

**INDIRECT CONDITIONS OF PURCHASE
GE APPLIANCES**

THE FOLLOWING TERMS AND CONDITIONS APPLY TO ALL PURCHASES:

1. ACCEPTANCE AND TERMS AND CONDITIONS: Seller agrees to sell and Buyer agrees to buy the materials, products and/or equipment (the “**Products**”) and/or the services (the “**Services**”) set forth on the face of this Purchase Order and all Deliverables in connection with such Services. “**Deliverables**” means all items in tangible and intangible form, including inventions, discoveries, works of authorship, programs, derivative works, source code, object code, ideas, techniques, methods, processes, information, data, documentation and materials, that Seller creates, prepares or delivers to Buyer, or otherwise produces, conceives, makes, proposes or develops as a result of this Agreement in the context of rendering the Services.

(a) Seller agrees to be bound by and to comply with the Buyer’s Blanket Purchase Agreement (“**BPA**”), Purchase Order (“**PO**”), Material Arrival Schedule (“**MAS**”) or Blanket Release (“**Release**”) issued hereunder (each individually or together referred to herein as an “**Order**”), these Conditions of Purchase, including any supplements thereto, and all specifications and other documents referred to in the Order or herein, all of which are incorporated herein by reference, and are collectively referred to as the “**Agreement**”. Written acceptance or commencement of performance of the work specified in the Order shall be deemed acceptance thereof and of this Agreement. This Agreement does not, expressly or impliedly, constitute an acceptance by Buyer of any Seller offer to sell, quotation or proposal, and reference in this Agreement to any such Seller offer shall neither constitute a modification of any of the terms and conditions of this Agreement nor any intent or indication by Buyer to be bound by any such offer, quotation or proposal. Each of Buyer and Seller may be referred to as a “**Party**” or together as the “**Parties**”. **UNLESS OTHERWISE AGREED TO IN WRITING, THIS AGREEMENT CONSTITUTES THE SOLE AGREEMENT BETWEEN BUYER AND SELLER RESPECTING GOODS AND SERVICES SPECIFIED IN AN ORDER AND BUYER HEREBY OBJECTS TO AND REJECTS ANY ADDITIONAL OR DIFFERENT TERMS.**

(b) Seller agrees to participate in all of Buyer’s current and future electronic commerce applications and initiatives upon Buyer’s request. For Agreement formation, administration, changes and all other purposes, each electronic message sent between the Parties within such applications or initiatives will be deemed: (i) “*written*” and a “*writing*”; (ii) “*signed*” (in the manner below); and (iii) an original business record when printed from electronic files or records established and maintained in the normal course of business. The Parties expressly waive any right to object to the validity, effectiveness or enforceability of any such electronic message on the ground that a “*statute of frauds*” or any other law or rule of evidence requires written, signed agreements. Between the Parties, any such electronic documents may be introduced as substantive evidence in any proceedings as business records as if originated and maintained in paper form. Neither Party shall object to the admissibility of any such electronic document for any reason including without limitation, the hearsay (FRE 802) and best evidence (FRE 1002) rules. By placing a name or other identifier on any such electronic message, the Party doing so intends to sign the message with his/her signature attributed to the message content. The effect of each such message will be determined by the electronic message content and by Delaware law, excluding any such law requiring signed agreement or otherwise in conflict with this paragraph.

2. APPLICABLE LAW: Seller and Buyer hereby consent to the sole application of the internal substantive laws of the State of Delaware, U.S.A., without giving effect to its conflict or choice of law rules. **The United Nations Convention on the International Sale of Goods shall not apply.**

3. TIME IS OF THE ESSENCE: Seller hereby acknowledges that time is of the essence under this Agreement and that failure by Seller to perform within the time limits set forth herein shall constitute a material default hereunder.

4. DEFAULT AND REMEDIES: Should Seller breach this Agreement, in whole or in part, Buyer shall have the right immediately to terminate this Agreement, in whole or in part, pursuant to Section 5 below, without further obligation or liability and shall have all remedies available to it at law or in equity.

