

STANDARD TERMS AND CONDITIONS FOR THE COMMERCIAL PURCHASE OF GOODS AND SERVICES

1. DEFINITIONS

1.1 In these Terms these words and phrases have the following meanings:

“**Conditions**” means these terms and conditions.

“**Contract**” means the terms and conditions for the supply of Goods and/or Services to NPE, as set out in the Purchase Order for such Goods or Services, and these Conditions. If there is inconsistency between the terms of the Purchase Order and these Conditions, the terms of the Purchase Order will prevail.

“**Deliverables**” means anything provided by the Supplier to NPE as part of any Services and may include the Goods.

“**Goods**” means the goods described in a Purchase Order and will include any documentation (in any form) provided or made available with the Goods. A reference to Goods includes any Deliverables.

“**NPE**” means National Pump & Energy Pty Ltd, ABN 83 098 812 492, or any Related Body Corporate of NPE named in the Purchase Order.

“**NPE Property**” means materials, equipment, tooling or other property belonging to NPE or for which NPE is responsible.

“**Purchase Order**” means NPE's official purchase order issued by NPE to the Supplier and will include these Conditions and any Special Conditions, Drawings, Schedules, Specifications and other attachments.

“**Services**” means the services described in a Purchase Order and will include Deliverables provided as part of performing any Services and/or include any documentation (in any form) provided or made available with any Services.

“**Specification**” means the specifications for the Goods and/or the Services as set out or referenced in a Purchase Order.

“**Supplier**” means the company or person to whom a Purchase Order is addressed.

2. FORMATION OF CONTRACT

2.1 A Contract will be formed on acceptance of the Purchase Order by the Supplier.

2.2 Any of the following acts will constitute conclusive acceptance by the Supplier of the Purchase Order and the Conditions; any written (including electronic) or oral acceptance, or commencement of the supply of Goods or performance of the Services.

2.3 Notwithstanding any other clause or provision in this Contract, the Purchase Order or otherwise, any provision of Goods ordered and/or commencement of Services by the Supplier is done so, strictly in accordance with these Conditions and the Contract and any terms and conditions supplied or communicated by the Supplier are expressly rejected. This applies even if there is wording in any of the Supplier's terms, conditions or communications that states that NPE is deemed to have accepted such terms or conditions if NPE does an act (including but not limited to accepting Goods, accepting performance of Services or making payment), regardless of whether NPE performs such act.

2.4 NPE may terminate the Contract with immediate effect within 24 hours of formation without penalty or liability to the Supplier. The Supplier acknowledges that this is a reasonable cooling off period for NPE and that the Supplier will not incur cost or expense in this limited circumstance of termination.

3. INSPECTION, DELIVERY AND PERFORMANCE OF GOODS

3.1 The Supplier grants NPE the right to inspect any Goods at any time prior to delivery at the Supplier's premises or wherever the Goods are located. The Supplier will give NPE reasonable advance notice of when any completed Goods will be ready for inspection. Inspection by NPE of any Goods will not relieve the Supplier of responsibility or liability for those Goods and will not imply acceptance by NPE. NPE will be entitled to waive its right of inspection prior to delivery, without prejudice to its right to reject Goods after delivery.

3.2 The Supplier will deliver the Goods in accordance with:

- (i) the prices and delivery schedules stated in the Purchase Order; and
- (ii) the Contract.



- 3.3 The Supplier must provide a delivery docket for all Goods, which must include the following information:
- (i) the Purchase Order number;
 - (ii) a description of Goods;
 - (iii) the name of the Supplier;
 - (iv) the unit of measure specifying volume and quantity; and
 - (v) the delivery point for the Goods.
- 3.4 Title to all or any part of the Goods and/or Services will pass to NPE on the earlier of:
- (i) payment (in full or part) for such Goods or Services; and
 - (ii) delivery of such Goods or Services.

Where title to all or any part of the Goods has passed to NPE, but the Goods remain in possession of the Supplier, the Supplier will clearly label the Goods as the property of NPE and store the Goods separately from all other goods.

