

NEMAK TERMS AND CONDITIONS OF SALE

1. Terms.

- a) These terms and conditions of sale (“**Terms**”) apply to all contracts and business relationships between Nemak México, S.A., Nemak USA Inc., or one of its affiliate companies (each individually or collectively, “**Nemak**”) and you (“**Buyer**”).
- b) These Terms apply in particular to the sale of the products and/or services (collectively, the “**Products**”) as described in the accompanying quotation, proposal, order acknowledgment, invoice, or other document provided by Nemak to you (collectively, the “**Contractual Documents**”).
- c) These Terms, together with the consistent terms provided by Nemak in the Contractual Documents, shall be referred to herein as the “**Agreement**” and will be the entire agreement between Nemak and Buyer on the subject of the transaction described herein and therein. Unless otherwise agreed in writing, these Terms shall also apply to subsequent contracts for the sale of Products to the Buyer in the version current at the time of Buyer's order or acceptance of our offer, without Nemak having to refer to these Terms again.

2. Rejection of Buyer's terms and conditions.

- a) This Agreement stipulates the exclusive terms and conditions under which Nemak will sell and Buyer will purchase the Products.
- b) Nemak does not accept and hereby rejects any and all terms and conditions offered, proposed, published, or suggested by Buyer.
- c) Acceptance of any request for quote, purchase order, or other communication or document by Nemak or any of its affiliates is expressly limited and conditioned upon these Terms. Nemak’s subsequent performance to the issuance of any request for quote, purchase order, or other communication, or document of Buyer does not constitute assent to any terms and conditions contained or referred to therein by Buyer, unless Nemak has expressly consented in writing to their applicability. This requirement of express written consent shall apply in any case, for example even if the Buyer refers to its terms and conditions within the scope of the order and Nemak accepts the delivery without expressly objecting to the terms and conditions.

3. Conclusion of Agreement.

- a) An offer issued by Nemak may be revoked by Nemak at any time before it is accepted by Buyer, and will automatically expire thirty (30) calendar days after its date if Buyer has not accepted it before then unless expressly provided otherwise in the respective offer.
- b) This Agreement, and any updates, becomes effective immediately upon the occurrence of one or more of the following: (i) Buyer provides acceptance of Nemak's offer (whether by electronic or other means); (ii) Nemak accepts an order for Products placed by Buyer by

written / electronic declaration (e.g. by order confirmation or by notice of collection/readiness for dispatch) or (iii) Nematik commences work under the Agreement before the conclusion of a specific individual contract; or (iv) Buyer accepts delivery of Products.

4. Changes in Orders.

- a) Nematik may furnish suitable substitutes for materials unobtainable because of price increases or fluctuations, priorities, regulations, unavailability, or shortages.
- b) It is the intention of the parties that commercially reasonable or necessary changes should be made upon request and after discussion.

5. Quantity and Compensation.

- a) Each order accepted by Nematik shall constitute a separate and independent Agreement under the terms herein, and shall not be construed as a requirements contract (i.e., a contract under which Nematik agrees to provide the Buyer an indefinite amount of Products requested by Buyer) unless otherwise expressly agreed upon in writing by both parties.
- b) Neither Buyer's acceptance of Nematik's offer nor any conduct by Nematik (including but not limited to shipment of Products) will oblige Nematik to sell to Buyer any quantity of Products in excess of the quantity that Buyer has committed to purchase from Nematik at the time of such acceptance or conduct.
- c) If prices for Products were calculated on the basis of the sales quantity (number of Products produced) indicated by Buyer and this quantity does not materialize other than due to Nematik's fault, then Buyer shall pay compensation to Nematik for any investment and/or capital expenditure costs incurred by it at least in the amount considered in the price calculation, regardless of whether the quantity was designated by Buyer as an estimate, forecast, or similar.

