

## 1 Scope of Application

These terms govern the purchase of Products and contracting of Services by NORTEK S.A. ("NORTEK"). If these terms are included in a request for an offer or an order by NORTEK, such offer or order is conditional upon Seller's assent to these terms.

Any additional, different, or conflicting terms contained in any offer issued by Seller, or in any other type of written or oral communication from Seller, shall not be binding on NORTEK. NORTEK's failure to object to any such additional, different, or conflicting terms shall not operate as a waiver of these terms.

## 2 Purchase Method

NORTEK shall make all purchases by means of a written Purchase Order signed and issued by NORTEK's Purchasing Department, and sent to Seller as a clear, formal request for goods, documents, supplies and/or services. Such order may contain any specific conditions in addition to those defined herein.

Seller shall accept the Purchase Order by sending a mandatory order confirmation which must state the value of all invoiceable items, as well as any potential variation (technical, financial, etc.) with regard to that stated on the Purchase Order.

Acceptance of Buyer's order, the start of any work, or performing any act that implies execution of the Purchase Order, shall constitute Seller's acceptance of these terms and conditions, and of any specific or additional terms and conditions contained in the Purchase Order, and Seller's terms no longer apply.

Any amendment to these standard terms and conditions, or to any of the specific or additional terms and conditions contained in the Purchase Order, will have no effect unless formalised by a written agreement signed by both parties

In the absence of an express agreement otherwise, all future purchases made by NORTEK of Seller's goods or services will be subject to these standard terms and conditions.

## 3 Pricing

Unless otherwise stated, the prices stated on the Purchase Order are fixed and cannot be changed, and are understood to be those for the products delivered or services provided in the stated place of delivery, carriage and packaging paid.

No other charge will be accepted unless stated on the Purchase Order or, in the case of any deviation, unless this has been agreed in writing by NORTEK and Seller.

Unless the Purchase Order provides otherwise, the Price and Delivery Terms stated on the Purchase Order shall have the meaning given in Incoterms 2000 and respective amendments or subsequent versions to date.

## 4 Delivery

### 4.1 Delivery Terms

The goods shall be properly and securely packed so as to enable them to arrive at their destination in perfect condition under normal transport conditions. Goods are always shipped by Seller carriage and insurance paid even when the shipment is freight collect.

All deliveries must be packaged in accordance with the rules and standards in force in member states of the European Economic Area, and at no additional cost to NORTEK. The supplier shall bear the cost of any defect in a delivery due to incorrect packaging.

The package containing the goods must be clearly labelled using the label supplied by NORTEK when placing the order.

Packages for delivery must be compatible with NORTEK's unloading facilities, namely:

- European pallet truck for loads of up to 1200 kg for goods placed in the lorry's cargo area and arranged in such a way that the forks can be inserted under the load.
- 10 t bridge cranes for vertical unloading.

NORTEK reserves the right to reject any goods that cannot be unloaded directly using the aforementioned means.

The goods must always include an approved delivery note clearly stating NORTEK's order number, Seller's delivery note number and supplier number according to NORTEK's system. The delivery note must be suitably weather-resistant.

### 4.2 Place of Delivery

Unless otherwise agreed, the place of delivery of the goods shall be NORTEK's facilities located at Polígono Los Leones 37, 50298 Pinseque, Zaragoza, Spain, during the delivery hours stated on the Purchase Order.

### 4.3 Delivery Period

The goods and relating documentation shall be shipped and the necessary arrangements made to ensure the delivery date and time are as specified on the Purchase Order.

The effective delivery date shall be the delivery date of the goods at NORTEK's facilities that is recorded on the supplier's delivery note by a member of NORTEK's staff.

NORTEK does not accept early or partial deliveries unless by prior written agreement with Seller. In any event, early delivery by Seller shall not mean any right is conferred, in particular regarding the possibility of early payment.

If Seller does not adhere to the agreed delivery dates, NORTEK may opt to cancel the Purchase Order; to reject the goods delivered outside the delivery period by total or partial cancellation of the Purchase Order; or to impose a penalty equal to 5% of the value of the Purchase Order and no greater than 15%, for each week of delay. Said amounts may be deducted from the price or amounts charged to NORTEK by Seller. In any event, NORTEK is entitled to demand compensation for loss and damage resulting from such non-compliance, without prejudice to the amount of any penalty imposed, including any communication, management and travel costs incurred as a result of any claim regarding said Purchase Orders, together with any penalties imposed by the end client.

