

## NEONODE GENERAL TERMS AND CONDITIONS OF SALE

### 1. SCOPE AND APPLICATION

- 1.1. These General Terms and Conditions of Sale (the "**Terms**") are entered into between Neonode Technologies AB, 556771-2095 ("**Neonode**") and the customer ("**Customer**") set forth in the Order (as defined below) entered into between Customer and Neonode. The Terms set forth the provisions that shall apply to sales and deliveries of Products, Software and/or Services from Neonode and will therefore exclude application of any general or specific conditions or terms of the Customer.
- 1.2. Customer accepts these Terms by issuing an Order, whether or not these Terms are provided with that Order. The Terms are also available at [www.neonode.com](http://www.neonode.com).
- 1.3. In case of any inconsistency between the Order and these Terms, these Terms will prevail, unless otherwise explicitly stated herein.
- 1.4. Deviations from the application of these Terms are accepted by Neonode only if approved in writing by an authorized Neonode executive.

### 2. DEFINITIONS

"**Affiliate**" means any entity (i) in which more than fifty (50)% of the voting equity interest is or will be owned or controlled, directly or indirectly, by a party, (ii) which now or hereafter owns or controls, directly or indirectly, more than fifty (50)% of the voting equity interests of a party, or (iii) in which more than fifty (50)% of the voting equity interests are now or hereafter owned or controlled, directly or indirectly, by an entity identified in the preceding section (i) or (ii).

"**Derivatives**" shall have the meaning assigned to it in Section 13.2.

"**Excluded Applications**" shall have the meaning assigned to it in Section 11.2.

"**Force Majeure Event**" shall have the meaning assigned to it in Section 19.

"**Intellectual Property Rights**" means Neonode's intellectual property rights, including but not limited to patents and patentable works, business processes, copyrights, data rights, trademarks, service marks, trade secrets, mask works, moral rights, know-how or any other proprietary rights, including any registrations, applications or renewals for any of the foregoing, arising or enforceable under the laws of Sweden and/or any other jurisdiction.

"**Order**" means a purchase order that have been mutually agreed between the Parties and which is binding on the Parties pursuant to these Terms.

"**Product(s)**" means any product(s) sold by Neonode to Customer under these Terms, including but not excluded to the TSM and the hardware and Software related thereto.

"**RMA Number**" means the return material authorization number provided by Neonode to Customer to permit a return.

"**Services**" means any services supplied by Neonode to Customer under these Terms.

"**Shipping Point**" means Neonode Technologies AB, C/O Pronode Technologies AB, Faktorvägen 17 O, 434 37 Kungsbacka, Sweden.

"**Software**" means the software in machine-executable object code, including both any microcode, applets or firmware, embedded in the Products and standalone Software.

"**Terms**" means these General Terms and Conditions of Sale.

"**Touch Sensor Module**", "**TSM**" shall mean Neonode's touch sensor modules.

"**Warranty Period**" shall have the meaning assigned to it in Section 16.1.

### 3. ORDER PROCESS

- 3.1. Customer shall issue a purchase order to Neonode. Any such purchase order shall recite the product type(s), quantities and any other information required under these Terms.
- 3.2. No Order shall be deemed to have been entered into by the parties, unless and until Neonode has submitted a written acceptance of Customer's purchase order to Customer.
- 3.3. Except as set forth in these Terms, all issued Orders are binding and may not be cancelled or changed by Customer without the prior written consent of Neonode.
- 3.4. Neonode reserves the right in its sole and absolute discretion to adjust its product offering from time to time by addition or deletion of Products without prior notice to the Customer.

