



## GE Intelligent Platforms Europe

### Conditions of Purchase

Rev. A date: 01 01 2010

Rev B date: 6-11-2012

"Buyer" means GE Intelligent Platforms Europe SA, located 6D, Route de Trèves, 2633 Senningerberg, Grand Duchy of Luxembourg or any of its subsidiary companies. "Seller" means the party selling the applicable products or services to Buyer. References to "products" include items specifically provided for in the Purchase Agreement or incorporated in services Buyer purchases from Seller.

#### ARTICLE 1 TERMS AND CONDITIONS OF PURCHASE

Any products or services Buyer purchases from Seller by electronic, phone, paper or any other form of transmission, are purchased subject to the terms and conditions herein and any fully signed applicable purchase agreement currently in effect between Buyer and Seller (for purposes hereof, the "Purchase Agreement"). This order constitutes Buyer's offer to Seller, which Buyer may revoke at any time before Seller accepts it. By selling products or services to Buyer, Seller confirms that the following terms and conditions apply to Buyer's purchases. This order does not constitute an acceptance by Buyer of any offer to sell, any quotation, or any proposal, and reference in this order to any such offer to sell, quotation, or proposal shall in no way constitute a modification of any of the terms and conditions of this order. TERMS AND CONDITIONS DIFFERENT FROM OR IN ADDITION TO THE TERMS AND CONDITIONS HEREIN, WHETHER CONTAINED IN ANY QUOTATION OR PROPOSAL BY BUYER, ACKNOWLEDGMENT OF THIS ORDER, OR OTHERWISE, SHALL NOT BE BINDING ON BUYER, WHETHER OR NOT THEY WOULD MATERIALLY ALTER THIS ORDER, AND BUYER HEREBY OBJECTS THERETO, UNLESS SUCH TERMS AND CONDITIONS ARE CONTAINED IN A WRITTEN AGREEMENT EXECUTED BY DULY AUTHORIZED REPRESENTATIVES OF BUYER AND SELLER.

#### ARTICLE 2 PRICING; PAYMENT

(2.1) Unless otherwise provided elsewhere in the Purchase Agreement, prices are: (i) stated in Euro; (ii) not subject to increase for the duration of the Purchase Agreement; and (iii) Delivery terms shall be DDP Buyer's specified delivery location (INCOTERMS 2010) or any alternative facility specified by Buyer. No extra charges of any kind will be allowed unless specifically agreed to by Buyer in writing.

(2.2) Unless otherwise provided elsewhere in the Purchase Agreement, payment will be 2% discount for payment by 20 days, or net payment at 90 days from date of Buyer's receipt of an invoice and acceptable product or services, as applicable.

(2.3) Seller's price includes all sovereign, state and local sales, use, excise, value added, privilege, payroll, occupational and any other taxes, fees, or duties applicable to the products or services. Unless prohibited by law, Seller will separately indicate on its invoices any taxes imposed on the sale or delivery of products or services. Seller shall remit all taxes paid by Buyer to the appropriate taxing authority. Upon Buyer's request, Seller will provide written evidence that Seller is properly licensed to collect the taxes paid by Buyer. Seller shall ensure that if any value-added or similar tax is applicable, that it is invoiced in accordance with the applicable rules so as to allow the Buyer to reclaim that value-added or similar tax from the appropriate government authority. Neither party is responsible for taxes on the other party's income or the income of the other party's personnel or subcontractors. If the Buyer is required by government regulation to withhold taxes for which the Seller is responsible, Buyer will deduct such withholding tax from payment to Seller and provide to Seller a valid tax receipt in Seller's name. If Seller is exempt from such withholding taxes as a result of a tax treaty or other regime, Seller shall provide to Buyer a valid tax treaty residency certificate or other tax exemption certificate at a minimum of 30 days prior to payment being due.

(2.4) Notwithstanding Sections 2.2 and 2.3 above, if Buyer notifies Seller, or the Purchase Agreement provides, that purchases of products or services are processed through Buyer's evaluated receipts settlement program or another similar program, the following provisions will apply: (i) unless otherwise provided elsewhere in the Purchase Agreement or specifically requested by Buyer, Seller will not send an invoice to Buyer with respect to products or services delivered to Buyer and payment will be 2% 20 days, net 90 days from the date of Buyer's receipt of acceptable product or services, as applicable; and (ii) if not a direct payment transaction, Buyer shall calculate and pay to Seller all applicable taxes attributable to any taxable products and services.

(2.5) Buyer may set off any amount owing at any time from Seller to Buyer or any of its affiliated companies against any amount payable at any time by Buyer under the Purchase Agreement.

(2.6) Seller warrants that it is selling at the lowest prices and upon the most favorable terms (including, without limitation, volume, quality and/or payment terms) that it offers any buyer for similar products or services of the same or similar quality to that provided for in the Purchase Agreement. If, during the term of the Purchase Agreement, Seller makes an offer to sell any such products or services to a third party at a lower price or upon one or more terms that are more favorable than the price or terms then applicable under the Purchase Agreement, an equivalent reduction or modification of terms will apply to all products or services purchased thereafter for the balance of the term of the Purchase Agreement.