Where a bill of lading, or similar, is issued for goods purchased by NORTEK, Seller must ensure that NORTEK receives said documentation promptly so as to enable it to take delivery of the goods promptly at their destination. Seller will be responsible for any incident relating to delays or penalties for customs clearance or departure from port due to missing documents or delivery outside the delivery period.

## 5 Payment Method

The payment method used shall be that specified on the Purchase Order. If the payment method requires a bank guarantee, the contents of the guarantee shall conform to the template attached to these standard terms and conditions of purchase.

All invoices issued by Seller shall include NORTEK's order number, Seller's delivery note number and both Seller's and Buyer's corporate tax ID number. Seller shall issue an invoice for each order. Therefore, partial invoices will not be accepted unless partial delivery of the order has been agreed in writing beforehand.

Invoices will not be approved unless the goods and their documents have been accepted in accordance with the terms stipulated in the following clause. Payment of the invoice will be deferred for as many days as it takes to resolve any potential dispute in connection with Buyer's order, whether this is due to the amount/amount of goods, documentation, requested certificate or any other factor.

## 6 Acceptance of Goods

### 6.1 Compliance with plans, specifications, legal requirements, and quality criteria

Acceptance of the Purchase Order implies Seller shall automatically comply with NORTEK's Quality Control System terms (supplied to it previously) and strictly adhere to them.

The goods supplied must be in accordance with the plans and order specifications. Any technical modification or deviation from the order, however minor, shall require further prior agreement between NORTEK and Seller.

NORTEK reserves the right to inspect the supplies at the supplier's premises before delivery, and after delivery at NORTEK's premises, without this right affecting the agreed guarantees.

The goods must fully comply with any statutes, laws, regulations and official requirements in force in Spain, or that apply to Member States of the European Economic Area, on signature or acceptance of these terms and conditions, in particular, those relating to hygiene, safety and protection of the environment. Seller shall be solely responsible and bear the cost of any alteration that may be required to ensure the characteristics of the goods supplied according to the Purchase Order comply with such statutes, laws, regulations, and official requirements.

Seller shall provide, at no additional cost to the Buyer, the necessary documents, certificates for materials, documentary proof, test reports, legalisation in the country of origin and any assistance required to obtain official approval from the Spanish authorities. At NORTEK's request, Seller shall provide a certificate of origin for the goods supplied.

Seller warrants that the goods shipped are in good condition; free from defects; and meet the agreed technical specifications, and provides a warranty as to the quality, merchantability, appropriateness or suitability of the goods for the purpose expressly or impliedly made known to Seller.

## 6.2 Acceptance Process

On arrival at the place of delivery, the goods will be unloaded and a member of NORTEK's staff shall stamp the corresponding delivery note, provided said goods appear to comply with the agreed terms and characteristics. The documentation and certificates specified on the Purchase Order must also be provided at the same time. At this point the goods will be deemed to have been delivered but not accepted and NORTEK reserves the right to make a claim or return them freight collect if, after carrying out the pertinent quality control checks, it transpires that the product or its respective documentation does not comply with the agreed specifications.

Any action or work needed for the correct performance of the Purchase Order, including assembly and installation of the goods and/or their start-up, will be deemed to be included in said Purchase Order even if not expressly stated. If any action or work needed for the correct performance of the Purchase Order is omitted from the specifications or vice versa, Seller shall rectify such omission and will not be entitled to claim any additional amount above the agreed price.

Seller shall bear the cost of assembly and/or start-up, if included on the Purchase Order and strictly adhere to the deadlines stated on the Purchase Order. Furthermore, Seller shall comply with the provisions of Law 31/1995 of 8 November on prevention of occupational risks and with Royal Decree 171/2004 of 30 January regarding coordination of business activities, and shall also provide the relevant documentation to be able to access and work at NORTEK's facilities. In this regard, correct completion of the assembly and/or start-up will be an essential condition of effective delivery.

Acceptance and Provisional Acceptance of the goods supplied, and acceptance of the corresponding invoice, will take place when NORTEK is satisfied that Seller has fully complied with all the aforementioned specifications.

## 6.3 Non-conformity of Goods

Buyer may return any supplies that do not conform to the supplier, at the supplier's own risk and expense.

Seller shall recover the rejected supplies at its own expense within eight (8) calendar days from when notification of rejection is given. The supplier shall bear all costs relating to quality control, waste, storage, selection, tool breakages, breakdowns, repair, fines, etc. incurred by NORTEK due to non-conformity of the supplies.

If the delivery is non-compliant, NORTEK reserves the right to cancel an order and place the supply order with an alternative Seller. The original Seller shall pay for any additional cost resulting from the new order.

