

# NOVOSANA

## General Sales Conditions

### 1. GENERAL

1.1 These General Terms and Conditions of Sale ("Conditions") govern the offering, sale and delivery of all goods and/or services (hereinafter jointly referred to as the "Products") from or on behalf NOVOSANA (Taicang) Co., Ltd., or any of its Affiliates ("NOVOSANA") to customer ("Customer") and apply to all transactions between NOVOSANA and Customer.

1.2 By contracting on the basis of the Conditions, Customer agrees to the applicability thereof in respect of all future dealings, even if this is not explicitly stated.

1.3 NOVOSANA explicitly rejects the applicability of any general terms and conditions of Customer. Furthermore, the Conditions supersede any and all terms of prior oral and written quotations, communications, agreements and understandings of the parties in respect of the sale and delivery of the Products and shall apply in preference to and supersede any and all terms and conditions of any order placed by Customer and any other terms and conditions submitted by Customer. Failure by NOVOSANA to object to the terms and conditions set by Customer shall in no event be construed as an acceptance of any of the terms and conditions of Customer. Neither NOVOSANA's commencement of performance nor NOVOSANA's delivery shall be deemed as acceptance of any of Customer's terms and conditions. If the Conditions differ from any of the terms and conditions of Customer, the Conditions and any subsequent communication or conduct by or on behalf of NOVOSANA, including, without limitation, confirmation of an order and delivery of Products, constitute a counter-offer and not acceptance of such terms and conditions submitted by Customer. Any communication or conduct of Customer which confirms an agreement for the delivery of Products by NOVOSANA, as well as acceptance by Customer of any delivery of Products from NOVOSANA shall constitute an unqualified acceptance by Customer of the Conditions.

1.4 NOVOSANA reserves the right to amend the Conditions at any time. NOVOSANA will notify Customer of any such amendments by sending the amended Conditions to Customer or otherwise. The amended Conditions will take effect on the date of notification of these amendments.

1.5 NOVOSANA and Customer agree that valid, enforceable and binding obligations may result from electronic means of communication. Any electronic communication between NOVOSANA and Customer shall be effective as originals and shall be considered to be a "writing" between the parties. The electronic communication system used by NOVOSANA will serve as sole proof for the content and the time of delivery and receipt of such electronic communications.

### 2. QUOTATIONS, ORDERS AND CONFIRMATION

2.1 All quotations issued by NOVOSANA are revocable and subject to change without notice. Orders are not binding until accepted by NOVOSANA in writing or NOVOSANA and Customer conclude a sales contract accordingly (the accepted order and sales contract are jointly hereinafter referred to as the "NOVOSANA Confirmed Order"). NOVOSANA shall be entitled to refuse an order without indicating the reasons.

2.2 Price quotations based on estimated or projected quantities are subject to increase in the event that actual quantities purchased during the specified period are different than the estimated or projected quantities.

2.3 Each delivery shall stand as a separate transaction and any failure to deliver shall have no consequences for other deliveries.

### 3. PRICES

3.1 Prices and currencies of NOVOSANA's Products are as set out in the NOVOSANA Confirmed Order. Unless otherwise agreed, NOVOSANA's prices include standard packaging but do not include Value Added Tax or any other similar applicable taxes, duties, levies or charges in any jurisdiction levied in relation to the Products or the delivery thereof ("Taxes"). The amount of any Taxes levied in connection with the sale of Products to Customer shall be for Customer's account and shall either be added to each invoice or separately invoiced by NOVOSANA to Customer.

3.2 Unless the prices have been indicated as firm by NOVOSANA in the NOVOSANA Confirmed Order, NOVOSANA is entitled to increase the price of the Products still to be delivered if the cost price determining factors have been subject to an increase. These factors include but are not limited to: raw and auxiliary materials, energy, products obtained by NOVOSANA from third parties, wages, salaries, social security contributions, governmental charges, freight costs and insurance premiums. NOVOSANA shall notify Customer of such increase which shall not exceed the increase in the determining cost factors.

### 4. PAYMENT AND CUSTOMER'S CREDIT

4.1 Unless stated otherwise in the NOVOSANA Confirmed Order, payment shall be made on the basis of net cash, to be received by NOVOSANA within 30 (thirty) days following the date of NOVOSANA's invoice. All payments shall be made without any deduction on account of any Taxes and free of set-off or other

counterclaims except for set-offs with uncontested and/or enforceable counterclaims.