(2.7) If during the term of the Purchase Agreement, Buyer receives a bona fide offer from another supplier to sell the same or similar products or services as those covered by the existing Purchase Agreement between Buyer and Seller at a price lower than the prices set forth in the Purchase Agreement or on overall better value (including but not limited to, better payment, delivery or productivity terms), Buyer shall provide written notice and reasonable evidence of such offer to Seller. Seller shall, within thirty (30) days of receipt of such notice, either meet said price or overall better value, or, Buyer may purchase such Products from such other source(s) without any further obligation or liability to Seller other than for such Products previously released under a Purchase Order.

(2.8) Seller will use its best efforts to pursue productivity improvement projects to reduce Seller's manufacturing costs. Seller and Buyer will work on continuous material productivity improvement initiatives with a minimum annual price reduction goal of twenty percent (20%). Initiatives to achieve this 20% reduction will be defined by mutual agreement. The parties will meet quarterly to review the status and actions required to complete these initiatives. Fifty percent (50%) of the annual savings realized from such initiatives during the first year of implementation will be paid to Buyer in the form of a rebate from Seller within thirty (30) days of the conclusion of that first year. The remaining fifty percent (50%) will be retained by Seller. Seventy-five percent (75%) of the annual savings realized from such initiatives during the second year of implementation will be paid to Buyer in the form of a rebate from Seller within thirty (30) days of the conclusion of that second year. The remaining twenty-five percent (25%) will be retained by Seller. Seller will have the right to use any improvement ideas in supplying its other customers and Buyer will have the right to use or have used by others or otherwise disclose to any party any improvement ideas without limitation or obligation to Seller.

(2.9) In connection with the provisions of this Purchase Agreement that provide for payment to be made earlier than the ordinary net date in exchange for a discount, the following provisions apply: Buyer has assigned its right, title and interest in this Purchase Agreement and the related products and services to General Electric Capital Corporation ("GE Capital"). After title to such products and services has passed to GE Capital, GE Capital shall assign its right, title and interest to such products and services and this Purchase Agreement to Buyer. All warranties, either express or implied, provided with respect to such products and services shall be retained by Buyer. Seller remains obligated to perform all of its obligations under this Purchase Agreement notwithstanding these assignments, and Buyer may rely upon the same.

### **ARTICLE 3 TRANSPORTATION; DELIVERY**

(3.1) Delivery dates are firm and TIME IS OF THE ESSENCE WITH RESPECT TO DELIVERY. Seller will promptly notify Buyer in writing if Seller anticipates difficulty in complying with a required delivery date and will use all commercially reasonable efforts to meet the required delivery date. Buyer has no obligation to accept deliveries that are not made on the required delivery date. If Seller fails to meet a required delivery date, Buyer may procure replacement products or services. Seller will be responsible for all costs incurred by Buyer as a result of early or late deliveries. Seller shall be responsible for the costs associated with expedited (e.g. next day air) shipments to meet requested delivery dates. (3.2) Unless otherwise provided elsewhere in the Purchase Agreement, delivery will occur, and title and risk of loss will transfer, when: with respect to product not incorporated into services, product passes Buyer's acceptance processes and is booked into Buyer's storage facility; or with respect to product incorporated into services, the completed services have been accepted by Buyer.

(3.3) Packing, preservation and marking will be in accordance with the specification drawing or as specified in this Purchase Agreement, or if not specified, the best commercially accepted practice will be used, consistent with applicable law. The gross and net weight, shipping address, mode of packing, and in case of over-dimensional shipment the hook-points and stacking ability shall be marked on the packing.

(3.4) In addition to the aforementioned remedies and any other remedies available to Buyer under applicable law, Buyer retains the right to assess a late delivery fee of no more than 1.0% per day of the invoice amount of late deliveries of applicable products or services.

### **ARTICLE 4 INSPECTION; REJECTION**

(4.1) Buyer or its representatives may inspect and test all products and services and all materials, equipment and facilities utilized by Seller in producing products or providing services for Buyer, including without limitation reasonable access to the sites where work under this Purchase Agreement is performed, in order to assess work quality, conformance with Buyer's specifications, and conformance with Supplier's representations, warranties, certifications and covenants under this Purchase Agreement. Seller will maintain an inspection and testing system for the same that is acceptable to Buyer and will keep records of all inspection and testing data and, with respect to products, samples of each lot shipped, for two (2) years after delivery. Unless otherwise agreed by Buyer in writing, Seller will deliver to Buyer a certificate of analysis as to specifications approved by Buyer with respect to each product lot shipped.

