

TERMS AND CONDITIONS

Except as agreed in writing the following terms and conditions apply without exception to all sales and services by Novar GmbH, Forumstr. 30, 41468 Neuss, Germany ("Novar") to Buyer outside of the territory of the Federal Republic of Germany.

1. SOLE TERMS.

Novar's sale is expressly limited to the terms herein and refers to all goods sold and services provided by Novar. Any additional or different terms or conditions on Buyer's purchase order or any other instrument, agreement, or understanding are deemed to be material alterations and are rejected and not binding upon Novar. Novar's acceptance of Buyer's purchase order is expressly conditional upon Buyer's assent to the terms and conditions contained herein in their entirety. Buyer's acceptance of delivery from Novar constitutes Buyer's acceptance of these terms and conditions in their entirety.

2. QUOTE/ PRICES.

- Information in any quotations and in attached drawings and illustrations about the goods, their measurements and weights are only approximate unless they are expressly stated as being binding.
- Content and scope of the supply are determined exclusively on the basis of Novar's written quotation and order confirmation.
- Novar's quotations are subject to change until accepted by the Buyer. If an offer is stated as being binding, it shall be binding for 3 months from its date of issue.
- Novar reserves the right to make technical changes to construction, form and material of good - also during the delivery time - providing these changes are reasonably acceptable to Buyer. If agreed by the parties, changes to goods or services to be supplied, Novar is entitled to claim additional costs with immediate effect and is not obliged to perform the contract until Buyer agrees to make such payments.
- Buyer must request shipment of the entire quantity of goods ordered within 12 months from date of order; otherwise, Novar's standard prices at time of shipment may, at Novar's option, apply to those quantities actually delivered, even if already invoiced.
- Prices are EX WORKS Novar (Incoterms 2010). Unless specifically agreed in writing prices for goods do not include the cost of packaging, or services such as shipment, installation, start-up, commissioning or maintenance. If Novar has expressly agreed to ship goods, shipment costs will be as per the quote or if none mentioned the relevant catalog.
- All tooling, designs, drawings, and other intellectual property produced or delivered hereunder are owned by Novar.
- Order values less than the amount as set out in the price list published by Novar from time to time ("Minimum Order Value") will be subject to a handling fee defined in the then current Novar's price list.

3. PAYMENT.

- Unless otherwise expressly agreed in writing, all payments are to be in EUROS and are due net in Novar's account within 30 days from date of invoice.
- All bank charges in connection with any payment shall be paid by Buyer. Checks and/or bills of exchange will only be accepted in payment's stead and in accordance with a special written agreement. They are deemed as payment only when they have been cashed in.
- Novar at all times reserves the right to evaluate Buyer's credit standing and if Buyer fails to qualify for credit under Novar's criteria, Novar may modify or withdraw credit terms without notice and require guarantees, security or payment in advance for further deliveries of goods. If these are not provided within a reasonable period following a notice, Novar may rescind the contract and/or claim costs, losses or damages.
- Invoices remaining unpaid after their due date will be subject to an interest charge at the rate of 5% above the base lending rate published by the European Central Bank from time to time per annum, unless Buyer is not responsible for the default. Buyer will pay all costs necessary for collection of unpaid amounts, including attorneys' fees, unless Buyer is not responsible for the default.

