

## Appendix 1. Nolato – General terms and conditions of sale

### GENERAL CONDITIONS OF SALE

VALID FROM 2018-07-01

#### 1. Definitions

- 1.1 In these General Conditions, “Nolato” shall refer to the company within the Nolato Medical Solutions business area of the Nolato Group selling Products to the Buyer, presently any of the companies Nolato MediTech AB (Sweden), Nolato MediTor AB (Sweden), Nolato Hungary Kft (Hungary), Nolato Stargard (Poland) Nolato Contour Inc (US), Nolato Treff (Switzerland) or Nolato Beijing Medical (China). Each company in the group is an independent legal entity and is solely liable for its own business and contractual undertakings.
- 1.2 “Buyer” refers to a firm, person, or company with which/whom an agreement of sale has been made, or to which/whom a quotation has been submitted.
- 1.3 “Agreement of Sale” refer to (i) a written supply agreement or (ii) call off from a frame work agreement, or (iii) an order from Buyer confirmed in writing by Nolato or (iv) any other form of agreement whereby Nolato has undertaken to sell and supply and Buyer to buy and receive Products.
- 1.4 “Products” refer to such a product as has been the subject of an Agreement of Sale, or has been stated in a quotation submitted by Nolato.
- 1.5 “Specifications” refer to such specifications regarding the quality, function, performance, characteristics, field of application, standards of the Products, etc. as the Buyer has established and provided to Nolato before or in connection with the quotation or the Agreement of Sale concerned.
- 1.6 “Tools” refer to all special models, patterns, jigs, fixtures, moulds, or other tools or type-bound equipment that are required for the manufacturing of the Products.
- 1.7 When either of the concepts “written” or “in writing” is used in these General Conditions, it shall also be deemed to refer to faxes, e-mail messages, and, where applicable, EDI communication.

#### 2. Applicability

- 2.1 These General Conditions shall apply on all quotations, offers, orders and agreements relating to all deliveries of Products from Nolato.
- 2.2 These General Conditions replace any previous agreements and negotiations and take precedence before any and all agreements, terms, and other regulations associated with the supplies concerned. Changes of these conditions shall be made in writing signed by both parties.

#### 3. Formation of an agreement

- 3.1 Unless otherwise agreed in writing the parties are legally bound by an Agreement of Sale when Nolato has submitted a written confirmation of Buyer’s order.
- 3.2 Quotations are for acceptance within thirty (30) days from the date of the quotation, unless otherwise specified, and are subject to change without notice. Orders based on quotations are subject to final confirmation by Nolato when received.
- 3.3 By submitting an order upon receipt of a quotation from Nolato containing reference to these General Conditions, the Buyer agrees that the General Conditions in their entirety shall apply, unless the parties agree otherwise in writing.
- 3.4 Any condition stated in an order, or in any other document drawn up by the Buyer, that is contrary to or non-complaint with Nolato’s written confirmation of the order or these General Conditions, shall not be binding for Nolato, unless there is a written agreement to that effect. Should Nolato fail to object to such a condition, this omission shall not be construed as an acceptance, partial or entire, of an alteration of these General Conditions. On the contrary, these General Conditions are still applicable in their entirety.
- 3.5 Orders accepted by Nolato cannot be changed or cancelled by the Buyer except with Nolato’s written consent and upon terms that indemnify Nolato against loss or damage. If Nolato consents to changes or cancellation, Products completed in accordance with the Buyer’s order at the time of cancellation or change must be paid for at the contract price and terms, and items in the process of special materials moulds or tools must be paid for on the basis of operations completed, plus the price paid for such special purchases.

#### 4. Material Procurement

- 4.1 Any order confirmed by Nolato will constitute authorization for Nolato to procure the labour, components, materials and supplies necessary for the manufacture of the Products covered by such order.

