



诺凡赛尔一般条款及条件

1、一般条款及条件的应用

1.1. 一般条款及条件的范围：本一般条款及条件（以下简称“一般条款及条件”）适用于诺凡赛尔(上海)保护膜有限公司，其注册地址为上海市松江区泗泾镇九干路 179 号（以下简称为“诺凡赛尔”）与中国境内或境外的任何商家（以下简称为“客户”）订购工业用自粘保护膜的销售交易。（以下简称为“产品”）。

1.2. 接受一般条款及条件：客户确认他们已经充分被告知这些一般条款及条件。在诺凡赛尔发给客户的订单确认函（以下简称“确认函”）背面以及诺凡赛尔公司网站上都有这些一般条款及条件。因此，客户订购产品即构成对一般条款及条件的完全及无保留接受，排除了诺凡赛尔公司发出的任何其他文件。除非诺凡赛尔在确认函中事先正式书面接受的条款与条件，否则没有任何特殊的条款或条件可优先于这些一般条款及条件。

2、客户需求及诺凡赛尔报价

2.1. 产品应符合客户明确表述的特殊使用条款。因此，客户应向诺凡赛尔提出产品的推荐要求（以下简称“要求”）。如果要求可获满足，客户亦应寄送需要使用保护膜的产品样品。产品旨在满足特定的使用条件，这些条件必须由客户明确表达。因此，客户应向诺凡赛尔发送一份推荐请求（以下简称“请求”）。如果认为合适，客户还应发送一个样品，以展示客户考虑应用产品的表面。

2.2. 根据客户发送给诺凡赛尔的相关要素，诺凡赛尔应向客户建议最符合客户要求的保护膜产品，并向客户发送保护膜产品报价（以下简称“报价”）。报价中应详细列明建议产品、产品牌号以及价格。报价有效期为 1 个月。

3、适用性测试及首批订单

3.1. 如果客户为新媒介或新用途选择保护膜，客户在大量产品订购并将其用于工业化用途之前，必须进行大范围产品测试。此外，这些测试须在出具发票的六个月内进行。

为此，客户应根据下文第 4 条所述条件少量订购首批产品。已订购的产品应在客户拟使用产品的表面进行测试。测试必须特别考虑到产品将被实际使用的材料类别、表面状况、工作应力、实际使用寿命及老化条件。

3.2. 完成适用性测试后，客户应向诺凡赛尔提交测试报告，说明产品是否满足客户需求。客户仅可在测试结果成功之后大批量订购产品。据此，如客户大批量订购产品，应视作已确认适用性测试的有效性。

4、销售合约的形成

4.1. 下订单：诺凡赛尔将接受客户根据诺凡赛尔提供的报价所下的订单。此订单仅在诺凡赛尔公司发出确认函说明标的物和销售条款后才会变为最终订单。确认函应构成双方间的销售协议。

4.2. 取消订购：除非诺凡赛尔明确授权，否则客户不可以以任何方式取消诺凡赛尔已接受的订单。如果客户违反此条款并取消订单，诺凡赛尔有权以一次性总额的形式支付损害赔偿，金额为确认函中所载税前金额的 80%。

5、产品交付

5.1. 交付日期：诺凡赛尔应尽力在确认函中指定的交付日期交付产品。如果诺凡赛尔非因不可抗力或其他不在诺凡赛尔控制范围内的原因而无法在指定的交付时间内交付产品，将会及时通知客户。在这种情况下，双方将本着诚信原则，根据各自的利益协商确定适当的行动方案。

如果由于直接归因于诺凡赛尔的原因，产品在[10]个工作日后仍无法交付，客户有权要求赔偿其因延误而直接实际遭受的损失，每周的赔偿额为延迟部分产品价格的 0.5%，上限为[5]%。