6. Shipping, Delivery, Inspection and Transfer of Title.

- a) Unless otherwise expressly agreed upon in writing and signed by an authorized representative of Nematik, delivery of Products will be made EXW (Incoterms 2020).
- b) Nematik shall make its commercially reasonable efforts to meet shipping dates. Nematik reserves the right to ship Products in multiple shipments.
- c) Upon receipt of Products and without undue delay, Buyer is obliged to inspect the Products for any defects, transport damage, and identity and quantity deviations and notify Nematik immediately, (i) at the latest within five (5) working days from delivery, if any issues are detected during the inspection or (ii) at the latest within three (3) working days from detection in case of defects which were not detectable during the inspection. Failure to perform the inspection or to issue a notification of defect in due time shall exclude any liability or warranty of Nematik for the respective defect.

- d) Notwithstanding any delivery and transfer of risk of the Products, the right of ownership on the Products shall be transferred to Buyer after Nematik has received full payment of the price of the Products.

7. Payment.

Unless otherwise expressly agreed upon in writing and signed by an authorized representative of Nematik, Buyer shall make full payment for all Products within thirty (30) days of receipt of an invoice. Nematik will include on the relevant invoice—or separately invoice Buyer for—any sales, value added, or any turnover taxes or charges that Nematik is required to pay or collect from Buyer by law.

8. Setoff and Cross-Setoff.

Buyer may not (i) set off any amount due from Nematik or Nematik's affiliates, whether under the Agreement or otherwise, against any amount due to Nematik or Nematik's affiliates or (ii) exercise a right of retention without Nematik's prior written consent, unless the rights or claims of the Buyer on which it bases its rights are undisputed by Nematik or have been finally determined by a competent court of law.

9. Product Warranty.

- a) Nematik warrants to Buyer that, at the time of delivery, the Products will conform in all material respects to agreed-upon specifications, be free from defects in materials and workmanship, and be free and clear of any and all liens, security interests, and encumbrances. In particular, this warranty is given strictly for the concrete specifications (figures) by Nematik, and any alleged defect due to the use of the Products outside of the specified ranges or based on specifications that have not been explicitly defined shall not be covered under this warranty. No specifications or other information provided by Nematik shall be considered a guarantee as to condition, unless expressly provided otherwise in writing.
- b) The warranty contained herein expires after twelve (12) months following the date of delivery of the Products.
- c) For any nonconforming Product, Nematik may, at its sole option, elect to repair or replace the nonconforming Product. Buyer's exclusive remedy for breach of warranty is repair or replacement of the nonconforming Product. In the event of failure of the remedying performance (repair or replacement), however, the Buyer shall be entitled to reduce the purchase price or to withdraw from the Agreement in accordance with statutory law.
- d) Unless otherwise agreed upon in writing, all defective Products shall be returned to Nematik without any further defects, including but not limited to those derived from disassembly, in order for Nematik to assess the defect; failure to permit Nematik to inspect a nonconforming Product shall void Nematik's warranty obligations. Any unauthorized use, modification, alteration, reconfiguration, repair, or change to a Product, or failure to permit Nematik to inspect a nonconforming Product, shall void Nematik's warranty obligations, unless the Buyer

can prove that there is no causal connection between the Buyer's behavior as mentioned above and the damage or defect that has occurred.

- e) BUYER ACKNOWLEDGES AND AGREES THAT THE REMEDIES SET FORTH IN THIS SECTION ARE BUYER'S EXCLUSIVE REMEDIES FOR THE DELIVERY OF NONCONFORMING PRODUCTS. UNDER NO CIRCUMSTANCES SHALL NEMAK BE LIABLE FOR ANY DELAYS IN PRODUCTION OR DELIVERY OF BUYER OR OTHER INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES DUE TO NONCONFORMING PRODUCTS. THE LIMITED WARRANTIES SET FORTH ABOVE ARE MADE IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESSED OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, BY STATUTE OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY DISCLAIMED.

