



**Nevada Nanotech Systems, Inc.  
Terms and Conditions for Sales**

1. **Definitions and Interpretation.** As used herein, “**Agreement**” means these Terms and Conditions for Sales (the “**Terms**”), together with the applicable Purchase Order (“**PO**”) and the applicable Sales Order Acknowledgment (“**SOA**”); “**Buyer**” means the buyer specified in the PO; “**Carrier**” means Buyer or the third party carrier engaged by Buyer to deliver the Products to Buyer’s site, except as otherwise specified in the SOA; “**Delivery**” means partial or full delivery of the Products to Buyer in accordance with the Terms; “**Laws**” means all applicable federal, state, and local laws, codes, rules, regulations, and orders of any governmental authority; “**Prices**” means the prices set forth in the Sales Documents; “**Products**” means the goods and materials specified in the PO and confirmed in the SOA; “**Quotation**” means the quotation submitted by Seller for the sale and delivery of the Products to Buyer; “**Sales Documents**” means the Quotation, PO, and SOA; “**Seller**” means Nevada Nanotech Systems, Inc. or the affiliate specified in the SOA; “**Services**” means the services specified in the PO and confirmed in the SOA; and “**Shipping Site**” means Seller’s plant where the Products are received by the Carrier for transportation to Buyer’s site, as specified in the SOA. In interpreting the Agreement, unless the context requires otherwise: (a) the singular includes the plural and vice versa; (b) reference to a document or Law means such document or Law as amended from time to time; (c) the term “or” is not exclusive; (d) “include” or “including” means including without limiting the generality of any description preceding such term; (e) headings are for convenience only and do not constitute a part of the Agreement; (f) all references to money refer to United States currency unless otherwise indicated on the SOA; (g) the terms “herein,” “hereunder,” “hereby,” and derivatives or similar words refer to the entire Agreement; and (h) references to Seller are deemed to include affiliates of Seller that provide Products or Services to Buyer.
2. **Entire Agreement.** All Deliveries of Products are subject to the Terms, regardless of whether the Terms are attached to a Quotation, PO, SOA, or shipping document or are delivered separately. Buyer shall be deemed to have irrevocably accepted the Terms upon the earliest of (a) delivery of the PO to Seller, (b) acceptance of Delivery of a Product, or (c) payment of any amount due for a Product. A PO is accepted by Seller only upon Seller’s issuance of an SOA. If there are inconsistencies (i) between the Terms and the terms of a Sales Document, the Terms shall control, or (ii) between the terms of any Sales Document, the Sales Documents shall control in the following order of priority: (A) first, the SOA, (B) second, the Quotation, and (C) third, the PO. If any additional or different terms are contained in the PO or other documentation issued by Buyer (“**Proposed Terms**”), the Terms shall govern regardless of when the Proposed Terms are received by Seller, unless Seller agrees in writing to the Proposed Terms; otherwise, Seller rejects all Proposed Terms. If the parties have entered into another agreement identified in the SOA (the “**Other Agreement Terms**”), the Terms and the Other Agreement Terms shall both be applicable where they are not inconsistent with each other; however, to the extent a conflict exists, the Other Agreement Terms shall control.
3. **Payment Terms; Taxes; Security Interest; Interest on Overdue Amounts.** *Sellers standard payment terms are Net 30 from invoice date.* Buyer shall pay the Prices in accordance with the payment schedule set forth in the Sales Documents. Prices exclude all federal, state, and local taxes (including sales and use tax), all of which shall be paid by Buyer. Buyer shall not deduct any taxes from any payment unless Seller has confirmed receipt of a valid tax-exempt certificate from Buyer. Buyer shall not deduct wire transfer, ACH or any other payment fees associated with their payment processing. If Seller makes a Delivery of any Products before Buyer’s payment in full of the Price therefor, then Buyer grants to Seller a purchase money security interest in the Products and authorizes Seller to file Uniform Commercial Code financing statements, amendments, and continuation statements in connection therewith and to take all other actions Seller deems necessary or desirable to perfect, maintain, protect, and foreclose on the security interest granted herein. If Seller reasonably believes that Buyer will fail to timely pay any amount of money due hereunder, Seller may request adequate written or financial assurance from Buyer of Buyer’s ability to timely perform such payment obligations. If Buyer fails to provide adequate assurance of performance after Seller’s request therefor, Seller may cancel any outstanding POs in whole or in part with respect to undelivered Products or Services. A late fee of 1.5% per month (18% per annum) may be charged on all past due amounts until payment is received. This interest will accrue daily starting from the 31<sup>st</sup> day past the invoice date.

