

**GENERAL TERMS AND CONDITIONS OF SALE**  
**NOVADES BV**

**1. Definitions**

The following definitions shall be assigned the following meanings in these General Terms and Conditions for the purchase of products and services and in the Agreements to which they apply, (whereby the same meaning shall apply to the plural form where the singular form is use):

<u>Agreement(s):</u>	the agreement(s) between Novades and the Purchaser, any amendment or addition thereto;
<u>Confirmation:</u>	written confirmation by Novades of the Agreement;
<u>Force majeure:</u>	a situation as referred to in article 15.3 of these terms and conditions;
<u>Novades:</u>	the private company with limited liability Novades B.V., established in (3581 CS) Utrecht, at Maliebaan 50 B, registered with the Chamber of Commerce under number 65607996;
<u>Product(s):</u>	the services or products to be delivered or delivered by Novades to the Purchaser, including product documentation and packaging;
<u>Purchaser:</u>	the natural person or the legal entity that wishes to purchase/purchase Products from Novades;
<u>Tender:</u>	Any offer made by Novades to provide Services or Products to the Purchaser, including any offer sent by Novades;

**2. General**

- 2.1 These General Terms and Conditions are (exclusively) applicable to all Agreements, Tenders and all related acts, both of a preparatory and an executive nature, whereby Novades supplies Products or services to the Purchaser.
- 2.2 The applicability of other general terms and conditions (including purchase conditions of the Purchaser) of third parties is expressly excluded.
- 2.3 Deviating conditions and amendments and additions to any provision of the Agreement shall only be valid if they have been laid down in writing and signed by both parties.
- 2.4 If any stipulation of these General Terms and Conditions or the Agreement is at any time, is for any reason completely or partially null or void or is nullified or voided, the other stipulations in these General Terms and Conditions or the Agreement nonetheless remain in effect. The parties will then negotiate the content of a new stipulation which mirrors as closely as possible the substance and the intent of the original stipulation.
- 2.5 In the event of uncertainty as to the interpretation of one or more stipulations in these General Terms and Conditions, they must be interpreted in the spirit of the stipulation or stipulations concerned.
- 2.6 In situations not regulated by these General Terms and Conditions, Parties must assess the situation in the spirit of these General Terms and Conditions.

- 2.7 Failure by Novades to require strict compliance with these terms and conditions at all times does not imply that the provisions of these terms and conditions do not apply at all, or that Novades has given up its right to require strict compliance with these terms and conditions in other cases.
- 2.8 The term "in writing" with regard to communications between Novades and the Purchaser also refers to electronic communications. Novades' electronic system is the sole source of proof of the content and time of receipt and transmission of the electronic communications in question.
- 2.9 In interpreting the meaning of these General Terms and Conditions, the Dutch version supersedes all other versions.
- 2.10 In the event of any inconsistency between the Agreement, these General Terms and Conditions and the Tender, precedence is given, in descending order, to the Agreement, the Tender and, finally, to these General Terms and Conditions.

### **3. Provision of information to the Purchaser**

- 3.1 Prior to concluding an Agreement, the Purchaser must provide Novades with all essential information in connection with the Products provided by Novades. The Purchaser guarantees the accuracy and completeness of the information provided by or on behalf of the Purchaser on which Novades bases its Tenders.
- 3.2 The Purchaser is obliged to give his instructions for delivery in full and in such a timely manner that Novades is able to deliver within the agreed term, taking into account a call-off period of five working days.
- 3.3 If the Purchaser fails to give his instructions on time, he shall be in default. Novades will then be entitled to terminate the agreement or to invoice the Products as of the last day of delivery following the purchase and claim payment as if the Products had been delivered that day, provided that Novades keeps the Products at the Purchaser's expense and risk.
- 3.4 As long as Novades does not make use of its rights under article 3.3, the Purchaser will remain entitled to call-off, with due observance of a new delivery period of five working days, without prejudice to its obligation to provide information.
- 3.5 The Purchaser will make itself available to answer questions from Novades, of which the answers are necessary for the preparation of the Tender or for the execution of the Agreement. In the absence of such information, Novades may suspend its work and any agreed delivery period will be extended by the time the Purchaser has needed to answer the questions satisfactorily.
- 3.6 All Tenders and pricing Tenders by Novades are without obligation, except when and insofar as stated otherwise by Novades. If a Tender without obligation is accepted by the Purchaser, Novades has the right to revoke the offer within five working days after receipt of the acceptance.
- 3.7 The content of all prices, information, brochures and other data provided with a Tender is stated as accurately as possible. The data in question is only binding on Novades if this has been explicitly confirmed in writing by Novades. Obvious mistakes or errors in a Tender are not binding on Novades.

