

## TERMS OF USE

Version 1 (01.12.2022)

1. These Terms of Use (**ToU**) of Covalo AG (**Covalo** or **Service Provider**) govern the use of the Covalo Platform and the Covalo Services by Service Recipient. By using the Covalo Platform or purchasing Covalo Services, the Service Recipient accepts the ToU in its current version.

Covalo is free to amend the ToU at any time. Covalo will inform about major amendments timely in advance by appropriate means, for example, via newsletter or information on the Covalo Platform. In case the amendments lead to further material obligations of the Service Recipient or to a material restriction of its rights, the Service Recipient shall be entitled to terminate the Covalo Service prematurely until the amendments come into force. If the Service Recipient fails to do so, the amendments shall be deemed accepted.

In case of conflicts or inconsistencies between these ToU and any other contractual documents, the following order of precedence shall apply: contract, quote, ToU, product descriptions.

Terms of use or other general terms of the Service Recipient do not apply even if the Service Recipient makes any references to such terms (for example, in its acceptance of Covalo's quote) and Covalo does not expressly object to such terms.

2. The following defined terms are used in these ToU:

**Covalo Platform** means the web platform available at [www.covalo.com](http://www.covalo.com) offering simplified interaction between chemical buyers, chemical suppliers, packaging suppliers and service providers such as contract manufacturers, formulation houses, testing institutes, consultants by providing a comprehensive and up-to-date directory of chemical ingredients, formulations, packaging, and services, as well as various on- platform messaging and data exchange functionalities. The Covalo Platform aims at facilitating interactions between buyers and suppliers, but does not guarantee any leads, nor business success.

**Covalo Services** means services to be provided by The Service Provider to the extent ordered by the Service Recipient, according to the current services descriptions on [www.covalo.com/faq](http://www.covalo.com/faq). Covalo may change the Covalo Services at any time. Covalo will inform the Service Recipients about major changes by appropriate means.

**Covalo Services Commencement Date** means either (1) the date when the Service Recipient orders the Covalo Services, or (2) the date mentioned in a contractual document accepted by the Service Recipient (for example, a quote).

**Confidential Information** means all information of the Parties not publicly available.

**Customer** means a (potential) buyer searching for products, ingredients, formulations, services, and other information of Suppliers on the Covalo Platform.

**Day or day** means any calendar day.

**Fair Use** means a reasonable and proportionate (in relation to other Service Recipients) use of the Covalo Platform and Covalo Services excluding excessive machine to machine or automated use of the Covalo Services which may potentially impair or degrade the performance of the Covalo Services or the operation of the Covalo Platform.

**Force Majeure Event** means any unforeseeable event beyond Covalo's control which renders Covalo's performance commercially unpractical or impossible, such as delayed or defective delivery from sub-contractors, labour disputes, governmental orders or regulations, pandemics and diseases, shortage in materials or energy, serious disruptions in Covalo's works, such as, but not limited to, total or partial destruction of working facilities and equipment, or the breakdown of essential technical infrastructure.

**Intellectual Property Rights, IPR or IP** shall mean patents, trademarks, service marks, logos, trade names, internet domain names, design rights, copyright and moral rights, database rights, semi-conductor topography rights, utility models, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and all rights or forms of protection having equivalent or similar effect anywhere in the world and **registered** includes registrations and applications for registration;

**Party** means The Service Provider and/or the Service Recipient, as applicable.

**Service Fees** shall have the meaning as set out in sections 11.

**Service Provider Support Partners** means any Service Provider Subsidiary and other third parties which are called in by the Service Provider for the provision of the Covalo Platform and Covalo Services.

**Service Provider Subsidiaries** means all companies in which The Service Provider is directly or indirectly involved as a majority or minority shareholder.

**Service Recipient** means the recipient of the Covalo Services.

**Service Term** shall have the meaning as set out in sections 10.

**Supplier** means a supplier providing information on products, ingredients, formulations, packaging, services, and other information on the Covalo Platform.

### 3. Covalo Services

3.1 Covalo undertakes to perform the Covalo Services carefully. The place of performance is, at the choice of Covalo, the registered or other offices of Covalo, or the offices of the Service Provider Subsidiaries or Support Partners.

3.2 Covalo is entitled to involve The Service Provider Support Partners to provide the Covalo Services.

3.3 Fixed dates are to be designated as such in Covalo's quote. All other deadlines and dates are approximate and Covalo will use commercially reasonable efforts to meet them.

