

**General Terms and Conditions
for the Purchase of Goods and Services by
Novoflow GmbH**

§ 1

Application of the General Terms and Conditions of Business

1.1 These General Terms and Conditions of Business (hereinafter the "Terms and Conditions") shall apply to the exclusion of all others for all goods and services supplied to us as well as the offers made to us. Terms and conditions of business of the contracting party, which conflict with or deviate from these Terms and Conditions, shall only apply if a member of our management board or one person authorized by us for this purpose expressly accepts them. The general terms and conditions of business of the contracting party shall not be binding, even if their application has not been expressly rejected by us. Any tacit acceptance of the general terms and conditions of business of the contracting party through acceptance inferred from our conduct shall be excluded hereby. Part B of the Rules for the Award of Public Works Contracts shall also be considered as part of the general terms and conditions of business of the contracting party.

1.2 These Terms and Conditions shall also apply to future contractual relationships. They shall apply irrespective of whether reference has been made to them in any specific case.

1.3 Amendments or additions which deviate from these Terms and Conditions must be made in writing. This shall not apply to amendments agreed upon with members of our management board or one of our holders of commercial powers of attorney or other persons authorized by us to agree on amendments or additions.

§ 2

Enquiries and Orders

2.1 We shall be entitled to submit an enquiry to the contracting party at any time about prices and other terms and conditions for the supply of goods and services. The contracting party shall then respond by making an offer, which shall correspond to our enquiry regarding all characteristics decisive for performance of the contract, particularly quantities and quality. If the offer deviates from our enquiry, the contracting party must expressly identify these deviations. The offer by the contracting party shall be issued to us free of charge.

2.2 We shall be entitled to accept an offer from the contracting party within one week after our receipt thereof; we shall be under no obligation to accept the offer.

2.3 In the event that we place an order without first requesting an offer, the contracting party shall have one week after the date of dispatch to accept our order. The acceptance must be given in writing.

2.4 All specifications in our orders for the supply of goods and services shall be binding. This shall apply in particular to the price, quality, quantity as well as the time and place of performance.

§ 3

Delivery Modalities and Transfer of Risk; Retention of Title

3.1 The contracting party must pack and secure the goods to be delivered and, if the contracting party has assumed responsibility for their transportation, it must transport them in such a way that there is no risk of loss or damage to them during transportation and so that they can be unloaded safely at their destination. The contracting party shall comply with its statutory duties regarding labeling.

3.2 The contracting party must follow our instructions concerning the packing and transportation of the goods to be delivered.

3.3 Partial deliveries and excess or short deliveries may only be made with our prior express approval.

3.4 The risk of accidental loss or deterioration of the goods and services supplied by the contracting party shall pass to us upon delivery. Section 447 of the German Civil Code (*Bürgerliches Gesetzbuch*) shall not apply.

3.5 Any retention of title by the contracting party shall hereby be excluded.

§ 4

Events of Default

4.1 Stipulated dates and time limits for the supply of the goods and services shall be binding. If the contracting party fails to adhere to a stipulated date or time limit, which was binding, it shall automatically be in default without it being necessary for us to send it a warning notice. This shall not apply if the delay is based on a circumstance for which the contracting party is not responsible.

4.2 The contracting party shall be obliged to notify us in writing without delay if circumstances occur or become known to it, which are likely to jeopardize the timely, complete and/or fault-free supply of goods or services. The notice must contain the most comprehensive and precise information available concerning the circumstances, the degree of risk and the foreseeable duration of the hindrance to the supply of goods or services. If, after due assessment of the circumstances by the contracting party, it concludes that the hindrance makes it impossible for it to supply the goods or services, it must then expressly inform us of this fact.

4.3 If the contracting party fails to supply the goods or services on the stipulated date, we shall be entitled to grant a reasonable period of grace. If the contracting party does not perform within the grace period, we shall have the right to rescind the contract. A grace period need not be granted where the law allows such grant to be

dispensed with, in particular pursuant to § 323 (2) of the German Civil Code. Beyond the grant of a reasonable period of grace the contracting party shall have no right to any further extension of time for the supply of the goods or services. This shall also apply if the contracting party is not responsible for the delay.

