

## General sales and delivery conditions

### 1. Preamble

- 1.1 These General Sale and Delivery Conditions apply to all current and future contracts on deliveries and other performances, subject to any amendments hereto, which must be agreed by the contract parties explicitly and in writing. In particular, any verbal arrangements which contradict these conditions made with the customer by employees and/or representatives of Novadis GmbH will only be effective if they have been confirmed by Novadis GmbH in writing.
- 1.2 Any conditions of purchase of the customer which differ from these conditions are hereby explicitly objected to, unless their applicability has been acknowledged by Novadis GmbH in writing. This objection also applies where the customer has established a particular form for such an objection. If the customer's conditions of purchase rule out an objection, the relevant differing provisions in the conditions of purchase and sale will be replaced by the statutory provision.

### 2. Concluding a contract

- 2.1 Novadis GmbH's offers are subject to confirmation. Any verbal arrangements made with Novadis GmbH's employees or customer orders will not be binding until Novadis GmbH has given confirmation of the order in writing.
- 2.2 If Novadis GmbH sets a time limit for acceptance when submitting a written offer to the customer, the contract will be deemed to be concluded as soon as the customer sends a written declaration of acceptance of the offer before the end of the time limit.
- 2.3 In the event of any doubt, the interpretation of trading clauses will be determined by the current version of Incoterms.

### 3. Documents and instructions for commissioning and use

- 3.1 Information on weight, volume, capacity, price and performance, material properties etc. contained in catalogues, prospectuses, circular letters, notifications, images and price-lists will only be applicable if it is explicitly referred to in the contract.

### 4. Prices and conditions

- 4.1 Unless otherwise agreed, the prices and conditions set out in Novadis GmbH's price-list which is valid upon the conclusion of the contract will apply.
- 4.2 The prices relate to the respective order quantity and should be understood as being in Swiss francs or Euros ex works, exclusive of any sales tax and/or VAT and customs duties, unless explicitly agreed otherwise. Subsequent reductions in the order quantity, subsequent reductions in the number of units where partial delivery has been agreed or a reduction in agreed call-offs could lead to an increase in the unit prices.
- 4.3 If more than two months elapse between the time when the contract is concluded by Novadis GmbH and the delivery and in that interim period the costs (for example wage rates, energy costs, foreign exchange rates or materials prices) change, Novadis GmbH will be able to increase the prices to a reasonable extent.

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### 5. Payments

- 5.1 Payments must be made in accordance with the agreed payment terms. In the absence of a separate arrangement, payment must be made in advance in Swiss francs or euros without any deductions, free of transaction charges for Novadis GmbH. Appropriate partial payments should be made for partial deliveries.
- 5.2 Unless its counterclaims are undisputed or have been established with legally validity, the customer waives any right of retention with respect to Novadis GmbH and any set-off right.
- 5.3 If the customer falls behind in making its payments, Novadis GmbH will be able to:
- postpone the fulfilment of its own obligations until the outstanding payments have been made; and
  - charge interest for delay from the due date in the amount of 5% (in accordance with Article 104 par. 1 and 2 of the Swiss Code of Obligations).

The company reserves the right to claim more far-reaching compensation for late payment, particularly in connection with exchange rate fluctuations and hedging transactions.

- 5.4 If the customer is more than two months late in fulfilling its payment obligations, Novadis GmbH will be able to rescind the contract due to the delay in making payment by way of a simple notice submitted to the customer or to demand full compensation for breach of contract, without having to explicitly set a time limit for fulfilment, in which case the customer will have to provide Novadis GmbH with full compensation for any damage.

### 6. Retention of ownership

- 6.1 Novadis GmbH will retain the ownership title to the delivered goods until all its claims are fulfilled (including any note receivables) under the respective order (goods subject to retention of ownership). If it is necessary to enter the retention of ownership in a public register or if the customer's cooperation is otherwise required for the retention of ownership to be effective, the customer will give its consent to the registration of the retention of ownership and will irrevocably authorise Novadis GmbH to carry out the registration and/or will perform the necessary cooperative acts. The customer will bear the costs of such registration or cooperative acts.
- 6.2 Novadis GmbH will have the right to insure the delivered goods subject to retention of ownership against theft, breakage and fire, water and other damage at the customer's expense, unless the customer has taken out the insurance itself and this can be proved.
- 6.3 The customer may neither pledge delivered goods subject to retention of ownership nor assign them as security. The customer must immediately notify Novadis GmbH in the event of seizure or other impairment of the ownership title by third parties and/or if there is a potential threat to the ownership title.
- 6.4 The customer can only resell the delivered goods subject to retention of ownership in the course of its ordinary business according to its normal terms and conditions of business, and only if it is not in arrears with its payments. The customer will not have the right to otherwise dispose of the delivered goods subject to retention of ownership. The utilisation of the delivered goods subject to retention of ownership to fulfil work contracts or contracts for labour and materials will also be deemed to constitute resale.

