



General Terms and Conditions of Sale for NanoNord A/S

1. Scope of Applicability

- 1.1 These General Terms and conditions of Sale (“GTCS”) apply to all sales of goods (meaning hardware and/or software) by NanoNord A/S (NanoNord) notwithstanding any conflicting, contrary or additional terms and conditions in any purchase order or other communication from the Customer. No such conflicting, contrary or additional terms and conditions shall be deemed accepted by us unless and until NanoNord expressly confirm our acceptance in writing.
- 1.2 NanoNord reserve the right to change these GTCS at any time. NanoNord will give the Customer thirty calendar days’ notice of any changes by posting notice on our website.

2. Offers, Purchase Orders and Order Confirmations

- 2.1 All offers made by NanoNord are open for acceptance within thirty calendar days from the date of issue, unless otherwise specifically stated therein, and are subject to the availability of the goods offered.
- 2.2 All purchase orders issued by the Customer shall specify as a minimum the type and quantity of goods requested, applicable unit prices, delivery place and requested delivery dates. No purchase order shall be binding on us unless and until confirmed by us in writing.

3. Prices and Terms of Payment

- 3.1 The prices for goods shall be those set forth in our order confirmation. All prices are exclusive of taxes, impositions and other charges, including, but not limited to, sales, use, excise, value, added and similar taxes or charges imposed by any government authority authority.
- 3.2 Unless expressly stated otherwise in our order confirmation, payment for goods shall be made Ex works without offset or deduction.
- 3.3 The Customer must submit such financial information from time to time as may be reasonably requested by us for the establishment or continuation of payment terms. NanoNord may in our sole discretion at any time change agreed payment terms without notice by requiring payment cash in advance or cash on delivery, bank guarantee, letter of credit or otherwise.
- 3.4 If the Customer fail to pay any invoice within seven calendar days of the due date of payment, NanoNord may suspend delivery of any purchase order or any remaining balance thereof until payment is made or terminate delivery of any purchase order or any remaining balance thereof by providing written notice of termination to the Customer within seven calendar days of the expiration of the grace period. Further, NanoNord may charge the Customer interest from the due date to the date of payment at the rate of 1 ½ % per month. This shall be in addition to, and not in limitation of, any other rights or remedies to which NanoNord are or may be entitled at law or in equity.
- 3.5 Title to goods delivered shall remain vested in us and shall not pass to the Customer until the goods have been paid for in full. If the Customer fail to pay any invoice within fourteen calendar days of the due date of payment, NanoNord may retake the goods covered by the invoice. The Customer must insure all goods delivered to their full replacement value until title to the goods has passed to the Customer.

4. Terms of Delivery and Late Delivery

- 4.1 Unless expressly stated otherwise in our order confirmation, all deliveries of goods shall be Ex Works in accordance with Incoterms 2010. The risk of loss of or damage to goods shall pass to the Customer in accordance with the agreed delivery term.
- 4.2 The delivery dates of goods shall be those set forth in our order confirmation. If NanoNord fail to deliver goods within seven calendar days of the agreed delivery date, the Customer may terminate the applicable purchase order in whole or in part (as to those goods affected by the delay) by providing written notice of termination to us within seven calendar days of the expiration of the grace period. Further, the Customer may claim damages for any loss suffered as a result of the delay subject to the limitation of liability below. These shall be the Customer's exclusive remedies for late delivery.
- 4.3 NanoNord reserve the right to make delivery in instalments.

5. Acceptance of goods

- 5.1 The Customer must inspect goods delivered upon receipt. The Customer are deemed to have accepted goods delivered unless written notice of rejection specifying the reasons for rejection is received by us within five calendar days after delivery of the goods.

6. Intellectual Property Rights

6.1 Rights Granted

- 6.1.1 “NanoNord Software” means the software developed by NanoNord.
- 6.1.2 NanoNord holds the title of all intellectual property rights in the NanoNord Software. Subject to the terms and conditions of the Agreement, NanoNord grants to the Customer a limited, non- exclusive, non-transferable, right to use the NanoNord Software solely for the Customer’s use with NanoNord equipment.
- 6.1.3 Notwithstanding the use of the term “purchase” in the Agreement, these GTCS or elsewhere, NanoNord retains all title, copyrights, trade secrets, patents, trademarks and other proprietary rights in the NanoNord Software and all modifications, enhancements, and other works deriving from the NanoNord Software even when such software has been produced specifically for the Customer.



