

**NIHON PALL LIMITED (“NPL”)  
PURCHASE ORDER TERMS AND CONDITIONS**

**[BETWEEN NPL AND SUPPLIER INCORPORATED OUTSIDE JAPAN]**

**1. ACKNOWLEDGEMENT AND ACCEPTANCE**

- 1.1 Supplier shall acknowledge receipt of NPL’s purchase order (“**Purchase Order**”) without delay.
- 1.2 Acceptance of NPL’s Purchase Order (whether made by written or oral acknowledgment or shipment of the Goods or performance (whether in whole or in part) of the services subject to and specified in NPL’s Purchase Order) constitutes acceptance by Supplier of these terms and conditions. Such goods, services and parts are collectively referred to as the “**Goods**”.
- 1.3 NPL’s purchase from Supplier is subject to the terms of NPL’s Purchase Order, these terms and conditions, the Specifications (as defined in 2.1 below) and any other written agreement signed by NPL and Supplier in connection with the Purchase Order. No conduct by NPL shall be deemed to constitute acceptance of any other terms or conditions including the Supplier’s terms and conditions and NPL expressly object to and exclude any additional or different terms in any quotation, acknowledgment of other document of Supplier.

**2. WARRANTIES & REPRESENTATIONS**

- 2.1 Supplier acknowledges that NPL is at all times relying on Supplier’s expertise, knowledge and skill. To that extent, Supplier represents and warrants to NPL that the quantity, quality and description of the Goods (including without limitation all components, raw materials and related work) shall, subject as provided in these terms and conditions, be as specified in NPL’s Purchase Order and/or in any applicable agreement, specification or drawing supplied by NPL to Supplier or agreed in writing (“**Specification**”).
- 2.2 The Supplier shall ensure that:
- (a) the Goods shall comply with and be performed in accordance with all relevant laws, regulations and industry standards, including as to environmental matters and good engineering practices, and when work is performed at NPL’s site, NPL’s health and safety rules and regulations;
  - (b) the Goods supplied shall be new and shall not have been used previously and shall be free from defects in design, material and workmanship, and must be of merchantable quality, and fit for any purpose as specified in the Purchase Order or by implication made known to Supplier at the time NPL’s Purchase Order is placed (the “**Purpose**”);
  - (c) it shall convey to NPL good title (free and clear from all encumbrances, claims and other defects in title) to all Goods delivered to NPL or to which NPL is entitled to;
  - (d) the Goods, the process of their manufacture and the use of the Goods for the Purpose and any purpose for which they are customarily intended under this sale will not infringe any patent claims or other intellectual property rights of a third party;
  - (e) all documents, including invoices, and all information submitted by it in support of any costs shall constitute a true, accurate and complete description of the Goods, activities and transactions to which they pertain;
  - (f) all samples provided to NPL by Supplier shall be free from defects in design, material and workmanship, and no Goods delivered hereunder shall be of a lesser quality or standard than the corresponding samples or previous supplies received by NPL from Supplier without NPL’s prior written approval; and
  - (g) all work and services performed in connection with or related to NPL’s Purchase Order and/or the Goods shall be performed by appropriately qualified and trained personnel, with due care, skill and diligence and to such high standard of quality as is reasonable and all equipment and tools provided will at all times be maintained in first class condition by Supplier. NPL reserves the right to require the replacement of any personnel, tools or equipment that do not comply with the foregoing provisions at Supplier’s cost.
- 2.3 Where Supplier has the benefit of warranties in relation to components comprised in the Goods, the benefit of such warranties shall be assignable and hereby assigned to NPL. NPL may assign warranties provided by Supplier to NPL’s customers and the Supplier shall do all things required by NPL to enable such assigned warranties to be effected.
- 2.4 Supplier will guarantee that the warranty period will be honoured in the event that the Supplier is acquired by a third party.

- 2.5 These representations, undertakings and warranties set out in this clause 2 shall survive acceptance of the Goods provided hereunder or termination of the Purchase Order and are in addition to any rights of NPL under any applicable law (including statute) and undertakings of additional scope given to NPL by Supplier. No implied representations, undertakings or warranties are excluded.