#### **4. Formation of the Agreement**

- 4.1 An agreement is concluded by Confirmation by Novades of the acceptance of a Tender by the Purchaser. This Confirmation will serve as full proof of the content and correctness of the Agreement, unless the Purchaser has pointed out any inaccuracies in the Confirmation within three working days after receipt of this Confirmation.
- 4.2 If a start is made on the execution of the Agreement without a Confirmation having been sent, the Tender shall be deemed to be full proof of the content and correctness of the Agreement. Novades will never be bound, subject to written Confirmation by Novades, to minor deviations from any Tender in the Purchaser's acceptance or a confirmation by the Purchaser.
- 4.3 For sales for which, due to their nature and scope, no Tender or Agreement is sent, the invoice also serves as an order confirmation, which is deemed to reflect the Agreement correctly and completely.
- 4.4 If a delivery in installments has been agreed, each delivery will be regarded as a separate agreement.
- 4.5 Each Agreement is entered into under the suspensive condition of satisfactory creditworthiness of the Purchaser.

#### **5. Prices and rates**

- 5.1 Unless otherwise agreed, prices will be displayed in Euros and payments must be made in Euros.
- 5.2 If prices and/or rates of price-determining factors, such as wages, materials, currency differences, transport costs, import duties or insurance rates are increased for any reason whatsoever, Novades is entitled to change the agreed price accordingly.
- 5.3 If the performance of an Agreement is delayed at the request of the Purchaser or due to absence of data or instructions, the provision of erroneous data or other causes on the part of the Purchaser, Novades is entitled to increase the prices with additional costs incurred by Novades as a result as well as with lost benefits, such as loss of interest.

#### **6. Billing and payment**

- 6.1 Payment must be made net within 14 days after the invoice date to the bank account of Novades designated by Novades. The value date indicated on Novades' bank statements shall be deemed to be the day of payment. The Purchaser shall not be entitled to suspend, set off or otherwise apply a discount or deduction to his payment obligations.
- 6.2 If the Purchaser has not paid the full amount due within the agreed term of payment, the Purchaser will be in default by operation of law. Novades will then immediately be entitled to compensation of interest on the amount due. The interest amounts to 1.5% per month or part thereof, whereby part of a month will count as a whole month, or the statutory commercial interest as referred to in Section 6:119a of the Dutch Civil Code, if the commercial interest is higher than

the contractual interest. The Purchaser will always owe 'interest on interest' after one year, in accordance with the provisions of Section 6:119a (3) of the Dutch Civil Code.

- 6.3 From the moment of default, the Purchaser is obliged to pay extrajudicial debt collection costs to Novades. These extrajudicial debt collection costs amount to at least 15% of the total amount owed by the Purchaser to Novades, with a minimum of EUR 750, - plus VAT.
- 6.4 Costs incurred by Novades to obtain payment, both judicial and extrajudicial, will be for the Purchaser's account. These include, but are not limited to, costs relating to seizure, petition of bankruptcy, (extrajudicial) debt collection costs, as well as the costs of lawyers, bailiffs and other experts engaged by Novades.
- 6.5 Purchaser must submit complaints concerning invoices to Novades in writing within 14 days after the invoice date at the latest, under penalty of forfeiture of all rights.
- 6.6 In the event of an Agreement that is performed incrementally, Novades is entitled to invoice each partial performance.

