

Jabil Packaging Solutions Division - Standard Terms & Conditions

Our quote(s), proposal(s), and/or submission(s) (collectively, "Offer") are subject to the follow Jabil Packaging Solutions' standard terms and conditions ("T&Cs"). A purchase order or signed agreement referencing the final proposal will signify acceptance of these terms and conditions and form an agreement between your company ("Customer") and Nypro Inc. or any of its subsidiaries or affiliates providing goods or services (each, a "Provider"). These T&Cs supersedes all but conflicting signed agreements between Provider and Customer. Provider will use commercially reasonable efforts to provide the goods and services ("Deliverables") described in Customer's purchase order (the "Order") by the delivery date(s) and milestone(s) specified therefor (if any) and acknowledged by Provider.

1. Certain Definitions: (1) "Defect" or "Defective" means Deliverables in breach of the warranty in Section 6; (2) "Specifications" means technical written specifications setting forth manufacturing, component, testing, shipping and all other technical requirements for the Deliverables; and (3) "Materials Declaration Requirements" means any requirements, obligations, standards, duties or responsibilities pursuant to any environmental, product composition and/or materials declaration laws, directives, or regulations, including international laws and treaties regarding such subject matter; and any regulations, interpretive guidance or enforcement policies related to any of the foregoing, including for example: Directive 2002/95/EC and Directive 2011/65/EU of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment ("RoHS"), Directive 2012/19/EU of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment ("WEEE"), Directive 2009/15/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting or ecodesign requirements for energy-related products (and applicable implementing measures thereunder) and European Union Member State implementations of the foregoing, or similar laws in Switzerland or the European Economic Area; Regulation (EC) No. 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorization and Restriction of Chemicals ("REACH"), and the People's Republic of China (PRC) Measures for the Administration of the Control of Pollution by Electronic Information Products promulgated on February 28, 2006 (including any pre-market certification ("CCC mark") requirements thereunder and any relevant standards adopted by the PRC Ministry of Information Industry or other applicable PRC authority); and/or other similar legislation.

2. Payment: Terms are Net 30 from date of invoice. In the event of cancellation, rescheduling, expiration or termination of the Order for any reason, Customer will remain liable for all fees, costs of material and expenses incurred by Provider. Customer shall also reimburse Provider for all work in progress and finished goods inventory.

3. Delivery: Unless otherwise specified in the Offer, delivery shall be FCA (per Incoterms 2010) Provider Dock, and all title and risk of loss shall be transferred to Customer when Deliverables are tendered to the carrier or forwarder approved by Customer.

4. Acceptance: Customer will be deemed to have accepted Deliverables unless, within ten (10) days following Provider's delivery thereof, Customer provides a detailed written notice setting forth the manner in which such Deliverables fails to conform to Specifications. Acceptance of any Deliverables hereunder is also an acceptance of these terms and conditions, and Customer agrees that these terms and conditions will govern the transaction despite any conflicting terms in Customer's Order.

5. Specifications: Customer will be solely responsible for the sufficiency and adequacy of the Specifications and will hold Provider harmless for any claim arising therefrom. Any changes to the Specifications must be in writing and are only effective as acknowledged by Provider. Provider shall be entitled to make any adjustments to delivery or pricing necessitated by changes to the Specifications.

6. Warranty: Provider warrants that it will manufacture the Deliverables in conformance with the workman- ship standards of IPC-A-610, Class 2 and the requirements of the Specifications in place as of the date of manufacture. This warranty will remain in place for one year following the initial delivery of the Deliverables to Customer or to Customer's designated carrier (the "Warranty Period"). This warranty is extended only to, and may only be enforced by, Customer.

7. Warranty Remedy: Provider will either repair or replace, in its sole discretion, any Deliverables containing a breach of the foregoing Warranty (a "Defect"), provided that the allegedly defective Deliverables are received within 30 days following the end of the Warranty Period ("RMA Item"). Provider will analyze any such RMA Item and, if a Defect is found, Provider will repair or replace the RMA Item within twenty (20) business days of receipt by Provider of the RMA Item and all required associated documentation. If a Defect is found, Provider will reimburse Company for the reasonable cost of transporting the RMA Item to Provider's designated repair facility and Provider will deliver the repaired RMA Item or its replacement, FCA Customer's designated destination. If no Defect is found, Customer will reimburse Provider for all fees, costs and expenses incurred to analyze and, if requested by Customer, repair or replace the non-defective Deliverables, including without limitation costs of transporting Deliverables to and from Provider.