If Seller fails to correct the defects or replace the defective supplies within the period specified on the Purchase Order, or within ten (10) calendar days from when notification of rejection is given, NORTEK may undertake the repair or replacement at its own expense and charge the resulting costs to Seller.

## 7 Final Acceptance

Provided Seller has fulfilled its contractual obligations, Final Acceptance will be at the end of the warranty period, subject to all warranty-related claims having been satisfactorily resolved by Seller.

## 8 Warranty

Seller provides a warranty for its products for a period of one (1) year from the date of Provisional Acceptance of the Purchase Order.

Under the warranty, Seller shall repair, or, if necessary, supply, free of charge, the labour and equipment and materials required to replace any product that fails during the aforementioned period due to defective equipment or materials, or defective performance, except when such failure is the result of normal wear and tear, incorrect handling or overloading, or failure to follow generally recognised commercial practices, provided the cause is not attributable to NORTEK.

Seller shall remedy any defect or fault in the goods as quickly as possible, at a time to be agreed between Seller and NORTEK. Any delivery costs and costs for the work to replace the defective items will be at Seller's expense.

If Seller fails to carry out the repairs within the agreed period, NORTEK shall be entitled to carry out the repairs at Seller's risk and expense.

If any part is replaced or repaired during the warranty period, the warranty period for that part will start from the date when it is repaired or replaced. Any parts that are replaced will become the property of Seller.

Any interruption to business while Seller is performing the order for reasons attributable to Seller, or if Seller has to carry out repairs to fulfil its obligations under the Purchase Order, will mean the warranty period will be extended for the duration of such interruption.

The warranty includes all costs for the replacement or repair of defective materials or accessories, including travel, subsistence and transport expenses and any potential financial loss.

If, once Seller has carried out all repairs and/or modifications required to the equipment supplied, the equipment does still not conform to the required specifications, Seller shall replace the goods with new goods and deliver them to NORTEK at its premises, free of charge.

## 9 Patents

Seller shall keep NORTEK indemnified against all liabilities, damages, losses, costs and expenses deriving directly or indirectly from any breach or infringement, or alleged breach or infringement, of any patent, utility model, trademark, design or copyright registered in any country, including Spain or any other destination country designated as such on the Purchase Order, and shall immediately reimburse Buyer for all amounts it has paid in respect of the foregoing. In the event of a dispute and/or claim regarding an infringement relating to the goods, NORTEK reserves the right to terminate and cancel the agreement at its sole discretion and to hold Seller liable for any loss incurred.

NORTEK shall notify Seller in writing of any third-party claim regarding the use and sale of the goods in Spain or any other country as soon as it receives any such claim. Seller shall be responsible for the defence against such claim.

## 10 Intellectual and Industrial Property

Seller is responsible for the validity of its intellectual and/or industrial property rights for the manufacture and sale of its supplies. If a third party brings an action to prohibit, limit or alter the marketing or sale of the rights, Seller will be deemed solely liable for any adverse consequences that result from that action. Furthermore, it shall compensate NORTEK for the total loss suffered as a

result of total or partial non-performance of the Purchase Order, including any damages that NORTEK has to pay to its clients.

In the event a legal action is brought against NORTEK, NORTEK reserves the right to cancel its ongoing obligations by registered letter with acknowledgement of receipt and reserves all rights to pursue any actions it is entitled to bring against Seller.

If any tools or equipment are manufactured that make use of Seller's intellectual and/or industrial property rights, and in the event such rights are infringed, Seller expressly authorises NORTEK to finish the tools or equipment, or have them finished, and/or to produce the corresponding parts for said tools or equipment, and the supplier must provide a copy of the plans to NORTEK to enable it to manufacture said tools or equipment.

## 11 Assignment and Subcontracting

Neither party may assign its rights or obligations in respect of the Purchase Order without the written consent of the other party. However, NORTEK may assign all or any part of such rights and obligations to any company that belongs to its business group.

Seller may not subcontract the Purchase Order or any part thereof without NORTEK's prior written authorisation. Such authorisation will not release Seller from any of its obligations with regard to the Purchase Order or under these terms and conditions. Seller agrees to ensure contractors fully comply with said obligations.

## 12 Force Majeure

In these terms and conditions, Force Majeure means any eventuality, situation or circumstance that is beyond the control of the party who invokes such a situation, including, but not limited to the following circumstances: introduction or enforcement of a law, regulation, decree, order or request by any national, state, autonomous community, regional or municipal government, confiscation, riot, war, disturbance, fire, flood, earthquake, storm, explosion, strike, closure, machinery or factory shutdown, impossibility of obtaining raw materials, equipment, fuel or transport.

