

Novasol Chemicals

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TERMS & CONDITIONS OF NOVASOL N.V./S.A. (V6 - 17/11/2020)

1. General

1.1. The following terms and conditions (the “**Terms & Conditions**”) are applicable to all offers, order confirmations and sales of chemical products (the “**Goods**”) by the supplier NOVASOL N.V./S.A. (“**NOVASOL**”), a company existing and incorporated under Belgian law, with its registered office at Steenweg of Mechelen 455, 1950 Kraainem, and registered at the Belgian Crossroads Bank for Enterprises under n° 0460.802.557, to the purchaser or potential purchaser of Goods (“**CUSTOMER**”);

1.2. These Terms & Conditions are available in English on NOVASOL’s website:

www.novasolchemicals.com.

2. Purchase and Sale

All requests by CUSTOMER to purchase Goods from NOVASOL (“**Order request**”) are subject to NOVASOL’s written acceptance (“**Order confirmation**”). Receipt by CUSTOMER of an Order confirmation from NOVASOL shall result in a binding contract between CUSTOMER and NOVASOL, unless CUSTOMER promptly objects in writing in accordance with Article 3.

3. Order Request and Confirmation

NOVASOL shall issue an Order confirmation according to the terms of CUSTOMER’s Order request. Unless NOVASOL receives from CUSTOMER a written claim reasonably identifying the inaccuracies between NOVASOL’s Order confirmation and CUSTOMER’s Order request within 48 (forty-eight) hours from the date of NOVASOL’s Order confirmation, such Order confirmation shall be deemed accurate and accepted by CUSTOMER. The contract hereby formed shall be subject to the Terms & Conditions, provided that a copy thereof was submitted (under whatever form) to the CUSTOMER and was not objected within 8 (eight) calendar days or before delivery of the Goods if the Goods are delivered sooner.

4. Delivery

4.1. The Goods shall be delivered pursuant to the specific INCOTERMS stipulated on the Order confirmation.

4.2. The delivery dates stated on the Order confirmation are only indicative (the “**Delivery Date**”). NOVASOL shall use reasonable effort to adhere to the Delivery Date.

4.3. CUSTOMER shall not be entitled to cancel the Order confirmation by reason of failure to deliver by the Delivery Date.

4.4. The CUSTOMER acknowledges that the Goods may be delivered in partial shipments, each deemed as a separate sale by NOVASOL and each separate delivery shall not entitle CUSTOMER to repudiate, terminate or rescind the Order confirmation in respect of the remaining shipments.

4.5. Notwithstanding Article 4.1., the Parties may agree that delivery of the Goods shall take place upon collection of the Goods by CUSTOMER at NOVASOL’s premises at any agreed time after NOVASOL has notified CUSTOMER that the Goods are ready for collection;

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4.6. If CUSTOMER fails to take delivery of the Goods as agreed between the Parties or fails to give NOVASOL adequate delivery instructions 48 (forty-eight) hours prior to the Delivery Date stated in the Order confirmation, without prejudice to NOVASOL's other rights and remedies, NOVASOL may store the Goods until actual delivery and charge CUSTOMER for any and all reasonable costs incurred by their storage (including, but not limited to, insurance costs).

4.7. As the case may be under the applicable INCOTERMS, in case of delivery by road, if a delay in delivery of the Goods is caused by CUSTOMER, NOVASOL shall be entitled to charge CUSTOMER any and all reasonable costs arising out of such delay.

4.8. During the time that NOVASOL's delivery equipment is in the possession of CUSTOMER, CUSTOMER shall be liable to NOVASOL for any damages or destruction of such equipment attributable to CUSTOMER. All repairs to equipment shall be made under the supervision or direction of NOVASOL.

5. Risk, Title and Security Interest

5.1. Risk of loss or damage to the Goods shall pass to CUSTOMER upon delivery, which is determined in accordance with the INCOTERMS stipulated on the Order confirmation.

5.2. In exchange for the possible deferred payment of the Goods as provided for in the contractual documents, the Goods shall remain the property of NOVASOL, unless and until NOVASOL receives all full payment due for the Goods delivered, including any additional costs or charges due. Until full payment to NOVASOL, CUSTOMER shall not remove or obscure any label or marking which may allow the Goods to be identified as belonging to NOVASOL. CUSTOMER, upon request of NOVASOL at any time and until such full payment is made, agrees to affix or permit NOVASOL to affix, in a clearly visible manner labels supplied by NOVASOL or its designated representative identifying the Goods as property of NOVASOL, and shall not alter, remove or make unreadable any such label from the Goods.