4.2 NOVOSANA may, without prejudice to any other rights of NOVOSANA, charge interest on any overdue payment at 24% (twenty-four percent) per annum from the due date computed on a daily basis until all outstanding amounts are paid in full. All costs and expenses incurred by NOVOSANA with respect to the collection of overdue payments (including, without limitation, reasonable attorney's fees, expert fees, court costs and other expenses of litigation) shall be for Customer's account.

4.3 Every payment by Customer shall in the first place serve to pay the judicial and extra-judicial costs and the accrued interest and shall afterwards be deducted from the oldest outstanding claim regardless of any advice to the contrary from Customer.

4.4 Any complaint with respect to the invoice must be notified to NOVOSANA in writing within 20 (twenty) days after the date of invoice. Thereafter, Customer shall be deemed to have approved the invoice.

### 5. DELIVERY AND ACCEPTANCE

5.1 Unless stated otherwise in the NOVOSANA Confirmed Order, all deliveries of Products shall be EXW (Ex-Works) place of destination. The term EXW shall have the meaning as defined in the latest version of INCOTERMS published by the International Chamber of Commerce in Paris, France, at the time of the NOVOSANA Confirmed Order. In case the transaction under the NOVOSANA Confirmed Order is a Chinese domestic sale, unless stated otherwise in the NOVOSANA Confirmed Order, Products shall be delivered at the warehouse designated by NOVOSANA and Customer shall take delivery from such designated warehouse.

5.2 Unless stated otherwise in the NOVOSANA Confirmed Order, any times or dates for delivery by NOVOSANA are estimates and shall not be of the essence. NOVOSANA is entitled to deliver the Products as stated in the NOVOSANA Confirmed Order in parts and to invoice separately. Delay in delivery of any Products shall not relieve Customer of its obligation to accept delivery thereof, unless Customer cannot reasonably be expected to accept such late delivery. Customer shall be obliged to accept the Products and pay the rate specified in the NOVOSANA Confirmed Order for the quantity of Products delivered by NOVOSANA.

### 6. CANCELLATION

6.1 Customer's wrongful non-acceptance or rejection of Products or cancellation of the NOVOSANA Confirmed Order shall entitle NOVOSANA to recover from Customer, in addition to any other damages caused by such action:

(i) in the case of Products which reasonably cannot be resold by NOVOSANA to a third party, the price of such Products as quoted in the NOVOSANA Confirmed Order; or

(ii) in the case of Products which can be resold by NOVOSANA, damages equal to 50% (fifty percent) of the price for the Products as quoted in the NOVOSANA Confirmed Order as liquidated damages, unless Customer can demonstrate that the actual damages incurred by NOVOSANA are lower than 50% (fifty percent) of the price or were not suffered at all.

### 7. EXAMINATION AND CONFORMITY TO SPECIFICATIONS

7.1 On delivery and during the handling, use, commingling, alteration, incorporation, processing, transportation, storage, importation and (re)sale of the Products (the "Use"), Customer shall examine the Products and satisfy itself that the Products delivered meet the agreed specifications for the Products as stated in the NOVOSANA Confirmed Order or, in the absence of agreed specifications, to the most recent specifications used by NOVOSANA at the time of delivery of the Products (the "Specifications").

7.2 Complaints about the Products shall be made in writing and must reach NOVOSANA not later than 7 (seven) days from the date of delivery in respect of any defect, default or shortage which would be apparent from a reasonable inspection on delivery, and 7 (seven) days from the date on which any other claim (e.g. hidden defects) was or ought to have been apparent, but in no event later than (i) 6 (six) months from the date of delivery of the Products or (ii) the expiry of the Products' shelf-life whichever is the earlier. Any Use of the Products shall be deemed to be an unconditional acceptance of the Products as of the date of delivery and a waiver of all claims in respect of the Products.

7.3 A determination of whether or not delivered Products conform to the Specifications shall be done solely by NOVOSANA analysing the samples or records retained by NOVOSANA and taken from the batches or production runs in which the Products were produced in accordance with the methods of analysis used by NOVOSANA. In case of a discord between the parties concerning the quality of a batch or production run of Products supplied by NOVOSANA to Customer, NOVOSANA will submit representative samples of said batch or run to an independent laboratory reasonably acceptable to Customer to have determined whether or not the batch or run in question has met the Specifications. The results of such analysis shall be

binding upon the parties and the party unable to uphold its position shall bear the related costs of the laboratory.

