

General terms of sale and delivery

- Business transactions -

1. Scope

(1) These general terms of sale and delivery shall apply exclusively in business transactions with companies and hence not for consumers.

(2) All deliveries as well as any associated services shall be performed exclusively based on these terms of sale. Any references by the Customer to the latter's terms of business are hereby opposed. These terms of sale and delivery shall also apply to all future transactions. Any deviations from these terms of sale and delivery shall require express written acknowledgement by NANO-X GmbH, Theodor-Heuss-Straße 11a, 66130 Saarbrücken (hereinafter known as "NANO-X").

2. Offer and acceptance

The offers by NANO-X shall not be binding, but are to be regarded as a request to the Customer to make a contractual offer to NANO-X. The contract shall come into being through the Customer's order (offer) and acceptance by NANO-X. If the latter differs from the order, this shall be considered a new, non-binding offer on the part of NANO-X.

3. Product characteristics, samples and specimens, guarantees

(1) Unless otherwise agreed, the characteristics of the goods shall be those set out in the NANO-X product specifications.

(2) Samples and specimens shall serve solely for the Customer's testing of the goods developed and/or manufactured by NANO-X. Commercial reuse and/or resale by the Customer shall be excluded. The properties of samples and specimens shall only be binding if they have been expressly agreed as characteristics of the goods.

(3) Specifications as to characteristics and durability in addition to other details shall only form guarantees when agreed and designated as such.

4. Research and development

If and insofar as NANO-X conducts research and development contracts for the Customer, NANO-X shall provide the promised services according to the recognised state of science and technology at the time of execution of the order and based on the information available to NANO-X at this point in time. Under no circumstances shall a successful outcome be owed.

5. Prices

The prices of NANO-X are always listed exclusive of statutory VAT.

6. Delivery terms / partial delivery

(1) Delivery shall be effected according to the trade clause stipulated in the individual contract for the interpretation of which the INCOTERMS in the version valid on contract conclusion shall apply. Unless otherwise stipulated in the individual contract, delivery shall be made ex works.

(2) We shall be entitled to make partial deliveries to a reasonable extent, particularly when the partial deliveries can be used separately by the Customer and no firm delivery date has been agreed for the complete delivery. In case of partial deliveries, each delivery shall be considered an individual transaction. A defective or delayed delivery shall not have any influence on partial deliveries already executed or still outstanding. If the partial delivery is of no interest to the Customer, the latter shall be entitled to withdraw from the contract completely or demand compensation for breach of the entire contract.

7. Transport damage

The Customer must notify the carrier of any complaints owing to transport damage immediately with a copy to NANO-X within the designated specific deadlines.

8. Observation of legal stipulations

Unless otherwise agreed in the individual case, the Customer shall be responsible for compliance with statutory and regulatory requirements for the import, transport, storage, and use of the goods.

9. Default of payment

(1) Failure to pay the agreed remuneration shall represent a major breach of contractual duties.

(2) In case of default of payment on the Customer's part, NANO-X shall be entitled to charge interest on arrears, i.e. in case of invoicing in Euros, at a rate of 9% points above the prime rate announced by the German Federal Bank at the time at which said default arises and in case of invoicing in another currency, at a rate of 9% points above the discount rate of the supreme banking institute of the country in the currency of which invoicing was issued.

10. Customer's rights in case of defects

(1) Defects in the goods that were detectable during a proper inspection must be reported to NANO-X within one week after receiving the goods; other defects are to be reported to NANO-X within one week after their discovery. The report must be in writing and must precisely describe the nature and extent of the defects. An only insignificant reduction in the value or suitability of the delivery shall be no justification for a defect. Insignificant defects shall be deemed primarily to be minor deviations in shape and colour in addition to weight and likewise if the fault disappears within a short time on its own or can be eliminated independently by the Customer with negligible effort. Insignificant defects shall also be deemed to be deviations within the customary commercial allowances.

(2) If the goods are defective and the Customer has properly notified NANO-X thereof according to item 10.1, the Customer shall be entitled to the statutory rights, provided that:

a) NANO-X initially has the right, at its discretion, to either eliminate the defect or deliver the Customer defect-free goods (supplementary performance);

b) NANO-X reserves the right to two attempts at supplementary performance. Should supplementary performance fail or be unreasonable for the Customer, the Customer shall be able to either withdraw from the contract or call for a reduction in the agreed remuneration.

c) Item 11 shall apply to claims for damages and for reimbursement of expenses incurred in vain owing to a defect.

