

**GENERAL TERMS AND CONDITIONS
OF
PURCHASE
(MATERIALS & EQUIPMENT)**

TABLE OF CONTENTS

ARTICLE 1 - Definitions 2

ARTICLE 2 - Contract 3

ARTICLE 3 - Adherence to Contract Documents 3

ARTICLE 4 - Changes 4

ARTICLE 5 - Assignment and Subcontract 4

ARTICLE 6 - Payment 5

ARTICLE 7 - Packing and Marking..... 5

ARTICLE 8 - Delivery and Shipment..... 6

ARTICLE 9 - Test and Inspection..... 7

ARTICLE 10 - Supplies 8

ARTICLE 11- Erection, Installation, Commissioning and/or Supervision by Seller 8

ARTICLE 12 - Proprietary Rights 9

ARTICLE 13 - Confidential Information..... 9

ARTICLE 14 - Lien..... 9

ARTICLE 15- Warranty 10

ARTICLE 16 - Indemnity 11

ARTICLE 17 - Insurance 12

ARTICLE 18 - Intellectual Property Rights..... 12

ARTICLE 19 - Force Majeure 13

ARTICLE 20 - Suspension..... 14

ARTICLE 21 - Termination 14

ARTICLE 22 - Dispute Resolution 16

ARTICLE 23 - Governing Law 17

ARTICLE 24 - Language 17

ARTICLE 25 - Notices and Communications..... 17

ARTICLE 26 - Compliance with Laws and Policies 17

ARTICLE 27 - Amendment and Waiver..... 18

ARTICLE 28 - Financial Statements 18

ARTICLE 29 - Publicity 18

ARTICLE 30 - Remedies Cumulative 18

ARTICLE 31 - Survival of Obligations 18

ARTICLE 32 - Headings	18
ARTICLE 33 - Severability.....	19
ARTICLE 34 - Entire Agreement	19
ANNEX 1 - IHI GROUP PROCUREMENT POLICY	

ARTICLE 1 - Definitions

- 1.1 “Contract” means and is expressly limited to the terms and conditions in (a) the Purchase Order, including appendices thereto, (b) these General Terms and Conditions of Purchase, (c) the Specifications, (d) drawings and (e) documents approved in writing by a duly authorized purchasing representative of IPS.
- 1.2 “Contract Documents” means all or any one of the documents which comprise the Contract.
- 1.3 “Contract Price” means the consideration payable to the Seller by IPS under the Contract for the Products and Works as stated in the Purchase Order.
- 1.4 “Control” means the possession directly or indirectly of the power to direct or cause the direction of management and policies of an entity, whether through the ownership of stock, by contract or otherwise.
- 1.5 “Delivery Date” means the date specified in the Purchase Order by which the Seller shall deliver the Products to the Delivery Point.
- 1.6 “Delivery Point” means the place specified in the Purchase Order to which the Products are to be delivered by the Seller to IPS.
- 1.7 “IPS” means IHI Power Systems Co., Ltd., a corporation duly organized and existing under the laws of Japan, having its principal office at 14-5, Sotokanda 2-Chome, Chiyoda-ku, Tokyo 101-0021, Japan.
- 1.8 “IPS’s Customer” means the firm, company or person that purchases the Products or any goods containing the Products from IPS.
- 1.9 “Non-Conforming” means out of conformance with any of the Seller’s warranties in Article 15.1.
- 1.10 “Non-Conformity” means an aspect of a Product that is out of conformance with any of the Seller’s warranties in Article 15.1.
- 1.11 “Products” means the goods, equipment, machinery, materials and/or components thereof ordered by IPS, irrespective of whether they are purchased, procured or manufactured by the Seller according to the Specifications, as amended.
- 1.12 “Purchase Order” means IPS’s purchase order for the Products.
- 1.13 “Seller” means the firm, company or person that receives an inquiry from and accepts a Purchase Order from IPS.

- 1.14 “Specifications” means collectively the technical specifications, drawings and other technical documents supplied by IPS and also such specifications and/or other technical documents as may be prepared by the Seller and agreed upon by IPS, if any.
- 1.15 “Works” means the entire works and services to be carried out by the Seller under the Contract.
- 1.16 Unless expressly stated otherwise, references to “days” means calendar days.

ARTICLE 2 - Contract

- 2.1 Unless otherwise specified in the Contract, the Contract between IPS and the Seller shall come into force when the Seller has indicated its acceptance of the Purchase Order; provided, that if a rejection is not received by IPS in writing within ten (10) days after IPS sends or transmits the Purchase Order to the Seller, the Purchase Order shall be deemed to have been accepted by the Seller.
- 2.2 The Contract Documents shall be taken as mutually explanatory and supplementary to one another. Any terms and conditions mentioned in one and not in the other Contract Documents shall be deemed to be contained in all of them.
- 2.3 In the event of conflict between the terms and conditions set forth in the respective Contract Documents, the order of preference of application shall, unless otherwise specified in the Contract, be as follows:
- (1) the Purchase Order, including appendices and attachments thereto;
 - (2) these General Terms and Conditions of Purchase;
 - (3) the Specifications;
 - (4) any other Contract Documents.

ARTICLE 3 - Adherence to Contract Documents

- 3.1 The Seller shall design, manufacture and deliver the Products in strict conformity with the Contract. The Seller shall be responsible for all costs, losses, damages and delays arising from any Non-Conformity.
- 3.2 The Seller shall be fully and solely responsible for the Specifications issued by the Seller and for its obligations under the Contract with respect to the Specifications, irrespective of whether IPS has reviewed them, approved them or given comments or suggestions with respect to them.
- 3.3 Prior to commencing the performance of each stage of the Contract, the Seller shall furnish IPS with copies of all Specifications made by the Seller and shall obtain IPS’s approval thereof. The said copies shall include, but shall not be limited to, all drawings, specifications, data, inspection records, and other documents as they may be:
- (1) stated in the Contract; and/or

- (2) otherwise necessary to illustrate and describe the design, specifications, and manufacturing process in respect of the Products in sufficient detail to enable IPS and IPS's Customer to ascertain the satisfactory development of such design, specification and manufacturing process.
- 3.4 If the Seller finds what it considers to be technical errors, ambiguities and/or discrepancies in the Specifications, the Seller shall promptly so notify IPS in writing and comply with relevant instructions given by IPS.

