

# General Sales Conditions

## 1. SCOPE OF APPLICATION - COMPLETE AGREEMENT

**1.1** These General Sales Conditions ("GSC") shall apply to the sales of any materials, equipment, spare parts, products, chemicals, raw materials, intermediates, substances, components, compounds, software and any services ("Goods") offered or provided by Applexion SAS, Process Solutions Americas LLC, Novasep Asia Co.Ltd, and/or Novasep Process Engineering Services Pvt Ltd ("APPLEXION") to any Customer ("Customer"), and more generally to the relationship between APPLEXION and the Customer, notwithstanding any contrary clause of the Customer's general conditions of purchase. The Customer is deemed to have read and accepted these GSC in the absence of any written objection on his part prior the Delivery of the Goods.

**1.2** No terms and conditions contained in any document issued by the Customer shall be binding on APPLEXION, even if they have not been expressly rejected by APPLEXION. These GSC, together with APPLEXION's specific conditions contained in the attached order confirmation of APPLEXION ("Order Confirmation") and only such other documents, as are specifically incorporated into this Order Confirmation by reference, constitute the entire agreement between the Customer and APPLEXION, and supersede, in their entirety, any other conflicting terms and conditions proposed orally or in writing by the Customer.

**1.3** Except as may be otherwise specified in writing, documentation, catalogues, price lists and estimates of APPLEXION are sent for information purpose only and can not be considered as binding. APPLEXION's offers are not binding without the issuance of an Order Confirmation signed by APPLEXION.

**1.4** No additions to, amendment of or variations from the terms hereof made by the Buyer shall be binding upon APPLEXION, unless expressly agreed in writing by APPLEXION. Any change of scope expressly agreed in writing by APPLEXION will result in changes to prices and timelines.

**1.5** The Customer's signature and return of the Order Confirmation or, in the alternative, the Customer's failure to reject it in writing within seven (7) days from receipt thereof, shall constitute the Customer's acceptance of the contractual terms defined herein.

**1.6** APPLEXION's failure to exercise any right shall not be deemed to be a waiver of such right.

**1.7** If individual terms of the GSC shall be determined to be void, unenforceable or illegal in whole or in part, or cannot be applied for any reason whatsoever, all other terms and conditions of the GSC will remain unaffected.

**1.8** Special provisions of an Order Confirmation, specific terms agreed in writing by the Customer and APPLEXION, which may be in contradiction with the GSC, shall prevail over the corresponding GSC provisions.

## 2. PRICES – PAYMENT

**2.1** All prices are calculated on the basis of the Goods as measured and weighed at the departure point. Except as may be otherwise expressly provided in an Order Confirmation, prices are net cash, and the Customer shall pay all taxes and charges for transportation, insurance, shipping, custom clearance, storage, handling, demurrage and similar items. Any increase in any such charges that becomes effective after the date of Order Confirmation shall be borne exclusively by the Customer.

**2.2** Invoice payments shall be made net cash, without any deductions, within 30 days following the date figuring on the corresponding invoice.

**2.3** If the Customer is subject to bankruptcy or insolvency proceedings, then APPLEXION shall not be bound by the period of payment stated above and payment shall be made in cash either prior to the dispatch of the Goods or prior to their manufacture.

**2.4** If the Customer fails to pay on the due date, the Customer shall be obligated to pay, **ipso jure and without prior notification, interest at EURIBOR + three (3) % at the date of the invoice beginning from the due date, without prejudice to any other rights of APPLEXION.** Any delay in the payment or in the execution of any of its obligations entered into by the Customer, then APPLEXION shall have the right to cancel the contract or to retain that portion of the contract which it has not yet performed without the Customer's consent; it shall also result in all sums due which are to be paid by the Customer, even those which have not yet matured, becoming immediately payable without notification on the part of APPLEXION.

**2.5** APPLEXION shall have the right to compensate the Customer's debts and/or to use payments for the settlement of the invoices which have been outstanding longer than thirty (30) days plus any interest on arrears and costs accrued thereon, in the following order: costs, interest, invoiced amounts.