4.4 We shall be entitled to rescind the contract even before the due date for the supply of the goods or services by the contracting party if it is obvious that the prerequisites for rescission will occur, particularly if this is evident from a notice given by the contracting party in accordance with clause 4.2 of these Terms and Conditions.

4.5 Any rights to which we are entitled beyond the above, in particular damages for a breach of duties by the contracting party, shall not be prejudiced hereby.

§ 5

Due Diligence Standard and the Use of Subcontractors

5.1 The contracting party shall perform its duties under the contract with the diligence of a prudent business person (merchant).

5.2 Subcontractors may not be used without our prior consent.

§ 6

Quality of the Goods and Services Supplied

6.1 The contracting party shall ensure that its goods and services: are supplied in full as well as at the right time and place; do not have any material defects and/or defects in title; comply with the statutory requirements as well as the standards laid down in other regulations applicable in Germany, and that the good and services supplied comply with all safety regulations and the current state of the art; and are supplied by personnel with the necessary professional qualifications.

6.2 The contracting party must continuously monitor the quality of the goods and services provided by it. In particular, the contracting party must check the quality of goods before they are dispatched to us. The results of these inspections must be documented by the contracting party and the documentation must be provided to us upon request. The contracting party must store this quality assurance documentation for a period of 10 years.

6.3 The contracting party must label the goods supplied in such a way that it is possible to determine their associated production batch so that we can remove from our production all goods supplied of a particular batch until they have been inspected.

6.4 The contracting party shall notify us in due time prior to making any changes in production processes or materials as well as before altering any other conditions which might influence its production. In addition, the contracting party shall provide us

with all information necessary to review the effects of the aforementioned changes on our production.

§ 7

Claims Made on Account of Material Defects

7.1 Goods and services supplied by the contracting party shall be considered defective if they do not conform to the agreed quality or, in the absence of such an agreement, are not suited for the contractually intended use. The contracting party's goods and services shall in all cases be considered defective if they fail to comply with the current state of the art at the time they are supplied. Goods and services shall also be considered defective if the contracting party supplies fewer goods and services or goods and services which are different to those goods and services commissioned.

7.2 We shall be entitled without limitation to all rights in relation to defective delivery, which are provided by statute, and any further rights based on any special agreement with the contracting party.

7.3 The limitation period for claims made on account of material defects shall be 36 months, unless the law provides for a longer limitation period for the supply of goods and services by the contracting party. The limitation period shall commence when the goods and services have been supplied in full. Where there is a contract for work pursuant to § 631 of the German Civil Code, the limitation period shall commence when the work has been accepted.

§ 8

Defects in Title

8.1 The contracting party warrants that all goods and services supplied are free from defects in title, in particular free from any third party rights, which exclude or restrict their use.

8.2 If third parties sue us for the infringement of industrial property rights and if as a result it is impossible for us to use the goods or services supplied by the contracting party in whole or in part, then the contracting party shall be obliged to undertake everything in its power to rule out any future infringement of industrial property rights.

8.3 The contracting party shall indemnify us against all third party claims made on account of the infringement of industrial property rights, unless it is not responsible for the infringement. This shall also encompass any expenses for our defense both in- and out-of-court. The contracting party shall be obliged to provide us with all information necessary for our defense.

8.4 We shall be entitled without limitation to all rights in relation to defects in title, which are provided by statute, and any further rights based on a special agreement with the contracting party.

8.5 The limitation period in accordance with clause 7.3 of these Terms and Conditions shall apply *mutatis mutandis* to defects in title.

§ 9

Product Liability; Liability Insurance

9.1 If the contracting party is liable as a producer, it must indemnify us against claims for damages by third parties if the causes of the damage fall within its scope of control and area of organization and if it is itself liable to the third parties.

9.2 As part of its liability for loss pursuant to clause 9.1 of these Terms and Conditions, the contracting party shall also be obliged to reimburse us for any expenses arising from or in connection with recall campaigns conducted by us. Insofar as it is possible and reasonable to do so, we shall inform the contracting party about the content and scope of the recall measures to be carried out and give the contracting party an opportunity to respond. Any statutory rights to which we are entitled in this context shall not be prejudiced hereby.

9.3 The contracting party hereby agrees to carry sufficient product liability insurance.

§ 10

Spare Parts

10.1 The contracting party shall be obliged to stock spare parts for the goods supplied by it for the duration of their useful economic life to the extent that this is economically reasonable.