5. TERMINATION, CANCELLATION AND SUSPENSION:

(a) This Agreement may be terminated as follows:

- (i) without cause with fifteen (15) calendar days' prior written notice to Seller by Buyer; or
- (ii) by either Party thirty (30) days after written notice to the other Party of breach or default of any material obligations hereunder, which default has not been cured within said thirty (30) calendar days after receipt of notice of such default or within such additional cure period as the non-defaulting Party may authorize in writing; or
- (iii) effective immediately, in the event the other Party becomes insolvent or is subject to similar bankruptcy or reorganization proceedings under applicable law, or in the event of an assignment or other arrangement for the benefit of the other Party's creditors.

Buyer shall retain any and all fully vested rights that exist on the effective date of this Agreement's termination.

(b) Buyer also reserves the right to modify the Order, or suspend work or shipments of all or any part of Products, without cause or default on the part of Seller.

(c) In the event of any termination, modification or suspension by Buyer, Seller shall immediately stop all work under this Agreement, cause any of its sub-suppliers to cease such work, minimize charges related to the Products, including diverting materials to other uses, comply with any instructions from Buyer as to work in progress and take such actions as may be necessary to protect Buyer's property in the possession or control of Seller or its sub-suppliers. If Buyer's termination, modification and/or suspension hereunder without cause or default or Seller causes additional cost to Seller not due to Seller's fault or neglect, a mutually agreeable adjustment may be made provided that a written claim (with adequate supporting documentation) by Seller is asserted within thirty (30) days from the date of termination or modification, or in the case of a suspension, from the date of a start order for resumption of work. In no event shall Buyer's obligation hereunder exceed that which Buyer would have had to Seller in the absence of a termination, modification or suspension. Buyer shall not be obligated to purchase any Seller raw materials or to pay any Seller termination charges. Buyer shall not be liable for any work done after notice of termination, modification or suspension is given or for costs that reasonably could have been avoided by Seller or its sub-suppliers. Buyer shall not, by reason of the termination, modification, suspension, expiration or non-renewal of this Agreement, be liable to Seller for any damages or injunctive relief of any kind, including but not limited to, compensation, reimbursement or damages on account of loss of prospective profits on anticipated sales, or on account of expenditures, investments, losses or commitments in connection with the business or goodwill of Seller. **IN NO EVENT SHALL BUYER BE LIABLE TO SELLER FOR ANY CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES OR LOST PROFITS.**

6. FORCE MAJEURE: Neither Party shall be liable for any failure or delay in performance caused by or due to acts of God, war, riot, terrorism, sabotage, accident or casualty. If Seller is unable to perform for more than thirty (30) days due to any such circumstances, Buyer may cancel this Agreement without penalty. Failure or delay due to labor strike or other form of work stoppage, delay of Seller's sub-Sellers or scarcity of materials or parts shall not excuse Seller's performance.

7. COMPLIANCE WITH LAWS:

(a) Seller shall comply with, and shall ensure that all of its sub-Sellers shall comply with, all applicable laws and ordinances and all orders, rules, and regulations issued thereunder (including anything required thereby to be included or incorporated by reference or operation of law in this Agreement). From time to time, at Buyer's request, Seller shall provide certificates to Buyer relating to Seller's compliance with any applicable legal requirements or to update the representations, warranties, certifications or covenants contained in this Agreement, in each case in form and substance satisfactory to Buyer.

(b) Acceptance of this Agreement by Seller shall be deemed a certification that Seller is in compliance with any and all requirements imposed by law, regulation or Executive Order upon prime contractors or subcontractors under contract with any governmental agency, including the Equal Opportunity Clause set forth in 41 CFR Chapter 60-1.4, the Affirmative Action Clause regarding Special Disabled Veterans and Veterans of the Vietnam Era set forth in 41 CFR Chapter 60-250.5(a), the Affirmative Action Clause regarding Workers with Disabilities set forth in 41 CFR Chapter 60-741.5(a) and any other