4. DELIVERY, EXAMINATION, RETENTION OF TITLE, COOPERATION.

- Novar will use all reasonable endeavours to effect delivery by the delivery date(s) stated in the contract or in any estimate of delivery time provided by Novar, but time is not of the essence in this regard. In any event, should delivery be delayed by any act, omission or delay on the part of the Buyer Novar is entitled to an extension of time.
- Buyer or its representative, who arranges for the goods to be collected from Novar's premises and then has them exported to a place outside the European Community Member States, shall provide Novar with valid evidence of export complying with the applicable VAT regulations within three months of the date shown on the accompanying sales invoice. In case of delivery of goods to foreign-going vessels and aircraft, Buyer shall provide Novar with a receipt duly signed by or on behalf of Buyer confirming delivery of the goods on board the ship or aircraft. Should Buyer fail to provide said evidence of export or receipt in time, Novar reserves the right to invoice subsequently and collect any value added tax deemed to be due and any fines or penalties that may be due in respect of the late payment of VAT.
- Novar may make deliveries under any order in one or more shipments, to the extent that this is reasonably acceptable to Buyer, and may issue separate invoices.
- Novar may demand an appropriate extension of the delivery date in the event of subsequent changes agreed.
- Delivery terms for goods are EX WORKS Novar (Incoterms 2010) with all risk of loss or damage to goods passing to Buyer upon delivery to carrier.
- Buyer must inspect all goods upon delivery without undue delay and must report i) obvious defects, transport damages (if Novar arranges the transport for the Buyer), discrepancies and shortages without undue delay, and in no event later than 10 days after delivery, (ii) hidden defects without undue delay, and in no event later than 10 days after detection in writing to Novar. Otherwise all goods will be deemed delivered and accepted, unless Novar fraudulently neglected to disclose such faults. Buyer will return to Novar any goods that are rejected at its own expense. In the event Buyer refuses to accept delivery, Buyer shall be liable for increased costs incurred by Novar in accordance with section 7 c).
- Novar shall retain title in all goods delivered by Novar until payment has been made in full. In the event Buyer has credit with Novar, retention of title shall serve as security for any balance due to Novar.
- Until title in the goods is transferred to Buyer, Buyer shall treat the goods with care; in particular it shall insure them sufficiently against fire, water and theft at reinstatement value at its own cost.
- If Buyer is overdue in paying the price Novar may recover the goods or any of them and for that purpose Buyer hereby grants Novar permission to enter the Buyer's premises and, if necessary, detach the goods from other goods or equipment.

5. TAXES.

The amount of any and all applicable taxes will be added to the price and paid by Buyer, unless Buyer has provided Novar with exemption certificates acceptable to the taxing authorities.

6. FORCE MAJEURE, DELAY.

- Novar is not liable for any delay in production or delivery of goods if due to a force majeure event, which includes, among other things, shortages or inability to obtain materials or components, or refusals to grant an export license or the suspension or revocation thereof, or any other acts of any government that would limit Novar's ability to perform, fire, earthquake, flood, severe weather conditions, or any other acts of God, quarantines, epidemics, pandemics, or other regional medical crisis labor strikes or lockouts, riots, strife, insurrection, civil disobedience, armed conflict, terrorism or war (or imminent threat of same), or any other cause whatsoever beyond Novar's reasonable control.
- If the force majeure event continues for longer than 90 days, either party may terminate Buyer's purchase order. If Buyer terminates the order, Buyer will pay Novar for work performed prior to termination and all reasonable expenses incurred by Novar prior to termination. In the event of delays in delivery or performance caused by force majeure or Buyer, the date of delivery or performance shall be extended by the period of time Novar is actually delayed or as mutually agreed. Any claims for damages, costs or losses howsoever construed shall be excluded.

7. TERMINATION, RETURN OF GOODS.

- Buyer may not terminate or cancel a purchase order without Novar's prior written consent. Goods scheduled for shipment within 30 days cannot be rescheduled. Goods scheduled for shipment between 30 and 60 days may be rescheduled with Novar's prior written consent and if rescheduled beyond 60 days that quantity may not be further rescheduled. Buyer is nonetheless liable for termination charges, which may include i) a price adjustment based on the quantity of goods delivered, (ii) all costs, direct and indirect, incurred and committed for Buyer's terminated purchase order, (iii) the full cost of all unique materials required for custom goods, and (iv) a pro-rata compensation covering the prorated expenses and anticipated profits consistent with industry standards.
- Novar may terminate a Buyer's purchase order in whole or in part upon Buyer's breach of these terms and conditions or if Buyer makes any voluntary arrangement with its creditors, becomes subject to an administration order, becomes bankrupt or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction) or if any encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer, or if Buyer takes or suffers any similar action in consequence of a debt, or if Buyer ceases, or threatens to cease, to carry on business, with immediate effect and without liability to the Buyer.
- Returns of goods are only accepted in their original packed and sealed condition within six months after shipment. Software, customized products and products in opened packaging, lacquered and non-reusable parts cannot be returned. Goods can only be returned with an authorization number (RMA) obtained from Novar in advance of shipment to Novar. The RMA is specific to the relevant goods and quantity. Novar reserves the right to i) reject any return of other goods than specific to the RMA or (ii) charge an additional 25 € per return. In case of accepted returns, the purchase price shall be repaid with a deduction of up to 20% for processing, testing, administration and other overheads. The minimum charge for returns is 80.00 € per invoice. This does not affect the purchaser's rights under the product warranty. If the Purchaser withdraws from the Contract and is not entitled to do so, or if the Purchaser refuses to accept the delivery and is unjustified in doing so, the Seller is entitled to 15% of the agreed price as liquidated damages, unless the Purchaser proves that the Seller has not suffered any damage or to a lesser extent reserves the right to claim further damages.