- 3.5 All Risk in any Goods remains with the Supplier until it is delivered undamaged to NPE, or any other location nominated in writing by NPE. To avoid doubt, the Supplier is and will be liable for any form of transit damage to the Goods or any component of the Goods.
- 3.6 NPE may reject any Goods delivered which are not in accordance with the Contract and will not be deemed to have accepted any Goods, notwithstanding that NPE has paid for the Goods, until NPE has had a reasonable time to inspect them following delivery or within a reasonable time after any latent defect in the Goods has become apparent, whichever is later.
- 3.7 Without prejudice to any other rights NPE may have under the Contract or otherwise, if the Supplier fails to deliver the Goods in accordance with the terms of the Contract or if NPE rejects the Goods pursuant to Clause 3.6, then NPE will be entitled, at its option, to:
- 3.7.1 require the Supplier, at its cost, to remove, repair or replace the undelivered or rejected Goods, as expeditiously as reasonably practicable which Goods will then immediately be held at the risk of the Supplier; or
 - 3.7.2 obtain replacement goods from a third party and be reimbursed on demand by the Supplier for all related reasonable costs and expenses.
- 3.8 If the Supplier fails to comply with a remedy requested by NPE pursuant to Clause 3.7 within 14 days of receiving a written request, then NPE will be entitled, at its option, to:
- 3.7.3 suspend the Contract and refuse to accept any further delivery of Goods from the Supplier; and/or
 - 3.7.4 terminate the Contract and refuse to accept any further consignment of Goods under the Contract.

3.9 The Supplier will comply with all reasonable package specifications issued by NPE. The Supplier must reasonably ensure that the majority of packaging supplied will be recoverable or recyclable and, if requested by NPE, collected from NPE free of charge.

3.10 NPE reserves the right to call for certificates of raw materials and test certificates for materials and equipment used in the manufacture of the Goods.

4. PERFORMANCE OF THE SERVICES

- 4.1 Without prejudice to any other rights NPE may have under the Contract or otherwise, if the Supplier fails to perform the Services in accordance with the terms of the Contract or by the specified date or if NPE rejects the Services, then NPE will be entitled, at its option, to:
- 4.1.1 require the Supplier, at its cost, to re-perform the Services as expeditiously as reasonably practicable; or
 - 4.1.2 obtain services from a third party and be reimbursed by the Supplier for all related reasonable costs and expenses.
- 4.2 If the Supplier fails to comply with a remedy requested by NPE pursuant to Clause 4.1 within 14 days of receiving a written request, then NPE will be entitled to immediately terminate the Contract and refuse to accept any further performance of Services under the Contract.



- 4.3 If the Supplier's employees are required to work on an NPE site:
- 4.3.1 materials used are at the Supplier's risk until accepted by NPE.
 - 4.3.2 the Supplier will be responsible for the safe keeping of all property belonging to it or within its control including, without limitation, plant, equipment, tools and documents and will ensure that these items are properly maintained and are in good working order and repair and are accompanied by all necessary certificates and records. The Supplier will perform the Services to ensure that all property is handled and stored in a manner that does not cause injury, loss or death to persons or loss or damage to property.
 - 4.3.3 the Supplier will be responsible for ensuring at its own cost that all personnel engaged in the Services are supplied with and wear all safety gear and personal protective clothing and equipment appropriate to the Services to be provided. The Supplier must not use any tools, equipment or other property belonging to or within the control of NPE without the written consent of NPE. If the Supplier uses such property, the Supplier will be responsible for its use and safekeeping.
 - 4.3.4 the Supplier must comply with NPE's Policies, Rules and Regulations at NPE's sites, details of which will be made available. A permit to work must be obtained from NPE prior to commencement of any work on site. Particular attention must be paid to the site safety rules, "No Smoking" requirements and other warning signs. The Supplier's employees will attend such safety training as may be required by NPE.
 - 4.3.5 NPE will have the right to request the removal of any individual working at an NPE site without giving any reason.
 - 4.3.6 the Supplier will at its cost, when required by NPE, carry away all unwanted material arising from the execution of any works by the Supplier, and will always leave the site clear and tidy to NPE's satisfaction. In carrying out these duties the Supplier will comply with all relevant legislation, including environmental and waste disposal laws and regulations and warrants that it is properly licensed and registered to transport and store controlled and special waste arising in connection with the Services.

