



NPAS, INC.
STANDARD TERMS AND CONDITIONS OF ALL SALES

These standard terms and conditions apply to all sales orders received from valued customers of NPAS, Inc. The terms and conditions herein supersede any contrary terms contained in the customer purchase order.

1. **TERMS & CONDITIONS OF SALE.** The goods that are the subject of a sale by either NPAS, Inc. (hereinafter referred to as "NPAS") to Buyer are referred to as the "Products," the services sold by NPAS to Buyer are referred to as the "Services," and items of tangible property on which NPAS performs Services or that result from Services are referred to as the "Service Items." All sales of Products or Services by NPAS are governed by and subject to (a) NPAS's quotation, order acknowledgement, or a separate written agreement signed by an authorized representative of NPAS, as applicable, and (b) these terms and conditions, whether or not they are specifically referenced in or incorporated by NPAS's quotation, order acknowledgement, or the separate written and signed agreement. Any irreconcilable conflict between these terms and conditions and any terms in NPAS's quotation, order acknowledgement, or the separate written and signed agreement shall be resolved in favor of the quotation, order acknowledgement, or the separate written and signed agreement. **NPAS's acceptance of Buyer's purchase order or commencement of performance shall not constitute acceptance of any of Buyer's terms and conditions. Terms additional or different from these terms and conditions, including but not limited to terms contained in Buyer's purchase order or Buyer's standard terms and conditions of purchase are deemed material and hereby rejected unless otherwise specifically accepted by NPAS in writing.**

2. **BUYER'S ASSENT TO THESE TERMS AND CONDITIONS.** Buyer's assent to these terms and conditions shall be conclusively presumed from Buyer's (1) receipt of NPAS's order acknowledgment without written objection sent to NPAS within ten (10) days after receipt of the order acknowledgement, (2) instructing NPAS to begin work or ship any of the Products or Service Items after receipt of NPAS's order acknowledgement, (3) acceptance of or payment for all or any part of the Products or Services, or (4) taking any other action evidencing Buyer's acceptance of the benefits of the agreement between the parties. NPAS may commence performance in reliance upon Buyer's acceptance of these terms and conditions, and NPAS will not be obligated to fulfill an order or request for the Products or Services unless NPAS affirmatively acknowledges the order. Buyer and NPAS agree that these terms and conditions are accepted in good faith by both parties as the controlling and final terms and conditions. **Buyer must object in writing to these terms within 5 business days after acknowledgment, and failure to do so shall constitute complete assent to these terms and conditions, and shall also constitute a complete waiver of any objections hereto.**

3. **ENTIRE AGREEMENT.** Except as otherwise agreed to by NPAS in writing, the terms and conditions set forth herein, together with NPAS's quotation, order acknowledgement, or a separate written and signed agreement, as applicable, shall constitute the entire agreement between NPAS and Buyer (hereinafter, the "Agreement"), superseding completely any prior oral, electronic or written communications.

4. **MODIFICATION.** No modification of this Agreement or waiver of any of its terms will be binding on NPAS unless clearly expressed in writing and signed by an authorized representative of NPAS. This paragraph excludes, among other things, purported modifications and waivers by oral agreement, course of performance, and usage of trade. NPAS and Buyer expressly agree that NPAS may modify these terms and conditions from time to time, and such modifications shall be binding upon Buyer.

5. **DELIVERY.** Delivery dates are approximate. The failure to meet an indicated delivery date will not constitute a breach of this Agreement. In no event shall NPAS be liable for any claims for labor or for any special, indirect, incidental, or consequential damages including, but not limited to, demurrage charges, cost of shipment, downtime, lost profits (whether direct or indirect), lost sales, or any other damages resulting from delay in delivery. Acceptance of the products or service items by buyer upon delivery shall constitute a waiver by Buyer of any claim for damages on account of a delay in delivery or performance.

6. **SHIPMENT AND RISK OF LOSS.** All deliveries are Ex Works (Incoterms 2010) NPAS's facility freight prepaid or freight collect to destination. Unless otherwise agreed in writing, NPAS may, in its sole discretion, select the shipping method, the carrier and the applicable freight charges. If Buyer desires to pick up the Products or Service Items at NPAS's facility, Buyer must contact NPAS to arrange a mutually convenient time for pick up. Buyer shall indemnify and hold harmless NPAS from and against any claims, damages or liabilities suffered by NPAS resulting from any acts or omissions of carrier. Title to the Products and risk of loss to the Products and Service Items shall pass to the Buyer at the point of shipment from NPAS's facility, whether freight prepaid or freight collect to destination, regardless of which party selects the carrier and arranges the freight charges or particulars of shipment. Risk of loss for damage or delay in transit shall be borne by Buyer. Buyer shall file and pursue any claims directly with the carrier related to loss, damage or delay in transit, and Buyer shall not assert such claims against NPAS or deduct from amounts owing to NPAS.



