

GENERAL TERMS AND CONDITIONS

1. Scope of Application

1.1. These general terms and conditions (hereinafter referred to as "**GTC**") shall apply and shall be deemed incorporated into any and all contracts on deliveries and services of NovoArc GmbH, FN 566883 b, Fillgradergasse 7/5, A-1060 Vienna (hereinafter referred to as "**NovoArc**") to companies (hereinafter referred to as "**Buyer**" and together with NovoArc referred to as "**Parties**") in the version valid at the time of conclusion of the contract. NovoArc shall provide all of its goods and services (hereinafter referred to as "**Goods**") to Buyer only under application of these GTC, irrespective of whether it expressly refers to the GTC in a specific case.

1.2. Buyer hereby accepts GTC at the latest upon submission of his contractual declaration (declaration of offer or acceptance) to NovoArc. The legal relations between the Parties shall be governed exclusively by these GTC, unless expressly agreed upon otherwise in writing between the Parties. This applies regardless of any references of Buyer to its own terms and conditions. Any additional or different terms and conditions of Buyer are hereby rejected by NovoArc and shall not become part of the contract unless such terms and conditions are expressly consented to in writing signed by an authorized representative of NovoArc.

2. Conclusion of Contracts

2.1. All contracts shall be effected at the earliest upon the issuance of a written order confirmation or acceptance of an order by NovoArc (hereinafter referred to as "**Order Confirmation**"). If the Order Confirmation deviates from Buyer's offer, the contract shall be formed according to the Order Confirmation, including these GTC which are hereby incorporated into

such a contract. If an acknowledgement of an Order Confirmation or any other correspondence of Buyer contains supplements to or deviations from the Order Confirmation, they shall not be deemed agreed upon and shall not be incorporated into the contract.

2.2. In addition to the Order Confirmation and these GTC, the contract shall include any additional terms and conditions specified by NovoArc in documents referred to or accompanying the Order Confirmation. The Goods shall be determined exclusively by the Order Confirmation and the documents referred to therein. Any change of the Goods requires the express written consent of NovoArc.

2.3. Any offer of NovoArc is given on the basis that no contract shall be concluded until NovoArc either issues an Order Confirmation to the Buyer or delivers the Goods to Buyer.

2.4. NovoArc reserves the right to charge Buyer reasonable fees for preparation of its offer, cost proposal and any accompanying documents, in case no contract is concluded with Buyer.

3. Prices, Taxes and Terms of Payment

3.1. Unless otherwise specified in the Order Confirmation, all prices confirmed by NovoArc are in Euro and EXW NovoArc's facility in Vienna, Austria (Incoterms 2020) and do not include any applicable sale, use or other taxes or any other governmental charges imposed upon the production, shipment, sale or use of the Goods, all of which shall be paid by the Buyer to NovoArc upon issuance of an invoice or to the relevant taxing authority.

3.2. No payment shall be deemed to have been received until NovoArc has received cleared funds. Payment is due by the date and in accordance with the

payment terms and instructions stated on the Order Confirmation or NovoArc's invoice. If neither the Order Confirmation nor NovoArc's invoice specifies a date by which payment must be made, payment in full shall be due within 30 days of the date of receipt by Buyer. NovoArc shall be entitled to demand payment in full including VAT or other forms of taxes, notwithstanding that ownership in any of the Goods has not vested in Buyer. If any discount is granted in the Order Confirmation or in the invoice, such discount shall only be granted upon payment being made by due date and shall be deemed as rescinded or cancelled if payment is not made by due date, in which case the full undiscounted amount shall be due by Buyer.

3.3. Incoming payments shall be used to settle the the oldest outstanding debt and any default interest accrued thereon. A contrary dedication of the payment made by the Buyer shall not have any legal effect. Buyer shall not be entitled to set off or retain payments due or any other amounts owed to NovoArc from alleged counterclaims, discounts, deductions, or any other grounds against claims of NovoArc, excluded claims which have been legally established by court decision or expressly acknowledged by NovoArc.

