

## ZB NOMEL SAS PURCHASING TERMS & CONDITIONS

**PREAMBLE:** Buyer is a company specialized in automotive fastening and safety critical components and in the design and conception of fastening solutions for the automotive market. The automotive industry operates in the form of a tight integrated manufacturing chain, subject to strict constraints, particularly in terms of quality and delivery time. The failure of any participant in this manufacturing chain is likely to be detrimental to the entire chain and to the final consumer, and may result, in particular, in manufacturing line stops, recall of automotive fleets or even bodily injury or harm.

Buyer therefore requires from its own Seller a high level of performance and responsibility, regardless of the type of purchase. Seller agrees that time is of the essence and commits to the delivery dates specified by Buyer.

**1. DEFINITIONS AND SCOPE.** These Terms and Conditions (the "T&C") are incorporated into and made a part of each purchase of goods or services (including work and labour) of any kind (hereinafter "Goods" and "Services" respectively and together "Supplies") purchased by the Buyer and supplied and/or performed by the supplier of such Supplies (referred to as "Seller", together with Buyer collectively referred to as the "Parties"). "Buyer" shall mean ZB Nomel SAS (La Forêt du Château, 61550 La Ferté Fresnel, - FRANCE), which has issued the PO. "Purchase Order" (or "PO") means any order issued by the Buyer, in whatever form (including by email), and accepted by the Seller. "Contract" refers to all terms and conditions applicable between Buyer and Seller and related to a Purchase Order.

### 2. CONTRACTUAL DOCUMENTS AND ACCEPTANCE

**2.1 Contractual documents.** The Contract is exclusively governed in decreasing order of priority by : (i) the PO, (ii) the purchasing contract signed by the Parties, (iii) Buyer's Specifications, (iv) the present T&C, (v) the offer of the Seller, (vi) the plans, studies, quotations, technical and other documents exchanged during the quote process by each Party and agreed by both Parties, (vii) the general or specific confidentiality contract agreed upon between the Parties.

The Seller recognizes that after negotiation the T&C reflect the Parties' intent, and is a fair balance between the rights and obligations of the Parties. Any shipment of Goods and/or performance of Services by Seller shall be deemed to be solely governed by the T&C contained or referenced herein, except to the extent that an authorized representative of Buyer may otherwise expressly consent in writing.

#### 2.2 Acceptance

**2.2.1 Acceptance of the PO.** By accepting a PO, Seller acknowledges and accepts without reserve these T&C. Buyer is entitled to cancel any PO without incurring any cost or liability whatsoever so long as the PO has not been accepted.

**2.2.2 Acceptance of the Supplies.** Acceptance of Supplies by Buyer shall occur after complete performance and successful testing of such Supplies any time after the delivery date set forth in the PO, unless any claim or reservation is made by Buyer.

**3. DELIVERY.** Delivery is of the essence in the Contract and shall be in strict compliance with the schedule and quantities contained in the PO. Seller shall ensure that the Supplies conform to Buyer's specifications. Supplies contained in the PO shall be delivered to the location specified in the PO according to the Incoterm DDP (2010 Edition), unless otherwise specified in the PO.

**3.1 Notification.** If Seller encounters or anticipates difficulty in meeting the delivery schedule specified on the PO, Seller shall immediately notify Buyer in writing, giving pertinent details, the reasons for the delay, the actions being taken to overcome or minimize the delay, and provide Buyer with a written recovery schedule, provided however that such data shall be for informational purposes only and shall not be construed as a waiver by Buyer of any delivery schedule, date, of any rights, or remedies provided by law and/or the Contract.

**3.2 Failure, contractual penalty.** Without prejudice to any other rights and remedies the Buyer may claim at law or in equity, if (i) the Seller fails to fulfill any delivery obligations or (ii) if the Buyer has reasonable cause to believe that the Supplies will not be delivered in accordance with the Contract, the Buyer may take any appropriate measure, including, without limitation, procuring all or part of such Supplies from a third party. In such case the Seller shall bear all the related costs and expenses. Without prejudice to any other rights and remedies of the Buyer, in case of late delivery Seller shall pay the Buyer a contractual penalty which shall be calculated by the number of calendar days (or part thereof) by which the delivery is late and by the amount of half one per cent (0,5%) of the value of the concerned Supplies per delayed calendar day. This penalty is due to Buyer from the scheduled date of delivery and without further notice to Seller.

**3.3 Overshipments.** Supplies shall not be delivered before the contracted date of delivery or in excess of quantities and shipping tolerances, if any, specified in the PO, and shall remain at Seller's risk. Seller shall be liable for handling charges and return shipment costs for any excess quantities, and/or storage fees according to the discretion of the Buyer.

**3.4 Advanced shipment.** Seller shall not deliver Supplies prior to the scheduled delivery dates unless authorized in writing by Buyer. Buyer reserves the right, without loss of discount privileges, to pay invoices covering Goods shipped in advance of the schedule after the date specified for delivery and only after successful acceptance testing has been accomplished by Buyer.

**3.5 Title.** Ownership of the Goods will be transferred upon acceptance of the PO by the Seller, and for the Services as they are performed. The Seller agrees to identify these Supplies as the property of the Buyer and, in case of storage, to store them in a distinct location away from any other goods.

