



## ZB3 Technologies Ltd terms and conditions of sale

In these standard terms and conditions ('Terms and Conditions') the 'Supplier' means ZB3 Technologies Ltd (Registration Number 10961172 England), and the 'Purchaser' means the party contracting with the Supplier.

### 1. BASIS OF CONTRACT

1.1 These Terms and Conditions apply to any purchase by the Purchaser of goods (the 'Goods') from the Supplier.

1.2 Any quotation provided by the Supplier shall only be valid for a period of 30 days from its date of issue.

1.3 These Terms and Conditions shall apply to each order for Goods from the Purchaser (the 'Order'). They shall apply:

(a) Whether the Order is submitted by a written purchase order or otherwise; and

(b) To the exclusion of any other terms that the Purchaser seeks to impose or incorporate. Including, without limitation, any terms the Purchaser may supply with, or reference, in the Order, or which may be implied by trade, custom, practice or course of dealing.

1.4 Each Order constitutes an offer by the Purchaser to purchase the Goods specified in the Order in accordance with these Terms and Conditions. The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point a binding contract is created between the parties consisting of these Terms and Conditions and the requirements for the Goods specified in the Order (the 'Contract').

### 2. DELIVERY

2.1 All Goods are supplied ExWorks at the Supplier's premises unless specifically agreed to the contrary in any Order. Any dates quoted for delivery are approximate only and the time of delivery is not of the essence.

2.2 If Goods are ready for delivery and the Purchaser fails to take delivery on the date required by the Contract, or after seven (7) days' written notice from the Supplier where no such date is specified, the Supplier shall be entitled to:

(a) Issue an invoice for such Goods; and

(b) Charge the Purchaser for all additional costs and expenses (including, without limitation, warehousing and insurance) until delivery takes place.

2.3 If the Purchaser fails to take delivery within thirty (30) days of the date of invoice it shall be deemed to have waived its rights under the Contract, and without prejudice to any other right that the Supplier may have against the Purchaser, including the right to recover the purchase price in full, the Supplier shall be entitled to resell the goods.

2.4 The Supplier shall not be liable for any delay in delivery of the Goods caused by the Purchaser's failure to provide the Supplier with adequate delivery instructions, or any other or information, applicable to the supply of the Goods.

2.5 The Purchaser shall promptly inspect all delivered the Goods and shall notify the Supplier in writing of any issues regarding the Goods delivered, including, without limitation, as to quantity, type and quality, within ten (10) days of receipt of the Goods. In the absence of any such notification the Purchaser shall be deemed to have accepted the Goods and no claims may be brought for over or under delivery or for delivery of incorrect Goods.

2.6 Where the Supplier agrees to deliver the Goods to a country other than their country of manufacture, the Purchaser shall obtain all necessary import authorisations and shall provide all documentation and information necessary for the export and import of the Goods.

2.7 Where the Purchaser requests that the Goods are supplied with any form of release certificate or documentation the Supplier reserves the right to make a reasonable additional charge for providing such certificate or documentation. The Supplier shall have no obligation to supply any form of release certificate or documentation, unless agreed in the Contract.

2.8 Any variation in quantities of the Goods shipped over or under the quantities ordered (not to exceed 5%) shall constitute compliance with the Order and the unit price will continue to apply.



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### 3. QUALITY

3.1 The Supplier warrants that on delivery, and for a period of twelve (12) months from the date of delivery ("Warranty Period"), the Goods shall:

(a) Meet in all material respects the applicable specification. The specification applicable to the Goods shall be the Supplier's standard specification for the Goods or, in the case of items other than Supplier's standard Goods, such specification as agreed to in writing by the Supplier and the Purchaser.

(b) Be free from material defects in material and workmanship; and

(c) Be free from title defects.

The sole and exclusive remedy of the Purchaser for a breach of the Supplier's warranty hereunder shall be the repair, replacement or refund, at the Supplier's option, of any defective or non-conforming Goods, provided that the Purchaser meets its obligation pursuant to clause 3.2.

3.2 Warranty Conduct:

(a) The Purchaser shall provide notice in writing to the Supplier during the Warranty Period, promptly, being no less than within 7 days, following discovery or any allegation, that some or all of the Goods supplied do not comply with the warranty set out in clause 3.1; and

(b) The Purchaser, if asked to do so by the Supplier, shall promptly and within no more than seven (7) days of request return such items to the Supplier, or at the Supplier's option, allow the Supplier access to the items or the products in to which they have been incorporated.