5. PRICE AND PAYMENT

- 5.1 The price for the Goods and Services will be specified in the Purchase Order and will remain fixed for the duration of the Contract.
- 5.2 The price payable for the Goods and Services will be:
- 5.2.1 exclusive of the goods and services tax (which will be payable by NPE subject to receipt of a valid tax invoice) or other sales tax; and
 - 5.2.2 inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods and all duties, licences, permits and taxes (other than GST) as may be payable in respect of the Goods or Services.
- 5.3 NPE will make payment for the Goods or Services within 30 days of end of month from the date of receipt of Supplier's duly completed and accurate tax invoice (which includes the Purchase Order number, identifies the relevant Goods and/or Services and the Supplier's ABN number), which will only be issued by the Supplier following delivery of the relevant Goods to NPE or following completion of the relevant Services.
- 5.4 If NPE disputes a tax invoice, it must notify the Supplier in writing within 30 days of receipt of the duly completed and accurate tax invoice by NPE.
- 5.5 NPE may withhold payments of any disputed or insufficiently documented amounts included in any tax invoice.
- 5.6 The parties must make reasonable efforts to resolve the dispute by mutual negotiation within 30 days of the dispute being notified. If the parties are unable to resolve the dispute within this timeframe, the matter will be referred to mediation. Each party will be responsible for its own costs and will be equally responsible for the costs of the mediator. Neither party is permitted to commence court proceedings in relation to a disputed invoice without first complying with this clause.
- 5.6 NPE is entitled to set-off against the price any amounts owed to NPE by the Supplier.
- 5.7 Any amount paid by NPE to the Supplier prior to the physical delivery of any Goods or completion of any Services will constitute a Deposit for the purposes of this Contract.



- 5.8 Any funds held by the Supplier as Deposit pursuant to this Contract will be held by the Supplier in trust for NPE and must not be used by the Supplier for any purpose prior to the completion or termination of this Contract, without NPE's prior written consent.
- 5.9 If this Contract is terminated for any reason, other than due to the default of NPE, NPE may give the Supplier notice in writing requesting the return of monies paid for undelivered Goods or incomplete Services, in which event the Supplier will be required to make payment to NPE within 14 days of receiving notice. For clarity, and without limitation of NPE's rights, if NPE elects to exercise any of its rights under Clause 10, the Supplier must immediately return to NPE the full amount of the Deposit in addition to the previously mentioned monies.

6. NPE PROPERTY

The Supplier will maintain and calibrate any NPE Property (as applicable) and will otherwise be fully responsible for NPE property, including safe and secure storage whilst in the Supplier's possession and will promptly replace or repair, as required by NPE, at the Supplier's own cost, any NPE Property lost or damaged by the Supplier. The Supplier will stamp, tag or otherwise mark all relevant NPE Property in its possession with NPE's name and/or logo as indicia of NPE's ownership. The Supplier agrees not to remove these indicia of ownership and store NPE Property in a specifically designated area at the Supplier's premises. The Supplier will return NPE property immediately on request and will allow access to NPE's personnel for the purpose of removing NPE Property.