**3.6 Packaging.** All Goods to be delivered hereunder shall be packaged to insure safe arrival at their destination, to secure the best transportation means and to comply with the applicable local laws and with requirements of common carriers. Seller shall ensure that Goods are shipped with: the documents in compliance with all applicable standards and regulations at the date of delivery, the certificate of conformity in compliance with Buyer's instruction, the necessary documentation for the proper use, storage and maintenance thereof, shipping memos or packing list, and more generally any document required by Buyer. Those documents along with the appropriate duplicates must be placed in a sealed transparent envelope attached to the outside of the package or in one of the packages if there is more than one. Buyer's count or weight at delivery shall be final and conclusive on shipments. At the request of the Buyer, the packaging will be returned by the Seller. When Buyer entrusts to the Seller the packaging and/or handling materials (the "Materials") that Buyer owns or that Buyer's customers entrust to Buyer, the Seller shall be responsible for these Materials and shall indemnify the Buyer for all direct or indirect cost, expenses, damages, liabilities and consequences suffered by the Buyer as a result of any loss or damage to such Materials. The Seller shall use such Materials only for the performance of the Contract. The Buyer may, at its discretion, make inventories of all Materials being used by the Seller. In the case of missing Materials, such Materials will be re-invoiced to the Seller at their replacement price. Seller shall immediately upon Buyer's request, return the Materials to the Buyer.

**3.7 Traceability.** Seller shall maintain at all times (in written or recorded form) an effective system for the traceability of the Goods including, without limitation, technical means which enable to identify the relevant manufacturer and batch number of the said Goods and undertakes to provide Buyer with all such information.

**4. INSPECTION.** Buyer, its customers, any other higher tier contractor, or duly empowered public authorities, may access any document concerning the Contract and audit, supervise or examine the work accomplished by Seller while fulfilling the PO. Seller shall assist and grant Buyer access to its premises and shall also pass the obligation on to its sub-contractors to grant access to their premises. Seller shall maintain a safe working

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environment during inspection and a appropriate quality system. Any costs incurred by this supervision and any measures required shall be borne by Seller. Seller undertakes to provide all information, facilities and assistance necessary to Buyer during the inspection. Buyer shall be entitled to inspect Supplies referenced in the PO at all reasonable times and places, from acceptance of the PO to the shipment of the Goods. The right of inspection covers without limitation: materials, components, work in process, documents.

**5. PRICES.** Unless otherwise specified, prices are fixed and firm and are as per Incoterm DDP (2010 edition). The Seller agrees to bear the risk, cost and expenses of any variations in the cost or price of raw materials included in, or required for, the Supplies as well as the economic consequences of a legislative change that may occur during the performance of the Contract and waives any legal provision against Buyer for the purpose of compensation or price increase. Prices shall include all applicable taxes and customs duty. No additional charges will be allowed for packing, transport or storage. Any price reduction after placement of the PO but prior to delivery shall apply to the PO.

Prices include the cost of maintenance and refurbishment of Tooling and Data as per Article 18, if any, warranties for the Supplies, and the cost of assignment of the intellectual property rights as per Article 19.3.

**6. PAYMENT.** The invoice for each delivery must be sent to the Buyer's address specified in the PO within five (5) calendar days of the delivery date. Seller shall be paid by bank transfer, according to the payment terms as stipulated in the Contract and upon receipt by Buyer of an invoice duly sent in accordance with Buyer's instructions for Supplies delivered. Buyer reserves the right to make adjustments due to shortages, rejection or other failure to comply with the provisions of the Contract before payment after a good faith discussion.

Non-receipt of the invoice, errors or omissions on an invoice, or lack of supporting documentation required by the Contract, will be cause for withholding price reduction without losing applicable discounts. Without prejudice to any other right or remedy, and to the extent permissible by law, the Buyer reserves the right to set off any amount owing at any time from the Seller to the Buyer against any amount payable by the Buyer to the Seller. If the Buyer makes an advance or a down payment and the Contract includes a price revision clause, the price of the Supplies concerned by such advances and down payments will be adjusted. Any request for advance or down payment for more than fifty thousand (50,000 €) shall be covered by a bank guarantee provided by Seller.

Unless otherwise specified in the PO and subject to the acceptance of the Supplies by the Buyer, payment shall be made within thirty (30) days from receipt of the correct invoice in accordance with this section in the proper form. There shall be no interest payable by the Buyer from due date. After notice of default, legal provisions shall apply.

**7. SELLER'S QUALITY MANAGEMENT.** Seller shall have an effective quality system which encompasses its operational process procedures and related performance measurement through the compliance with the requirements of ISO9001 and with the objective to obtain IATF 16949 and including: (i) continuous improvement policy including in, but not limited to, quality, security and environmental fields (integrating the elaboration of an annual quality progress plan), (ii) preventive actions plans, (iii) an industrial risk analysis methodology, inventory, production capacity and backorder management policy, processes and procedures, (iv) monitoring policies of its subcontractors with specific recovery plan and dedicated continuous improvement actions and (v) altogether with their key performance indicators (KPI) and related performance matrix with defined objectives. In addition, Seller shall verify the integrity and applicability of the procurement plan sent by Buyer prior to inputting the information of demand/purchase into its production management system.