10. Intellectual Property.

- a) As used herein, the term "***Intellectual Property***" means any and all Mexican, U.S., Canadian, or other patents, patent applications, copyrights, copyright registrations, applications, inventions, invention disclosures, protected formulae, designs, formulations, processes, methods, trade secrets, computer software, computer programs and source codes, manufacturing research and similar technical information, know-how, customer information, assembly and test data drawings, and royalty rights.
- b) Nothing in this Agreement shall be deemed to constitute a transfer of Intellectual Property from Nematik to Buyer. Nematik shall retain all rights in its trademarks and trade names. Nematik shall retain full ownership of its own Intellectual Property developed by it prior to, during, or after the execution of this Agreement.
- c) Except with respect to intellectual property asserted by Nematik against Buyer in an action or proceeding, Buyer will not directly or indirectly: (i) challenge or contest the validity or enforceability of any of Nematik's intellectual property rights, including, without limitation, trademarks and trade names; (ii) dispute the validity, enforceability, or exclusive ownership of Nematik's intellectual property rights or initiate or participate in any proceeding opposing Nematik's grant of any license, patent, trademark, or other intellectual property right; (iii) apply to register or otherwise obtain registration of any of Nematik's intellectual property rights, including, without limitation, trademarks or trade names; or (iv) assist any other party to do any of the foregoing.
- d) Nematik, at its expense, shall: (i) defend a claim in a legal proceeding brought by a third party against Buyer that any hardware Product as furnished by Nematik hereunder directly infringes the claimant's patent or copyright; and (ii) hold Buyer harmless against damages and costs awarded by final judgment in such proceeding (or agreed upon in a settlement to which Nematik consents) to the extent directly and solely attributable to infringement by the Product.

- e) Nematik shall have no obligation or liability to Buyer under subsection d): (1) if Nematik is not: (i) promptly notified in writing of the claim, (ii) given the sole right to control the defense and settlement of such claim, including the selection of counsel, and (iii) given full reasonable assistance and cooperation by Buyer in such defense and settlement; (2) if the claim is made more than twelve (12) months after the date of delivery of the Product; (3) to the extent that any such claim arises from: (i) modification of the Product, (ii) design, specifications, processes, hardware or instructions furnished by Buyer, or (iii) the combination or use of the Product with any product, software, service or technology; (4) for unauthorized use or distribution of the Product or use beyond the specifications of the Product; (5) to the extent that any such claim arises from Buyer's use, sale, offer for sale or importation of the Product after notice by Nematik to Buyer that it should cease any such activity because the Product is, or is reasonably likely to become, the subject of a claim of infringement; (6) for any costs or expenses incurred by Buyer in connection with the claim without the prior written consent of Nematik; (7) to the extent that any such claim arises from any infringement or alleged infringement of third party's intellectual property rights covering an industry standard set by a standard setting body or agreed to between at least two companies; (8) for infringement of any third party's intellectual property rights with respect to which Nematik has informed Buyer or has published a statement that a separate license has to be obtained or that no license is granted or implied; (9) for damages in excess of the price of the Product; (10) if the infringement was not due to gross negligence or intent of Nematik; or (11) if the infringement case is not based on an US, EP, DE right or any other right of any jurisdiction that is explicitly agreed in writing with Buyer.

If any claim of infringement is brought against Nematik as a result of Buyer's actions in connection with items (3), (4), or (5) of this subsection d), Buyer shall indemnify and hold Nematik harmless from any damages or costs arising from or connected with such claim of infringement and shall reimburse all costs incurred by Nematik in defending any claim, demand, suit or proceeding for such infringement, unless Buyer can prove that the aforementioned causes cannot be attributed to a culpable behavior on the part of the Buyer.

- f) If any Product is, or in Nematik's opinion is likely to become, the subject of a claim of infringement, Nematik shall have the right, without obligation and at its sole option, to: (i) procure for Buyer the right to continue to use or sell such Product, (ii) replace or modify such Product in such a way as to make the modified Product non-infringing, or (iii) terminate any Agreement to the extent related to such Product. In the event of any such termination, Buyer may return to Nematik all such Products in Buyer's possession at the time of such termination, which are then subject to the claimant's continuing claim of infringement, and upon such return Nematik shall credit Buyer any sums paid for such Products, less appropriate depreciation.
- g) The foregoing indemnity is personal to Buyer and is not assignable, transferable or subject to pass-through to any third party, including Buyer's customers without Nematik's prior written consent.

