



TERMS AND CONDITIONS FOR RETICLE SERVICES

Novati TECHNOLOGIES, LLC - 2706 Montopolis Drive, Austin, TX 78741 – [REV 12092016]

Novati Customer acknowledges that Reticle Services are entirely outsourced to subcontractor Toppan Photomasks, Inc. and that obtaining reticles for Customer is solely for Customer's convenience in connection with other Novati services. Upon written notice to Customer, Novati may assign this agreement to a successor in interest that is not a competitor of Customer upon a merger, acquisition, reorganization, change of control, or sale of all or virtually all of the assets of Novati, and any such assignment shall not require Customer's consent. Any other assignment by either party shall require the prior written consent of the other party, which consent shall not unreasonably be withheld.

The Terms and Conditions below are from Toppan and shall apply. These Terms and Conditions supersede all previous communications, representations, or agreements, either verbal or written, between the parties. Novati agrees to order reticles as described in the quotation to which these Terms and Conditions are referenced.

1. **Services.** Title to goods will pass EXW from Toppan. Thereafter, all risk shall be borne by Customer. No liability shall result from delay in performance or non-performance of this agreement directly or indirectly caused by accidents, riots, war, governmental acts or embargoes, government regulations, inadequate or interrupted transportation facilities, enemy action, fire, explosions, flood, labor trouble, or shortage, inability to obtain suitable material equipment, fuel or power, or arising from contingencies, happening, or other causes beyond the control of Toppan. Quantities so affected may be eliminated without liability but these conditions of sale shall otherwise remain unaffected.
2. **Warranty.** The sole warranty is that for 30 days from delivery the products (or materials) delivered hereunder, they will meet Toppan's standard specifications for the products or such other specifications of Customer expressly agreed to in writing by Customer and Novati/Toppan. Toppan warrants that the use or sale of its products will not infringe the claims of any United States patent covering the products themselves but does not warrant against patent infringement by reason of the use of its products in combination with other materials or in the operation of any process. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Customer assumes all risk and liability resulting from the use of the products delivered hereunder, whether used singly or in combination with other products.
3. **Locale.** No warranty on country of origin for products contained herein is made; products not U.S. origin will be identified upon written request of Customer.
4. **Taxes.** Any state, local or Federal taxes, excise taxes, duties, value added taxes, or other governmental charges for which Toppan or Novati may be liable as a result of the sale, production, or transportation of the products sold hereunder shall be charged to and paid entirely by Customer. No tax shall be billed to Customer if Customer provides Novati with either (i) an exemption certificate provided in good faith and in accordance with applicable law, or (ii) a direct pay permit number provided in accordance with applicable law.
5. **Liability.** No claim of any kind whether as to products delivered or for non-delivery of products, shall exceed in amount the purchase price paid for the products in respect of which such damages are claimed, and IN NO EVENT SHALL TOPPAN OR NOVATI BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, OR INCIDENTAL DAMAGES OR LOST PROFITS, WHETHER OR NOT SAID CLAIM IS BASED UPON NEGLIGENCE IN, OR STRICT LIABILITY FOR, THE DESIGN OR MANUFACTURE OF GOODS HEREUNDER.
6. **Claims.** Credit up to the limit of the purchase price for goods found to be defective within the warranty period stated above shall be allowed upon return of said goods, but only if returned to designated location upon obtaining specific authorization from Toppan. Failure to give notice of claim within 30 days from date of delivery shall constitute a waiver of all claims in respect of goods. The forgoing shall be the exclusive and sole remedy of Customer.
7. **Allocation.** In the event of inability for any reason to supply the total demands for the products specified therein. Toppan may allocate its available supply among any or all purchasers, as well as departments and divisions of Toppan, on such basis as it may deem fair and practical without liability for any failure of performance that may result therefrom.



8. **Fees.** Customer will be invoiced by Novati. Payment terms are net 30 days from date of invoice unless otherwise expressly agreed in writing or stated herein. Prices are subject to change effective without notice. Standard shipping terms shall be EXW Toppan's shipping point. Pricing for the products is based upon standard packaging unless a customer specification detailing special packaging is agreed to in writing. Quantities in Hold for Release are subject to price increases. Pricing for products is based upon standard packaging unless a Customer specification requesting special packaging is agreed to in writing by Novati. All invoices paid after net due date will be assess a late payment service charge of 18% per annum, or the maximum allowed by applicable law, whichever is lower.

9. **Disclaimer.** Technical advice, recommendations and services may be rendered by Novati and/or Toppan. While based on data believed to be reliable, they are intended for use by skilled persons at their own risk. Novati and Toppan assume no responsibility to Customer for events resulting from or damages incurred from their use.

10. **Equal Opportunity.** Novati is a government contractor and is subject to the requirements of Executive Order 11246, Section 503 of the Rehabilitation Assistance Act and VEVRAA. Pursuant to these requirements, the Equal Opportunity Clauses found at 41 Code of Federal Regulations, Novati Technologies Inc. shall abide by the requirements of sections 60-1.4(a) (1-7), sections 60-250.5, sections 60-300.5 (1-11) and sections 60-741.5 (a) (1-6). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, gender identification, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran or disability status.

11. **General.** This document contains all of the terms and conditions with respect to the sale and purchase of the products sold hereunder. These terms and conditions supersede any of previous date and no modifications thereof shall be binding unless separately contracted in writing and agreed to by duly authorized representatives of the parties. No modification shall be effected by the acknowledgment or acceptance of purchase order terms stipulating different conditions. Waiver of either party of any default by the other hereunder shall not be deemed a waiver by such party of any default by the other which may thereafter occur.