

# GENERAL TERMS AND CONDITIONS OF PURCHASE

## 1. General

- 1.1 These expressly conditional Terms and Conditions shall, to the exclusion of terms and conditions applied by third parties, govern all requests for quotations made by companies of Norden Millimeter Inc. ("Norden") to a third party ("Supplier"), as well as all agreements and acts, whether of a preparatory or executional nature, which are related thereto, such as quotations, order confirmations, purchasing orders, orders and delivery dates, except to the extent that these General Terms and Conditions specify otherwise. These General Terms and Conditions shall not apply to the performance of work by employees from a temporary employment agency.
- 1.2 Deviating conditions shall only apply to the extent that Norden expressly agrees to them in writing, and they shall apply exclusively to the agreement(s) for which they are made.
- 1.3 In these General Terms and Conditions, "goods" shall be understood to include wafers, software, firmware, databases, documentation and the results of services.

## 2. Requests for quotations

- 2.1 All requests for quotations and all information furnished in this context by or on behalf of Norden may contain industrial secrets, shall be treated with confidentiality and may only be used to prepare for the submission of a quotation. Except where required in preparing for the submission of a quotation or where permitted, any kind of reproduction or publication, of a request for a quotation shall be prohibited in any shape or form.
- 2.2 If a request for a quotation explicitly deviates from these General Terms and Conditions, said deviations shall prevail. The applicability of the Supplier's own general terms and conditions is hereby expressly ruled out.
- 2.3 The Supplier is aware that Norden can also act as a supplier and/or sub-contractor and that, in such an event, each and every request for a quotation is drawn up to the best of Norden's knowledge on the basis of information from Norden's client and that Norden can bear no responsibility in this respect, unless expressly stated otherwise in a request for a quotation.

## 3 Agreement

- 3.1 A quotation from a Supplier shall be irrevocable for a period of thirty (30) days after its receipt by Norden, unless the request for a quotation stipulates a different period.
- 3.2 Norden shall be entitled at all times to terminate negotiations without giving reasons and without being liable to compensate the other party.
- 3.3 An agreement shall be deemed to have been concluded as soon as Norden accepts a written quotation by means of placing a written order. If, however, the order is sent after expiry of the period referred to in Article 3(1) or the order deviates significantly from the quotation, the agreement shall be deemed to have been concluded in accordance with the order, unless the Supplier rejects the order in writing within fourteen (14) days of the date of the order.

The following items shall form an integral part of the agreement:

1. the (purchase) order from Norden;
2. quality flow-down requirements noted on the (purchase) order
3. these General Terms and Conditions
4. the quotation;
5. the request for a quotation.

In the event of any contradiction between the provisions contained in two different documents, the documents shall prevail in their numerical order, with 1 taking precedence over 2 etc.

- 3.4 If the Supplier has not made an offer or has made a verbal offer, the agreement shall be deemed to have been concluded by the Supplier accepting, in writing, a written order from Norden within fourteen (14) days of the date of said order.
- 3.5 Agreements may only be amended and/or supplemented in writing.

## 4 Quality

- 4.1 The goods supplied must satisfy the provisions of the agreement. They shall not be deemed to have satisfied the provisions of the agreement, if they do not possess the properties which Norden was entitled to expect pursuant to the agreement.
- 4.2 Where no detailed description has been provided of the requirements of the goods, they shall in any event be of good quality and satisfy, at the very least, the normal requirements of reliability, effectiveness and workmanship.
- 4.3 Norden shall be entitled to reject goods because they do not satisfy the provisions of the agreement, provided that Norden informs the Supplier accordingly within four (4) weeks of having discovered this to be the case. If Norden subjects the goods to inspection, a notification of defects which Norden could reasonably be expected to have detected during said inspection, must take place within four (4) weeks of the inspection having been completed.
- 4.4 The goods delivered must be free from all special third-party charges, limitations and rights, including limitations and rights which result from or are connected with intellectual property rights, with the exception of third-party charges, limitations and rights which the Supplier informed Norden about in writing and which Norden has expressly accepted in writing. The Supplier shall hold Norden harmless against third-party claims in this respect, wherever and whenever such claims might be instigated, and also against any and all damage and costs which Norden might incur in this connection.