### 4. DELIVERY, TITLE AND RISK OF LOSS

- 4.1. The Products shall be delivered Ex Works (Incoterms 2020) Neonode's Shipping Point.
- 4.2. Title to and risk of loss of the Products shall pass to Customer when made available to Customer for pick-up at Neonode's Shipping Point on the agreed date of delivery.
- 4.3. Neonode will use commercially reasonable efforts to deliver according to agreed schedule of delivery. However, any delivery dates are approximate, and Customer shall have no remedy, and Neonode shall not be liable for delays in delivery for any reason. Deliveries may be made in installments and a delay or default in delivery of any installment shall not relieve Customer of the obligation to accept and pay for other deliveries. Delays or changes in schedules due to Customer's directed actions may be subject to price adjustments.
- 4.4. If a delivery shall be made by way of online access, e-mail, download etc., the delivery shall be deemed to occur when the deliverable is made accessible to Customer in the agreed manner.
- 4.5. Customer's claim of non-delivery shall be deemed waived and the delivery shall be deemed completed unless presented to Neonode in writing within fourteen (14) days of scheduled delivery. If Neonode does not cure a failure to deliver within thirty (30) days from Customer's notice thereof, Customer's sole and exclusive remedy is to cancel the affected and undelivered portions of the Order.
- 4.6. Notwithstanding anything in these Terms to the contrary, Neonode may not have sufficient supplies of one or more Product(s) to meet the full requirements of Customer as set out in the Order. In such case, Neonode may, at its option, allocate shipments of such Product(s) among Neonode's Customers on any basis which in Neonode's sole opinion is equitable and to adjust delivery schedules accordingly. Neonode is not required to increase future shipments or compensate Customer for any such reduction.

### 5. RESCHEDULE

Customer may reschedule an Order subject to the following restrictions: (i) for each Order, only one (1) reschedule is allowed; (ii) Customer must provide written notice to Neonode at least sixty (60) business days prior to the initially scheduled ship date, (iii) the rescheduled ship date must take place within thirty (30) business days from the initially scheduled ship date.

### 6. RETURNS

Neonode will not accept any Products returned for exchange unless Customer has notified Neonode which has approved of such return in advance by issuing an RMA Number with respect to such return to Customer. All Products shall be returned to Neonode's Shipping Point and shall be at Customer's risk, until the Products are taken in charge by Neonode. Freight and

shipping charges shall be paid by Neonode, except for as set forth in Section 16.2b). Neonode reserve the right not to handle Products sent to Neonode's Shipping Point without an appropriate RMA Number and to return such Products to Customer on Customer's expense.

## **7. PERFORMANCE OF SERVICES**

- 7.1. Where ordered by Customer and subject to Customer's payment of the applicable price, Neonode will provide Services to Customer in accordance with the applicable Order. Services shall be deemed delivered and accepted by Customer as performed.
- 7.2. Customer shall provide Neonode with any information, documentation and access to its premises and other locations as reasonably required by Neonode to perform the Services.
- 7.3. Neonode shall be entitled to engage sub-suppliers when performing the Services.

## **8. PRICES**

- 8.1. Unless agreed otherwise in writing, Neonode will charge Customer for the ordered Products, Software and/or Services (as applicable) pursuant to Neonode's price list in effect at the time of the Order. All prices are exclusive of VAT and other applicable taxes. All applicable taxes, charges, custom or import duties relating to the delivery of the Product in the country of destination shall be paid by Customer, unless otherwise agreed in writing.
- 8.2. Neonode is entitled to adjust the price if, before the agreed delivery date, there are any material and unforeseen changes of duties, taxes or other governmental charges increasing the costs for the provision of the Products, Software and/or Services (as applicable). If the price is adjusted, Neonode shall inform Customer as soon as possible after Neonode has received information about the change of duties, taxes or other governmental charges giving rise to the price adjustment.

## **9. TERMS OF PAYMENT**

- 9.1. Invoices shall be paid by Customer within thirty (30) days from the date of invoice.
- 9.2. If Customer fails to make payments as they fall due, Neonode shall be entitled to receive compensation for all costs of collection and charge interest on all unpaid overdue amounts until payment in full has been made, calculated at the lesser of twelve (12)% per annum or the maximum of what is permitted under applicable law. Moreover, Neonode may, subject to Customer having been given reasonable notice in writing, without prejudice to Neonode's other rights under these Terms, suspend its delivery of the Products, Software and/or Services (as applicable) until payment has been made in full or, at its discretion terminate these Terms and any Order for default.
- 9.3. Customer may be subject to credit approval of Neonode. If, in Neonode's sole discretion, Customer's financial conditions at any time does not justify delivery of Products and/or Software and/or performance of Services on the above payment terms, Neonode may require full or partial payment in advance or other payment terms as a condition precedent.