3.4. If NovoArc does not receive any payment by the due date, Buyer shall pay to NovoArc default interest in the amount of 15 % *per annum* on the outstanding amount. The right to claim compensation for further damages shall remain unaffected by the forgoing provision.

4. Delivery, Transfer of Risk and Retention of Title

4.1. Delivery dates quoted by NovoArc in an offer or on the Order Confirmation are the dates the Goods are anticipated by NovoArc to be ready for shipment. Such dates are set by NovoArc *bona fide* but shall not be deemed as guaranteed to

Buyer. In case NovoArc fails to deliver the Goods (or any portion thereof) on the set delivery date, Buyer shall be bound to accept and to pay for the Goods in full. Buyer declares that delivery dates of the Goods are of no essence to him.

4.2. Buyer shall be responsible for all storage, insurance and other costs relating to Buyer's failure to accept delivered Goods, regardless of any fault of Buyer. Any such charges incurred by NovoArc shall be paid by Buyer within 30 days of submission of a respective invoice.

4.3. If Buyer fails to take delivery of the Goods or fails to fulfil any of his other contractual obligations, in particular fails to give NovoArc adequate delivery instructions, documents, licenses or authorizations, all risks in the Goods shall pass to Buyer at the time of delivery or on the day delivery is performed or commissioned by NovoArc (whichever is earlier) and the Goods shall be deemed to have been delivered. The foregoing provision shall have no effect on NovoArc's right under Section 373 et seq. of the Austrian Commercial Code (*Unternehmensgesetzbuch*), whereby the Parties hereby agree that a prior notice of the self-help sale (*Selbsthilfeverkauf*) or auction shall not be required.

4.4. Unless otherwise specified in the Order Confirmation, the delivery of all Goods shall be EXW NovoArc's facility in Vienna, Austria (Incoterms 2020) and risk of loss or damage to the Goods shall pass to Buyer on NovoArc's delivery of the Goods for pickup by the carrier. Any claims for losses or damages shall be made directly by Buyer against carrier. If the Order Confirmation specifies delivery other than Incoterm 2020 EXW, delivery shall be made in accordance with such Incoterm 2020, including the allocation of risk of loss or damage and costs.

4.5. NovoArc shall be entitled to reject transports, containers or storage, which -

at its sole discretion – would potentially present to be unsafe.

- 4.6. Buyer is exclusively responsible for offloading or unloading all Goods.
- 4.7. Buyer is obligated to accept partial deliveries of the Goods and NovoArc shall be entitled to such, unless otherwise stated in the Order Confirmation. Accordingly, failure to make any particular delivery or any breach of any such obligation of delivery by NovoArc shall not affect any remaining deliveries and shall not entitle Buyer to treat the respective contract, the Order Confirmation relating to the respective contract oder any other contract or Order Confirmation as cancelled.
- 4.8. NovoArc retains title of all Goods sold and delivered to Buyer until all claims arising out of any contract or any other business relationship between the Parties has been paid in full by Buyer. As long as the Goods are with a carrier, NovoArc reserves the right to arrange for the return transport of the Goods to itself, unless Buyer has already paid the Goods in full.
- 4.9. Until NovoArc's claims according to Section 4.8. have been paid in full, the Goods supplied under the retention of title shall not be pledged to third parties or assigned as security. Buyer shall immediately notify NovoArc in writing if and insofar a third party seeks to take possession of such Goods.

5. Warranties

- 5.1. NovoArc warrants that, upon delivery, the Goods
 - a) vest into possession of Buyer free of any third party rights, provided the purchase price has been paid in full; and
 - b) comply with all specifications stated in the Order Confirmation;

under the condition that any instructions (oral or written) of NovoArc relating to the transport, storage and use of the Goods and in case of no express instructions good trade practices are complied with.