3.4 Covalo is neither obliged to check the content provided by the Service Recipient or published on the Covalo Platform by the Service Recipient nor the Service Recipient's authorization to such content, but may request a proof of authorization from the Service Recipient. In addition, Covalo may reject, change or delete content at any time without prior notice, if such content violates Section 4.1 or if there are other justified reasons. In such cases the Service Recipient has no claim to reduction or refund of the remuneration.

3.5 In case analytic reports and dashboards are provided as part of the Covalo Services, they do not guarantee success of marketing actions and commercial insights derived thereof.

3.6 In case qualification and score of potential business leads are provided as part of the Covalo Services, they are solely derived from available data and user behavior on the Covalo Platform and do not guarantee or directly reflect the actual interest of a user.

### 4. Rights in IP and Data; Promotion

4.1 The Service Recipient warrants that it has full ownership or use rights of all data, information, and content (together "Content") provided and published by it on the Covalo Platform, on its websites, social media channels, through integration on any partner solution, or other communication means. The Service Recipient grants the Service Provider usage rights in the Content as reasonably required for the provision of the Covalo Services and further commits that the use of the Content for the performance by the Service Provider in connection with the provision of the Covalo Services will not constitute a breach of any third-party rights, laws and/or other regulations.

4.2 All information and data (together "Information") provided by the Service Provider to the Service Recipient through the Covalo Platform or in connection with the Covalo Services shall remain the Service Provider's unrestricted property (or, as the case may be, the property of Suppliers or other third parties). The Service Recipient only gets a limited right to use such Information in accordance with its intended use during the Term of the Covalo Services. The Service Recipient acknowledges that the Covalo Platform and the Covalo Services including all IP related to the Covalo Platform and Covalo Services remains the sole property of the Service Provider. No rights whatsoever relating to such IP are granted to the Service Recipient.

4.3 The Service Provider grants to the Service Recipient the non-transferable, non-sublicensable, time-limited, and revocable right to access and use the Covalo Platform and the Covalo Services in accordance with its intended use, subject, however, to Fair Use.

4.4 The Service Recipient agrees that Covalo may publish the Content on other partner platforms or software (e.g., PLM, formulation, exhibitor directory or regulatory software) operated by Covalo or third parties by respecting the confidential levels selected by the Service Recipient for the different categories of data. The terms and privacy statement of such third parties apply. The Service Provider shall not be responsible for any links or other applications that are provided or embedded in the Covalo Platform or are accessible together with the Covalo Services. The Service Recipient acknowledges that such links or other applications may be subject to third party use and privacy terms, to which the Service Recipient shall adhere when using other applications or when redirected to other webpages.

4.5 The Service Provider shall be entitled but not be obliged to store and process information, data or content provided by the Service Recipient

to the Service Provider via the Covalo Platform and stored in the Covalo Platform, as well as on partner solutions with a Covalo integration; this entitlement shall in particular extend to non-personal data, data anonymized or aggregated with other Data by the Service Provider and shall include the unrestricted commercial use of such data. Unless required under applicable law, the Service Recipient shall not be entitled to request disclosure of any such information, data, or content from the Service Provider.

4.6 The Service Provider shall be entitled to promote the cooperation with the Service Recipient (including the use of Service Recipients logo) on the Covalo Platform, in its marketing material and communication and in discussions with potential partners, customers and other third parties. On its side, Service Recipient will make reasonable efforts to promote the cooperation with Service Provider, whereas any use of Service Provider's logo must be approved by The Service Provider in writing.

## 5. Service Recipient's Responsibilities

5.1 Unless otherwise communicated by the Service Provider, for any communication related to the Covalo Services and the Covalo Platform, the Service Recipient shall address any such communication to [info@covalo.com](mailto:info@covalo.com).

5.2 For the provision of the Covalo Service, Covalo may depend on the cooperation of the Service Recipient (e.g., provision of content, revision, and completion of data on the Covalo platform). If the Service Recipient violates their obligations, Covalo is not responsible for the fact that it cannot or only incompletely fulfill its services, or not in due time. In such a case, the Service Recipient must compensate Covalo for all resulting costs and has no claim to reduction or reimbursement of the fees due for the Covalo Services.