6.1.4 The Customer is unauthorised to copy the NanoNord Software. The Customer may not, either directly or through any third party, transfer or sublicense the NanoNord Software or use the NanoNord Software in any manner in business operations for the creation of competitive software or services or for providing third party training, commercial timesharing, for rental or subscription purposes or in the interests of any service bureau or other similar revenue-generating services to third parties, and the Customer shall ensure that the same restricted use applies to any other parties.

6.2 Third Party Infringement

6.2.1 If any goods delivered hereunder are held to infringe a third party's patent, utility model, design, trademark or other intellectual property right and the Customer are enjoined from using same, NanoNord will, at our option and expense, (a) procure for the Customer the right to continue using the goods; (b) replace the goods with non-infringing substitutes provided that such substitutes do not entail a material diminution in performance or function; (c) modify the goods to make them non-infringing; or (d) refund the purchase price of the goods less a reasonable amount for usage. The foregoing states our sole liability for intellectual property rights infringement.

6.2.2 NanoNord shall not, however, be liable for any claim in respect of infringement which is based on:

- a) Use of the goods by the Customer in a manner or place which has not been agreed and which NanoNord should not reasonably have foreseen, or
- b) Combination of the goods with products or services not provided by NanoNord, or
- c) Changes to or modifications of the goods undertaken by the Customer.

6.2.3 The Customer shall indemnify and keep NanoNord indemnified against all costs, expenses, damages and demands incurred by NanoNord in respect of:

- a) Any alleged infringement of the patents, trademarks, copyright, design or other industrial property rights used by NanoNord at the request of the Customer;
- b) Any alleged breach or infringement of any statute or regulation concerning the preparation, marketing and distribution of the goods;
- c) Specifications where NanoNord relies or has relied upon information relating thereto provided by the Customer, and the breach does not arise from the negligence or default of NanoNord;
- d) Any claims arising by reason of or in connection with a defect in the goods or in the end product manufactured and/or supplied by the Customer in which the goods are comprised, which defect is attributable either to the compliance by NanoNord with the instructions given by the Customer or to the Customer's design of the end product.

7. Product Information

7.1 NanoNord Software and hardware information and data provided in manuals, data sheets, brochures etc. issued by NanoNord for technological guidance, use and general information is given in its best judgement and knowledge, and NanoNord reserves the right to implement changes to such information and to the specification of NanoNord Software and hardware without notice.

8. Warranty

8.1 Hardware

8.1.1 NanoNord warrant that upon delivery and for a period of twelve months from the date of delivery goods purchased hereunder will conform in all material respects to the applicable manufacturer's specifications for such goods and will be free from material defects in workmanship, material and design under normal use. The warranty do not cover damage resulting from mis use, negligent handling, lack of reasonable maintenance and care, accident or abuse by anyone other than us.

8.1.2 With respect to goods which do not conform to the warranty our liability is limited, at our election, to a) refund of the purchase price for such goods less a reasonable amount for usage, b) repair of such goods, or c) replacement of such goods; provided, however, that such goods must be returned to us, along with acceptable evidence of purchase, within fourteen calendar days after the Customer discovered the lack of conformity or ought to have discovered it.

8.1.3 NanoNord make no other warranty, express or implied, with respect to goods delivered hereunder, and the warranty constitutes our sole obligation in respect of any lack of conformity of goods delivered hereunder (except title). In particular, NanoNord make no warranty with respect to the merchantability of goods delivered or their suitability or fitness for any particular purpose.