- 5.2. Buyer shall examine the Goods immediately upon receipt and shall notify NovoArc immediately thereafter, and in any event within two weeks after receipt of the Goods, on incomplete or failed delivery, loss or damage (*Mängelrüge*).
- 5.3. In case Buyer does not comply with his obligation to give notice as stated under Section 5.2. within the aforementioned period, the Goods shall be deemed accepted and Buyer hereby waives its right of assertion of any liability of NovoArc arising out of or in connection with such delivery.
- 5.4. If Buyer notifies NovoArc according to Section 5.2. and shows to NovoArc at reasonable satisfaction that the Goods materially fail to comply with NovoArc's warranty, NovoArc shall be given a reasonable opportunity to either correct such failure (*Verbesserung*) or replace the Goods (*Austausch*). If NovoArc does not or is unable to do so, within a reasonable time period, NovoArc will – at its sole discretion – either refund the (*pro rata*) purchase price of the Goods. Any further liability of NovoArc is excluded. The rejected Good are to be kept as far as possible for inspection by NovoArc and in case of replacement (substitute delivery) to be returned to NovoArc.

6. Disclaimer of Warranties

- 6.1. To the fullest extent permissible by law, NovoArc hereby disclaims all warranties except those under Section 5. with respect to the Goods, including but not limited of merchantability and non-infringement. Buyer hereby expressly waives any and all claims arising therefrom.

- 6.2.** NovoArc's warranty under Section 5. is in substitution for any other warranties, obligations, representations or liabilities of NovoArc in connection with the delivered Goods, whether they are express or implied, or arise in contract, tort or law.
- 6.3.** Judicial assertion of warranty shall be time barred after six months upon delivery of the Goods.
- 6.4.** The burden of proof for the existence of any defect under warranty shall be borne by Buyer. The presumption of defectiveness of the Goods within six months upon delivery according to Section 924 Austrian General Civil Code (§ 924 ABGB) shall not be applicable on any contract between the Parties.
- 6.5.** Buyer's right of recourse according to Section 933b Austrian General Civil Code (§ 933b ABGB) shall not be applicable on any contract between the Parties.

7. Limitation of Liability

- 7.1.** To the fullest extent permissible by law and without prejudice to any other limitation of NovoArc's liability:

NovoArc shall in any case not be liable (in contract, tort or otherwise) for slight or (simple) gross negligent acts, excluding personal injuries.

In no circumstances whatever shall NovoArc be liable (in contract, tort or otherwise, and irrespective of any negligence or other act, default or omission of NovoArc or its employees, agents or sub-contractors) for:

- a) loss of profit or anticipated profits;
- b) loss of use;
- c) loss of reputation;
- d) loss of goodwill, business or revenue;
- e) indirect damages, losses or other claims for consequential compensation whatsoever; and

- f) any damages or losses (direct, indirect or consequential) arising out of or related to Buyer's resale of the Goods.

- 7.2.** NovoArc's total aggregate liability in connection with the Goods or the contract (in contract, tort or otherwise) is limited to the net purchase price of the Goods excluding all additional charges, VAT and all other duties, fees or taxes.

- 7.3.** Buyer shall in any case bear the burden of proof of fault. The aforementioned limitations of liability shall apply to any and all claims of Buyer (in contract, tort or by law), in particular also to any infringements of property rights and/or product liability claims. The limitations shall not apply insofar as liability is mandatory (i) under the Product Liability Act (*Produkthaftungsgesetz*), (ii) due to intentional or blatant gross negligent (*krass grobe Fahrlässigkeit*) conduct or omission, or (iii) due to injury to life, limb or health.

- 7.4.** Any and all claims for damages by Buyer shall become time barred within 18 months of knowledge of the damage and the damaging party and must be asserted in court within this period.

8. Force Majeure

- 8.1.** NovoArc shall not be liable to Buyer for any breach or damages of any kind in the event that the failure to comply with the contract relates to any circumstances whatever (whether or not involving NovoArc's negligence) which are beyond NovoArc's reasonable control and which prevent or restrict NovoArc from complying with the contract (hereinafter referred to as „**Force Majeure Event**“), including but not limited to:

- a) a delay in granting any licenses or revocation of licenses required for the Goods in whatever manner;

- b) acts, restrictions, regulations, by-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- c) strikes or any other industrial actions;
- d) an act of god, including but not limited to war, terrorismis, riots, natural disaster, plague, epidemic, quarantine restriction, piracy or any other perils of the the sea.