5.3 The Service Recipient shall register and procure that its designated users shall register on the Covalo Platform for accessing and using the Covalo Services. Further, the Service Recipient shall designate and notify to the Service Provider a main account and single point of contact to be addressed on Service Recipient's behalf.

5.4 The Service Recipient procures that all its designated users accessing and using the Covalo Platform are entitled to lawfully act on behalf of the Service Recipient in connection with the use of the Covalo Platform and the Covalo Services.

5.5 Notwithstanding section 5.2, all actions taken under the Service Recipient's users' credentials are always deemed to be actions taken on behalf of and authorized by the Service Recipient.

5.6 The Service Recipient acknowledges that access to the Covalo Platform and the use of the Covalo Services is non-exclusive and non-transferable to individuals or entities other than the Service Recipient or its employees. Therefore, the Service Recipient shall not fully or partially assign, sublicense, or otherwise transfer access to the Covalo Platform to third parties without prior written authorization by Service Provider; and not extract, reproduce, or use the content provided on the Covalo Platform for any purpose other than as in connection with the use of the Covalo Services and Covalo Platform.

5.7 The Service Recipient shall be responsible for all actions of its users and all actions taken under the Service Recipient's users' credentials. Hence, the Service Recipient shall ensure that (i) login credentials are not misused or transferred to unauthorized third parties; (ii) any declarations made or obligations entered into by one or more of its users are attributable to it and that it will not contest the authorization of a user; (iii) users are well-trained by the Service Recipient to use the Covalo Platform, also in case of Covalo Platform updates; and (iv) all technical requirements to use the Covalo Platform are met.

5.8 The Service Recipient shall notify the Service Provider without undue delay in case of any misuse of the Covalo Platform.

5.9 The Service Recipient agrees (i) not to use any software, routine or device to interfere or attempt to interfere electronically or manually with the operation or functionality of the Covalo Platform, including uploading or making available files containing corrupt data or viruses via whatever means; (ii) not to download, reproduce, transmit, sell or distribute, in whole or in part, in any form or fashion, the contents and the information available on the Covalo Platform or received via the Covalo Services without Service Provider's express written consent and for any purpose other than for using the Covalo Services; and (iii) not to engage in any illegal – including in particular but not limited to any form of anticompetitive – act, omission, agreement or correspondence in the context of using the Covalo Services.

5.10 The Service Recipient shall avoid disruption of the Covalo Platform, and shall not upload any fraudulent, illegal, obscene, or harassing contents. The Service Provider shall be entitled to delete such content from the Covalo

Platform, without prejudice to its other rights as set out in these ToU or by law.

## 6. Confidentiality

6.1 The Parties shall unless otherwise agreed herein at all times throughout the term of these ToU keep Confidential Information confidential and not disclose any such Confidential Information to any other person and not use any Confidential Information for any purpose other than the performance of its obligations under these ToU.

6.2 Notwithstanding section 6.1, The Service Provider shall be entitled to share Confidential Information with the Service Provider Support Partners and third party platforms mentioned in Section 4.4 that may need to get access to such Confidential Information in order to perform their services to the Service Provider as and to the extent reasonably required for the Service Provider to provide the Covalo Services.

6.3 Neither Party shall be liable for disclosure and/or any use of such Confidential Information insofar and to the extent as such information is in, or becomes part of, the public domain other than through a breach of these ToU or other obligation of confidentiality by the receiving Party, is independently developed by the receiving Party without the benefit of such information received from the disclosing Party, is disclosed and/or used by the receiving Party with the prior written consent of the disclosing Party, or is required to be disclosed to comply with applicable law, judicial orders, or decrees.

## 7. Data protection

7.1 The privacy policy of Covalo applies in its respective version, which is available at [\[https://covalo.com/files/terms/Privacy-statement-Covalo.pdf\]](https://covalo.com/files/terms/Privacy-statement-Covalo.pdf).

7.2 Covalo may send the Service Recipient information about other Covalo products or services (e.g., in the form of a newsletter). If the Service Recipient no longer wishes to receive such communications from Covalo, they may unsubscribe at any time via the unsubscribe button available in each online communication.

7.3 The Parties undertake to comply and procure that their employees, agents, and subcontractors comply with applicable data protection laws in connection with the performance of their obligations under these ToU.

