



## **NANO-COM General Terms and Conditions for Trade, Services, Supply and Delivery**

**Date: September 2008**

### **IMPORTANT NOTES**

The NANO-COM General Terms and Conditions of Trade are valid for all trade and supply of products and services between NANO-COM and any contractual partner. The conditions are based on the German trade law „Bürgerliches Gesetzbuch“ (German abbreviation: BGB, English translation: „German Civil Code“, Internet: <http://www.gesetze-im-internet.de/hgb/>), the „Zivilprozessordnung“ (German abbreviation: ZPO, English translation: „Code of Civil Procedure“, Internet: <http://www.bundesrecht.juris.de/zpo/>), the Handelsgesetzbuch (German abbreviation: HGB, English translation: „Code of Commercial Law“, Internet: [http://www.gesetze-im-internet.de/englisch\\_hgb/](http://www.gesetze-im-internet.de/englisch_hgb/)) and the „Produkthaftungsgesetz“ (German abbreviation: ProdHaftG, English translation: „Product Liability Law“, Internet: <http://www.gesetze-im-internet.de/prodhaftg/>).

## **I. General Terms**

### **1. Area of Agreement**

1.1. Our General Terms and Conditions of Trade (called GTC hereafter) are exclusively valid. The general law is applicable in case they do NOT contain applicable rules. Rules which are contrary to our GTC or to the general law and rules which are to our disadvantage are NOT recognized by us, unless we approve using written agreement. Our GTC are even valid in case any of our contracted sales, services or deliveries is implicitly performed under previous acknowledgement that our GTC, the general law or the rules of our contractual partner diverge to our disadvantage.

1.2. Our GTC are also applicable to any future commercial operation with any of our contractual partner.

1.3. Our GTC only apply to contractors, corporate bodies regulated by public law or fund assets governed by public law in the meaning of § 310 Abs. 1 BGB.

### **2. Offers and Quotations, Subsequent Change of the Subject Matter of Contract**

2.1. Our offers and quotations are non-binding and non-committal, unless explicitly denoted otherwise.

2.2. We reserve all rights for documents of offer, contractual documents, and especially drafts, drawings, figures, images etc, as well as product samples, models and prototypes, unless they are conceded to our partner by means of contract or explicit agreement. All documents of offerings, samples, models and prototypes must be returned immediately

on our request in case a contract of commission is NOT awarded to us. Concerning this matter, the contractual partner can NOT claim any right of retention.

2.3. We endeavor to implement a request of change concerning the subject matter of contract (e.g. delivery or service) after its completion, only insofar as this request is realizable in the scope of our commercial potential. In case the examination or the implementation of any contractual change affects the capacity or structure of the contract (e.g. any payments, deadlines etc), the contract must immediately be adapted or updated in written form according to the negotiated changes. We reserve the right to charge adequate fees resulting from additional work concerning examination of feasibility and conditions of the contractual change, if we advert to the requirement of examination and the contractual partner consents accordingly.

### **3. Prizes, Conditions of Payment and Supplementary Performance Clause**

3.1. We reserve the right to adequately mark up prizes even after conclusion of contract, in case of previously unconsidered increase in cost, especially caused by labor agreement or rise in material prices which affect us untenably. Prove of these adjustments shall be given to the contractual partner on demand.

3.2. Our prizes are exclusive of postal, delivery or freight charges, packaging and insurance under reserve of separate stipulations. Value-added or sales tax (VAT) is additionally invoiced according to the requirements of the applicable law.

3.3. Payments invoiced to the contractual partner are due immediately without deduction, unless separate agreements are negotiated. Subtraction of early payment discount (German: Skonto) requires extra written declaration. The contractual partner defaults after ten (10) days of the stated invoice date without further explanations, unless payments are cleared. In case of delayed payment, the provisions of public law apply instantaneously.

3.4. We are entitled to demand reasonable progress payments, inclusive of the value-added tax calculated and invoiced accordingly.