7. **RELEASE OF GOODS FOR SHIPMENT.** Buyer must release the Products or Service Items for shipment within twenty (20) days after NPAS notifies Buyer that those items are ready for shipment. After such 20-day period, Buyer will pay a holding charge determined in good faith by NPAS and/or NPAS may ship the Products or Service Items to Buyer without further notification. Buyer agrees to accept delivery of all shipped Products or Service Items and to pay the applicable price. NPAS has the right to sell or scrap any Products without notice to Buyer if Buyer has not released the Products for shipment within forty-five (45) days after NPAS notifies Buyer that the Products are ready for shipment, and Buyer shall be responsible for any difference between the agreed purchase price and the sale price or the scrap allowance. With respect to any order of a single item of a truckload or less, Buyer must release the entire order for shipment at one time or pay the additional LTL charges required by NPAS.

8. **DELAYS AND CANCELLATIONS BY BUYER.** "Delay/Cancellation Costs" include all labor, materials, overhead, general and administrative costs, restocking charges, surcharges levied on material by outside suppliers, sub-vendor cancellation charges, excess inventory charges, value of storage space, inventory tax charges, banking and finance charges, scrapping and disposal fees, and other harm, costs and charges incurred directly or indirectly by NPAS in connection with a delay or cancellation of an order for the Products or Services. An order is final once NPAS sends an order acknowledgement to the Buyer, whether by email or facsimile, or regular mail. If there is no quotation, order acknowledgement or separate written and signed agreement, or if none of those items specifies when the order is final, the order is final upon receipt of the purchase order. Buyer is not entitled, without NPAS's prior written consent, which may be withheld or conditioned in NPAS's sole discretion, to cancel or delay a delivery of the Products or Services for all or any part of an order. NPAS may charge in an amount determined in NPAS's sole discretion to reflect all applicable Delay/Cancellation Costs, including, at a minimum, a storage charge, inventory carrying costs, financing costs associated with the finished Products or Service Items, work in process and raw materials, and costs of inactive labor, from the original request date until the time of delivery or performance. In the case of cancellation, the charge may also include, at NPAS's sole discretion, a reasonable and equitable profit for NPAS. If NPAS's work on an order requires material from Buyer or a third party selected by Buyer, and NPAS does not timely receive material that strictly conforms to NPAS's requirements, including chemical composition, physical properties and dimensions, NPAS may delay performance of or cancel the order without liability, and Buyer shall compensate NPAS for all Delay/Cancellation Costs, including for costs incurred and time expended working on non-conforming material. NPAS shall have no liability whatsoever with respect to parts supplied by Buyer, beyond taking reasonable care of such material while it is in NPAS possession.

9. **SPECIFICATIONS and PRODUCT SETTINGS.** The material specifications, quality requirements, settings, adjustments or any other variable aspect of the Products and the Service Items or their manufacture (the "Product Specifications") is controlled by NPAS's quotation, order acknowledgement, or separate written and signed agreement. If any of the Product Specifications in NPAS's quotation, order acknowledgement, or separate written and signed agreement differ materially from the NPAS standard settings or specifications, or Product Specifications requested by Buyer, NPAS may, in its sole discretion, require that Buyer provide a written acknowledgment and acceptance of the Product Specifications in NPAS's quotation, order acknowledgement, or separate written and signed agreement prior to the manufacture or delivery of the Products or Service Items. Buyer is not entitled, without NPAS's prior written consent, which may be granted or withheld in NPAS's sole discretion, to make any changes to Product Specifications in NPAS's quotation, order acknowledgement, or separate written and signed agreement. If NPAS consents to the change, NPAS may condition its consent on Buyer's agreement to price adjustments and other compensating payments satisfactory to NPAS. In addition to all other remedies available to it under applicable law, NPAS may refuse to comply with any change to which NPAS has not given its prior written consent.