### **3. PRICES**

- 3.1 The purchase price set out in the Purchase Order (“**Purchase Price**”), is exclusive of consumption tax but is deemed to be inclusive of all packaging, delivery charges and other costs, except as specifically excepted on NPL’s Purchase Order. The Purchase Price shall remain fixed until the delivery and acceptance of all Goods and required documentation and the completion of all related work hereunder in accordance with these terms and conditions, notwithstanding that NPL may extend the date for delivery of the Goods or temporarily suspend performance of the obligations under the Purchase Order.
- 3.2 Payment shall not be deemed to constitute acceptance by NPL of any defective Goods.

### **4. PAYMENT**

- 4.1 Unless otherwise stated in the Purchase Order, NPL shall pay that amount of the Purchase Price of the Goods properly due to the Supplier, less any amount which NPL is entitled to withhold, within sixty [60] days after the date of receipt by NPL of a proper invoice for them (respectively).
- 4.2 No invoice will be accepted for payment and NPL shall have no obligation to make payment, unless it refers to NPL’s Purchase Order number, is appropriately addressed and provides sufficient detail with respect to all Goods invoiced.
- 4.3 In the event that payment is made before delivery for any or all of the Goods, Supplier grants to NPL, and NPL shall have, a security interest in the Goods, components and/or raw materials used in or purchased or designated for the manufacture of the Goods or purchased using money paid by NPL to Supplier (or on Supplier’s behalf) which security interest shall attach to the Goods, components and raw materials immediately upon such payment. Supplier agrees to execute and file (or, at NPL’s discretion, permit NPL or its agents to file), or to take such other reasonable actions as NPL deems necessary, in order to evidence such security interest, at Supplier’s cost.
- 4.4 In the event that the Supplier becomes insolvent or bankrupt during the period of supply, NPL will have an unlimited right to claim access to the Goods in progress where NPL has made payment prior to delivery.
- 4.5 NPL may set off from any amount due to the Supplier under these terms and conditions or Purchase Order, any amount claimed to NPL from the Supplier, whether under the Purchase Order, or otherwise.

### **5. SECURITY FOR PERFORMANCE, DEPOSITS AND STAGE PAYMENTS**

- 5.1 If required, Supplier shall provide to NPL an on demand parent company guarantee, or an on demand bond or guarantee from a bank, for the due performance of the Supplier’s obligations under the Purchase Order. The guarantee or bond must not have an expiry date and it must be otherwise in a form and an amount satisfactory to NPL.
- 5.2 If NPL has reasonable grounds to believe that NPL’s payment(s) are or are likely to be at risk, NPL may request from the Supplier a full refund of any amounts paid by NPL to Supplier. If a full refund is not received within seven days of NPL’s request, NPL may call on the guarantee or bond to cover NPL’s payment(s).

### **6. RISK AND PROPERTY**

- 6.1 Without limiting any rights of NPL with respect to damaged, defective or non-complying Goods, including under clause 7.5, risk of damage to or loss of the Goods shall pass to NPL when the Goods have been delivered and unloaded at NPL’s premises or designated shipment point and delivery is acknowledged by NPL.

### **7. DELIVERY AND IDENTIFICATION OF GOODS**

- 7.1 Goods shall not be despatched prior to receipt by Supplier of NPL’s written Purchase Order. If the Supplier procures raw materials, components or engages in hire labour prior to the receipt of NPL’s Purchase Order, the Supplier proceeds at its own risk.