3.5. Commercial papers and drafts are solely accepted for reasons of payment, and commercial papers only after previous agreement in writing. Bank discount, charges and all other cost resulting from withdrawal of commercial papers or drafts are solely and immediately payable by the contractual partner. Acquittance occurs only after the payment is redeemed and NANO-COM is exempted from liability of any kind.

3.6. The contractual partner can only claim compensation if counterclaims are legally valid, undisputable or acknowledged. The contractual partner is only authorized to utilize retention rights, if counterclaims are based on the same contractual relationship.

3.7. Compensation claims are only allowed if the total outstanding amount was remitted by the contractual partner and acquittance is achieved.

3.8. The legally binding ascertainment of the summation initiates the commencement of contract.

### **4. Time of Delivery or Service, Responsibility for Delays of Delivery or Service Times, Default of Delivery or Service, Impossibility, Default in Acceptance, Breach of Collaboration Duties**

4.1. Indicated times of delivery or service are only legally binding if this is explicitly constituted as a fact.

4.2. The adherence to delivery and service obligations, in particular delivery and service times, postulate the following:

- The timely and proper compliance to the duty of collaboration according to the rules by the contractual partner, especially the conveyance and arrival of deliverable documents or information;
- The clarification of all technical details with the contractual partner;
- The arrival of arranged progress payments, alternatively the issuance of agreed credits;
- The confirmation of eventually required official concessions or licenses.

The right of objection to any unsatisfied contract is reserved.

4.3. NANO-COM can NOT be held responsible for the following delays of delivery or service:

4.3.1. NANO-COM can NOT be held responsible for delayed deliveries or services which are caused by the following obstructions - unless risks or guarantees regarding abidance of deadlines or target dates are acceded (in exceptional circumstances only) - even if these obstructions occur with suppliers or sub-contractors:

Circumstances caused by force majeure as well as obstructions of delivery and service which

- eventuate or become unindebtedly apparent after conclusion of contract
- could not have been anticipated thus prevented by NANO-COM exercising caution, even after providing evidence, thus NANO-COM is NOT liable for fault adoption, prevention and avoidance

Additional circumstances – eventuation or unindebted acknowledgement after conclusion of contract, unpredictability and inevitability proven by NANO-COM - include in particular:

- eligible industrial action (e.g. walkouts and lockouts),
- interruption of operations,
- security of resources,
- failure of fuel and materials.

4.3.2. Any compensation claims by the contractual partner based on delayed or default delivery or service according to clause 4.3.1 are excluded.

4.3.3. All contracting parties are authorized to instantly avoid or cancel the contract according to the provisions of law, in the case of decisive delivery or service obstacles according to clause 4.3.1.

4.3.4. NANO-COM is entitled to postpone any deliveries or services by the anticipated time of delay plus additional and agreeable acceleration time, in case of temporary obstacles affecting deliveries or services according to clause 4.3.1. After demonstration of infeasible complications in delivery and/or service, NANO-COM is entitled to avoidance of contract. The contractual partner is only authorized to withdraw from the contractual commitments if preconditions stated in clause 4.5 are applicable. In our case of contract cancellation, the § 323 stipulation 4 of the BGB applies accordingly. The right of cancellation applicable to the contractual partner is defined in § 323 stipulations 4 – 6 of the BGB. As a legal consequence of any contractual withdrawal or cancellation the § 326 of the BGB and all reprimands hereafter are legally effective; part deliveries or services which are already transacted but not incurred by the contractual partner can be claimed back provided that clauses §§ 346 – 348 of the BGB are legally binding.

4.4 Conditions of NANO-COM's responsibility for delay of delivery or service:

NANO-COM can be held liable for delays in delivery or service under the provisions of law with the following limitations concerning the amount of claim:

4.4.1. Recovery of damages besides the service BGB § 280 section 2 in connection with § 286 BGB):

In case NANO-COM personnel, legal representatives or performing agents did NOT act in a willful or strongly careless manner, the compensation for delayed completion is limited to 0.5% of the affected product or service invoice net value per week of delay with the maximum limitation of 5% of the total net invoiced amount. In case NANO-COM personnel, legal representatives or performing agents did act in a willful or strongly careless manner, the compensation claim is limited to the predictable and typically appearing damage value.