10. **GOVERNMENT CONTRACTS.** If Buyer is purchasing the Products or Services for a government contract or sub-contract, Buyer shall promptly notify NPAS of that fact and of any contractual terms from the government procurement laws and regulations that Buyer is obligated to include in its contracts for such Products or Services. No government procurement provisions will be included in this Agreement unless agreed to in a writing signed by an authorized representative of NPAS.

11. **PURCHASE PRICE.** Prices are subject to change where changes in business and other conditions, such as the price and availability of labor and materials result in an increase in the cost of production. In such an event, NPAS will notify the Buyer of a change in the pricing. Otherwise, the purchase price of the Products or Services shall be as stated in NPAS's quotation, order acknowledgement or in rare cases, a formal, written statement by an authorized representative of NPAS. Unless agreed by NPAS in writing, the purchase price does not include shipping and handling costs, which may include an additional cost for the particular shipper (such as UPS) to pick up the item for shipment. If the Products or Service Items are shipped freight prepaid, the charge for freight and handling shall be added to the invoice. Prices are based on and assume Buyer's compliance with all of the terms and conditions of this Agreement, including a promise by Buyer to purchase a particular mix of goods, a certain quantity of goods, or a



certain percentage of Buyer's requirements for the goods. NPAS may adjust prices, in its sole discretion, if the circumstances do not coincide with the forgoing assumptions.

12. **PAYMENT TERMS.** NPAS reserves the right to require payment in advance as to all or a portion of the purchase price. Payment terms are net 30 days, with no discounts. Interest will accrue on invoices unpaid after the net due date at the annual rate of 12% or the maximum legal contract interest rate, whichever is less.

13. **SHIPPING WEIGHT.** Regardless of any estimate of shipping weight given in a quotation, NPAS's actual shipping weights are to govern the performance of this Agreement. If such an approximate weight is offered, shown or calculated, Buyer shall nevertheless accept NPAS's shipping weights as the basis of full and complete delivery, and make payment therefor.

14. **TAXES.** Prices do not include any taxes or other assessments. All taxes, duties, fees, assessments or other charges of any kind imposed by any federal, state, municipal or other governmental authority which NPAS is required to collect or pay with respect to the provision, production, sale or shipment of the Products or Services shall be the responsibility of Buyer. Buyer agrees to pay all such taxes and further agrees to reimburse NPAS for any such payments made by NPAS. Buyer hereby affirms that it is purchasing the Products referenced herein for resale, and/or that Buyer is not the end user of the Products, so as to be exempt from any otherwise applicable sales tax.

15. **FAILURE OF PAYMENT.** If Buyer fails to make payment in full or in part when due or refuses to pay any applicable price increases or surcharges, NPAS shall have the right to: (i) immediately suspend performance and cancel the unfinished portion of any outstanding orders, (ii) declare all unpaid amounts for the Products or Service Items delivered immediately due and payable, and (iii) withhold further deliveries. If NPAS elects to proceed with an order after the suspension of performance, NPAS shall have an extension of time for performance as is necessitated by the suspension. NPAS shall have the right to enforce payment of the full purchase price, including any price increase or surcharge, for Products or Service Items already delivered or in process. Buyer shall reimburse NPAS for all costs of collection, including reasonable attorney's fees, incurred as a result of Buyer's failure to make payments when due.

16. **BUYER'S FINANCIAL CONDITION.** All new customers must supply a current financial statement, five trade references, and completed credit questionnaire. NPAS shall have the right, by written notice, to suspend performance, terminate this Agreement, cancel any order, modify any payment terms, or require full or partial payment or adequate assurance of performance from Buyer, without liability to NPAS, in the event of a material adverse change in the Buyer's financial condition or if reasonable grounds for insecurity arise with respect to Buyer's performance of this Agreement, evidence of which might include, among other things, (i) a default under any of Buyer's financing agreements, (ii) Buyer's inability to obtain financing, (iii) a reduction in Buyer's credit rating by a recognized rating agency, (iv) Buyer's insolvency, (v) the filing of a bankruptcy by or against Buyer (whether voluntary or involuntary), (vi) the appointment of a receiver or trustee for Buyer, (vii) the execution by Buyer of an assignment for the benefit of creditors, (viii) the failure by Buyer to make a payment to NPAS when due, or (viii) any other event which raises reasonable doubts as to Buyer's creditworthiness. The modifications NPAS may make to payment terms include shortening the payment period, requiring advance payment, or requiring payment of cash on delivery. NPAS shall notify Buyer in writing of any modifications to payment terms, which may be made retroactive to include amounts then accrued but unpaid. NPAS reserves the right to cancel Buyer's credit at any time for any reason, without notice. The foregoing remedies are in addition to NPAS's other rights and remedies under this Agreement and under applicable law, including Section 2-609 of the Uniform Commercial Code.