## **10. RETENTION OF TITLE**

Products shall remain the property of Neonode until the agreed price for the Product and/or Software has been paid in full by Customer.

## **11. RESALE AND USE OF PRODUCTS**

- 11.1. Unless expressly authorized in writing by Neonode, Customer may not resell any standalone Product(s) purchased under these Terms to any third party. If Customer breaches the terms of this Section 10, in additions to Neonode's cancellation rights, Customer agrees to fully indemnify Neonode from any and all liability which may arise, including attorneys' fees and costs.
- 11.2. The Products are not manufactured, designed or authorized for use and shall not be used, sold for use, or incorporated into modules for use in any medical application (including any body implantable device) or life support or safety equipment or any application where the performance or lack of performance of the

Product (either by itself or in conjunction with other components) can result in personal injury or death (together the "**Excluded Applications**"). Any use or sale or incorporation into modules of Products in respect of Excluded Applications shall be fully at Customer's own risk and Customer shall fully indemnify, defend and hold harmless Neonode from and against any and all resulting claims, losses, damages, awards and costs (including but not limited to legal fees) arising from such use, incorporation or sale (whether arising from negligence or otherwise).

## **12. EXPORT CONDITIONS**

If, during Neonode's performance under these Terms, an export license or other permission is required for Neonode to lawfully export Product(s) or technical data or to undertake export-controlled services, then the issuance of the appropriate license or agreement to Neonode or its subcontractor(s) (as applicable) shall constitute a condition precedent to Neonode's obligations hereunder. Neonode reserves the right to stop performance at any time if Neonode believes that such performance may violate export laws or regulations. Customer agrees to comply with all applicable export laws, regulations and orders in all applicable jurisdictions.

## **13. LICENSE**

- 13.1. For Software embedded in Product(s), Neonode grants to Customer a non-transferable, non-exclusive license to use such embedded Software in conjunction with Neonode Products on which such Software are embedded and subject to the terms set forth herein. Embedded Software may not be sublicensed, transferred or loaned to any other party without Neonode's prior written consent.
  - 13.2. The Software is licensed for use only in conjunction with Neonode Products. Use of the Software in conjunction with non-Neonode Products is not licensed hereunder.
  - 13.3. For standalone Software provided in connection with the purchase of Products from Neonode, Neonode grants to Customer a personal, revocable, non-transferable, non-exclusive license, without the right to sublicense, to use the standalone Software. Customer shall faithfully reproduce all of Neonode's copyright notices and other proprietary legends. Customer agrees not to disclose, in any form, the standalone Software or any portion thereof to any third party without Neonode's prior written consent.
  - 13.4. If Customer is in breach of any of the provisions in this Section 13, the rights granted to Customer herein may be terminated in Neonode's sole discretion with immediate effect. Within fourteen (14) days after termination, Customer shall furnish to Neonode a certificate certifying that the original and all copies of the Software and derivative versions thereof ("**Derivatives**"), in whole or in part and in any form, have been destroyed.
  - 13.5. Except as expressly provided herein, the Software is provided "as is." Neonode expressly disclaims all warranties with respect to the Software, whether express or implied, including without limitation, warranties of non-infringement, merchantability and fitness for a particular purpose, and any warranty of continued or uninterrupted operation of the Software licensed hereunder.
  - 13.6. No license or right of any kind is granted herein by Neonode to Customer to disclose, distribute or otherwise provide the Software or any Derivatives in source code format to any third party.
  - 13.7. Without limiting the foregoing, Customer agrees to not take any actions whatsoever that could or would cause the Software or Derivatives or any portion thereof to become subject to any open source license requiring the distribution of the Software or Derivatives or any part thereof in source code format.
  - 13.8. The provisions of this Section 13 shall apply only in the absence of a separate software license agreement between Neonode and Customer.
- ## **14. INTELLECTUAL PROPERTY RIGHTS**
- 14.1. All Intellectual Property Rights related to Products and/or Software delivered by Neonode to Customer under these Terms

shall remain vested in Neonode or its licensors (as applicable) and may not be assigned or transferred by Customer to any third party without Neonode's prior written approval.