**2.6** The Customer shall not be entitled either to withhold payments or to proceed to any compensation even in case of dispute with APPLEXION. In the event of payment delay, the Customer shall not be entitled to take any steps (neither sale, nor processing) which may affect the Goods.

**2.7** APPLEXION works with a list of qualified suppliers in order to ensure its sourcing. In the event Customer requires APPLEXION to select and qualify any additional supplier, APPLEXION shall charge Customer with a lump sum of € 1000 per day of supplier audit,

which shall include an audit report.

**2.8** Cost of destruction of any product or unused raw materials are not included in APPLEXION's prices. Such costs will therefore be charged by APPLEXION to Customer in addition to the agreed price.

**2.9** For analytical services performed by APPLEXION, specific chromatography columns, reagents, or reference standards are not included in the pricing of APPLEXION and will be charged separately by APPLEXION to the Customer.

**2.10** APPLEXION will store the end product to be delivered to Customer for a period of 14 days following the date of release. Any storage exceeding this period of time will be invoiced separately to the Customer. Further, any exceeding storage of raw materials in relation with a change of initial agreed delivery date of postponement or cancellation of production by the Customer will be charged by APPLEXION to the Customer.

**2.11** The purchase price of raw materials has been designed in relation with the defined specifications, quality standard and origin described defined by the Customer. In the absence of such definition by Customer, APPLEXION will select raw material suppliers according to their cost of supply and to quality requirements. In the event other standard of quality are required, either by Customers or by necessary adjustments arising during performance of the services, then the prices of APPLEXION will be adjusted accordingly in order to take the purchase price of the new raw materials into account.

## 3. TRANSFER OF RISK – DELIVERY – SHIPMENT – VAT

**3.1** Except as may be otherwise specified in writing, the transfer of risk of the Goods shall take place at APPLEXION's plant just before loading ("Delivery"). In case of the use of Incoterms, risk shall pass on the Customer in accordance with the applicable Incoterm (ICC's most recent version). Should the Customer fail to take Delivery of the Goods, APPLEXION may store them at the Customer's risks and expenses and, following a notification of their availability, invoice them as having been delivered. In any event, after 7 (seven) day from the initial Delivery date, APPLEXION shall be entitled, after a prior notice to the Customer, to resell the Goods and to claim for applicable damages.

**3.2** Unless otherwise specified in an Order Confirmation, the Goods are sold Ex-Works APPLEXION Plant in accordance with the EXW Incoterm (ICC's most recent version). The Customer shall be responsible to supply to APPLEXION, sufficiently in advance in order to enable APPLEXION to make the necessary shipping arrangements, all appropriate information including notably (a) marking and shipping instructions, (b) import certificates, documents required to obtain necessary government licenses and any other documents prior to their shipment, and (c) the Customer's confirmation that it has caused the opening or establishment of a letter of credit if required. If any such instructions, documents or confirmations are not so received or would (in APPLEXION's sole judgment) require unreasonable expense or delay on its part, then APPLEXION may, at its sole discretion and without prejudice as to any other remedies, delay the time of shipment and/or cancel the said contract.

**3.3** Delivery times of APPLEXION shall not be regarded as binding, and delays in delivery shall not entitle the Customer to claim damages resulting from any delay. Delays in delivery shall only entitle the Customer to cancel the concerned purchase order of the Goods not yet in the process of manufacture and only after having granted APPLEXION a reasonable grace period in order to remedy said delay and only after having sent to APPLEXION a formal notice of default. Without prejudice to the liability limitations contained in Article 5 below, binding times for delivery shall only entitle the Customer to damages insofar as APPLEXION has been fully informed in writing at the conclusion of the contract of the possible loss and damage consequent to delayed delivery and of a specific valuation of the different elements thereof. In any event, in case of production delays, APPLEXION is entitled not to supply the whole quantity that the Customer has ordered in one delivery, but can deliver by several subsequent partial deliveries.