7. WARRANTIES AND GUARANTEE

- 7.1 The Supplier warrants that the Goods and any parts or materials used in the performance of the Services will:
- 7.1.1 be provided and/or supplied with due care and skill;
 - 7.1.2 conform to the Specification and perform all the functions set out by NPE in the Specification or any of the documentation supplied to the Supplier from NPE;
 - 7.1.3 be fit for their purpose for which they were supplied and do anything else that the Supplier has said (whether verbally or in writing) that they will do;
 - 7.1.4 be new and unused;
 - 7.1.5 be of sound materials and workmanship and will be of satisfactory quality and free from any defects (latent or otherwise);
 - 7.1.6 conform with all legal and regulatory requirements applicable to such Goods or Services (including any parts or materials used in the performance of the Services);
 - 7.1.7 be accompanied by all appropriate information, warnings, instructions and documentation in relation to the use, storage, operation, transportation and disposal of such Goods or parts or materials; and
 - 7.1.8 comply with and be properly marked in accordance with any applicable laws and regulations relating to the use, handling and storage of dangerous goods and hazardous substances.
- 7.2 The Supplier further warrants that:
- 7.2.1 NPE will, upon the passing of title, have clear title to the Goods which will be free from any encumbrance of any kind (including any legal, beneficial, equitable, or security interest); and
 - 7.2.2 it will make all payments for all its employees, agents, representatives and contractors who perform any work in connection with this Contract.
- 7.3 Clauses 7.1.1 to 7.1.8, 7.2, 7.6, 9.8 and 12 create individual warranty clauses and each one is severable from the others without affecting them in any way.
- 7.4 All warranties in this Contract from the Supplier to NPE are continuing warranties and do not merge under any circumstances.
- 7.5 In addition and in relation to the Goods and any parts or materials used in the performance of the Services, the Supplier will:
- 7.5.1 specify full details regarding all immediate and long-term potential hazards or dangers (including, but not limited to, toxicity, flammability, harmful effect due to inhalation or direct contact and whether due to direct or indirect use);
 - 7.5.2 provide full details relating to the most appropriate safety precautions to be taken (including in relation to use or handling);



- 7.5.3 appropriately and prominently label all receptacles containing dangerous, toxic or otherwise harmful Goods to protect those who handle them or who are exposed to them;
- 7.5.4 notify NPE prior to the supply of any Goods or use of any materials in the provision of Services, which are manufactured using or containing ozone depleting substances.
- 7.6 The Supplier warrants that all Services, including without limitation design work, will be performed:
- (i) in a safe and workmanlike manner;
 - (ii) in accordance with best practice;
 - (iii) in accordance with the degree of skill, care and diligence exercised by skilled and experienced contractor in the Supplier's industry;
 - (iv) in accordance with all applicable safety laws, regulations, information, warnings; and
 - (v) to ensure that the completed works the subject of the Services are free from defects in materials and workmanship and fit for purpose.
- 7.7 Without prejudice to NPE's other rights under the Contract or otherwise, at NPE's option, the Supplier will at its own cost replace or repair any defective Goods and remedy any defect, failure or other detriment to NPE arising from a breach of the warranties set out in this Clause 7, within 12 months of the date of acceptance of the Goods or completion of performance of the Services. If remedial action is not taken by the Supplier within a reasonable time (having regard to the nature of the defect), NPE may proceed to do, or direct a third party to do, the work at the Supplier's risk and expense.
- 7.8 The Supplier will at its own cost, replace or repair at NPE's discretion any of the parts or materials so repaired, modified or replaced under this Clause 7 if it is defective within a period of 12 months from the date of acceptance of such repair, modification or replacement.
- 7.9 The Supplier agrees to the pass through or assignment to any subsequent user or purchaser the benefit of any warranty or guarantee to which NPE is entitled and the Supplier agrees to sign such documents as may be necessary to achieve this.
- 7.10 The Supplier will ensure compliance with all applicable export laws and regulations in the execution of the Contract. The Supplier will ensure that the Goods and Services to be delivered in accordance with the Contract will be free from any export restrictions at the time of delivery and any necessary licences, authorisations or certificates obtained to ensure delivery in accordance with the Contract. The Parties agree that any export restrictions do not constitute a Force Majeure event. In view of re-exportation of the Goods and Services, the Supplier will perform any actions reasonably necessary to assist NPE. In particular, the Supplier will provide NPE a written confirmation of the single country of origin for each of the Goods supplied upon request.
- 7.11 The Supplier will only provide components for use in NPE products that are compliant with all applicable laws and regulations relating to the use, handling and storage of dangerous goods and hazardous substances. The Supplier will provide appropriate documentation or proof of such compliance at NPE's request, and update NPE if any compliance status changes.