- 14.2. Customer undertakes not to decompile, reverse engineer, modify, disassemble, recreate or generate any Product(s), the Software, any part thereof or any other tangible objects provided to Customer.
- 14.3. Neonode agrees to defend any claim, suit or proceeding asserted against Customer based upon a claim that any Product(s) purchased hereunder, excluding Software, directly infringes any third party intellectual property rights, provided that Neonode is promptly notified in writing of the claim and given, at Neonode's request and expense, sole control of the defense or response to such claim and all requested reasonable assistance by Customer for the defense of the same. If such a claim has occurred, or in Neonode's sole and reasonable judgment is likely to occur, Customer shall permit Neonode to use its sole discretion to (i) replace or modify the Product(s) with non-infringing Product(s), or (ii) accept the return of the Product(s) and refund the purchase price less reasonable wear and tear. Further, Neonode may cease delivery of infringing Product(s) without being in breach of these Terms.
- 14.4. The indemnity does not extend to any claims based upon any infringement or alleged infringement of any third party rights arising from: (i) the combination of any Product(s) with other elements if such infringement would be avoided by the use of the Product(s) alone; (ii) the use of the Product(s) in a manner or for an application other than that for which such Product(s) was designed or intended, regardless of whether Neonode was aware of such use; (iii) any addition to or modification of the Product(s), (iv) the use of the Product(s) in connection with manufacturing or other process; (v) Neonode's compliance with Customer's designs, instructions or specifications in making a Product for Customer that is not in Neonode's standard product catalogue; or (vi) the implementation in the Product(s) of a known industry standard. The foregoing states Neonode's entire liability for infringements of third party intellectual property rights and is in lieu of all representations, warranties or conditions expressed or implied, in regard thereto. Neonode will not be responsible for any costs, expenses or compromise incurred or made by Customer without Neonode's prior written consent.
- 14.5. Customer shall defend any claim, suit or proceeding asserted against Neonode by a third party and based on any of the grounds set out in Section 14.4 above and to pay costs and damages arising from such claim (including reasonable attorney fees) provided that Customer is promptly notified in writing of the claim and given, at Customer's request and expense, sole control of the defense or response to such claim and all requested reasonable assistance by Neonode for a proper and adequate defense of the claim. Customer may not settle any Claim without the prior written approval of Neonode, not to be unreasonably withheld.

## 15. CONFIDENTIALITY

- 15.1. The parties acknowledge that any information, oral or written, exchanged between the parties in connection with the preparation and performance of these Terms and any Order, are regarded as confidential information. Each party shall maintain confidentiality of all such confidential information, and without obtaining the written consent of the other party, it shall not disclose any relevant confidential information to any third parties, except for the information that:
  - a) is or will be in the public domain (other than through the receiving party's unauthorized disclosure);
  - b) is under the obligation to be disclosed pursuant to the applicable laws or regulations, or orders of the court or other government authorities; or
  - c) is required to be disclosed by any party to its shareholders, investors, legal counsels or financial advisors regarding the transaction contemplated hereunder, provided that such shareholders, investors, legal counsels or financial advisors

shall be bound by the confidentiality obligations similar to those set forth in this Section.

- 15.2. Disclosure of any confidential information by the staff members or agencies hired by any party shall be deemed disclosure of such confidential information by such party, which party shall be held liable for breach of this confidentiality undertaking. This Section shall survive the termination of these Terms and any Order for any reason.