## 4. INSPECTION OF THE GOODS - AUDITS

**4.1** Upon Delivery of the Goods, the Customer shall carry out a complete inspection of the Goods in order to check their packaging, weight, conformity and quantities. Any apparent damage to the packaging of the Goods or to the Goods themselves, or any non-conformity or shortage of the quantities shall be noted and communicated promptly to APPLEXION by fax or email. The Goods shall be considered automatically accepted upon delivery to the Customer, if the Customer fails to make any comments in writing in respect thereof not later than seven (7) days after their Delivery and in any case before the Goods undergo any further processing. No claim shall be accepted by APPLEXION in respect of any defect, deficiency, non-conformity, shortage in quantity and/or failure of the Goods to meet the specific terms of the order which a reasonable inspection should have revealed but for which said inspection was not made or was not made properly. In case of claim by the Customer, the Customer shall allow APPLEXION or its designated representative to conduct an inspection of the Goods.

**4.2** Once per calendar year, the Customer shall have the right, during normal business hours and upon a reasonable prior notice of at least 15 business days, to have three employees or representatives conduct compliance inspections or other inspections, audits and investigations of APPLEXION, to ensure proper performance by APPLEXION of its obligations and compliance with cGMP, if applicable; provided, however, that such inspection,

audit or investigation shall not unreasonably interfere with the operations of APPLEXION. For the avoidance of doubt, the Customer shall have NO right to audit APPLEXION financial books and records. In the event the audit under this Section 4.2 extends beyond two business days, APPLEXION shall charge the Customer a per diem rate of € 7,500, which shall include reasonable access to APPLEXION's qualified and experienced employees.

## 5. WARRANTIES

**5.1 APPLEXION only warrants that the Goods will comply with the specifications contained in the Order Confirmation. APPLEXION makes no other warranties, whether express or implied, of merchantability, fitness for purpose, or any possible future use or otherwise.**

**5.2** The Customer shall have communicated to APPLEXION all necessary information to ensure the adequate elaboration of the specifications contained in the Order Confirmation and the proper transformation and/or the final use of the Goods. The Customer recognizes that APPLEXION's obligation of conformity is fully satisfied when these specifications have been met at the time of Delivery.

**5.3** Any technical advice provided by APPLEXION, before and/or during the use of the Goods, whether provided verbally or in writing or by way of trials, is given in good faith but without any warranty on the part of APPLEXION. APPLEXION's advice shall not release the Customer from his duties to test the Goods supplied by APPLEXION as to their suitability for the intended processes and uses. The use and processing of the Goods are undertaken solely at the Customer's risk.

## 6. LIABILITY

**6.1** The Goods shall be intended for professional use only and APPLEXION shall not accept any liability for damage caused by the Goods to any professional-purpose goods or products that may be used by the Customer and/or its own customers. For research and/or development services performed by APPLEXION, APPLEXION warrants that the work will be conducted in a professional manner and that APPLEXION will do its best efforts to perform the work in accordance with the agreed terms, including the indicative time schedule, and with reasonable professional skill and care; it is however acknowledged that since these services are of developmental nature, there can be no guarantee that the services will be successfully completed, or completed within a specified time frame despite APPLEXION's good faith efforts to do so.

**6.2** The Customer cannot invoke the liability of APPLEXION for the indemnification of direct and/or indirect damages which are caused by the transportation, storage or use of the Goods, whether in combination with other substance or not, contrary to the specifications or to the material safety data sheets of the Goods. The Customer accordingly waives any right of action against APPLEXION and APPLEXION's insurers and shall obtain a similar waiver of recourse from its own insurers.

**6.3** The Customer hereby declares that he will carry all statutory tests and also all tests he considers useful and that he will make all decisions relating to the uses of the Goods. In Case of doubt, it is recommended for the Customer to request APPLEXION's advice. However, APPLEXION's advice can only reflect APPLEXION's own experience and is given for information purpose only. As such, it can in no way involve any liability on APPLEXION's part.