ARTICLE 4 - Changes

- 4.1 IPS may change its Purchase Order at any time by giving a written notice to the Seller, which shall be incorporated as integral terms and conditions of the Contract. These may include, without limitation, changes to the design, materials, packaging, shipping date, Delivery Date or Delivery Point.
- 4.2 The Seller shall make all changes requested by IPS. If the Seller determines that the requested change would affect the cost or Delivery Date, or if IPS so instructs, the Seller shall, within seven (7) days after the request by IPS, notify IPS of the estimated change to the Seller's cost and delay as to the Delivery Date with documents that substantiate such changes to the satisfaction of IPS, and IPS and the Seller will negotiate in good faith:
 - (1) an equitable price adjustment (increase or decrease);
 - (2) a change in shipping or delivery terms (including the Delivery Date); and/or
 - (3) any other appropriate adjustments.
- 4.3 The Seller may not make any change on its own without the prior written consent signed by a duly authorized purchasing representative of IPS.

ARTICLE 5 - Assignment and Subcontract

- 5.1 The Seller may neither assign any of its rights nor delegate any of its duties under the Contract, in whole or in part, whether voluntarily or involuntarily, by merger, dissolution, operation of law, or any other manner without the prior written consent signed by a duly authorized purchasing representative of IPS. Any attempted assignment or delegation in violation of the foregoing shall be null and void.
- 5.2 IPS may assign without consent by the Seller any of IPS's rights and delegate any of IPS's duties under the Contract to IPS's Customer or any party designated by IPS's Customer, or any of IPS's subsidiaries or affiliates.
- 5.3 The Seller shall not subcontract all or any portion of its obligations under the Contract to any third party without the prior written consent signed by a duly authorized purchasing representative of IPS.

- 5.4 The Contract Documents apply with equal force to the Seller and its subcontractors. The Seller shall inform its subcontractors of all requirements of the Contract and its amendments, if any.
- 5.5 Approval by IPS of subcontracting shall not relieve or otherwise alter the Seller's responsibilities and liabilities under the Contract.
- 5.6 The Seller shall be fully responsible and liable for the acts and omissions of its subcontractors.

ARTICLE 6 - Payment

- 6.1 Unless otherwise specified in the Contract, the Contract Price is firm and fixed. The Contract Price includes delivery of the Products, performance of the Works and performance of any and all other obligations set forth in the Contract, and IPS shall not be responsible for paying any other fees, costs or other expenses.
- 6.2 Unless otherwise specified in the Purchase Order, the Contract Price includes all taxes (excluding value added tax), fees and duties applicable to the Products and/or the Works.
- 6.3 The Seller shall furnish shipping documents to IPS together with the pertinent original invoice manually signed or stamped, where applicable. IPS is entitled to reject the Seller's invoice if it fails to include the order number, does not conform to this Article 6.3 or is otherwise inaccurate, and any resulting non-payment or delayed payment is Seller's sole responsibility.
- 6.4 IPS shall pay the Contract Price in accordance with the Purchase Order. IPS shall make the payment in the currency stated in the Purchase Order. IPS shall pay all invoiced amounts due to the Seller by the date specified in the Purchase Order after IPS's receipt of the pertinent invoice, except for any amounts disputed by IPS in good faith. IPS reserves the right at any time to set off any amounts it owes to the Seller against any amount payable by the Seller to IPS.
- 6.5 Payments of the Contract Price by IPS do not in any way constitute acceptance by IPS of the Products or the Works and no such payments releases the Seller from its obligations or liabilities under the Contract. IPS is not under any obligation to make any payment to the Seller if the Seller is in breach of the Contract, and for so long as such breach continues.

ARTICLE 7 - Packing and Marking

The Seller agrees to comply with all instructions given by IPS as to the grouping of the Products for packing purposes and as to markings on the exterior of each of the packages, cases and/or containers. The Seller shall be liable for any loss or damage caused by improper packing of the Products, including, but not limited to additional shipping charges that may arise. The Seller shall prepare and pack all of the Products with preservation in a manner suitable for transportation to the destination, taking into account any circumstances or conditions in transportation that may damage the Products,

unless otherwise specified in the Contract Documents, and/or packing and marking instructions given by IPS.

