

NanoAffix Platform Terms of Use

Effective Date: May 3, 2022

Welcome! These Terms of Use (“**Terms**”) apply to NanoAffix Science LLC’s (“**NanoAffix**” or “**we**”, “**us**”, or “**our**”) website, including without limitation <https://nanoaffix.com>, along with the features, functionalities, applications, browser extensions and other services available through our website (collectively, our “**Website**”) and our mobile application available on the [Google Play Store (and Apple App Store)] for NanoAffix Supported Devices (defined below) (our “**App**”). We refer to our Website and App collectively as our “**Platform**.” By accessing or using our Platform in any way, including, without limitation, using our services, accessing any portion of our Platform or submitting anything to us through or in connection with our Platform, you agree to read, comply with, and be legally bound by: (1) these Terms; (2) the Documentation as Provided in the Lead Test Kit Order Form and Agreement; and (3) any other relevant documentation, including without limitation, the Lead Test Kit and Order Form and Agreement and exhibits (collectively, the “**Agreements**”).

REVIEW THESE TERMS CAREFULLY. BY ACCESSING OR USING OUR PLATFORM (IN WHOLE OR IN PART), YOU AGREE TO BE BOUND BY THESE TERMS. IF YOU DO NOT AGREE WITH THESE TERMS YOU ARE NOT ELIGIBLE TO ACCESS OR USE OUR PLATFORM (IN WHOLE OR IN PART). FURTHER, IF YOU ARE NOT ELIGIBLE TO USE OUR PLATFORM PURSUANT TO ANY OF THE OTHER AGREEMENTS, YOU ARE NOT PERMITTED TO ACCESS OR USE OUR PLATFORM AS EXPLAINED IN THOSE AGREEMENTS.

THESE TERMS REQUIRE THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN COURT, JURY TRIALS OR PARTICIPATION IN A CLASS ACTION. THESE TERMS ALSO LIMIT THE REMEDIES AVAILABLE TO YOU IN THE EVENT OF A DISPUTE. THUS, CAREFULLY REVIEW THE DISPUTE RESOLUTION SECTION OF THESE TERMS BEFORE YOU ACCESS OR USE OUR PLATFORM.

1. ACCEPTANCE AND APPLICABILITY OF AGREEMENTS

- 1.1. Eligibility.** Use of our Platform by anyone under 18 years old is strictly prohibited. If you are under 18 years old, you must have your parent’s or legal guardian’s permission to use our Platform. If this applies to you, please read these Terms and our Privacy Policy with your parent or legal guardian. **If you are a parent or legal guardian and give your child permission to use our Platform, these Terms apply to you and you are responsible for your child’s activities on our Platform.**
- 1.2. Representations and Warranties.** Without limiting anything set forth in the Agreements, by accessing or using our Platform, you represent to us that: (1) you meet the requirements described in Section 1.1 of the Terms; (2) you are legally able to enter into contracts; (3) you are not a person barred from accessing or using our Platform under federal, state, local or other laws; and (4) you have not previously been suspended or prohibited from accessing or using our Platform for any reason other than your cancellation of your access to or use of our Platform in accordance with the Agreements.
- 1.3. Changes to Terms.** We may update or modify these Terms from time to time, with or without providing notice directly to you. We may do so without limitation by updating these Terms on our Platform and by publishing a general notice of the update on our Platform. You can review the most current version of these Terms at any time by clicking the Terms of Use link on our

website or accessing them through the App. By accessing or using our Platform after we have provided such notice, you agree to be bound by such modifications.

1.4. Our Rights. We have the right, but not the obligation, to take any of the following actions in our sole discretion without providing any prior notice to you and without liability to you or any third party:

- (a) change or terminate all or any part of our Platform;
- (b) restrict or terminate your access to all or any part of our Platform;
- (c) refuse, move, or remove anything that is available on our Platform; or
- (d) deny access to our Platform to anyone at any time in our sole and absolute discretion.

1.5. Conflicts. In the event of any conflicts between these Terms and any other Agreement, unless otherwise specified in such other Agreement, these Terms shall control.