## 5 Testing and inspection.

- 5.1 Norden shall be entitled to test and/or inspect the goods for, amongst other things, damage, quantity, quality and weight within 4 (four) weeks of their delivery.
- 5.2 The Supplier shall be obliged to render, free of charge, all reasonable cooperation required by Norden within the context of the testing and inspection, including the granting of access to the Supplier's facilities and the provision of personnel expertise.

- 5.3 Should the goods become damaged or are used during testing, the Supplier shall have no claims against Norden if the goods are partially or totally rejected, and Norden shall have no claims against the Supplier if the goods are approved.
- 5.4 Should Norden reject the goods or find them not to be in order during an inspection, the Supplier shall collect them at its own expense from Norden within fourteen (14) days of Norden having informed the Supplier in this respect. Should the Supplier fail to satisfy this obligation, Norden shall be entitled to have the goods delivered to the Supplier at the Supplier's expense, without prejudice to any of Norden's other rights or claims.

## 6 Delivery and transfer of title.

- 6.1 The Supplier shall deliver the goods within the agreed period to the agreed place.
- 6.2 Norden shall acquire title to the goods:
  - as soon as the goods are approved or found to be in order, in cases where Norden tests or inspects the goods after delivery in accordance with Article 5
  - four (4) weeks after delivery in all other cases, unless Norden informs the Supplier in writing within this period that the goods do not satisfy the provisions of the agreement.

## 7 Risk of loss

- 7.1 The risk of loss attaching to the goods shall pass to Norden with effect from the moment of delivery.
- 7.2 In the event that Norden rejects the goods, finds them not to be in order during inspection, or invokes its right to dissolve the agreement on reasonable grounds or its right to have the goods replaced, the risk of loss attaching to the goods shall be deemed to have remained with the Supplier throughout.

## 8 Prices, charges, invoices and payment

- 8.1 All prices and charges shall be deemed to include all direct and indirect costs of whatever kind.
- 8.2 The prices and charges shall be fixed, unless the agreement specifies the circumstances which may lead to price adjustments, as well as the way in which such adjustments are to take place.
- 8.3 Once Norden has acquired title to the goods, the Supplier shall send its invoices to the address specified by Norden in its order, quoting, in any event, the agreement number and the purchase order number (without prejudice to the other legally required invoice details) and enclosing the agreed documentation.
- 8.4 Invoices which satisfy the conditions of Article 8(3) shall be paid within forty-five (45) days of the date of their receipt, after any possible settlement or compensation of Norden's claims against the Supplier has taken place.
- 8.5 Norden shall not be required to pay a proportional part of an invoice if it has not received the agreed quantity of goods at the agreed address.
- 8.6 Payment as described in Article 8(4) shall not prejudice any possible recovery rights or other claims on the part of Norden with regard to the goods delivered and/or services rendered.
- 8.7 Invoices and payments shall take place in US currency.
- 8.8 Should Norden have failed to pay an invoice which satisfies the conditions of Article 8(3), without a valid reason, within the period specified in Article 8(4), Norden shall be liable to pay interest on the amount owed to the Supplier, to be calculated on an annual basis and equivalent Federal Funds Rate.
- 8.9 The expiry of a payment period or non-payment of an invoice by Norden, shall not entitle the Supplier to terminate its services or, in the event that the expiry or non-payment is a result of the defective nature of the invoiced goods or services and/or the inaccuracy (of the content) of the invoice (details), to postpone its services.

## 9 Force majeure

- 9.1 To the extent that a failure to comply with an obligation cannot be attributed to the Supplier itself and is not at the Supplier's risk, the Supplier shall not be deemed to be in default and shall not be liable to pay compensation, provided that the Supplier informs Norden in writing about the default and the underlying reasons forthwith and, in any event, within the period agreed for compliance with the obligation.