(4.2) If any of the products or services ordered are found at any time to be defective, or otherwise not in conformity with the requirements of this Purchase Agreement, including any applicable drawings and specifications, Buyer may, at its option and sole discretion, and in addition to any other rights and remedies it may have: (i) reject and return such products at Seller's expense; (ii) require Seller to inspect the products and remove and replace non-conforming products with products that conform to this Purchase Agreement; (iii) upon notice to Seller, take such actions as may be required to cure all defects and/or bring the products or services into conformity with all the requirements of this Purchase Agreement; and/or (iv) reject the services and require Seller to re-perform, at its own expense, any defective portion of the services performed. If

Buyer elects option (ii) above and Seller fails to promptly make the necessary inspection, removal and replacement, Buyer may at its option inspect and sort the products, and Seller shall pay the cost thereof.

#### **ARTICLE 5 WARRANTIES**

(5.1) Seller warrants that all products and services will be: (i) free of any claims by third parties and that Seller will convey clear title thereto to Buyer; (ii) in strict accordance with the specifications, samples, drawings or other descriptions approved by Buyer; (iii) of merchantable quality and free from all defects in design, workmanship and materials; and (iv) to the extent that Buyer relies on Seller to specify the products or services, fit for their intended purpose. Seller further warrants that all software, firmware, or computer or electronic equipment provided hereunder will be: (vi) free of computer viruses, time bombs, or code or instructions that may be used to access, modify, delete, damage, or disable any computer, associated equipment, computer programs, data files or other electronically stored information operated or maintained by Buyer; and (v) Seller further warrants that all services will be performed in accordance with the highest standards of care and diligence normally practiced by persons performing similar services and in the best workmanlike manner.

(5.2) The above warranties, except for warranties of title and against third party claims, will be in effect for a period of thirty (30) months from the date of receipt by Buyer or twenty four (24) months from the date of final acceptance by Buyer, whichever occur earlier.

(5.3) If any products or services fail to conform to the above warranties Seller, at Buyer's option, will: (i) with respect to products, replace or repair the nonconforming products; (ii) with respect to services, re-perform all services necessary to correct any such nonconformity; or (iii) refund the purchase price of the nonconforming products or services and any related costs incurred by Buyer. Any replacement products or services also will be subject to the above warranties and warranty period. The warranty period for repaired products will be extended to account for the time lapsed until the repair was completed. If Seller does not replace, repair or re-perform, as applicable, within a reasonable time after notice, Buyer may do so at Seller's expense.

(5.4) Seller also warrants that all approvals, consents or agreements necessary for it to sign and perform this Purchase Agreement (whether internal or external) have been obtained and will continuously remain valid throughout the term of this Purchase Agreement.

#### **ARTICLE 6 CHANGES**

Buyer may at any time make and notify Seller in writing of any changes to the general scope of this Purchase Agreement in any one or more of the following: (a) drawings, designs or specifications where the products to be furnished are to be specially manufactured for Buyer; (b) method of shipment or packing; (c) place and time of delivery; (d) amount of Buyer's furnished property; (e) quality; (f) quantity; or (g) scope or schedule of services. If any changes cause an increase or decrease in the cost of, or the time required for the performance of, any work under this Purchase Agreement, an equitable adjustment shall be made in the price or delivery schedule, or both, in writing. Any Seller claim for adjustment under this clause will be deemed waived unless asserted within thirty (30) days from Seller's receipt of the change or suspension notification, and may only include reasonable, direct costs that will necessarily be incurred as a direct result of the change. Any change to this Purchase Agreement shall be made by a signed amendment.

#### **ARTICLE 7 COMPLIANCE WITH LAWS. Seller represents, warrants, certifies and covenants that:**

(7.1) Seller will comply with all applicable national, EU, state/provincial and local laws, rules, regulations and orders in performing its obligations under the Purchase Agreement, including without limitation laws and regulations dealing with environmental, health and safety, equal employment opportunity, and privacy of personal data;

(7.2) Seller will take appropriate actions to provide a safe and healthy workplace, and to protect local environmental quality in all of its activities;

(7.3) Seller will comply with any provisions, representations or agreements, or contractual clauses required thereby to be included or incorporated by reference or operation of law in the Purchase Agreement;

Seller shall fulfill at his own expenses, all formalities and obligations imposed by the Regulation (EC) no 1907/2006 concerning the registration, evaluation, authorization and restrictions of chemicals (REACH). He shall also undertake to ensure that his suppliers used for the performance of this agreement will comply to the Regulation. Pursuant to Article 8 of this Regulation, seller, based outside the European Economic Area, shall appoint an exclusive representative, at its option, based in Europe, who will be in charge to proceed to all formalities and obligations imposed by the Regulation. Seller shall provide the Buyer with the representative's name and address. Seller shall provide Buyer with a statement establishing his conformity with the Regulation's terms and conditions. In the event of non-compliance with the formalities imposed by the said Regulation, seller shall undertake to repair any damage that may result.