8. INDEMNITY, INSURANCE AND LIABILITY

- 8.1 The Supplier holds harmless and indemnifies NPE and each of its officers, employees, agents, contractors and any of our Related Body Corporate from and against any liability, loss, costs (including legal fees), expense, damage, death or injury arising as a result of:
- (i) a defect in design (other than a design made or furnished by NPE), parts or materials or workmanship of Goods or Services or any breach by the Supplier of the Contract (including any late delivery of Goods and/or performance of Services);
 - (ii) any breach of warranty by the Supplier (whether provided for in this Contract or otherwise); and/or
 - (iii) any act or omission of the Supplier, its employees, sub-contractors or agents resulting in a breach of this Contract (whether such persons were acting with or without the Supplier's authority);
- except to the extent that such liability, loss, cost, expense, damage or injury is due to the negligence or breach of Contract by NPE.
- 8.2 The Supplier indemnifies NPE and each of its officers, employees, agents, contractors and any of our Related Body Corporate from any and all losses sustained by NPE by reason of any third party claim for injury, death or other damage caused by breach of the warranties within Clause 7 or by defects in the Goods and/or in the quality of the Services (including any product recall costs incurred by NPE as a consequence of NPE receiving defective Goods).



- 8.3 The Supplier will arrange and maintain, at its own cost, all necessary insurance on terms satisfactory to NPE to cover all its potential liabilities under this Contract regardless of when they arise. The insurance must include broad form public and products liability cover, professional indemnity cover and all insurances required by law.
- 8.4 Clauses 8.1 (i) to 8.1 (iii) and 8.2 create individual indemnity clauses and each one will be severable from the others without affecting those that remain, in any way.
- 8.5 To the maximum extent permitted by law:
- 8.5.1 neither party shall be liable to the other for indirect and consequential loss or damage of any kind. Without limiting what is or is not indirect or consequential loss, the parties agree that the following are taken to be indirect or consequential losses: loss of revenue of any kind and loss of profits of any kind; failure to realise expected profits or savings of any kind, loss of goodwill, or loss of reputation, additional or wasted costs; loss of production, production costs or downtime; and any other types of losses, of any kind, that are similar to any of these losses described in this clause, in each case whether direct, indirect or otherwise and/or whether foreseeable at the time of entering into this Contract or any other time;
- 8.5.2 NPE's total liability under this Contract, however caused, whether in contract, tort (including negligence), under any statute or otherwise, arising from or related in any way to this Contract (including, to avoid doubt, arising from or related in any way to the Goods or Services) is limited in aggregate for any and all claims to AUD 100% of the value of the Purchase Order, less any payments already made by NPE towards the Purchase Order.
- 8.5.3 NPE's liability is reduced to the extent that the loss or damage was caused or contributed to by an act or omission of the Supplier or any of the Supplier's personnel (including, to avoid doubt, subcontractors) ;and
- 8.5.4 clauses 8.5.1 to 8.5.3 apply to loss or damage of any kind (direct, indirect or otherwise), however caused, whether in contract, tort (including negligence), equity, under any statute or otherwise, arising from or related in any way to this Agreement (including arising from or related in any way to the Products or the Services).