2. ACCESS TO AND USE OF OUR PLATFORM

2.1. Acceptable Use. Your access to and use of our Platform must comply with the following (the “Acceptable Use Restrictions”):

- (a) You are only allowed to access and use our Platform for its intended purposes, as determined by us in our sole discretion.
- (b) Without limitation, you are not allowed to access or use our Platform to: (1) violate any laws; (2) transmit or upload any software or other materials that contain any viruses, worms, trojan horses, defects, time bombs or other items of a destructive nature; or (3) engage in commercial activity except as expressly permitted under the Agreements.
- (c) You are also prohibited from: (1) reformatting or framing any portion of our Platform; (2) using any device, software, or procedure that interferes with, or attempts to interfere with, the normal operation of our Platform; (3) taking any action that imposes, or may impose, as determined by us in our sole discretion, an unreasonable or disproportionately large load on our information technology infrastructure; (4) modifying, adapting, disassembling, decompiling, translating or reverse engineering any portion of our Platform or otherwise attempting to reconstruct or discover any source code or underlying ideas, algorithms, file formats, or programming interoperability interfaces of our Platform; (5) disrupting or otherwise interfering with our Platform or the networks or servers we use; (6) impersonating any person or entity or misrepresenting your connection or affiliation with a person or entity; (7) collecting or storing, or attempting to collect or store, personal information about other users of our Platform, except as expressly permitted under the Agreements; (8) engaging in any activity that is illegal under federal, state, local, or other laws; (9) creating a false identity on our Platform; (10) creating an account on our Platform for anyone else (except when, and only to the extent, you create one or more sub-accounts on our Platform for your employees or other representatives that are authorized to use or access our Platform on your behalf); (11) releasing to any third party information related to your access to or use of our Platform for purposes of monitoring our Platform’s availability,

performance, or functionality, or for any other benchmarking or competitive purposes without our prior written approval; (12) copying our Platform, except as expressly permitted under the Agreements; (13) accessing or using our Platform in a service bureau or time-sharing environment (including, without limitation, accessing our Platform to provide third parties a service consisting solely of the collection and entry of data and other information on our Platform); (14) selling, assigning, transferring, sublicensing, pledging, renting, or otherwise sharing your rights under the Agreements; (15) creating any derivative works based on our Platform; and (16) modifying, obscuring, or removing any proprietary notices on our Platform or copies thereof.

2.2. Access to our Platform.

- (a)** To access our Platform, you must use a computer or mobile device, or other device that meets our system and compatibility requirements (each, a “**NanoAffix Supported Device**”) in connection with the testing kits provided pursuant to our Services. Our compatibility requirements can be found at [www.nanoaffix.com/nanoaffix-products/]. FOR EACH AND EVERY APP YOU INSTALL ON YOUR NANOAFFIX SUPPORTED DEVICE(S), YOU ACKNOWLEDGE THAT WE MAY UPDATE SUCH APPS FROM TIME TO TIME, WHICH MAY AFFECT THE FEATURES AND FUNCTIONALITIES OF EACH SUCH APP. FURTHER, YOU AGREE TO RECEIVE, WITHOUT FURTHER NOTICE OR PROMPTING, UPDATED VERSIONS OF ANY AND ALL APPS YOU HAVE INSTALLED ON YOUR NANOAFFIX SUPPORTED DEVICE(S) THAT WE PROVIDE FROM TIME TO TIME. IF YOU DO NOT AGREE TO RECEIVE SUCH UPDATED APPS, DO NOT USE THE APPLICABLE APP.
- (b)** Our App may collect certain geolocation information as described in our Privacy Policy available at www.nanoaffix.com/nanoaffix-products/. You may be able to opt-out or decline to consent to the collection of your geolocation data. You acknowledge that, by doing so, you may be unable to use the full functionality of the App and our Services.

2.3. Compliance with Applicable Laws. You certify that you will comply with all applicable laws (*e.g.*, federal, state, local, and other laws) and the Agreements when accessing or using our Platform. Without limiting the foregoing, by accessing or using our Platform, you represent and warrant that: (1) you are not located in a country that is subject to a U.S. Government embargo or that has been designated by the U.S. Government as a “terrorist supporting” country; and (2) you are not listed on any U.S. Government list or prohibited or restricted parties. If you access or use our Platform outside the United States, you are solely responsible for ensuring that your access to and use of the Platform in such country, territory, or jurisdiction does not violate any applicable laws. We reserve the right, but have no obligation to, in our sole discretion, monitor where our Platform is accessed from, and the right, but not the obligation, to block or otherwise restrict access to our Platform, in whole or in part, from any geographic location.