- 7.2 The delivery of the Goods (and all work associated with the Goods) shall be completed by the date(s) specified in the Purchase Order or as otherwise agreed by NPL in a written document signed by NPL.
- 7.3 Time is of the essence in the performance of Supplier's obligations under these terms and conditions. The Supplier agrees that as soon as it is evident, the Supplier will immediately provide written notice to NPL of any material delays in its inability to meet the delivery date. If Supplier fails to commence work on the Goods on receipt of the Purchase Order, or it appears to NPL that Supplier is not proceeding diligently with performance, or that it may not be able to complete the delivery of the Goods by the required date, or Supplier fails to do so, NPL may terminate the Purchase Order or any part thereof at any time in accordance with the termination provisions of these terms and conditions.
- 7.4 Without prejudice to any other right or remedy, if Goods are not delivered on the required due date(s), or without certificates, identification or documentation in full compliance with NPL's requirements, NPL shall be entitled to refuse the Goods. In that event NPL shall also be entitled to recover from Supplier, by way of liquidated damages and not as a penalty (either directly or by deduction from any monies due or which become due to Supplier) a sum equivalent to 1% of the Purchase Price for each week's delay up to a maximum of 10% of the Purchase Price (or such other amount as may be specified in the Purchase Order), NPL may, in its absolute sole discretion and under no obligation to do so, extend the delivery due date(s) by notice in writing given to the Supplier.
- 7.5 Delivery shall not be deemed complete until all Goods and all other related deliverables (including manuals and all other documentation) and services have actually been received and accepted by NPL notwithstanding any prior payment or agreement by NPL to pay transportation charges.
- 7.6 Goods delivered in excess of the amount specified in the Purchase Order or incorrectly delivered may be refused and returned at Supplier's expense. NPL shall have no obligation to pay for any Goods (including any services) performed in excess of that called for or required by the Purchase Order.
- 7.7 Unless otherwise specified in the Purchase Order, delivery terms shall be Ex-Works (EXW Incoterms 2000). Supplier shall notify NPL once all obligations set out in the Purchase Order are complete and Goods are available for collection.
- 7.8 All equipment, fittings, accessories and documentation which may not have been specifically stated in these terms and conditions, the Purchase Order or the Specification, but which are necessary for the efficient working of the Goods to be supplied shall be deemed to have been included in the Purchase Price. All such items shall be completed and delivered to NPL with the Goods, whether such details are mentioned in the Purchase Order, terms and conditions or Specification or not.
- 7.9 Each package or case shall be clearly marked with Supplier's name and NPL's Purchase Order number and reference (if any), delivery address, Supplier's address, packing list of case content and any other details required by NPL.
- 7.10 Supplier shall be responsible for proper packaging, loading and tie-down of Goods to be delivered to prevent damage during transportation. No charge will be allowed for packing, crating, loading, or storage without NPL's written authorisation prior to the charge being incurred.
- 7.11 All Goods shall be suitably packed having regard to the nature of the Goods, to withstand normal freight handling and to withstand extended periods of storage. If the Goods or any parts thereof are damaged due to faulty or inadequate packing, the damaged Goods or parts thereof shall be repaired or replaced at Supplier's expense whether or not delivery has been accepted. The risk of loss or damage in transit shall always remain with the Supplier.

## **8. INSPECTION**

- 8.1 NPL may, at reasonable times, upon reasonable notice, perform such inspections and/or audit of Supplier's facilities, as NPL deems necessary to satisfy itself that the work on the Goods and/or the performance of the services meets the requirements of the Purchase Order and of Supplier's compliance with applicable laws and regulations and these terms and conditions.

## **9. DEFECTIVE GOODS OR SERVICES**

- 9.1 If any Goods are defective or fail to meet the requirements of NPL's Purchase Order or the warranties set out in these terms and conditions during the Warranty Period (as defined below), NPL reserves the right, at its sole discretion, to either:
- (a) require Supplier to remedy, at Supplier's own expense, any defects that may arise in the Goods and any related work; or
  - (b) return the Goods for repair or replacement or require replacement services within a period of time specified by NPL at Supplier's cost; or
  - (c) carry out any necessary rectification and then charge Supplier's account for such work; or
  - (d) require the Supplier to refund the Purchase Price in full within 30 days of NPL's notice and terminate the Purchase Order. NPL will not be liable to Supplier for any consequential losses or damages as a result of termination under this clause 9.1(d).
- 9.2 "**Warranty Period**" shall mean the longer of: (i) 18 months after the date the Goods are received by NPL; or (ii) 12 months after the date that the Goods have been put into service for their specified use; provided, however, that in the event a defect or non-conformity to the applicable specifications arises within such period but does not become apparent until such period has expired, the term Warranty Period shall mean the period commencing on the date such defect or non-conformity became apparent and ending 12 months thereafter. The Warranty Period in respect of any repaired, replaced or corrected Goods shall recommence for a further period of 12 months from the date of completion of the repair, replacement or correction of the defect or damage.
- 9.3 NPL's rights under clause 9.1 are, where permitted, in addition to any other right or remedy available under statute or at law including with respect to any claim for damages for any defective, non-complying Goods (including services) which NPL becomes aware of, notwithstanding the expiration of the Warranty Period.