8. Materials Declarations: Customer represents and warrants that the Deliverables are not subject to Materials Declaration Requirements. Where Customer notifies Provider in writing that the Deliverables are subject to Materials Declaration Requirements, Provider will use commercially reasonable efforts to assist Customer in procuring parts, components and/or materials that are compliant with Materials Declaration Requirements. However, Customer understands and agrees that: (a) Customer is responsible for notifying Provider in writing of the specific Materials Declaration Requirements that Customer determines to be applicable to the Deliverables and shall be solely liable for the adequacy and sufficiency of such determination and information; (b) Any information regarding Materials Declaration Requirements compliance of parts, components, packaging or materials used in the Deliverables shall come from the relevant supplier as Provider does not test, certify or otherwise warrant compliance, on a homogenous material level or any other level; and (c) Customer is ultimately and solely responsible for ensuring that any parts, components or materials used in the Deliverables, and the Deliverables themselves, are compliant with applicable Materials Declaration Requirements. THIS SECTION 8 SETS FORTH PROVIDER'S SOLE RESPONSIBILITY AND LIABILITY AND CUSTOMER'S ENTIRE REMEDY FROM PROVIDER WITH RESPECT TO MATERIALS DECLARATION REQUIREMENTS, AND ANY THIRD PARTY CLAIMS AGAINST CUSTOMER RELATED TO THE MATERIALS DECLARATION REQUIREMENTS, AND THAT ABSENT THIS PROVISION, PROVIDER WOULD NOT ENTER THIS AGREEMENT.

9. DISCLAIMER: THE REMEDIES IN SECTION 7 ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES FOR ANY PROVIDER BREACH. THE WARRANTIES IN SECTION 6 ARE IN LIEU OF, AND PROVIDER EXPRESSLY DISCLAIMS, AND CUSTOMER EXPRESSLY WAIVES, ALL OTHER WARRANTIES AND REPRESENTATIONS INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. CUSTOMER UNDERSTANDS AND AGREES THAT IT SHALL HAVE FULL AND EXCLUSIVE LIABILITY WITH RESPECT TO ANY DELIVERABLES, WHETHER FOR PRODUCT DESIGN LIABILITY, PRODUCT LIABILITY, DAMAGE TO PERSON OR PROPERTY AND/OR INFRINGEMENT OR MISAPPROPRIATION OF THIRD PARTY RIGHTS. NO ORAL OR WRITTEN STATEMENT OR REPRESENTATION BY PROVIDER, ITS AGENTS OR EMPLOYEES SHALL CONSTITUTE OR CREATE A WARRANTY OR EXPAND THE SCOPE OF ANY WARRANTY HEREUNDER. PROVIDER'S WARRANTY SHALL NOT APPLY TO ANY DELIVERABLES PROVIDER DETERMINES TO HAVE BEEN SUBJECTED TO MISHANDLING, ACCIDENT, MISUSE, NEGLIGENCE, IMPROPER

TESTING, IMPROPER OR UNAUTHORIZED REPAIR, ALTERATION, DAMAGE, ASSEMBLY, PROCESSING OR ANY OTHER INAPPROPRIATE OR UNAUTHORIZED ACTION OR INACTION THAT ALTERS PHYSICAL OR ELECTRICAL PROPERTIES. THIS WARRANTY SHALL NOT APPLY TO ANY DEFECT IN THE DELIVERABLES ARISING FROM ANY DRAWING, DESIGN, SPECIFICATION, PROCESS, TESTING OR OTHER PROCEDURE, ADJUSTMENT OR MODIFICATION SUPPLIED AND/OR APPROVED BY CUSTOMER

10. LIMITATION OF DAMAGES: EXCEPT UNDER SECTIONS 12 AND 13, PROVIDER WILL NOT BE LIABLE TO CUSTOMER AT LAW OR EQUITY FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES REGARDLESS OF WHETHER SUCH PARTY WAS AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

11. Intellectual Property: Customer grants Provider a license to use its intellectual property to the extent necessary for Provider to perform hereunder. Except as expressly otherwise provided herein each party retains all right, title and interest in and to its intellectual property; and (2) all licenses are worldwide, non-exclusive, fully paid-up, and royalty-free.