17. **SETOFF.** NPAS shall have the right to credit toward the payment of any monies that may become due Buyer hereunder any amounts which may now or hereafter be owed to NPAS or any of its affiliates. Buyer shall pay NPAS's invoices without discount, setoff or reduction for any reason, including asserted warranty claims or other claims of non-performance by NPAS.

18. **ACCORD AND SATISFACTION.** Checks or payments, whether full or partial, received from or for the account of Buyer, regardless of writings, legends or notations upon such checks or payments, or regardless of other writings, statements or documents, shall be applied by NPAS against the amount owing by Buyer with full reservation of all NPAS's rights and without an accord and satisfaction of Buyer's liability.

19. **LIMITED WARRANTY.** EXCEPT AS EXPRESSLY SET FORTH IN NPAS'S QUOTATION, ORDER ACKNOWLEDGEMENT OR SEPARATE WRITTEN AND SIGNED AGREEMENT, NPAS MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE EXPRESSLY DISCLAIMED. AT NPAS'S DISCRETION, BUYER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO THE CONFORMANCE OF ANY PRODUCTS OR SERVICE ITEMS FURNISHED BY NPAS UNDER THIS AGREEMENT SHALL BE LIMITED TO EITHER: (1) REPLACEMENT OF SUCH PRODUCTS OR



SERVICE ITEMS AT THE POINT OF SHIPMENT FROM NPAS'S FACILITY, OR (2) REPAYMENT OF OR CREDIT AGAINST THE PURCHASE PRICE OF SUCH PRODUCTS OR SERVICE ITEMS UPON AUTHORIZED RETURN THEREOF. In the event NPAS has authorized Buyer to scrap all or any portion of the Products or Service Items, the scrap allowance is to be credited to NPAS. The employees and representatives of NPAS are not authorized to make any statement or representation as to the Products or Service Items inconsistent with this Agreement and no such statements made will be binding upon NPAS or be grounds for any claim.

20. **NON-CONFORMING GOODS.** No claim for damages for non-conforming Products or Service Items will be allowed unless Buyer provides NPAS with written notice of the claim within sixty (60) days of the date the Products or Service Items were delivered to Buyer. To assert such a claim, Buyer must (a) at NPAS's request, return to NPAS 100% or, if agreed by NPAS, a lesser percentage of the Products or Service Items claimed to be non-conforming, and (b) provide reasonable evidence to support the claim, including, if requested by NPAS, results of diagnostic tests, evaluations and investigations performed by Buyer or Buyer's customer. Products or Service Items for which damages are claimed shall not be returned, repaired, or discarded without NPAS's prior written consent. If requested by NPAS, the non-conforming Products or Service Items must be returned to NPAS at Buyer's expense within ten (10) days of NPAS's request. No claims, rejections or returns for non-conforming Products or Service Items will be permitted unless Buyer cooperates in full with NPAS's technical personnel to determine the cause of the non-conformance.

21. **SHORTAGE OF GOODS OR DAMAGED GOODS.** Claims by Buyer with respect to shortage of Products or Service Items invoiced or for damaged Products or Service Items must be made to NPAS in writing no later than sixty (60) days from the date the Products or Service Items were delivered to Buyer. All claims must be made only for substantial cause, must be in writing, and must specify the reason(s) for the claim. THE FAILURE TO NOTIFY NPAS OF ANY CLAIM WITHIN THE TIME PERIOD SPECIFIED BY THIS SECTION SHALL CONSTITUTE A WAIVER OF AND BAR SUCH CLAIM. NPAS SHALL INCUR NO LIABILITY FOR SHORTAGE OR DAMAGE ALLEGED TO HAVE OCCURRED OR EXISTED AT OR PRIOR TO DELIVERY TO THE CARRIER UNLESS BUYER SHALL HAVE ENTERED FULL DETAILS THEREOF ON CARRIER'S DELIVERY RECEIPT WHICH MUST BE SIGNED BY THE CARRIER'S AGENT. NPAS MUST BE GIVEN AN OPPORTUNITY TO INVESTIGATE THE CLAIM BEFORE BUYER DISPOSES OF THE PRODUCTS OR SERVICE ITEMS. ANY DAMAGED PRODUCTS OR SERVICE ITEMS SHALL NOT BE RETURNED, REPAIRED OR DISCARDED WITHOUT NPAS'S WRITTEN PERMISSION.