## 10. STATUTORY AND SAFETY OBLIGATIONS

- 10.1 Supplier shall comply with all relevant statutes, laws, regulations, and its by-laws affecting the making or delivery of the Goods under the Purchase Order.
- 10.2 Supplier shall provide NPL with all information as is reasonably necessary to assist NPL in importing, transporting, using, handling, storing and distributing the Goods in compliance with all applicable laws and regulations, including but not limited to a completed Material Safety Data Sheet in a form which meets or exceeds the requirements set out by the Ministry of Health, Labour & Welfare. Supplier agrees to hold NPL harmless from and against all liabilities, claims, fines and penalties that may arise out of the transportation, delivery, use, handling, storing and/or distribution of the Goods resulting from any such information that does not meet the foregoing requirements.
- 10.3 Without limiting the generality of clause 10.2, Supplier shall provide NPL in writing, with such information relating to any materials supplied and /or used by Supplier in connection with the Goods and NPL's Purchase Order and its design, testing, condition and use as is necessary to ensure it will be safe and without risk to health when properly handled, stored, transported and used. Supplier shall supply at Supplier's own expense, certificates of analysis, tests, and certificates of origin as are required by NPL's Purchase Order in connection with the goods or services, or otherwise required by law or by NPL. Such information shall be delivered no later than the Goods to which it relates and shall be addressed for the attention of the Purchasing Department. Invoices will not be processed for payment unless such information is supplied as requested.

## 11. INDEMNITY & INSURANCE

- 11.1 Supplier shall indemnify NPL (and its successors and assigns) in respect of all loss, damage, liability or injury whatsoever involving any person or property (including third parties and property) and against any action, claim, demand, damages, cost, charge or expenses (including reasonable legal fees, internal processing costs, rework and remanufacturing costs) arising out of or in connection with NPL's Purchase Order, to the extent that the same shall have been caused or contributed to by any breach by Supplier of Supplier's obligations under these terms and conditions or by the negligence or wilful misconduct of Supplier, or its directors, employees or agents, including (without limitation) Supplier's obligations under clause 19 (Anti-Bribery Certification). Such indemnity shall be in addition to any other remedies afforded by law, contract and shall survive termination of the Purchase Order.
- 11.2 Supplier shall also hold NPL indemnified from and against all actions, claims, demands, damages, costs, charges and expenses suffered or incurred by NPL in respect of any patents or other intellectual property rights of a third party, which may be infringed (or claimed to be infringed) by the Goods, or services supplied under NPL's Purchase Order (except infringement resulting from adherence to the Specifications provided to Supplier by NPL, provided that the Supplier shall inform NPL of such infringement as soon as reasonably possible upon Supplier's discovery of the same). Supplier shall pay all damages, costs, charge, expenses and legal fees incurred by NPL (including without limitation those awarded against NPL in any such suit or proceeding) and, at NPL's discretion, either (i) at Supplier's expense, obtain through

negotiation the right for NPL to purchase and/or use the Goods; or (ii) rework the Goods so as to make them non-infringing while preserving their original functionality; or (iii) replace the Goods with functionally equivalent non-infringing Goods; or (iv) refund NPL the amounts hereunder.

11.3 Supplier shall maintain insurance cover, at Supplier's expense, acceptable to NPL in respect of:

- (a) such liabilities as are envisaged in clause 11.1;
- (b) liability under law or statute for any person employed by the Supplier in or about the performance of the Supplier's obligations hereunder, including for workers compensation, work cover or similar liabilities of Supplier (who shall be liable to its employees for such matters even if they undertake performance of services or delivery of Goods on or about NPL's property or premises);
- (c) any liability it may have to NPL arising out of the transportation and delivery of the Goods; and
- (d) where the Supplier has design obligations, professional indemnity insurance of an amount stated in the Purchase Order for the duration of the Supplier's performance of its obligations and thereafter for a period of 6 years, and shall provide to NPL on request valid certificates of insurance in respect thereof. Such insurance policies shall name NPL as an additional insured and shall waive any rights of subrogation against NPL. The insurance policies shall in no way define or limit the obligation of Supplier in the event of loss.

## 12. DISPUTES & TERMINATION

12.1 In the event of any default by Supplier in the performance of any obligations, including without limitation the failure to deliver any Goods or failure to carry out NPL's reasonable instructions, NPL may, where such default is capable of remedy give Supplier written notice to rectify such default in a specified time. If Supplier fails to comply with the requirements of the notice, or in NPL's sole opinion Supplier's default is incapable of remedy to NPL's satisfaction, NPL shall be entitled to terminate the Purchase Order in whole or in part, immediately, by serving notice in writing to Supplier to such effect, without prejudice to any other rights under the Purchase Order or otherwise, and shall have the right to retain any Goods previously supplied under the Purchase Order.