## **7. Delivery, transport, risk**

- 7.1 Delivery of Products shall take place Ex Works ("EXW"), unless otherwise agreed in writing. The term EXW shall have the meaning given in the most recent version of the Incoterms published by the International Chamber of Commerce in Paris, France, at the time an Agreement is entered into.
- 7.2 The Products are at the expense and risk of the Purchaser from the moment they are presented for delivery at the location agreed with the Purchaser, as indicated in Article 7.1.
- 7.3 Novades has fulfilled its obligation to execute delivery if the Purchaser has had an opportunity to take receipt of the purchased goods at the agreed place and time.
- 7.4 The packaging will be provided with those brands and texts, which are legally prescribed in the country of origin. The packaging will also bear the brands and texts which the Purchaser has prescribed in writing at the time of the conclusion of the agreement.
- 7.5 Costs associated with meeting requirements with regard to packaging, labelling, stamping and palletizing, which are determined after the agreement has been concluded, shall be for the Purchaser's account.
- 7.6 In the case of bulk deliveries or big-bags, minor deviations (maximum 5%) with regard to the quantities stated are permitted. The excess or shortfall will be settled in accordance with the market value on the agreed day of delivery, whereby the weight, as indicated by the government-calibrated weighbridge designated by the recipient, will be decisive.

## **8. Taking Delivery**

- 8.1 The Purchaser is obliged to cooperate in the delivery, as well as to take delivery of the Products at the delivery time indicated and/or confirmed by Novades.
- 8.2 In the event that the Purchaser fails to take delivery of the Products, Novades reserves the right to pass on any related costs (including the cost of storage and transport) to the Purchaser.

8.3 Delivery is deemed to have been refused if the ordered Products have been presented for delivery but were unable to be delivered. The day on which delivery is refused is deemed to be the day of delivery.

## **9. Delivery time and terms of delivery**

9.1 Delivery periods and other periods mentioned in the Agreement are indicative and based on the information known at the time of the conclusion of the Agreement and applicable circumstances. Novades will make every effort to deliver the Products in accordance with these terms. Exceeding these periods will never entitle Novades to compensation or dissolution of the Agreement.

9.2 Delivery periods and other periods will be extended by the time the execution of the Agreement is delayed by Force Majeure.

9.3 If the Purchaser fails to fulfill its payment or payment guarantee obligations towards Novades, or if the Purchaser has not or not adequately fulfilled its (information) obligations in connection with the Product(s) to be performed/carried out, Novades may suspend its work and any agreed delivery period will be extended by the time the Purchaser has had to fulfill its obligations after all.

## **10. Retention of title and other securities**

10.1 Novades retains title to the Products delivered by it as long as the Purchaser has not fulfilled all its (payment) obligations under an agreement entered into between the parties, including claims for failure to fulfill an agreement (such as interest, costs and penalties), as referred to in article 3:92 of the Dutch Civil Code. The Purchaser is not entitled to a right of retention on these Products.

10.2 The Products may be resold or used by the Purchaser in the course of its normal business operations, but no security right may be established on them as long as Novades retains the title to the Products.

10.3 Novades has the right to take back (or have taken back) the products delivered under retention of title if the Purchaser is in default, fails to meet his obligations or if Novades suspects that the Purchaser will not (timely) meet his (payment) obligations. The Purchaser is obliged to cooperate in and facilitate this take-back and he may not suspend his obligation to do so or set off claims against this obligation. The costs associated with taking back the goods are at the expense of the Purchaser.

10.4 The Purchaser is obliged to inform third parties (such as trustees and distrainers who purport to claim any right with regard to the Products on which Novades has a retention of title) the retention of title by Novades. The Purchaser must in that case immediately notify Novades of this in writing in the aforementioned case.

10.5 Irrespective of the agreed payment conditions, the Purchaser is obliged (each time) at Novades' first request to furnish further security for the fulfillment of its obligations towards Novades. Security may include the provision of a bank guarantee or the making of advance payments in the amount indicated by Novades. Novades does not owe interest on advance payments.

10.6 If the Purchaser does not comply with this within the term set by Novades, the Purchaser will immediately be in default.