ARTICLE 8 - Delivery and Shipment

- 8.1 The Seller shall deliver to IPS all of the Products in strict accordance with the Contract. Time is of the essence in respect of the Contract, and failure to deliver in accordance with the Contract other than as a result of IPS's fault shall be considered a material breach of the Contract by the Seller.
- 8.2 Terms and conditions of delivery and shipment as specified in the Contract Documents shall be interpreted in accordance with latest edition of INCOTERMS as of the date the Contract becomes effective pursuant to Article 2.1 herein.
- 8.3 Until the Products have been effectively delivered to IPS at the Delivery Point, as set forth in the Purchase Order, the Seller shall bear all costs and expenses in connection with the shipment and storage of the Products, including any taxes, duties, fees and charges levied on them as well as any formalities necessary to perform its obligations of delivery thereof.
- 8.4 Transshipment and/or partial shipment shall not be permitted without the prior written consent signed by a duly authorized purchasing representative of IPS.
- 8.5 Title to and risk of loss of the Products will pass to IPS at the Delivery Point upon delivery in accordance with the delivery terms set forth in the Purchase Order.
- 8.6 IPS shall have the obligation to pay only for the quantities of the Products ordered. In case of over-shipment, the Seller shall: (a) promptly dispatch to IPS, in writing, reasonable shipment instructions in respect of any over-shipment; (b) at all times, bear the risk of loss with respect thereof; and (c) reimburse IPS for any and all costs and expenses in connection with storing the over-shipment and subsequent shipment or disposal thereof. In the event IPS has not received shipping instructions from the Seller within twenty (20) days after the time of IPS's notification to the Seller of the over-shipment, IPS will be free to dispose of the over-shipment in its sole discretion, without being bound by the duty to mitigate damages. The Seller shall reimburse IPS for all costs and expense incurred in connection with such disposal. In case of under-shipment, the Seller shall, upon IPS's notice, forthwith ship additional Products to complete the order or take other necessary measures in accordance with IPS's instructions and reimburse any costs and expenses incurred by IPS due to the under-shipment.
- 8.7 As soon as the Seller becomes aware of any actual or anticipated delays of delivery of the Products, the Seller shall immediately notify IPS, by the most expedient and expeditious means available, followed by a notification in writing, concerning the causes (including Force Majeure) and other details of the said delays. The Seller's notification to IPS pursuant to the preceding provision shall be without prejudice to any rights and remedies IPS may otherwise have under the Contract or at law (including the right to seek compensation and other relief).

In case of delivery delays other than delays caused by IPS and Force Majeure, the Seller shall, at its own cost and expense:

- (1) ship the Products by the most expeditious means of transportation, including air transportation, if so requested by IPS;
- (2) be fully responsible for expediting the manufacture, assembly, testing, commissioning and delivery of the Products, including having the work performed by IPS-approved subcontractors to the extent necessary to eliminate or minimize delay;
- (3) take all appropriate measures to eliminate and mitigate any cause of delay; and
- (4) be fully liable for all demurrage fees and charges incurred due to delayed deliveries of the Products without prejudice to IPS's rights under Article 8.8.

8.8 In the event the Seller has failed to deliver any drawings or documents on the specified delivery date or the Products on the Delivery Date as stipulated in the Contract for any reason whatsoever other than IPS's fault or a Force Majeure, IPS reserves the right to claim from the Seller and recover for all losses and damages incurred by such delay.

8.9 In case IPS is responsible to make arrangements for transportation or pickup of the Products (e.g. FOB shipment or EXW delivery method), IPS shall not be liable for any costs or expenses incurred by the Seller related to or in connection with any delays in making the said arrangements (including, but not limited to any storage costs and expenses).

ARTICLE 9 - Test and Inspection

9.1 IPS, IPS's Customer and/or IPS's authorized representatives (collectively "IPS Inspectors") shall have the right (but not obligation) to observe, inspect and/or test the Products at all reasonable times and places prior to delivery at all stages of design, manufacture and production. If the observations, inspections or tests are to be conducted on the Seller's premises, the Seller shall provide IPS Inspectors, at no extra charge, with reasonable facilities, necessary data and information and all other reasonable assistance to perform the said observations, inspections and tests safely and efficiently. In the event that any phase of design, manufacture or production is handled by the Seller's subcontractors, the Seller shall ensure that the subcontractors grant IPS Inspectors the same access and assistance to observe, inspect and/or test the Products at various stages of design, manufacture and production.

9.2 The Seller shall give IPS notice no later than three (3) weeks prior to each test and inspection of the Products conducted by the Seller. Following each test and inspection, the Seller shall promptly furnish IPS with copies of the results thereof.

9.3 The making or failure to make an inspection, test, approval or acceptance of the Products shall neither (a) relieve the Seller from any of its obligations or liabilities under the Contract, including, but not limited to its (i) warranty obligation and (ii) liabilities for any latent defects, fraud, misrepresentation or negligence, (b) be deemed as a waiver of any of IPS's rights under the Contract or at law, including, but not limited to the right to reject any defective or Non-Conforming Products, nor (c) be considered to be an acceptance of the Products by IPS.

- 9.4 The Products shall be subject to final inspection and acceptance by IPS within a reasonable time (a) following taking delivery of the Products by IPS, or (b) in case where the Products are to be incorporated into a larger assembly or cannot be ascertained or tested other than after its installation, in combination with other systems or assemblies or at the commissioning of a system, assembly or a plant, following such incorporation, installation or commissioning.
- 9.5 During the final inspection, IPS Inspectors may inspect and/or test all of the Products or, at IPS's option, only samples of the Products. If IPS Inspectors discover any Non-Conforming Products, IPS may, at its option: (a) reject all or any portion of the Products and require the Seller to deliver conforming replacements within seven (7) days after IPS's notice; (b) rescind the Contract with respect to all or part of the Products; (c) accept the defective or Non-Conforming Products at an equitably reduced price; or (d) require the Seller to repair the defective or Non-Conforming Products within seven (7) days after IPS's notice. The Seller shall indemnify IPS with respect to any and all costs, expenses and damages incurred in respect of the defective or Non-Conforming Products, including, but not limited to costs for shipping and additional tests and inspections.

ARTICLE 10 - Supplies

If the delivery of raw materials, semi-manufactured products and any other goods supplied by IPS to be processed, manufactured and completed by the Seller as the Products ("Supplies") is required under the Contract, the Seller shall carry out the inspection of the Supplies without delay after receipt of the Supplies. If any damage arising during shipment or any defects or shortage of the Supplies should be found upon the inspection, the Seller shall immediately notify IPS in writing.

If the Seller fails to so notify to IPS within seven (7) days after receipt of the Supplies, the Seller shall be liable for any such damage, defects or shortage of the Supplies except with respect to latent defects which cannot be found by reasonable inspection.