(3) Claims for defects on the part of the Customer shall fall under the statute of limitations after expiry of one year as and from delivery of the goods. Instead of this one-year period, the statutory limitation periods shall apply in the following cases:

a) in case of liability owing to deliberate action,

b) in case of fraudulent concealment of a defect,

- c) for claims against NANO-X owing to the defectiveness of an item of goods, if it has been used in accordance with its usual purpose for a building and has caused the latter's defectiveness.
- d) for claims for damages arising from injury to life, limb and health, due to negligent breach of duty on the part of NANO-X or a deliberate or negligent breach of duty on the part of a legal representative or agent of vicarious liability of NANO-X,
- e) for claims for other damages due to grossly negligent breach of duty on the part of NANO-X or a deliberate or grossly negligent breach of duty on the part of a legal representative or agent of vicarious liability of NANO-X and
- f) in case of recourse by the Customer pursuant to the regulations governing consumer goods purchases.

11. Liability

NANO-X shall solely be liable in accordance with the provisions set out below:

- a) Nano-X shall be liable for deliberate and grossly negligent conduct of the organs of our company, legal representatives and executive staff in addition to simple agents of vicarious liability, unless stated otherwise in paragraphs b)-g) below.
- b) Any claims for damages – irrespective of the legal grounds – owing to slightly negligent breach of essential contractual duties by organs of the company, legal representatives, executive staff in addition to simple agents of vicarious liability of NANO-X shall be excluded. A contractual duty is essential when its fulfilment renders proper execution of the contract possible in the first place and the Customer may ordinarily rely of compliance therewith. Non-essential contractual duties include in particular infringement of any of the suppliers of NANO-X against (pre-)registration requirements according to regulation (EC) no. 1907/2006 of the European Parliament and of the Council of 18th December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), missing, incomplete or incorrect information in the safety datasheet and/or incorrect or incomplete advice for using the delivery in the cases in which NANO-X acts in its capacity as a manufacturer, importer or supplier.
- c) In case of slightly negligent breach of essential contractual duties by organs of the company, legal representatives, executive staff and simple agents of vicarious liability of NANO-X, the liability of NANO-X shall be limited under any legal viewpoint to

damages which are foreseeable and typical for the contract and shall not exist for distant consequential damage.

- d) Insofar as the liability of NANO-X is excluded or limited, this shall also apply to the personal liability of the staff members, employees, representatives and agents of vicarious liability of NANO-X.
- e) Liability according to the German product liability act and liability for damages arising from injury to life, limb and health in addition to the prescriptions of § 444 of the BGB (German Civil Code) and liability arising from other guarantees shall be unaffected by the above rulings of paragraphs a) – d).

12. Offsetting

Offsetting on the part of the Customer with own claims against claims on the part of NANO-X with a counterclaim originating from a contractual relationship other than that of the respective claim by NANO-X or exercise of a right of retention based on such a counterclaim shall only be permissible if and insofar as the Customer's claims against NANO-X are undisputed or legally valid.

13. Securities

In the event of warranted doubts as to the Customer's solvency, particularly in case of default of payment, NANO-X, notwithstanding further claims, may revoke any payment deadlines granted and render further deliveries dependent on granting of further securities.

14. Retention of title

(1) Simple retention of title

NANO-X shall retain ownership of delivered goods in any case until full and final payment of the purchase price.

(2) Extended retention of title

If the Customer has paid the purchase price for the delivered goods, but further liabilities arising from the business relationship with NANO-X have not yet been paid in full by the Customer, NANO-X shall furthermore retain ownership of the delivered goods until full and final payment of all liabilities.

(3) Processing clause

On processing of the goods supplied by NANO-X by the Customer, NANO-X shall be considered the manufacturer and shall acquire direct ownership of the newly created goods. If

processing is performed in conjunction with other materials, NANO-X shall acquire direct joint ownership of the new goods in proportion to the invoice value of the goods supplied by NANO-X in relation to the other materials.