3.3 The Supplier shall not be liable for the failure of any of the Goods to comply with the warranty set out in clause 3.1 in any of the following events:

(a) The defect arises because of any failure to follow the Supplier's instructions as to the storage, commissioning, installation, use or maintenance of the Goods or, if there were none, good trade practice regarding the same;

(b) The defect arises as a result of the Supplier following any drawing, design or specification supplied by the Purchaser;

(c) The Purchaser or any third party alters or repairs such Goods without the written consent of the Supplier; or

(d) The defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions.

3.4 No Goods shall be returned by the Purchaser to the Supplier without the Supplier's prior written authorization. Shipping charges for returned Goods will only be paid by the Supplier where the Goods are found to be in breach of warranty.

3.5 The Supplier reserves the right to make process and design changes in the Goods which do not adversely affect form, fit or function without prior approval of or notification to the Purchaser.

3.6 All terms and warranties implied by applicable laws, regulations or custom and practice are, to the fullest extent permitted by law, excluded from the Contract.

3.7 Written authorization must be obtained from the Supplier prior to the return of any Goods for any reason. Risk of loss or damage to any Goods returned to the Supplier shall remain with the Purchaser until they are received by the Supplier. Shipping charges for returned Goods will be paid by the Supplier only for Goods repaired, replaced or refunded pursuant to the warranty.

### 4. PRICE AND PAYMENT

4.1 The price of the Goods shall be the price set out in the Order, or, if no price is stated, the price set out in the Supplier's published price list in force as at the date of the Order.



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4.2 The price of the Goods is exclusive of amounts in respect of any sales tax, including without limitation, value added tax. The Purchaser shall, on receipt of a sales tax invoice from the Supplier, pay to the Supplier such additional amounts in respect of sales tax as are chargeable on the supply of the Goods.

4.3 The Supplier may invoice the Purchaser for the Goods on or at any time after the completion of delivery.

4.4 The Purchaser shall pay the invoice in full and in cleared funds within 30 days of the date of the invoice. Payment shall be made to the bank account, in the currency, nominated in writing by the Supplier.

4.5 If the Purchaser fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Supplier may withhold any future delivery of Goods pending payment and the Purchaser shall pay interest on the overdue amount at the rate of 4% per annum above the Bank of England's base rate from time to time. Such interest shall accrue from the due date until actual payment of the overdue amount, whether before or after judgment. The Purchaser shall pay the interest together with the overdue amount.

4.6 The Purchaser shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law).

4.7 The Supplier may set-off any amount owed by the Purchaser to the Supplier against any sums the Supplier owes to the Purchaser.

4.8 Where: (i) the labour, energy, raw material costs or other input costs, incurred by the Supplier in making the Goods increases by more than five (5) % in any twelve (12) month period; or (ii) other events outside the Supplier's control occur including, but not limited, to changes in law or Force Majeure Events (as defined in Clause 10.1) occur which increase the costs incurred, or projected to be incurred, by the Supplier in making the Goods by more than five (5)% in any twelve (12) month period, the parties will enter into negotiations to agree a price modification, in the event that no agreement can be reached the Supplier may terminate the Contract on providing thirty (30) days' prior written notice, without liability.

4.9 The agreed payment terms are subject to the credit limit approved by the Supplier. In case the granted credit limit is exceeded, the Supplier is entitled to suspend or delay any delivery to the Purchaser until the Purchaser settles its invoices to reduce the debts to the Supplier to within the granted credit limit. In case the Purchaser's financial ratings or payment behaviour, in the Supplier's opinion, requires an amendment of the existing credit limit or payment terms, the Supplier is entitled to demand full or partial payment in advance or other payment terms as a condition to delivery, and the Supplier may suspend, delay or cancel any credit, delivery or any other performance by the Supplier. The Supplier shall have no liability to the Purchaser in respect of any delayed delivery, or non-delivery, pursuant to the terms of this clause.