The Seller undertakes to avoid defects and failures in the Supplies and performance of the Contract by implementation of control systems to be able to verify the conformity of Supplies to the Contract.

Any changes in the production, management, supply and manufacturing processes that may affect the quality of the Supplies to be delivered under the Contract shall be promptly submitted to the Buyer for approval before being implemented.

**8. SERVICE AND SPARE PARTS.** If requested by the Buyer, Seller shall provide spare parts and/or ancillary services at the price(s) set forth in the Contract, adjusted only if approved by Buyer and if necessary due to differences in packaging and logistics costs. During the period after Buyer has completed its current purchases, Seller will provide to the Buyer, at the latter's request, such ancillary services and/or spare parts during twenty (20) years after the end of serial production of the concerned ancillary services and/or spare parts. For this purpose, the Seller shall, at the Buyer's request, remain responsible for the Tooling. The Seller agrees to maintain, at its expense, a permanent security stock as provided for in the Contract, to be kept in a separate area away from other goods, and to ensure that such stock is maintained at the levels provided in the Contract.

**9. OBSOLESCENCE.** Obsolescence shall be the characteristic of Supplies, or any part of the Supplies, which has been taken out of production and cannot be purchased on the market, or the use of which has been announced as being or to be restricted, forbidden by an Automotive Authority notice or a Technical Service Bulletin (hereinafter "Obsolescence"). In case of Obsolescence, Seller shall source, at no cost and without operational impact to Buyer, a suitable replacement, for the said obsolete Supplies. This replacement shall be made available without disrupting or discontinuing Buyer provisioning and be interchangeable in fit, form, function and if applicable aesthetics. Seller shall notify the risk of obsolescence to the Buyer as soon as Seller has knowledge of such a risk. Seller shall do its best efforts to take back all obsolete stocks already paid by Buyer.

**10. OBLIGATION OF INFORMATION, ADVICE AND ALERT.** The Seller is deemed to have all the necessary technical information, know-how and skills related to the performance of the Contract.

As a professional in the field of Supplies, the Seller shall, regardless of the skills or knowledge of Buyer, provide Buyer information, advice and warnings necessary, useful and adequate relating to the Supplies.

The Seller shall (1) verify that Buyer's input data (such as the specifications, samples, and plans) is consistent, complete and relevant, and, if necessary, notify the Buyer of any anomaly or omission found in such data; (2) inform the Buyer of any risk of quality issues; (3) immediately alert the Buyer of any risks to the Supplies; (4) notify the Buyer of any event that the Seller is aware of and which could affect or have an impact on the proper performance of the Services; and (5) propose to the Buyer any modification that improves the quality, competitiveness or price of the Supplies.

### 11. CHANGES

**11.1 Changes in the PO.** If Buyer requests a change of the PO, Seller shall immediately do his best effort to adapt and carry out the PO accordingly. Seller guarantees that such changes can be made without notice to guarantors or assignees. If any such changes cause an increase or decrease in the cost of, or the time required for the performance of any part of the work under the PO, or affects any other provisions of the PO, an equitable adjustment shall be made in the price or delivery schedule, or both, and in such other provisions of the PO and the Contract as may be affected. The PO shall be modified in writing accordingly. In case the Seller does not notify the Buyer of its intent to claim for adjustment within twenty (20) calendar days from the date of receipt of the written notice stating the change of PO, Seller shall be deemed to have accepted, without increase or adjustment to the price or time for performance, the modified PO. Failure to agree to any adjustment shall be a dispute as per Article 28 below. However, nothing in this paragraph shall excuse Seller from proceeding with the PO as changed. Any unilateral action taken by Seller which affects the fulfilment of any provision of the PO, including delivery and price, shall not entitle Seller to an equitable adjustment in accordance with this paragraph unless such action has been specifically accepted by Buyer.

**11.2 Changes in Seller's manufacturing process and/or Characteristic of the Supplies.** In addition, Seller shall inform diligently Buyer under written form of any intended Change, a Change being defined as (i) a change of a characteristic of the Supplies (even if modified Supplies shall comply with contractual technical requirements, (ii) or in the manufacturing process of Seller. Such change may include, but is not limited to: a new

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raw material, a new or a modified manufacturing process, new or modified equipment, or any transfer, in all or in part, of the production by Seller to another plant or another seller. No Change shall be implemented by Seller without the prior written consent of Buyer. Depending on the impacts of the Change, Buyer and/or its customer may decide to launch a new qualification process (that takes on average eighteen months at the least). If, at any time during the Contract, Seller is able to propose a change to the technical specifications or to manufacturing process of the Supplies, which reduces the cost of the Supplies, the Parties shall mutually agree on the associated savings, which savings shall be reflected as a reduction in the price of the Supplies. After discussions between both Parties, Buyer will inform Seller about all costs associated with or resulting from a Change which shall be borne by Seller.