7.4 Defects in parts of the Products do not entitle Customer to reject the entire delivery of the Products, unless Customer cannot reasonably be expected to accept delivery of the remaining non defective parts of the Products. Complaints, if any, do not affect Customer's obligation to pay as defined in Article 4.

### 8. TRANSFER OF RISK AND PROPERTY

8.1 The risk of the Products shall pass to Customer according to the applicable Incoterm (see Article 5.1) or the relevant provision of Article 5.1.

8.2 The title to the Products shall not pass to Customer and full legal and beneficial ownership of the Products shall remain with NOVOSANA unless and until NOVOSANA has received payment in full for the Products, including costs such as interest, charges, expenses etc.

8.3 In the event of termination on the basis of Article 16, NOVOSANA shall, without prejudice to any other rights of NOVOSANA, be entitled to require immediate return of the Products, or to repossess the Products, for which it may invoke a retention of title.

### 9. LIMITED WARRANTY

9.1 NOVOSANA solely warrants that on the date of delivery the Products shall conform to the Specifications. If and to the extent Products are in breach with such warranty, as determined in accordance with Article 7, NOVOSANA may at its own option and within a reasonable time either repair or replace the Products at no charge to Customer, or issue a credit for any such Products in the amount of the original invoice price. Accordingly, NOVOSANA's obligation shall be limited solely to repair or replacement of the Products or for credit of the Products.

9.2 NOVOSANA's obligation to repair, replace, or credit shall be contingent upon receipt by NOVOSANA of timely notice of any alleged non-conformance of Products and, if applicable, the return of the Products, in accordance with Article 7.

9.3 The foregoing warranty is exclusive and in lieu of all other warranties, representations, conditions or other terms, express, implied, statutory, contractually or otherwise, including, without limitation, any warranty of merchantability, suitability or fitness for any purpose, or absence of infringement of any claim in any intellectual property right covering the Products.

### 10. LIMITED LIABILITY

10.1 NOVOSANA's liability for any and all claims arising out of or in connection with the Products and the Use thereof shall per occurrence be limited to direct damages of Customer and shall under no circumstances exceed the sales value of the defective batch of the relevant Product supplied to Customer.

10.2 NOVOSANA shall under no circumstances be liable to Customer or any other person for any kind of special, incidental, indirect, consequential or punitive damage or loss, cost or expense, including without limitation, damage based upon lost goodwill, lost sales or profit, delay in delivery, work stoppage, production failure, impairment of other goods or based on any other cause, and whether arising out of or in connection with breach of warranty, breach of contract, misrepresentation, negligence or otherwise.

### 11. FORCE MAJEURE

11.1 Neither party shall be liable in any way for any damage, loss, cost or expense arising out of or in connection with any delay, restriction, interference or failure in performing any obligation towards the other party caused by any circumstance beyond its reasonable control, including, without limitation, acts of God, laws and regulations, administrative measures, orders or decrees of any court, earthquake, flood, fire, explosion, war, terrorism, riot, sabotage, accident, epidemic, strike, lockout, slowdown, labour disturbances, difficulty in obtaining necessary labour or raw materials, lack of or failure of transportation, breakdown of plant or essential machinery, emergency repair or maintenance, breakdown or shortage of utilities, delay in delivery or defects in goods supplied by suppliers or subcontractors ("Force Majeure").

11.2 Upon the occurrence of any event of Force Majeure, the party suffering thereby shall promptly inform the other party by written notice thereof specifying the cause of the event and how it will affect its performance of its obligations under the NOVOSANA Confirmed Order. In the event of any delay, the obligation to deliver shall be suspended for a period equal to the time loss by reason of Force Majeure. However, should a Force Majeure event continue or be expected to continue for a period extending to more than 60 (sixty) days after the agreed delivery date, either Party is entitled to cancel the affected part of the NOVOSANA Confirmed Order without any liability to the other Party.

### 12. MODIFICATIONS AND INFORMATION; INDEMNITY

12.1 Unless the Specifications have been agreed to be firm for a certain period of time or quantity of Products, NOVOSANA reserves the right to change or modify the Specifications. Customer acknowledges that data in NOVOSANA's catalogues, product data sheets and other descriptive publications distributed or published on its websites may accordingly be varied from time to time without notice.

12.2 Consultation provided by NOVOSANA shall not give rise to any additional obligations. Customer shall indemnify and hold NOVOSANA harmless from and against any and all damages, losses, costs, expenses, claims, demands and liabilities (including without limitation product liabilities) arising out of or in connection with the Products and Customer's Use thereof.