5.3. Before NOVASOL has received full payment of the invoice issued by NOVASOL, CUSTOMER shall not sell, lease or otherwise dispose of the Goods, shall take proper care of the Goods and shall keep the Goods free and clear from any and all liens, pledges, security interests, encumbrances and rights of any third party, except those created by NOVASOL. CUSTOMER shall give NOVASOL immediate notice of any judicial process or encumbrance affecting the Goods and shall indemnify and hold NOVASOL harmless against any loss or damage caused thereby (including but not limited to, court costs, legal fees and expenses), with the exception of any loss or damage caused by NOVASOL's gross negligence or serious or willful misconduct.

6. Net Prices and Payment

6.1. All Prices stated on the Order confirmation, are net and do not include withholdings and other taxes, VAT, levies, duties, surcharges, customs or deductions of any nature, which shall be paid by CUSTOMER unless otherwise agreed by parties.

6.2. Notwithstanding anything stipulated in these Terms & Conditions, CUSTOMER undertakes to pay in a timely fashion and shall indemnify and hold NOVASOL harmless against all duties, levies, taxes and other governmental charges of whatever nature and any interest or penalties thereon which may be levied, directly or indirectly, against the Goods or with respect to its ordering, purchasing, delivery, ownership, possession, use and return regardless of whether such taxes and fees are levied against CUSTOMER or NOVASOL.

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6.3. CUSTOMER shall make payment in accordance with the terms stated on the Order confirmation and may under no circumstances set-off or deduct any amount charged by NOVASOL without its prior written approval.

6.4. If CUSTOMER is in default to fulfil any payment obligation hereunder and/or in connection with the Order confirmation, NOVASOL shall have any or all of the following rights, without prejudice to NOVASOL's other rights and remedies: (a) all sums shall immediately become due and payable to NOVASOL, notwithstanding any credit conditions granted to CUSTOMER; (b) NOVASOL may suspend or delay delivery or cancel any or all Order confirmations or contracts with CUSTOMER; and (c) NOVASOL may demand a satisfactory security for the payment of the outstanding amounts, including any amount due for orders placed by CUSTOMER and any and all other costs and/or expenses to be paid by CUSTOMER to NOVASOL.

6.5. All invoices that have not been paid within the terms stated on the Order confirmation shall be subject, without prior notification, to a yearly interest at the rate prescribed by the Belgian Act dd. 2 August 2002 concerning prevention of late payment in commercial transactions (implementing the EU Directive 2011/7) or by any other law applicable. In addition, CUSTOMER shall be liable without prior notice for all recovery costs reasonably incurred by NOVASOL due to CUSTOMER's late payment, with a minimum amount of EUR 300.

7. Non-conformity

7.1. All Goods are to be inspected immediately after the delivery of the Goods, and prior to unloading the Goods into CUSTOMER premises ("**Inspection**"). CUSTOMER shall have Inspection conducted, under supervision and responsibility of its quality control department, by a reputable firm verifying that the Goods conform to the agreed product specifications. In the absence of Inspection and/or upon delayed, inconclusive, incomplete or insufficient Inspection and/or upon conform result of Inspection, CUSTOMER shall be deemed to have accepted the Goods and CUSTOMER shall have no right to reject the Goods, without prejudice to the submission of a reasonably justified written complaint in accordance with Article 7.2.

7.2. Unless NOVASOL receives a reasonably justified written complaint regarding any defective Goods, shortage or failures in shipment or delivery from CUSTOMER within [8 calendar days] following delivery, the Goods shall be deemed conform and the CUSTOMER shall have no right of claim regarding the conformity of the Goods. In no case are Goods to be returned without first obtaining NOVASOL's written approval. Goods must be securely packed to reach NOVASOL without damage or loss.

7.3. In the event that, following inspection and verification by NOVASOL after the submission of a reasonably justified written complaint by CUSTOMER in accordance with Article 7.2., it is concluded that the Goods are defective or non-conform, NOVASOL may, replace the defective or non-conform Goods within a reasonable period of time taking into account standard delivery times. If replacement by NOVASOL exceeds reasonable delivery times, the CUSTOMER is authorized to purchase replacement Goods, in consultation with NOVASOL. Parties agree that in case of replacement, each party undertakes to indemnify the other for any difference in price between the original and the replacement Goods. In such event CUSTOMER irrevocably undertakes to return the defective or non-conform Goods to NOVASOL, except otherwise agreed between parties.