## **11. Warranty and claims of the Purchaser**

- 11.1 With due observance of the provisions stipulated elsewhere in these terms and conditions, Novades guarantees the proper execution of the agreed performance for a period of 12 months after delivery. If the performance has not been properly performed by Novades, Novades will have the choice to perform the performance again or to credit the Purchaser for a proportionate part of the order price. Novades furthermore guarantees that the delivered Products shall meet all requirements as contained in EG/183/2005 (latest version) and/or, if applicable, Vo 853/2005. The supplier of Novades shall provide Novades with all related documentation and guarantees that all information, documents, analyses, samples etc. are correct.
- 11.2 If Novades chooses to execute the performance again, Novades shall determine the manner and time of execution. In case of replacement of delivered Products, the Purchaser must return the delivered Products to Novades at its own expense and risk.
- 11.3 In any case, Novades' obligation as set out above will not apply, however, if:
- a. the Purchaser has not timely complained to Novades about the defect;
  - b. a defect results from the fact that Novades has received incomplete or incorrect information with regard to the performance of the relevant Agreement;
  - c. changes have been made to the (composition of the) Products without Novades' prior written permission to do so;
  - d. the delivered Products have been affected by external causes such as fire, water damage, etc.;
  - e. the Purchaser fails to fulfill or has failed to fulfill any of its obligations to Novades under the underlying Agreement, or to do so properly or in a timely manner.
- 11.4 Travel, shipping and accommodation costs of Novades with regard to (additional) deliveries to be repaired under this article will be at the expense and risk of the Purchaser, unless agreed otherwise in writing.
- 11.5 The foregoing stipulations shall apply mutatis mutandis to any claims of the Purchaser on the basis of an attributable shortcoming, non-conformity or any other basis whatsoever.
- 11.6 Any new delivery of Products under this clause shall not interrupt or extend any warranty or complaint periods.
- 11.7 Minor deviations with regard to the quantities and other data specified do not constitute a defect within the meaning of this provision. Minor deviation shall be understood to mean any deviation of less than 5% of the specified quantity.

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## **12. Complaint period**

- 12.1 If and insofar as an Agreement does not specifically provide for acceptance inspection of the Products upon delivery, the Purchaser must inspect the Products (including packaging and instructions for use) as thoroughly as possible and check that they are complete as soon as they are delivered.

- 12.2 The Purchaser must inform Novades in writing and stating the reasons as soon as practicable, in any case within 14 calendar days of delivery, about missing or damaged Products or components thereof, packaging, deviations in size or quantity, or other deviations from the agreed product specifications that can reasonably be discovered by means of a fair inspection of the Products upon delivery.
- 12.3 Defects that cannot reasonably be detected within the period referred to in article 12.2 must be reported to Novades in writing, stating reasons, within 7 days after they have been detected or the moment they should reasonably have been detected, and at the latest within 12 months after delivery of the Products.
- 12.4 Within 14 days of submitting a complaint, the Purchaser must provide Novades with the following information: date of delivery, address at which the Products were delivered, a detailed description and motivation of the complaint and other relevant information to properly assess the complaint, such as pertinent visual imagery.
- 12.5 Submitting a complaint does not suspend the Purchaser's payment obligations. The Purchaser remains obliged in that case to accept delivery of and pay for any other Products ordered.
- 12.6 Complaints must be made in writing and in accordance with the procedures and within the time limits as stipulated in this article. Failing this, complaints will not be dealt with and Novades will no longer have any further obligation or liability towards the Purchaser with regard to the Products or Products concerned. The Purchaser is also bound to keep a defective delivery and to return it to Novades free of charge at Novades' first request.
- 12.7 Novades is entitled to suspend subsequent deliveries until complaints are determined to be unfounded or have been remedied or the parties have reached a settlement in the matter.

### **13. Sampling and analysis**

- 13.1 The Purchaser may, at the time and place of delivery, have samples taken in triplicate sealed in a usable manner by an attested sampler. The parties may, if desired, inspect the sample. If the parties cannot reach agreement on the appointment of an attested sampler, the Purchaser is obliged to have sampling carried out by one of the following inspection authorities:
- a. Qlip;
  - b. SGS: Société Générale de Surveillance;
  - c. Bureau Veritas;
  - d. Intertek.
- 13.2 Examination of the quality and/or composition shall take place in accordance with the methods prescribed by the COKZ (Centraal Orgaan voor Kwaliteitsaangelegenheden in de Zuivel) at the time of examination if no other methods have been agreed upon.
- 13.3 If no sampling has taken place at the time of delivery, this can still take place at a later time. In that case, the assessment and analysis can only provide a presumption with regard to the quality at the time and place of delivery. Paragraphs 1 and 2 of these articles shall apply mutatis mutandis to this sampling.