8. INTELLECTUAL PROPERTY AND INFRINGEMENT INDEMNIFICATION.

- Copyright, design right and all other rights in the design and manufacture of goods supplied by Novar remain Novar's property and none is acquired by Buyer.
- Any software provided by Novar is hereby licensed and not sold. The use of software, if provided separately or installed on a good supplied, is governed by the following terms unless a software license agreement is included with such software. The license is nonexclusive, and is limited to such equipment and/ or location(s) as are specified on the purchase order for which this instrument serves as either a quotation or acknowledgment. No other use is permitted. Novar retains for itself (or, if applicable, its suppliers) all title and ownership to any software delivered hereunder, all of which contains confidential and proprietary information and which ownership includes without limitation all rights in patents, copyrights, trademarks and trade secrets. Buyer shall not attempt any sale, transfer, sublicense, reverse compilation or disassembly or redistribution of the software. Nor shall Buyer copy, disclose or display any such software, or otherwise make it available to others (except as Novar authorizes in writing). If the software is delivered with a good, Buyer may only transfer its license of the software to a third party in conjunction with the sale by Buyer of the good on which the software is installed. Novar may terminate this license if Buyer breaches fundamental provisions under these terms and conditions.
- Novar agrees to defend or settle any claim, suit, or proceeding brought against Buyer based upon a claim that any product manufactured and provided by Novar hereunder directly infringes any third party patent, copyright, or maskwork in the European Union and to pay costs and damages finally awarded to the third party, provided that: (i) Novar is notified promptly in writing of such claim; (ii) Novar is provided sole control of such defense or settlement using counsel of Novar's choice; (iii) and Buyer provides Novar with all available information and assistance. Novar shall not be responsible for any settlement or compromise of such claim made without Novar's written consent.
- Novar shall have no such obligation in respect of claims arising: (i) from goods not in Novar's catalogue or goods developed pursuant to Buyer's direction, design, or specification; (ii) from goods developed by Novar using any process required by Buyer; (iii) from the combination of any goods with other elements if such infringement would have been avoided by the product not in such combination; or (iv) from goods that have been modified if such infringement would have been avoided by the unmodified product. Buyer agrees to defend, indemnify, and hold harmless Novar from and against any claims, suits, or proceedings whatsoever arising from such exclusions identified in (i)-(iv) above.
- At any time after such a claim has been made or Novar believes it is likely to be made, or a court of competent jurisdiction enters an injunction from which no appeal can be taken, Novar will have at its option the discretion to: (i) procure for Buyer the right to continue using such product; (ii) replace or modify such product; or (iii) accept the product's return and refund the purchase price less twenty percent (20%) annual depreciation from shipment date. In no event shall Novar be liable for any consequential, incidental, special, or punitive damages. The foregoing states Novar's entire liability and Buyer's exclusive remedy for any actual or alleged infringement of third party rights. This section 8 is in lieu of and replaces any other expressed, implied, or statutory warranty against infringement.