7.4 In case Covalo processes personal data on behalf of the Service Recipient when providing the Covalo Services, Covalo will process such personal data only as instructed by the Service Recipient and not use the personal data for its own purposes. The Service Recipient agrees that Covalo may use sub-processors, subject to Covalo imposing on the sub-processors the same obligations in connection with the processing of the personal data on behalf of the Service Recipient.

## 8. Warranty, liability

8.1 The Service Recipient acknowledges that the Covalo Platform is provided "as is" and the Service Provider does not provide any warranty or representation, express or implied, with respect to the Covalo Platform and the information provided thereon and all related matters thereto. The Service Provider specifically disclaims any implied warranty as to merchantability, fitness for a particular purpose, or for any other matter.

8.2 To the extent permitted by law, The Service Provider shall not be liable to Service Recipient for any loss of profits, anticipated savings, business opportunities, goodwill, or reputation, which arise under or in connection with the Covalo Platform or the Covalo Services.

8.3 To the extent permitted by law, The Service Provider shall not be liable to Service Recipient for loss of data, or losses or damages related to limited connectivity or availability of the Covalo Platform.

8.4 Whilst every care has been taken to ensure that the data and information provided in the context of the Covalo Platform and Covalo Services is complete, correct, accurate and not misleading, The Service Provider shall not be liable for the accuracy, adequacy or completeness of such information and data or for any costs or expenses incurred by the Service Recipient in relation thereto.

8.5 To the extent permitted by law, Service Provider's liability for negligence is excluded.

8.6 To the extent permitted by law, Service Provider's liability for consequential and financial damage/loss, savings not realized, loss of interest or damages resulting from third-party claims vis-à-vis the Service Recipient are excluded.

- 8.7 The liability of Covalo for acts and omissions of Covalo Subsidiaries, subcontractors and all other third parties is excluded.
- 8.8 To the extent that there is liability on the part of Covalo which may not be excluded as per this Section 8, Covalo's liability shall be limited in amount to the proven damage, but in any case not more than [20] % of the annual remuneration owed by the Service Recipient for the Covalo Services.
- 8.9 The limitations in this section 8 shall not apply to (i) a Party's liability for death or personal injury, (ii) a Party's liability for fraudulent misrepresentation or deliberate acts or omissions and (iii) any other liability that cannot be excluded and/or limited by law.
- 8.10 The claiming Party shall, in relation to any loss or damage that may give rise to a claim under these ToU against the other Party, take all reasonable steps to avoid or mitigate that loss or damage, including by pursuing any relevant third party, or claiming under any relevant insurance policy or bond in respect of the loss or damage.
- 9. Force Majeure**
- 9.1 The Parties shall not be liable for delay or failure to perform any of their obligations under these ToU in so far as the performance of such obligation is entirely or partially prevented by a Force Majeure Event.
- 9.2 The Parties shall notify the other party immediately in writing upon the occurrence of a Force Majeure Event and shall use all reasonable endeavors to continue to perform its obligations for the duration of such Force Majeure Event. Any Party whose failure to perform results from a Force Majeure Event shall further take all reasonable steps to mitigate any costs arising out of the Force Majeure Event.
- 9.3 Any liability for damages resulting from a Force Majeure Event is excluded between the Parties to the extent permitted by law.
- 10. Term and termination**
- 10.1 Unless agreed otherwise between the Parties, the Covalo Services have a term of one (1) year which will automatically renew for consecutive one (1) year terms unless terminated by either Party in writing thirty (30) Days before the end of the respective term. The first year of the term shall end on 24:00h CET of the last day of the twelfth full calendar month following the Commencement Date. Any consecutive year of the term shall commence on 00:00h CET of the first day of the calendar month following the end of the previous contract year.
- 10.2 Either Party may terminate the Covalo Services with immediate effect for important reasons, if the other Party commits a material breach of any provision of these ToU (for example, delayed payment by the Service Recipient), provided that – if such breach is remediable – the breaching Party fails to remedy that breach within a period of two (2) weeks after having been notified by the other Party to do so. In addition, Covalo may terminate the Covalo Services and refuse Service Recipient's access to the Covalo Platform in case of other valid grounds, including but not limited to, Service Recipient's unethical or immoral behavior. In case of Covalo's valid termination, in order to compensate Covalo for the damages suffered by the early termination, all fees invoiced remain due by Service Recipient, and Service Recipient is not entitled to get any reimbursement of fees already paid. In case of valid termination by the Service Recipient, recurring annual fees will not be due anymore as from the termination effective date, and Covalo will reimburse any such fees already paid by the Service Recipient beyond the termination effective date on a pro rata basis, whereas no additional compensation for damages is due to the Service Recipient. No reimbursement will be due for one-off fees (including, but not limited to, the marketing package) in case such services were provided by the Service Provider in full as per the termination effective date.
- 10.3 The Service Provider may, to the extent permitted by law, terminate the Covalo Services with immediate effect, if (i) bankruptcy or composition proceedings are opened with final effect against the assets of the Service Recipient or such petition in bankruptcy is dismissed due to insufficient assets, (ii) a change of control occurs with respect to the Service Recipient, meaning any third party shall become the owner, directly or indirectly, of shares representing more than 50% of the aggregate voting power of the Service Recipient, or (iii) part or the whole business is sold to a third party.
- 11. Service Fees and Payment Terms**
- 11.1 Unless agreed otherwise between the Parties, the fees for the Covalo Services are billed annually in advance before the start of the services, in the currency mentioned in Covalo's quote or otherwise agreed between the Parties. Notwithstanding the foregoing, if the Service Recipient violates its obligations pursuant to Section 5.2, Covalo is entitled to invoice the fees immediately.
- 11.2 The Service Provider is entitled to adjust the Service Fees effective as of the following contract year of the Service Term in its sole and