### 13. COMPLIANCE WITH LAWS AND COMPULSORY STANDARDS

13.1 Customer acknowledges that the Use of the Products may be subject to requirements or limitations under any law, statute ordinance, rule, code or compulsory standard, including, but not limited to, all applicable regulations relating to (i) anti-bribery and anti-corruption and (ii) international trade, such as, but not limited to, embargos, import and export control and sanctioned party lists ("Laws and Compulsory Standards").

13.2 Customer expressly warrants that employees, agents and subcontractors of the Customer shall not directly or indirectly (i) accept, promise, offer or provide any improper advantage to or (ii) enter into an agreement which would constitute an offence or infringement of applicable Laws and Compulsory Standards, (a) with, any entity or person - including officials of a government or a government-controlled entity, or (b) relating to a product.

13.3 Customer shall be exclusively responsible for (i) ensuring compliance with all Laws and Compulsory Standards associated with its intended Use of the Products; and (ii) obtaining all necessary approvals, permits or clearances for such Use.

### 14. SUSPENSION AND TERMINATION

14.1 If Customer is in default of performance of its obligations towards NOVOSANA and fails to provide to NOVOSANA adequate assurance of Customer's performance before the date of scheduled delivery; or if Customer becomes insolvent or unable to pay its debts as they mature, or goes into liquidation (other than for the purpose of a reconstruction or amalgamation) or any bankruptcy proceeding shall be instituted by or against Customer or if a trustee or receiver or administrator is appointed for all or a substantial part of the assets of Customer or if Customer enters into a deed of arrangement or makes any assignment for the benefit of its creditors; or in case of non-compliance of Customer with Laws and Standards, then NOVOSANA may by notice in writing forthwith, without prejudice to any of its other rights:

(i) demand return and take repossession of any delivered Products which have not been paid for and all costs relating to the recovery of the Products shall be for the account of Customer; and/or  
(ii) suspend its performance or terminate the NOVOSANA Confirmed Order for pending delivery of Products unless Customer makes such payment for Products on a cash in advance basis or provides adequate assurance of such payment for Products to NOVOSANA.

14.2 In any such event of Article 14.1 all outstanding claims of NOVOSANA shall become due and payable immediately with respect to the Products delivered to Customer and not repossessed by NOVOSANA.

### 15. SEVERABILITY AND CONVERSION

15.1 In the event that any provision of the Conditions shall be held to be invalid or unenforceable, the same shall not affect in any respect whatsoever, the validity and enforceability of the remaining provisions between the parties and shall be severed therefrom. The pertaining provisions held to be invalid or unenforceable shall be reformed to meet the legal and economic intent of the original provisions to the maximum extent permitted by law.

### 16. LIMITATION OF ACTION

16.1 Unless otherwise stated hereunder, no action by Customer shall be brought unless Customer first provides written notice to NOVOSANA of any claim alleged to exist against NOVOSANA within 30 (thirty) days after the event complained of first becomes known to Customer and an action is commenced by Customer within 12 (twelve) months after such notice.

### 17. GOVERNING LAW AND VENUE

17.1 The parties' rights and obligations arising out of or in connection with the NOVOSANA Confirmed Order and/or the Conditions shall be governed, construed, interpreted and enforced according to the laws of People's Republic of China, without regard to the conflict of laws provisions thereof. The United Nations Convention on Contracts for the International Sale of Goods dated 11 April 1980 (CISG) shall not apply.

17.2 Any dispute, controversy or claims arising under, out of or relating to these Conditions or/and the transaction hereunder shall be settled amicably between the Parties. If no amicable settlement can be reached, both Parties agree to submit the dispute to exclusive jurisdiction of China Economic and Trade Arbitration Commission ("CIETAC"). The arbitration shall be conducted in Shanghai in accordance with the Arbitration Rules of CIETAC.

Updated: Apr. 1, 2023

# 挪亚圣诺(太仓)生物科技有限公司 一般销售条款

## 1. 基本规定

1.1 本基本销售条款和条件(以下简称“条件”)将适用于挪亚圣诺(太仓)生物科技有限公司或其关联方(以下合称为“挪亚圣诺”)亲自或通过他方代表向客户(以下简称为“客户”)所做的所有产品和/或服务(以下合称为“产品”)的发售、销售和交付,而且适用于挪亚圣诺和客户之间的所有交易。