4.4.2. Recovery of damages instead of service (§ 281 BGB):

Our liability is limited to the predictable and typically appearing damage value, unless product or service delivery delays are caused by NANO-COM personnel, legal representatives or performing agents in willful or strongly careless violation of the contractual duties.

4.4.3. Above mentioned liability limitations are NOT valid

- provided that the continuity of product and service delivery is contractually bound to timeliness with the contractual partner (short selling);
- provided that the contractual partner is, by our responsibility for delays in delivery of products or services, entitled to assert the cessation of his interest in further contractual performance;
- in case we have exceptionally acceded exercise risk or performance bond concerning deadline or timeliness.

4.5. If we are able to prove that any delays in delivery of products or service is NOT our responsibility, the contractual partner is only entitled to withdraw from the contract

- if he has specifically bound his interest in continuity of contract performance to the timeliness of delivery of products or services (short selling) or
- the contractual partner proves that the delay in delivery of services or products is responsible for discontinued interest in contractual performance, or the maintenance of contract is infeasible.

Apart from that § 323 section 4 – 6 BGB applies to all other cases. Legal consequences of contract withdrawal are within the provisions of law (§§ 346 ff. BGB).

4.6. In case of impossibility to fulfill deliveries of products or services, NANO-COM is liable within the provisions of law, applying the following limitations to the overall level of liability:

In case NANO-COM personnel, legal representatives or performing agents did NOT act in a willful or strongly careless manner, our liability for compensation of damages and failed expenditures is limited to a total of 20% of the net value invoiced for delivery of products or services; for acting in a willful or strongly careless manner after the damage was predictable to occur on a typical level. This limitation is invalid provided that we have exceptionally acceded exercise risk. In case it is impossible for us to deliver products or services the legal right concerning withdrawal from contract by the contractual partner remains intact.

4.7. We are entitled to partly fulfill deliveries of products and services in a magnitude which is reasonable to the contractual partner.

4.8. In case the contractual partner defaults acceptance or receipt at the place of performance, collection or request of products or services (including part deliveries), or the delivery delays because of any reason caused by the contractual partner, or the contractual partner violates any other duties of contractual cooperation, we are entitled to claim damage, additional expenditures as well as all other possible claims within the provisions of law. The right for any further claims is reserved.

## 5. Transfer of Danger, Insurance

5.1. In case that our deliveries are within the provisions of the law of sale, the danger of random extinction or random degradation of products or services is passed on to the contractual partner as soon as the delivery is consigned to any individual or institution authorized for collection or realization; this applies at the latest on factory abandonment. The afore mentioned also applies in any case that deliveries are done using our vehicles or carriage and package free services, including the cases that we undertook mounting, installation, erection or other types of work for our contractual partner.

5.2. Should the contractual partner by any reason be responsible for delays concerning acceptance, realization or collection of our product or service delivery, the danger of random extinction or degradation of this delivery is automatically transferred to the contractual partner at the point of time at which the contractual partner defaults, or at the time as negotiated in the contract, provided that the contractual partner acted in a dutiful manner.

5.3. The delivery of products or services can be insured on request and at the cost of the contractual partner against damages resulting from theft, breakage, fire, water, transport as well as any other insurable cause.

## 6. Reservation of Proprietary Rights

6.1. We reserve the proprietary rights for products and services („reserved delivery“) until receipt of all contractually regulated payments. The reservation of proprietary rights is also applicable to any admitted account balance, insofar as we include any outstanding accounts into our invoice (reservation of current account). The case that we constitute any liability for payments concerning reserved delivery does NOT affect the reservation of proprietary rights, unless reciprocal liabilities are terminated. If there is an agreement to utilize the bill of exchange system, the reservation of proprietary rights remains until both, we and our contractual partner have successfully encashed outstanding drafts.