13.4 In the event of a dispute about quality and/or composition, one of the samples referred to in this article shall be subjected to an examination by an accredited laboratory as soon as possible, but at the latest within 7 days. The result of the examination shall be binding, subject to the right of either party to order a counter examination, consisting of examination of another sample referred to in paragraph 1, within 10 working days after the examination result has been announced, by a neutral laboratory that may be the same laboratory as referred to above. The result of the counter investigation will be binding for both parties. The costs of the investigation shall be borne by the party that is found to be in the wrong according to the final outcome of the said investigations.

#### **14. Liability / indemnification**

14.1 Novades cannot be held liable for any damage suffered by the Purchaser or third parties in connection with or resulting from an agreement (yet to be concluded) with the Purchaser, or any other obligation under the law (such as a wrongful act). This also includes consequential loss, trading loss, suffered losses, missed savings, damage due to business interruptions or damage as a result of third-party claims against the Purchaser.

14.2 Novades cannot be held liable for damage caused by the actions or omissions of personnel of Purchaser or third parties who perform services for Purchaser, including but not limited to recommendations or advice, except for damage due to intentional or gross negligence on the part of Novades.

14.3 The Purchaser is forbidden to address staff members of Novades, and parties engaged by Novades personally in connection with an Agreement.

14.4 The Purchaser must hold Novades liable for any damage suffered or that it expects to suffer no later than one calendar month after it becomes aware or could reasonably have become aware of a damage-inducing circumstance. Failing this, the Purchaser will no longer be able to invoke this.

14.5 All claims for damages brought against Novades, except a claim which has been acknowledged by Novades, will lapse one year after the date on which the Purchaser became aware of the damage and the liability of Novades.

14.6 The employees of Novades or auxiliary personnel engaged by Novades for the performance of the Agreement may invoke all defenses to be derived from the Agreement against the Purchaser, as if they were a party to that Agreement themselves.

14.7 In the event Novades, notwithstanding the preceding (according to standards of reasonableness and fairness) would be obliged to pay damages, the liability of Novades towards the Purchaser, contractually or otherwise, will in any case be limited to the amount paid out by Novades' liability insurance in the case concerned.

14.8 In the event Novades, notwithstanding the preceding and more specifically clause 14.7, would be obliged (according to standards of reasonableness and fairness) to pay damages, the liability of Novades towards the Purchaser, contractually or otherwise, will in any case be limited to the invoice value of the Products delivered to the Purchaser that give rise to the damaging event.

- 14.9 Any conditions limiting, excluding or establishing liability which may be invoked against Novades by Novades' suppliers in connection with the delivered Products shall also be enforceable against the Purchaser by Novades.
- 14.10 Advice given does not release the Purchaser from his obligation to examine the Products (each time) for their suitability for the purposes intended by him and, if necessary, to put them out of use. The processing of the Products is entirely at the expense and risk of the Purchaser. Novades is not liable for this.
- 14.11 Novades can under no circumstances be held liable for any damages if and to the extent that they result from Novades' failure to comply with instructions or control requirements of Products.
- 14.12 The Purchaser is obliged to indemnify and compensate Novades, its employees and third parties engaged by it in the event of claims by third parties connected with the sale/ delivery, as well as the presence and/or the utilization of the Products in respect of damage for which Novades is not liable on the basis of the Agreement.
- 14.13 The Purchaser is obliged to immediately cooperate with (measures in connection with) a safety warning, safety checks and replacement of Products. The Purchaser is also obliged to immediately cooperate in a recall of Products initiated by Novades.
- 14.14 Any damage or costs incurred by the Purchaser in connection with the provisions of the previous paragraph will be compensated up to the amount of the invoice value of the originally delivered or retrieved Products, as charged by Novades. Purchaser's loss of turnover and profit will not be compensated.