9. WARRANTY.

- To the extent permitted by law Novar shall only be liable in accordance with the following warranty conditions, which replace any other warranties or guarantees. Any other claim shall be excluded. In particular (unless otherwise agreed in writing) Novar does not warrant the fitness of the product for any specific use which would not be the use for which the product was designed by its manufacturer.
- Except as otherwise expressly provided in respect of any particular goods, Novar warrants goods in all material respects to be free of defective materials and faulty workmanship and as conforming to applicable specifications and/or drawings. Unless otherwise agreed in writing commencing with Novar's date of shipment, the warranty period shall run for 12 months. Warranty for spare parts is limited to 12 months from delivery.
- Goods can only be returned with an authorization number (RMA) obtained from Novar in advance of shipment to Novar. The RMA is specific to the relevant goods and quantity. Non-complying goods returned transportation prepaid to Novar will be repaired or replaced, at Novar's option, and return-shipped lowest cost, transportation prepaid. Novar shall have no further liability to Buyer.
- Repaired or replaced goods shall be warranted for the remainder of the unused warranty term or for 90 days from shipment, whichever is longer.
- It is Buyer's responsibility to ensure that the Goods are fit for the application in which they are used.
- Software, if supplied separately or installed on goods supplied, and warranted by Novar, will be furnished on a medium that is free of defect in materials or workmanship under normal use for so long as the hardware and/or system is under warranty. During this period, Buyer has the rights listed in section 9 b) with regard to any defects of the software. Unless stipulated otherwise in a separate software license agreement no further warranty is given in respect of software.
- If Novar provides any services to the Buyer, including but not limited to training or assistance with configuration and installation of the goods, Novar shall provide such services in accordance with normal industry practice at such rates as may be specified by Novar in its price list from time to time. In case of non-conformance which Novar has been notified of correctly and promptly, Novar will repeat services and/or correct accordingly. To the extent permitted by law Novar accepts no liability to the Buyer arising out of the provision of such services.
- The above warranty is subject to the following conditions:
 - Novar shall be under no liability in respect of any defect in the goods arising from any drawing, design or specification supplied by Buyer.
 - Novar shall be under no liability in respect of any defect arising from fair wear and tear, contamination, wilful damage, negligence, incorrect movement, improper installation, neglect, failure to follow Novar's instructions (whether oral or in writing), operation in environmental conditions outside specified safe operating extremes, misuse or modification or repair of the goods without Novar's approval.

(iii) Novar shall be under no liability in respect of any defect or failure of the goods to operate in accordance with the specifications, illustrations, description and other particulars in Novar's literature and/ or due to the fact that Buyer combines or uses the goods with any incompatible equipment or ancillary products that may be connected to the goods.

(iv) Novar shall be under no liability in respect of any defect or failure of the goods to operate due to the Buyer's failure to apply required or recommended updates or patches to any software or device in the goods network environment.

j) Novar reserves the right to charge its regular charges if inspection does not disclose a defect within the terms of this warranty.

k) These warranties are for the benefit of the Buyer only and are not assignable or transferable. l) Additional warranty terms for specific goods may apply.

10. LIMITATION OF LIABILITY.

a) In no event shall either party be liable for (i) any indirect, incidental, consequential loss; (ii) any loss arising from business interruption; (iii) loss of profits; (iv) loss of revenue; (v) loss of use of any property or capital; (vi) loss of anticipated savings; or (vii) loss of data. Neither party shall be liable for any loss or damage where that liability arises as a result of their knowledge (whether actual or otherwise) of the possibility of any such loss or damage.

b) Novar's liability in respect of any order or otherwise under these terms and conditions (including for any cybersecurity event) shall in no case exceed the contract price of the specific goods that give rise to the claim.

c) These exclusions and limitations on damages shall apply regardless of how the loss or damage may be caused and against any theory of liability, whether based in contract, tort, indemnity or otherwise.

d) Neither party seeks to exclude or restrict its liability for: (i) death or personal injury resulting from negligence; (ii) fraud; or (iii) any matter in respect of which, by law, it is not permitted to restrict its liability.

e) Buyer acknowledges that Novar has no obligation to provide any form of cybersecurity or data protection relating to the operation of the goods, software or the network environment. Novar may provide internet based services with the goods. It may change or cancel those services at any time. Novar has no obligation to provide any form of cybersecurity or data protection relating to such internet based services.

11. RECOMMENDATIONS.

Any recommendations or assistance provided by Novar concerning the use, design, application, or operation of the goods shall not be construed as representations or warranties of any kind, express or implied, and such information is accepted by Buyer at Buyer's own risk and without any obligation or liability to Novar. It is the Buyer's sole responsibility to determine the suitability of the goods for use in the Buyer's application(s). Other than in cases of statutory obligations the failure by Novar to make recommendations or provide assistance shall not give rise to any liability to Novar.