### 5. TITLE AND RISK

5.1 Risk of loss for the Goods shall pass to the Purchaser upon delivery to the Purchaser or its agents. Title shall pass to the Purchaser on full payment being made to the Supplier in respect of the Goods. Notwithstanding this, the Purchaser may sell such Good in the ordinary course of business, providing all sums thereof shall be held on trust to the Supplier's account. Pending the transfer of title to the Purchaser, the Purchaser shall store the Goods so that they remain identifiable as the Supplier's property. The Supplier reserves the right to repossess the Goods in the event of the Purchaser suffering an Insolvency Event, or the Supplier having reasonable grounds for believing that the Purchaser will become the subject of an Insolvency Event, and Purchaser grants the Supplier an irrevocable licence to enter the Purchaser's premises for this purpose. An 'Insolvency Event' means failing to pay debts as they fall due; entering liquidation or administration or commencing negotiations with any creditors to reschedule its debts, or undergoing any analogous occurrence in any jurisdiction; or threatening to do any of these things in any jurisdiction.



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### 6. CONFIDENTIALITY

6.1 Pursuant to the Contract each Party (the “Disclosing Party”) may disclose or make available to the other Party (the “Receiving Party”) information of a confidential nature, including, without limitation, information relating to products, prototypes, technology, research plans or business activities (the “Confidential Information”). All Confidential Information is and shall remain the property of the Disclosing Party.

6.2 Neither Party shall be obliged to maintain in confidence Confidential Information which:

- (a) Was lawfully known by the Receiving Party, free from any restriction, prior to being received from the Disclosing Party;
- (b) Is subsequently disclosed to the Receiving Party without restriction by a third party who, to the Receiving Party’s knowledge, has the right to disclose the Confidential Information to the Receiving Party without restriction;
- (c) Is or, without the fault of the Receiving Party, becomes publicly known; or
- (d) Is developed by the Receiving Party without reference to the Disclosing Party’s Confidential Information.

6.3 Each Party undertakes that except as expressly permitted pursuant to this Contract it shall not, and shall ensure that its employees do not, disclose or permit to be disclosed to any third party, or use or permit the use for any purpose other than in performance of its obligations under this Contract, any of the other Party’s Confidential Information. Save where such disclosure is required by Law, in which case the Receiving Party shall (i) promptly, to the extent permitted by law, notify the Disclosing Party; (ii) provide to the Disclosing Party all reasonable assistance to obtain confidentiality undertakings; and (iii) only discloses the minimum amount of Confidential Information required to comply with its legal obligations.

6.4 The provisions of this Clause 6 shall survive for a period of three years from the date on which the Confidential Information was provided to the Receiving Party, save that where the Confidential Information is protected by any existing confidentiality agreement between the parties, the more restrictive terms shall apply.

6.5 The Supplier reserves all rights to its intellectual property rights, including but not limited to those, used in, or arising from, the creation of the Goods and nothing in this Contract shall be construed as granting a licence over such intellectual property rights to the Purchaser.

### 7. TERMINATION AND SUSPENSION

7.1 Either party may terminate this Contract immediately if the other party:

- (a) Commits a material breach of the Contract and, if such a breach is remediable, fails to remedy that breach within 30 days of that party being notified in writing of the breach by, or on behalf of, the other party; or
- (b) Is subject to an Insolvency Event (as defined in clause 5.1).

7.2 Without limiting its other rights or remedies, and without liability to the Purchaser, the Supplier may suspend provision of the Goods under the Contract or any other contract between the Purchaser and the Supplier if the Supplier reasonably believes that the Purchaser is about to become subject to an Insolvency Event.

7.3 On termination of the Contract for any reason the Purchaser shall immediately pay to the Supplier all of the Supplier’s outstanding unpaid invoices and any interest thereon.

7.4 Termination of the Contract, however arising, shall not affect any of the parties’ rights, remedies, obligations and liabilities that have accrued as at termination.

7.5 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

### 8. LIMITATION OF LIABILITY

8.1 The Supplier’s total liability in respect of all losses arising in connection with, and under any clause of, the Contract, howsoever arising (including, without limitation, for breach of contract, breach of duty or in negligence),



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shall in no circumstances exceed the sum paid to the Supplier by the Purchaser under the Contract in the preceding twelve (12) month period.

8.2 The Supplier shall not be liable to the Purchaser for any loss of profits, revenue, business goodwill or indirect loss of any nature arising under or in relation to the Contract, even where the Supplier had been informed of the possibility of such loss in advance.