22. **SPECIAL CONDITIONS FOR NON-PRIME AND SECONDARY PRODUCT SALES.** Notwithstanding anything in this Agreement to the contrary, the following special terms and conditions shall apply to all sales of non-prime and secondary products: (a) any descriptions, samples and specifications for such products are not warranted by NPAS to be accurate or complete and NPAS shall not be responsible for the consequences of any inaccuracies, insufficiencies or omissions in such descriptions, samples and specifications; (b) such products are sold on an "as is" basis, Ex Works (Incoterms 2010) NPAS's facility, unless otherwise specified by NPAS; (c) deficiencies of quality, character, size or condition shall not constitute grounds for claim against NPAS and no such claims shall be honored; (d) NPAS shall not in any event be liable for transportation or handling costs or for the costs of any work done or materials furnished by Buyer or anyone with respect to the products sold or for any incidental or consequential damages in contract, in tort or otherwise to Buyer or anyone else or for any injury to person or property by reason of any deficiencies or alleged deficiencies in such products or any failure or alleged failure of such products to meet applicable descriptions or specifications; (e) Buyer agrees to indemnify and hold harmless NPAS from and against all claims, demands or actions in contract, in tort or otherwise, including the defense thereof, brought against NPAS, whether based on an act, omission or negligence of Buyer, or act, omission or negligence of NPAS, in connection with the manufacture, sale, or use of the products, or upon any defect in the products, whether or not caused by NPAS, its agents or employees; and (f) NPAS reserves the right to reject any or all bids or withdraw any products from sale.

23. **MECHANICAL PROPERTIES; CHEMICAL ANALYSES.** NPAS makes no warranty with respect to data referring to mechanical properties or chemical analyses of tests performed on specimens of the Products or Service Items. Any data referring to mechanical properties or chemical analyses are the result of tests performed on specimens obtained from specific locations on the Products or Service Items in accordance with proscribed sampling procedures.

24. **TECHNICAL ADVICE.** NPAS assumes no obligation or liability for any technical advice furnished to Buyer, including without limitation technical advice with respect to the use of the Products or Service Items, all such technical advice being given and accepted at Buyer's risk. NPAS will not be liable for any damages of any kind arising out of or relating to the use of or the inability to use the information provided, including but not limited to any special, indirect, incidental or consequential damages including, without limitation, demurrage charges, cost of shipment, downtime, lost profits (whether direct or indirect), or lost sales, whether foreseeable or not, and even if NPAS has been advised of the possibility of damages.

25. **INTELLECTUAL PROPERTY.** Nothing in this Agreement is to be construed as a grant or assignment of any license or other right to Buyer of any of NPAS's or its affiliates' intellectual property rights, whether patent, trademark, trade secret, copyright or otherwise.



All improvements and developments related to the Products or the efforts of NPAS and Buyer will be owned exclusively by NPAS, and Buyer shall reasonably cooperate with NPAS in confirming that result.

26. **CONFIDENTIALITY.** Any pricing or other sensitive commercial information provided by NPAS to Buyer is proprietary to NPAS and shall be held in confidence by Buyer, shall only be used by Buyer in connection with this sale, and shall not be used for any other purposes or disclosed to third parties without NPAS's prior written consent. Buyer shall be liable for any loss to NPAS or commercial gain by others from unauthorized use of confidential information occasioned by Buyer's failure to comply with this provision.

27. **AUDIT.** Buyer shall have no right to audit any books or records of NPAS and Buyer shall have no right to enter into any facility owned or controlled by NPAS.