If due to Force Majeure, either party is unable to perform any of its obligations in respect of the Purchase Order, that party shall be released from that obligation provided it notifies the other party, stating the start of the Force Majeure event and the type of event. The party that invokes Force Majeure must notify the other immediately after the circumstance that caused the Force Majeure event.

If any of the aforementioned Force Majeure events should occur that are beyond Buyer's control and that could directly or indirectly limit, prevent or hinder the purchase, import, delivery acceptance or performance of any other part of the agreement or the resale or export of the goods by NORTEK, NORTEK may ask for shipment or delivery of the goods to be postponed, or may cancel all or part of the Purchase Order. In either case, Seller is not entitled to claim against NORTEK.

## 13 Costs and Taxes

Seller shall be responsible for payment of all costs or withholding taxes, duties or any other tax, fee or charge NORTEK may incur arising from any payment it makes to Seller, except any taxes and fees for which NORTEK is liable under current legislation.

## 14 Representatives of the Parties

NORTEK designates its Purchasing Manager to monitor the correct performance of the Purchase Order, except where the Purchase Order expressly states another representative. Seller shall appoint, in writing, an authorised representative who is responsible for coordinating the Purchase Order.

## 15 Risks

If Seller fails to comply with, or does not perform in a timely and appropriate manner, any of its obligations, and if Seller starts insolvency proceedings, or if its company is liquidated or dissolved, NORTEK shall be entitled to declare the total or partial cancellation of the Purchase Order or to halt performance thereof, either completely or in part. Such notice must be given by reliable means, without the need for further warning for non-compliance or court intervention, and Seller shall not be liable for any damage, without prejudice to any other rights to which NORTEK may be entitled.

## 16 Seller's Non-Compliance

If Seller fails to comply with, or does not perform in a timely and appropriate manner, any of its obligations, and if Seller starts insolvency proceedings, or if its company is liquidated or dissolved, NORTEK shall be entitled to declare the total or partial cancellation of the Purchase Order or to halt performance thereof, either completely or in part. Such notice must be given by reliable means, without the need for further warning for non-compliance or court intervention, and Seller shall not be liable for any damage, without prejudice to any other rights to which NORTEK may be entitled.

## 17 Confidentiality

Seller shall be bound by an obligation of professional secrecy. All information disclosed by NORTEK is confidential and the supplier shall take all steps necessary to ensure the information supplied by NORTEK, in particular, specifications, formulae, drawings and plans relating to NORTEK's orders, are not divulged or disclosed to any third party, either directly or through its representatives, agents, permanent or temporary intermediaries, suppliers or subcontractors.

The duty of confidentiality will apply during performance of the order and continue for a period of five years from the date of Provisional Acceptance. When the order has been completed, the supplier agrees to immediately return to NORTEK, if so requested, all confidential and non-confidential documents relating to the order.

## 18 Data Protection

Pursuant to the provisions of Spanish Organic Law 15/99 of 13 December on the Protection of Personal Data (*Ley Orgánica 15/1999, de 13 de diciembre, de Protección de Datos de Carácter Personal*) and the European Union General Data Protection Regulation (GDPR), any personal data provided by Seller will be stored in NORTEK's supplier files and processed for the purposes of the contractual relationship, and for checking and managing purchases and corresponding payments. NORTEK shall treat said personal data in the strictest confidence and refrain from using it for a purpose other than that for which it is collected, and shall put in place the appropriate measures to store the personal data securely and to prevent the unlawful alteration, loss, processing of or

authorised access to, personal data. Data will not be disclosed to third parties unless there is a legal obligation to do so.

Seller authorises NORTEK to keep its personal data for a period of five years from performance of the contracted services. Seller is entitled to receive confirmation regarding the processing of its personal data by NORTEK. Accordingly, it is entitled to access the data, to correct any information that is incorrect or to request for it to be deleted, by contacting the following data controller:

- Name: NORTEK S.A.
- Tax identity number (*NIF*): A33010471
- Address: Polígono Los Leones 37, 50298 Pinseque, Spain
- Telephone: +34 976 656 999
- Email: [compras@nortek.es](mailto:compras@nortek.es)

## 19 Severability

If any provision of these terms, or part thereof, is considered to be unenforceable, the enforceability of the remaining provisions will not be affected, without prejudice to the Buyer's right in such case to cancel or reject the Purchase Order.

## 20 Language

Should any discrepancy arise between the Spanish version of the Purchase Order or these terms and conditions and versions thereof in any other languages, the Spanish language version shall prevail.