## **15. Force majeure**

- 15.1 If Novades is prevented by force majeure of a permanent or temporary nature from (further) executing the Agreement, regardless of whether the force majeure situation was foreseeable, Novades is entitled to suspend the (further) execution of the Agreement in whole or in part or, at the choice of Novades, to dissolve the Agreement in whole or in part without judicial intervention, without any obligation to pay damages. A possible dissolution does not affect the right of Novades to be paid by the Purchaser for services already provided by Novades and Novades will never be obliged to pay damages in that situation.
- 15.2 Novades will inform the Purchaser as soon as possible of the situation of force majeure. In case of suspension, Novades will still be entitled to dissolve the Agreement in whole or in part.
- 15.3 Force majeure includes all circumstances as a result of which Novades is temporarily or permanently unable to fulfill its obligations, such as fire, pandemic, frost, strikes or lockouts, riots, war, government measures such as import or export restrictions, default of suppliers, electricity failures, computer, telephone and internet failures, theft or embezzlement from Novades' workshops and furthermore all circumstances where Novades cannot reasonably be required to (further) fulfill its obligations towards the Purchaser. Force majeure on the part of Novades' suppliers will also be deemed to be force majeure on the part of Novades.
- 15.4 If the force majeure on the part of Novades lasts longer than 3 months, the Purchaser is entitled to dissolve the non-executable portions of the Agreement by means of a written statement.

## **16. Intellectual property and confidentiality**

- 16.1 If intellectual property rights are created in the execution of the Agreement, Novades will be considered the creator, designer or inventor of the created works, models or inventions. Novades has the exclusive right to apply for a patent, trademark or design. Furthermore, Novades will become the exclusive copyright owner of the created works.
- 16.2 Novades is not transferring any intellectual property rights to the Purchaser in the execution of the Agreement.
- 16.3 The Purchaser is not allowed to use Novades' trademarks, brand names or trade names, unless with the prior written permission of Novades.
- 16.4 All information and data provided by Novades (including offers, images and know-how) in whatever form are and remain the property of Novades. The Purchaser must keep this information and data confidential and may not reproduce, disclose or make this information available to third parties.

## **17. Default and dissolution of the agreement**

- 17.1 The Purchaser shall be in default by operation of law when:
- a. the Purchaser petitions for his own bankruptcy, is declared bankrupt or applies for a moratorium; or
  - b. a decision is made and/or the Purchaser's business activities are liquidated or terminated, or the Purchaser's business activities are sold, or the nature of the Purchaser's business activities changes substantially in Novades' opinion; or
  - c. the Purchaser fails to fulfill, or fails to fulfill in full, any of its obligations to Novades under the law or under any contractual terms and conditions; or
  - d. the Purchaser fails to pay an invoice amount owed to Novades within the set term; or
  - e. all or part of the Purchaser's assets are seized; or
  - f. a prohibition under civil law is imposed on a director of the Purchaser; or
  - g. a situation comparable with a to f occurs under the law of the country in which the Purchaser has its registered office.
- 17.2 From the moment the Purchaser becomes in default, the (remaining) debt of the Purchaser towards Novades will be immediately due and payable. Novades will then also be entitled to immediately terminate the Agreement in whole or in part without notice of default or judicial intervention as well as to suspend its obligations, all this without prejudice to Novades' other rights, such as rights with regard to penalties, interest and the right to damages. A possible dissolution does not affect the right of Novades to payment by the Purchaser for services already performed by Novades and Novades will in that situation never be obliged to pay damages.
- 17.3 Upon termination of the Agreement, those provisions which by their nature are intended to remain in force will remain in force.

## **18. Applicable law and dispute settlement**

- 18.1 These General Terms and Conditions, and all Agreements ensuing or disputes arising therefrom or related thereto, are governed by the law of the Netherlands.
- 18.2 All disputes which may arise between the parties as a result of this agreement or further agreements and other acts in connection with the present agreement, such as, but not limited to, unlawful acts, undue payments and unjust enrichment, shall be settled exclusively by the competent judge of the Court of Midden-Nederland.

## **19. Amendments**

Novades is entitled to amend the Agreement and these General Terms and Conditions. The Purchaser will be deemed to have accepted the amendments in question if Novades has not received a written protest from the Purchaser within 14 days after Novades has notified Novades that the amendment will take place.

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