1.2 在根据本条件签约之后,客户同意针对此后的所有交易适用本条件,即使此后交易中并未明确如此规定。

1.3 挪亚圣诺据此明确拒绝适用客户的任何基本条款和条件。此外,本条件将取代双方当事人针对产品的销售和交付此前达成的所有口头或书面报价、通函、协议和谅解中的所有规定,而且优先适用并取代客户签发的任何订单中的所有条款和条件以及客户提交的任何其它条款和条件。即使挪亚圣诺并未拒绝客户提出的条款和条件,在任何情况下也不得视为其已经接受了客户的任何条款和条件。无论是挪亚圣诺的开始履约行为还是挪亚圣诺的交货行为,均不得视为是挪亚圣诺已经接受了客户的任何条款和条件。如果本条件与客户的条款和条件存有差异,本条件以及挪亚圣诺此后亲自或通过他方代表做出的通函和行为(包括但不限于对任何订单或交货所做的确认),将构成对客户提交的上述条款和条件的反要约,且不视为是对客户提交的上述条款和条件的接受。对于客户做出的任何通函或行为而言,如果其目的是为了对挪亚圣诺货物交付协议进行确认,而且是为了对客户对挪亚圣诺的任何产品交货行为进行接受,该通函或行为将视为是客户对本条件的无条件接受。

1.4 挪亚圣诺据此保留在什么时候对本条件进行修订的权利。挪亚圣诺将通过向客户发送已经修订的条件的方式或者其它方式,向客户告知所做的任何上述修订。已修订的条件将在已经告知该等修订之日开始生效。

1.5 挪亚圣诺和客户据此同意:可以通过电子通信方式创设有效、有约束力且可以执行的义务。挪亚圣诺和客户之间所做的任何电子通信均视为是原件,且在双方当事人之间视为是属于“书面形式”。挪亚圣诺所使用的电子通信系统将作为证明上述电子通信发送和收取的内容和时间的唯一证据。

## 2. 报价、订单和确认

2.1 挪亚圣诺所签发的报价属于可撤销的报价,挪亚圣诺在无需另行发送通知的情况下可以进行修改。订单在满足下述要求之前不具有约束力:挪亚圣诺已经书面接受了该订单,或者挪亚圣诺和客户已经据此签署了相应的销售合同(以下已经接受的订单和销售合同合称为“挪亚圣诺已确认订单”)。挪亚圣诺有权在不出具理由的情况下拒绝任何订单。

2.2 对于根据产品预测数量或预定数量而做出的报价而言,如果在规定期限内实际购买的产品数量与上述预测数量或预定数量有差异,可以对报价做出涨价。

2.3 每一交货均视为是单独交易,任何一次未交货不得对其它交货产生影响。

## 3. 价格

3.1 挪亚圣诺产品的价格和付款币种已经规定在挪亚圣诺已确认订单之中。除另有其它约定外,挪亚圣诺的价格中已经包含了标准包装费,但不包括任何管辖区内针对产品或者产品交付而征收的任何增值税或者其他类似税费、关税、征税或收费(以下合称为“税费”)。针对向客户出售产品而征收的任何税款金额应当由客户自行负责,而且该税款金额将加入每一发票之中,或加入到挪亚圣诺就此向客户单行出具的发票之中。

3.2 除挪亚圣诺在挪亚圣诺已确认订单中注明为固定价格外,如果在产品交付之前其费用价格确定因素中出现了任何涨价,挪亚圣诺有权对产品价格进行涨价。上述因素包括但不限于:原材料和附属材料、能源、挪亚圣诺从第三方取得的产品,工资、薪水、社会保险金、政府收费、运输费用和保险费。挪亚圣诺应将产品的涨价告知客户,且产品涨价幅度不得超出上述费用确定因素的涨价幅度。

## 4. 付款和客户信用

4.1 除挪亚圣诺已确认订单中另有其它规定外,应当以净现金方式完成付款,且应当确保在挪亚圣诺已经签发发票之日后的三十日期限内收到该付款。所做的所有付款均不得扣除任何税款,也不得做出其它任何抵消或者反请求,但针对无异议金额所做的抵消和/或可以执行的反请求除外。

4.2 在不影响挪亚圣诺所享有的任何其它权利的基础上,挪亚圣诺有权针对任何到期未付款项收取每年百分之二十四的利息,该利息从到期应付日起算,按日计息,

直至所有到期未付款项已经全额支付完毕之日为止。挪亚圣诺因为收取任何到期未付款项而产生的所有费用和开支(包括但不限于合理的律师费、专家费、法院费用和它项诉讼费用)应当由客户承担。