## 21 Law and Jurisdiction

These Standard Terms and Conditions of Purchase are governed by Spanish law. The parties expressly waive any other law or jurisdiction to which they may be entitled and agree to submit any disagreement or dispute regarding the validity, interpretation and performance of, and compliance with, the Purchase Order and these Standard Terms and Conditions of Purchase, and any actions or transactions set forth in them, to the Courts and Tribunals of Zaragoza.

## SCHEDULE: Bank Guarantee Template

\_\_\_\_\_ Bank, with registered office at \_\_\_\_\_ and corporate tax ID no. \_\_\_\_\_ and registered at \_\_\_\_\_ in volume \_\_\_\_\_ (the "Bank"), represented herein by Mr/Ms \_\_\_\_\_, with tax identity number (NIF) \_\_\_\_\_ in his/her capacity as \_\_\_\_\_, who is duly authorised to enter into this agreement, hereby provides this

### GUARANTEE

As broad as may be required in law in respect of \_\_\_\_\_, with corporate tax ID no. \_\_\_\_\_ and registered office at \_\_\_\_\_ (the "Guaranteed Party"), to NORTEK, S.A., with corporate tax ID A-33010471 and registered office at Pol. Ind. Los Leones 37, 50298 Pinseque, Zaragoza (the "Beneficiary"), pursuant to the agreement entered into by the parties dated \_\_\_\_\_ as a security for [TITLE AND REFERENCE OF THE AGREEMENT] on behalf of the Guaranteed Party, in accordance with the request made by the Beneficiary dated \_\_\_\_\_, number \_\_\_\_\_. The performance and enforcement of this guarantee is subject to the following

### CONDITIONS

1. The Bank enters into an irrevocable agreement, unconditionally and without reserve, despite any objections or protests the Guaranteed Party, or third parties, may make, to pay the Beneficiary a maximum amount of \_\_\_\_\_ EUROS, within five business days from receipt of its initial request, if the Guaranteed Party commits a partial or total breach of its contractual obligations, and specifically with regard to the supply of \_\_\_\_\_, according to order number \_\_\_\_\_, delivered as performance of the aforementioned agreement, as a security for

- correct performance/supply of the equipment
- the functioning of the equipment supplied,

provided the Beneficiary of this guarantee has paid to the Guaranteed Party the sum of \_\_\_\_\_, representing \_\_\_\_\_% of the various items of equipment, in accordance with the provisions set forth in the agreement.

2. The amount stated in the preceding condition will be paid on condition that NORTEK submits a written request, in any format, stating the type of breach of the secured obligations committed by the guaranteed party or parties, together with a copy of its claim against the Guaranteed Party, without the need to obtain the Guaranteed Party's authorisation or consent.

3. The Bank's obligation under this agreement is autonomous, several and independent of the Guaranteed Party's obligations, and in any event, it expressly waives its rights to direct the creditor to make use of the legal remedies or seizure and attachment against the guaranteed party before enforcing the surety, to be liable only for its proportionate share of the debt, and maintain an order of priority of attachment, and any other right that may apply.

This guarantee is totally independent from any other personal or real guarantees that may be issued in favour of the Beneficiary as a consequence of the secured obligations or any other obligations assumed by the Guaranteed Party, and issuance of such guarantees will not affect the enforceability of this guarantee in any way, or the performance or breach of those obligations.

4. This guarantee will remain in force for the periods stated in the supply agreement entered into by the parties on \_\_\_\_\_ and, in any event, it will expire on \_\_\_\_\_ **[+ 5 business days from date of delivery at Nortek's premises]** \_\_\_\_\_. Any claim in this regard must be duly submitted to the Bank in the format stated above on or before said date, otherwise this guarantee will be cancelled and will have no effect.

\_\_\_\_\_

The guarantee contained in this document is irrevocable and will remain in force as long as the obligations assumed by the Guaranteed Party to the Beneficiary remain, and until full performance thereof.

If the Bank holds the original of this guarantee this will constitute its expiry.

Each payment the Bank has to make for the partial execution of this guarantee will automatically reduce its limit with respect to its initial value by the amount of the payments made. No costs deriving from the partial or total enforcement of this guarantee will be applied or charged to NORTEK or deducted from the guaranteed amount.

This guarantee is governed by the Spanish law and URDG 758. The parties waive any jurisdiction to which they may be entitled, and expressly agree to submit any matters arising in respect of this guarantee to the jurisdiction of the Courts and Tribunals of Zaragoza.

This guarantee was registered at the Special Registry for Bank Guarantees on \_\_\_\_\_ under number \_\_\_\_\_.