## 16. PRODUCT WARRANTY

- 16.1. Subject to any exceptions set forth in these Terms, Neonode warrants that its Product(s) will, for a period of twelve (12) months from delivery date ("**Warranty Period**"), be free from defect in material and workmanship and will conform to Neonode's specifications ("**Product Warranty**").
  - 16.2. If a Product fails to conform to the Product Warranty, Neonode will, within a reasonable time, replace such defect Product, provided that:
    - a) Customer promptly, no later than ten (10) days after knowledge of the defect and during the applicable Product Warranty period, notifies Neonode in writing of the defect, including a description of the alleged deficiency;
    - b) Customer promptly obtains a RMA Number and returns the Product to the location designated by Neonode at Neonode's expense (provided, however, that if upon examination by Neonode, Neonode determines that the Product is not covered by the Product Warranty, then Customer shall be responsible for reasonable transportation costs to and from Neonode's facility for such Product(s); and
    - c) Neonode is reasonably satisfied that claimed non-conformities exist and such claim complies with the terms of the Product Warranty.
  - 16.3. The Product Warranty and remedies set forth in Section 16.2 above constitutes Customer's sole remedies in the event of Neonode's breach of its Product Warranty. Replaced Product(s) are subject to the applicable Product Warranty for the longer of the period remaining (if any) in the Warranty Period of the original Product or thirty (30) days. The non-conforming Product(s) shall become Neonode's property as soon as they have been replaced.
  - 16.4. In no event, shall Neonode be responsible for any non-conformance in the Product(s) to the extent such non-conformance is caused by incompatibility with other components used by Customer, improper handling or storage during or after shipment, Product misuse, neglect, improper installation or operation, repair, alteration, accident, or for any other cause not attributable to defective workmanship or failure to meet Neonode's product specifications.
  - 16.5. Neonode's Product Warranty shall not be extended to provided Services, and no obligation or liability will arise, due to technical advice or assistance, computerized data, facilities or services Neonode may provide in connection with Customer's purchase.
  - 16.6. Other than as stated in Section 16.1, Neonode makes no warranty of any kind whether express, implied statutory or otherwise and Customer hereby, to the maximum extent permitted by applicable law, disclaims all implied warranties such as implied warranties for fitness for a particular purpose, merchantability, non-infringement, and the Products being free from errors and bugs.
- ## 17. LIABILITY
- 17.1. In no event shall Neonode be liable to Customer under these Terms for any indirect or consequential loss or damages whether arising in tort, contract, or otherwise, including, but not limited to, loss of business, revenues, profits, goodwill, loss of data costs of product recall, loss of reputation, loss of customers etc. However, nothing in this disclaimer shall exclude Neonode's liability for fraud, for death or personal injury caused by negligence, or for any other liability which cannot be excluded or limited under applicable law.
  - 17.2. To the fullest extent permitted by applicable law and regardless of the number of claims in any calendar year, in no event shall

Neonode be liable to Customer or any third party for an amount, in the aggregate, exceeding the total amounts paid by Customer to Neonode hereunder during the twelve (12) months immediately preceding the act or omission causing the liability.

- 17.3. Except as expressly set forth in these Terms, Neonode makes no representation or warranty of any kind (express, implied, statutory or otherwise) with respect to the subject matter hereof, and Neonode shall have no liability of any kind to the Customer or any third party except as expressly set forth herein. For avoidance of doubt, Neonode shall not be bound by and does not honor any third party agreements (warranty agreements etc.) entered into by the Customer and a third party.

## 18. TERM AND TERMINATION

- 18.1. These Terms shall be applicable to any Order entered into between the parties.
- 18.2. In addition to any other remedies that may be provided under these, Neonode may terminate any Order, including these Terms, with immediate effect without liability upon written notice to Customer, if Customer:
- fails to pay any amount when due under these Terms and such failure continues for thirty (30) days after Customer's receipt of written notice of non-payment;
  - materially breaches these Terms and does not cure such breach (if curable) within ten (10) days from being notified by Neonode of such a breach; or
  - becomes insolvent, files a petition for bankruptcy or commences or has commenced against its proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