如果由于直接归因于诺凡赛尔的原因，产品在 20 个工作日后仍无法交付，客户有权取消未完成的订单。

在本条款中，“工作日”是指星期六、星期日，或中国和法国法定节假日以外的任何日子，以及中国和法国商业银行机构要求关闭的任何日子

5.2. 部分交付：诺凡赛尔可以分批交付产品，在此情况下，客户必须接受部分交付的产品，并支付已交付产品款项。

5.3. 交付地点及风险转移：产品交付方式为货交承运人（FCA），交货地点为诺凡赛尔，中国上海（2020 年国际贸易术语解释通则）。当产品离开诺凡赛尔的仓库时，运输过程中的产品灭失和损毁风险即转移至客户。因此，即使是交付部分产品，产品风险亦由客户承担。客户应独自负责办理行政和海关出口手续（如果有的话）。

6、产品合规

6.1. 产品验收：客户应在接收产品后独自负责检查产品状况。如产品全部或部分被丢失或被损毁，客户应向承运人寻求一切有效的补救措施，诺凡赛尔不就此承担任何责任。

6.2. 产品合规：受限于第 11.1 条款规定，与产品合规及/或明显瑕疵相关的索赔须在接收产品后八 (8) 天内由客户通过电子邮件或传真（随后在四 (4) 天内寄出挂号信，要求回执）向诺凡赛尔发出通知方可受理，而且此通知列明验证所发现异常所需的所有信息。

如果客户未能遵守上述规定，客户将丧失主张此类不合规性和/或明显缺陷的权利。

客户在截止日期前根据上述条款提出索赔，诺凡赛尔将仅负责更换异常产品或为该异常产品退款（或如果诺凡赛尔为产品丢失负有责任，诺凡赛尔则将交付产品），处理方式由诺凡赛尔选择，前提是客户已经：

- 当客户发现产品不合规后，客户自身未就产品采取行动或未委托第三方采取行动，除非事先获得诺凡赛尔明确书面授权；
- 在需要时，由诺凡赛尔自由判断并确认客户主张的异常情况。

在获得诺凡赛尔的明确授权后，产品必须以完好状态以及完整的原始包装退回，费用由客户承担。

7、付款条件

7.1. 价格：需开具发票的产品价格为确认函中所载价格（如有税费需加上税费）。价格以人民币列示。

7.2. 到期日-折扣：除非确认函内另有规定且在发票上作为特殊条款或条件提醒，否则客户须在产品发货前结算款项。诺凡赛尔不会在客户于付款到期日前结算发票款项时给予折扣。

7.3. 付款条件：款项到期应支付时，付款应以欧元或人民币（基于付款日中国人民银行当天公布的汇率）通过银行间转账到诺凡赛尔的住所进行支付。为了最大程度地保护客户及诺凡赛尔的权益，诺凡赛尔保留根据客户提供的财务担保为每个客户定义特定的付款条款的权利。

7.4. 未付款-逾期未付：如果客户未能在发票所载到期日前结算相应款项，客户应当在无需事先正式通知的情况下向诺凡赛尔支付款项。逾期支付将产生按中国人民银行公布的一年期贷款市场报价利率（LPR）的 150% 计算的每日滞纳金，计算基数为未结清的发票金额，自支付逾期之日起生效。如果发票在发票日期后的 [10] 天内未被全额支付，诺凡赛尔有权（但没有义务）暂停或取消所有或任何未完成订单及采取任何其他行动。如果为分期支付，未能支付单笔分期款项将使全笔债务金额即时到期。

7.5. 债务追收：如果诺凡赛尔需启动债务追收法律程序，客户应依法支付须追收款项的 15% 作为约定损失赔偿的额外赔偿，但罚金金额不能低于一千五百 (1500) 欧元。如果此赔偿金不足以覆盖诺凡赛尔承担的所有损失（例如法院费用、律师费用等），客户应支付差额以弥补不足之处。

8、保留所有权

8.1. 售出的产品直至客户履行其所有义务，尤其是客户完全支付了全款（本金、费用、利息及任何其他费用）前仍为诺凡赛尔所有。

8.2. 客户承诺始终确保可随时识别和追溯已交付的产品，而库存中的产品在彼此之间是可替代的，应被视为发票未结清的产品。此外，客户承诺不会出于担保用途抵押产品或转让产品所有权。