12. LAWS.

a) Buyer will comply with all applicable laws, regulations, and ordinances of any governmental authority in any country having proper jurisdiction, including, without limitation, those laws of the United States of America or other countries that regulate the import or export of the goods provided by Novar and shall obtain all necessary import/export licenses in connection with any subsequent import, export, re-export, transfer, and use of all goods, technology, and software purchased, licensed, and received from Novar. Unless otherwise mutually agreed in writing, Buyer agrees that it will not use or permit third parties to use the goods in connection with any activity involving nuclear fission or fusion, any use or handling of any nuclear material, or any nuclear, chemical, or biological weapons.

b) Buyer shall not sell, transfer, export or re-export any goods or software for use in activities which involve the design, development, production, use or stockpiling of nuclear, chemical or biological weapons or missiles, nor use the goods or software in any facility which engages in activities relating to such weapons or missiles. In addition, the goods or software may not be used in connection with any activity involving nuclear fission or fusion, or any use or handling of any nuclear material until Buyer, at no expense to Novar, has insurance coverage, indemnities, and waivers of liability, recourse and subrogation, acceptable to Novar and adequate in Novar's opinion to protect Novar against any type of liability.

c) Goods and services delivered by Novar hereunder will be produced and supplied in compliance with all applicable laws and regulations in the Federal Republic of Germany. Buyer confirms that it will ensure that all goods are properly installed and used in accordance with the applicable safety at work laws and regulations, and Buyer will indemnify Novar in respect of any costs, claims, actions or liability arising out of that Act, or otherwise arising out of the supply by Buyer or use by others of the goods, unless this is not caused by Buyer's failure.

13. PRECLUSION AGAINST SETOFF.

Buyer is only entitled to set off any amount against any amount due or to become due from Novar to Buyer or its affiliates that are undisputed or final absolute.

14. WEEE.

a) Prices do not include the costs of recycling goods covered by the European WEEE Directive 2002/96/EC and such costs may be added to the prices quoted.

b) Unless a charge has been made therefore under section 14 a) above, if the provisions of the WEEE Directive 2002/96/EC as implemented in any local jurisdiction apply to goods, the financing and organization of the disposal of waste electrical and electronic equipment are with the exception of goods which are b2c as per Novar catalog the responsibility of the Buyer who herewith accepts this responsibility, and Buyer will indemnify Novar in respect of all such liabilities. The Buyer will handle the collection, processing and recycling of the goods in accordance with all applicable laws and regulations, and shall pass on this obligation to the final user of the goods. Failure by the Buyer to comply with these obligations may lead to the application of criminal sanctions in accordance with local laws and regulations.

15. APPLICABLE LAW.

These terms and conditions are subject to the Laws of Switzerland. These terms and conditions are excluded from the United Nations Convention on Contracts for the International Sale of Goods, 1980, and any successor thereto. The courts of Zurich shall have exclusive jurisdiction for any disputes relating to the contract which is not resolved by the parties.

16. INDEMNIFICATION.

Buyer shall indemnify Novar for all costs and damages, including attorneys' fees, suffered by Novar as a result of Buyer's culpable actual or threatened breach of these terms and conditions.

17. BUYER'S OBLIGATIONS RELATING TO CYBERSECURITY EVENT

a) In order to facilitate Novar's investigation of any cybersecurity event involving the goods or software, Buyer agrees to cooperate with Novar in any investigation, litigation, or other action, as deemed necessary by Novar to protect its rights relating to a cybersecurity event.

b) Novar does not represent that the goods or software is compatible with any specific third party hardware or software other than as expressly specified by Novar. Buyer is responsible for providing and maintaining an operating environment with at least the minimum standards specified by Novar. Buyer understands and warrants that Buyer has an obligation to implement and maintain reasonable and appropriate security measures relating to the goods or software, the information used therein, and the network environment. This obligation includes complying with applicable cybersecurity standards and best industry practices including those recommended by any national institutions in the Buyer's territory. If a cybersecurity event occurs, Buyer shall promptly notify Novar of the cybersecurity event. Buyer shall promptly use its best efforts to detect, respond and recover from such a cybersecurity event. Buyer shall take reasonable steps to immediately remedy any cybersecurity event and prevent any further cybersecurity event at Buyer's expense in accordance with applicable laws, regulations, and standards. Buyer further agrees that Buyer will use its best efforts to preserve forensic data and evidence in its response to a cybersecurity event. Buyer will provide and make available this forensic evidence and data to Novar.