(7.4) Where US law applies, Each chemical substance constituting or contained in products transferred hereunder is on the list of chemical substances compiled and published by: (i) the Administrator of the US Environmental Protection Agency pursuant to the Toxic Substances Control Act (15 USC Section 2601 et seq.) as amended; (ii) the European Inventory of Existing Commercial Chemical Substances (EINECS) or the European List of Notified Chemical Substances (ELINCS); or (iii) any equivalent lists in any other jurisdictions to which the products will likely be shipped;

(7.5) Products transferred hereunder may be exported worldwide, including to countries that forbid the importation of products manufactured with child labor or with forced, indentured or convict labor. No products supplied hereunder have been or will be produced utilizing forced, indentured or convict labor, or utilizing the labor of persons in violation of the minimum working age law in the country of manufacture or in any jurisdiction in which services are provided hereunder, or in violation of minimum wage, hour of service, or overtime laws in the country of manufacture or provided services;

(7.6) No products transferred hereunder contain: (i) any arsenic, asbestos, benzene, polychlorinated biphenyls (PCBs), carbon tetrachloride, lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB), polybrominated diphenyl ethers (PBDE); (ii) any other hazardous substances the use of which is restricted under EU Directive 2002/95/EC (27 January 2003)(RoHS Directive), as amended; (iii) any chemical restricted under the Montreal Protocol on ozone-depleting substances; or (iv) any other chemical the use of which is restricted in any other jurisdictions to which the product is likely to be shipped; unless Buyer expressly agrees otherwise in writing as an addendum hereto;

(7.7) To the extent that any products transferred hereunder contain hazardous materials, Seller will provide all relevant information pursuant to applicable requirements and any similar requirements in any other jurisdictions to which Buyer informs Supplier the products are likely to be shipped;

(7.8) Except as specifically listed by Seller in an Addendum hereto, none of the products supplied hereunder are as "electrical or electronic equipment" under EU Directive 2002/96/EC (27 January 2003) (WEEE Directive), as amended, and Seller agrees to assume responsibility for: (i) taking back those products so listed in the future upon the request of Buyer and treating or otherwise managing them in accordance with the requirements of the WEEE Directive and applicable national implementing legislation; and (ii) taking back as of the date of this Purchase Agreement such used products currently owned by Buyer up to the number of new units being purchased by Buyer hereunder or to arrange with a third party to do so in accordance with all applicable requirements, with no additional charge to be sought by Seller and no additional payments to be due from Buyer for Seller's agreement to undertake these responsibilities;

(7.9) Seller will not pay, promise to pay or authorize the payment of any money or anything of value to any person or entity for the purpose of illegally or improperly inducing a decision or obtaining or retaining business or any advantage in connection with the Purchase Agreement; and

(7.10) Seller has established an effective program to ensure that the activities of any suppliers it utilizes to provide any products or services that will be incorporated into products or services supplied hereunder will be in conformance with the requirements of this section. From time to time, at Buyer's request, Seller shall provide certificates to Buyer relating to compliance with any applicable legal requirements, including those listed above, or to update the certifications, representations and warranties in this section, in each case in form and substance satisfactory to Buyer.

(7.11) Seller shall act in a manner consistent with Buyer's Integrity Guide for Suppliers, Contractors and Consultants, a copy of which can be located at the following link

[http://www.ge.com/files\\_citizenship/pdf/ge\\_integrity\\_guide\\_suppliers\\_2009.pdf](http://www.ge.com/files_citizenship/pdf/ge_integrity_guide_suppliers_2009.pdf)

(7.12) Seller will adopt policies and establish systems to procure tantalum, tin, tungsten, or gold from sources that have been verified as conflict free, and provide supporting data on their supply chains for tantalum, tin, tungsten, or gold to Buyer when requested, on a platform to be designated by Buyer.

#### **ARTICLE 8 SUPPLIER SECURITY AND CRISIS MANAGEMENT POLICY**

(8.1) Seller shall have and comply with a company security and crisis management policy, which policy shall be revised and maintained proactively and as may be requested by Buyer in anticipation of security and crisis risks relevant to the Seller's business. The Security Improvement Plan will include improvements in physical security, access control, procedural security, personal security, education and training awareness, and other areas, as appropriate. At a minimum, in addition to implementing the US Customs Service security recommendations, the Security Improvement Plan shall identify, and require Seller's management and employees to take, the measures necessary to do the following:

- (i) provide for the physical security of the people working on Seller's premises and others working for or on behalf of Seller;
- (ii) provide for the physical security of Seller's facilities and physical assets related to the performance of work, including, in particular, the protection of Seller's mission critical equipment and assets;
- (iii) protect from the loss of, misappropriation of, corruption of, and/or other damage to software related to the performance of work;
- (iv) protect from the loss of, misappropriation of, corruption of, and/or other damage to Buyer's and Seller's drawings, technical data, and other proprietary information related to the performance of work;
- (v) provide for the prompt recovery - including through preparation, adoption, and maintenance of a disaster recovery plan - of facilities, physical assets, software, drawings, technical data, other intellectual property, and the Seller's business operations in the event of a security breach, incident, crisis or other disruption of Seller's ability to use the necessary facilities, physical assets, software, drawings, technical data, or other intellectual property or to continue operations; and
- (vi) ensure the physical integrity and security of all shipments against the unauthorized introduction of harmful or dangerous materials.