3. PLATFORM OWNERSHIP AND LICENSE

3.1. Ownership. All rights, title and interest in and to our Platform, including, but not limited to, all of the software and code that comprise and operate our Platform, and all of the text, photographs, illustrations, images, graphics, audio, video, URLs and other materials provided through our Platform are owned by us or third parties who have licensed their content to us.

Our Platform is protected under trademark, service mark, trade dress, copyright, patent, trade secret and other intellectual property laws. In addition, the entire Platform is a collective work under U.S. and international copyright laws and treaties, and we own the copyright in the selection, coordination, arrangement and enhancement of our Platform.

- 3.2. Marks.** The NanoAffix names and logos (including, but not limited to, those of its affiliates), all product and service names, all graphics, all button icons, and all trademarks, service marks, and logos appearing within our Platform, unless otherwise noted, are trademarks (whether registered or not), service marks, and/or trade dress of NanoAffix (collectively, “**Our Marks**”). All other trademarks, product names, company names, logos, service marks, and/or trade dress (collectively, “**Other Marks**”) mentioned, displayed, cited, or otherwise indicated within our Platform are the property of their respective owners. You are not authorized to display or use Our Marks in any manner without our prior written permission. You are not authorized to display or use any Other Marks that appear on our Platform without the prior written permission of the applicable third party.
- 3.3. Limited License.** Subject to your acceptance of, and compliance with, the Agreements, we hereby grant you a limited, non-exclusive, non-transferable, non-sublicensable, revocable right to access and use our Platform in a manner that is consistent with the Agreements and our Platform’s intended purpose(s). You obtain no rights in our Platform except to use it in accordance with the Agreements. Without limiting the generality of the foregoing, you shall not access or use our Platform in violation of the terms set forth in any of the Agreements, including, without limitation, the Acceptable Use Restrictions set forth in these Terms (collectively, “**Prohibited Activities**”). You will be solely liable for any damages, costs or expenses arising out of or in connection with your commission of any Prohibited Activity. You shall notify us immediately upon becoming aware of the commission by any person of a Prohibited Activity and shall provide us with reasonable assistance upon our request with any investigations we may conduct in connection with any such Prohibited Activity.

4. USER CONTENT AND INFORMATION

- 4.1. Personal Information.** By accessing or using our Platform, you acknowledge and understand that we may collect, use, disclose, transfer, and share your personal information. This may include, but is not limited to, sharing information with companies other than NanoAffix as described in our Privacy Policy, available at [www.nanoaffix.com/nanoaffix-products/]. The Privacy Policy may be updated from time to time, so please review it regularly. If you do not agree with the collection and use of personal information as described in the Privacy Policy, please stop using our Platform and terminate your access to our Platform.
- 4.2. Feedback.** By submitting ideas, suggestions, documents, proposals, products, and/or technologies (“**Ideas**” or “**Innovations**”) to us in any way, you acknowledge and agree that: (1) your Ideas and/or Innovations do not contain confidential or proprietary information; (2) we are not under any obligation of confidentiality, express or implied, with respect to the Ideas and Innovations; (3) we shall be entitled to disclose (or choose not to disclose) such Ideas and Innovations for any purpose and in any way; (4) we may have something similar to the Ideas and Innovations already under consideration or in development; (5) your Ideas and Innovations which are not subject to a patent, automatically become our property without any obligation to

you; and (6) you are not entitled to any compensation or reimbursement of any kind from us under any circumstances.

- 4.3. User Content.** Our Platform will allow you to add, upload, or submit the Results, as defined in the Lead Test Kit and Order Form and Agreement, (“**Your Results**”). By adding, creating, uploading or submitting Your Results, you expressly grant, represent and warrant that you have the right to grant, us a non-exclusive, irrevocable, worldwide, transferable, royalty-free, perpetual license to publicly display, publicly perform, reproduce, distribute, create derivative works of, and sublicense Your Results in any manner or through any media now known or later developed without any payment obligation to you. Further, you understand and agree that we have the right, but not the obligation, to pre-screen, edit, refuse, move, or remove any of Your Results posted to or otherwise provided through our Platform.