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## 5. Tools

- 5.1 If any customer specific Tools are to be used exclusively when manufacturing the Products, the Buyer shall be charged with the costs thereof, and the parties shall reach an agreement thereon before the manufacturing is commenced. When fully paid by the Buyer and confirmed in a separate agreement, the Tools become the Buyer's property. The Buyer is responsible for keeping such Tools fully insured.
- 5.2 Any Tools provided by the Buyer shall remain the Buyer's property. Nolato shall clearly mark Tools belonging to the Buyer. Tools made or caused to be made and paid for by Nolato for use for the Buyer's orders shall remain the property of Nolato, unless the parties have agreed otherwise in writing. Any Tool cost charged to the Buyer shall be to cover the repair and maintenance of such Tools and shall in no way indicate a change in ownership.
- 5.3 Nolato shall not, without the Buyer's prior written consent, use any Tools belonging to the Buyer for any other purpose than fulfilment of its contractual obligations towards the Buyer.
- 5.4 Buyer is obliged to collect Buyer's Tools that are no longer in use for the manufacture of Products within two (2) weeks from Nolato's notification. If Buyer has not collected such Tools within the stipulated time, Nolato will be entitled, at its own option, to dispose of the Tools at the Buyer's cost or invoice Buyer for storage and handling costs.

## 6. Specifications, design and drawings

- 6.1 All specifications provided by the Buyer shall include, without limitation, all necessary details regarding aesthetical and functionality requirements and testing methods for the Products.
- 6.2 The Buyer will be solely liable for the design of the Products, the Products' suitability for specific purposes, intended applications or end use, even if Nolato has contributed technical assistance, know-how, or technical basic materials/designs, if any.
- 6.3 All drawings and specifications or documents relating to the Products submitted by one party to the other, prior or subsequent to the formation of any agreement, shall remain the property of the submitting party. The foregoing includes any intellectual property rights or know-how embedded in or pertaining to such property.
- 6.4 If the Buyer changes the specifications of any of the Products at any time after an order is placed in production, the Buyer shall be responsible for the cost of any materials or Products in process made unusable by such change, as well as any extra cost necessary to institute the change requested.

## 7. Prices and Payment

- 7.1 All prices are exclusive of duties, applicable VAT or similar taxes.
- 7.2 Prices on quotations apply only to the stipulated quantities, and, unless otherwise specified, are strictly net.
- 7.2 VAT will be charged for Tools according to applicable tax legislation.
- 7.3 All Products shall be paid against invoice thirty (30) days net from the date of invoice unless otherwise agreed in writing.
- 7.4 Nolato shall have the right to call for price adjustments in case of material changes in the exchange rates, in raw material prices or in other costs. Material changes mean three (3) % or more. The adjusted prices will apply thirty (30) days after Nolato's call for adjustment.
- 7.5 Nolato reserves the right to decide on a suitable limit of credit at its own discretion, and to demand full security when such limit of credit is about to be exceeded. Nolato has a right to reconsider such limit of credit at any time at its own discretion. Upon the request for security, Nolato shall be entitled to withhold delivery, partly or in full, until full security is presented to and accepted by Nolato.
- 7.6 Failure to pay for Products on the due date gives Nolato the right to withhold further deliveries under any Agreement on Sale, which Nolato has with the Buyer, or at Nolato's sole discretion, to cancel the Agreement on Sale. The Buyer shall indemnify Nolato for any loss incurred by reason of such cancellation.
- 7.7 An interest of one and a half (1,5) % per month will be charged on all overdue payments.

## 8. Retention of Title

- 8.1 Delivered Products, as well as Tools provided by Nolato, shall, to the extent permitted by applicable law, remain the property of Nolato until fully paid by the Buyer. However, the Buyer shall carry all risk for such Products after delivery by Nolato.

## 9. Deliveries

- 9.1 Unless otherwise agreed in writing, all deliveries of Products will be made FCA (INCOTERMS 2010 or later version as officially amended from time to time) at the site of manufacture.
- 9.2 Nolato reserves the right to deliver quantities of Products deviating from the agreed quantity, upwards or downwards, by ten (10) %.
- 9.3 Delivery dates are estimated only and are counted - in case of delivery periods - from Nolato's receipt of all necessary information from the Buyer.
- 9.4 In case delivery has not been made within ten (10) working days as from the agreed date of delivery, and this is not due to a force majeure circumstance set out in Section 17 or due to circumstances related to the Buyer, the Buyer shall as its sole remedy be entitled to cancel the relevant purchase order.
- 9.5 When an agreement relates to deliveries by instalments, each delivery shall be considered as an independent sale. The Buyer is not entitled to cancel an agreement in respect of other deliveries as a result of delay, defect or shortcoming in a part delivery.