**12. SUSPENSION.** Buyer may at any time, by written notice, require Seller to suspend all or any part of the work to be performed under any PO for a period up to ninety (90) calendar days after the notice is delivered to Seller ("Stop Work Order"). Upon receipt of the Stop Work Order, Seller shall immediately comply with its terms and take reasonable steps to minimize the costs allocable to the work covered by the PO during the period of work stoppage. Within the work stoppage period, or within any extension of that period of which the Parties have agreed, Buyer shall either cancel the Stop Work Order, or terminate the work covered by the PO as provided in the "Termination for Default" or the "Termination for Convenience" paragraphs of these Terms and Conditions, whichever may be appropriate.

Seller shall resume work upon cancellation or expiration of any Stop Work Order. Buyer and Seller shall negotiate an equitable adjustment in the price or schedule or both, provided the following cumulative conditions are fulfilled: (i) this Contract is not canceled or terminated; (ii) Seller brings material evidence to Buyer that the suspension increases Seller's cost or decreases its ability to meet the PO delivery schedule; and (iii) the Seller submits a claim for adjustment within twenty (20) calendar days after the suspension is canceled. Seller's failure to comply with these conditions shall result in Seller's waiver any price adjustments resulting from the suspension.

## 13. WARRANTIES

### 13.1 Seller warrants that all Supplies furnished pursuant to the Contract:

(a) will comply with all applicable specifications, instructions, drawings, data, samples or other descriptions agreed upon, including but not limited to those previously furnished or required by Buyer, (b) will be merchantable, of good material and workmanship, and free from defect (in particular any defect arising from design, form fit and function), (c) will be as described and advertised and fit for the intended purposes, (d) will be free from all liens and encumbrances, and (e) will comply with all laws, legal requirements and regulations applicable. These contractual warranties are valid for thirty six (36) months from definitive technical reception by the Buyer of the Supplies and are in addition to all other warranties set by law, Seller's standard warranties or other rights or warranties which Buyer may be entitled to. Seller shall indemnify, defend, and hold harmless Buyer from any breach of these warranties and this shall be without prejudice to any other rights or remedies of Buyer under the Contract or at law. Limitations on Buyer's remedies or disclaimers of warranties in documents of Seller shall not be effective and are rejected. All warranties, together with Seller's service warranties and guarantees, if any, shall survive inspection, test, acceptance, and/or validation by the Buyer or any third party, and as well as payment for the Supplies, and shall run to Buyer, its successors, assigns, customers at any tier, and ultimate user and joint users.

**13.2 Goods with a limited storage life.** In the event of Goods or material with a limited storage life being supplied, the Seller must specify: (a) the measures required to ensure storage in good condition, (b) the total period of validity of the Goods, before use, counting from the date of manufacture; and (c) the use expiry date, affixed appropriately and indestructibly to the part of the packaging directly containing, bearing or protecting the Goods. Seller shall ensure that in relation to the expiry date of the Goods, Buyer will benefit from at least eighty percent (80%) of the total life expectancy.

**14. COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS.** Supplies shall comply with all applicable laws and regulations and the Seller agrees to comply with, without limitation: (i) all national and international applicable bribery acts or rules, and duty of care, and (ii) all applicable export, re-export and import laws, regulations, decrees, orders and policies of the United States Government and the Government of any country in which the Parties conduct business pursuant to the Contract. Seller's employees, representatives and/or agents will comply with all said applicable laws and regulations including the Buyer's "Code of Conduct", and the warning device implemented by the Buyer. Seller acknowledges and accepts full and sole responsibility to maintain an environment, health and safety management system appropriate for its business throughout the performance of this Contract. Seller shall respect the ISO 14001 principles and/or OHSAS 18001 and will do its best efforts to be certified. Seller shall convey the requirement of these clauses to its suppliers. Upon Buyer's request, Seller will furnish certificates of compliance and agrees to provide Buyer all explanatory and factual information Buyer needs to verify such compliance.

The Seller will inform diligently the Buyer about (i) any supplied Goods that may be covered and/or are covered by the REACH regulations and, (ii) if any, the corresponding registration number, constraints and recommendations for the safe use of the Goods. Seller shall perform appropriate due diligence on its suppliers in order to warrant the full performance and compliance of the commitments set forth in this article by Seller and its suppliers.

## 15. NON COMPLIANCE OF SUPPLIES

**15.1 Non-compliance of Supplies.** Any Supplies which do not comply with the Contract specifications may be rejected by the Buyer. Seller shall organize, at its own expense, the return of the defective Supplies within fourteen (14) calendar days of the notice of rejection; otherwise Buyer will organize the return of the Supplies at Seller's risk and expense. Supplies rejected by Buyer will be considered as undelivered and unperformed and will be deducted from the current invoices. Failure to discover defects in Supplies or payment of Supplies shall not constitute acceptance thereof or limit any of Buyer's rights, including without limitation, those under the warranty provisions of the Contract.

**15.2 Concession requests.** On a very exceptional basis, the Buyer agrees to examine requests made by the Seller during the manufacture of a Good and/or performance of a Service for special concessions with respect to the technical specifications and/or the definition. Such requests must reach the Buyer upon the non-conformity being discovered, accompanied by all supporting documents necessary to assess the concession request. If concession is granted, any obligations on the Buyer as a result thereof, such as replacement of the Good and/or modification of the Service, and expenses arising there from, will be borne in full by the Seller. The Buyer reserves the right to demand a price reduction and/or to charge the Seller a fixed fee of seven hundred Euros (700€) and any other additional costs, charges or amounts incurred by the Buyer for assessing the concession request. The granting of concession will not discharge the Seller from its obligations or responsibilities, notably with respect to modification of specifications or meeting delivery deadlines.