5. TERMINATION

- 5.1. Right to Terminate.** Subject to the terms set forth in the Agreements, in addition to, and not in lieu of, any of our other rights set forth in these Terms, we reserve the right, with or without notice and in our sole discretion, to terminate these Terms and your ability to access or use our Platform for any reason, including, without limitation, for lack of use or if we believe that you have violated or acted inconsistently with the letter or spirit of these Terms, or in the case of any activity by you that may harm us or other users, including, but not limited to, fraud, abuse of privileges, or misuse of our Platform. You agree that we will not be liable to you or any third party for any such termination.
- 5.2. Effects of Termination.** If we exercise our termination rights available under the Agreements, your license to access and use our Platform shall immediately terminate and you must discontinue all access to and use of our Platform affected by such termination.
- 5.3. Fraudulent Activity.** If we suspect that you are engaging in any fraudulent, abusive, or illegal activity, we may refer such matter to appropriate law enforcement authorities.
- 5.4. Survival.** The provisions of these Terms which by their nature are intended to survive the termination or cancellation of these Terms shall continue as valid and enforceable obligations notwithstanding any such termination or cancellation. Without limiting the foregoing, the provisions of these Terms regarding indemnity and limitations of liability shall survive the termination or cancellation of these Terms.

6. DISCLAIMERS

6.1. Disclaimer of all Warranties.

- (a) OUR PLATFORM - INCLUDING, BUT NOT LIMITED TO, ANY SOFTWARE COMPRISING ANY PORTION OF OUR PLATFORM - IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS AND WE EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND WHETHER EXPRESS OR IMPLIED RELATING TO OUR PLATFORM INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. WE FURTHER EXPRESSLY DISCLAIM THAT OUR PLATFORM WILL BE**

WITHOUT ERROR OR INVULNERABLE TO VIRUSES, WORMS OR OTHER HARMFUL SOFTWARE OR HARDWARE.

- (b) YOU HEREBY ACKNOWLEDGE THAT OUR PLATFORM MAY NOT BE AVAILABLE DUE TO ANY NUMBER OF FACTORS INCLUDING, BUT NOT LIMITED TO, PERIODIC SYSTEM MAINTENANCE, SCHEDULED OR UNSCHEDULED, ACTS OF GOD, UNAUTHORIZED ACCESS, VIRUSES, DENIAL OF SERVICE OR OTHER ATTACKS, TECHNICAL FAILURE OF OUR PLATFORM AND/OR TELECOMMUNICATIONS INFRASTRUCTURE, OR DISRUPTION. THEREFORE, WE EXPRESSLY DISCLAIM ANY EXPRESS OR IMPLIED WARRANTY REGARDING THE USE AND/OR AVAILABILITY, ACCESSIBILITY, SECURITY, OR PERFORMANCE OF OUR PLATFORM CAUSED BY SUCH FACTORS.
- (c) WE DO NOT MAKE ANY REPRESENTATIONS OR WARRANTIES AGAINST THE POSSIBILITY OF DELETION, MISDELIVERY, OR FAILURE TO STORE COMMUNICATIONS, PERSONALIZED SETTINGS, OR OTHER DATA, INCLUDING, WITHOUT LIMITATION, ANY INFORMATION YOU SUBMIT THROUGH OUR PLATFORM.
- (d) SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES. ACCORDINGLY, SOME OF THE ABOVE DISCLAIMERS OF WARRANTIES MAY NOT APPLY TO YOU.

7. YOUR LIABILITY

- 7.1. **Agreement to Indemnify.** YOU AGREE THAT YOU WILL ONLY ACCESS AND USE OUR PLATFORM IN ACCORDANCE WITH THE AGREEMENTS. YOU WILL COMPENSATE US IN FULL FOR ANY LOSSES OR COSTS (INCLUDING REASONABLE ATTORNEY FEES) WHICH WE (OR ANY OF OUR SUBSIDIARIES OR AFFILIATED COMPANIES) INCUR ARISING FROM ANY BREACH BY YOU OF THESE TERMS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, YOU AGREE TO INDEMNIFY, DEFEND, AND HOLD US, OUR SUBSIDIARIES AND AFFILIATES AND OUR AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, AND OTHER REPRESENTATIVES (THE “**RELEASED PARTIES**”) HARMLESS FROM AND AGAINST ANY CLAIM OR DEMAND, INCLUDING REASONABLE ATTORNEY FEES, MADE BY ANY THIRD PARTY DUE TO OR ARISING OUT OF YOUR USE OF OUR PLATFORM, YOUR CONNECTION TO OUR PLATFORM, YOUR VIOLATION OF THE AGREEMENTS, OR YOUR VIOLATION OF ANY INTELLECTUAL PROPERTY RIGHTS OF ANY OTHER PERSON OR ENTITY.
- 7.2. **Additional Remedies.** The Released Parties reserve the right to seek all remedies available at law and in equity for your violation of the Agreements, including the right to block access from a particular Internet address to our Platform and report misuses to law enforcement.