12.2 Without limiting any of NPL's legal rights, NPL shall be entitled to terminate its Purchase Order, with immediate effect, if:

- (a) Supplier makes any voluntary arrangement with its creditors or (being an individual or firm) Supplier becomes bankrupt or (being a company) becomes subject to an administration order or enters into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or
- (b) an encumbrancer takes possession, or a receiver or receiver and manager or administrator, or official manager is appointed, of any of Supplier's property or assets; or
- (c) Supplier ceases, or threatens to cease, to carry on business; or
- (d) NPL reasonably apprehends that any of the events mentioned above is about to occur and notifies Supplier accordingly; or
- (e) Supplier repudiates this Purchase Order;
- (f) Supplier is in default of this Purchase Order and such default is, in the opinion of NPL, incapable of remedy; or
- (g) NPL concludes (in its sole discretion) that Supplier has failed to meet its obligations under clause 19 (Anti-Bribery Certification).

12.3 NPL's rights and remedies are in addition to and without prejudice to other rights and remedies under the Purchase Order, including NPL's right to allow Supplier to continue with any defective or delayed performance and recover from Supplier the loss or damage suffered by NPL in respect of Supplier's defective or delayed performance.

12.4 NPL shall be entitled, at any time, to terminate the Purchase Order in whole or in part for its sole convenience, by serving notice on Supplier. Supplier shall cease all performance except to the extent provided in the notice of termination. In such event, NPL shall make payment to Supplier (as full and final settlement of all claims which Supplier may have against NPL as a result of termination) for all work satisfactorily performed up to the date of termination. This shall include the repurchase by NPL at cost of all materials, which have been irrevocably purchased by Supplier for incorporation in the Goods, except to the extent that such materials are:

- (a) damaged or not in their original packaging, or
- (b) capable of being used by Supplier for other customers, or
- (c) able to be returned by the Supplier to their seller or re-sold to a third party.

In no event will NPL be required to reimburse Supplier for indirect, consequential, incidental or special damages, including prospective profit or overheads arising out of or in connection with termination of the Purchase Order.

12.5 Supplier acknowledges its obligation to take all reasonable steps to mitigate liabilities arising from such termination.

- 12.6 Termination shall not relieve either party of liability with respect to any prior breach or with respect to rights and obligations based upon any matter which occurred prior to termination.
- 12.7 If the Supplier has a claim or dispute against NPL in connection with the Purchase Order (other than a variation to be dealt with under clause 16), the Supplier must give written notice thereof to NPL, setting out particulars of the claim or dispute. Thereafter representatives of the Supplier and NPL must meet in an attempt to resolve the dispute.

### **13. TOOLS AND MATERIALS**

- 13.1 All special dies, tooling, moulds, patterns, jigs, fixtures, and any other property which NPL furnishes to Supplier or specifically pays for to be used by the Supplier in the performance of this Purchase Order ("**Equipment**"), shall be and remain NPL's property, shall be:
- (a) kept separate and marked to reflect it is the property of NPL,
  - (b) subject to removal upon NPL's instruction,
  - (c) for NPL's exclusive use,
  - (d) held at Supplier's risk, and
  - (e) kept insured by Supplier at Supplier's expense while in Supplier's custody or control in an amount equal to the replacement cost, with loss payable by Supplier.

Supplier shall indemnify NPL against all actions, claims, demands, damage, liabilities, costs, charges or expenses suffered or incurred by NPL arising from a claim by Supplier's employees, agents or consultants for bodily injury or death in connection with the operation of the Equipment while in Supplier's care, custody and control.

- 13.2 Where NPL provides free issue material for incorporation into the work, Supplier shall use such materials economically, and any surplus shall be accounted for to NPL and disposed of in accordance with NPL's instructions. Waste, loss or damage to such materials arising from poor workmanship or Supplier's failure to maintain such materials in good order or condition shall be made good at Supplier's expense, replacements being of equivalent quality and specification and subject to NPL's approval.