**15.3 Replacement of rejected Goods and rework of Services.** At Buyer's request, Seller shall: (i) repair or replace defective Goods as soon as possible at its own expense, and/or (ii) rework defective Services as soon as possible at its own expense, without prejudice to Buyer's rights to indemnification by Seller for all suffered damages or Buyer's right to order, at Seller's expense, Supplies from third parties. Seller must issue a new invoice for the replaced Goods and/or reworked Services. Warranty on the replaced or repaired Goods will begin upon their acceptance. Payment terms will commence from the acceptance of the replaced or repaired Goods and/or the reworked Services.

**15.4 Corrective action.** Seller must take appropriate corrective actions as quickly as possible in the event of serious and/or repeated noncompliance. At the same time, Seller must take all measures in order to ensure the Supplies comply with the Contract specifications. All costs for checking and supervision performed by Buyer and/or a third party empowered by Buyer will be borne by Seller.

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**15.5 Information and communications in the event of non-compliance.** If Seller anticipates any non-compliance potentially affecting delivered Goods and/or performed Services, Seller must immediately inform Buyer, identifying the delivered Goods batches and/or performed Services likely to be affected, specifying the nature of the non-compliance, the consequences thereof, and a list of other customers also potentially impacted.

### 16. LIABILITY

**16.1 Total Indemnification.** The Seller shall indemnify the Buyer on first demand in full against all losses, damages (including, but not limited to, loss or damage to property, consecutive and non-consecutive damages), liability, claims, costs, fines, penalties and expenses (including reasonable legal and professional advisors fees and expenses whether or not proceedings are brought) awarded against or incurred or paid by the Buyer as a result of or in connection with:

- (a) the Contract, including any breach of warranty, given by the Seller in relation to the Supplies whether actual or alleged with reasonable cause and whether or not proceedings are brought;
  - (b) any liability under any safety, health, environment, labour law, anti-corruption, and/or consumer legislation which relates to the subject matter of the PO;
  - (c) any act or omission of the Seller or its employees, agents or sub-contractors in the supply or delivery of the Goods and/or Services; and
  - (d) any claim reasonably made by any customers of the Buyer in respect of the Supplies supplied by the Seller (except to the extent that such liability results from compliance by the Seller with any agreed specification from the Buyer or from negligence on the part of the Buyer or its employees).
- Seller shall defend, indemnify, and hold harmless Buyer, its officers, employees, agents, representatives, customers, and users of Seller's Supplies from and against all demands, claims, damages, loss, or liabilities of every kind and nature (including attorney fees and recall costs) based upon any allegations of, or resulting from the performance or breach to comply with the PO. All obligations of Seller to indemnify, hold harmless, protect and defend are in addition to all other rights or remedies of Buyer and survive acceptance and use of the Supplies, payment and completion, termination, or cancellation of the Contract.

**16.2 Limitation on Buyer's Liability.** Under no circumstances will Buyer be liable for consequential, incidental, or special damages of any kind or for any damages in excess of the price allocable to the portion of the Supplies on which the claim is based. An action on any claim asserted by Seller against Buyer must be brought within one year after the occurrence of the fact on which the claim is based.

**17. INSURANCE.** Seller shall obtain and maintain during the term of the Contract all insurance policies required under applicable law in respect of the manufacture and/or supply and/or performance of the Supplies including, but not limited to, insurance policies covering personal injury, product liability, physical, consequential and non-consequential damages, whether direct or indirect, in relation to the performance of the PO and in respect of all liabilities, claims, costs and expenses incurred by Buyer due to an act or omission of Seller, its employees, agents and sub-contractors. Such insurance policy shall cover all risks hereabove mentioned. The insurance must be taken out by Seller with a reputable international insurance company and Seller must provide the related insurance certificates at any time promptly at the request by Buyer.

**18. TOOLING AND DATA.** In case Buyer provides to Seller tooling, material and/or data (such as but not limited to processes, know-how, special dies and patterns) (hereafter the "Tooling and Data") for the performance of the PO, such Tooling and Data will be stored by Seller under its supervision. These Tooling and Data must be solely used for the performance of the PO. Seller takes all risk and liability regarding such Tooling and Data, and shall subscribe any relevant insurance for loss or damage thereto, except for normal wear and tear, and shall furnish proof of such insurance on Buyer's request. Seller shall supply to Buyer detailed statements of inventory of such Tooling and Data upon request of Buyer. Seller shall maintain and refurbish of all Tooling and Data at its own costs. These Tooling and Data shall remain Buyer's property and must be identified as such by Seller with permanent markings or small plaques and stored in a dedicated area.

Any Tooling and/or Data which is at Seller's disposal for the purpose of performance of the PO shall remain subject to the foregoing restrictions on use, reproduction and disclosure. Buyer may, at his sole discretion, reimburse Seller for the cost of part or all special tooling paid for by Seller which is used for the performance of the PO, and upon payment Buyer shall become the owner thereof, and shall be entitled to possession at the term of the PO, or at such earlier date as the Parties may agree. Tooling and Data shall be subject to removal at any time without additional cost upon Buyer's request. Upon termination of the Contract or upon written request of Buyer, Seller shall return any and all Tooling and Data to the Buyer and certify that all copies thereof have been destroyed.