6.2. The contractual partner is entitled to resell any reserved deliveries of goods or services applying regular routine of business; however the contractual partner cedes to us all his claims which arise from reselling activities to his acceptor, amounting to the total sum (inclusive VAT) invoiced by us. Should our contractual partner include any reserved deliveries of goods and services into current account with the sub purchaser, all claims amounting to the admitted proportion are transferred to us. The same is applicable to any causal balance in the case of insolvency of the contractual partner. The contractual partner is entitled to reconfiscate all ceded claims. Our authorization to confiscate the claims ourselves remains intact, on the condition of legal insolvency regulations. However, we are committed to forbore confiscation of claims as long as the contractual partner does NOT violate the contractual rules, in particular his liabilities to pay in proper form, not to default payments, insolvency is not filed for and payments are not suspended. The authorization of resale by the contractual partner does not approve any arrangements concerning assignment as security or bailment.

6.3. In case of invalidity of our commitment to not confiscate any claims according to number 6.2, we are entitled - under reserve of legal insolvency regulations - to revoke the authorization of resale, to reclaim any reserved deliveries of products and services or to demand transfer of third-party resale entitlements to NANO-COM. The recall of reserved deliveries like products or services includes withdrawal from contract. We are entitled - under reserve of legal insolvency regulations - on condition of previous threat to adequately utilize goods and services recalled or reclaimed after release based on previ-

ous justifications; receipts of commercial utilization are counted against the payables of the contractual partner deducting appropriate utilization fees. The preconditions which justify the cancellation of the contractual partner's resale authority entitle us to also cancel confiscation rights, demand the release of claims and details of associated debtors; the contractual partner is committed to deliver all information required for confiscation, including associated documents, and inform any third-party debtors about the transfer.

6.4. The contractual partner must immediately inform us in writing of any damage to or loss of the reserved delivery, as well as change in ownership or change of domicile. The same applies to garnishment or other third-party interference, so we can lodge an action according to § 771 ZPO. The contractual partner must compensate any judicial or non-judicial cost associated with an action according to § 771 ZPO in the case that the third-party is not able to pay. Should the release of reserved deliveries be successful without litigation, the contractual partner is responsible for associated costs, including reclaim of distrained goods.

6.5. All processing or manipulation of reserved deliveries is done by the contractual partner for us. Should the reserved delivery be processed in combination with any objects which are not our property, we shall attain joint ownership of the outcome product amounting to the value proportional to our reserved delivery (invoiced amount inclusive VAT) and all other utilized objects at the time of processing or manipulation. All rules concerning reserved delivery are equally applicable to any objects which were processed or manipulated. The contractual partner is entitled to expectancy in the processed or manipulated product corresponding to the expectancy of the related reserved delivery.

6.6. Should the reserved delivery indivisibly be intermingled with any other object which is not our property, we shall attain joint ownership of the outcome product amounting the value proportional to our reserved delivery (invoiced amount inclusive VAT) and all other utilized objects at the time of indivisible intermingling or connection. In case the intermingling or connection is done in a way that the contractual partner's object is considered as main object, we are entitled to gain proportional joint ownership. The contractual partner holds the sole or joint ownership in trust for us.

6.7. In case of resale of reserved deliveries of products or services which have been processed or remodeled, the contractual partner is committed to transfer payment claims amounting to the value of our claim (invoiced amount inclusive VAT) to us immediately. In case we have attained joint ownership resulting from further processing or manipulation according to number 6.5 or 6.6, the contractual partner must transfer payment claims in advance, amounting to our total invoiced amount (inclusive VAT) in proportion to all amounts invoiced for other objects not belonging to NANO-COM. The stipulations 6.2, 6.3 and 6.4 are applicable to all claims transferred up front.

6.8. In the case that the retention of proprietary rights or the act of transfer is ineffective according to the foreign law applicable in the territory where the reserved delivery is located, the validity of protection by foreign law corresponding to retention of proprietary rights or the act of transfer of the territory is stipulated. Should the contractual partner be required to contribute to the arising of such rights, he is committed to actively support the arising, justification and preservation of afore mentioned rights.