While in the possession of the Seller, the Supplies shall:

- (1) at all times remain IPS Property and be kept by the Seller so as to be readily identifiable as the property of IPS;
- (2) be at the sole risk of the Seller in respect of loss or damage thereto;
- (3) be insured by the Seller to cover the full value thereof as informed by IPS; and
- (4) not be used for any purpose other than the Works.

Any surplus materials shall be returned to IPS by the Seller, unless otherwise instructed by IPS.

ARTICLE 11- Erection, Installation, Commissioning and/or Supervision by Seller

If IPS specifically requests the Seller in the Contract Documents to erect, install and/or commission the Products or to supervise such works to be done by IPS at the erection site at which the Products are to be used, IPS and the Seller shall discuss and make another agreement separate from this Contract for the costs and expenses for such works and other terms and conditions thereof.

ARTICLE 12 - Proprietary Rights

If the Products are manufactured in accordance with the Specifications furnished by IPS, such Products shall not be reproduced without the prior written consent signed by a duly authorized purchasing representative of IPS. The Supplies, Specifications, photographs, data and other written materials or information supplied by IPS (collectively “IPS Property”) shall, at all times, remain the property of IPS and be returned to IPS or destroyed promptly upon IPS’s written request. The Seller shall cause all of its subcontractors and agents to return or destroy all IPS Property promptly upon IPS’s written request.

ARTICLE 13 - Confidential Information

- 13.1 The Seller shall maintain the confidentiality of all commercial, business and technical information disclosed by IPS, including, but not limited to, the Contract Price, the existence of the Contract and any information contained in the Contract (collectively “Confidential Information”) and shall not disclose or otherwise make it available to any third party without the prior written consent signed by a duly authorized purchasing representative of IPS. Obligations of confidentiality shall not apply to information that: (a) is or becomes publicly available other than through breach of the Contract; or (b) the Seller received from a source other than IPS without breach of a confidentiality obligation.
- 13.2 The Seller shall immediately notify IPS if it becomes aware of actual disclosure of Confidential Information or has reason to suspect that Confidential Information has been disclosed. The Seller shall not use the Confidential Information for any purpose other than the performance of its obligations under respective Purchase Orders. For the avoidance of doubt, the Seller shall not (a) refer to, list or otherwise mention in any of its catalogs, promotional materials, advertisements and websites, any Products based on IPS’s Specifications, and (b) publish or reproduce any of IPS’s catalogs, or other IPS’s materials, in whole or in part.
- 13.3 The Seller may disclose the Confidential Information to its directors, officers, employees, agents, solicitors, accountants, consultants, and financial and legal advisers but only to the extent that they need to know the Confidential Information, are informed of its confidential nature and agree to be subject to the confidentiality obligations under this Article. The Seller shall be liable for any act or omission by such persons that would constitute a breach of this Article if done by the Seller.
- 13.4 Notwithstanding Article 13.1, the Seller may disclose Confidential Information to the extent required by law, a governmental or other regulatory authority or a court or other authority of competent jurisdiction. The Seller shall promptly notify IPS in advance of such disclosure, to the extent legally permissible, and shall cooperate with IPS to ensure the protection of such Confidential Information.

ARTICLE 14 - Lien

The Seller shall deliver the Products free and clear of all liens, encumbrances, and claims of laborers, suppliers or others. If such a claim is made, IPS may withhold payment to the Seller until receipt of evidence satisfactory to IPS proving the absence of any liens, encumbrances or claims.

ARTICLE 15- Warranty

15.1 The Seller warrants to IPS that:

- (1) the Products and all component parts thereof shall be new when delivered to IPS; and
- (2) during the period commencing on the day the Products are delivered to IPS at the Delivery Point ("Commencing Date") and ending on the expiration of thirty six (36) months after the Commencing Date or twenty four (24) months after the Products are placed in commercial operation, whichever comes later ("Warranty Period"), the Products shall:
 - (a) be of the best quality, material and workmanship, and be without faults or defects;
 - (b) conform in all respects with the Contract, including without limitation the Specifications;
 - (c) be suitable for their intended use by IPS and IPS's Customer, as described in or reasonably inferred from the Contract, including the specified performance in the conditions specified in the Contract Documents; and
 - (d) comply with all laws of the countries in which they are manufactured, installed, packaged, packed, delivered, sold, used or operated.

15.2 If any Products are not supplied in accordance with the Contract (whether or not as a result of a breach of warranty under this Article, or of any other term or undertaking or condition, or otherwise), or are Non-Conforming at any time during the Warranty Period, then IPS shall be entitled to require the Seller, at IPS's option and the Seller's expense (including applicable shipping costs), to either:

- (1) repair; or
- (2) replace the Products.

IPS's rights under this Article apply even if the Non-Conformity does not become apparent until after delivery of the Products. Any payment by IPS shall not constitute acceptance of Non-Conforming Products, nor will it limit or affect any of IPS's rights.

15.3 The Seller shall within seven (7) days after issuance of IPS's notice of Non-Conformity, or the time period specified by IPS in IPS's notice of Non-Conformity, at IPS's option:

- (1) commence repair or replacement of Non-Conforming Products, and
- (2) prepare a remedial plan setting forth the cause of the Non-Conformity, countermeasures to prevent recurrence, and a repair or replacement schedule ("Remedial Plan").

In case the Seller discovers a Non-Conformity in the Products, it shall immediately give notice to IPS, and within the time period specified by IPS, take the action referred to in Article 15.3 (1) or (2) as specified by IPS. The Seller shall reimburse IPS for any costs and expenses

suffered or incurred by IPS in connection with any defect, breach or Non-Conformity and any remedial measures implemented under the Remedial Plan.