9. INTELLECTUAL PROPERTY AND CONFIDENTIALITY

- 9.1 All intellectual property rights including patents, trademarks, service marks, design rights (whether registered or unregistered), copyright (including any future copyright) and any application for any of these items, arising from work conducted or prepared by the Supplier for NPE or in tooling supplied by or on behalf of or funded by NPE will belong to NPE and the Supplier agrees at NPE's expense to execute all documents and do all such other things as may reasonably be required to assign such rights to NPE and to otherwise assist NPE in applying for and being granted such rights.
- 9.2 Property in all goods and materials (including, without limitation, photographs, drawings, illustrations, film negatives, positives, bromides, recordings, proofs, physical embodiments of computer programmes, tools/tooling and dies) supplied to the Supplier by or on behalf of NPE, or prepared, manufactured or procured by the Supplier specifically for or in connection with the performance of the Contract for NPE will belong to NPE and will immediately upon NPE's request be handed over to NPE free of charge and in good condition and no such goods or materials will be used by Supplier other than in the performance of the Contract or disposed of without the prior written consent of NPE.
- 9.3 The Supplier warrants that all information and documents provided to the Supplier by NPE, or otherwise acquired by the Supplier relating to NPE's business, or created or produced by or on behalf of the Supplier specifically for or in connection with the performance of the Contract for NPE will be kept confidential by the Supplier and will not be used or caused to be used by the Supplier other than for the purposes of the Contract without first obtaining NPE's express consent in writing.
- 9.4 The provisions of Clause 9.3 will continue in force notwithstanding termination, however caused, or completion, of the Contract.
- 9.5 The provisions of Clause 9.3 will not apply to any information or document in the public domain or coming into the public domain other than through the default of the Supplier.
- 9.6 If the Supplier provides, or otherwise make available to NPE any confidential information, the Supplier agrees and acknowledges that:
- 9.6.1 it will first inform NPE that such material or information is confidential;
- 9.6.2 upon the disclosure of such confidential information to NPE, NPE will be entitled to disclose such confidential information to any of its Related Body Corporate; and



- 9.6.3 it grants NPE a royalty free, non-exclusive, perpetual, irrevocable, sublicensable licence to use anything (including confidential information) provided to NPE by the Supplier (or on behalf of the Supplier) for the purposes of this Contract or the future use, maintenance, repair, sale, alteration, modification of the Goods, or any component of the Goods and/or Services.
- 9.7 Without prejudice to Clauses 9.3 and 13.1, if the Supplier assigns or sub-contracts any part of the Contract to any person, the Supplier will ensure that such person agrees to be bound by these Clauses 9.1 to 9.6 (inclusive) as though a party to the Contract and the Supplier indemnifies NPE against any consequences of the Supplier's failure to do so, including any claim made by such person which it could not make if it were a party to the Contract.
- 9.8 The Supplier warrants that the sale, possession, resale or use of the Goods and/or the performance of the Services to be supplied do not infringe any third party intellectual property rights including moral rights, patents, designs (whether registered or not), copyright, trade and service marks (whether registered or unregistered), and/or will not be deemed to be the misuse of confidential information and/or will not be, or result in, a breach of any law, and holds harmless and indemnifies NPE, its employees, officers, servants, agents, successors, assigns and customers ("the Indemnified Parties") against all royalties or licence fees (to the extent not specifically provided for) and against all damages, expenses, losses or costs suffered by the Indemnified Parties or which the Indemnified Parties may be liable in respect of any breach of this warranty. The Supplier will give the Indemnified Parties all such support and assistance as the Indemnified Parties reasonably require in defending a claim that the Goods and Services infringe any third-party intellectual property rights. If it should come to NPE's knowledge that a claim may arise under this warranty, NPE reserves the right to terminate the Contract on written notice and without any liability to the Supplier. Any monies paid by NPE in advance for Goods and/or Services not provided must be refunded to NPE within 14 days.
- 9.9 The Supplier must make no reference to NPE in its advertising, literature or correspondence without NPE's prior written agreement. Nothing in this Contract will entitle the Supplier to use any name, trademark or logo of NPE without the prior written consent of NPE.

10. SPECIAL TOOLS, ATTACHMENTS OR FIXTURES

Where special tools, attachments or fixtures are designed, prepared or produced specifically for NPE, such items will not be used for any other person (legal or otherwise) or corporation and will not be stripped, altered or destroyed without the prior written consent of NPE. NPE reserves the right to require the Supplier to transfer such items to third parties, nominated by NPE, and such items will become the property of NPE on completion or, if earlier, termination of the Contract.