8.2. In a Force Majeure Event NovoArc shall be entitled to terminate (cancel) its obligations under any contract (in whole or in part), or if the Force Majeure Event is expected to last no longer than 30 days, optionally at NovoArc's sole discretion suspend them without being liable to Buyer.

9. Indemnification and third party claims

9.1. To the extent not otherwise prohibited by law, Buyer shall fully indemnify, defend and hold NovoArc, its officers, directors, employees and agents harmless from and against any loss, claim, injury or liability whatsoever (including but not limited to product liability cases) resulting from:

- a) any usage by Buyer of NovoArc's name, brand, logo or the Goods;
- b) Buyer's breach of any of the obligations of these GTC, any contract or any applicable laws or violation of any third party rights; or
- c) the use, sale, marketing, or manufacturing of any goods or services of Buyer, including those goods and services that incorporate the Goods.

10. Intellectual Property

10.1. NovoArc retains all industrial property rights and all intellectual property rights (including but not limited to all patent rights, trademark rights, design rights, copyright and/or rights to know-how) to and associated with the Goods and their

production methods, their application and processes as well as to plans, sketches, descriptions, drawings, manuals, calculations, instructions and other technical and scientific documents relating to the Goods. NovoArc shall exclusively be the holder of such rights and they shall continue to be held by NovoArc. Aside from the simple right for Buyer to use the Goods for their intended purpose, Buyer shall not be granted any rights, and in particular shall not be granted licensing or utilization rights. NovoArc shall exclusively be entitled to use and utilize the aforementioned rights, to apply for property rights and/or to otherwise protect them.

10.2. NovoArc shall exclusively and comprehensively retain all rights to outcomes, findings, developments, and inventions which arise in connection with NovoArc's performance, and which relate to the Goods, including if goods or services are delivered or supplied on the basis of Buyer's specifications or if Buyer makes any other contribution thereto. Any rights which arise on Buyer's side shall be deemed to be transferred by Buyer to NovoArc as soon as the outcomes, findings, developments, and inventions arise and shall automatically vest in NovoArc or as the case may be transferred by Buyer to NovoArc if required by law, so that NovoArc becomes the sole and exclusive holder of such rights.

10.3. NovoArc shall exclusively be entitled to submit applications for protective rights or invoke priority rights. Any and all applications for property rights shall be made and maintained at NovoArc's sole discretion.

10.4. The transfer of documents or information to third parties as well as any use of the Goods beyond the specific agreement is prohibited and subject to the prior written consent of NovoArc. In particular, Buyer is not granted any license rights, property rights and/or any other right of use to any

documents or information as well as to the intellectual property of NovoArc.

- 10.5. Granting of any rights by NovoArc to Buyer requires an explicit agreement in writing and shall be deemed to comprise – unless explicitly agreed otherwise in writing – only non-exclusive rights without the right to transfer, grant sublicenses or edit. Buyer undertakes not to assert any rights regarding the applications for property rights by NovoArc, in particular no right of prior use.
- 10.6. Buyer shall not be entitled to change or remove trademarks, logos, or other marks of NovoArc on the Goods.
- 10.7. In case the use of existing intellectual property rights and/or know-how of Buyer is necessary for NovoArc's performance under any contract, Buyer shall grant NovoArc a worldwide, non-exclusive, free of charge, non-transferable right of use for the performance of the contract to Buyer or any third party stipulated by Buyer, which right NovoArc shall only be entitled to sublicense to any of its subcontractors.

11. Right to Withdraw from the Contract

- 11.1. NovoArc shall be entitled to withdraw from any contract provided it sets an appropriate follow-up deadline of 14 days, if (i) Buyer is in arrears in fulfilling its key contractual obligations, in particular its obligation to pay the purchase price or any collaborative activities; (ii) a request to open bankruptcy, settlement or other insolvency proceedings for Buyer's assets is submitted; (iii) bankruptcy, settlement or other insolvency proceedings are opened for Buyer's assets or are not opened due to lack of cost-covering assets; (iv) Buyer refuses to provide a security requested by NovoArc due to Buyer's poor financial situation; or (v) the performance of the contract is prohibited due to legal provisions (embargoes, US (re-)export

control provisions, other sanction provisions) or such provisions become effective after the conclusion of a contract.