- 15.4 If the Seller fails to proceed diligently with the repairs or replacements within the said seven (7) day period, then IPS and IPS's Customers reserve the right to undertake such repairs and/or replacements by themselves or to cause any third party to undertake such repairs and/or replacements, in either case at the Seller's expense. For the avoidance of doubt, if IPS, IPS's Customer or a third party undertakes the repairs or replacements in such situation, the Seller shall be responsible for such repair or replacement undertaken by IPS, IPS's Customer or a third party. Notwithstanding the foregoing, in case IPS discovers a Non-Conforming Product, and in IPS's reasonable judgment urgent repair is necessary under the circumstances, after giving notice to the Seller, IPS may undertake such repair or replacement by itself or cause any third party to undertake such repair at the Seller's expense.
- 15.5 Any repaired or replaced Products shall be subject to the same inspection requirements set forth in Article 9. The Warranty Period for such repaired or replaced Products shall extend until the expiration of thirty six (36) months after the date of repair or replacement, or twenty four (24) months after the repaired or replaced Products are placed in commercial operation, whichever comes later.
- 15.6 All express warranties of the Seller set forth in the Contract are additional to any warranties, conditions or other terms provided by law or equity.
- 15.7 In the event the Seller is liable to IPS for any amounts under the Contract, IPS reserves the right to deduct such amounts from any amounts payable by IPS to the Seller.

ARTICLE 16 - Indemnity

- 16.1 The Seller shall, at its expense, indemnify, defend and hold IPS, its subsidiaries, agents, sub-agents, affiliates and IPS's Customer and their directors, officers, employees and representatives harmless from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages and costs and expenses of whatsoever nature, including attorney's fees and expenses, arising out of or in connection with the Contract and/or the Products, to the extent that such liability was caused by or resulted from or was attributable to:
- (1) any breach of the Contract;
 - (2) any failure to fulfill its obligations under the Contract; or
 - (3) negligence (whether by action or inaction) or willful misconduct;
- in each case by the Seller or any of its agents, subcontractors, directors, officers, employees, or representatives.
- 16.2 Without limiting any of the foregoing, the Seller shall, at its expense, indemnify, defend and hold IPS, its subsidiaries, agents, sub-agents affiliates and IPS's Customer and their directors, officers, employees and representatives harmless from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages and costs and expenses of

whatsoever nature, including attorney's fees and expenses, arising out of or in connection with:

- (1) any third party claim regarding any breach of or failure to comply with a warranty or representation or any defect in any Products regardless of whether such defect is caused by the negligence of the Seller;
- (2) any third party claim with respect to the Products; or
- (3) any claims from IPS's Customer or dispute between IPS's Customer and IPS and/or the Seller in relation to the Products, except to the extent that IPS contributed to such claims or disputes.

ARTICLE 17 - Insurance

- 17.1 The Seller shall maintain, at its cost and expense, the insurance specified in the Contract Documents.
- 17.2 The insurance specified in the Contract Documents shall be endorsed to provide a waiver of subrogation in favor of IPS, its subsidiaries, agents, sub-agents, affiliates and IPS's Customer and their directors, officers, employees and representatives, for all losses and damages covered by the insurances required in the Contract Documents.
- 17.3 Upon the request of IPS, the Seller shall provide IPS with copies of certificates of insurance and policy endorsements for all insurance coverage required in the Contract Documents.
- 17.4 This Article shall not be construed in any manner as waiving any rights and remedies available to IPS in relation to the Contracts and/or Products, or restricting or limiting the liability of the Seller under the Contract.

ARTICLE 18 - Intellectual Property Rights

- 18.1 IPS and the Seller each retain exclusive ownership of its intellectual property rights. The Seller grants to IPS and IPS's Customer the irrevocable, perpetual, worldwide rights to use such intellectual property rights for the Products.
- 18.2 The Seller shall not infringe any third party intellectual property rights, including rights in any patent, utility model, design, or trademark in connection with the performance of the Contract.
- 18.3 The Seller agrees to, at its expense, indemnify, defend and hold IPS, its subsidiaries, agents, sub-agents, affiliates and IPS's Customer and their directors, officers, employees and representatives harmless from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages and costs and expenses of whatsoever nature, including attorney's fees and expenses, arising out of or in connection with any allegation that the Products infringe third party intellectual property rights.
- 18.4 Without limiting the generality of the foregoing, if a claim alleging infringement results, or is likely to result, in an injunction or other order that would prevent the Seller from supplying

the Products or use of the Products for their intended purpose, the Seller will at IPS's option and the Seller's expense either:

- (1) secure a license of the intellectual property rights that permits the Seller to continue supplying the Products to IPS and permits IPS and IPS's Customer to use the Products for their intended purpose; or
- (2) modify the Products so that they become non-infringing, so long as the modification does not materially alter the operation or performance of the Products.

If IPS chooses option (2), the Seller shall conduct technical consultations with IPS to ensure that any modified Products are compatible with any other goods, equipment, machinery, materials, components or systems with which or within which such modified Products are intended to be used by IPS or IPS's Customer. If, after using its best efforts, the Seller determines that none of the alternatives above are possible, the Seller will refund in full all consideration paid by IPS for the infringing Products.

- 18.5 The Seller shall not use any intellectual property of IPS or IPS's Customer without the prior written consent signed by a duly authorized purchasing representative of IPS.
- 18.6 In the event of any actual or threatened dispute concerning infringement of intellectual property, the Seller shall notify IPS without delay.