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6.5 If the customer acts in breach of the contract, particularly if it delays in making payment, Novadis GmbH will have the right to take back the delivered goods subject to retention of ownership after issuing a reminder, and the customer will be obliged to hand them over.

6.6 The assertion of retention of ownership or the seizure of the delivered goods by Novadis GmbH will not be deemed to constitute rescission of the contract, unless Novadis GmbH makes an explicit declaration to that effect.

6.7 As long as the delivered goods subject to retention of ownership have not yet been processed and are at the customer's disposal, the customer must mark them clearly and visibly as the property of Novadis GmbH.

### **7. Transfer of risk**

7.1 Unless the contract provides otherwise, the customer will bear the risk for the shipment. The risk will be transferred to it when the delivered goods leave our factory. If shipment is carried out by a carrier, the risk will be transferred when the goods are handed over to it.

7.2 If collection and/or the shipment is delayed due to circumstances attributable to the customer, the risk will be transferred to the customer on the date when the goods are ready to be shipped. In such a situation, Novadis GmbH shall, at the customer's request and expense, take out any insurance policies that the customer requests.

### **8. Delivery time and partial deliveries**

8.1 In the absence of an arrangement to the contrary, the time limit for delivery will begin on the date when the contract is concluded or, if such a payment is envisaged, on the date when Novadis GmbH receives a prepayment to be made before the delivery of the goods or – if the customer must provide drawings, plans, tools, approvals or other items – on the date when all such items are given to Novadis GmbH, whichever occurs later.

8.2 The time limit for delivery will be deemed to have been met if, by the end of that period, the goods are made available at the factory or notice is given of readiness for shipping.

8.3 If the delivery is delayed due an event of *force majeure* or due to an act or omission of the customer, or if the customer falls behind with respect to obligations which are necessary for it to fulfil the contract, in particular if it fails to comply with the payment terms, the time limit for delivery will be appropriately extended. Events of *force majeure* include strikes, lock-outs, accidents and any other events which result in a partial or complete work stoppage, such as materials shortages, fuel shortages, transportation difficulties, difficulties related to the energy supply or disruptions of operations either at Novadis GmbH or at its suppliers.

8.4 If the customer does not accept the goods at the contractually agreed location and at the contractually agreed time, it will still have to make the payments provided for in the contract as if delivery had been carried out. In such a situation, Novadis GmbH will be responsible for the goods being placed in storage at the customer's expense and risk.

8.5 Partial deliveries and excess or short deliveries up to 10% are permitted.

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### 9. Tools

- 9.1 The tools and appliances created to manufacture the goods and their drawings and documents shall remain the property of Novadis GmbH, irrespective of the calculation of the shares in costs. Novadis GmbH will not be obliged to hand over the tools and appliances.
- 9.2 The costs related to renovating, maintaining and appropriately storing tools and the risk of tool breakage will be borne by Novadis GmbH.
- 9.3 With regard to customer-specific tools, Novadis GmbH will only use them for deliveries to the customer, provided that the customer has taken over the full costs of the tools.
- 9.4 Novadis GmbH undertakes to store the tools for the customer for two years after the last delivery.
- 9.5 After the end of the storage period, Novadis GmbH will be able to dispose of the tools freely and without limitation, unless the customer requests a longer storage period within six months before the end of the storage period. The costs of this requested storage will be borne by the customer.

### 10. Workmanship

- 10.1 With regard to the workmanship of the goods delivered by Novadis GmbH, the drawings and plans agreed with the customer will be binding in every case. These may be documents of the customer or documents of Novadis GmbH. The relevant standards (DIN) also apply on a supplementary basis .