### 19. INTELLECTUAL PROPERTY RIGHTS ("IPR")

**19.1 Warranty and indemnification.** Seller warrants, represents, and undertakes that the Supplies delivered under the Contract do not infringe any other party's patents, trademarks, trade names, registered designs, design rights, copyrights or any other IPR. Seller shall be liable and agrees to defend, indemnify and hold harmless Buyer, its customers and agents against any liability, including without limitation costs, expenses, and attorneys' fees, for or by reason of any actual or alleged infringement of any IPR arising out of the manufacture, use, sale, resale, delivery, modification, or disposal of Supplies.

Notwithstanding the foregoing the Seller shall not be deemed responsible for such liability as set forth hereabove if the violation is directly linked to a breach of Buyer's contractual obligations.

**19.2 Notifications.** In the event of any such claim against Buyer, Seller shall furnish to Buyer, when notified by Buyer, all evidence and information in possession of Seller pertaining to such claim. Seller shall report to Buyer promptly and in written details, each notice or claim of patent or copyright infringement relating to the performance of the PO of which Seller has knowledge.

**19.3 License/Assignment.** Seller shall disclose and hereby exclusively assigns to Buyer all inventions and data created during the performance of the PO as well as the IPR pertaining thereto, including but not limited to reproduction rights, performance rights, adaptation rights, commercialization rights and use rights for any purpose and for the entire period of statutory protection specified in the applicable legislation. Upon termination of the PO, either for Seller's default, insolvency or for convenience, Buyer may, at Buyer's option, use on a nonexclusive basis, all drawings, documents or other records related to the PO whether created by Buyer or Seller without further compensation to Seller.

**20. RIGHTS AND RESERVATIONS.** All drawings, specifications, designs, information, tools, patterns, equipment, processes, know-how, materials, special dies and other goods supplied, developed or paid for by Buyer, and proprietary rights embodied therein, shall remain the exclusive property of Buyer and shall be kept separate from other drawings, specifications and materials, and identified as the property of Buyer. The same shall not be used or reproduced for any purpose whatsoever except for the fulfilment of the PO.

**21. CONFIDENTIALITY.** The information disclosed under any form by Buyer to Seller linked to the PO, to the extent that such information is not in the public domain and evidenced by written documents, shall not be disclosed to any third parties unless Buyer's prior written consent and are considered as confidential, except to employees and/or subcontractors as necessary for completion of the PO, in which event these shall have the same obligation of nondisclosure under Seller's responsibility. Such information shall be used only in performing the PO. This duty of confidentiality shall survive completion, cancellation and termination of the PO.

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**22. ARCHIVES.** Seller undertakes to archive copies of its all work product, included but not limited to technical documents relating to its manufacturing process, and all elements used for the entire and proper performance of the PO for a period of twenty (20) years after the expiry or termination thereof.

### **23. TERMINATION FOR DEFAULT.**

(a) Buyer may, by written notice of default to Seller and subject to the provisions of subparagraphs (c) and (e) below, terminate the whole or any part of the PO and/or of the Contract in any of the following circumstances:

(i) If Seller fails to perform the PO and/or the Contract within the time specified or any extension thereof. Seller shall be responsible within such extension for any and all additional charges resulting from Seller's delay.

(ii) If Seller fails to perform any of the other provisions of the Contract, or fails to make progress as to endanger performance of the Contract in accordance with its terms, or if Buyer anticipates such failure, and Seller does not remedy such failure within a period of thirty (30) calendar days (or such longer period as Buyer may authorize in writing) after receipt of notice of failure from Buyer.

(b) In the event Buyer terminates the Contract in whole or in part as provided in subparagraph (a) above, Buyer may procure, upon such terms and in such manner as Buyer may deem appropriate, Supplies similar to those so terminated, and Seller shall be liable to Buyer for any excess costs for the same, and reimburse Buyer for all monies already paid for the performance of the Contract, provided that Seller continues the performance of the Contract to the extent not terminated hereunder.

(c) Except with respect to defaults of subcontractors at any tier, Seller shall not be liable for any excess costs if the failure to perform the Contract arises out of causes beyond the control and without the fault or negligence of Seller, unforeseeable and/or that cannot be avoided, referred to as "Force Majeure" event (for the sake of clarity, strikes shall not be considered a Force Majeure event). If a Force Majeure event arises, Seller shall promptly notify Buyer and shall use its commercially reasonable endeavors to overcome such event. Buyer shall be entitled to terminate the Contract, either in whole or in part, if such Force Majeure event lasts more than sixty (60) calendar days.

(d) If the PO and/or the Contract is terminated as provided in subparagraph (a) above, Buyer may, in addition to any other rights provided in these T&C or available under applicable law, require Seller to transfer title and deliver to Buyer or its designee, in the manner and to the extent directed by Buyer :

(i) Any completed Supplies,

(ii) partially completed Supplies and

(iii) Manufacturing and raw materials.

The price for completed Supplies delivered to and accepted by Buyer shall be the price set forth in the PO. The price for manufacturing materials delivered to and accepted by Buyer shall be agreed upon by Buyer and Seller.