28. **LIMITATION OF LIABILITY.** NPAS'S LIABILITY, WHETHER IN CONTRACT, IN TORT, UNDER WARRANTY, IN NEGLIGENCE, OR OTHERWISE, SHALL NOT EXCEED THE PURCHASE PRICE OF THE PRODUCTS OR SERVICES, AND UNDER NO CIRCUMSTANCES SHALL NPAS BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, DEMURRAGE CHARGES, COSTS OF SHIPMENT, DOWNTIME, LOST PROFITS (WHETHER DIRECT OR INDIRECT), LOST SALES, DAMAGE TO EQUIPMENT, OR CLAIMS OF BUYER'S CUSTOMERS OR OTHER THIRD PARTIES FOR DAMAGES OR PENALTIES, WHETHER OR NOT BUYER IS LEGALLY OBLIGATED TO PAY THEM. NPAS'S LIABILITY HEREUNDER SHALL BE LIMITED TO EITHER: (1) THE OBLIGATION TO REPAIR OR REPLACE, AT NPAS'S SOLE DISCRETION, ONLY THOSE PORTIONS OF THE PRODUCTS OR SERVICE ITEMS PROVEN TO HAVE FAILED TO MEET IN MATERIAL RESPECT THE SPECIFICATIONS ON THE NPAS'S QUOTATION, ORDER ACKNOWLEDGEMENT, OR SEPARATE WRITTEN AND SIGNED AGREEMENT AT THE TIME OF SHIPMENT FROM NPAS'S FACILITY, OR (2) REPAYMENT OF OR CREDIT AGAINST THE PURCHASE PRICE OF THE PRODUCTS OR SERVICES. NPAS AND BUYER EXPRESSLY AGREE TO THIS ALLOCATION OF RISK AND THE PRICE STATED FOR THE PRODUCTS OR SERVICES IS CONSIDERATION FOR THE LIMITATION ON NPAS'S LIABILITY. THIS DISCLAIMER AND EXCLUSION WILL APPLY EVEN IF THE EXCLUSIVE REMEDY DESCRIBED IN THIS SECTION FAILS ITS ESSENTIAL PURPOSE.

29. **INDEMNIFICATION.** Buyer agrees to indemnify, defend and hold harmless NPAS, its directors, officers, employees, agents, successors and assigns from and against any and all damages, losses, expenses, costs (including without limitation reasonable attorney's and accountant's fees), claims, suits, actions, judgments or other liability asserted against or incurred by NPAS arising out of (a) Buyer's breach of its obligations hereunder, (b) Buyer's negligence or misconduct, or (c) Buyer's misuse or misapplication of the Products or Service Items or damage to the Products or Service Items caused by Buyer or its employees, agents or customers.

30. **FORCE MAJEURE.** NPAS shall not be responsible for cancellation or delay in delivery or performance resulting, in whole or in part, from causes beyond its reasonable control, whether or not NPAS can have an impact on settlement of any such conditions.

31. **GOVERNING LAW; FORUM SELECTION.** This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Ohio, without regard to conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Buyer, acting for itself and its successors and assigns, hereby expressly and irrevocably consents to the exclusive jurisdiction of the state and federal courts having authority over the territory of Richland County, Ohio, for any litigation which may arise out of or be related to this Agreement or the purchase or use of the Products or Services. Any action brought in any such court may not be transferred or removed to any other court. Buyer waives any objection based upon forum non-conveniens or any objection to venue of any such action.

32. **STATUTE OF LIMITATIONS.** BUYER AND NPAS AGREE THAT, UNLESS OTHERWISE SPECIFIED IN THIS AGREEMENT, ANY ACTION, REGARDLESS OF FORM, ARISING OUT OF THIS AGREEMENT OR THE SALE OF THE PRODUCTS OR SERVICES MUST BE BROUGHT WITHIN ONE YEAR AFTER THE DATE ON WHICH THE PRODUCTS OR SERVICE ITEMS IN QUESTION WERE DELIVERED TO BUYER OR THE DATE ON WHICH THE EVENT GIVING RISE TO THE ACTION OCCURRED, WHICHEVER IS EARLIER.

33. **DISPUTE RESOLUTION.** Buyer and NPAS will attempt in good faith to resolve promptly any dispute arising out of or relating to this Agreement or the breach thereof. If a dispute should arise, BUYER AND NPAS AGREE TO SUBMIT THE DISPUTE TO MEDIATION. Mediation involves no formal court procedures or rules of evidence, and the mediator does not have the power to render a binding decision or force an agreement on the parties. Buyer and NPAS agree that the entire mediation procedure will be confidential. Buyer or NPAS must give written notice of their desire to commence mediation, and a mediation session must take place within forty-five (45) days after the date such notice is given. The mediation shall be attended by representatives of each party with authority to resolve the dispute, and counsel for the parties shall not attend the mediation unless otherwise agreed to by the parties. Buyer and NPAS will jointly appoint a mutually acceptable and neutral mediator. If Buyer and NPAS are unable to agree upon the appointment of a mediator within seven (7) days after notice of desire to mediate is given, Buyer or NPAS may apply to the American Arbitration