4. **Rescheduled Delivery and Cancellation of POs.** Buyer shall not reschedule or cancel a PO within 60 days prior to the date of Delivery specified in the Sales Documents. Buyer shall be responsible for all inventory costs resulting from a reschedule or cancellation of deliveries made within three months prior to the date of Delivery specified in the Sales Documents. If Seller, acting reasonably, demonstrates to Buyer that the reschedule or cancellation will result in increased production costs, Seller may increase the Prices with respect to the Products ordered in such PO to allow Seller to recover such increased production costs. Seller shall bill Buyer on a monthly basis for any additional inventory costs resulting from Buyer's cancellation or rescheduling of Delivery, which bill shall include an interest rate on such costs calculated as follows: 2% per annum plus the prime rate, as announced in The Wall Street Journal as of the date of reschedule (which interest rate shall be adjusted on the first business day of each calendar month thereafter for as long as the affected Products remain in inventory). Except as otherwise set forth in this Section, Buyer may delay the date of Delivery for up to an aggregate of 90 days (considering multiple reschedules) from the original date of Delivery specified in the Sales Documents unless excess inventory generated by such reschedule is purchased by Buyer within 90 days after the original date of Delivery. In addition to the charges and costs set forth above, Buyer shall also be liable to Seller for the depreciation (determined in accordance with U.S. Generally Accepted Accounting Principles) of Seller's equipment for the period of time any such piece of equipment is idle as a result of the reschedule or cancellation for up to six months after the date thereof.
5. **Shipment; Title; Risk of Loss.** Unless otherwise specified on an SOA, Products shall be delivered EXW Incoterms® 2010 supplier's shipment point. Shipping Site. Buyer shall assume title to and risk of loss of the Products at the Shipping Site.
6. **Deliveries.** Delivery dates are estimates only. Seller shall attempt to notify Buyer of anticipated Delivery delays, but Seller shall not be in default due to any such delays.
7. **Limited Warranty.** Sellers' Limited Warranty is the only warranty provided and can be found at <https://nevadanano.com/wp-content/uploads/2022/01/SM-WT-0002-02 - MPS ALL 2 Yr Limited Warranty.pdf>. Except for this Limited Warranty, **SELLER MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE PRODUCTS; ALL OTHER WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND DESIGN ARE DISCLAIMED AND EXCLUDED.**
8. **Manufacturer Warranties.** If Seller is not the manufacturer of a Product, Seller hereby assigns any assignable warranties and remedies of the manufacturer of such Product to Buyer effective upon the Delivery of the Product.
9. **Installation; Safety; Insurance.** Except to the extent included in the Services, (a) Seller shall not install or supervise or otherwise assist Buyer with the installation of Products, and (b) Buyer shall be solely responsible for (i) investigating installers and determining the qualifications of installers for particular Products, and (ii) compliance by Buyer and any installer with all Laws and standard industry practices during installation, including OSHA standards and requirements and installation codes. Buyer shall carry adequate insurance coverage, including liability and errors and omissions, for risks of loss, damage, and injury before, during, and after installation.
10. **Services.** Seller shall perform the Services (a) substantially in compliance with all permits, licenses, and third party approvals necessary or desirable for the performance of the Services, all of which shall be obtained by Buyer, Laws, and policies of Buyer regarding safety measures to be taken at the location where the Services are performed, and (b) in a professional manner with the standard of care, skill, and diligence normally provided by a person in the performance of services similar to the Services.
11. **Remedies.** If within two years after delivery of a Product, Buyer notifies Seller of any Products that do not comply with the Limited Warranty ("**Defective Products**"), then as Buyer's sole remedy for Defective Products, Seller shall, at its sole option, repair or replace the Defective Products. Before returning any Product for repair or replacement, Buyer shall first obtain a return merchandise authorization from Seller authorizing the return of such Product. Within a reasonable time after Seller's receipt of Buyer's request for a return merchandise authorization, Seller shall respond to Buyer's request and, if such request is granted, effect any repairs or replacement. Buyer shall be responsible for the cost of transporting the Product to and from Seller's facilities for Seller's repair or replacement thereof, but Seller shall be responsible for all other costs associated therewith. At the sole discretion of Seller, all replaced parts and Products may become the property of Seller upon replacement. With regard to Services, Buyer shall promptly notify Seller of any Services that fail to satisfy the standards set forth in Section 10 ("**Defective**

**Services**”) and, as Buyer’s sole remedy for Defective Services, at Seller’s option and at no cost to Buyer, Seller shall correct, re-perform, or refund all payments made by Buyer for Defective Services.