8.3 Nothing in this clause 8 shall be construed as limiting or excluding a party's liability for fraudulent misrepresentation nor for death or personal injury arising from its negligence, nor any other matter for which it would be unlawful for a party to restrict its liability.

8.4 To the extent that the Goods are to be manufactured in accordance with a drawing, design or specification supplied by the Purchaser ('Purchaser Specification'), the Purchaser shall indemnify the Supplier against all liabilities incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Purchaser Specification.

8.5 This clause 8 shall survive the termination of the Contract.

### 9. NOTICES

9.1 Any notice required to be given under the Contract, shall be in writing and shall be delivered personally, by courier or sent by pre-paid recorded delivery post, to the party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, addressed for the attention of the Managing Director.

9.2 Any notice shall be deemed to have been duly received:

(a) If delivered personally or by courier, when left at the recipient's address on a business day in the jurisdiction to which the letter was delivered ('Business Day'), or the following Business Day in the event that the date of delivery was not a Business Day; or

(b) If sent by pre-paid recorded delivery post, at 9.00 am on the second Business Day after posting.

### 10. MISCELLANEOUS.

10.1 Force Majeure. In the event the Supplier is delayed or prevented from the performance of any act required under this Contract, by reasons outside its reasonable control including, without limitation, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, and any labour dispute (a "Force Majeure Event"), then performance of such act will be excused for the period of such delay, provided however, that such party shall exert its reasonable efforts to overcome such Force Majeure Event and to resume performance of its obligations in a timely manner. Notice of the commencement and termination of such Force Majeure Event will be promptly provided by the Supplier to the Purchaser. Any obligations of the Supplier will be extended for a period of time equal to the number of days of the delay, provided however, that in the event that the Supplier is unable to overcome such Force Majeure Event within sixty (60) days, either party may terminate this Contract on written notice.

10.2 Implied Terms. All warranties, conditions and other terms implied by statute, common law or business practice are, to the fullest extent permitted by law, excluded from the Contract.

10.3 Independent Contractors. The parties hereto are independent contractors and nothing contained in the Contract shall be deemed or construed to create a partnership, joint venture, employment, franchise, agency or fiduciary relationship between the parties and neither party shall have the right to bind the other or hold itself out as having such right.



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10.4 Assignment, Subcontracting. The Purchaser shall not assign or sub-contract any of its rights or obligations pursuant to the Contract without the prior written consent of the Supplier.

10.5 Severability. If any term of the Contract is declared invalid or unenforceable by a court or other body of competent jurisdiction, such terms shall be divisible and deleted, to the extent it is declared invalid or unenforceable, the remaining terms of the Contract shall continue in full force and effect. Any invalid or unenforceable provision shall be replaced to the extent possible with a new provision which will allow the parties to the Contract to achieve the same intended result.

10.6 Further Assurance. Each party shall do, or procure the doing of, all acts and things, and execute, or procure the execution of, all documents, as may reasonably be required to give full effect to the Contract.

10.7 Entire Agreement. The Contract, constitutes the entire understanding and agreement of the parties with respect to the subject matter hereof and cancels and supersedes all prior agreements (excluding any existing confidentiality agreements), whether verbal or written, between the parties with respect to the subject matter hereof. Each party acknowledges that, in entering into this Contract, it has not relied on, and, to the extent permitted by law, shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in the Contract. This clause shall not be interpreted as excluding any liability for fraud. No modification of any provision of the Contract shall be effective unless made in writing and signed by a duly authorized officer of both the parties.

10.8 Third Party Rights. A person who is not a party to the Contract shall not have any rights under or in connection with it.

10.9 Waiver. No delay or failure of any party in exercising or enforcing any of its rights or remedies under the Contract shall operate as a waiver of those rights.

10.10 Dispute Resolution. In the event of any dispute arising pursuant to the Contract the parties shall first seek to reach a negotiated solution. If a solution cannot be found which is acceptable to both parties, either party may serve a dispute notice on the other party. On receipt of a dispute notice the parties shall be required to refer the matter to their respective Managing Director who shall make themselves, or their delegate, available to seek to resolve the matter within thirty (30) days' of such dispute notice.

10.11 Governing Law. The Contract shall be governed by the laws of England and the parties hereby submit to the exclusive jurisdiction of the English courts to resolve any disputes relating to the Contract. Save that the Supplier shall have the right to seek an order for payment, or delivery up of its Goods, in any country it deems appropriate.