4.3 客户所做的付款首先应当用于偿付司法费用、非司法费用和已经产生的利息,在扣除完毕上述费用之后才能用于偿付此前的到期未偿债务,无论客户就此做出任何反告知均在所不问。

4.4 针对发票所做的任何投诉,应当在发票日之后的二十日期限内,以书面方式通知挪亚圣诺。该期限结束之后视为客户已经批准了发票。

## 5. 交货和验收

5.1 除挪亚圣诺已确认订单中另有其它规定外,所有产品均需以“EXW(工厂交货)指定目的地为工厂”的方式交货。“EXW”一词的含义应当在出具挪亚圣诺已确认订单之时位于法国巴黎的国际商会公布的最新版本《国际贸易术语解释通则》中定义的为准。如果挪亚圣诺已确认订单项下的交易属于中国境内销售交易,则除挪亚圣诺已确认订单中另有其它规定外,产品应当在挪亚圣诺指定的仓库交货,客户应当从该指定仓库完成货物交付。

5.2 除挪亚圣诺已确认订单中另有其它规定外,挪亚圣诺的交货时间和交货日期仅为预测时间和日期,其无任何重要意义。挪亚圣诺有权对挪亚圣诺已确认订单中所列的产品进行部分交货,并单独就此开具发票。即使迟延交付了任何产品,也不得免除客户对所交付产品进行验收的义务,但挪亚圣诺无法合理预期客户会接受该迟延交货的情形除外。针对已由挪亚圣诺交付的产品数量,客户应当接受该产品并按照挪亚圣诺已确认订单中所列的收费标准对此付费。

## 6. 撤销

6.1 如果客户错误的未能接受产品或拒收产品,或者错误的撤销了挪亚圣诺已确认订单,挪亚圣诺有权要求客户就此做出下述赔偿,且该赔偿仅作为因此产生的任何其它损害赔偿的补充:(i)针对经合理判断挪亚圣诺无法向第三方出售的产品,应当按照挪亚圣诺已确认订单中的报价赔偿该产品的价格;或者(ii)针对可由挪亚圣诺重售的产品,应当支付等于挪亚圣诺已确认订单中所报的该产品价格的百分之五十的赔偿金,该赔偿金将作为约定损害赔偿金,但如果客户能够证明挪亚圣诺因此遭受的实际损失低于上述百分之五十价格或者挪亚圣诺就此根本未遭受任何实际损失的除外。

## 7. 对规格书的检验以及符合规格书要求

7.1 在产品交货之时以及在产品的装卸、使用、混装、更改、入用、处理、运输、仓储、进口和销售(转售)过程中(以下合称为“使用”),客户应当对产品进行检验,并应确认所交付的产品符合挪亚圣诺已确认订单中所列的约定产品规范要求(如果无约定规范,应确认其满足在产品交付之时挪亚圣诺所使用的最新规范要求)(以下合称为“规范”)。

7.2 与产品相关的投诉应当以书面方式做出,且应当在下述期限内提交给挪亚圣诺:针对在交货之时仅通过合理检查即能发现的任何明显缺陷、故障或者缺点,应当在交货之日后的七日内提交给挪亚圣诺;针对其它投诉(比如隐蔽缺陷投诉),应当在发现或者缺陷已经明显应当发现之日后的七日内提交给挪亚圣诺,但在任何情况下,该等投诉的提交日期均不得晚于:(i)交付产品之日后的六个月期限结束之日,或者(ii)产品保质期结束之日(以最早到达的日期为准)。对产品的任何使用均视为是在交货之日对产品所做的无条件接受,且视为客户已经放弃了针对产品所享有的所有索赔权。

7.3 仅能由挪亚圣诺确定是否所交付的产品符合规范要求,挪亚圣诺在做出确定之时,应根据挪亚圣诺所使用的分析方法,对其保留的样品或记录进行分析,该“样品或记录”是指在所供应产品生产的批次或生产线中,由挪亚圣诺所抽取的样品或记录。如果双方当事人针对挪亚圣诺向客户供应的批次产品或生产线产品质量存在任何异议,挪亚圣诺应当向符合客户合理要求的独立实验室提交上述批次或生产线的代表样品,由该独立实验室确定是否相关批次产品或生产线产品符合规范要求。上述分析结果对双方当事人均具有约束力,而且分析结果未支持其请求的当事人应当承担实验室的相关费用。

