



Nano Electronic Services Ltd

Standard Terms & Conditions Revision 1.1

These standard terms and conditions of sale, and those specific terms stated on the Company's Order Form (together, being the "**Terms**"), govern our relationship between you (the "**Customer**") and Nano Electronic Services Ltd, a company registered in England with company number 12917308 and whose registered office address is at 23 Woodland Road, Darlington, DL3 7BJ (the "**Company**").

By making any purchase from the Company, or entering into any contract for the manufacture or supply of goods or services ("**Contract**"), you are agreeing to comply with and be bound by these Terms.

1. Application of these Terms to all Contracts

The following Terms shall apply to all Contracts for the sale of goods or services between the parties, to the exclusion of any other terms and conditions, as far as the same are not varied by such Special Conditions as may be agreed in writing between an authorised representative of the Company and the Customer.

Brochures, advertising or other matter issued by or on behalf of the Company shall not form part of the Terms or be admissible as evidence in any proceedings by or against the Company in relation to contracts entered into with the Company for the supply of goods or services.

2. Orders

No order received from a Customer shall be accepted until:

- a written confirmation from the Customer is received by the Company;
- all data and drawings in provided to the Company in an agreed, usable format; and
- Any Customer requests or issues, not previously known, are resolved and agreed.

If the Customer provides any further instructions to the Company after the Contract has been accepted, the Customer is aware that it may be too late to implement such new instructions.

3. Time and Place for Delivery or Despatch

Any times quoted for delivery or despatch are to be treated as estimates only. Whilst every endeavour will be made to meet estimated times for delivery or despatch, the Company shall not be liable for failure to deliver or despatch within the time quoted

Unless by other mutual arrangement, delivery options are either by Customer collecting or by third party carrier.

Unless otherwise stated, 'delivery times' refer to the goods being ready for collection or despatch, and do not include time taken to deliver to the Customer.

4. Multiple Deliveries

In case of a Contract calling for multiple deliveries, each delivery shall be deemed to be sold under a separate contract. Failure of the Company in respect of any one or more deliveries shall not entitle the Customer to treat such failure as a repudiation of further deliveries.



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The failure of the Customer to pay for any one or more deliveries shall entitle the Company, without prejudice to any other remedy, to treat the whole Contract as repudiated.

5. Cancellation or Deferment of Order

If an order, or Contract, is cancelled, delayed or reduced in quantity by the Customer then the Customer shall indemnify the Company against all cost, including material, labour and associated overhead costs, charges, expenses and losses (including loss of profit), arising out of such cancellations (the “**Cancellation Cost**”). In addition, the Company shall be entitled to charge a fee of 10% on top of the Cancellation Cost to cover its administrative costs of dealing with the cancellation. Unless agreed in writing, a Customer cannot defer a delivery date past the end of the month in which the delivery was originally due.

6. Customer Instructions

The Customer shall be responsible for ensuring the accuracy of the terms of any order, instructions and materials provided to the Company and for ensuring that the Company receives all necessary information relating to the goods or services required in order to perform the Contract. In the event of any suspension of work through the Customer’s inadequate instructions or lack of instructions, Contract prices may be increased to cover any extra expense thereby incurred by the Company. Any change in instructions or specifications introduced by the Customer, during the production of the order may attract additional costs.

7. Damage of Goods in Transit

Any damage to goods in transit should be notified to the Carrier and to the Company according to the defect policy set out in clause 9. The Company shall not be liable for any claim or damage unless notification is received in accordance with these Terms.

The Company’s liability, regarding any delivery arranged by or on behalf of the Company, shall be limited to the price of goods (or a proportionate part of the price), up to a maximum value of £5,000 per consignment. Cover for higher value consignments must be agreed in writing prior to shipping and is likely to incur further charges.

8. Design Services

Delivery dates for design work are for indication only and are not included within the manufacturing cycle. The Company cannot be held responsible for errors resulting from conflicting information given by the customer. All information passed on by the customer is considered to be correct unless otherwise indicated. All data supplied by the customer should be ‘issue controlled’ to avoid the Company using the incorrect data.

8.1. Approval stages:

Component placement: it is the Customer’s responsibility to ensure that the Company has interpreted their instructions correctly in relation to the positioning and orientation of components.

Prior to fabrication: it the Customer’s responsibility to ensure that any critical track routing, text and all special requests have been adequately addressed.