(e) The rights and remedies of Buyer provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under these T&C.

(f) It is understood and agreed that Seller shall reimburse Buyer for all costs and expenses incurred by Buyer due to Seller's default.

**24. TERMINATION FOR CONVENIENCE.** Buyer may at any time by written notice terminate all or any part of the Contract at its sole convenience. In the event of such termination, Seller shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to stop work related to the performance of the PO.

Subject to the terms of this Contract, within ninety (90) calendar days after the effective date of termination, Seller may submit to Buyer a claim reflecting the percentage of the work performed prior to the effective date of termination, plus reasonable charges that Seller can demonstrate have resulted from the termination, to the satisfaction of Buyer. Seller shall not be paid for any work performed or costs incurred which reasonably could have been avoided. Further, Seller shall not be paid, and in no event shall Buyer be obligated to pay, lost or anticipated profits or unabsorbed indirect costs or overhead. In no event shall Buyer be obligated to pay Seller any amount in excess of the PO price. The provisions of this paragraph shall not limit or affect the right of Buyer to terminate the Contract for default. In any case, Seller shall continue all work not terminated.

**25. TERMINATION FOR INSOLVENCY AND CHANGE OF CONTROL.** Seller undertakes to inform diligently Buyer of any change occurring in its share capital, a change of control of Seller's board or shareholdings ("Control"), merger and amalgamation, and in the event of an institution of any proceedings by or against Seller in bankruptcy or insolvency, referred to as "Insolvency Event" (including, but not limited to, official administration, liquidation or an arrangement with its creditors), or the appointment of a receiver or trustee or an assignment for the benefit of creditors of Seller.

To the fullest extent permissible by law, Buyer may terminate the PO and/or Contract forthwith if: (a) Seller undergoes a change of Control; (b) Seller suffers an Insolvency Event; (c) Seller ceases or threatens to carry on its business; or (d) the financial position of Seller deteriorates to the extent that at Buyer's discretion the ability of Seller to properly fulfill its obligations under the Contract has been placed in jeopardy. Any termination under this paragraph shall be deemed to be a termination for default in accordance with Article 23 hereabove.

**26. ASSIGNMENT AND SUBCONTRACTING.** Seller shall not assign the Contract or any obligations under the Contract, nor shall Seller subcontract for completed or substantially completed Supplies purchased under the PO without the prior written consent of Buyer. Any such consent to subcontract shall not relieve Seller of any obligation to comply with the Contract. This limitation shall not apply to the purchase by Seller of standard commercial supplies or raw materials. Seller shall select subcontractors (including supplies) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the PO.

**27. NO WAIVER.** No waiver, delays, or forbearance by Buyer of any breach of the Contract or a PO, or the granting of an extension for performance thereunder shall be construed as a waiver or relinquishment of any such provisions, rights or remedies. Seller agrees that Buyer's approval of Seller's technical and quality specifications, drawings, plans, procedures, reports, and other submissions shall not relieve Seller from its obligations to perform all requirements of the Contract.

### **28. APPLICABLE LAW AND DISPUTE RESOLUTION**

**28.1 Applicable law.** The validity and performance of the Contract and any related PO shall be governed by and construed in accordance with the laws of the jurisdiction in which Buyer's facility issuing the PO is located to the exception of the United Nations Convention on Contracts for the International Sale of Goods.

**28.2 Dispute.** The Parties agree that in the event of any dispute arising from the Contract and any PO, they will endeavor to reach an amicable settlement. Failing to reach such dispute resolution, jurisdiction and venue of any suit between the Parties hereto arising out of or connected with this Contract, the PO or the Supplies furnished hereunder shall lie only in the competent courts in which the Buyer's headquarters are located.

**28.3 Pending resolution of any dispute under the Contract.** Seller shall proceed diligently with the performance of work, including the delivery of the Supplies in accordance with Buyer's direction. Upon resolution of the dispute, the PO shall be equitably adjusted, if necessary, to reflect such resolution.

## ZB NOMEL SAS PURCHASING TERMS & CONDITIONS

### ADDITIONAL EUROPEAN PROVISIONS

#### A. ADDITIONAL PROVISIONS APPLICABLE TO PO GOVERNED UNDER FRENCH LAW

**Labor laws.** The Seller warrants and undertakes that all work relating to the Supplies will be performed by individuals properly employed in accordance with Articles L. 1221-10 and L. 8221-1 etc. of the French Labor Code or equivalent applicable laws, regulations and rules for foreign suppliers. For PO exceeding the amount set forth in Article 13 of the French "Décret n°2015-364", the Seller must provide the Buyer, on acceptance of the PO and every six (6) months thereafter, with all information and documents as requested by the provisions of Article L8254-1 of the French Labor Code and under any relevant applicable law elsewhere in the world where the Seller is not based in France.

**Employee on Secondment.** The Seller, when carrying out, directly or indirectly, a transport service, undertakes to comply with the law in force relating to Employees on Secondment (Decree N° 2016-418 dated as April, 7th of 2016) and to send to the Buyer the documents referred to in Articles R 1331-1 to R 1331-11 of the French Transport Code.