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## 10. Inspection and Information

- 10.1 Unless otherwise agreed upon in writing, the Buyer is aware that the Products, before the delivery, are subject to a standard inspection employed by Nolato in its normal business. Inspections shall be performed in accordance with what has been stated in the Specifications and, if these do not address the issue at hand, with those norms that are generally applied in the relevant branch of industry. Such standard delivery inspections do not, in any event, release the Buyer from his obligation of conducting an incoming inspection which, given the nature of the Products and the business, is motivated on receipt of the Products.
- 10.2 The Buyer and notified bodies may during normal working hours and to a reasonable extent inspect Nolato's facilities, and inspect and test the Products in respect of material and workmanship. The Buyer shall give Nolato no less than two (2) weeks notice of the inspection. Inspections and tests shall not unduly interfere with the performance of work. The Buyer shall ensure that the inspection is clearly defined and accomplished in compliance with the confidentiality undertaking.
- 10.4 The Buyer shall inform Nolato of changes affecting the Buyer's operations and its business firm and address, as well as change of ownership, if such a change is significant.
- 10.5 Nolato shall be entitled to receive information about the Buyer's financial position as the need arises and to a reasonable extent.

## 11. Quality

- 11.1 Unless otherwise agreed upon in writing, applicable industry standard tolerances of measurements and dimensions in respect of the Products shall apply to the deliveries.

## 12. Liability for Defects and Deviations in Quantity

- 12.1 Nolato undertakes to deliver Products which:
- (i) conform with the drawings and Specifications as established by the Buyer and accepted for production in writing by Nolato;
  - (ii) are tested according to the agreed methods including methods for measurements; and
  - (iii) are free from defects in respect of materials and workmanship.

Nolato's liability shall not apply (a) to defects resulting from or related to faulty design, drawings or Specifications provided by the Buyer, which shall be the Buyer's sole responsibility, (b) to Products which have been misused, incorrectly installed, improperly maintained, operated in excess of Specifications, or modified or repaired by someone else than Nolato, (c) to any non-conformity caused by or relating to the use of components or materials provided or designated by the Buyer or provided by suppliers designated by the Buyer and (d) to defects resulting from normal wear and tear.

- 12.2 If delivered Products suffer from defects or deviations in quantity, the sole liability of Nolato, and the sole remedy of the Buyer, is limited to, at Nolato's option, replacement of any defect Product or shortcomings in quantity, or refund to the Buyer of such proportion of the purchase price received corresponding to the non-conformity or short-comings in quantity and transportation costs actually paid for such non-conforming Product. No allowance shall be made for expenses incurred by the Buyer in repairing defective parts, supplying any missing parts, or otherwise attempting to repair or correct a claimed non-conformity.
- 12.3 NOLATO'S LIABILITY FOR DEFECTS AND DEVIATIONS IN QUANTITY IS LIMITED TO THAT EXPRESSLY STATED HEREIN, AND NOLATO EXPLICITLY DISCLAIMS ANY AND ALL OTHER LIABILITY, INCLUDING IMPLIED WARRANTIES OF SUITABILITY, MERCHANT-ABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, OR ANY OTHER MATTER.
- 12.4 The Buyer shall examine and perform approval test of the Products without delay upon delivery and within ten (10) days after delivery report to Nolato any damages, non-conformities or deviations in quantity. Any claim towards Nolato shall be deemed waived by the Buyer, unless submitted to Nolato in writing at the latest thirty (30) days from the date of discovery. No report on such defect in delivery may be brought by the Buyer more than three (3) months after the date of delivery.
- 12.5 Any notice of any claim shall be specified by batch number and state the alleged defect as well as the delivery date of the Products. Before returning any Products to Nolato the Buyer shall contact Nolato Quality department and get a Return Material Authorization. Nolato shall be entitled to examine and take samples of any delivery with an alleged defect.
- 12.6 Upon written confirmation for the return of goods, Nolato will provide shipping instructions. Goods returned without Nolato's acceptance will be carried and held at the Buyer's risk.

12.6 IN NO EVENT SHALL NOLATO HAVE ANY LAIBILITY WHATSOEVER, WHETHER OR NOT IN CONTRACT OR IN TORT, UNDER ANY WARRANTY OF INDEMNITY OR FOR BREACH OF CONTRACT OR BREACH OF STATUTORY DUTY OR OTHERWISE, TO BUYER, HIS CUSTOMERS OR OTHER THIRD PARTIES FOR PAYMENT OF ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL OR TORT DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT, LOSS OF USE, LOSS OF PRODUCTION AND LOSS OF GOODWILL. NOLATOS LIABILITY SHALL IN ALL CASES BE LIMITED TO THE PURCHASE PRICE FOR THE PRODUCTS WHICH GIVE RISE TO THE CLAIM.