§ 11

Title to Documents and Similar Items; Confidentiality

11.1 All documents, drawings, models, tools or similar items provided to the contracting party to enable it to make an offer or to produce the goods delivered or to supply services shall remain our property and may not be used by the contracting party for other purposes, reproduced or made available to third parties, unless this is necessary to fulfill an obligation of the contracting party. Such documents, drawings, models, tools or similar items must be returned to us immediately if they are no longer required to prepare an offer or required for the supply of goods or services to which the contracting party has agreed. This obligation shall not require our prior request and shall also apply in the event that the contract terminates for any reason. The contracting party must treat the aforementioned documents and items as business secrets and store them carefully. The contracting party shall be liable for damage arising from any breach of this obligation, unless it is not responsible for the breach.

11.2 In addition, the contracting party shall be obliged to treat as business secrets all information, documents, records or items which are expressly marked by us as "confidential" or are marked in a similar fashion as business secrets or regarding which it is evident from the circumstances that they are to be treated as business

secrets. This shall not apply if, and insofar as, the information is already known to the general public.

11.3 The contracting party shall impose corresponding obligations on its employees and any third parties which it engages to perform its obligations.

§ 12

Prices and Terms of Payment

12.1 The stipulated price shall be a fixed flat rate price. All goods and services supplied by the contracting party, including packing, transportation to the place of delivery stipulated by us and transport insurance for the duration of the transportation shall be covered by this price.

12.2 We shall pay invoices after we have received them and have determined that the correct goods have been supplied. The time allowed for payment shall be 60 days. If payment is made within 30 days, a 2% cash discount shall be allowed; if payment is made within 10 days, a 3% cash discount shall be allowed.

12.3 The contracting party shall be obliged to give our correct order number on all shipping documents, delivery slips and invoices; if the contracting party fails to do so, we shall not be responsible for any delays in processing.

12.4 We shall be entitled to the full range of set-off and retention rights stipulated by law.

12.5 The contracting party shall only be entitled to set off its counter-claims against our claims where its counter-claims have been established as valid by a nonappealable judgment or are uncontested. This shall also apply to the assertion of any retention right.

12.6 Without our consent, the contracting party shall not be entitled to assign to third parties any of its claims against us. Section 354 a of the Commercial Code (*Handelsgesetzbuch*) shall not be prejudiced hereby. If the contracting party breaches the contract by assigning any of its claims against us, we shall also be entitled to make payment to the contracting party and fulfill our payment obligations this way.

§ 13

Limitation of Claims for Damages

13.1 We shall be liable for the intentional or grossly negligent conduct of the organs of our company and our vicarious agents; our liability for damage caused by injury to life, limb or health shall exist irrespective of the degree of fault involved.

13.2 Moreover, we shall be liable for the slight negligence of the organs of our company and our vicarious agents in cases of impossibility, delay in performance, breach of warranty or breach of a fundamental duty. In these cases, our liability shall

be limited to the usual contractual damage, which we could reasonably be expected to foresee at the time we concluded the contract.

13.3 Any liability on our part beyond the liability in accordance with clauses 13.1 and

13.2 of these Terms and Conditions, regardless of the legal reason involved, shall be excluded hereby. This shall apply in particular to all claims made on account of a breach of contract, *culpa in contrahendo* and tortious conduct.

13.4 All restrictions of liability in accordance with clauses 13.1 to 13.3 of these Terms and Conditions shall also apply for the benefit of the organs of our company and our vicarious agents.

§ 14 Final Provisions

14.1 All legal relations arising in connection with the conclusion, performance or termination of these Terms and Conditions shall be subject to the substantive law of the Federal Republic of Germany. The UN Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.

14.2 The place of performance for the supply of all goods and services by the contracting party shall be the place of performance stipulated in the contract. Rain / Lech shall be the place of performance for the fulfillment of our duties.

14.3 The courts of Rain / Lech shall have exclusive jurisdiction for all litigation. However, we shall also be entitled to sue the contracting party at other venues laid down by statute if we wish to.

14.4 Clauses 14.2 and 14.3 of these Terms and Conditions shall only apply to merchants, legal persons under public law and public law funds.