unfettered discretion subject to thirty (30) Days prior written notice. If the Service Recipient does not object to such changes by written notice to the Service Provider within ten (10) Days of receipt of the written notice, the amended Service Fees shall be deemed to have been agreed with effect as of the following year of the Service Term. In case Service Recipient does not accept the increased fees, it is entitled to terminate the Covalo Services by written notice before the start of the new contractual year.

- 11.3 The Service Fees are exclusive of any value added tax or similar tax that applies to such type of fees. If the Service Fee is, or may become, subject to withholding taxes, the Service Recipient shall inform the Service Provider accordingly and the Service Provider shall be entitled to reflect those taxes in the invoice so as to ensure that the Service Provider's overall position net of tax is no worse than it would have been in the absence of such taxes. If the Service Recipient does not inform the Service Provider before the Service Provider submits an invoice, the amount of the invoice will be treated as increased as necessary to ensure that after any withholding or deduction the Service Provider receives and retains a net sum equal to the amount of the Service Fee specified in the invoice.
- 11.4 Payment of the Service Fees shall be due and payable no later than thirty (30) Days following the Commencement Date and following the commencement of each consecutive contract year respectively. In case of payment default or delay, the statutory interest rate applicable between commercial parties shall be due without a reminder needed. In case of delayed payment by the Service Recipient, Covalo is entitled to stop the provision of the Covalo Services and to prevent Service Recipient's access to the Covalo Platform.

The Service Recipient shall settle the invoices by funds transfer only to the bank account mentioned in Covalo's quote.

**12. Applicable Law and Jurisdiction**

- 12.1 The contract with the Service Recipient and these ToU shall be governed by Swiss law, expressly excluding the applicability of all conflict of laws rules and the U.N. Convention on the International Sale of Goods shall hereby be excluded.
- 12.2 The Parties expressly submit to the exclusive jurisdiction of the courts of Zurich, Switzerland.

**13. Assignment**

- 13.1 Neither Party may assign any rights or obligations under these ToU to any third party (assignee) without the explicit prior written consent of the respective other Party, which shall not be unreasonably withheld.
- 13.2 Notwithstanding section 13.1, the Service Provider shall be entitled to transfer or assign their rights and/or obligations and any contract regarding Covalo Services to any Service Provider Subsidiary. To the extent that Service Recipient's consent is required to any such transfer or assignments of right and/or obligations under applicable law(s), it is hereby granted.

**14. Severability**

- 14.1 Each of the provisions of these ToU is severable. If any such provision is held to be or becomes invalid or unenforceable in any respect in any jurisdiction it shall have no effect in that respect, and such invalid or unenforceable provision shall be deemed replaced by a valid provision the effect of which is as close as possible to its intended effect as possible and guaranteeing a corresponding commercial result. The aforesaid rule shall apply mutatis mutandis to fill any gap that may be found to exist in these ToU.