8. LIMITATION OF LIABILITY

- 8.1. **Maximum Liability.** WITHOUT LIMITING ANYTHING SET FORTH IN THESE TERMS, TO THE FULLEST EXTENT PERMITTED BY LAW, OUR ENTIRE LIABILITY, AND YOUR EXCLUSIVE REMEDY, WITH RESPECT TO YOUR ACCESS TO AND USE OF OUR PLATFORM SHALL BE THE AMOUNT OF \$100.

8.2. No Liability for Incidental Damages. IN NO EVENT WILL WE BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES ARISING FROM YOUR ACCESS TO OR USE OF OUR PLATFORM OR FOR ANY OTHER CLAIM RELATED IN ANY WAY TO YOUR ACCESS TO OR USE OF OUR PLATFORM.

8.3. Applicability of Limitations. THE FOREGOING LIMITATIONS WILL APPLY WHETHER SUCH DAMAGES ARISE OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE. THE FOREGOING LIMITATIONS WILL ALSO APPLY REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WE WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME STATES OR JURISDICTIONS DO NOT ALLOW CERTAIN LIMITATIONS OF LIABILITY, SO SOME OF THE ABOVE LIMITATIONS OF LIABILITY MAY NOT APPLY TO YOU. IN SUCH STATES OR JURISDICTIONS, OUR LIABILITY WILL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

8.4. Notice to California Residents. IF YOU ARE A CALIFORNIA RESIDENT, YOU HEREBY WAIVE CALIFORNIA CIVIL CODE SECTION 1542 IN CONNECTION WITH THE FOREGOING, WHICH STATES “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”

9. DISPUTE RESOLUTION

PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS YOUR RIGHTS.

9.1. Waiver of Rights. YOU AGREE THAT BY ACCESSING OR USING OUR PLATFORM, YOU ARE WAIVING THE RIGHT TO A COURT OR JURY TRIAL OR TO PARTICIPATE IN A CLASS ACTION. YOU AGREE THAT YOU MAY BRING CLAIMS AGAINST THE RELEASED PARTIES ONLY IN YOUR INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS, REPRESENTATIVE OR COLLECTIVE PROCEEDING. ANY ARBITRATION WILL TAKE PLACE ON AN INDIVIDUAL BASIS. CLASS ARBITRATIONS AND CLASS ACTIONS ARE NOT PERMITTED.

9.2. Agreement to Arbitrate.

(a) EXCEPT AS OTHERWISE PROVIDED IN THE AGREEMENTS, YOU AGREE THAT ANY AND ALL CLAIMS AND DISPUTES ARISING FROM OR RELATING IN ANY WAY TO THESE TERMS, YOUR ACCESS TO OR USE OF THE PLATFORM, OR YOUR DEALINGS WITH THE RELEASED PARTIES IN CONNECTION WITH THE FOREGOING SHALL BE FINALLY SETTLED AND RESOLVED THROUGH BINDING INDIVIDUAL ARBITRATION AS DESCRIBED IN THIS SECTION.

(b) THIS AGREEMENT TO ARBITRATE INVOLVES INTERSTATE COMMERCE, AND, THEREFORE, SHALL BE GOVERNED BY THE FEDERAL ARBITRATION ACT, 9 U.S.C. 1-16 (“FAA”), AND NOT BY STATE LAW.

(c) THIS AGREEMENT TO ARBITRATE IS INTENDED TO BE INTERPRETED BROADLY PURSUANT TO THE FAA.