9、产品质保

9.1. 隐蔽瑕疵质保：诺凡赛尔保证产品在交付后将不会出现任何设计、材料或制造上的隐蔽瑕疵。

9.2. 隐蔽瑕疵质保的索赔条件：如果客户发现产品的隐蔽瑕疵，客户必须在发现瑕疵八 (8) 天内通过电子邮件或传真（随后以挂号信方式在四 (4) 天内寄出，要求回执）向诺凡赛尔提起索赔要求，但在产品使用于相关表面上十二 (12) 个月后，不可再提起索赔。客户应负责提供所有已发现的瑕疵或异常情况的证据。如果客户未能遵守上述规定，客户将丧失主张产品隐蔽瑕疵的权利。

客户在截止日期前根据上述条款提出索赔，诺凡赛尔将仅负责更换有隐蔽缺陷的产品或为该有隐蔽缺陷的产品退款；处理方式由诺凡赛尔选择，前提是客户已：

- 当客户发现产品不合规时，客户自身未就产品采取行动或未委托第三方采取行动，除非事先获得诺凡赛尔明确书面授权；
- 在需要时，由诺凡赛尔自由判断并确认客户主张的异常情况。

在获得诺凡赛尔的明确授权后，产品必须以完好状态以及完整的原始包装退回，费用由客户承担。

10、知识产权

诺凡赛尔保证在销售产品时这些产品不会受到任何与实物相关的未决法律诉讼或法律行动。诺凡赛尔不对安宁使用权的侵权提供任何保证（除非诺凡赛尔本身存在违约行为），尤其是与知识产权。因此，对于因侵犯这些权利而导致第三方保留占有权，诺凡赛尔不承担责任。

11、责任与惯例

11.1. 遵守使用及储存条款：已交付产品符合产品同时交付的指标书中所载规格，这些规格是根据客户在请求中提供的信息制定的。诺凡赛尔对于产品在与客户在请求中所述的表面或条件不同的情况下使用所产生的任何责任不承担。由于不遵循诺凡赛尔的建议、异常操作、由客户或第三方所作变动而产生的任何瑕疵或异常不在此质保范围内。

如客户完全遵守产品说明书所载储存及使用条款，诺凡赛尔对产品使用期限内的有效性作出保证。客户已被告知，不遵守说明书中的产品使用条款及/或条件以及这些一般条款及条件，(i)将可能导致胶水转移到待保护的表面，对此诺凡赛尔不承担任何责任，而且(ii)完全超出诺凡赛尔的质保范围。

11.2. 责任：除非一般条款和条件另有明确规定，只有在普通法院承认其责任或由诺凡赛尔同意的情况下，诺凡赛尔才可能承担责任，且仅与产品明显或隐蔽瑕疵有关。客户特此明确同意并确认，诺凡赛尔可能不对由产品瑕疵引起的或与产品瑕疵相关的间接、从属或非实质损害承担责任，包括利润亏损、客户订单损失以及损害品牌形象。在任何情况下，诺凡赛尔为直接损害承担的责任仅限于客户支付的产品款项，而不受普通法院承认或由诺凡赛尔同意的依据限制。

客户应对其购买的产品的合规性负全部责任，包括但不限于在其领土上适用的关于标识、安全性、用户信息等方面的法规，除了中国以外的领土（以及产品使用的领土）。

12、不可抗力

如果诺凡赛尔或客户因不可抗力（如下文所定义）而无法或部分无法履行本一般条款和条件项下的义务（除了支付款项的义务），或者因不可抗力使诺凡赛尔的履行义务成本显著增加，必须立即通知对方。在此通知之后，且在不可抗力事件持续期间，因不可抗力无法执行的义务（除了支付款项的义务）将被暂停。如果诺凡赛尔或客户因不可抗力无法履行本一般条款和条件项下的义务，诺凡赛尔和客户都必须采取一切合理可行的措施来减轻因未能履行本一般条款和条件项下的义务而导致的任何损失。就本一般条款和条件而言，不可抗力是指一种不可预见（或者如果可预见，合理不可避免）的事件或原因，它超出了宣称不可抗力的一方的合理控制，并阻止了该方根据本一般条款和条件的全部或部分履行，包括但不限于以下事件，无论它们是否被相关法律定义为不可抗力：