8.2. Within 90 days after the date of this Purchase Agreement, Seller shall:

- (i) certify to Buyer in writing that it has completed its written Security Improvement Plan and that it has put these procedures into place;
- (ii) upon request of Buyer, provide a written copy of the Security Improvement Plan;
- (iii) maintain in a single location all manuals, reports and other records related to the Security Improvement Plan;
- (iv) identify an individual contact (name, title, location and email/telephone/fax numbers) responsible for Seller's facility, personnel, and shipment security measures; and To this end, Seller agrees that it will review the requirements of the Customs-Trade Partnership Against Terrorism ("C-TPAT") and that it will develop and implement a plan to enhance security procedures ("Security Improvement Plan") in accordance with the recommendations of the US Customs Service, as outlined

at [http://www.cbp.gov/xp/cgov/trade/cargo\\_security/ctpat/](http://www.cbp.gov/xp/cgov/trade/cargo_security/ctpat/), including such modifications thereto as may on occasion be prescribed by the US Customs Service.

(v) inform Buyer of its C-TPAT membership status and its anticipated schedule for participation in C-TPAT.

8.3. Where Seller does not exercise control of manufacturing or transportation of products destined for delivery Buyer or its customers in the US, Seller agrees to C-TPAT security recommendations to its suppliers and transportation providers and to condition its relationship to those entities on their implementation of such recommendations. Further, upon advance notice by Buyer to Seller and during Seller's normal business hours, Seller shall make its facility available for inspection by Buyer's representative for the purpose of reviewing Seller's compliance with the security recommendations of the US Customs Service and with Seller's written Security Improvement Plan. Each party shall bear its own costs in relation to such inspection and review. All other costs associated with development and implementation of Seller's Security Improvement Plan and C-TPAT membership shall be borne by the Seller. If Buyer reasonably determines that Seller's policy and/or policy implementation is/are insufficient to satisfy United States Customs Service recommendations and/or protect Buyer's property and interests, Buyer may give Seller notice of such determination. Upon receiving such notice, Seller shall have forty-five (45) days thereafter to make the policy changes and take the implementation actions reasonably requested by Buyer. Seller's failure to take such actions shall give Buyer the right to terminate this Purchase Agreement immediately without further compensation to Seller.

#### **ARTICLE 9 CONFIDENTIAL INFORMATION**

(9.1) Seller shall keep confidential any technical process, commercial, or economic or other information furnished by Buyer, or specifications or other data furnished by Buyer in connection with this order and shall not divulge, export, or use, directly or indirectly, such information for the benefit of Seller or any other party without obtaining Buyer's prior written consent. Except as required for the efficient performance of this order, Seller shall not make copies or permit copies to be made of such drawings, specifications, or other data without the prior written consent of Buyer. If any reproduction is made with prior consent, this notice shall be provided thereon. Upon completion or termination of this order, Seller shall promptly return to Buyer all materials and any copies thereof, except for one record copy incorporating any such information.

(9.2) Any knowledge or information which Seller has disclosed or may hereafter disclose to Buyer which in any way relates to the products or services covered by this order shall not, unless otherwise specifically agreed to in writing by Buyer, be deemed to be confidential or proprietary information, and shall be acquired by Buyer free from any restrictions (other than a claim for patent infringement) as part of the consideration for this order. Seller shall not assert any claim (other than a claim for patent infringement) with respect to any such information against Buyer.

#### **ARTICLE 10 BUYER'S PROPERTY**

(10.1) All tools, equipment, materials, drawings, computer programs, or other documented data of every description furnished to Seller by Buyer or paid for by Buyer, and any replacement thereof, or any materials affixed or attached thereto, shall be and remain the personal property of Buyer. Such property, and whenever practical each individual item thereof, shall be plainly marked or otherwise adequately identified by Seller as "Property of GE" and shall be safely stored separate and apart from Seller's property. Seller shall not substitute any property for Buyer's property and shall not use Buyer's property except in filling Buyer's orders. Buyer's property while in Seller's custody or control shall be held at Seller's risk. Buyer's property shall be subject to removal at Buyer's written request, in which event Seller shall prepare such property for shipment and shall deliver it as directed by Buyer in the same condition as originally received by Seller, reasonable wear and tear excepted, all at Seller's expense.

(10.2) If this Purchase Agreement funds the development of any item, including without limitation any composition of matter, article of manufacture, machine, process, method, software program, or database, or results in any idea, invention, or work of authorship which may be subject to patent, copyright, trademark or trade secret protection, Seller hereby agrees to assign all right, including moral rights, title and interest in and to said item, idea, invention or work of authorship to Buyer. Seller shall notify Buyer of the development of such item, idea, invention, or work of authorship and shall cooperate with and assist Buyer to perfect its right, title and interest, such as by executing and delivering all additional documents required for Buyer to perfect, register, and/or enforce the same, and Buyer shall reimburse Seller for reasonable costs incurred by Seller in providing such assistance.