ARTICLE 19 - Force Majeure

- 19.1 "Force Majeure" means an occurrence beyond the control and without the fault or negligence of the party affected including, but not limited to acts of God or the public enemy, expropriation and confiscation, war, rebellion, riots, floods that could not reasonably have been anticipated, fires, earthquakes, explosions, catastrophes and epidemics; provided, that (a) loss by the Seller of employees (other than by circumstances that are themselves Force Majeure); (b) shortage of supervisors of labor; (c) labor, management, or other operational inefficiency (other than by circumstances that are themselves Force Majeure); (d) congestion of the Seller's or subcontractor's facility; (e) strikes, sabotage and other labor actions involving the Seller's own work force; (f) the failure (other than by circumstances that are themselves Force Majeure) of any subcontractor, supplier or transporter to perform its obligations to the Seller (including on account of insolvency) unless such supplies or transportation or other services are generally unavailable in the marketplace; (g) the unavailability of any raw materials or components; (h) any increase in the Seller's costs; or (i) typhoon, hurricane, cyclone or other weather conditions that could be foreseen, shall not constitute Force Majeure.
- 19.2 Neither party shall be liable for any delay or failure in performance of its obligations under the Contract which is caused directly or indirectly by Force Majeure, provided that the affected party:
 - (1) informs the other party in writing of such fact as soon as possible but in any case within three (3) days after the occurrence of the said Force Majeure;
 - (2) provides the other party with evidence of such Force Majeure as soon as possible but in any case within ten (10) days after the occurrence of the said Force Majeure;

- (3) makes reasonable efforts to perform its obligation under the Contract;
- (4) takes reasonable measures in order to minimize the losses which may arise due to the Force Majeure as long as the effect of Force Majeure continues; and
- (5) resumes performance of its obligations under the Contract promptly after the cause of the delay in performance is removed.

ARTICLE 20 - Suspension

- 20.1 IPS, in its absolute and sole discretion, may suspend the Works ("Suspension") for any reason, at any time and from time to time, by giving a written notice thereof ("Notice of Suspension") to the Seller. The Notice of Suspension shall specify the date of commencement of the Suspension and the estimated duration of the Suspension.
- 20.2 Upon receiving such Notice of Suspension, the Seller shall immediately suspend the Works to the extent specified therein. During the period of such Suspension, the Seller shall store and maintain all Products, work-in-progress and materials, supplies and equipment which the Seller has on hand for the Works in a manner to prevent damage or degradation thereto.
- 20.3 IPS may at any time withdraw the Suspension with respect to some or all of the Products by giving a written notice to the Seller specifying the new delivery terms and the scope of withdrawal of the Suspension, and the Seller shall resume diligent execution of the Works, for which the Suspension is withdrawn, on the specified effective date of withdrawal.
- 20.4 Should the Seller believe that any such Suspension or withdrawal of the Suspension justifies modification of the Contract Price and/or Delivery Date, the Seller shall comply with the procedures in Article 4. The Seller shall substantiate any increased costs in its claim for modification of the total amount of the Contract Price with invoices, payroll documents and other documents satisfactory to IPS. The Seller shall take all reasonable measures to minimize costs during the period of the Suspension.
- 20.5 Upon IPS's verification and approval of such additional costs, IPS and the Seller shall agree upon a revision of the Contract Price based upon such verified and approved additional costs, as full settlement to the Seller for the Suspension or withdrawal of the Suspension. In no event shall the Seller be entitled to any future or lost profits or any other consequential damages because of such Suspension or withdrawal of Suspension.
- 20.6 Should the duration of a single Suspension exceed ninety (90) days, or the aggregate Suspensions exceed one hundred and twenty (120) days, IPS and the Seller shall agree on further actions to be taken.
- 20.7 In no case shall the Suspension hereunder affect any right of termination that IPS may have hereunder.

ARTICLE 21 - Termination

- 21.1 IPS may, in its absolute and sole discretion, terminate the Contract in any of the following circumstances by giving a written notice to the Seller:
- (1) when the Seller fails to make delivery of the Products by the Delivery Date for any reason other than Force Majeure or IPS's default under the Contract;
 - (2) when IPS reasonably believes that the Seller will be unable to deliver the Products by the Delivery Date for any reason other than Force Majeure or IPS's default under the Contract;
 - (3) when the Seller otherwise fails to comply with the terms and conditions of the Contract and (a) does not cure such failure, (b) does not commence effective action within ten (10) days (or such longer period as IPS may authorize in writing) after IPS gives a written notice to the Seller demanding cure, or (c) does not cure such breach within a reasonable period even after the Seller commence the effective action as described in (b) above;
 - (4) when Seller's business is suspended or its business license is cancelled or IPS has reasonable basis for concern that Seller will cease to carry on its business;
 - (5) when a petition for relief under any applicable insolvency, bankruptcy, consolidation, reorganization, or any other similar law is filed by or against the Seller, or IPS has reasonable concern that such petition for relief will be filed;
 - (6) in the event the Seller has made a general assignment for the benefit of creditors;
 - (7) in the event a trustee, receiver, custodian, liquidator or sequestrator has been appointed under any applicable insolvency, bankruptcy or other similar law now or hereafter in effect to administer all or a substantial portion of the Seller's assets or to wind up or liquidate its affairs;
 - (8) in the event the Seller dissolves, or terminates its corporate existence by merger, consolidation or otherwise (except by merger or consolidation with its parent or subsidiaries);
 - (9) when the Seller sells all or substantially all of its assets; or
 - (10) when there is a change of Control of the Seller.
- 21.2 In the event IPS terminates the Contract pursuant to Article 21.1, IPS reserves the right to claim from the Seller all losses and damages incurred by IPS thereby, including without limitation costs and expenses incurred in procuring from other vendors.
- 21.3 IPS may terminate the Contract when the Seller suspends performance of any of its material obligations under the Contract for a period of more than sixty (60) days as a result of a Force Majeure.
- 21.4 If IPS terminates the Contract pursuant to Article 21.1 or 21.3, Seller shall, unless otherwise instructed by IPS, deliver whole or a part of work-in-progress and related materials (collectively "Work-in Progress") to IPS. IPS shall pay the Seller fair and reasonable compensation for the Work-in-Progress, but such compensation shall not include loss of profits or any consequential loss and shall not exceed ninety percent (90 %) of the total amount of the Contract Price. If IPS chooses not to take over the Work-in Progress, IPS shall have no obligation to pay the Seller any compensation related to the Work-in-Progress or disposal thereof.