6.9. The contractual partner is committed to take care of the reserved delivery and to keep it in good condition at his cost; the contractual partner is especially committed to maintain the reserved delivery at his expenses and to insure the reinstatement value against theft, robbery, housebreaking as well as fire and water damage. The contractual partner must transfer all insurance claims arising from any damage to the reserved delivery to us in advance. We accept the transfer. Any further rights concerning enforcement of fulfillment or compensation claims are reserved.

6.10. The contractual partner must also transfer claims which support the protection of our claims against him which arise from the linkage between the reserved delivery and any piece of land against third-party.

6.11. We are responsible to release securities due to us on request of the contractual partner only in case the realizable value of our securities exceed the claims by 10%; the choice of securities to be released is our decision.

## **7. Acceptance of Products and Services**

7.1. In case the German "Werkvertragsrecht" (English: "Contract Law for Work and Labor") is applicable, the contractual partner is committed to acceptance of products and services in written form at our location or at his factory as soon as completion or mounting of the products and services is notified, or in case stipulated testing was undertaken. Acceptance can NOT be refused on the ground of insignificant defects. Any acceptance is automatically effective in case the contractual partner does not confirm the acceptance although he is obligated to do so within an adequate time frame which is appointed by us.

7.2. Our liability for obvious defects or deficiencies ends at the point of acceptance unless the contractual partner explicitly reserves liability claims thereafter.

7.3. In case there is a testing arrangement, the contractual partner is committed to test and examine all functions of the delivery item during the designated time frame. All tests must include and comply with legal engineering safety examination and requirements for legal application of the delivery item.

7.4. We are entitled to demand the acceptance for parts of the delivery, unless there are realistic objections and this is unreasonable for the contractual partner.

## **8. Performance Description, Responsibility for Defects**

8.1. All states which are noted in our performance descriptions profoundly and conclusively define the features, qualities and characteristics of our products and services. In case of doubt our product and service descriptions represent feature or performance agreements, rather than guarantees or warranties. Our declarations in combination with the contract do NOT inclose guarantees or warranties in the sense of liability aggravations or acceptance of any special commitment. In case there is any doubt only explicit declarations concerning the assurance of guarantees or warranties in written form released by NANO-COM are valid.

8.2. We do NOT safeguard damages resulting from the following: unsuitable or incorrect utilization or operation, defective mounting by the contractual partner or third-parties, general wear and tear, defective or careless treatment, unsuitable resources or equipment, deficient construction work, unsuitable ground, alternative materials, chemical or electro-chemical or electrical impacts (insofar as they are NOT caused by us), incorrect changes, maintenance or repair work undertaken by the contractual partner or third parties without our approval.

8.3. Claims based on defects or deficiencies are ineffective in case of insignificant deviation from negotiated quality or unimportant interference to the utilization of our products and services.

8.4. Any claim based on defects or deficiencies postulate that the contractual partner meets the obligations of examination and reproof according to § 377 HGB.

8.5. In case there are defects or deficiencies, we are entitled to choose between supplementary performance in the form of correction of faults or delivery of new and flawless objects. We can refuse any or both of the aforementioned types of supplementary performance should this be impossible or disproportional. We can also refuse the supplementary performance in case the contractual partner fails to fulfill total payment in the value of the flawless part of the delivery. We are responsible for expenses concerning supplementary performance, especially cost of transport, labor or material, insofar as this does NOT increase cost caused by shipment to locations other than the place of fulfillment, unless the shipment complies with the intended use. We are entitled to utilize third parties for the correction of faults. We obtain ownership of all products or parts obtained by the replacement.

8.6. If the supplementary delivery failed or there is a culpable or infeasible delay caused by us, serious and definite refusal or the cause of infeasible conditions, the contractual partner is entitled to choose between demand of decrease in payment (abatement) or withdrawal from the contract (termination).