- (a) 天灾、雷击、风暴、洪水、火灾、地震或爆炸、台风、海啸、山体滑坡、恶劣天气条件；
- (b) 罢工、封锁或其他劳工困难；
- (c) 外敌行为、战争（宣布或未宣布）、破坏、封锁、革命、暴动、起义、内乱、流行病；
- (d) 任何政府或其他有权机构的适用法律、命令、规则或法规的影响；
- (e) 无法按照通常方式从通常的来源获得任何必要的产品、材料或设备的供应；
- (f) 运输延误或由于航运公司的行为或不作为而导致的船只推迟；
- (g) 诺凡赛尔的供应商或分包商宣布的不可抗力事件；
- (h) 公用事业、电力或水资源短缺，交通不畅；
- (i) 机器或设备的损坏、事故或其他损害；或
- (j) 任何性质的流行病或大流行病。

13、法域及适用法律

13.1. 任何与依据这些一般条款及条件订立的销售交易的形成、履行、违约或终止相关的争议应提交到诺凡赛尔所在地的人民法院。本条款在紧急或简易诉讼、附带请求、被告为多名的情况下，或第三方诉讼情况下亦适用，而与支付地点及方式无关。作为上述条款的例外情况，诺凡赛尔可能自行选择将任何争议提交至任何其他有管辖权的法院，尤其是有管辖权的客户所在地的法院。

13.2. 诺凡赛尔订立的销售交易受中国法律管辖（包括1980年《联合国国际货物销售合同公约》（如果客户不是中国实体或个人的情况下））

14、语言

本一般条款和条件已以中文和英文两种语言制备。如果两种语言之间存在任何不一致之处，以英文版本为准。

EN - NOVACEL GENERAL TERMS AND CONDITIONS

1 – APPLICATION OF THE GENERAL TERMS AND CONDITIONS

1.1. Scope of the GTCs: These general terms and conditions (hereinafter the “GTCs”) govern sales entered into between Novacel (Shanghai) Protective Films Co., Ltd. with a registered address at No.179, Jiugan Road, Sijing Town, Songjiang District, Shanghai (hereinafter “Novacel”) and any merchant established in China or outside China (hereinafter the “Customer”) ordering self-adhesive film for industrial use (hereinafter the “Product” or “Products”) from Novacel.

1.2. Acceptance of the GTCs: The Customer acknowledges that they have been duly advised of the GTCs, which are notably reproduced at the back of the Confirmation of Order issued by Novacel (hereinafter the “Confirmation”) but

also on Novacel's web site. Consequently, the ordering of Products by the Customer entails the full and unreserved acceptance of the GTCs by the Customer, to the exclusion of any other document issued by Novacel. No special term or condition may prevail over these GTCs unless formally accepted beforehand in writing by Novacel in the Confirmation.

2 – CUSTOMER NEEDS AND NOVACEL OFFER

2.1. The Products are intended to meet specific terms of use which must be expressed by the Customer. Therefore, the Customer shall send Novacel a Request for Recommendation (hereinafter the “**Request**”). If they see fit, the Customer shall also send a sample of the surface on which the Customer is considering applying the Product.

2.2. Based on the elements sent to Novacel by the Customer, Novacel shall suggest to the Customer the Product that is best suited to their needs and shall send them a Pricing Offer (hereinafter the “**Offer**”) detailing the suggested Product and notably its reference and price. The Offer shall remain valid for a period of 1 month.

3 – SUITABILITY TEST AND PRELIMINARY ORDER

3.1. If the Customer chooses a Product for a new medium or application, they must first test the Product extensively before ordering it in industrial quantities and using it for industrial purposes. Furthermore, the test must be conducted within six months of invoicing.

To that end, the Customer shall place a preliminary order for a small quantity of Product under the conditions set out in article 4 below. The ordered Product shall be tested on the Customer's surface. The test must notably take into account the type of material on which the Product is to be effectively used, the condition of the surface, the working stress, as well as the actual useful life and ageing conditions required by the Customer.