#### **ARTICLE 11 INTELLECTUAL PROPERTY INFRINGEMENT**

Seller represents and warrants that the sale or use of the products or services provided to Buyer will not infringe or contribute to the infringement of any patents, trademarks, or copyrights anywhere in the world. If any product, service, or part thereof is held to constitute an infringement, Seller will, at its expense, obtain for Buyer a license to use the item or service, or replace or modify the same, in a manner satisfactory to Buyer, so as to avoid the infringement. Seller shall not assert any of its patents or other intellectual property rights against Buyer or Buyer's affiliates or customers worldwide in connection with any use of products or services provided to Buyer in the production, use, preparation, sale, or delivery of, or other action with respect to, the products or services of Buyer or Buyer's affiliates or customers.

#### **ARTICLE 12 QUALITY**

(12.1) Seller will not change the manufacturing process, manufacturing location, raw materials or proportions of raw materials used in products delivered to Buyer under the Purchase Agreement unless Seller notifies Buyer in writing of the change at least ninety (90) days before its implementation and Buyer agrees to the change in writing. Buyer retains the right to requalify supplier parts due to any above-mentioned change or failure to notify Buyer in the event of a change.

Seller will be liable for all losses and damages that Buyer may suffer if Seller does not comply with the requirements of the preceding sentence. At Buyer's request, Seller will provide samples of product produced with the proposed change to test in Buyer's manufacturing process.

(12.2) Seller will participate in programs implemented by Buyer with respect to quality in manufacturing and delivery of products and services.

(12.3) If any products or services are rejected, Buyer will deduct from the current invoice of Seller the cost of rejected products or services. Buyer may also charge to Seller all direct and indirect costs incurred by Buyer as a result of any nonconforming products or services whether or not Buyer rejects such Products, including Service Notification delivery fees of \$500 per event. Buyer will itemize such costs to Seller, which may include, but not be limited to, cost of defective materials, a 15% handling charge, transportation charges, incidental material and labor costs, sorting and rework expenses, lost production starts directly caused by the defect(s) (including late delivery), or any other ascertainable costs creating a loss to Buyer.

#### **ARTICLE 13 NONCONFORMING MATERIAL**

The Supplier shall not ship or make any unauthorized repairs to product with the intent of delivering material that does not fully meet purchase order or product specification requirements. The Supplier shall notify Buyer immediately if any aspect of the products or their constituent parts or materials render the products non-conformant to this order, including the warranty terms stated above. In such an event, Seller shall promptly make arrangements with Buyer to review and approve or reject any non-conforming products, parts or materials. Any such review shall take place entirely at Buyer's discretion and at a location to be agreed. Seller shall ensure that Buyer is provided with all required facilities and access to assess any non-conforming product, and that adequate processes and controls are in place at all times to establish and rectify the root cause of any non-conformance that occurs. Authorization to ship nonconforming material may be approved with prior notification and approval from Buyer. Shipping of nonconforming material without written prior approval may disqualify Suppliers from additional procurement.

#### **ARTICLE 14 FRANCHISED / LICENSED "DISTRIBUTOR" TRACEABILITY**

Distributors shall ensure tractability of all purchased product to the original equipment manufacturer on the Certificate of Conformance for all material / date code provided on the purchase order. Distributors shall not modify, rework or repair material shipped on this order. The original manufacturer must be identified for each lot / date code on the Certificate of Conformance. In the case of bulk items, this may be accomplished by bag and tag method. The preferable method is for the Distributor to provide a copy of the Manufacturer's certificate for the lot number being supplied, along with their Franchised Distributor certification.

#### **ARTICLE 15 NON-FRANCHISED / INDEPENDENT DISTRIBUTOR TRACEABILITY - "BROKERS"**

(15.1) Brokers shall meet the same requirements as Franchised / Licensed Distributors for tractability. If tractability cannot be met, Buyer reserves the right to cancel the order, request additional testing, or develop a plan for acceptance. The Broker must certify that the parts are new, unused, have not been previously programmed, altered, refurbished, repaired, or used by other customers.

(15.2) Marking Permanency Test - The independent distributor shall perform a marking solvency test using acetone. The test will be performed on one component from each date code and within each lot using IDEASTD-1010-A or similar approved methods as a guide. Any component where the OEM's marking can be removed using this method will be grounds for rejection of the entire lot.

(15.3) Orders placed through independent distributors may be subject to additional functional and/or physical validation when the order arrives at the Buyer location. Buyer reserves the right to reject the lot(s) for any indication of a functional and/or physical deviation to the manufacturers specification.

(15.4) Acceptance of this order by the independent distributor constitutes an agreement that the independent distributor will reimburse Buyer for the total price of the purchase agreement if the parts are found to be non-conforming through inspection and test methods used by BUYER and/or BUYER authorized test facilities.

(15.5) Seller's failure to submit required data may result in Buyer withholding up to 2% of the price of products or services received until such data is submitted.