- (d) THE ARBITRATION WILL BE GOVERNED BY THE COMMERCIAL ARBITRATION RULES AND THE SUPPLEMENTARY PROCEDURES FOR CONSUMER RELATED DISPUTES OF THE AMERICAN ARBITRATION ASSOCIATION (“AAA”), AS MODIFIED BY THIS SECTION.
- (e) FOR ANY CLAIM WHERE THE TOTAL AMOUNT OF THE AWARD SOUGHT IS \$10,000 OR LESS, YOU MUST ABIDE BY THE FOLLOWING RULES: (1) THE ARBITRATION SHALL BE CONDUCTED SOLELY BASED ON TELEPHONE OR ONLINE APPEARANCES AND/OR WRITTEN SUBMISSIONS AND (2) THE ARBITRATION SHALL NOT INVOLVE ANY PERSONAL APPEARANCE BY THE PARTIES OR WITNESSES UNLESS OTHERWISE MUTUALLY AGREED BY THE PARTIES. IF THE CLAIM EXCEEDS \$10,000, THE RIGHT TO A HEARING WILL BE DETERMINED BY THE AAA RULES, AND THE HEARING (IF ANY) WILL TAKE PLACE IN MILWAUKEE, WISCONSIN.
- (f) THE ARBITRATOR IS BOUND BY THE TERMS OF THIS AGREEMENT TO ARBITRATE. YOU ACKNOWLEDGE AND AGREE THAT, IN ANY ARBITRATION PROCEEDING, NO DEPOSITIONS WILL BE TAKEN, AND ALL OTHER FORMS OF DISCOVERY OF FACTS WILL BE LIMITED TO THOSE THINGS THAT THE ARBITRATOR DETERMINES, IN ITS SOLE DISCRETION, TO BE NECESSARY. FURTHER, IN ANY ARBITRATION PROCEEDING: (1) THERE SHALL BE NO PUNITIVE, EXEMPLARY, INCIDENTAL, OR CONSEQUENTIAL OR OTHER SPECIAL DAMAGES; (2) ALL DAMAGES, CLAIMS, AND AWARDS WILL BE GOVERNED BY WISCONSIN LAW; (3) THE PARTIES WILL CONDUCT THE ARBITRATION CONFIDENTIALLY AND EXPEDITIOUSLY AND WILL PAY THEIR OWN COSTS AND EXPENSES OF ARBITRATION, INCLUDING THEIR OWN ATTORNEY FEES. IF YOU PROVE THAT YOU ARE UNABLE TO AFFORD THE AAA FEE, YOU AGREE TO NOTIFY ALL PERSONAS AGAINST WHOM YOU HAVE AN ARBITRABLE CLAIM AND GIVE SUCH PERSONS THE OPPORTUNITY, INDIVIDUALLY AND AS A GROUP, TO PAY SUCH FEE. THE PROCEEDING AND THE DECISION SHALL BE KEPT CONFIDENTIAL BY THE PARTIES.
- (g) THE ARBITRATOR MAY AWARD DECLARATORY OR INJUNCTIVE RELIEF ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF WARRANTED BY THAT PARTY’S INDIVIDUAL CLAIM.
- (h) THE ARBITRATOR’S RULING IS BINDING AND MAY BE ENTERED AS A JUDGMENT IN ANY COURT OF COMPETENT JURISDICTION, OR APPLICATION MAY BE MADE TO SUCH COURT FOR JUDICIAL ACCEPTANCE OF ANY AWARD AND AN ORDER OF ENFORCEMENT, AS THE CASE MAY BE.
- (i) EXCEPT IN THE EVENT YOU OPT OUT OF THIS AGREEMENT TO ARBITRATE IN ACCORDANCE WITH SECTION 9.5, THIS AGREEMENT TO ARBITRATE WILL SURVIVE TERMINATION OF YOUR ACCESS TO OR USE OF OUR PLATFORM AND YOUR RELATIONSHIP WITH THE RELEASED PARTIES.
- (j) ALL CHALLENGES TO THE VALIDITY AND APPLICABILITY OF THIS AGREEMENT TO ARBITRATE (I.E., WHETHER A PARTICULAR CLAIM OR DISPUTE IS SUBJECT TO ARBITRATION) SHALL BE DETERMINED BY THE ARBITRATOR.

9.3. Information About Arbitration. INFORMATION ON AAA AND HOW TO START ARBITRATION CAN BE FOUND AT WWW.ADR.ORG. THERE IS NO JUDGE OR JURY IN ARBITRATION. ARBITRATION PROCEDURES ARE SIMPLER AND MORE LIMITED THAN RULES APPLICABLE IN COURT AND

REVIEW BY A COURT IS LIMITED. YOU WILL NOT BE ABLE TO HAVE A COURT OR JURY TRIAL OR PARTICIPATE IN A CLASS ACTION OR CLASS ARBITRATION. YOU UNDERSTAND AND AGREE THAT BY AGREEING TO RESOLVE ANY DISPUTE THROUGH INDIVIDUAL ARBITRATION, YOU ARE WAIVING THE RIGHT TO A COURT OR JURY TRIAL. ANY DISPUTE SHALL BE ARBITRATED ON AN INDIVIDUAL BASIS, AND NOT AS A CLASS ACTION, REPRESENTATIVE ACTION, CLASS ARBITRATION, OR SIMILAR PROCEEDING. THE ARBITRATOR MAY NOT CONSOLIDATE THE CLAIMS OF MULTIPLE PARTIES.