3.2. Upon completing the suitability test, the Customer shall hand Novacel a test report indicating whether the Product satisfies the Customer's needs. The Customer may only order industrial quantities of the Product if the test is successful, whereby by placing an order for industrial quantities the Customer shall be deemed to have validated the suitability test.

4 – SALES CONTRACT FORMATION

4.1. Placing an order: The order placed by the Customer pursuant to the Offer issued by Novacel shall be accepted by Novacel and shall become final only when Novacel issues a Confirmation stating the object and terms of sale. The Confirmation shall constitute the sales agreement between the parties.

4.2. Cancelling an order: Unless expressly authorised by Novacel, orders that have been accepted may not be cancelled in any way by the Customer. If the Customer breaches this interdiction and cancels an order, Novacel shall be entitled to damages in lump sum amount of 80 % of the amount before tax set out in the Confirmation.

5 – DELIVERY OF THE PRODUCTS

5.1. Delivery date: Novacel shall use its endeavors to deliver the Product(s) on the delivery date as indicated in the Confirmation. If Novacel is unable to deliver the Product(s) within the specified delivery time for a reason which is not due to force majeure or any other causes beyond Novacel's control, it will promptly inform the Customer. In such cases, the Parties shall negotiate in good faith and according to their interests to determine the appropriate course of action.

If the Products are not able to be delivered after [10] Business Days due to a reason directly attributable to Novacel, the Customer has the right to claim damages for its direct and actual losses incurred corresponding to 0,5% of the delayed Product(s) per week of delay with a cap of [5]% of the price of the delayed Product(s).

If the Products are not able to be delivered after 20 Business Days due to a reason directly attributable to Novacel, the Customer has the right to cancel the outstanding order(s).

For the purposes of this article, "Business Days" shall mean any day other than a Saturday, Sunday, or legal holiday in China and in France, or any other day on which commercial banking institutions in China and in France are required to close.

5.2. Partial delivery: Novacel may deliver the Product in instalments, in which case the Customer must accept such partial deliveries and pay for the delivered instalments.

5.3. Place of delivery and transfer of risks: The Products shall be delivered FCA Novacel, Shanghai, China (ICC Incoterms 2020). The risk of loss and damage during transport shall transfer to the Customer when the Products leave Novacel's warehouse. As a consequence, the Products shall travel at the Customer's risk, even in case of partial delivery. The Customer shall be solely responsible for carrying out the administrative and customs export formalities (if any).

6 – PRODUCT COMPLIANCE

6.1. Acceptance of the Products: The Customer shall be solely responsible for checking the condition of the Products upon receipt. Should the Products have suffered loss or damage in all or part, the Customer must seek all useful remedies against the carrier themselves, whereby Novacel may not be held liable.

6.2. Product compliance: Subject to Article 11.1, claims relating to the Products' compliance and/or apparent defects shall only be admissible if notified to Novacel by the Customer by e-mail or fax (followed by a recorded delivery letter, return receipt requested, sent within four (4) days) within eight (8) days of the receipt of the Products and if they state all information needed to verify the anomalies found.

Should they fail to abide by the above mentioned prescriptions, the Customer shall lose their right to avail themselves of such non-compliance and/or apparent defects.

Subject to the Customer sending a claim within the deadlines and under the terms set out above, Novacel shall only be liable for replacing or refunding the anomalous Product (or delivering the Product if it is missing and Novacel is liable therefor), as Novacel chooses, provided the Customer has

- refrained from taking action themselves or charging a third party to take action on the Product as soon as they noticed the non-compliance unless first expressly authorised in writing by Novacel and
- allowed Novacel a free hand to ascertain if need be the alleged anomalies by itself.

Upon Novacel's express authorisation, the Product must be returned in perfect condition and in the full original packaging at the Customer's own costs.

7 – TERMS OF PAYMENT

7.1. Price: The price of the invoiced Products shall be the price set out in the Confirmation (plus taxes if any). Prices are denominated in RMB.

