

## GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

### 1. Conclusion of contract

The contract is deemed to have come into effect if the vendor has confirmed acceptance by dispatching the order confirmation. These general terms and conditions of sale and delivery are applicable unless expressly agreed otherwise in writing in the vendor's order confirmation. The purchaser's general terms and conditions of business do not become part of the contract even if the vendor accepts payments by the purchaser and makes deliveries.

### 2. Prices

Prices are understood as fixed prices net ex works for packaged delivery, unless specified otherwise in the order confirmation. Prices are only binding for the order acknowledged. Any customs duties, taxes, charges and the like that are levied outside of the vendor's country in connection with the delivery transaction are paid by the purchaser or must be reimbursed to the vendor against appropriate supporting documents if the latter has been obligated to make payments in this respect. Unless otherwise agreed and stipulated accordingly in the order confirmation, all bank charges and shipping expenses are paid by the purchaser.

### 3. Documents

The documentary material relating to a quotation, such as illustrations, drawings, details of weights and dimensions are only binding if this has been expressly confirmed in writing. Cost estimates, drawings and other documentary material may neither be handed over nor made accessible to third parties. The vendor reserves his rights of ownership and copyright in respect of these documents.

### 4. Retention of title

The vendor retains ownership of the item delivered until all obligations to him have been met in full and until he has been released from any and all contingent liabilities.

### 5. Passing of risk

Unless expressly stipulated otherwise in the order confirmation, the risk passes to the purchaser when the shipment leaves the plant. Unless otherwise agreed, delivery is made EXW the vendor's registered office in accordance with INCOTERMS, 2020 Edition.

### 6. Delivery time

- 6.1 Delivery terms and delivery dates are deemed to be only approximate unless expressly stated otherwise in the order confirmation. The delivery term commences on the date of the order confirmation, but not before clarification of all technical details. All order confirmations are understood to be non-binding, subject to delivery availability.
- 6.2 Furthermore, delivery terms and delivery dates are only binding if the purchaser fulfills his obligations punctually, in particular the agreed terms and conditions of payment and documentary evidence that all government permits have been obtained.

6.3 If delivery is delayed due to a circumstance listed in Clause 11 or an action or omission of the purchaser, the vendor is granted an extension of the delivery term appropriate to the circumstances.

6.4 In the event of delayed delivery, the purchaser has in principle no claim to damages or termination of the contract.

### 7. Inspection and acceptance of delivery and execution

7.1 The purchaser must inspect the delivery and execution immediately upon receipt and notify the vendor of the nature, content and scope of any complaints in writing within 5 days. If he fails to do this, delivery and execution are deemed to be approved.

7.2 The purchaser must notify the forwarder and his own insurer immediately of any shipping damage.

7.3 Part deliveries are permitted.

7.4 If the purchaser does not accept the delivery at the contractually agreed time, he must nevertheless make the payments depending on the date of delivery. The vendor will then arrange for storage of the object of delivery at the purchaser's expense and risk.

7.5 If the purchaser fails to fulfill his acceptance obligation for any reason, he will be called upon in writing by the vendor to accept delivery within a reasonable period of time. This may be omitted if the purchaser has cancelled the order or it is otherwise evident from his conduct that such a deadline would prove pointless. The vendor can then rescind the contract in respect of that part of the object of delivery which has not been accepted by simple written notification (without recourse to the courts) and claim compensation from the purchaser for the loss sustained due to non-fulfillment. Subject to evidence of more extensive losses, the loss is deemed to be at least the amount of payments made up to that date, but at least 15% of the value of the order.

### 8. Payment

8.1 Unless otherwise agreed in writing, payments must be made by the purchaser no later than when the goods are ready for dispatch, without any deductions, at the vendor's registered office in his local currency.

8.2 In the case of part deliveries corresponding part payments are due.

8.3 If the object of delivery has been delivered before payment by the purchaser of all amounts due in terms of the contract, it remains the property of the vendor until full payment has been received.

8.4 If the purchaser is in arrears with his payments, the vendor can suspend further execution of the contract without limiting his rights, and take back parts already delivered. Default interest at customary bank rates, plus 3%, is charged for payments in arrears.

8.5 Even if the purchaser asserts counterclaims, he must meet his obligations toward the vendor in full

and is in particular not entitled to offset any counterclaims.