**6.4** Customer shall indemnify, defend and hold harmless APPLEXION and its officers, directors, employees, agents, successors and assigns from and against any and all obligations, costs, loss, damages, claims, attorney's fees and liability of any character in any way arising from or relating to any breach of this Agreement by Customer and/or any representation or warranty made by Customer, including without limitation, any matter asserted by any participant in any clinical trial of Customer's end products.

**6.5** Hidden defects must be notified in writing to APPLEXION immediately upon discovery, but, in any event, no later than three months after Delivery (the Customer having the obligation to inspect the Goods thoroughly during this three months period).

**6.6** In any event, the Customer must fulfill its obligation of mitigation of any potential or existing damage. The Customer is not entitled to delay the payment of any invoice owed because of the alleged or proved non-conformity of the Goods.

**6.7** If APPLEXION recognizes that the Goods are defective, then APPLEXION is exclusively obliged, at its sole discretion, either (i) to replace or reimburse such Goods, or (ii) if the price has not already been paid by the Customer, to reduce such price or to cancel the said contract, or (iii) if the price has already been paid by the Customer to reimburse the Customer for such price.

**6.8** IN ANY EVENT APPLEXION SHALL NOT BE LIABLE FOR ANY LOSS OF PROCESSING, EXPENSES, LOSS OF PRODUCTION, LOSS OF REVENUE, LOSS OF PROFIT AND/OR ANY OTHER INCIDENTAL OR CONSEQUENTIAL OR SPECIAL LOSS OR DAMAGE DIRECTLY OR INDIRECTLY SUSTAINED BY THE CUSTOMER OR BY ANY OTHER PERSON WHATSOEVER, WHETHER IN CONTRACT OR IN TORT. THE CUSTOMER ACCORDINGLY WAIVES ANY RIGHT OF ACTION AGAINST APPLEXION AND APPLEXION'S INSURERS AND INTEND TO OBTAIN A SIMILAR WAIVE OF RECOURSE FROM ITS OWN INSURERS.

## 7. RETENTION OF TITLE

**7.1 The supplied Goods shall remain APPLEXION's property until fulfillment by the Customer of all its payment obligations as described above.**

As such:

a) If the Goods are processed, combined, and/or mixed by the Customer with other goods belonging to him, then APPLEXION has the entire ownership on the new goods.

b) If the Goods are processed, combined, and/or mixed by the Customer with other goods belonging to other suppliers, then APPLEXION has a joint ownership right in the whole value of the new goods with such suppliers. In such case, APPLEXION's ownership shall be calculated on the basis of the ratio of the invoiced value of the Goods to the invoiced value of all goods which were used for manufacturing the new goods.

**7.2** As long as the Customer is not in default, and provided that it reserves its property rights, the Customer is exclusively entitled to resell the Goods in the ordinary course of its business.

**7.3** The Customer's receivables arising out of the resale of the Goods are already assigned, for security purposes, exclusively to APPLEXION. The Customer is entitled to collect the receivables from reselling, unless APPLEXION withdraws the direct debit authorization in case of doubts about the Customer's solvency and/or financial credibility, or if the Customer is in arrears on any of its payments. In the event APPLEXION withdraws the direct debit authorization, the Customer is obliged (i) to inform its clients immediately about the assignment to APPLEXION, (ii) to inform its clients immediately about the ownership of the Goods by APPLEXION, (iii) and to give APPLEXION all information and documents necessary in order to establish and confirm APPLEXION's rights with respect to third parties. The Customer shall be obligated to inform APPLEXION without delay about any action or interest adversely affecting the Goods undertaken by third parties.

**7.4** The Customer shall have the sole liability for, and shall bear all risks and costs associated with the transfer of control of the Goods, including loading, unloading, correct handling and suitable storage of the Goods from Delivery and/or the new goods as described in point 7.1 above. Moreover, the Customer undertakes (i) to take an all risks general liability insurance, at its own cost, including coverage as to the deterioration and/or theft of all or a part of the Goods and/or of the new goods and (ii) provide to APPLEXION, at its request, a certificate confirming both such insurance coverage and the payment of the insurance premium related thereto.