7.2. Due date – Discount: Unless otherwise provided for in the Confirmation and recalled as a special term or condition on the invoice, the Customer must settle the price before the Product is shipped. Novacel does not grant discounts where the Customer settles the invoice before its due date.

7.3. Terms of payment: Payments shall be made in Euros or RMB (based on the People's Bank of China's exchange rate published on the day of payment) by bank-to-bank transfer to Novacel's registered office, where payments shall be owed. Novacel reserves the right to define specific terms of payment for each Customer according to the financial guarantees provided by the latter in order to best preserve the Customer's and Novacel's interests.

7.4. Non-payment – Late payment: Should the Customer fail to settle the invoice by the due date set out therein, they shall be liable to pay Novacel without need for any prior formal notice. The late payment will incur a daily interest rate calculated at 150% of the one-year Loan Prime Rate (LPR) published by the People's Bank of China, on the outstanding invoice amount as liquidated damages, starting from the date the payment becomes overdue. Where an invoice has not been fully paid within [10] days following the invoice date, Novacel has the right (but not the obligation) to suspend or cancel all or any outstanding orders and take any other action. In case of payment by instalments, the failure to pay a single instalment shall cause the whole amount of the debt to become due immediately.

7.5. Debt collection: Should Novacel need to initiate debt collection proceedings, the Customer shall owe, as a liquidated-damages, an additional compensation in the amount of 15 % of the sums subject to collection, whereby such compensation may not be less than one thousand five hundred (1,500) Euro or its equivalent in RMB. If such compensation

is not sufficient to cover all the losses incurred by Novacel (e.g. court fees, lawyer fees), the Customer shall pay the difference to make up for the shortfall.

8 – RETENTION OF TITLE

8.1. The Products sold remain Novacel's property until the Customer has performed all of their obligations and in particular until they have paid the price in full (principal, costs, interest, and or any other related charges).

8.2. The Customer undertakes to enable at all times the identification and recovery of the delivered Products, whereby the Products in stock, being fungible among themselves, shall be likened to the Products whose invoices are outstanding. Furthermore, the Customer undertakes not to pledge the Products or assign the ownership thereof.

9 – PRODUCT WARRANTY

9.1. Warranty for hidden defects: Novacel warrants that the Products are free from any hidden design, material, or manufacturing defects upon delivery.

9.2. Terms of claim under the warranty for hidden defects: If the Customer finds a hidden defect in the Product, they must send Novacel a claim by e-mail or fax (followed by a recorded delivery letter, return receipt requested, sent within four (4) days) within eight (8) days of noticing the defect, whereby no claim may be notified as from twelve (12) months after the application of the Product onto the surface concerned. The Customer shall be responsible for providing any and all evidence of any defects or anomalies found. Should they fail to abide by the above mentioned prescriptions, the Customer shall lose their right to avail themselves of the hidden defect.

Subject to the Customer sending a claim within the deadlines and under the terms set out above, Novacel shall only be liable for replacing or refunding the Product with the hidden defect, as Novacel chooses, provided the Customer has

- refrained from taking action themselves or charging a third party to take action on the Product as soon as they noticed the defect unless first expressly authorised in writing by Novacel and
- allowed Novacel a free hand to ascertain if need be the alleged defects by itself.

Upon Novacel's express authorisation, the Product must be returned in perfect condition and in the full original packaging at the Customer's own costs.

10 – INTELLECTUAL PROPERTY

Novacel warrants that the Products are not subject to any pending action in rem at the time of sale. However, Novacel does not owe any warranty for breach of quiet enjoyment (unless Novacel itself commits the breach), notably with respect to intellectual property rights. Accordingly, Novacel may not be held liable for retention of possession by third parties on grounds of the infringement of such rights.

11 – LIABILITY AND PRESCRIPTION

11.1. Compliance with terms of use and storage The delivered Products comply with the specifications set out in Data Sheet provided with the Products according to the information supplied by the Customer in the Request. Novacel excludes any liability for the use of the Products on surfaces or under conditions that differ from those stated by the Customer in the Request. Any defect or anomaly arising from conditions that are not compliant with Novacel's recommendations, from abnormal handling, or from changes made by the Customer or a third party are excluded from this warranty.