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8. Limited Warranty and Liability

8.1. In case a defect that could not have been detected by the Inspection set forth in Article 7.1. is subsequently detected in the Goods, the warranty of NOVASOL shall be limited to 6 (six) months after delivery, provided that the Goods have not been altered and have been stored according to the product's requirements and that CUSTOMER proves that the defect existed before delivery.

8.2. Except for the warranty under these Terms & Conditions, NOVASOL and its affiliates give no other warranties, whether explicit or implied.

8.3. Unless for essential obligations, NOVASOL and its affiliates shall not be liable for any loss or damage due to delay or failure in the performance of their obligations, except when such delay or failure is caused by their gross negligence or serious or willful misconduct. In no event shall NOVASOL and its affiliates be liable for any loss or damage caused by force majeure (including, but not limited to, acts of God, strikes, act of war, epidemic, flood, earthquake, natural disaster, shortage of material or means of transport, fires, machine breakdowns, legal or regulatory restrictions,...).

8.4. In no event shall NOVASOL and its affiliates shall be liable for any unforeseeable consequential or indirect losses, damages and expenses or undetectable defects which would arise from the Goods, from any shortage or failure in shipment or delivery of the Goods, from any defect in the Goods or otherwise, with the exception of any loss or damage caused by NOVASOL's gross negligence or serious or willful misconduct.

8.5. NOVASOL's liability shall in any case not exceed the price attributed to the Goods on the Order confirmation.

9. Suspension and Termination

9.1. Without prejudice to NOVASOL's other rights and remedies, NOVASOL is entitled, without prior notice of default to CUSTOMER, to immediately suspend the performance of its obligations under the Order confirmation or terminate the Order confirmation, in whole or in part, by a written notice, if (a) CUSTOMER breaches one or more of its obligations under the Order confirmation and such breach is not cured within three calendar days from the day on which the obligation has to be performed or ; (b) CUSTOMER becomes insolvent, there is any act of bankruptcy regarding CUSTOMER, or any application is filed or resolution passed for the bankruptcy, dissolution, liquidation or insolvency of CUSTOMER, or the appointment of a receiver over the assets of the CUSTOMER, in whole or in part, or any equivalent proceeding takes place under the laws in which the CUSTOMER is incorporated, carries on businesses or has assets.

9.2. Under any of the circumstances described in Article 9.1 and without the need for NOVASOL's prior notice of default, all sums shall become immediately due and payable to NOVASOL, notwithstanding any credit conditions granted to CUSTOMER.

9.3. NOVASOL shall be entitled to suspend or to terminate the Order confirmation without damages or liability to the extent resulting from any force majeure provided that NOVASOL uses reasonable efforts to notify the CUSTOMER of the circumstances causing the delay, non-delivery or non-execution of the Order confirmation.

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10. Insurance

10.1. Until title to the Goods has passed to CUSTOMER in accordance with Article 5 above, CUSTOMER, at its own expense, shall maintain a standard "All Risk" property insurance with a reputable insurance company, covering the Goods and, inter alia, the following risks: floods, earthquake, fire, storm, aircraft etc, for an amount of at least the NOVASOL's price of the Goods as per the Order confirmation. Such insurance shall name NOVASOL as beneficiary in respect of the Goods. The aforesaid insurance shall be primary cover, and in no event shall any insurance of NOVASOL be called upon to contribute to any loss relating to or arising out of the Order. The insurance shall be in effect and shall be evidenced by a certificate of insurance with all necessary endorsements as required pursuant to this Article 10 delivered to NOVASOL on or prior to the Delivery Date (as defined on the Order confirmation). The insurance shall provide for at least thirty (30) days' prior written notice to NOVASOL in the event of any cancellation, non-renewal or material change in coverage and upon request by NOVASOL, CUSTOMER shall provide a copy of any and all endorsements or other documentation relating to such insurance policies.

10.2. Should CUSTOMER, at any time until transfer of title, be without sufficient insurance, as determined by NOVASOL in accordance with the provisions of this Condition, CUSTOMER appoints NOVASOL as its agent to obtain such coverage, and undertakes to pay to NOVASOL the entire cost of such coverage.

11. Confidentiality and Data Protection

11.1. CUSTOMER shall keep confidential and not disclose to third parties any information, data, suppliers name or otherwise received from NOVASOL and undertakes to use such information and data solely in connection with the purpose of the Order confirmation. CUSTOMER shall not inform third parties of the contents of the Order confirmation, including the prices mentioned herein, without the prior written approval of NOVASOL.