11. TERMINATION

- 11.1 NPE will be entitled to terminate the Contract immediately upon notice and to enter the Supplier's premises and remove any NPE Property if:
- 11.1.1 there is a material breach, which includes a series of repeated breaches however small, of a term of the Contract, or any breach of warranty of the Contract, by the Supplier which has not been remedied by the Supplier within seven (7) days of receiving written notice from NPE (written notice will not be required where the breach is incapable of remedy); or
- 11.1.2 any distress or execution is levied on the Supplier's goods or if the Supplier has a receiver, administrator, administrative receiver or manager appointed over the whole or any part of its assets, becomes insolvent, compounds or makes any arrangement with its creditors or commits any act of bankruptcy or is wound up or goes into liquidation or if the Supplier will suffer any similar proceedings under foreign law.
- 11.2 Termination of the Contract will be without prejudice to the accrued rights of NPE or the Supplier prior to the date of termination.
- 11.3 If this Contract expires or terminates (for any reason) then the Supplier must, within seven (7) days:
- (i) return to NPE all material, documents and information belonging to NPE, including but not limited to any confidential information;
 - (ii) delete or otherwise safely destroy all other copies in the Supplier's possession or control;
- and
- (iii) allow NPE to enter the Supplier's premises to remove any NPE Property.



12. CODE OF CONDUCT, MODERN SLAVERY AND ANTI-BRIBERY

- 12.1 The Supplier acknowledges that NPE adheres to a code of ethics (the "Code of Conduct"), covering areas such as business ethics, labour, safety and the environment. The Code of Conduct may be accessed by clicking: <https://www.atlascopcogroup.com/en/sustainability/our-business-code-of-practice/download>. By supplying Goods and/or Services to NPE, the Supplier agrees that it will adhere to the Code of Conduct. The Supplier acknowledges that no NPE employee or officer is authorised to propose to the Supplier or approve conduct inconsistent with the Code of Conduct.
- 12.2 NPE will have the right to terminate its business relationship and any associated agreements with the Supplier if the Supplier is (or NPE reasonably believes that the Supplier is) in material breach of the Code of Conduct and, in the case of breaches which are capable of remedy, the Supplier fails to remedy such breach, after written notification by NPE of such breach, within the period specified by NPE for such remedy. In determining the length of any period for rectification of breach NPE will act reasonably, having regard to the severity and nature of the breach.
- 12.3 The Supplier:
- 12.3.1 will comply with all applicable laws, statutes, and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and the US Foreign Corrupt Practices Act as amended from time to time, and generally in the course of conducting business behave ethically, with integrity and mutual respect (the "Relevant Requirements");
 - 12.3.2 will have and maintain in place throughout the term of this Agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010 and the US Foreign Corrupt Practices Act, to ensure compliance with the Relevant Requirements by any of the Supplier's employees, officers, representatives and subcontractors and any person who acts for or on its behalf in connection with the performance of the Contract;
 - 12.3.3 warrants that no intermediary of any kind was used in the negotiation and conclusion of the Contract, and
 - 12.3.4 agrees and acknowledges that breach of this clause will be deemed a material breach of the Contract. NPE will be entitled to terminate the Contract or any part of it with immediate effect should it have reasonable grounds to suspect that the Supplier has breached this clause.
- 12.4 The Supplier warrants that, if applicable, the tantalum, tin, tungsten and gold in products which they supply to NPE does not directly or indirectly finance or benefit armed groups that are perpetrators of serious human rights abuses in the Democratic Republic of the Congo or an adjoining country. The Supplier will exercise due diligence on the source and chain of custody of these minerals and make their due diligence measures available to NPE upon request.
- 12.5 The Supplier must always:
- 12.5.1 apply ethical sourcing practices, comply with and encourage compliance with relevant labour standards and laws, and take reasonable steps to identify modern slavery risks in its operations and supply chains; and
 - 12.5.2 notify NPE immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors, have breached or potentially breached any of the Supplier's obligations under this clause.
- 12.6 The Supplier represents and warrants that neither the Supplier, nor any of its officers, employees, agents or subcontractors, have:
- 12.6.1 committed an offence under any law relating to modern slavery;
 - 12.6.2 been notified that they are subject to an investigation or prosecution relating to an alleged offence under any law relating to modern slavery; and
 - 12.6.3 become aware of any circumstances within its supply chain that could give rise to an allegation of modern slavery.
- 12.7 The Supplier agrees and acknowledges that a breach of Clause 12.5 and/or 12.6 will be deemed a material breach of the Contract. NPE will be entitled to terminate the Contract or any part of it with immediate effect should it have reasonable grounds to suspect that the Supplier has breached this clause.