Novacel warrants the efficacy of the Products throughout their use provided the Customer imperatively complies with the terms of storage and use laid down in the Product's Data Sheet. The Customer is advised that non-compliance with the Products' terms of use and/or the conditions laid down in the Product's Data Sheet and these GTCs (i) may result in the transfer of adhesive material onto the surfaces to be protected, for which Novacel may not be held liable, and (ii) fully excludes any warranty provided by Novacel.

11.2. Liability: Novacel may be held liable only if its liability is recognised by an ordinary court of law or agreed by Novacel, and only in connection with an apparent or hidden defect of the Products, except otherwise expressly provided for

in these GTCs. It is hereby expressly agreed and acknowledged by the Customer that Novacel may not be held liable for any remote, consequential, or immaterial damage, including loss of margin or Customer orders and damage to the brand image, caused by or connected with a defect of the Products. In any case, Novacel's liability for direct damage, independently of the grounds on which such liability is recognised by an ordinary court of law or agreed by Novacel, shall be limited to the amount paid by the Customer for the Products concerned.

The Customer shall be solely responsible for the compliance of the Products purchased with the regulations applicable on their territory, other than China (and on the territory on which the Products are used) with respect to marking, safety, user information, etc.

12 – FORCE MAJEURE

If either Novacel or the Customer is prevented in whole or in part from carrying out its obligations under these GTCs (other than an obligation to pay money), or if the carrying out of Novacel's obligations is rendered materially more expensive, as a result of Force Majeure (as defined below), it must promptly notify the other party accordingly. Following this notice, and while the Force Majeure continues, the obligations that cannot be performed (other than an obligation to pay money) because of the Force Majeure will be suspended. Where either Novacel or the Customer is prevented from carrying out its obligations under these GTCs as a result of Force Majeure, both Novacel and the Customer must take all action reasonably practicable to mitigate any loss suffered by a party as a result of its failure to carry out its obligations under these GTCs. For the purposes of these GTCs, Force Majeure means an event or cause that is unforeseen (or, if foreseen, reasonably unavoidable), is beyond the reasonable control of the party claiming force majeure and that prevents the total or partial performance of these GTCs by that party, including, without limitation, the below events, whether or not they are defined as Force Majeure by relevant law:

- (a) act of God, lightning, storm, flood, fire, earthquake or explosion cyclone, tidal wave, landslide, adverse weather conditions;
- (b) strike, lockout or other labour difficulty;
- (c) act of public enemy, war (declared or undeclared), sabotage, blockade, revolution, riot, insurrection, civil commotion, epidemic;
- (d) the effect of any applicable laws, orders, rules or regulations of any government or other competent authority;
- (e) inability to obtain any necessary Products, materials or equipment from suppliers on usual terms from usual sources;
- (f) delays in shipping or deferral of shipping as a result of acts or omissions of shipping companies;
- (g) force majeure called by Novacel's suppliers or subcontractors;
- (h) utilities, power or water shortage, lack of transportation;
- (i) breakage or accident or other damage to machinery or equipment.; or
- (j) an epidemic or pandemic of any nature.

13. JURISDICTION AND GOVERNING LAW

13.1. Any dispute relating to the formation, performance, non-performance, or termination of the sales entered into pursuant to these GTCs shall be exclusively referred to the competent people's court where Novacel is located. This clause shall apply even in case of urgent or summary petitions, incidental claims, plurality of defendants, or third-party actions for purposes of indemnity, independently of the place and terms of payment. As an exception to the foregoing, Novacel may, if it chooses, refer any dispute to any other competent court, and especially to the courts having jurisdiction over the Customer's place of establishment.

13.2. The sales entered into by Novacel shall be exclusively governed by Chinese law (including the 1980 United-Nations Convention on Contracts for the International Sales of Goods if the Customer is not a Chinese entity or individual).

14. LANGUAGE

This GTCs has been prepared in both Chinese and English. In the event of any discrepancies between the two languages, the English version shall prevail.