(15.6) In the event of an Epidemic Failure, as defined below, Seller shall reimburse Buyer for its documented costs incurred in investigating, repairing or replacing affected products as well as repairing or replacing, at Buyer's sole discretion, each product affected by the epidemic failure. An "Epidemic Failure" for the purposes of this section is defined as one (1%) percent or more of the Products in a "lot" (which shall mean one month's production, as indicated by a date code, or 200 pieces, or the Acceptable Quality Level as defined in a Purchased Part Drawing whichever is greater) failing for the same reason at the same mechanical or electrical location in the Product within the warranty period. A failure is any material malfunction that prevents the Products from being used for the purpose intended. The formula shall be as follows:

(15.7) Number of Failures within Warranty Period/Lot Size = Epidemic Failure Rate. Failures resulting from (i) unforeseeable misuse, abuse, negligence or accident, (ii) improper installation, service or maintenance, (iii) transportation of products by Buyer; (iv) improper storage of products by Buyer; or (v) defective designs owned by Buyer shall not be included in the calculation of the Epidemic Failure Rate. If Seller fails to cure the epidemic failure within ninety (90) days, Buyer may terminate this Agreement for default.

(15.8) Seller is responsible for the quality of the products and/or services delivered, as well as for strict compliance with the specifications set forth in the Purchase Agreement or in any separate documents that may govern the provision of the products. Unless otherwise indicated by Buyer in writing in the Purchase Agreement or on other drawings or specifications

in connection with the products and/or services ordered, all statutory, official and/or customary standards apply to the products, or where no such documentation exists in accordance with ISO 9001:2000 or any successor standard.

#### **ARTICLE 16 CUSTOMS AND TRADE**

(16.1) Unless otherwise agreed by Buyer in writing, Buyer will not be a party to the importation of products. All purchases under the Purchase Agreement will be consummated subsequent to importation, prices will be inclusive of all duties and other costs of customs clearance and Seller will not cause or permit Buyer's name to be shown as "importer of record" on any customs declaration. In any case where Buyer agrees to be the importer of record, Seller will provide all information needed to effect customs entry into each country into which the products are to be imported.

(16.2) Seller will provide such documentation and other assistance as Buyer may request to allow Buyer to claim drawback of duties and taxes on products or articles manufactured from products provided under the Purchase Agreement.

(16.3) Seller will accurately indicate the country of origin of the products provided under the Purchase Agreement on the customs invoice and other applicable documentation.

(16.4) Seller warrants that the prices and delivery schedules identified within the Purchase Agreement take into account compliance by Seller of its obligation to comply with any governmental laws and regulations relating to export of the products or services to Buyer, and Seller shall also advise Buyer if any of the products or services including associated data and information is subject to US ITAR or EAR regulations prior to the shipment or performance of affected goods or services.

#### **ARTICLE 17 SERVICES/LIENS; SITE RULES; INSURANCE**

(17.1) Seller will obtain from all of its subcontractors waivers and releases of all liens which may be imposed by them against the products provided under the Purchase Agreement or Buyer's premises or the improvements thereon, and Seller will defend, indemnify, and hold harmless Buyer with respect thereto.

(17.2) Seller will conform strictly to all of Buyer's rules and regulations when performing services on Buyer's premises. It is Seller's obligation to obtain clear instructions from Buyer when on Buyer's site.

(17.3) Seller will maintain the following minimum insurance coverages: (i) Worker's compensation as required under the applicable laws of the jurisdiction in which the services are to be performed; (ii) Employer's Liability as required under the applicable laws of the jurisdiction in which the services are to be performed, subject to a limit of €1,000,000 per occurrence; (iii) Property covering the full value of all products and services owned, rented or leased by Seller hereunder; (iv) Comprehensive General Liability – Bodily Injury/Property Damage in the amount of €3,000,000 combined single limit per occurrence; and (v) Comprehensive Automobile Liability – Bodily Injury/Property Damage covering all owned or hired vehicles in the amount of €1,000,000 combined single limit per occurrence. All required insurance must be with companies licensed in the jurisdiction in which services are performed and acceptable to Buyer. Upon request, Seller shall furnish Buyer a Certificate of Insurance completed its insurance carrier certifying that such insurance coverages are in effect and requiring the insurance carrier to notify Buyer at least thirty (30) days prior to any expiration or termination of, or material change to, the policy. In addition, all such policies shall name Buyer as an additional insured and contain a waiver of subrogation against Buyer. Seller will also require insurance from all of its subcontractors with the same coverages and limits. Requirements specified herein and Buyer's approval of insurance coverage are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Seller under this order. (vi) if the Purchase Agreement covers the provision of design or other professional services by Seller which are not directly related to any associated product or material deliveries under the Purchase Agreement, Professional Indemnity Insurance in the amount of not less than €5,000,000 per each loss.

#### **ARTICLE 18 INDEMNIFICATION**

Seller will indemnify, release, defend and hold harmless Buyer, its subsidiaries, affiliates, licensees and assigns, and their respective officers, directors, agents, representatives, subcontractors and employees, whether acting in the course of their employment or otherwise (each, an "Indemnified Party"), from all claims, demands, losses, damages, liabilities, judgments, costs (including reasonable attorneys' fees), expenses, liens or actions (collectively, "Claims") incurred by or asserted against an Indemnified Party, in any manner arising out of or relating to Seller's performance or failure to perform its obligations, Seller's breach of any of the representations, warranties, certifications or covenants contained in this Purchase Agreement, or any products or services supplied hereunder, including without limitation Claims relating to death, personal injury, or damage to property. Seller agrees to include this clause in any subcontracts issued hereunder.