Association for appointment of a mediator. The mediation shall be held in Mansfield, Ohio. Buyer and NPAS agree that the mediation fees and expenses due to the mediator shall be borne equally by both parties. Buyer and NPAS agree that arbitration will not be used to settle a dispute arising out of or relating to this Agreement or the breach thereof. If either party fails to participate in Mediation, the other party is free then to file claims in Richland County Ohio, which shall have exclusive jurisdiction over any sales in connection with this Agreement.

34. **NONWAIVER.** The failure of NPAS to enforce any of the provisions of this Agreement shall not be construed as a waiver of NPAS's right to enforce each and every provision hereof. NPAS reserves the right to enforce these terms and conditions at any time and none shall be deemed waived unless such waiver is in writing signed by an authorized representative of NPAS. NPAS's rights and remedies set forth in this Agreement are in addition to all legal and equitable rights and remedies available to NPAS.

35. **MISCELLANEOUS.** Buyer shall not assign or delegate any or all of its rights or obligations under this Agreement without the prior written consent of NPAS, and any attempt to do so will be ineffective. This Agreement is for the sole and exclusive benefit of the parties hereto and their permitted successors and assigns. Nothing expressed or referred to in this Agreement will be construed to give any other person any legal or equitable right, remedy or claim under or with respect this Agreement. NPAS and Buyer are independent parties and nothing in this Agreement shall make either party an agent, partner, joint venturer, or legal representative of the other. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement. If any provision or part of a provision of this agreement is declared invalid, illegal, or unenforceable under applicable law, the affected provision will be considered omitted or modified to conform to applicable law. The validity, legality, and enforceability of all other remaining provisions or parts of provisions will remain in full force and effect.

36. **INTERNATIONAL TRADE.** NPAS makes no representation with respect to the country of origin, qualification for duty preference or similar program, specific Harmonized Tariff Schedule Number, export jurisdiction, U.S. Munitions List category, Export Control Classification Number, or export authority of any good. NPAS retains all of its duty drawback rights, and any attempt by Buyer to transfer any such rights will be void. Buyer shall not, itself or by any freight forwarder, customs broker or other agent or third party under Buyer's direction or control, designate NPAS as the U.S. Principal Party in Interest (as defined in the U.S. Foreign Trade Regulations, 15 CFR Part 30) or file the Electronic Export Information with U.S. Bureau of Census ("EEI"), unless otherwise agreed in writing by an authorized representative of NPAS. If Buyer files an EEI without the prior written consent required by the preceding sentence, then: (i) the EEI will be considered to have been made without NPAS's authority or permission, and any false statements to the government will be considered to have been made by Buyer or its agent, as applicable, (ii) any affected transaction will be considered to be a routed export transaction, such that Buyer or its agent will be considered the U.S. Principal Party in Interest and exporter of record (as defined by the Foreign Trade Regulations and the Export Administration Regulations) for those transactions, (iii) Buyer shall assume all of the responsibilities of the exporter of record for any such transactions; and (iv) NPAS will have no responsibility as the exporter of record. Buyer represents that it is not, and to the best of Buyer's knowledge, its customers, its customers' end-users and its agents are not, subject to any U.S. or other government sanction or restriction that would prohibit the sale or export by NPAS of the Products or Services. Upon NPAS's request, Buyer shall provide all end-user and end-use information of which it is aware or which it could obtain with commercially reasonable efforts. Buyer shall comply strictly with all applicable U.S. export laws and regulations, and Buyer shall assist NPAS in complying and documenting compliance with any applicable U.S. export laws, regulations and executive orders. Regardless of any statements on Buyer's purchase order or other documents to the contrary, NPAS shall not be the importer of record (as that term is defined by U.S. law at 19 USC 1484, or equivalent provision of non-U.S. law) with respect to a transaction governed by this Agreement, unless otherwise agreed in writing by an authorized representative of NPAS.

37. **TRACEABILITY.** If the Agreement obligates NPAS to provide traceability on Products or Service Items, NPAS's obligation with respect to the Items returned to NPAS (a) is limited by the accuracy and completeness of the information provided by Buyer with respect to the returned Items, and (b) will terminate if the return was not authorized in advance by NPAS.