## 19. FORCE MAJEURE

Neonode shall not be liable to the Customer for any failure or delay in performing any of its obligations under these Terms or for other non-performance hereof if such delay or non-performance is caused by fire, flood, riot, epidemic, civil commotion, act or ordinance of any governmental or local authority, terrorism, or by any other similar cause beyond the reasonable control of that party (a "**Force Majeure Event**"). The parties expressly acknowledge and agree that a delay or non-performance by Neonode due to the effects of the Coronavirus (Covid-19) or any other pandemic, shall be deemed a Force Majeure Event of Neonode. Neonode reserves the right to defer the date of delivery or to cancel an Order or to reduce the volume of the Products or the scope of the Services ordered if Neonode suffers a Force Majeure Event. If affected by a Force Majeure Event, Neonode shall immediately inform the other party of such event and use reasonable commercial efforts to remove or overcome the hindrance for performance.

## 20. MISCELLANEOUS

- 20.1. Notices. Any notice required or permitted to be given by either party under these Terms shall be in writing and may be delivered by hand or courier, sent by certified mail or e-mail to the parties' contact persons at the addresses stated in the Order or as otherwise agreed in writing between the parties. Such notice shall be deemed to be given:
- if sent by hand or courier, on the day of delivery to the receiving party;
  - if sent by certified mail, five (5) days after the day of dispatch; and
  - if sent by e-mail, on the day after sending, provided that the sending party does not receive any error message and that the sending email account indicates that the email was sent to the correct address.
- 20.2. Assignment. Customer may not assign these Terms/any Order concluded hereunder, or any rights granted herein without the prior written consent of Neonode. Neonode may assign these Terms/any Order concluded hereunder to an Affiliate or in connection with the sale or transfer of all or substantially all of the stock or assets of Neonode. These Terms shall be binding upon

and shall inure to the benefit of each of the parties and their permitted successors and assigns.

- 20.3. Severability. If any provision of these Terms is held to be invalid or unenforceable by any judicial or other competent authority, all other provisions of these Terms will remain in full force and effect and will not in any way be impaired. If any provision of these Terms is held to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question will apply with the minimum modifications necessary to make it valid and enforceable.
- 20.4. Amendments. Neonode may amend these Terms with thirty (30) days prior written notice to Customer, save that, to the extent that any such amendments are required under any applicable laws or regulations, such notification period may be shorter.
- 20.5. Entire Agreement. These Terms constitute the entire agreement between the parties regarding the subject matter herein and supersede all previous agreements, arrangements and understandings between the parties, whether written or oral.
- 20.6. Governing Law and Disputes. These Terms shall be governed by and construed in accordance with the laws of Sweden, with the exclusion of its conflict of law rules. Any dispute, controversy or claim arising out of or in connection with this contract, or the breach, termination or invalidity thereof, shall be finally settled by arbitration administered by the Arbitration Institute of the Stockholm Chamber of Commerce (the SCC Institute).

The place of arbitration shall be Stockholm, Sweden. The language to be used in the arbitral proceedings shall be English, unless otherwise agreed.

The Rules for Expedited Arbitrations of the Arbitration Institute of the Stockholm Chamber of Commerce shall apply, unless the SCC Institute, taking into account the complexity of the case, the amount in dispute and other circumstances, determines, in its discretion, that the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce shall apply. In the latter case, the SCC Institute shall also decide whether the arbitral tribunal shall be composed of one or three arbitrators.

The parties undertake and agree that all arbitral proceedings conducted with reference to this arbitration clause will be kept strictly confidential. This confidentiality undertaking shall cover all information disclosed in the course of such arbitral proceedings, as well as any decision or award that is made or declared during the proceedings. Information covered by this confidentiality undertaking may not, in any form, be disclosed to a third-party without the written consent of the other party. This notwithstanding, a party shall not be prevented from disclosing such information in order to safeguard in the best possible way his rights vis-à-vis the other party in connection with the dispute, or if the party is obliged to so disclose pursuant to statute, regulation, a decision by an authority or similar.