- h) SUBJECT TO THE EXCLUSIONS AND LIMITATIONS SET FORTH IN SECTION 14, THE FOREGOING STATES NEMAK'S ENTIRE LIABILITY AND OBLIGATION TO BUYER (INCLUDING ITS MEDIATE OR IMMEDIATE CUSTOMERS) AND CONSTITUTES BUYER'S SOLE REMEDY WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS OF ANY KIND.

11. Confidentiality.

- a) As used herein, the term “*Confidential Information*” means any technical or business information of Nematik or any of its affiliates, regardless of whether such information is specifically designated as confidential and regardless of whether such information is conveyed or maintained in written, oral, graphic, physical, electronic, or other form. Confidential Information may include, without limitation, unpublished patent applications, inventions, trade secrets, know-how, show-how, processes, procedures, formulae, formulations, designs, products, drawings, materials, apparatus, methods, customer or supplier specifications or requirements, computer software and other data, technical documentation or specifications, plans, records, test results, permissions, licenses and approvals, telephone numbers, e-mail addresses, and names.
- b) Buyer agrees (i) to hold the Confidential Information of Nematik in strict confidence and to take all reasonable precautions to protect such Confidential Information (including, without limitation, all precautions Buyer employs with respect to its own Confidential Information), (ii) not to disclose any Confidential Information or any information derived therefrom to any third party; *provided, however*, that Buyer may disclose Confidential Information to any of its affiliates who need to know such information, but only if such affiliates are advised of this Agreement and agree to abide by its terms.
- c) Buyer may disclose Confidential Information to the extent such disclosure is required by the order of any court or regulatory authority; *provided, however*, that Buyer (i) shall use diligent efforts to limit such disclosure and (ii) shall, to the extent practicable and permitted by applicable law, provide Nematik with prior written notice of such disclosure as sufficient to allow Nematik to obtain a protective order or otherwise seek to prevent such disclosure.
- d) Buyer's obligations hereunder with respect to any Confidential Information will survive for a period of five (5) years from the last date on which any such Confidential Information was disclosed; the foregoing shall also apply after the expiration, termination or completion of this Agreement; *provided* that to the extent any Confidential Information constitutes a trade secret under applicable law, the confidentiality and non-use provisions of this Agreement shall remain in effect so long as such Confidential Information continues to be a trade secret.
- e) Personal data, defined as any information relating to an identified or identifiable natural person, shall be considered Confidential Information and shall be afforded all protections set forth herein. In addition to, and without limiting the terms generally applicable to Confidential Information, the parties agree that each shall process, apply, view and use personal data only to the extent necessary to perform under this Agreement. Neither party shall transfer or

otherwise allow the use of personal data of the other party unless expressly instructed or authorized by the other party. Both parties shall comply with applicable laws and best practices relating to data privacy and data security.

12. Reverse Engineering.

Buyer agrees not to copy, alter, modify, reverse engineer, or attempt to derive the composition or underlying information, structure or ideas of any Confidential Information and shall not remove, overprint, deface, or change any notice of confidentiality, copyright, trademark, logo, legend, or other notices of ownership from any originals or copies of Confidential Information it receives from Nemak.