### **14. INTELLECTUAL PROPERTY RIGHTS**

- 14.1 Any Specification supplied by NPL to Supplier, or specifically produced by Supplier for NPL, in connection with NPL's Purchase Order, together with the copyright, design rights or any other intellectual property rights in the Specification or anything made, delivered or performed by Supplier in which intellectual property rights may subsist, shall be NPL's exclusive property. Supplier shall not disclose to any third party any such Specification or other proprietary information except to the extent:
- (a) that it is or becomes public knowledge through no fault of Supplier,
  - (b) as required by law, provided that Supplier gives NPL immediate notice of such legal requirement and cooperate with NPL's attempts to acquire an injunctive or protective order, or
  - (c) for the purpose of fulfilling the Purchase Order provided that the third party is under an obligation of confidentiality no less stringent than stated herein.

Supplier shall not use any Specification or proprietary information except to the extent that it is required for the purpose of fulfilling NPL's Purchase Order.

- 14.2 Where NPL commissions Supplier to produce a design in accordance with the Purchase Order, the design supplied by Supplier shall be capable of being implemented to achieve the purpose(s) specified in NPL's Purchase Order. Copyright, design rights or any other intellectual property rights in the design shall be NPL's exclusive property.
- 14.3 All copyright or other intellectual property rights in the work produced by Supplier (other than design rights under 14.2) shall be assigned to NPL and Supplier undertakes to execute all documents and take all steps necessary to secure to NPL all rights assigned by this clause. Moral rights must vest in accordance with clause 14.1.
- 14.4 Supplier warrants that the Supplier's performance under the Purchase Order will not infringe the rights of any third party and will not have been previously assigned, licensed or otherwise encumbered.

### **15. CONFIDENTIAL INFORMATION**

- 15.1 If NPL discloses or grants Supplier access to any research, development, technical, manufacturing, financial, or other commercial information or "know-how" of a confidential nature, including but not limited to NPL's products, technology, equipment, manufacturing processes, inventions, patent applications, designs, design applications, computer hardware and software or any other technical or commercial information which is personal to NPL and is not common knowledge

among competitors to whom it may be useful and which may give NPL an advantage over its existing and prospective competitors, whether reduced to writing or not, Supplier will not use or disclose any such information to any other person or company at any time, without the prior written consent of a Corporate Officer of NPL and at NPL's request. Supplier shall execute NPL's standard Confidentiality Agreement.

- 15.2 All of NPL's designs, drawings, memoranda and data provided by NPL shall at all times remain NPL's property and shall be returned to NPL on request. Unless otherwise agreed in writing, Supplier shall not be entitled to use such information to develop or apply for any intellectual property rights, whether rights to patents, designs, trade secrets, copyrights, databases, know-how or otherwise, registered or unregistered, including applications or forms of protection equivalent or similar in effect to any of such rights anywhere in the world.
- 15.3 Supplier's obligations set out in this Clause 15 shall survive the termination of the Purchase Order or these terms and conditions.

## **16. VARIATIONS**

- 16.1 NPL may by written notice or change order make any changes to the Purchase Order, including changes to the quantities originally ordered, the Specifications, drawings or delivery date(s). Supplier shall perform all variations to the work required by NPL without delay. Supplier shall promptly advise us in writing of the reasonable effect of the change on price and delivery and an equitable adjustment shall be made, to the extent deemed necessary by NPL. Any claim for adjustment must be asserted and written notice thereof provided by Supplier to NPL within 30 days from the date the variation is ordered. Unless NPL disputes the notice (which NPL may do so at any time), NPL will accept the effect on price and delivery (without affecting the balance of the terms and conditions). If NPL does dispute the effect, and if the parties cannot resolve the dispute by agreement between the contract managers for each party, the parties must meet and agree the effect and if they cannot agree, then it is to be determined by an independent engineering expert acting as an expert and not as an arbitrator appointed by NPL whose costs are borne by NPL and Supplier equally. The rules of the expert determination process shall be the rules of the Japanese Commercial Arbitration Association. The Expert's decision, after receipt of submissions by the parties, will be binding on the parties.
- 16.2 No variation or qualification of the Purchase Order, these terms and conditions or the Specifications shall be valid unless agreed by NPL in writing. Any action on NPL's part in variance with such documents shall not constitute a waiver of them and NPL shall continue to be entitled to rely upon all the terms and conditions. NPL shall also be entitled to rely on any statement, warranty, or representation made by any of Supplier's employees or agents.
- 16.3 Supplier shall carry out variations which are required, and which have arisen as a result of an act or omission or default of Supplier, at Supplier's own cost.