## 8. NON-DISCLOSURE – INTELLECTUAL PROPERTY

**8.1** All written or oral information supplied by APPLEXION to the Customer in particular regarding APPLEXION's goods, concepts, ideas, strategies, procedures, processes, specifications, documents, plans, calculations, drawings and any objects, samples, specimen including its know-how, intellectual property, needs and all commercial, technical and legal information, documents and data of APPLEXION ("**Information**") shall be treated as strictly confidential by the Customer and shall not be disclosed by the Customer to any third party without APPLEXION's prior written consent. This confidentiality undertaking of the Customer shall last during the performance of the concerned order and at least during ten (10) years following the date of disclosure to the Customer. Such Information shall be exclusively used by the Customer for the performance of the concerned order.

**8.2** The Customer undertakes to respect the Information and all intellectual property rights of APPLEXION and hereby declares that it is fully aware thereof.

**8.3** Unless otherwise agreed, APPLEXION shall retain all intellectual property rights on any Information that may be implemented notably in connection with the Goods, the provision of services or studies, Research and Development works, and any technical assistance provided to the Customer.

**8.4** The rights of ownership and copyrights in any designs, drawings, samples, trademarks, software, algorithms, logos and other documents delivered or disclosed to the Customer by APPLEXION also remain the sole property of APPLEXION, and the Customer shall not be entitled to put its trade name(s) and or trademarks on it. Such proprietary information shall not be disclosed to third parties at any time without APPLEXION's prior written consent.

**8.5** Unless otherwise agreed in the event Goods are manufactured, transformed, mixed or blended according to processes, plans, drawings and/or instructions of the Customer, and third-party rights (in particular rights arising out of patents or other protective rights) are infringed by such manufacturing, transformation or manipulation of the Goods, the Customer shall indemnify and hold APPLEXION harmless against such third parties claims.

## 9. PACKAGING

Unless otherwise expressly agreed, the Customer shall be responsible for providing the packaging materials and the means of protection and securing used during transport of the Goods. If the Customer fails to comply with this obligation and as a result of said failure APPLEXION becomes liable for any danger or damages, the Customer shall hold APPLEXION harmless from any liability for any such danger or damage.

## 10. FORCE MAJEURE

**10.1** The party affected by an event of Force Majeure shall immediately notify the other party in writing of the said event and furnish the other party with all relevant information and evidence relating thereto and particularly relating to the period of time for which its performance may be delayed and the proof of the said event of Force Majeure.

**10.2** The following events are notably (but not exclusively) considered as events of Force Majeure: war (whether or not declared), accident, fire, flood, storm, delay in transportation, equipment breakdowns, change of laws or regulations, orders or acts of any governmental agency or body, labour conflict or strikes affecting APPLEXION, or any cause or event beyond the reasonable control of APPLEXION, or rendering performance by APPLEXION and/or its subcontractors impracticable due to the occurrence of a contingency the occurrence of which was not reasonably foreseeable.

**10.3** If an event of Force Majeure affecting APPLEXION occurs, APPLEXION shall not be

liable for any non-performance of its contractual obligations. APPLEXION shall moreover be entitled to such additional time to perform as may be reasonably necessary, and shall have the right to apportion its production among its customers in such manner as it may deem equitable.

**10.4** The Customer shall not be liable for any non-performance of its contractual obligations resulting from a Force Majeure event. The Goods which the Customer fails to take delivery because of an event of Force Majeure, will be stored by APPLEXION. However, if the Force Majeure event precluding the Customer to take Delivery of the Goods lasts for more than fifteen (15) days, APPLEXION may, following a notification of their availability, invoice the Goods as having been delivered. In any case, if an event of Force Majeure affects the Customer, invoice payments shall be made within sixty (60) days following the date figuring on the corresponding invoice.

**10.5** All events of Force Majeure which prevent the use of the ordered Goods or reduce the needs of the Customer for the Goods does not entitle the Customer to suspend or delay payment of the Goods or terminate in whole or in part the concerned Order(s).