13. Designs and Tools.

- a) Any design work performed by Nemak, and any dies, molds, jigs, or other tools that Nemak manufactures or acquires in connection with its performance hereunder, and all intellectual property, know-how or other industrial property rights therein, will be and remain the sole property of Nemak, notwithstanding any charges to Nemak therefor unless the parties enter into a separate agreement.
- b) Subject to a separate agreement, including charges, Buyer may acquire the right to ownership of the designs, dies, molds, jigs, and/or other tools used by Nemak for performance hereunder. This transfer of ownership, however, does not include the transfer of any other rights to Buyer such as any intellectual property rights, know-how or any other industrial property rights.
- c) Nemak is and remains the sole owner of these intellectual property rights, rights to know-how and any other industrial property rights related to the designs, dies, molds, jigs, and/or other tools used by Nemak for performance hereunder. These rights shall not be transferred to Buyer in the course of the transfer of ownership of the designs, dies, molds, jigs, and/or other tools.
- d) Nemak shall be entitled to permanently remove the components from the designs, dies, molds, jigs, and/or other tools in which Nemak's intellectual property, know-how and other industrial property rights are embedded prior to their handover to Buyer. This removal shall not entitle Buyer to any claims or rights whatsoever.

14. Liability.

- a) UNDER NO CIRCUMSTANCES SHALL NEMAK BE LIABLE TO BUYER, WHETHER IN CONTRACT OR IN TORT, INCLUDING, WITHOUT LIMITATION, NEGLIGENCE AND STRICT LIABILITY, FOR ANY SPECIAL, PUNITIVE, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND OR CHARACTER, INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUES OR PROFITS OR LOSS UNDER PURCHASES OR CONTRACTS MADE IN RELIANCE ON THE PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, WHETHER SUFFERED BY A PARTY TO THIS AGREEMENT OR ANY THIRD PARTY, OR FOR ANY LOSS OR DAMAGE ARISING OUT OF THE SOLE OR CONTRIBUTORY NEGLIGENCE OF SUCH PARTY,

ITS EMPLOYEES, ITS AGENTS, OR ANY THIRD PARTY. IN NO EVENT WILL NEMAK'S LIABILITY UNDER THESE TERMS OR IN CONNECTION WITH THE SALE OF PRODUCTS OR SERVICES EXCEED THE PURCHASE PRICE OF THE SPECIFIC PRODUCTS OR SERVICES AS TO WHICH THE CLAIM IS MADE.

15. Injunctive Relief.

Buyer agrees that an award for money damages is inadequate for any breach of this Agreement by Buyer and any breach would cause Nemak irreparable harm. In the event of any breach or threatened breach by Buyer, Nemak is entitled to seek equitable relief, including specific performance and injunctive relief, without the posting of a bond or other security and without proof of actual damages.

16. Termination.

- a) Either party may terminate this Agreement if the other party fails to comply with or otherwise breaches any material term of this Agreement upon thirty (30) days' written notice and opportunity to cure.
- b) If the defaulting party fails to cure such default or breach within thirty (30) days after receipt of such notice, the non-defaulting party, in addition to all other remedies available at law, may terminate this Agreement and any purchase order.
- c) Either party may terminate this Agreement immediately, or at any time thereafter, by notice to the other party, if the other party becomes bankrupt, insolvent, or enters into liquidation, whether compulsorily or voluntarily, convenes a meeting of its creditors, has a receiver appointed over all or part of its assets, or ceases for any reason to carry on business. Notwithstanding anything herein, repeated or regular late payments by Buyer shall constitute a material breach.
- d) Nemak may terminate this Agreement immediately in case of a change in the ownership or senior management of Buyer, unless interference with the legitimate interests of Nemak is not to be anticipated.

17. Accrued Liability.

Termination of this Agreement for any reason shall not release either party from any liability already accrued to the other party prior to termination or expiration of the Agreement. Such termination or expiration will not relieve a party from obligations that are expressly indicated in this Agreement to survive termination or expiration of this Agreement.

18. Relationship of the Parties.

Nothing in this Agreement is intended or will be deemed to constitute a partnership, joint venture, joint development, agency, or employer-employee relationship between the parties. Neither party

shall have the right, power, or authority to make any representation or any binding agreement or arrangement on behalf of the other party.