- 21.5 IPS may terminate the Contract at any time, with or without cause and with or without explanation, by giving not less than fourteen (14) days written notice to the Seller, specifying the date of termination. In such case:
- (1) the Seller shall discontinue all work under the Contract as soon as commercially practicable upon receiving the notice of termination; and
 - (2) unless otherwise instructed by IPS, the Seller shall deliver the Work-in-Progress to IPS. IPS shall pay the Seller fair and reasonable compensation for the Work-in-Progress, but such compensation shall not include loss of profits or any consequential loss and shall not exceed ninety percent (90%) of the total amount of the Contract Price.
- 21.6 The termination of the Contract, for whatever reason and however arising, shall be without prejudice to the rights and remedies of IPS that may have accrued prior to or arising subsequent to termination. Upon termination, the Seller shall:
- (1) promptly return to IPS (or, if so instructed by IPS, destroy, delete or erase) any and all IPS Property in its possession, whether in writing or stored in computerized, electronic, disk, tape, microfilm or any other form, without retaining copies thereof;
 - (2) take all necessary actions to cause any of IPS Property in the possession of the Seller or its suppliers and subcontractors returned to IPS (or, if so instructed by IPS, destroyed, deleted or erased);
 - (3) cooperate with IPS to help avoid production disruptions while the procurement of the Products is being resourced to another supplier; and
 - (4) cease all Works unless otherwise directed by IPS.

ARTICLE 22 - Dispute Resolution

- 22.1 All disputes, controversies or differences which may arise between IPS and the Seller, out of or in relation to or in connection with the Contract shall be finally settled by arbitration in Tokyo, Japan, in accordance with the Commercial Arbitration Rules of the Japan Commercial Arbitration Association. Such arbitration shall be conducted in the English language.
- 22.2 Unless IPS and the Seller agree to one arbitrator, there shall be three arbitrators, one selected by each party and the third selected by the two arbitrators chosen by the parties.
- 22.3 The award of the arbitrator(s) shall be final and binding upon each of IPS and the Seller, and judgment thereon may be entered in any court of competent jurisdiction.
- 22.4 Either party may seek provisional or interim measures from any court of competent jurisdiction if in such party's reasonable judgment such action is necessary to avoid irreparable damage or harm.
- 22.5 All arbitral proceedings, including all decisions/awards by the arbitrator(s) shall be confidential and IPS and the Seller shall maintain and preserve the confidentiality thereof.
- 22.6 Despite the existence of a dispute, each party must continue to perform their respective obligations under the Contract.

ARTICLE 23 - Governing Law

- 23.1 The formation, validity and interpretation of the Contract and any part thereof shall be governed in all respects by the laws of Japan, without regard to conflicts of law provisions.
- 23.2 In no event shall the “United Nations Convention on Contracts for the International Sale of Goods” apply to the Contract.

ARTICLE 24 - Language

The English language shall be the controlling language for the interpretation and construction of the Contract. No translation of these General Terms and Conditions of Purchase (nor any other part of Contract) into any other language shall be of any force or effect in the interpretation of the Contract. The official language of all correspondence and meetings shall also be English.

ARTICLE 25 - Notices and Communications

- 25.1 Any and all notices and communications between IPS and the Seller in connection with the Contract shall be made in English in writing and shall be sent by mail, courier, fax or email confirmed in writing by mail, courier or fax, to the address as specified in the Contract Documents.
- 25.2 Such notices and communications shall become effective as of the date of receipt by IPS or the Seller, unless otherwise expressly specified herein.

ARTICLE 26 - Compliance with Laws and Policies

- 26.1 The Seller shall comply with all applicable laws (environmental or otherwise) applicable to the performance of the Contract, including without limitation laws that may apply to the design, production, sale, distribution and operation of the Products.
- 26.2 The Seller represents, warrants and agrees to IPS that: (a) it is fully aware of the US Foreign Corrupt Practices Act of 1977, the United Kingdom Bribery Act 2010, Japanese Unfair Competition Prevention Act and other applicable bribery, fraud, kickback, or other similar anti-corruption laws and regulations in jurisdictions in which it or any of its affiliates conducts business (collectively the “Anti-Corruption Laws”); (b) it shall comply with the Anti-Corruption Laws; (c) it has and shall at all times implement adequate procedures designed to prevent it, its employees or any person who performs services for or on behalf of it in any capacity from engaging in any activity which would constitute an offence under any Anti-Corruption Laws; and (d) breach of any of the provisions under this Article or any Anti-Corruption Laws entitles IPS to terminate this Contract immediately. Notwithstanding any other Article in this Contract, the Seller shall, at its expense, indemnify, defend and hold IPS harmless from and against any and all suits, actions or administrative proceedings, claims, demands, losses, penalties, damages and costs and expenses of whatsoever nature, arising out

of or in connection with any failure of the Seller to comply with any of the provisions in this Article.

- 26.3 The Seller shall ensure that it is aware of the IHI Group Procurement Policy attached as Annex 1 and agrees to follow the said policy to the extent applicable.

ARTICLE 27 - Amendment and Waiver

- 27.1 The Contract may not be modified or amended without the written agreement of IPS and the Seller.
- 27.2 No provision, covenant or agreement contained in the Contract shall be considered as waived by IPS unless it is expressly waived by IPS in writing.
- 27.3 Even if such waiver has been given by IPS, such waiver shall not be construed to be a waiver of any other past or future rights of IPS under the provisions of the Contract Documents, unless otherwise expressly specified therein.