9.4. Challenges to Validity of Agreement to Arbitrate. YOU AGREE THAT ALL CHALLENGES TO THE VALIDITY AND APPLICABILITY OF THIS AGREEMENT TO ARBITRATE (*i.e.*, WHETHER A PARTICULAR CLAIM OR DISPUTE IS SUBJECT TO ARBITRATION) SHALL BE DETERMINED BY THE ARBITRATOR. NOTWITHSTANDING ANY PROVISION IN THE AGREEMENTS TO THE CONTRARY, IF THE CLASS ACTION WAIVER ABOVE IS DEEMED INVALID OR UNENFORCEABLE, YOU AGREE THE YOU SHALL NOT SEEK TO, AND WAIVE ANY RIGHT TO, ARBITRATE CLASS OR COLLECTIVE CLAIMS.

9.5. Opt-Out of Agreement to Arbitrate. IF YOU WISH TO OPT OUT OF THE AGREEMENT TO ARBITRATE, WITHIN 45 DAYS OF MAY 3, 2022 OR WHEN YOU FIRST YOU THE PLATFORM, WHICHEVER IS LATER, YOU MUST SEND US A LETTER STATING: "REQUEST TO OPT-OUT OF AGREEMENT TO ARBITRATE" TO:

NanoAffix Science LLC.
1225 Discovery Parkway
Suite 220
Wauwatosa, Wisconsin 53226

9.6. Venue for Litigation. IF THE AGREEMENT TO ARBITRATE IN **SECTION 9.2** ABOVE IS FOUND UNENFORCEABLE OR TO NOT APPLY FOR A GIVEN DISPUTE, OR IF YOU OPTS OUT OF THE AGREEMENT TO ARBITRATE IN ACCORDANCE WITH **SECTION 9.2**, THEN, UNLESS PROHIBITED BY APPLICABLE LAW, THE PROCEEDINGS MUST BE BROUGHT EXCLUSIVELY IN THE STATE AND FEDERAL COURTS COVERING MILWAUKEE COUNTY, STATE OF WISCONSIN, AS APPROPRIATE. YOU ALSO THEREFORE AGREE TO SUBMIT TO THE PERSONAL JURISDICTION OF EACH OF THESE COURTS FOR THE PURPOSES OF LITIGATING SUCH CLAIMS OR DISPUTES, AND YOU HEREBY WAIVE YOUR RIGHT TO A JURY TRIAL, WAIVE YOUR RIGHT TO INITIATE OR PARTICIPATE IN A CLASS OR COLLECTIVE ACTION, AND AGREE TO REMAIN BOUND BY ANY AND ALL LIMITATIONS OF LIABILITY AND DAMAGES INCLUDED IN THIS AGREEMENT.

9.7. Prevailing Party. IN ANY ARBITRATION PROCEEDING OR ANY LEGAL SUIT, ACTION, OR PROCEEDING (AS APPLICABLE) BETWEEN YOU AND THE RELEASED PARTIES RELATED TO YOUR ACCESS TO OR USE OF THE PLATFORM, OR YOUR DEALINGS WITH THE RELEASED PARTIES, THE PREVAILING PARTY SHALL HAVE THE RIGHT TO COLLECT FROM THE NON-PREVAILING PARTY ITS REASONABLE ATTORNEY FEES AND COSTS, INCLUDING BUT NOT LIMITED TO ATTORNEY FEES, EXPENSES, AND COURT COSTS INCURRED DURING ENFORCEMENT OF THE AGREEMENTS.

10. SPECIAL TERMS FOR APPS DISTRIBUTED THROUGH THE APPLE APP STORE OR GOOGLE PLAY

10.1. Acknowledgement. Our App may be available through the Apple App Store or Google Play. You and NanoAffix each acknowledge that these Terms and any other terms and conditions

imposed by NanoAffix with respect to the NanoAffix Apple App and the NanoAffix Google App (the “**NanoAffix Apps**”) and any other agreements entered into between you and NanoAffix in connection with the NanoAffix Apps (collectively, the “**NanoAffix App Agreements**”) are between you and NanoAffix only, and not with Apple Inc. or Google, Inc. (each an “**App Distributor**”), and that NanoAffix, not an App Distributor, is solely responsible for the NanoAffix Apps and the content thereof. In the event the NanoAffix App Agreements provide usage rules for the NanoAffix Apps that are in conflict with the App Distributor Terms and Conditions, the App Distributor Terms and Conditions shall control with respect to the NanoAffix Apps.