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9. Defective Product

In the event of any claim that the goods are defective as to their quality or condition or fail to correspond with any agreed specification or other term of the Contract, the Customer must:

- Notify the Company in writing within 14 days of the date of receipt of the goods (the "Acceptance Date") of their intention to return the goods; and
- Return the goods to the Company together with a written report detailing the reason for rejection within 4 weeks from the Acceptance Date.

Where there is valid claim that the goods are defective as to their quality, condition or failure to correspond with any agreed specification or other term of the Contract, the Company shall be entitled to replace the goods (or the part in question) or, at the Company's sole discretion, refund to the Customer the price of the goods (or a proportionate part of the price, as applicable) in which case the Company shall have no further liability to the Customer.

Complaints by the Customer in respect of goods alleged to be defective shall not be a valid reason for non-payment of any other amounts due from the Customer. There are no rights of set-off or withholding of payments due from the Customer to the Company.

The Customer has a duty under common law to mitigate any claim or loss arising under a defective Contract.

10. Prices

The price of the goods shall be the Company's quoted price for the stipulated quantities stated on the Company's Order Form. If a quotation is provided, such prices will be valid for one month from the date of the quotation. The Company shall be entitled to review the price thereafter.

All prices quoted are exclusive of VAT and are not subject to any discount unless specifically agreed in writing.

The Company reserves the right to re-negotiate prices if there are major changes in material prices.

Estimates involving the purchasing of components from third parties are based on the suppliers' estimates only, and therefore may be subject to changes in availability, delivery times and prices.

11. Carriage and Delivery

Unless otherwise specified in writing all prices exclude packing and delivery to nominated Customers premises. The Customer shall be responsible for paying these charges in addition to the Contract price.



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12. Payment

The Company may grant Customers credit accounts, at the discretion of the Company. Credit account Customers will be invoiced following completion of work for payment within thirty days from the date of the invoice.

Non-credit account customers must pay in advance of work being undertaken and will be provided with a vat invoice following completion of the work.

The Company shall be entitled to charge the Buyer interest on any amount unpaid at the statutory rate set out in accordance with the Late Payment of Commercial Debts Regulations which is currently 8% above the Bank of England's base rate for business to business transactions, as may vary from time to time.

The Customer shall also reimburse the Company for all costs and expenses (including legal costs) incurred in collection of the overdue amounts.

The Customer shall pay all accounts in full and shall not be entitled to exercise any rights of withholding, set-off or counter-claim.

If the Customer fails to make any payment on the due date then without prejudice to any other right or remedy available to the Company, the Company may cancel the Contract or suspend any further deliveries to the Customer.

13. Contingencies

The Company shall not be responsible for the non-performance in whole or in part of its obligations, nor under any liability to the Customer in respect thereof if such non-performance is due acts of God, war, insurrection, Government regulations, embargoes, strikes, labour disputes, illness, flood, fire, tempest or any other cause beyond the reasonable control of the Company. On the occurrence of the aforementioned events, the Company reserves the right to cancel or suspend all or part of any other order without any liability.

14. Risk

Risk of damage to or loss of the goods shall pass to the Customer: -

- in the case of goods to be collected from the Company's premises, from the time when the Company notifies the Customer that the goods are available for collection or,
- in the case of goods to be delivered otherwise than at the Company's premises, at the time of delivery or, if the Customer wrongfully fails to take delivery of the goods, at the time when the Company has tendered delivery of the goods.

The goods shall be deemed to have been delivered unless notification of non-delivery of the whole or any part of a consignment is received by the Company in writing, other than on the delivery note, within three days of the date of delivery. If the Customer is in breach of this condition, the Company shall be under no liability whatsoever in respect of loss in transit or non-delivery of the whole or any part of the goods.



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15. Reservation of Title

Notwithstanding delivery and the passing of risk in the goods or any other provision of these Terms, the property in the goods shall not pass to the Customer until the Company has received in cash or cleared funds payment in full of the Contract price.

Until such time as the property in the goods passes to the Customer, the Customer shall hold the goods as the Company's fiduciary agent and bailee and shall keep the goods separate from those of the Customer and third parties and properly stored, protected and insured and identified as the Company's property. Until that time the Customer shall be entitled to resell or use the goods only in the ordinary course of its business.

Until such time as the property in the goods passes to the Customer (and provided the goods are still in existence and have not been re-sold) the Company shall be entitled at any time to require the Customer to deliver up the goods to the Company and if the Customer fails to do so forthwith to enter upon any premises of the Customer or any third party where the goods are stored and repossess the goods.