12. Customer Warranty and Indemnification: Customer will indemnify, defend and hold Provider and its employees, subsidiaries, affiliates, successors and assigns harmless from and against all claims, damages, losses, costs and expenses, including attorneys' fees, arising from any third party claim based in part or in whole on (a) the Specifications, Customer proprietary information and technology, any Deliverables, or any design, information, technology and processes supplied and/or approved by Customer or otherwise required by Customer of Provider; (b) that any item in subsection (a) infringes or violates any patent, copyright or other intellectual property right of a third party; (c) actual or alleged non-compliance with Materials Declaration Requirements; or (d) design or product liability alleging that any item in subsection (a) has caused or will in the future cause damages of any kind. Customer will reimburse Provider's expense for counsel if Customer does not assume control of the defense of a subject claim. Customer will not make any settlement that affects Provider's rights or interests without Provider's prior written approval, which will not be unreasonably withheld.

13. Confidential Information: "Confidential Information" means information on tangible media conspicuously labeled as "proprietary" or "confidential" or with comparable legend ("marked") provided by one party ("Provider") to the other party ("Recipient"). Orally-disclosed information is also Confidential Information if Provider gives Recipient a marked writing containing a summary, the approximate date and time and the recipients of such disclosure within 30 days of disclosure. No information can be Confidential Information if (1) it is publicly available through no fault of Recipient; (2) Recipient gets it from a third party who had the right to provide it; (3) Recipient independently develops it or knew it before receiving it hereunder; or (4) Provider discloses it to a third party without restriction. Recipient will hold and protect Confidential Information with the same degree of care that it uses with its own information of like importance, but in no event less than a reasonable standard of care. This Section 14 survives fulfillment or earlier termination of the Order for two years.

14. General: Both parties will comply with applicable export control laws and regulations. Company shall be responsible for obtaining any required import or export licenses necessary for Provider to ship Deliverables, including certificates of origin, manufacturer's affidavits, and U.S. Federal Communications Commission's identifier, if applicable and any other licenses required under US or foreign law and Company shall be the importer of record. Neither party shall assign, delegate or transfer, in whole or in part, this Order or any rights or obligations arising hereunder without the prior written consent of the other party. Notwithstanding the foregoing, Provider shall have the right to assign its rights to receive monies hereunder without prior written consent of Customer. Neither party will be liable for any delay or failure to perform resulting from an event or cause beyond its reasonable control. All required notices must be in writing. The illegality or unenforceability of any term hereunder will not affect the enforcement of any other term. No failure or delay to enforce a provision will be deemed a waiver thereof.

15. Disputes: All disputes and controversies arising out of or relating to the Offer, the T&Cs, or the Deliverables shall be exclusively settled by binding arbitration under the applicable rules and procedures of the arbitration bodies listed as follows. This clause shall not preclude parties from seeking provisional remedies from a court of appropriate jurisdiction. For any Provider entity incorporated in the Americas, the laws of the State of Florida apply, excluding those portions relating to conflicts of laws. Disputes will be settled before the American Arbitration Association according to its rules, with the mandatory site for arbitration in Tampa, Florida. For any Provider entity incorporated in Asia, Singapore laws apply and disputes will be settled before the Singapore International Arbitration Centre ("SIAC"), with the mandatory site for arbitration in Singapore. For any Provider entity incorporated anywhere else in the world, the laws of Austria apply, excluding those portions relating to conflicts of laws, and all disputes arising out of or in connection with the PO shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by three arbitrators appointed in accordance with the said Rules, with the mandatory site for arbitration in Vienna, Austria. The United Nations Convention on Contracts for the International Sale of Goods shall not apply. To the extent that a court of competent jurisdiction or arbitral panel reasonably determines that a local law must apply (notwithstanding the express choices of law described in this Section 15), the parties agree and acknowledge that the application of such local law shall be limited in scope and narrowly tailored to apply in a limited context, and that thereafter all disputes shall be otherwise governed by this Section 15 as well as by the express arbitration provisions set forth herein. The language of arbitration shall in all cases be English, unless otherwise agreed by both parties. The parties hereby knowingly and voluntarily, and having had an opportunity to consult with counsel, waive all rights to trial by jury.