8.2 Software

8.2.1 *NanoNord Software is provided on an "as is" basis without warranty of any kind. NanoNord does not warrant, guarantee or make any representations regarding the functionality of the software, any results obtained by the use of the software and any software support provided by NanoNord and their appointed agencies/distributors/partners in terms of correctness, accuracy, reliability, usefulness, or otherwise. The Customer is solely responsible for the selection of the software, for the installation of, use of, and results obtained from the software and software support received. Also excluded is any implied warranty by NanoNord, such as merchantability, non- infringement and fitness for a particular purpose.*

8.2.2 If the delivered NanoNord Software proves to be materially defective (i.e. by materially affecting the ability the Customer to utilise the NanoNord Software), and if NanoNord is responsible for such defect, NanoNord shall remedy the defect within reasonable time (being not less than 7 work days) upon notice from the Customer. If defects of minor importance are determined in the NanoNord Software, NanoNord is not obliged to correct these within a reasonable time but may instead accumulate these changes and incorporate the alterations in a later service pack or new version of the NanoNord Software.

8.2.3 Clause 8.2.2 only applies to the current version of NanoNord Software. Defects subsequently discovered in former versions of the NanoNord Software are not subject to remedy.



8.2.4 NanoNord may sell or deliver third-party products together with NanoNord Software. NanoNord will pass on to the Customer any warranties received from the applicable third-party product manufacturer to the extent that they are transferable, but will not independently give any warranties, whether express or implied, for any third party's products supplied with or included in NanoNord Software.

9. Limitation of Liability

9.1 Neither of us will be entitled to, and neither of us shall be liable for, indirect, special, incidental, consequential or punitive damages of any nature, including, but not limited to, business interruption costs, loss of profit, removal and/or reinstallation costs, procurement costs, loss of data, injury to reputation or loss of customers. The Customer's recovery from us for any claim shall not exceed the purchase price for the goods giving rise to such claim irrespective of the nature of the claim, whether in contract, tort, warranty or otherwise.

9.2 NanoNord shall not be liable for any claims based on our compliance with the Customer's designs, specifications or instructions or repair, modification or alteration of any goods by parties other than us or use in combination with other goods.

10. Allocation of Liability for damage caused by the Product

10.1 NanoNord shall not be liable for personal injury or any damage to property caused by the Product after it has been delivered to the Customer. Nor shall NanoNord be liable for any damage to products manufactured by the Customer or to products manufactured by the Customer or to products of which the Customer's products form a part. If NanoNord incurs liability towards any third party for such personal injury or damage to property as described in the preceding paragraph, the Customer shall indemnify, defend and hold us harmless.

If a claim for damage as described in this Clause is lodged by a third party against one of the parties, the latter party shall forthwith inform the other party thereof in Writing. The parties shall be mutually obliged to let themselves be summoned to the court or arbitral tribunal examining claims for damages lodged against one of them on the basis of damage allegedly caused by the Product. The liability between the parties shall however be settled in accordance with Clause 12.4.

11. Force Majeure

11.1 Either party shall be excused from any delay or failure in performance if caused by reason of any occurrence or contingency beyond its reasonable control, including, but not limited to, acts of God, acts of war, fire, insurrection, strikes, lock-outs or other serious labor disputes, riots, earthquakes, floods, explosions or other acts of nature. The obligations and rights of the party so excused shall be extended on a day-to-day basis for the time period equal to the period of such excusable interruption. When such events have abated, the parties' respective obligations shall resume. In the event the interruption of the excused party's obligations continues for a period in excess of thirty calendar days, either party shall have the right to terminate the applicable contract(s) of sale, without liability, upon thirty calendar days' prior written notice to the other.

12. Miscellaneous

12.1 The United Nations Convention for the International Sale of Goods shall not apply to these GTCS or to any contracts of sale entered into between us.

12.2 No waiver of any provision of these GTCS shall constitute a waiver of any other provision(s) or of the same provision on another occasion. Failure of either party to enforce any provision of these GTCS shall not constitute a waiver of such provision or any other provision(s) of these GTCS.

12.3 Should any provision of these GTCS be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, such provision may be modified by such court in compliance with the law giving effect to the intent of the parties and enforced as modified. All other terms and conditions of these GTCS shall remain in full force and effect and shall be construed in accordance with the modified provision.

12.4 These GTCS and all contracts of sale entered into between us shall be governed by and construed in accordance with the laws of Denmark without giving effect to any choice of law or conflict of law provisions. Any suits, actions or proceedings that may be instituted by either of us against the other shall be instituted exclusively before the competent courts of Denmark, however, without prejudice to our right to bring suits, actions or proceedings in any other court which would have jurisdiction if this provision had not been incorporated into these GTCS.