## 10 Compliance

- 10.1 If the goods delivered fail to satisfy the provisions of the agreement, Norden may demand that the Supplier deliver the missing goods, or repair or replace the goods, within a reasonable period to be specified by Norden. Any and all costs related and/or involved shall be at the Supplier's expense.
- 10.2 In the event of the Supplier still failing to render the service in question within the period referred to in the first paragraph, Norden shall be entitled to have the delivery, repair or replacement carried out by a third party, and recover the costs involved from the Supplier, without seeking prior court intervention.
- 10.3 The provisions of this paragraph 10 shall not prejudice Norden's other rights and claims with respect to the default.

## 11 Warranty

- 11.1 Without prejudice to the provisions contained in an agreement, the Suppliers warrants that:
  - software, firmware and databases shall be free of viruses and other foreign items at the time of delivery, testing and/or inspection.
  - the Supplier is unconditionally authorized to perform the services and deliver the goods encompassed in the context of the agreement.
  - the goods are suited to the purpose for which Norden ordered and received them.
  - the employees and third parties whose services the Supplier uses in the performance of its contractual obligations have sufficient and relevant expertise, experience and training.

- all services rendered and goods delivered in the context of the agreement satisfy all the relevant laws and regulations in this respect, which shall also be understood to include EC regulations, in, amongst others, the field of hazardous components, certification and standardization.
  - the Supplier possesses the permits and licenses required for the performance of this agreement.
- 11.2 If, in the opinion of Norden, the warranty stipulations described in the first paragraph have not been satisfied, the Supplier shall be deemed to be in default and Norden shall be entitled to exercise, forthwith and without seeking court intervention, the rights which it derives from said default.
- 11.3 In the event that Norden invokes Article 11(1) or (2), the resulting costs shall be at the Supplier's expense.
- 11.4 Article 11(1) through (3) shall not prejudice, either during or after the warranty period, the rights or claims which Norden can derive from an event of default.

## 12 Licenses for software/firmware/databases.

- 12.1 Norden shall acquire a non-exclusive license to use the software, firmware and databases (including new versions and releases) furnished by the Supplier under the terms of an agreement, for an indefinite period of time with effect from the time of delivery of said goods. Without prejudice to this license, the right to use the goods may be transferred to one of the companies belonging to the Norden group. The Supplier agrees that Norden is and shall remain entitled to pledge this license.
- 12.2 The license shall, in any event, be understood to include loading, displaying on screen, copying, executing, transmitting and storing. In certain cases, the license shall also be understood to include the right to issue sub-licenses and all activities required in that context.
- 12.3 The provision of the second paragraph of this Article shall not prejudice the provisions of the Copyright Act, Section VI, Special provisions for computer programs.

## 13 Transfer of intellectual and industrial property rights.

- 13.1 Without prejudice to the provisions contained in Article 4(4), Norden shall hold title to and may exercise all the intellectual and industrial property rights with regard to the results of services to be performed by the Supplier on the basis of an agreement. If any action is required in transferring title and/or any intellectual and/or industrial property rights, the Supplier shall render its unconditional cooperation in this respect at no charge. The Supplier hereby grants Norden an irrevocable power of attorney to effect the transfer (including signing the necessary documents on behalf of the Supplier) and agrees that Norden is unconditionally entitled to register and/or file the intellectual and industrial property rights in the appropriate registers or to have this done on its behalf.
- 13.2 The Supplier shall be obliged, either at Norden's first request or immediately after the dissolution and/or termination of this agreement, and for whatever reason, to accurately and fully complete and sign in duplicate the documents required to execute the provisions of the first paragraph, and to send these documents to Norden immediately.
- 13.3 The Supplier hereby unconditionally and irrevocably waives its right to exercise any possible droit moral with regard to the results of the services and/or activities to be performed on the basis of an agreement.
- 13.4 The Supplier guarantees that:
- it is unconditionally entitled and authorized to transfer the aforementioned results to Norden;
  - the aforementioned results are not encumbered with any third-party claims whatsoever and/or that no such claims have been created.

