13(a) this clause 13(b) applies (without prejudice to NORCON's rights under clauses 10 and 12) title to the Goods shall vest in NORCON from the commencement of their manufacture, and title to all materials and other items which the Supplier shall acquire or allocate for incorporation in any of the Goods shall vest in NORCON from the time they are so acquired or allocated.

The Goods shall be at the Supplier's risk until they are delivered to NORCON's delivery address set out in the Purchase Order notwithstanding that payment may have already been made and title passed to NORCON, and until delivery is completed the Supplier shall be responsible for any loss or damage and for arranging and paying for their storage, handling and insurance; the insurance shall be endorsed in the name of and shall protect the interests of NORCON on an "all risks" basis and shall provide cover for loss or damage in transit.

14. Statutory and other regulations

The Supplier shall comply in all respects, including but not limited to in respect of the Goods and/or Services themselves and the provision thereof, with English law and all applicable rules and regulations.

The Supplier shall ensure that the Goods are suitably packed and identified at the time of their delivery with reference to the hazards attaching to them in accordance with statutory requirements.

Without prejudice to or limitation of NORCON's other rights, if the Supplier does not fulfil its responsibilities and obligations under this Contract it shall indemnify NORCON against all costs for which NORCON becomes liable and for which it would not otherwise be liable.

15. Termination

NORCON may, without prejudice to any other power of termination or to any rights or remedies it may have, terminate this Contract forthwith by notice and the Supplier shall indemnify NORCON against all costs, expenses and damages for which NORCON becomes liable arising from such termination in the event of:

the passing by the Supplier of a resolution for its winding-up or the making by a court of competent jurisdiction of an order for the winding-up of the Supplier or the dissolution of the Supplier; or

the making of an administration order in relation to the Supplier or the appointment of a receiver over, or the taking possession or sale by an encumbrancer of, any of the Supplier's assets; or

the Supplier making an arrangement or composition with its creditors generally or making an application to a court of competent jurisdiction for protection from its creditors generally;

Without prejudice to NORCON's rights to obtain replacement Goods and/or re-supplied or remedied Services under clauses 10 and 12, if:

the Supplier commits any breach of this Contract and fails to remedy such breach within 14 days of being given written notice to do so by NORCON; or

the Supplier fails to perform its obligations under the Contract with due diligence or to comply with the specified delivery dates;

NORCON may forthwith terminate the Contract by notice and shall thereupon be entitled without any liability to NORCON:

to return to the Supplier at the Supplier's own risk and expense any of the Goods already

delivered but which cannot in NORCON's opinion be effectively or commercially used by reason of the non-delivery of Goods still undelivered; and to recover any payments made to the Supplier in respect of the Goods so returned and/or Services already supplied, where such supplied Services are not in NORCON's opinion of effective or commercial use by reason of the non-delivery of further Services which had been ordered but which will not be provided as a result of termination of the Contract; and to recover from the Supplier any additional expenditure reasonably incurred by NORCON in obtaining other Goods in lieu of those so returned and/or other Services in lieu of those considered by NORCON to be of no use (as above) and those Goods and/or Services not delivered because of the termination of the Contract. Termination of the Contract shall not prejudice or affect any right or remedy which has accrued or shall accrue thereafter to NORCON.

16. Confidentiality and non-disclosure

During the term of this Contract and thereafter, both NORCON and the Supplier shall keep confidential any commercial or proprietary information of a confidential nature belonging to each other.

Neither party hereto shall disclose to any person information concerning the transactions referred to in or the nature or subject matter of this Contract (other than to the extent required by law), without the prior written consent of the other party.

17. Governing law and jurisdiction

The validity, construction and performance of the Purchase Order and the Contract shall be governed by English law and all disputes, claims or proceedings between the parties relating to the validity, construction or performance of the Contract or the Purchase Order shall be subject to the exclusive jurisdiction of the courts of England and Wales to which the parties hereby irrevocably submit.

No claims shall be brought under the Contract after the expiry of 6 years from the date of delivery of the Goods and/or Services (or, in the case of Goods replaced and/or Services remedied or re-supplied under clauses 10 or 12, from the date of delivery of such replacement Goods and/or remedied or re-supplied Services).

18. Set off

Without prejudice to NORCON's other rights and remedies, if the Supplier is in breach of its obligations under this Contract, the Supplier shall pay or allow to NORCON such sum as is fair and reasonable in respect of any losses, damages, costs or expenses which NORCON has suffered or may become liable for by reason thereof. Such amount may be deducted from any amount which would otherwise be due to the Supplier under this Purchase Order (or any other contract between NORCON and the Supplier). As and when the amount of any such loss or damage is known, NORCON shall issue a statement in relation thereto.

19. No waiver

No failure to exercise or delay in exercising any right, power or remedy under or in connection with the Contract shall operate as a waiver thereof, and no single or partial exercise of any right, power or remedy shall preclude any further or other exercise thereof, or the exercise of any other right or remedy.