**Late payment.** In the event of late payment not justified by the Buyer, and where the law applicable to the Contract provides so, the Buyer shall pay to the Seller (i) late-payment interest corresponding to an amount which may not exceed three (3) times the legal interest rate and (ii) the legal indemnity lump sum. Any other indemnification is excluded.

#### B. ADDITIONAL PROVISIONS APPLICABLE TO PO GOVERNED UNDER CZECH LAW

**Penalty.** The settlement of the contractual penalty or interest on late payments shall not affect the right of the Buyer to claim compensation for damage arisen by the breach of the duty against which the contractual penalty or interest on late payments were paid. In case a breach of any duty from the Contract or from these T&C constitutes a reason for origination of more claims, the Buyer may assert all of these claims jointly.

**Seller's T&C.** The Seller's T&C shall not be effective unless expressly approved in writing by the Buyer as part of the Contract between the Parties. Therefore, none of the Seller's T&C referred to by the Seller e.g. in its legal acts toward the Buyer shall become part of the Contract without an express written consent of the Buyer, even though the Buyer does not object to such a reference.

**Liability for Defects and Liability from Warranty.** Application of provisions of Sec. 2104, 2105, 2110, 2111, 2112, 2618, and 2629 of the Act. No. 89/2012 Coll., Civil Code (referred to as "Civil Code") is excluded.

**Risk of changes in circumstances.** The Seller hereby assumes the risk of a change of circumstances within the meaning of Sec. 1765 (2) of the Civil Code.

**Offset of receivables.** The Seller is not entitled to unilaterally set off its receivables against receivables of the Buyer from the Contract, these T&C or in connection therewith.

**Quality warranty.** For the avoidance of doubt, the Parties declare that the thirty-six (36) month warranty referred to in Article 13 of these T&C constitutes a quality warranty within the meaning of Sec. 2113 et seq. of the Civil Code.

**Transfer of risk of damage to Supplies.** The risk of damage to the Supplies shall be transferred to the Buyer always as of the moment of the Supply takeover and acceptance (regardless of where the place of Supplies takeover was agreed and moment of transfer of ownership to the Supplies). This provision shall not apply to the transfer of the risk of damage to a part of the Supplies, where the risk of damage shall be transferred from the Seller to the Buyer as of the moment of a complete delivery of the Supplies.

**Limitation of liability of the Buyer.** The Buyer shall not be liable for any damage that may arise to the Seller as a result of late payment of the price for Supplies by the Buyer. The Seller hereby waives the right to compensation for any damage that may arise to the Seller as a result of late payment of the price for Supplies by the Buyer, to the maximum extent permissible by law. In the event that this limitation of liability is held by a court to be null or of no effect, the Buyer's liability to the Seller shall be limited to the price of respective Supply.

#### C. ADDITIONAL PROVISIONS APPLICABLE TO PO GOVERNED UNDER SPANISH LAW

**Seller's T&C.** The Seller's T&C shall not be effective unless expressly approved in writing by the Buyer as part of the Contract between the Parties. Therefore, none of the Seller's T&C referred to by the Seller e.g. in its legal acts toward the Buyer shall become part of the Contract without an express written consent of the Buyer, even though the Buyer does not object to such a reference.

**Offset of receivables.** The Seller is not entitled to unilaterally set off its receivables against receivables of the Buyer from the Contract, these T&C or in connection therewith.

**Status of the Seller as employer.** The Seller's employees performing the tasks related to the PO will solely and exclusively depend on and report to the Seller, rendering their services within the Seller's scope of organization, management and discipline. Additionally, the Seller will provide its employees with the tools and resources necessary to perform the tasks related to the PO. Therefore, the Parties recognize that there is no labour relationship between the Buyer and the Seller's employees.

**Seller's compliance with its obligations as employer.** The Seller declares that it duly complies with the labour and social security regulations in force in respect of its employees rendering services related to the PO. For these purposes, the Seller declares that it duly complies with all of its obligations, including, being up-to-date in the payments corresponding to wages, taxes and social security contributions. The Seller shall provide the Buyer whenever the Buyer requires it: (a) a certificate evidencing that the Seller is up to date with the payment of salaries regarding its employees and (b) a certificate, issued by the corresponding authorities that evidences that the Seller is up to date with its social security contributions. The Buyer may also require the Seller to provide the Buyer with the social security TC1 and TC2 forms regarding the employees who perform tasks related to the PO. Additionally, the Seller undertakes to verify the compliance with the aforementioned obligations in labour, social security and health and safety obligations concerning all subcontractors who render services under Article 26 of these T&C.

**Assumption of liabilities by the Seller.** The Seller shall assume all liabilities that may arise from its breach in labour and social security matters regarding its employees that perform tasks related to the PO, as well as regarding the employees of the subcontractors that the Seller has contracted under Article 26 of these T&C, holding the Buyer harmless from any losses, damages, liability, claims, costs, fines, penalties and expenses –in the terms described in Article 16 of these T&C that may arise in connection with the breach of these obligations.

**Health and safety obligations of the Seller.** In the event that the Seller's employees render any kind of service in a Buyer's workplaces, the Seller undertakes to provide the Buyer with a certificate evidencing that the Seller duly complies with the Spanish health and safety regulations.