7.4 产品出现的任何缺陷均不得导致客户享有拒绝接受全部产品交货的权利,但挪亚圣诺无法合理预期客户会接受剩余无缺陷产品部件的情形除外。所做的任何投诉均不得影响到客户根据第4条规定做出付款的义务。

## 8. 风险和所有权转移

8.1 产品风险将根据适用的国际贸易术语解释通则(详见第5.1条)或者第5.1条相关规定转移至客户。

8.2 在挪亚圣诺已经针对产品收到全额付款(包括借

利息、收费、开支等费用)之前,产品的所有权不得转移至客户,且产品的全部法定和受益所有权由挪亚圣诺拥有。

8.3 如果已经根据第16条规定终止了本协议,则在不影响挪亚圣诺所享有的其它任何权利的基础上,挪亚圣诺有权要求客户立即退还所有产品,或者自己重新占有产品,就此挪亚圣诺有权主张所有权保留。

## 9. 有限保证

9.1 挪亚圣诺仅保证在产品交付之日,产品符合规范要求。如果产品违反了上述保证(具体根据第7条规定予以确定),挪亚圣诺有权根据自身选择,在合理的时间内对产品进行维修或更换(就此不得向客户收取任何费用),或者针对上述产品签发一份退款单,该退款金额应等于原始发票价格。相应的,挪亚圣诺承担的仅限于对产品进行维修或更换或者对产品进行退款。

9.2 挪亚圣诺所承担的维修、更换或者退款义务的前提是:挪亚圣诺已经及时收到了客户声称产品不符合规格要求的通知,而且一旦需要,客户还需根据第7条规定退还了产品。

9.3 上述保证不得排除或替代其它任何保证、声明、条件或者其它条款(包括明示条款、默示条款、法定条款、合约条款或者其它条款),包括但不限于针对产品耐用性所做的保证,适于任何特定用途的适用性保证,或者涵盖产品的知识产权不存在侵权性的保证。

## 10. 有限责任

10.1 针对因为本协议项下产品或其使用而产生的所有索赔,挪亚圣诺就此承担的责任应以下述为限:每发生一次事故承担的责任应以客户遭受的直接损害为限,且在任何情况下,均不得超出向客户供应的相关批次缺陷产品的总销售价格。

10.2 在任何情况下,挪亚圣诺均无需向任何其他承担任何种类的特别损害赔偿、间接损害赔偿、附带损害赔偿或者惩罚性损害赔偿,也无需向任何其他承担赔偿责任任何损失、费用或开支,包括但不限于商誉损失赔偿、销售或盈利损失赔偿、交货迟延赔偿、窝工赔偿、生产故障赔偿以及其它产品损害赔偿,或者因为其它原因产生的其它损失赔偿,无论该等损失赔偿是因为违反保证、违反合同、虚假陈述、过失或其他原因所致的均在所不问。

## 11. 不可抗力

11.1 如果因为发生超出一方当事人合理控制范围之外的任何情形,导致该当事人须向对方当事人履行的任何义务出现了任何迟延、受阻、影响或者未能履约,并进而导致产生了任何损害、损失、费用或开支,该当事人无需以任何方式就此向对方当事人承担任何责任,上述“情形”包括但不限于自然灾害、法律和规章、行政措施、命令或者任何法院的裁定、地震、洪水、火灾、爆炸、战争、恐怖主义、暴乱、阴谋破坏、事故、疫病、罢工、封锁、怠工、劳资冲突、难以取得必要的人工或原材料、无法取得运输或者运输出现故障、厂房或重要机械出现故障、紧急维修或者维护、设施故障或者短缺、交货迟延或者供应商或分包商供货出现故障(以下合称为“不可抗力”)。

11.2 在发生了任何不可抗力事件之后,遭受不可抗力的当事人应当及时以书面通知向对方当事人做出告知,该书面通知中应载明事故的原因,并载明不可抗力事件对其履行挪亚圣诺已确认订单下己方义务的影响。如果因此出现了迟延,交货义务将予以暂停,暂停期限等于因为不可抗力导致损失的时间。然而,如果不可抗力事件持续的时间或预计持续的时间超出了约定交货日后的六十日期限,任何一方当事人均有权撤销受影响的那部分挪亚圣诺已确认订单,且就此无需向对方当事人承担任何责任。

## 12. 修订和信息以及赔偿

12.1 除已经针对相关期限或者相应数量产品约定的适用的规范外,挪亚圣诺据此保留对规范进行修改或变更的权利。客户据此确认:挪亚圣诺商品目录、产品数据表以及在其网站上公布或分配的其它说明性出版资料中所列的数据,也可由挪亚圣诺在什么时候予以相应的修改,就此无需另行发送通知。

