

General Terms and Conditions (GTC) for Products and Services of Nanosurf AG

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1 Applicability

- 1.1 These conditions apply to all deliveries of goods and in analogous manner to services rendered that are contracted out to Nanosurf AG (hereinafter "Nanosurf").
- 1.2 Should a provision of these terms and conditions be rendered fully or partially ineffective, the contracting parties will replace it with a new provision that best serves its legal and financial success.

2 Specifications

- 2.1 The deliveries and services of Nanosurf consist of the offer and the order confirmation from Nanosurf to the ordering party. They are exhaustively listed and specified along with possible additions in the order confirmation. Nanosurf is authorized to make any changes which result in improvements insofar that they do not incur an increase in cost.

3 Plans and Technical Documentation

- 3.1 Brochures and catalogues are not binding. Data provided in the technical documentation are only binding if they are specifically confirmed. Nanosurf reserves the right to make alterations.

4 Contract, Processing Period

- 4.1 A contract concerning an order is finalized by either a verbal or written placement of the order (purchase order). Unless agreed otherwise, the conditions and due dates according to the written order confirmation by Nanosurf shall be valid.
- 4.2 These conditions are binding if declared applicable in the offer or in the order confirmation. Alternate conditions given by the ordering party are only valid as far as they are explicitly approved by Nanosurf in writing.
- 4.3 All agreements and legally binding explanations, subsidiary agreements, changes and supplements are only eligible if duly executed in writing.

5 Delivery Terms / Terms of Completion

- 5.1 Unless agreed otherwise, all information concerning completion due dates is based upon estimates and is therefore not binding.

5.2 A contracted binding completion due date can be appropriately extended:

- when Nanosurf is not provided with the necessary data Nanosurf needs to complete an order, or when the ordering party belatedly modifies these data or

- when the ordering party does not comply with the contractual obligations, particularly if the payment responsibilities according to article 7 are not fulfilled in a timely or proper manner, or

- due to circumstances beyond our control, for which Nanosurf is not responsible, e.g. mobilization, war, civil war, turmoil or sabotage as well as labor disputes, accidents, illness, late or defective deliveries of the necessary materials, provisions or omissions from the authorities or official bodies, unforeseen transportations hindrances, fire, explosion, natural disasters.

5.3 In the event that it becomes clear during order processing that an agreed binding completion due date can in all likelihood not be kept, Nanosurf is obliged to inform the ordering party of these circumstances and their reasons at an early stage. The project is to be completed as soon as possible and without any additional costs.

5.4 Should the agreed binding completion due date not be kept due to reasons for which Nanosurf alone is responsible, the ordering party may claim, if and when damages occur, an appropriate compensation for delayed completion of 0.5% per each full week. The compensation for delayed completion is limited to a maximum of 5%. The percentage of the compensation is calculated based upon the price of Nanosurf goods and services of that part of the order that cannot be delivered on time due to the delay. Further entitlements and rights in case of delay, in particular to the compensation of damages, are excluded.

5.5 The completion due date is considered kept even when parts of the work due according to the order are lacking or when rework is required, but the delivered output can be used for its intended purpose.

6 Payment Terms

6.1 Payments will be due according to a specific payment schedule provided within the contract. In case there is no defined payment schedule, the due date noted in the invoice is binding. The payments are to be made by the ordering party without any deductions (cash discounts, expenses, taxes, fees, etc.) to Nanosurf at its domicile. Place of execution for payments by the ordering party is the domicile of Nanosurf.

6.2 The ordering party may neither withhold nor reduce payments due to complaints, claims or counterclaims not approved by Nanosurf. The payments are also to be made when the order completion is delayed or rendered impossible for reasons for which Nanosurf cannot be held responsible.

6.3 If the agreed upon payment due date is not kept, interest on arrears will be charged without any special reminders and without limitation of any other rights and their exertion, which interest is calculated according to a floating rate adjusted to the prevailing rates at the domicile of the ordering party. The liability to contractual payment will not be revoked by the payment of interest on arrears.

7 Warranty, Liability

- 7.1 As a supplier of products Nanosurf is only liable for product defects, provided that they were caused by Nanosurf.
- 7.2 For damage to objects related to the order or other things handed over to Nanosurf, Nanosurf will only be liable if such damage was caused deliberately or by gross negligence.
- 7.3 The ordering party is obligated to disclose to Nanosurf all entitlements and requirements for products during the offer phase. Nanosurf cannot be held responsible for product defects that arise through unclear or incomplete descriptions of the requirements or through the execution of special requests of the ordering party.
- 7.4 Because the ordering party has full control over the situation in which the products are ordered and utilized, and knows their applications, conditions and environments, he assumes liability for the product in its use.
- 7.5 With the shipment or the handing over of the delivery, respectively, benefit and risk are passed on to the ordering party. Shipping is therefore the risk of the ordering party or the logistics provider.
- 7.6 As a general rule, all claims and rights due to defects of delivered products, especially claims of indirect damages due but not limited to production failure, loss of use, loss of orders, loss of profit, or damage compensation of a different nature, as well as damages due to third-party liabilities, are excluded, regardless of their legal reason.
- 7.7 This liability exclusion does not apply insofar as opposed by peremptory norm.

8 Place of Jurisdiction, Applicable Law

- 8.1 Place of jurisdiction for the ordering party and for Nanosurf is the domicile of Nanosurf. Nanosurf is however entitled to sue for damages at the ordering party's domicile.
- 8.2 The contract is subject to the substantive Swiss law under exclusion of the provisions of the CISG- Agreement (United Nations Convention on Contracts for the International Sale of Goods, of April 11, 1980).

9 Partial Invalidity

Should one or more provisions of the general terms and conditions prove to be ineffective fully or in part, the validity of the other provisions shall not be affected. The contract parties must jointly replace the ineffective provisions with new ones within a reasonable time period. In the case of contract loopholes the same course of action applies.