## **17. FORCE MAJEURE**

- 17.1 Under no circumstances shall NPL have any liability for any breach relating to non-performance or underperformance caused by extreme weather, natural disaster, fire, accident or other act of God; strike, lock out or other labor shortage or disturbance; lock down, boycott, embargo or tariff; terrorism or act of terrorism, war or war condition or civil disturbance or riot; failure of public or private telecommunications networks; delay of carriers or other industrial, agricultural or transportation disturbance; failure of normal sources of supply; epidemics, pandemics, contagion, disease or quarantine; law, regulation or any act of government; or any other cause beyond NPL's reasonable control. NPL's performance shall be excused and deemed suspended during the continuation of such event or events and, for a reasonable time thereafter, delayed or adjusted accordingly.
- 17.2 Notwithstanding the foregoing, NPL shall have the right to terminate this Purchase Order if the delivery of Goods is delayed more than 60 days due to such event, without additional liability to either party.

## **18. SUB-CONTRACTING**

- 18.1 NPL's Purchase Order is placed subject to the work being carried out by Supplier and no assignment, subcontracting or transfer is permissible without specific prior arrangement with NPL in writing. No assignment or subcontract (even with NPL's consent) shall relieve Supplier of any obligations under the Purchase Order. Any purported assignment, transfer or subcontract without such written consent shall be void and ineffective.

## **19. ANTI-BRIBERY CERTIFICATION**

- 19.1 Supplier certifies that (i) it shall comply with all applicable anti-corruption and anti-bribery laws and regulations, including without limitation, the UK Bribery Act, U.S Foreign Corrupt Practices Act and any local anti-bribery legislation,

and (ii) all information provided by Supplier to NPL during NPL's pre-contractual due diligence process (including any due diligence documentation, if any) is complete, truthful and accurate.

19.2 The Supplier has not and will not (either directly or indirectly) offer to pay, or authorise such offer or payment, of any money or anything of value to improperly or corruptly influence any government official or any other person or third party in order to gain an improper business advantage and has not accepted, and will not accept in the future, such a payment.

## **20. CLAIMS**

20.1 All losses, damages, liabilities, claims, demands, costs, charges or expenses for which Supplier is liable to NPL may be deducted from any monies due or becoming due to Supplier, or may be recovered from Supplier by action at law or otherwise

## **21. WAIVER, SEVERABILITY AND OTHER**

21.1 No waiver or forbearance by NPL of any of its rights under the Purchase Order or any provision(s) of these terms and conditions shall preclude NPL from enforcing any of its legal rights whatsoever.

21.2 If anything in these terms or conditions or Purchase Order is unenforceable, illegal or void, then it is severed and the rest of the terms and conditions or Purchase Order remains in force.

21.3 No rule of construction shall apply to the disadvantage of any party on the basis that the terms and conditions or Purchase Order was drafted by that party.

## **22. SURVIVAL**

22.1 All provisions of these terms and conditions and the Purchase Order setting out representations, warranties, indemnification obligations, confidentiality, non-solicitation and non-competition obligations by either party, all obligations which occurred prior to termination of the Purchase Order and the general provisions herein shall survive the termination, cancellation and expiration of the Purchase Order.

## **23. GOVERNING LAW**

23.1 The construction, validity and performance of this Purchase Order shall be governed by Japanese law and Supplier agrees to submit to the nonexclusive jurisdiction of the Tokyo District Court.

## **24. EXEMPTION**

24.1 The United Nations Convention on Contracts for the International Sale of Goods and Articles 509, 510 and 526 of the Japanese Commercial Code are not applicable to any agreement between the parties.

## **25. ENTIRETY**

25.1 NPL's Purchase Order, these terms and conditions of purchase, the Specification and confidentiality agreement, if applicable, constitute the entire agreement between NPL and Supplier and supersede all prior understandings and agreements written or oral. Should any error, omission, deficiency, ambiguity, or contradiction occur within the various parts of the Purchase Order documentation or between the documentation and any applicable code, law or statutory regulations, Supplier shall immediately and in writing, bring the same to NPL's attention, and shall not proceed or continue with those obligations affected until written clarification by NPL has been received. Any and all additional costs incurred by either party as a result of Supplier failing to notify NPL shall solely be to Supplier's account.