## 14 Protection of intellectual property rights.

- 14.1 The Supplier guarantees that the goods it supplies and the services it renders shall not infringe any current third-party intellectual and industrial property rights and that the use of said goods and services shall not otherwise constitute a wrongful act towards third parties.
- 14.2 The Supplier shall indemnify Norden against claims from third parties in this respect, wherever and whenever such claims might be instigated.
- 14.3 In the event that the Supplier admits that the goods it supplies and/or the services it renders infringe on any current third-party intellectual and industrial property rights and/or constitute a wrongful act towards any third party, or in the event that Norden is prohibited from this use pursuant to an arbitral award or court ruling, the Supplier shall, at the choice of Norden, either:
- a) acquire the right, on behalf of Norden, to continue using the goods and/or services under the conditions of the agreement in question; or
  - b) replace the goods and/or services or change them in such a way that the infringement no longer exists; or, if the aforementioned options are not reasonably feasible,
  - c) take back the goods, crediting Norden for the amounts it has already paid to the Supplier;
- all of this without prejudice to Norden's other rights, including its right to compensation.
- 14.4 The Supplier shall conduct out the defense in any legal proceedings which might be instigated against Norden for infringement of any current third-party intellectual and industrial property rights and/or (otherwise) any wrongful act against a third party in connection with goods supplied and/or services rendered by the Supplier. The Supplier shall indemnify Norden against all damage and costs incurred by Norden as a result of such legal proceedings.

## 15 Dissolution.

- 15.1 Norden shall be entitled to dissolve any agreement and related purchase orders by means of a registered letter, without notification of default or court intervention, if the Supplier applies for or is granted a (temporary) moratorium, files for bankruptcy or is declared bankrupt, the Supplier's business enters into liquidation, the Supplier ceases its current operation, a considerable portion of the Supplier's assets are seized, Norden considers the Supplier to be no longer capable of independently guaranteeing the continuity of the use by Norden of the goods (to be) supplied under the agreement and/or the results of the services, or the Supplier can no longer be deemed capable of meeting its obligations under an agreement.

- 15.2 If Norden dissolves an agreement on the basis of the provisions of the first paragraph, Norden shall, at the moment of dissolution, acquire an unconditional and irrevocable right to use the information furnished by the Supplier for an indefinite period, irrespective of the nature of this information and the way and manner in which this was and/or will be acquired. In the context of this Article, information shall also be understood to include the source code, object code, the listings, the binaries and all the (technical) documentation relating to the goods. To the extent that Norden does not already possess this information, the Supplier shall furnish Norden with this information immediately at Norden's first request and in the way and form chosen by Norden. To the extent that this is necessary, the Supplier hereby agrees to waive any future rights in this respect. The parties may agree that the information referred to in this Article be made available to Norden, under still to be agreed conditions, after this agreement has been signed, but with due observance of the provisions of this Article and without any deviation from said provisions. Each and every deviation from the provisions of this Article shall be invalid.
- 15.3 Termination and/or dissolution of an agreement and/or any related purchase order, for whatever reason, shall not prejudice the licenses and other rights granted to Norden.

## 16 Confidentiality

- 16.1 The Supplier shall treat as confidential the information which it receives, such as specifications, technical information, company information and other information of a confidential nature, and shall not disclose such information to any person(s) other than its own employees, nor use it for any purpose other than in the performance of an agreement. With the termination and/or dissolution of an agreement, the Supplier shall immediately send all the carriers of this information and all copies thereof to Norden.
- 16.2 Without Norden's prior consent, the Supplier shall in no way disclose, advertise or publish (the existence of) provisions from, or transactions performed under this agreement.
- 16.3 The Supplier shall also ensure that these obligations are also imposed on its own employees and any independent third parties involved, in any way, in the performance of this agreement.
- 16.4 Any infringement of the provisions of the first and second paragraphs by an employee of the Supplier shall be deemed to be an infringement of this obligation by the Supplier.