The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the goods which remain the property of the Company but if the Customer does do so, all monies owing by the Customer to the Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable.

16. Supply of Product on Consignment Basis

The goods shall only be supplied on a consignment basis providing the Customer and Company enter into a separate written agreement regarding storage.

17. Consequential Loss and Damage

The Company shall be under no liability whatsoever to Customer:

- In respect of any defect in the goods arising from any drawing, data, design or specification supplied by the Customer;
- In respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company's instructions (whether oral or in writing), misuse or alteration or repair of the goods without the Company's approval;
- If the total price for the goods has not been paid by the due date for payment;
- For any parts, materials or equipment not manufactured by the Company (in respect of which, the Customer shall be entitled to the benefit of any such warranty or guarantee as is given by the relevant manufacturer to the Company, to the extent that the Company is able to pass on that warranty or guarantee to the Customer).

Subject as expressly provided in these conditions and expect where the goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977) all warranties, conditions or other terms implied by statute of common law are excluded to the fullest extent permitted by law.

Except in respect of death or personal injury caused by the Company's negligence, the Company shall not be liable to the Customer by reason of any representation, or any implied warranty, condition or other term or any duty at common law, or under the express terms of the Contract for any consequential compensation, whatsoever and whether caused



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by the negligence of the Company, its employees or agents or otherwise which arise out of or in connection with the supply of the goods or their use of resale by the Customer except as expressly provided in these conditions.

Any components or kit belonging to Customers shall only be left on the Company's premises with the written permission of the Company and in such a case the Customer must inform the Company of the value of such items for insurance purposes. Unless otherwise notified the value of any components or kit will be restricted to £1,000 maximum.

Notwithstanding any other term of these Terms:

- The Company shall not be liable for any indirect or consequential loss (including but not limited to, and including any direct losses which relate to, the loss of goodwill, loss of business, loss of anticipated profits or savings and all other pure economic loss) arising out of or in connection with the Contract; and
- The maximum liability of the Company in respect of any Contract shall not exceed the Contract price.

18. Representations and warranties

The Customer agrees that it is not relying on any representation, warranty, undertaking, covenant or assurance of any nature whatsoever (whether or not in writing) made or given by any person or included in any sales literature or information provided (whether verbally, electronically or in hard copy) which is not expressly set out in the Contract.

19. Lien

In addition to any other right to which the Company may, by law, be entitled, the Company shall be entitled to a general lien on all goods of the Customer in the Company's possession (although such goods or some of them may have been paid for) until all monies due to the Company under the terms of this and all other Contracts between the Customer and the Company have been paid in full.

20. Waiver

Failure by the Company to enforce any rights under these Terms shall not be deemed to be a waiver of any such right nor operate so as to prevent the exercise of such Terms at a later date

21. Insolvency of Customer

An Insolvency clause (21.1) applies if: -

- The Customer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt (or being a Company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
- An encumbrancer takes possession, or a Receiver is appointed of any of the property or assets of the Customer; or
- The Customer ceases or threatens to cease to carry on business; or
- The Company reasonably believes that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.

If the above applies, then the clause is as follows.



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21.1. Insolvency Clause:

Without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Customer and if the goods have been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement to the contrary.

22. Notices

All notices and other communications shall be in writing and shall be deemed to have been duly given:

- when delivered, if delivered by messenger during normal business hours of the recipient; or
- when sent, if transmitted by fax (with receipt confirmed) during normal business hours of the recipient, or where posted on the third business day following mailing, if mailed by certified or registered mail, postage prepaid.

23. Intellectual Property and Third Party Rights

The Customer shall indemnify and hold harmless the Company from any breach by the Customer of the terms of the Intellectual Property and Third Party Rights clause (23.1) and any claim made by any third party for any loss or damage relating to any infringement of the rights of any third party as a result of the carrying out of any work by the Company under the Contract.

23.1. Intellectual Property and Third Party Rights Clause

The Customer warrants that it owns or has a valid license in respect of all relevant intellectual property rights in any goods which the Company is requested to manufacture, and all that it owns or validly licenses all information, drawings, images and materials which it provides to the Company.

24. Legal Constitution

These Terms and all Contracts shall, in all respects, be construed and operate in accordance with English Law and the parties submit to the exclusive jurisdiction of the English courts.