#### **ARTICLE 19 TERMINATION FOR CONVENIENCE**

Buyer may, by written notice to Seller specifying the extent of termination and the effective date, terminate this Purchase Agreement, or its purchase of any quantity of products or services hereunder, for convenience. Buyer and Seller shall negotiate reasonable termination costs consistent with the cost of materials and labor incurred (and not otherwise mitigated) on ordered products or services prior to the date of Buyer's termination notice, provided Seller takes all steps reasonably necessary to mitigate such costs. Seller will notify Buyer of its actual cost of such material and labor incurred within thirty (30) days after termination.

#### **ARTICLE 20 TERMINATION FOR CAUSE**

In the event: (a) Seller fails to complete or deliver any part of the products or services hereunder when required; (b) Seller is otherwise in breach of any material term of the Purchase Agreement; (c) Buyer determines any of Seller's representations, warranties, certifications or covenants to be untrue; or (d) Seller ceases to conduct its operations in the normal course of business, including inability to meet its obligations as they mature, or if any proceeding under the bankruptcy or insolvency laws is brought by or against Seller, or a receiver for Seller is appointed or applied for, or an assignment for the benefit of

creditors is made by Seller; Buyer shall have the right to immediately terminate this Purchase Agreement or its purchase of any quantity of products or services hereunder, without further compensation to Seller and Seller shall compensate Buyer for any damages suffered by Buyer relating thereto. Buyer shall terminate by delivery of a notice of termination specifying the extent of termination and the effective date. After receipt of a notice of termination, Seller shall immediately: (1) stop work as directed in the notice; (2) place no further subcontracts or orders for materials, services, or facilities, except as necessary to complete the continued portion of the order; and (3) terminate all subcontracts to the extent they relate to work terminated. After termination, Seller shall turn over to Buyer all completed work and work in process, including all designs, drawings, specifications, and other documentation and material required or produced in connection with such work.

#### **ARTICLE 21 ACCESS AND AUDIT**

In order to assess Seller's work quality and compliance with the Purchase Agreement, Seller will permit Buyer reasonable access to: (a) all locations where work is performed in connection with the products or services provided for in the Purchase Agreement, and (b) Seller's books and records relating to the Purchase Agreement.

#### **ARTICLE 22 CHOICE OF LAW**

This Purchase Agreement shall in all respects be exclusively governed by and interpreted in accordance with the substantive law of the Grand Duchy of Luxembourg together with the final and exclusive jurisdiction of the Luxembourg courts, excluding its conflicts of law provisions. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.

#### **ARTICLE 23 DATA PRIVACY**

Seller agrees that detailed personal data regarding the Seller is being stored and processed in a central data center under the responsibility of Buyer in the United States of America and may therefore be transferred outside of the European Union and – if applicable – is being joined with other Seller data available within Buyer or its affiliates. The data will be used for the purpose of research or analysis and Seller information about products and services of Buyer, exclusively by Buyer and/or its affiliates. Information on the stored data can be obtained and consent can be withdrawn at any time – a simple notice to Buyer is sufficient.

#### **ARTICLE 24 ENTIRE AGREEMENT**

This Purchase Agreement, with such documents as are expressly incorporated herein by reference, is intended by the parties as a final expression of their agreement with respect to such items as are included herein, and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties and no usage of the trade shall be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection. The invalidity, in whole or in part, of any of the paragraphs of this order shall not affect the remainder of such paragraphs or any other paragraph of this order.

#### **ARTICLE 25 NO PUBLICITY**

Seller shall not make any announcement, take or release any photographs (except for its internal operation purposes for manufacture and assembly of products), or release any information concerning this Order or any part thereof or with respect to its business relationship with Buyer, to any third party, member of the public, press, business entity, or any official body except as required by applicable law, rule, injunction or administrative order, without Buyer's prior written consent.

#### **ARTICLE 26 OTHER TERMS**

(26.1) The failure of Buyer to enforce at any time or for any period of time any of the provisions hereof shall not be construed to be a waiver of such provisions nor the right of Buyer thereafter to enforce each and every such provision. Any check or approval of drawings by Buyer will be for Seller's convenience and will not relieve Seller of its responsibility to meet all requirements of this order. No claim or right arising out of a breach of this order can be discharged in whole or part by a waiver of the claim or right unless the waiver is supported by consideration and is in writing signed by the aggrieved party.

(26.2) Any rights or remedies of Buyer set forth in the Purchase Agreement are not exclusive and Buyer also has all rights and remedies available under applicable law.

(26.3) Seller may not assign or subcontract its obligations hereunder without the prior written consent of Buyer, and if Seller attempts to do so, the assignment or subcontract will be void. Buyer in its sole discretion may assign its rights hereunder to its affiliates, subsidiaries, or to third party purchasers.

(26.4) Seller shall provide products and services hereunder as an independent contractor and not as Buyer's agent or employee.