c) Novar shall not be liable for damages caused by a cybersecurity event resulting from Buyer's failure to comply with these terms or Buyer's failure to maintain reasonable and appropriate security measures.

d) Buyer agrees to comply with all applicable data security laws and standards, and shall indemnify and hold Novar harmless for Buyer's failure to comply.

18. MISCELLANEOUS.

a) The parties may exchange confidential information during the performance or fulfillment of any supply. Confidential information includes any information or data that are provided by one party (the disclosing party) to the other party (the receiving party) in any form, including any information or data relating to the operation or performance of products and all data generated by the products which are aggregated and de-identified. However, such information or data may be used by Novar in accordance with section 18 b) below. All confidential information shall remain the property of the disclosing party and shall be kept confidential by the receiving party for a period of 10 years following the date of disclosure. These obligations shall not apply to information which is: (i) publicly known at the time of disclosure or becomes publicly known through no fault of recipient, (ii) known to recipient at the time of disclosure through no wrongful act of recipient, (iii) received by recipient from a third party without restrictions similar to those in this section, or (iv) independently developed by recipient. Each party shall retain ownership of its confidential information, including without limitation all rights in patents, copyrights, trademarks and trade secrets. A recipient of confidential information may not disclose such confidential information without the prior written consent of the disclosing party, provided that Novar may disclose confidential information to its affiliated companies, and its and their employees, officers, consultants, agents, and contractors.

b) Subject to compliance with all applicable data protection laws and regulations, Novar retains the right to utilize any and all data and information that is collected, generated, processed or transmitted by or through the products and all data and information provided or transmitted to Novar regarding the operation or performance of the products in an aggregated or anonymized form for any business purpose, including product, software or service development, marketing or sales support or other analytics. To the extent that Novar does not own any such information or data, Buyer grants Novar and its affiliated companies (or shall procure for Novar and its affiliated companies the grant of) a perpetual right to use and make derivative works from such information and data for any lawful purpose.

c) Novar will process Buyer's personal data as necessary to sell the products and/or to provide the services to Buyer and to meet Novar's obligations under any purchase order and applicable law as a data processor. Novar shall process Buyer's personal data during the period of performance of any Buyer's purchase order governed by these terms and conditions and thereafter. Buyer as data controller acknowledges and agrees that Novar will share personal data with its affiliated companies and may transfer the personal data to USA, India or Mexico.

d) These terms and conditions (including those agreed separately in writing) constitute the entire agreement of Novar and Buyer, superseding all prior agreements or understandings, written or oral, and cannot be amended except by a mutually executed writing.

e) Buyer may not assign any rights or duties hereunder without Novar's written prior consent. Novar may subcontract its obligations hereunder without Buyer's consent.

f) No representation, warranty, course of dealing, or trade usage not contained or expressly set forth herein will be binding on Novar.

g) Headings and captions are for convenience of reference only and do not alter the meaning or interpretation of these terms and conditions.

h) No failure by Novar to enforce at any time for any period the provisions hereof shall be construed as a waiver of such provision or of the right of Novar to enforce thereafter each and every provision.

i) In the event any provision herein is determined to be illegal, invalid, or unenforceable, the validity and enforceability of the remaining provisions shall not be affected and, in lieu of such provision, a provision as similar in terms as may be legal, valid, and enforceable shall be added hereto.

j) Provisions herein which by their very nature are intended to survive termination, cancellation, or completion of supply shall survive such termination, cancellation, or completion.

k) All stenographic and clerical errors are subject to correction.

l) These terms and conditions shall confer no benefit on any third party and no third party is entitled to enforce any provision of the contract.

19. LANGUAGE

The English language version of these terms and conditions will prevail in case of conflict with any translations provided for convenience purposes.

Neuss, February 2020