ARTICLE 28 - Financial Statements

If requested by IPS, Seller shall submit its latest financial statements to IPS.

ARTICLE 29 - Publicity

Except as otherwise required by applicable law or regulation, neither the Seller nor any of its affiliates, their respective directors, officers, employees, agents and shareholders shall issue or cause to be issued any press release or any other public statement or announcement, relating to or in connection with the Contract or the matters contained therein, without the prior written consent signed by a duly authorized purchasing representative of IPS.

ARTICLE 30 - Remedies Cumulative

The rights and remedies of IPS under the Contract shall be cumulative and not exclusive, and shall be in addition to any other rights or remedies available to IPS.

ARTICLE 31 - Survival of Obligations

The provision of Article 13 (Confidential Information), Article 16 (Indemnity), Article 18 (Intellectual Property Rights), Article 21 (Termination), Article 22 (Dispute Resolution), Article 23 (Governing Law) and any other rights and obligations which by their nature would continue beyond the termination or expiration of the Contract shall survive termination or expiration of the Contract.

ARTICLE 32 - Headings

The captions or headings of the Articles and any subdivisions thereof contained in the Contract Documents are for reference purposes only and shall not affect in any way the meaning or interpretation of the Contract.

ARTICLE 33 - Severability

In case any provision in the Contract shall be held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of the Contract shall not in any way be affected or impaired thereby.

ARTICLE 34 - Entire Agreement

The Contract contains the entire agreement between IPS and the Seller with respect to the purchase by IPS of the Products. There is no other relevant agreement between IPS and the Seller, whether oral or written concerning the Products. The Contract supersedes any and all previous oral or written representations, inducements and understandings with respect to the subject matter set forth herein.

IHI Group Procurement Policy

The IHI Group conducts procurement activities in accordance with the “Basic Code of Conduct for the IHI Group” as set forth below.

Article 1. Fair and Impartial Procurement

We provide business opportunities in an open manner to business partners from around the world, and welcome working with creative and competitive business partners. We also evaluate and select business partners in a comprehensive and fair manner based on factors such as quality, price, delivery schedule, technology development capabilities and financial conditions.

Article 2. Mutually Beneficial Partnership with our Business Partners

We regard our business partners as value creators, and through seeking to realize optimal levels for quality, price and delivery, together with procurement reliability, we aim to establish relationships of trust with our business partners and bring about the mutual enhancement of competitiveness and prosperity with them.

Article 3. Approach to Compliance and Social Responsibility

We comply with the related laws that govern our local and global businesses. To fulfill our social responsibility, we shall conduct CSR procurement with due consideration not only of basic requirements such as quality, price and delivery, but also of human rights, labour conditions, occupational safety and health, the environment, and information management.

Request to Our Business Partners

The IHI Group is working to implement CSR procurement in our business activities. This means fulfilling our social responsibilities in collaboration with our business partners, while giving due consideration not only to basic requirements such as quality, price and delivery periods, but also to human rights, labour conditions, occupational safety and health, the environment and information management. We ask for your company’s cooperation and understanding in promoting the following objectives.

1. Compliance with Laws, Regulations, and Social Norms

We ask your company and your affiliates to comply with the related laws, regulations and social norms governing your local and global businesses through fulfillment of the following actions:

- (1) To ensure full compliance with the related laws and regulations (e.g., commercial codes, competition law, subcontractor regulations, foreign exchange laws, personal privacy laws, intellectual property laws and environmental laws) of the countries and/or regions in which they operate.
- (2) To prohibit the inappropriate giving of favors (any illegal or non-contractual giving of favors or dealings with anti-social forces such as organized crime).

- (3) To prevent the inappropriate obtaining, using or disclosure of confidential information.

2. Paying Attention to Human Rights, Labour Conditions, and Occupational Safety and Health

We ask your company and your affiliates to respect the human rights of your employees and to assure their labour conditions, and occupational safety and health in your business activities through fulfillment of the following actions:

- (1) To prohibit unjust discriminatory actions, forced labour and child labour.
- (2) To respect the rights of workers through appropriate management of working hours and adequate remuneration.
- (3) To establish a workplace where worker safety and health are ensured through proactive prevention of occupational accidents.

3. Respect for the Environment

We ask your company and your affiliates to comply with all environmental laws in your business activities. We also ask you to proactively carry out activities which contribute to minimizing the environmental impact, while paying attention to social needs and requirements related to the environment.

4. Information Disclosure

We ask your company to actively disclose information in areas such as your management policy, business status, and efforts to reduce environmental impact and address social needs.

5. Ensuring Quality and Delivery Periods

We ask you to establish production and crisis management systems capable of stably securing and supplying materials and services with the proper quality and safety, as required by the IHI Group.

6. Enhancement of Competitiveness

We ask your company and your affiliates to share the issue and goal of strengthening competitiveness with the IHI Group, and on that basis provide us with information on appropriate materials, technologies, methods and more, and to proactively make proposals related to Value Engineering (VE) and other methods for the promotion of cost reductions.

7. Efforts to Address Conflict Minerals

Some of the minerals produced in the Democratic Republic of the Congo and neighboring countries (tin, tantalum, tungsten and gold) are regarded as funding sources for anti-social forces involved in conflicts which drive severe violations of human rights and environmental destruction. (These minerals are called “conflict minerals.”) The policy of the IHI Group is to not procure materials, parts or products using these conflict minerals, and thereby avoid contributing to human rights violations and environmental destruction. We ask your company and your affiliates to cooperate with these efforts.

8. Implementation Throughout the Supply Chain

We ask your company to establish basic policy emphasizing CSR procurement, and to extend this policy to your affiliates.

9. Providing Information on Efforts

To confirm your company's efforts to implement CSR procurement, we may request you to furnish information, or the person in charge from the IHI Group may visit your company. In such cases, we ask for your cooperation.