(4) Combination and mixing clause

If combination or mixing of the goods delivered by NANO-X with a Customer's item is performed in such a manner that the Customer's item may be regarded as the main item, it is considered agreed that the Customer shall transfer joint ownership over the main item to NANO-X and moreover in proportion to the invoice value (or in the absence of such, to the market value of the main item). The Customer shall keep the sole ownership or joint ownership resulting in this manner free of charge for NANO-X.

(5) Extended retention of title

The Customer shall be entitled to dispose of the goods owned by NANO-X in the normal course of business, provided the Customer promptly fulfils the incumbent duties arising from the latter's business relationship with NANO-X. The Customer shall already assign to NANO-X at the time of concluding the contract with the latter all claims arising from the sale of goods over which NANO-X has retained ownership; insofar as NANO-X has acquired joint ownership in case of processing, combination or mixing, transfer shall take place in proportion to the value of the goods supplied by NANO-X under retention of title in relation to the value of the goods under third party reserved ownership. The Customer shall already assign to NANO-X recognised balance claims arising from open account agreements at the time of contract conclusion with NANO-X in the amount of the still open demands of NANO-X.

(6) Right to information/disclosure

Upon request by NANO-X, the Customer must provide all the necessary information concerning the stock of goods over which NANO-X holds ownership and concerning the claims assigned to NANO-X. Likewise, upon request by NANO-X, the Customer must identify as such the goods over which the former holds ownership and inform its own purchasers of the assignment.

(7) Default of payment

In case of default of payment by the Customer, NANO-X shall be entitled to demand provisional surrender of the goods under the ownership of NANO-X, even without withdrawing from the contract and without granting a period of grace.

(8) Partial abandonment clause

If the value of the securities exceeds the claims of NANO-X by more than 15%, NANO-X shall waive securities in this respect.

15. Force majeure

Should events and circumstances, the occurrence of which is beyond the control of NANO-X (such as for example natural events, war, industrial disputes, raw material or energy shortage, disruption of transportation or operations, fire and explosion damage, decrees of public authorities), reduce the availability of the goods from the plant from which NANO-X obtains the goods such that NANO-X is unable to fulfil its contractual duties (taking into account on a pro rata basis other internal or external supply obligations), NANO-X shall (i) be released from its contractual duties for the duration of the disruption and within the scope of its repercussions and (ii) not be compelled to procure the goods from third parties. Clause 1 shall also apply insofar as the events and circumstances render conducting the transaction in question uneconomical for NANO-X in the long term or exist among the upstream suppliers of NANO-X. If these events persist for longer than 3 months, NANO-X shall be entitled to withdraw from the contract.

16. Place of payment

Regardless of the place of transfer of the goods or the documents, the place of performance for the Customer's payment obligation shall be the head office of NANO-X.

17. Receipt of declarations

Notifications and other declarations to be served to a party shall be effective at the time of receipt by the party. If a deadline period is to be observed, the declaration must be received within this period.

18. REACH

If the Customer notifies NANO-X of a use according to article 37.2 of regulation (EC) no. 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH regulation), which makes an update of the registration or material safety report, or gives rise to another obligation according to the REACH regulation, the Customer shall bear all verifiable expenditure. NANO-X shall not be liable for delays in delivery resulting from notification of this use and compliance with the corresponding obligations according to the REACH regulation. Should it prove impossible for health or environmental protection reasons to include the use indicated by the Customer as an identified use and should the Customer intend, against the advice of NANO-

X, to use the goods in the way advised against by NANO-X, the latter shall be entitled to withdraw from the contract. The Customer shall not be entitled to any claims against NANO-X from the foregoing.

19. Place of jurisdiction, applicable law

(1) The place of jurisdiction shall be the head office of NANO-X or – at the option of NANO-X – the Customer's general place of jurisdiction.

(2) The law applicable at the head office of NANO-X shall apply to the contractual relationship with inclusion of the United Nations Convention of 11th April 1980 on Contracts for the International Sale of Goods (CISG), regardless of whether or not the Customer has its head office in a CISG contracting state.

20. Language of the contract

If these General Terms of Sale are also announced to the Customer in a language other than that in which the contract is concluded (contractual language), this shall be performed solely in order to facilitate understanding. The text drafted in the contractual language shall apply in case of differences of interpretation.