12.2 挪亚圣诺提供的协商机会并未导致其承担任何额外义务。如果因为本协议项下产品或者客户对该产品的使用导致挪亚圣诺遭受了任何损害赔偿金、损失、费用、开支、索赔、要求和责任(包括但不限于产品责任),客户均需向挪亚圣诺进行赔偿,并免除挪亚圣诺因此遭受的所有损失。

## 13. 遵守法律和强制性标准

13.1 客户据此承认:对产品所做的使用应受相关法律、法律法规、法规、规范或者强制性标准中所列的要求或限制之约束,包括但不限于与下述事项相关的所有规章:

(i)反贿赂和反腐败,以及(ii)国际贸易,其包括但不限于禁运、进出口控制和受制裁当事方清单(以下合称为“法律和强制性标准”);

13.2 客户据此明确保证:客户的任何员工、代理人 and 分包商均不得直接或间接的做出下述任何行为,即:不得(a)针对任何单位或个人(包括任何政府机关或者政府控制单位的官员),或者(b)针对本协议项下产品,(i)接受、许诺、提供或者保证提供任何不当利益,或者(ii)签署任何会构成对适用法律和强制性标准违反或侵权的协议。

13.3 客户应当对下述事项独家负责:(i)确保遵守与产品预定使用用途相关的所有法律和强制性标准;以及(ii)取得了上述使用所需的所有必要批准、许可或者特许。

## 14. 暂停和终止

14.1 如果客户未能履行须向挪亚圣诺履行的己方义务,而且未能在预定交货日之前针对客户的履约行为向挪亚圣诺提供充分的保证;或者客户出现了破产情形,或者无力偿还到期应付债务;或者客户出现了清算情形(但不包括了为重组或合并而执行的清算);或者客户已经主动提起(或者任何他方针对客户提起)了任何破产程序;或者已经针对客户的全部或绝大部分资产任命了破产托管人、破产接收人或破产管理人;或者客户已经为其债权人利益达成了和解协议或者做出了任何转让;或者客户未能遵守任何法律和标准的要求,挪亚圣诺有权通过发送书面通知的方式,立即采取下述措施,且就此不得损及挪亚圣诺享有的任何其它权利:

(i) 要求退还任何已经交付的但尚未付款的产品并对其进行重新占有,与收回产品相关的所有费用均须由客户承担;和/或  
(ii) 暂停履行挪亚圣诺已确认订单或者终止根据挪亚圣诺已确认订单履行产品交货义务,除非客户已经事先以现金方式对上述产品支付了付款,或者已经就上述产品向挪亚圣诺提供了充分的保证。

14.2 在第14.1条所述任何情形中,挪亚圣诺的所有已到期付款请求针对已经交付给客户而且挪亚圣诺并未重新占有的产品立即到期应付。

## 15. 可分性和转换

15.1 如果本条件任何条款被认定为无效或不可执行,该条款不得在任何方面影响到其它剩余条款在双方当事人之间的有效性和可执行性,而且应当从本协议中删除出去。应当对被认定为无效或不可执行的相关条款进行修改,以确保其能够在法律准许的最大范围内满足原条款的法律目的和经济目的。

## 16. 诉讼限制

16.1 除本协议另有其它规定外,在客户首次获悉其有权提起诉讼的事件之后的三十日内,客户应当向挪亚圣诺发送书面通知以告知其向挪亚圣诺有权提起的相关索赔,如果客户未在上述期限内发送上述通知,其将无权针对挪亚圣诺提起任何诉讼;此外,客户应当在发送上述通知之日后的十二个月内提起相关诉讼。

## 17. 管辖法律和管辖地

17.1 双方当事人因为挪亚圣诺已确认订单和/或本条件而产生的权利和义务应当根据中华人民共和国进行管辖、解释、理解和执行,就此不得援引冲突法原则的规定。不适用1980年4月11日颁布的《联合国国际货物销售合同公约》(以下简称“CISG”)的规定。  
17.2 因为本条件和/或本条件项下交易而产生的任何纠纷、争议或索赔应当通过双方当事人友好协商的方式解决。如果未能达成友好解决结果,双方当事人均同意将该纠纷提交至中国国际经济贸易仲裁委员会(以下简称“仲裁委”)进行专属管辖。该仲裁应根据仲裁委的仲裁规则在上海执行。

*Updated: Apr. 1, 2023*