13. MISCELLANEOUS

- 13.1 The Supplier must comply with all privacy laws, and with any privacy policies that NPE may give or make available to the Supplier, which relate to this Contract (including, to avoid doubt, any cover information, in any form, that NPE provides the Supplier, or that the Supplier has access to, in connection with this Contract).
- 13.2 The Supplier may not assign or sub-contract the Contract without the prior written consent of NPE. NPE may at any time assign, transfer, charge or deal in any manner with the Contract or any rights under it.
- 13.3 The Supplier may not, without the express prior written consent of NPE, sell or transfer to a third party the ownership of, or grant or permit to be retained any security interest over, any amount due from NPE to the Supplier.
- 13.4 The Supplier may not deal with (including, to avoid doubt, assign or subcontract) any of its rights or obligations without NPE's prior written consent. Any such dealing will be void and of no effect. Notwithstanding any other provision to the contrary, the Supplier will always remain responsible for the performance of any obligation that it subcontracts.
- 13.5 NPE may, by notice to you, novate this Contract to a Related Body Corporate or for the purposes of a corporate restructure.
- 13.6 Time is of the essence for the performance of the Contract by the Supplier.
- 13.7 No term or provision of the Contract will be enforceable by a third party (being any person other than the parties and their permitted assignees and successors).
- 13.8 No failure or delay on the part of NPE to exercise any power, right or remedy under the Contract will operate as a waiver thereof nor will any single or partial exercise by NPE of any power, right or remedy preclude any other or further exercise thereof or the exercise of any other power, right or remedy. No waiver by NPE will be valid unless made in writing.
- 13.9 The Contract constitutes the entire agreement between NPE and the Supplier relating to the sale and purchase of Goods and/or Services. No amendment to or variation of the Contract will be effective unless agreed in writing by NPE.
- 13.10 A provision will not be construed against a party because they drafted it, or the meaning would favour them.
- 13.11 Words like "including", appearing anywhere (including, in warranty and indemnity clauses) and in any context, are not to be construed in any way as words of limitation.
- 13.12 The rights and remedies of NPE under this Contract apply in addition to any other rights or remedies (whether in equity, under statute or otherwise).
- 13.13 The following survive the expiry, or termination (for any reason), of this Contract:
- (i) Clauses 2.4, 5, 6, 7, 8.1, 9, 10, 11.3 and 12.5; and
 - (ii) Any and all accrued rights or remedies.
- 13.14 All Contracts, acceptances, correspondence, specifications and other documents will be in the English language and will be governed by and construed in accordance with the laws of Western Australia and NPE and the Supplier hereby submit to the non-exclusive jurisdiction of the courts of Western Australia.
- 13.15 NPE reserves the right at any time, at its absolute discretion, to cancel the Purchase Order in whole or in part or to make any changes by seven (7) days' notice in writing to the Supplier. Unless any cancellation or changes arise from the Supplier's default, NPE will pay to the Supplier fair and reasonable compensation for the Supplier's work-in-progress at the time of change or termination, but such compensation will never include payment of any cancellation or termination fees, loss of anticipated profits or any economic or consequential loss.
- 13.16 In the event that any term or provision of the Contract is declared invalid or unenforceable by any court of competent jurisdiction, it will be severed and the remainder of the provisions of the Contract will remain in full force and effect to the fullest extent permitted by applicable law.
- 13.17 Headings in the Conditions or the Contract are for convenience only and do not affect their interpretation.
- 13.18 References to all laws, regulations and codes of practice will be deemed to include all amendments or revisions and re-enactments as may be made from time to time.