## 17 Specific provisions with regard to the applicability of conditions contained in agreements concluded between Norden and its clients.

- 17.1 The Supplier hereby undertakes that it shall comply with and duly observe all the terms and conditions of any agreement concluded or to be concluded between Norden and Norden's clients, irrespective of the nature of such agreement, to the extent that these terms and conditions are relevant to that part of the aforementioned agreement which the Supplier is required to perform. All of this shall be done properly and, needless to say, in accordance with the conditions of the aforementioned agreement. Norden shall always inform the Supplier of the terms and conditions referred to above. Consequently, the Supplier shall indemnify Norden against any and all claims by Norden's clients and/or third parties in this respect, wherever and whenever these might be instigated on whatever grounds. Furthermore, the Supplier shall indemnify Norden against the damage and costs involved in this respect. The part of the aforementioned agreement which the Supplier is required to perform, comply with and duly observe, shall, in any event, be understood to include that part which relates to the goods supplied by the Supplier as well as the services which the Supplier renders.
- 17.2 The Supplier hereby undertakes that it shall reimburse and pay all compensation, including costs and possible penalties, which Norden may have to pay to its client as a result of the Supplier's non-compliance or inadequate compliance with the terms, conditions and provisions in question.
- 17.3 The provisions of this Article shall apply without prejudice to the other provisions of these General Terms and Conditions.

## 18 Conflict Minerals.

- 18.1 Seller acknowledges and understands that Norden Millimeter is subject the U.S. Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Conflict Minerals Laws"). Under the Conflict Minerals Laws, Norden is required to determine whether any Conflict Minerals necessary to the functionality or production of Norden's products originate from the Democratic Republic of the Congo ("DRC") or any adjoining country. The term "Conflict Minerals" means (a) columbite-tantalite (coltan), cassiterite, gold, wolframite and their derivatives (which derivatives are currently limited to tantalum, tin and tungsten) and (b) any other mineral or its derivatives, the exploitation and trade of which the U.S. Secretary of State has determined is being used to finance ongoing military conflicts in the DRC or any adjoining country. Seller acknowledges the foregoing and hereby represents, warrants and covenants that no Conflict Minerals will be used in or necessary to the functionality or production of any of the Products delivered or to performance of any Services rendered under this Agreement. Seller covenants that it shall immediately notify Norden, in writing, if it learns or at any time has reason to believe that any breach of the foregoing commitments has occurred.

## 19 Governing law and settlement of disputes.

- 19.1 These General Terms and Conditions shall be governed by the laws of California, with the exception of the Vienna Convention (The United Nations Convention on Contracts for the International Sale of Goods). Any disputes which may arise about the interpretation or implementation of these General Terms and Conditions and about the agreements concluded shall be submitted to the competent court in Placerville, CA. However, all disputes shall first be discussed between the Supplier and Norden in order to reach a solution in mutual consultation.

## 20 Equal Opportunity Clause.

20.1 For Purchase orders over \$15,000 the Seller shall abide by the requirements of the equal opportunity clause at 41 CFR 60-741.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities.

## 21 Counterfeit Part Detection and Avoidance.

21.1 Seller shall only procure products, components, or hardware used in product deliverables directly from the Original Component Manufacturer (OCM) or an Original Equipment Manufacturer (OEM) through an Manufacturer authorized distributor. Manufacturer authorization shall be determined by contacting the Manufacturer. Products or components shall not be acquired from non-Manufacturer authorized distributors or brokers without approval from the buyer in writing.

21.2 The seller will comply with the requirements in AS 5553 for electronic components.

21.3 Buyer must be notified immediately if the seller suspects they may have been supplied counterfeit parts. Work that is delivered that contains or includes counterfeit parts will be replaced, at the seller's expense, with certified genuine parts. Seller will flow down the above requirements to all suppliers/subcontractors to ensure they are buying hardware and electronic components from the OCM/OEM or an authorized distributor.