#### **11. CHANGE OF CIRCUMSTANCES - HARDSHIP**

**11.1** In case of significant changes in external circumstances, which arise after the signature of the contract or after the date of APPLEXION's commercial offer has been issued, like for example changes in geopolitical conditions, epidemic and pandemic, or in case of significant increase in APPLEXION's purchasing costs of energy and fluids, components and materials, raw materials, or in case of increase in the costs of shipment and/or delivery or supply time schedule having a negative impact on APPLEXION's supply chain, or those of APPLEXION's suppliers and subcontractors, APPLEXION might, after having informed the Customer:

- take such overcharges to increase its prices to the Customer, and
- take such additional delays to change its delivery schedule to the Customer.

**11.2** APPLEXION shall in any case have the right to terminate a contract or an order with immediate effect in case of material changes affecting significantly the commercial relationship between the parties and making the performance of the contract or order of no economic or financial interest for him.

#### **12. CHANGES IN APPLICABLE REGULATIONS**

**12.1** The Customer is aware that the supply and/or the production of the Goods by APPLEXION may be subject to change in laws and regulations in the future, in particular as a result of the application of the European REACH regulation (1907/2006). This change in legislation may result in additional costs for APPLEXION. All these costs will be borne by the Customer, after prior notice by APPLEXION informing the Customer about the change in regulation and the additional costs resulting therefrom.

**12.2** If as a result of the new laws and/or regulations, APPLEXION cannot perform any Order and or contract, APPLEXION and the Customer will try to find in good faith a solution acceptable for both parties. If no agreement can be found between the parties within a period of three (3) months following the starting point of their discussion, APPLEXION will be allowed to terminate immediately the order and/or contract by sending a notice of termination to the

Customer. APPLEXION will not be liable for any consequences of such termination.

#### **13. TERMINATION**

**13.1** If the Customer fails to comply with any term or condition of a contract or Order Confirmation or these G.S.C., APPLEXION shall be entitled, by written notice sent to the Customer and without prejudice to any other remedy, to terminate, at his option, the concerned contract or the order in whole or in part without any further liability or obligation. APPLEXION shall further be entitled to recover from the Customer all costs and expenses incurred by APPLEXION in respect thereof, and indemnification for losses or damages incurred by APPLEXION as the result of any late or non-performance by the Customer. APPLEXION shall further be free from any existing exclusivity and/or confidentiality undertakings vis-à-vis the Customer.

**13.2** APPLEXION is entitled to terminate any contract or order with immediate effect without any further obligation or liability if APPLEXION has good reasons to believe that the Customer will be unable to normally execute its full obligations.

#### **14. ASSIGNMENT**

The Customer shall not assign any contract, order, or any right arising there from or any receivables due from APPLEXION to any third party without the prior written consent of APPLEXION.

#### **15. JURISDICTION – APPLICABLE LAW**

**15.1** THE PRESENT G.S.C. AND ANY CONTRACT AND ORDER SHALL BE EXCLUSIVELY GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF APPLEXION 'S CONCERNED AFFILIATE PLACE OF INCORPORATION. THE U.N. CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS OF 1980 SHALL NOT BE APPLICABLE.

**15.2** ANY AND ALL DISPUTES ARISING IN CONNECTION WITH AN ORDER OR CONTRACT SHALL BE EXCLUSIVELY SETTLED BY THE COMPETENT COURTS OF APPLEXION 'S PLACE OF INCORPORATION. HOWEVER, APPLEXION RESERVES THE EXCLUSIVE RIGHT TO BRING ANY DISPUTE INVOLVING THE CUSTOMER BEFORE THE COURTS OF CUSTOMER'S JURISDICTION OF INCORPORATION.

#### **16. LANGUAGE**

Should the Customer require the translation of any technical documents from the French or German language such as, but not limited to, batch records, standard operating procedures and manufacturing protocols, the cost of translation are not included in the price of APPLEXION and will therefore be borne by the Customer. All documentation and submissions to regulatory authorities in support of the Customer's products are the sole responsibility of Customer.