8.7. All further charges demanded by our contractual partner based on defects or deficiencies of our product or service delivery (especially compensation claims due to defects or deficiencies, violation of duties, tort liability or expense liability) are excluded independently from its legal reason, unless there is any reason complying with stipulation 8.8 or 8.9; this is especially effective in case of liability claims beyond any object of delivery (e.g. other objects belonging to the contractual partner) as well as claims based on lost monetary benefit.

8.8. The disclaimer of liability stipulated in number 8.7 is ineffective in the following cases:

8.8.1. Damages resulting from injury to life, body or health as a result of culpable violation of duties caused by us, our legal or vicarious agent;

8.8.2. Exigent liability according to the German "Produkthaftungsgesetz" (English: "Product Liability Law");

8.8.3. Malicious concealment of defects or deficiencies in combination with delivery acceptance, our acceptance of guarantees or assurance of object characteristics, but only if affected defect or deficiency actuates our liability;

8.8.4. Culpable violation of an essential contractual duty or a cardinal duty by us, our legal or vicarious agent; liability is limited to the predictable and typically occurring damage, provided that there is no intent or gross violation of contract;

8.8.5. Any other claim concerning damage compensation instead of regular delivery by our contractual partner for which we, our legal or vicarious agent are responsible for; liability is limited to the predictable and typically occurring damage, provided that there is no intent or gross violation of contract;

8.8.6. Any other damage as a result of culpable violation of duties caused by us, our legal or vicarious agent; liability is limited to the predictable and typically occurring damage provided that there is no intent or gross violation of contract;

8.9. Stipulation 8.8 is also valid in any case of expense compensation.

8.10. The legal regulations concerning onus of proof remain unaffected by stipulations under the number 8, especially the numbers 8.7, 8.8 and 8.9.

## **9. Liability for Secondary Obligations**

9.1. In case the delivery proves to be contractually unusable as a result of forborne, erroneous or faulty performance concerning pre-contractual suggestions, consultations or any other secondary obligations (especially operation and/or maintenance handbook or manual for the object of delivery), and this is our responsibility, the responsibility of our legal or vicarious agent, stipulations 8.7 until 8.10 are effective accordingly and all further claims by the contractual partner are excluded.

## **10. Joint Liability, Withdrawal of the Contractual Partner**

10.1. The following stipulations are effective for all claims by the contractual partner beyond liability based on defects as to quality. We are legally entitled to lawful and contractual regulations which shall neither be excluded nor limited.

10.2. The stipulations stated in number 8.7 and 8.8 apply consequentially for restitution of damage, under reserve of the separately regulated liability concerning default or delay based on number 4.4 and impossibility based on number 4.6. All further claims referring to restitution of damage are excluded, unmindful of legal nature of the applicable entitlement. This applies especially to all damage compensation claims besides performance and instead of performance due to violation of duties as well as tort liability for replacement of physical damage according to § 823 BGB.

10.3. The limitation stipulated in number 10.2 is applicable in case the contractual partner claims compensation of expenses.

10.4. Guiltiness of our legal or vicarious agents can be attributed to NANO-COM.

10.5. Legal regulations concerning onus of proof remain intact.

10.6. All liability exclusions or limitations in effect for NANO-COM are also applicable to our legal or vicarious agents, staff and employees; this is especially valid for personal liability regarding compensation of damage.

10.7. The contractual partner can only withdraw from contract within the frame of legal regulations, if NANO-COM is responsible for violation of duties. In the case of stipulation number 8.6 (failed supplementary performance etc) or impossibility the legal presuppositions must apply; the stipulations number 4.3.3, 4.3.4 and 4.3.5 are applicable to withdrawal of contract by our contractual partner based on delay of product or service delivery. Upon violation of duties, the contractual partner must respond on our request within a given time frame about his decision whether to withdraw from contract or to insist on the delivery.