- 12.7 If the Buyer reasonably believes that a recall or a withdrawal of, or a field correction to, several Products (“Recall”) may be necessary and/or appropriate the Buyer shall notify and consult with Nolato without undue delay and prior to initiating the Recall. Recalls shall, however, be handled by and are the sole responsibility of the Buyer, although the Buyer shall keep Nolato informed of the developments of the Recall. Subject to the limitations of liability set out in these General Conditions, Nolato undertakes, if and to the extent the Recall is due to a breach by Nolato as set out in this Section 12, to provide reasonable assistance to and co-operate with the Buyer in relation to the Recall. For the avoidance of doubt, the limitations of liability set out in this Section 12 shall apply in relation to a Recall and the liability of Nolato shall in all events be limited to the purchase price for the Products being subject of the Recall.
- 12.8 Save as stipulated in this Section 12 and Section 13 below, Nolato shall not be liable for defects in Products.

### **13. Product Liability**

- 13.1 Nolato shall bear the product liability (personal injury and property damage) caused by defective Products in accordance with applicable product liability law. To the extent the damage arises from either of the circumstances set forth in Section 12.1 (a)-(d), Nolato has no liability of any kind and the Buyer shall indemnify and hold harmless Nolato accordingly.
- 13.2 Nolato’s liability in respect of Section 13.1 above shall not exceed SEK twenty-five million (25 000 000). Any third party claims exceeding SEK twenty-five million (25 000 000) will be payable by the Buyer.
- 13.3 Nolato shall take out and uphold a customary product liability insurance. Notwithstanding the provisions of this Section 13, the liability of Nolato is limited to such damages and such amounts that are covered by such insurance.

### **14. Intellectual Property Rights**

- 14.1 The Buyer shall inform and instruct Nolato of pending patent applications and patents granted relating to the Products prior to submitting drawings and specifications to Nolato.
- 14.2 When the Products are delivered in compliance with a specification, the Buyer is responsible for that the Products do not constitute an infringement into any intellectual property rights belonging to third parties. The Buyer shall defend, indemnify and hold harmless Nolato from all claims, costs, damages, judgements and attorney’s fees resulting from or arising out of any alleged or actual infringement or other violation of any patents, patent rights, trademarks, trademark rights, copyrights, or other intellectual property rights related to the Products.

### **15. Permits, Laws and Regulations**

- 15.1 The Buyer shall be solely responsible for permits, inspections, information or other requirements concerning the use or application of the Products and that the use or application for the Products complies with applicable laws and regulations.

### **16. Insurance**

- 16.1 The Buyer and Nolato shall keep their respective property insured during any period such property is in the possession of the other party.

### **17. Force Majeure**

- 17.1 Hinders or circumstances outside the control of a party, which prevent the party from performing his obligations in whole or in part, shall release the party from the performance of an agreement until the hinder or circumstances have ceased.
- 17.2 Circumstances that have occurred at the time of the entering into an agreement constitute relief from liability only if the effect on the performance under the agreement could not have been foreseen at the time. It is incumbent on the party who wishes to refer to any circumstance as a relief from liability to inform the other party in writing without delay of the commencement as well as of the cessation thereof.
- 17.3 If the execution of an agreement is delayed more than six (6) months due to circumstances establishing relief from liability as mentioned in this section, each party, without prejudice to other applicable terms pursuant to these conditions, has the right to terminate the agreement by giving written notice to the other party.

### **18. Disputes**

- 18.1 Any dispute that may arise regarding the content, realisation, validity or implementation of the agreement as well as any other dispute attributable to the General Conditions or an agreement may not be brought before a court, but shall instead be referred to and finally settled by arbitration according to the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce. The arbitration procedure shall take place in the capital of the country of establishment of Nolato (as defined in Section 1.1). Notwithstanding the foregoing, Nolato has the right to bring an action before a competent court of the country of Buyer.

### **19. Applicable Law**

- 19.1 These General Conditions as well as all agreements made or quotations or orders issued or confirmed with reference to these General Conditions, shall be governed by the laws of the country of establishment of Nolato (as defined in Section 1.1, without reference to its principles of conflict of laws.

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