19. Assignments.

Neither this Agreement nor any interest hereunder will be assignable by Buyer without the prior written consent of Nematik. Nematik reserves the right to assign any of its rights or delegate any performance under this Agreement to any affiliate, by providing written notice to Buyer at least five (5) days prior to the assignment or delegation.

20. Force Majeure.

Nematik shall not be liable for any breach or failure to perform under this Agreement if such breach or failure to perform is due to an act beyond the reasonable control of Nematik, which includes by way of illustration, but not limitation, acts of God or public enemy, plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including, without limitation, quarantine or other employee restrictions, acts of any foreign, federal, state, provincial, territorial, local, or other government, either in its sovereign or contractual capacity, fire, floods, civil disobedience, strikes, lockouts, freight embargos, inclement weather, war or sanctions or any other cause or condition beyond Nematik's reasonable control.

21. Entire Agreement; Amendments.

- a) This Agreement constitutes and contains the entire understanding and agreement of the parties respecting the subject matter hereof and cancels and supersedes any and all prior and contemporaneous negotiations, correspondence, understandings, and agreements between the parties, whether oral or written, regarding such subject matter, including, without limitation, any confidentiality agreement between the parties.
- b) To the extent Buyer objects to any provision in the Agreement, Buyer must immediately inform Nematik so that the parties can discuss an amendment. Except as otherwise provided in this Agreement, no waiver, modification, or amendment of any provision of this Agreement, including this written form requirement, will be valid or effective unless made in writing and signed by Nematik.

22. Choice of Law.

All matters arising out of or relating to this Agreement, including non-contractual claims, shall be governed by the laws of the place of incorporation of the Nematik entity which is party to the Agreement, i.e., selling the Products. The United Nations Convention on Contracts for the International Sale of Goods is expressly disclaimed by the parties with respect to this Agreement and the transactions contemplated hereby.

23. Forum.

Any legal action or proceeding arising out of or relating to this Agreement shall be brought before the competent courts in the place of incorporation of the NemaK entity which is party to the Agreement, i.e., selling the Products. Notwithstanding the foregoing, specific performance or injunctive relief may be sought in any court of competent jurisdiction. ALL PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY.

24. Fee Shifting.

Should either party to this Agreement initiate any action against the other arising out of or related to this Agreement, the prevailing party shall be entitled to and awarded its reasonable attorneys' fees and costs incurred in connection with the action. The prevailing party shall be the party asserting a claim or cause of action in the event such party is awarded monetary or equitable relief (provided such award is not vacated on appeal or otherwise) and shall be the party defending against a claim or cause of action in the event the other party does not obtain any relief; however, the grant or denial of a temporary restraining order, preliminary injunction, or other similar non-final award shall not result in or affect a determination as to which party is the prevailing party. The prevailing party as to asserted claims and the prevailing party as to asserted counterclaims shall be determined independently. Except for claims or counterclaims appropriately pled in the alternative, a prevailing party shall not receive attorneys' fees incurred in the assertion of unsuccessful claims or counterclaims. Where it is not practical or overly burdensome to apportion fees on an entry-by-entry basis, the court may apportion fees based on a reasonable estimate of a fair apportionment.

25. Waiver.

A failure by either party to exercise any rights or remedies it may have hereunder shall not operate as a waiver of such rights or remedies. A waiver by either party of any of the terms and conditions of this Agreement in any instance will not be deemed or construed to be a waiver of such term or condition for the future, or of any subsequent breach hereof. All rights, remedies, undertakings, obligations, and agreements contained in this Agreement will be cumulative and none of them will be in limitation of any other remedy, right, undertaking, obligation, or agreement of either party.

26. Severability.

If any provision of this Agreement is held to be prohibited by, invalid, or unenforceable under applicable law, such provision will be ineffective only to the extent of such prohibition, unenforceability, or invalidity, without invalidating the remainder of this Agreement.

27. Updates.

THESE TERMS MAY BE MODIFIED, AMENDED, AND UPDATED FROM TIME TO TIME AT THE DISCRETION OF NEMAK.