### 11. Warranty

- 11.1 Novadis GmbH will be liable for defects in the delivered goods to the exclusion of further claims, as follows:
  - a) the customer must submit in writing any complaints relating to externally discernible defects or defects which are identifiable by way of an appropriate inspection on receipt, immediately and in a sufficiently detailed form, otherwise it will forfeit all warranty claims.
- 11.2 The customer must submit in writing and in a sufficiently detailed form any complaints relating to other defects which are not identifiable until the delivered goods are processed or after they are used, immediately after the defects are discovered, otherwise it will forfeit all warranty claims.
- 11.3 Novadis GmbH provides no warranty for structural defects, provided that the drawings and plans were either provided or approved by the customer.
- 11.4 Defective goods will be repaired or redelivered within a reasonable period of time, according to Novadis GmbH's choice and at its expense. Replaced parts will become the property of Novadis GmbH. The customer will only be entitled to statutory warranty claims if Novadis GmbH fails to fulfil these obligations.
- 11.5 Novadis GmbH provides no warranty for damage which occurs for the following reasons: inappropriate or improper use of the delivered goods; defective installation or start-up by the customer or third parties; natural wear and tear; incorrect or careless handling; inappropriate operating materials/applications; chemical, mechanical, thermal, electrochemical or electrical influences.

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- 11.6 The customer must provide Novadis GmbH with the necessary time and opportunity to carry out any repairs or replacement deliveries that Novadis GmbH deems necessary. In urgent cases only, where there is a threat to operating safety or to prevent excessive damage (in which case Novadis GmbH must be immediately notified to that effect) or if Novadis GmbH delays in eliminating the defect, the customer will have the right to eliminate the defect itself or have it eliminated by third parties and to demand compensation for the necessary costs from Novadis GmbH.
- 11.7 If a complaint regarding a defect turns out to be unjustified, the customer will have to reimburse Novadis GmbH for the costs it incurred as a result.
- 11.8 Novadis GmbH will only reimburse the customer for costs related to reworking or additional work if a prior arrangement is made.
- 11.9 Warranty claims of the customer will expire as following:
- 6 (six) months for metal, plastic, rubber, packaging and technical films
  - 3 (three) months for labels and consumables
- after delivery or the performance of the service by Novadis GmbH.

### 12. General limitation of liability

- 12.1 Unless otherwise stated in these conditions, Novadis GmbH and its statutory representatives, vicarious agents and employees will only be liable for compensation for a breach of contractual or non-contractual obligations, including with regard to senior employees and vicarious agents of Novadis GmbH, in the event of wilful misconduct or gross negligence, such liability to be limited to typical damage under such a contract which was foreseeable upon the conclusion of the contract.
- 12.2 This exclusion of liability will not apply in the event of a culpable breach of key contractual obligations if, as a result, the achievement of the objective of the contract is jeopardised, and it also does not apply if guaranteed properties are absent or in the event of mandatory liability related to product liability.
- 12.3 Other than these exceptional cases, liability is excluded for consequential damage due to defects, particularly for injuries to people, damage to goods which are not the subject of the contract, interruptions to operations and lost profits, etc.
- 12.4 If legal action is taken against Novadis GmbH by third parties on grounds of product liability, the customer will indemnify Novadis GmbH against all and any claims, unless the customer demonstrates that the injury/damage to people or property incurred by the third party results from a defect in a product manufactured by Novadis GmbH.

### 13. Protective rights and confidentiality

- 13.1 If Novadis GmbH has been commissioned by the customer to carry out contract production according to drawings and plans provided by the customer, the customer guarantees that no protective rights of third parties exist with regard to them and will indemnify Novadis GmbH against any claims should such a third party claim such protective rights.

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13.2 The customer undertakes not to allow any third parties to access any know-how or protected or unprotected inventions or knowledge of Novadis GmbH or to use them itself. In particular, the customer will not make any related data carriers or records available to third parties or use them itself, except in connection with the fulfilment of the respective contract with Novadis GmbH. If, due to intentional or negligent (minor or gross negligence) acts or omissions of the customer, third parties learn of know-how, inventions or knowledge of Novadis GmbH or any related records or data carriers of Novadis GmbH, the customer will be liable for all the resulting damage incurred by Novadis GmbH.

13.3 The customer is also granted no rights to the know-how, knowledge or unprotected inventions made available to it. In particular, it is not permitted to register them itself for a patent or allow third parties to do so. If these conditions are breached, the customer will be liable for all the resulting damage incurred by Novadis GmbH.

### **14. Ineffectiveness of individual provisions**

14.1 These conditions will remain in force even if one or more of them become ineffective. Should one or more provisions of these conditions or of the contract become ineffective, the contract parties will agree on a legally effective provision which comes as close as possible in commercial terms to the ineffective provision.

### **15. Place of performance, place of jurisdiction for deliveries and applicable law**

15.1 The place of performance for deliveries and payments is Hombrechtikon, Switzerland. The parties agree that all disputes stemming from or related to the contract or its termination will be subject to the exclusive jurisdiction of the materially competent court.

15.2 However, Novadis GmbH also has the right to take legal action through the courts which have material and local jurisdiction over the customer. This contract is exclusively subject to Swiss law, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).