11.2. NOVASOL shall keep confidential and process any personal data disclosed to it by CUSTOMER in accordance with the provisions of the General Data Protection Regulation 2016/679 ("GDPR Regulation"), including any Belgian legislation implementing the GDPR Regulation, such as the Belgian Law of 30 July 2018 on the protection on individuals with regard to the processing of personal data.

11.3. NOVASOL shall process personal data only to the extent necessary to deliver the services CUSTOMER has requested from NOVASOL, and to comply with any legal obligation to which it would be subjected.

11.4. NOVASOL may hire subcontractors, provided that they are bound by commitments substantially equivalent to those of this provision.

11.5. CUSTOMER has a right to access to its personal data and a right to rectify or erase such data. CUSTOMER also has the right to object, free of charge, to the processing of its personal data for direct marketing purposes. If CUSTOMER has any questions concerning the processing of its personal data or if it wishes to exercise the above-mentioned rights, it should address such requests to hr@novasolchemicals.com.

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12. Miscellaneous

12.1. Weight & Quantity

CUSTOMER acknowledges that the weight given in the Order confirmation shall be indicative only. Quantity of Goods shall be deemed conclusive and binding as indicated in the respective Bill of Lading and/or weight bill attached to the delivery documents and confirmed by the appointed Surveyor at loading point.

12.2. Storage & Finance Fee

CUSTOMER irrevocably undertakes to indemnify NOVASOL for any and all costs and expenses incurred by NOVASOL relating to and/or connected with storage of Goods after the confirmed Date of Delivery or date of collection. CUSTOMER will reimburse NOVASOL for the costs incurred whereby the reimbursement shall not be less than the additional costs paid by NOVASOL to maintain and store the goods purchased by the CUSTOMER until such time as delivery can be made.

12.3. Allowed Discharge Time

CUSTOMER acknowledges that for DAP and/or DDP deliveries, a limited discharge time is included and specified on the Order confirmation. Discharge time starts on arrival of truck at destination within the agreed timeslot with CUSTOMER. CUSTOMER shall reimburse NOVASOL the additional costs incurred for the delivery time exceeding the agreed discharge time.

12.4. No Assignment

CUSTOMER may not assign any of its rights or obligations hereunder to whatever other party without prior knowledge and written agreement by NOVASOL. NOVASOL may delegate or assign any of its duties hereunder to any party that NOVASOL considers qualified to perform that duty.

12.5. Conflict or Inconsistency

In the event of any conflict or inconsistency between the Order confirmation, these Terms & Conditions and any rules contained in the applicable INCOTERMS or any terms or conditions set forth in any invoice, annex or other document relating to the transactions contemplated by the Order confirmation, the Order confirmation and the Terms & Conditions shall prevail; No change or amendment to the Order confirmation and the Terms & Conditions shall be binding on NOVASOL unless explicitly agreed upon and accepted in writing by NOVASOL.

12.6. No Waiver of Rights

NOVASOL's failure at any time to require strict adherence to the terms of the present Terms & Conditions by CUSTOMER shall not constitute a waiver or diminish NOVASOL's rights to request strict compliance with any provision of the Order confirmation. Waiver by NOVASOL of any clause of these Terms & Conditions shall not constitute waiver of any other clause of these Terms & Conditions; No rights or remedies referred to in these Terms & Conditions shall be deemed to be exclusive, but shall be cumulative and additional to any other rights or remedies prescribed or warranted by law.

12.7. Notices

Any notice given by registered mail or email with confirmation of receipt to the parties stated in the Order confirmation will be deemed received by parties.

12.8. Sole Agreement

The Order confirmation and the Terms & Conditions represent the sole and entire agreement and understanding between the parties and supersedes and replaces all previous contracts or understandings, written or oral.

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12.9. Divisibility

The invalidity or inapplicability of any of the stipulations of these Terms & Conditions shall not affect in any respect whatsoever the validity or the applicability of the other stipulations. As far as may be necessary, parties shall be deemed to have agreed on replacing the invalid or inapplicable stipulation by closest valid legal stipulation, satisfying the economic intent of the original provisions to the maximum extent.

12.10. Proper Law and Jurisdiction

These Terms & Conditions and all transactions between NOVASOL and CUSTOMER are governed by Belgian law, to the exclusion of the UN Convention on Contracts for the International Sale of Goods. Any dispute arising from or in connection to these Terms & Conditions or the Order confirmation shall be exclusively resolved by a single arbitrator, if the issue at stake in the dispute does not exceed USD 250,000 and by three arbitrators otherwise, in accordance with the CEPINA Rules of Arbitration. The arbitration shall be held in Brussels, Belgium. The proceedings and awards shall be in the English language.