## 9. Warranty

- 9.1 The vendor undertakes, subject to the following provisions, to remedy any defect adversely affecting the serviceability of the object of delivery, insofar as it is attributable to a defect in design, material or execution.
- 9.2 The warranty commences on the date as of which the purchaser has to bear the risk, and remains in effect for 12 months.
- 9.3 The same warranty provisions as for the original object of delivery apply to spare parts or repaired parts delivered in terms of the warranty. The warranty period for the remaining parts of the object of delivery is merely extended by the period during which the object of delivery was unavailable to the purchaser as a result of a defect covered by this clause.
- 9.4 The vendor endeavors to remedy the reported defect as quickly as possible, insofar as this is not impossible for him in the cases stated in Clause 11. If the defect does not require repair at the place of installation, the purchaser must forward the defective parts to the vendor at his request for repair or replacement, with the purchaser bearing the cost and risk. The vendor's warranty obligation is then deemed to be fulfilled in respect of the defective part if he returns the part, duly repaired, or delivers a replacement part to the purchaser at the latter's expense and risk. Any customs duties and levies are paid by the purchaser.
- 9.5 The vendor's warranty obligation does not extend to defects attributable to materials supplied by the purchaser or a design specified by him. The warranty lapses in any event if the purchaser does not use original spare parts supplied by Novibra.
- 9.6 The warranty obligation applies only to defects arising under the operating conditions contractually provided for and in proper use. It does not apply to defects the cause of which has only arisen after the passing of risk. It does not apply in particular to defects attributable to poor maintenance, poor storage or installation by the purchaser, modifications made without the written consent of the vendor, poorly performed repairs by the purchaser or normal wear and tear.
- 9.7 The purchaser can in no event assert claims for compensation for losses of any kind which have not arisen on the object of delivery itself, in particular loss of production, loss of use, loss of orders, lost profits and other direct and indirect losses. This disclaimer of liability does not apply to personal injury or damage caused by unlawful intent or gross negligence of the vendor. However, it also applies to unlawful intent or gross negligence by auxiliary personnel and to compensation claims under product liability legislation in the event of faults in the objects of delivery for personal injury or material damage to objects used privately.

## 10. Exchange

In the context of the exchange program the vendor makes an exchange only against return of the parts in need of repair. In-house quality inspection decides whether they can be exchanged. Externally faultless

and complete parts can be exchanged. All other parts are excluded from exchange.

## 11. Grounds for relief

- 11.1 The following circumstances in particular are deemed to be grounds for relief if they arise after the contract has been concluded or hinder its performance.
- 11.2 Industrial disputes and all circumstances independent of the parties' intentions, such as fire, confiscation, embargo, insurrection, government restrictions, general lack of supplies, faults in components supplied, restrictions on energy consumption and the like.
- 11.3 A party invoking one of the above-mentioned circumstances must notify the other immediately of its occurrence and cessation.
- 11.4 The consequences of these circumstances in respect of the dates for the fulfillment of both parties' obligations are set out in Clause 6. If the performance of the contract is impossible for one party due to one of these circumstances, each party is entitled to rescind the contract by simple written notification (without recourse to the courts), if the counterparty has been informed of this in advance. The parties will allocate the costs already accruing for the performance of the contract by amicable agreement. Costs within the meaning of these provisions are deemed to be the reasonable, actual expenses incurred. Each party must ensure that its loss remains strictly limited. If a delivery has already been made to the purchaser, the part of the contract price corresponding to this delivery is deemed to be expenses of the vendor in this case.

## 12. Termination of contract

Termination of the contract on whatever grounds does not result in the parties' loss of rights that have arisen during the life of the contract up to its termination.

## 13. Jurisdiction; applicable law

- 13.1 **The regular courts at the registered office of the vendor have exclusive jurisdiction over all disputes arising from or in connection with the supply contract. Alternatively, the vendor is also entitled to have recourse to the courts at the registered office of the purchaser.**
- 13.2 **The supply contract is subject to substantive law in the country of the vendor's registered office. Unless otherwise agreed, the Vienna Convention on the Law of Contracts in the International Sale of Goods is not applied.**

## 14. Data protection

Unless agreed otherwise, personal data obtained in connection with the services as set out herein, shall be exclusively used for the performance of such services. For more information on our processing of personal data please see the Novibra Privacy Statement on the Novibra Website.

Please return signed copy of General Terms and Conditions of Sale and Delivery to Novibra.