- 10.2. Scope of License.** In addition to the other terms set forth in the NanoAffix App Agreements, the licenses granted to you for the NanoAffix App are solely for use by you on a device that utilizes the Apple iOS or Android operating system, as applicable, and in accordance with the usage rules set forth in the applicable App Distributor terms of service.
- 10.3. Maintenance and Support.** NanoAffix is solely responsible for providing any maintenance and support services with respect to the NanoAffix Apps, as specified in the NanoAffix App Agreements or as required under applicable law. You and NanoAffix acknowledge that each App Distributor has no obligation whatsoever to furnish any maintenance and support services with respect to the NanoAffix Apps.
- 10.4. Warranty.** NanoAffix is solely responsible for any product warranties, whether express or implied by law, to the extent not disclaimed in the NanoAffix App Agreements. In the event of any failure of the NanoAffix Apps to conform to any applicable warranty, you may notify an App Distributor, and the App Distributor, in accordance with its terms and policies, may refund the purchase price, if any, paid for the NanoAffix App. Further, to the maximum extent permitted by applicable law, an App Distributor will have no other warranty obligation whatsoever with respect to the NanoAffix App and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be NanoAffix’s sole responsibility.
- 10.5. Product Claims.** You and NanoAffix acknowledge that NanoAffix, not an App Distributor, is responsible for addressing any claims that you or any third party have relating to the NanoAffix App or your possession and/or use of the NanoAffix App, including, but not limited to: (1) product liability claims; (2) any claim that the NanoAffix App fails to conform to any applicable legal or regulatory requirement; and (3) claims arising under consumer protection, privacy or similar legislation.
- 10.6. Intellectual Property Rights.** You and NanoAffix acknowledge that, in the event of any third party claim that the NanoAffix App, or your possession and use of the NanoAffix App, infringes that third party’s intellectual property rights, subject to the limitations of liability and indemnification obligations set forth in the NanoAffix App Agreements, NanoAffix, not the App Distributor, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim.

10.7. Third Party Terms. You must comply with applicable third party terms when using the NanoAffix App.

10.8. Third Party Beneficiary. You and NanoAffix acknowledge and agree that the App Distributors, and their subsidiaries, are third party beneficiaries to these Terms as applicable to the NanoAffix App, and that, upon your acceptance of these Terms, each App Distributor will have the right (and will be deemed to have accepted the right) to enforce these Terms (as applicable) against you as a third party beneficiary thereof.

11. ADDITIONAL TERMS

11.1. Governing Law. These Terms will be governed by the laws of Wisconsin, without giving effect to any principles of conflicts of laws.

11.2. Electronic Communications. The communications between you and NanoAffix use electronic means. For contractual purposes, you: (1) consent to receive communications from us in an electronic form; and (2) agree that all terms and conditions, agreements, notices, disclosures, and other communications that we provide to you electronically, including, but not limited to, the Agreements, satisfy any legal requirement that such communications would satisfy if they were provided in a hardcopy writing. The foregoing does not affect your non-waivable rights.

11.3. Severability. If any part of these Terms is determined to be invalid or unenforceable pursuant to applicable law, including, but not limited to, any warranty disclaimers and limitations of liability set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of the applicable Terms shall continue in effect.

11.4. Waivers. Our failure to enforce any provision of these Terms shall not be deemed a waiver of such provision nor of the right to enforce such provision.

11.5. Admissibility of Terms. A printed version of these Terms and of any notice given in electronic form shall be admissible in arbitration, judicial, or administrative proceedings based upon or relating to these Terms to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

11.6. Assignment. We reserve the right to transfer, assign, sublicense, or pledge these Terms, in whole or in part, to any person without notice, provided that any such assignment will be on the same terms or terms that are no less advantageous to you. You may not assign, sublicense, or otherwise transfer in any manner whatsoever any of your rights or obligations under these Terms.

11.7. Headings. The section headings and sub-headings contained in these Terms are for convenience only and have no legal or contractual effect.

11.8. Support. If you have any questions or concerns about our Platform or these Terms, please email us at techsupport@nanoaffix.com