12. **Compliance with Laws.** Buyer shall comply with all Laws in effect from time to time relating to the use, handling, transportation, installation, service, maintenance, cleaning, and disposal of the Products. Without limiting the generality of the foregoing, Buyer shall (a) not export, re-export, or otherwise transfer, directly or indirectly, the Products in violation of Law, (b) be responsible for obtaining any necessary government authorization required to ensure compliance with Law, and (c) contact the U.S. Departments of Commerce, State and Treasury and applicable foreign government authorities to the extent Buyer needs guidance as to applicable licensing requirements and other restrictions to meet its obligations hereunder. Purchaser acknowledges that Supplied Product to be provided under this Agreement may be subject to trade sanctions and export controls under the laws of the United States and other countries, including the International Emergency Economic Powers Act, 50 U.S.C. 1701 et seq., and regulations issued pursuant to these, including regulations implemented by the U.S. Department of Treasury Office of Foreign Assets Control (“OFAC”). Purchaser warrants that it is not affiliated with or owned or controlled (directly or indirectly) by, the government of countries subject to U.S. trade sanctions, including but not limited to those restricting trade with Iran, North Korea, Cuba, and Syria, or any party listed on the Specially Designated Nationals (“SDN”) list maintained by OFAC. These countries and parties can change from time-to-time. Purchaser shall be responsible for complying with and obtaining any transaction, export or re-export authorizations required to ensure compliance with U.S. trade sanctions and export control laws or any other applicable country laws, including, but not limited to, restrictions specific to parties listed on the SDN or other restricted parties list or supplying product to countries subject to U.S. sanctions.
13. **No Liens.** Buyer shall not allow the creation of any lien or security interest on any Products until the later of Seller’s Delivery of the Products and Buyer’s payment in full of the Price for the Products.
14. **Indemnification.** Buyer shall indemnify, hold harmless, and, if requested by Seller, defend Seller, its affiliates, its and their employees, officers, directors, shareholders, members, partners, contractors, and consultants, and the successors and assigns of all of the foregoing (as applicable, the “**Indemnified Party**”) from and against all losses, costs, expenses, liabilities, damages, fines, or penalties, including court costs, reasonable attorneys’ and professionals’ fees and expenses and other litigation or settlement expenses (collectively, “**Losses**”) sustained or incurred by the Indemnified Party, including in connection with a claim, demand, or action (a “**Claim**”) made by a third party against the Indemnified Party, to the extent arising from Buyer’s or its employees’, contractors’, or consultants’ (a) breach of the Agreement, (b) negligence or willful misconduct, or (c) installation and use of the Products, including injuries to person or property before, during, and after installation.
15. **Limitation on Liability.** EXCEPT FOR LIABILITY FOR (a) INDEMNIFICATION IN CONNECTION WITH THIRD-PARTY CLAIMS, OR (b) GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY IS LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, ARISING OUT OF OR RELATING TO THE AGREEMENT. IN NO EVENT SHALL SELLER BE LIABLE FOR DAMAGES ARISING OUT OF OR RELATING TO A PO THAT EXCEED THE TOTAL PRICES PAID BY BUYER TO SELLER UNDER SUCH PO AS OF THE DATE SUCH DAMAGES ARISE.
16. **Notices.** All notices and other communications required or permitted to be given under the Agreement shall be (a) in writing, (b) delivered in person or by electronic mail, overnight courier, or certified mail, postage prepaid, return receipt requested, to the receiving party at the address shown in the Sales Documents, or to such other address as such party may have given to the other by notice pursuant to this Section, and (c) deemed received on the date of delivery or refusal, as applicable.
17. **Governing Law and Forum.** The Agreement shall be governed by and construed according to the Laws of the State of Nevada, excluding any conflict of Laws principles. Any litigation between the parties under the Agreement shall be brought and maintained in the appropriate courts in Reno, Nevada, and each party submits and irrevocably waives any objection to in personam jurisdiction in the State of Nevada and the state and federal courts thereof.
18. **Attorney’s Fees.** If Seller is required to take any action to enforce the terms of the Agreement, Seller shall be entitled to reasonable attorneys’ and other professionals’ fees and costs, costs of collection, and interest at the statutory rate on any unpaid amount from the date due.

19. **Force Majeure.** A party that fails to perform its obligations under the Agreement (other than failure to make payments when due) shall be free from liability for failing to perform to the extent such failure is caused due to acts of God, labor difficulties, fires, or other causes beyond the reasonable control of the affected party.
20. **No Waiver; Amendments; No Assignment; Severability.** No delay in exercising or failure to exercise a right of remedy shall impair that or any other right or remedy or be construed as a waiver of any such right or remedy. The Agreement (a) may be amended or cancelled only in writing signed by both parties, and (b) may not be assigned by Buyer without Seller's prior consent, and any attempt to assign it without such consent shall be void. If any of the provisions herein shall for any reason be held void or unenforceable, the remaining provisions shall remain in full force and effect.