## **11. Rights of Know-How and Inventions**

11.1. All know-how which is existing in our company, or which is gained by accomplishment of contracts concluded with us resulting in secret, high-quality or progressive knowledge is due to us; this is under reserve of separate agreements concerning utilization or application of objects according to the purpose and meaning of the contractual relationship.

## **12. Violation of Third-party Rights**

12.1. We do NOT warrant the violation of third-party industrial property or trade mark rights caused by utilization, installation or resale of delivery items; however we assure that the existence of such third-party rights to delivery items is not known to us.

### **13. Limitation of Actions**

13.1. The statute of limitation concerning claims and rights based on defects or deficiencies of delivery items amounts to one (1) year, no matter for what legal reason; in case of multi-shift-work the aforementioned statute of limitation shortens to six (6) months. This is ineffective in case that §§ 438 stipulation 1 number 1, 438 stipulation 1 number 2, 479 stipulation 1 as well as 634 a) stipulation 1 number 2 BGB are applicable; the statute of limitation amounts to three (3) years.

13.2. All statutes of limitation according to stipulation 13.1 are also applicable to all liability claims against us, which are based on defects or deficiencies; this is independent from the legal basis of claims. In case of liability claims NOT based on defects or deficiencies, the statute of limitation stated in the first phrase of stipulation 13.1 is in effect.

13.3. The statutes of limitation according to 13.1 and 13.2 are ineffective

- in the case of malice;
- in case we maliciously concealed the defect or deficiency, or in case we acceded guarantees concerning characteristics or qualities of the product or service delivery; in case of malice the legal statutes of limitation apply instead of stipulation 13.1, with the exception of time extension according to §§ 438 stipulation 3 and 634 a stipulation 3 BGB;
- in case of liability claims based on injury to life, body, health or freedom;
- in case of claims based on the German "Produkthaftungsgesetz" (English: "Product Liability Law");
- in case of crudely careless violation of duties or
- in case of violation of essential contractual duties.

The legal statutes of limitation apply.

13.4. The legal stipulations about statute of limitation initiation, estoppel of execution, estoppel and restart of limitations remain intact unless there is explicitly different agreement.

13.5. All reduction claims or withdrawal rights are excluded after the claim for supplementary delivery came under the statute of limitation. The contractual partner can refuse payments in the case that he would be entitled to resignation or reduction.

### **14. Assignment of Claim by the Contractual Partner**

14.1. Claims against us concerning delivery of products or services performed by us can only be assigned to third parties upon our written agreement.

### **15. Place of Fulfillment, Legal Domicile, Applicable Law, Intra-Community Acquisition, Salvatorius Clause**

15.1. The place of our business is the legal domicile as stated in the contract under reserve of exceptional declaration.

15.2. In the case the contractual partner is merchandiser in the sense of the German "Handelsgesetzbuch" (English: "Code of Commercial Law") or corporate body under public law or under public fund assets the legal domicile for all duties arising from the con-

tractual relationship as well as from draft or check payments is our place of business as stated in the contract, or upon our choice the contractual partner's place of business. Afore mentioned agreement about the legal domicile are also effective in case of foreign-based contractual partners.

15.3. The law of Germany is legal basis of the General Terms of Trade, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG, Date 11/04/1980), and is unfailingly applicable without consideration of clashing stipulations to all rights and duties arising from or in combination with the contractual relationship.

15.4. The case that any stipulation stated in the General Terms and Conditions for Trade, Services, Supply and Delivery or in the frame of any other agreement between us and our contractual partner is or is declared ineffective does not affect other stipulations in this or any other agreement.

15.5. Contractual partners based within the European Union member countries are responsible for compensation of all damage which results from intra-community acquisition, and is based on

- financial or tax offence caused by the contractual partner or
- faulty or forborne information about the circumstances important for taxation caused by the contractual partner.

15.6. The German version of NANO-COM's General Terms and Conditions for Trade, Services, Supply and Delivery (German: "Allgemeine Geschäftsbedingungen für Lieferungen und Leistungen der Firma NANO-COM") is legally binding in case of any doubt caused by language confusion.