12. Confidentiality

- 12.1. Buyer shall be obligated to keep confidential all technical and commercial information of NovoArc of which it becomes aware in the course of a contractual relationship with NovoArc, in particular but not limited to documents, drawings, data, data on electronic data carriers, processes, process steps, compositions, formulas, machines, equipment, samples, objects, market and marketing information, technical and commercial information, business and trade secrets, financial information, business models and business processes, as well as other information considered worthy of protection, which before or after the conclusion of a contract, in writing, graphically, verbally, visually, electronically, by sending Goods, in the course of company visits or in any other way, has been handed over to Buyer, or which has come into Buyer's possession and/or knowledge, as well as any copies or otherwise derived information (hereinafter referred to as "**Confidential Information**").
- 12.2. Any disclosure of Confidential Information or use for Buyer's or third party purposes shall be subject to NovoArc's prior written consent for any specific case.
- 12.3. Buyer undertakes to grant access to the Confidential Information only to those of its employees who are directly assigned with the execution of the respective contract and whose knowledge of the Confidential Information is indispensable for the execution of the respective contract and who have been obligated to maintain confidentiality in writing in advance. Buyer further undertakes to secure and preserve any and all documents and materials which could

contain Confidential Information from access by any third party.

- 12.4. Upon NovoArc's request, all documents containing Confidential Information as well as the Confidential Information itself including all sections and copies shall be returned by Buyer to NovoArc without undue delay, any copies shall be destroyed and any intended backups and records on electronic data carriers shall be deleted and such deletion confirmed by Buyer to NovoArc. The obligation to return, destroy and delete Confidential Information does not exist if and insofar Buyer is obliged to retain such information due to compliance regulations or other statutory provisions or such information must be retained to protect its interests from threatened or ongoing legal or administrative proceedings.
- 12.5. In the event of reasonable suspicion of a breach of the present confidentiality obligation, Buyer shall bear the burden of proof that the Confidential Information was already known to the public at the time of the conclusion of the contract or it was disclosed without its involvement or responsibility.
- 12.6. Buyer acknowledges that any breach of this confidentiality obligation may cause NovoArc immediate and/or irreparable harm for which statutory damages would be inadequate or insufficient. For each case and for each day of a breach of the confidentiality obligation by Buyer and/or a person to whom Buyer has disclosed the information concerned, Buyer shall pay to NovoArc liquidated damages in the amount of EUR 20.000. Any further claims of NovoArc shall remain unaffected by this provision.
- 12.7. This Section 12 shall continue to apply without restriction for a period of five years after termination of any contract between Buyer and NovoArc.

13. Governing Law, Jurisdiction, Miscellaneous

- 13.1. Any contracts entered into by and between NovoArc and the Buyer shall be governed by and construed in accordance with the laws of the Republic of Austria excluding its conflicts of law rules and the UN Convention on Contracts for the International Sale of Goods (CSIG).
- 13.2. The place of jurisdiction for all disputes arising from a contract, this GTC or any legal relationships therewith shall be exclusively the competent court for Vienna Inner City (*Wien – Innere Stadt*).
- 13.3. If a provision of these GTC is ineffective, invalid or unenforceable, this shall not affect the effectiveness, validity or enforceability of the remaining provisions. In such a case, the provision shall be replaced by a provision which comes as close as possible to it in terms of the economic result and which is not ineffective, invalid or unenforceable. This shall also apply in the event of loopholes in the contract.
- 13.4. Buyer hereby consents to the transfer of the contractual relationship as a whole by NovoArc to a company affiliated with it. NovoArc shall inform Buyer about such transfer of any contract in writing.
- 13.5. Amendments and supplements to this GTC and the other contractual agreements between NovoArc and Buyer shall be made in writing to be effective. The same applies to the waiver of the requirement of the written form.