## 22 General.

22.1 The Supplier shall inform Norden immediately if problems arise with respect to the services or goods which pose a threat to the Supplier complying with its obligations in full and on time. The Supplier shall consult with Norden in order to find a solution which will protect the interests of Norden, without prejudice to any other rights conferred upon Norden. Whenever appropriate, the Supplier shall, at Norden's request, provide substitute and functionally equivalent goods and render services on a temporary basis and at no cost for Norden.

22.2 The Supplier shall, at its own expense and risk, take the necessary measures to obtain permits, if and to the extent that these are required in the context of the performance of this agreement.

22.3 Any failure on the part of one of the parties to enforce any of the provisions of this agreement within a period specified in these General Terms and Conditions shall not affect the right of said party to demand compliance at a later stage, unless the party in question has expressly accepted the event of non-compliance in writing. The provisions of the previous sentence shall not prejudice the parties' (other) rights and obligations in this respect.

22.4 The Supplier hereby agrees that it is willing to service the goods supplied, or to have these serviced, by concluding a separate service agreement.

22.5 To the extent that Norden deems it necessary, the Supplier hereby agrees that it is willing, under reasonable conditions, to conclude an escrow contract for the goods.

22.6 The rights and obligations resulting from an agreement may be transferred by Norden to a third party without further requirements. The Supplier's consent shall not be required in this respect.

22.7 Where applicable, each agreement shall be concluded subject to the dissolving condition that Norden is unable to conclude a lawfully signed agreement with one or more clients which fully matches the scope of the agreement with the Supplier.

22.8 Except in cases where legal claims cannot be excluded, and subject to these General Terms and Conditions, Norden shall have no obligations and the Supplier shall not be able to invoke any claim in this respect.

22.9 If any of the provisions of the General Terms and Conditions proves to be void or is repudiated, the other provisions shall remain in full force and this shall have no effect whatsoever on (the performance of) the other parts of an agreement. Furthermore, in such an event, the parties shall consult with one another as soon as possible in order to reach a solution suited to the nature of the agreement and which most closely matches the aim and meaning of the void or repudiated provision.

22.10 During the term of the agreement and for a period of one year after termination of the agreement, both parties shall refrain from employing the other party's employees who were involved in the performance of an agreement, or having these persons work for them, directly or indirectly, unless this has been the subject of proper consultations with the other party.

22.11 To the extent that Norden requires certain personal details about the Supplier's employees in the context of normal procedures and/or applications in Norden's branch, the Supplier hereby agrees that it is willing to see to it that these employees shall give permission for this to take place, unless this could be considered unreasonable. To the extent that, in the context of the performance of an agreement, it is necessary to process the personal details of an employee of the Supplier involved in the performance, the Supplier shall see to it that the employee in question gives his/her permission for this processing to take place.

22.12 Norden shall at all times be entitled to have the Supplier's compliance with its obligations under an agreement monitored by an independent expert at Norden's own expense. The Supplier shall be obliged to render all reasonable cooperation free of charge, irrespective of the nature of this cooperation, including the granting of access to the Supplier's facilities.

22.13 Suppliers shall ensure that persons doing work under their control are aware of their contribution to product or service conformity; their contribution to product safety; and the importance of ethical behavior.

22.14 Termination or dissolution of this agreement shall not prejudice the provisions of these General Terms and Conditions with regard to intellectual property, warranty, confidentiality and the settlement of disputes.

22.15 Norden Millimeter corporate identity and partnerships are built upon a strong foundation of steadfast adherence to the highest of ethical standards. Accordingly, Norden Millimeter expects its Suppliers to maintain the fundamental values of fairness and integrity during our daily business interactions.

22.16 The Supplier will ensure that all personnel are aware of their contribution to product conformity and product safety.

22.17 On Time Delivery will be monitored and is expected to be above 65% on time.

22.18 The number of Discrepant Material Reports (DMR) will be monitored and is expected to be less than 6% of the product delivered resulting in a DMR.