provisions of contractual clauses required by the OFCCP as set forth in 41 CFR Chapter 60, as well as any Executive Orders as now or hereafter issued, amended or codified which requirements are incorporated herein by reference. By accepting or performing this Agreement Seller certifies in accordance with 41 CFR part 60 - 1.8 with respect to orders exceeding \$10,000 and not otherwise exempt from the Equal Opportunity Clause (E.O. 11246 as amended by E.O. 11375) that it does not and will not maintain segregated facilities or permit its employees to perform services at any location under its contract where segregated facilities are maintained, and that it will obtain similar certification before the award of any non-exempt contract. Executive Order 13201 Compliance: Seller agrees to comply with the provisions of 29 CFR 470. Seller further agrees to provide Disadvantaged Business Enterprises (including but not limited to minority and women-owned businesses) utilization and demographic data upon request. Where Products or services being procured from Seller are in support of a United States Government end-user, Seller agrees to comply with the terms and conditions of the most current version of FAR 52.212-5(e) or 52.244-6 to the extent those terms are applicable to "*commercial off-the shelf*" or "*commercial items*" and as appropriate for the dollar value of this Agreement.

(c) Seller represents, warrants, certifies and covenants that Products will be produced and provided, in compliance with the requirements of the Fair Labor Standards Act of 1938, as amended.

(d) Seller represents, warrants, certifies and covenants that none of the Products supplied hereunder have been or will be produced or supplied (by Seller or its sub-suppliers) utilizing forced, indentured, convict or child 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, or in violation of minimum wage, hour of service or overtime laws of the country of manufacture or provided services.

(e) Seller represents, warrants, certifies and covenants that it is not involved in human trafficking and shall perform all activities required under this Agreement in compliance with all applicable national, EU, state/provincial and local labor, environmental, health and safety laws and regulations.

(f) Seller shall comply with all laws concerning improper or illegal payments and gifts or gratuities and agrees not to pay, promise to pay or authorize the payment of any money or anything of value, directly or indirectly, to any person for the purpose of illegally or improperly inducing a decision or obtaining or retaining business in connection with this Agreement.

(g) Seller represents, warrants, certifies and covenants that it has established an effective program to ensure that the activities of its sub-tier suppliers in regards to the Products sold or otherwise transferred to Buyer hereunder will be in compliance with Section 7(a)-(f) above and Section 33 below.

(h) If Buyer determines that any of Seller's representations, warranties, certifications or covenants contained in this Agreement is incomplete or untrue, Buyer shall have the right to immediately require Seller to bring Products into conformity with its representations, warranties, certifications and covenants or, at Buyer's sole option, to terminate this Agreement without further compensation to Seller. In addition, Seller shall compensate Buyer for any damages suffered by Buyer as a result of any untrue or incomplete representation, warranty, certification or covenant of Seller, or breach thereof hereunder by Seller, and Seller shall defend, indemnify, release and hold harmless Buyer, its directors, officers, employees, agents, representatives, successors and assigns, whether acting in the course of their employment or otherwise, against any and all suits, actions or proceedings, at law or in equity, and from any and all claims, demands, losses, judgments, damages, costs, expenses, or liabilities resulting from or in any way connected with Seller's breach of any of the representations, warranties, certifications or covenants contained in this Agreement. Seller agrees to include this clause in any subcontracts issued hereunder. The provisions of this Section 7 shall survive any termination or expiration of this Agreement.

8. BUYER POLICIES. Seller acknowledges that it has received a copy of Buyer's Integrity Guide for Suppliers, Contractors and Consultants (the "**Guide**") and agrees that it will comply fully with the Guide in the performance of this Agreement. Where Seller's personnel will be on Buyer premises regularly, have access to Buyer's network or Confidential Information (as defined below), interact with governments on Buyer's behalf or are otherwise in sensitive positions, Seller also agrees that it will: (a) provide a copy of the Guide to Seller's personnel; (b) instruct Seller's personnel to comply with the Guide; (c) be responsible for any failure of Seller's personnel to comply with the Guide; and (d) upon reasonable notice, cause its relevant personnel to attend and participate in compliance briefings conducted by Buyer representatives.

As of the date hereof and at all times during the term of this Agreement, Seller shall be in compliance with Buyer's supplier qualification standards and the Guide, as amended from time to time.

9. INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIAL OR PROPRIETARY INFORMATION:

(a) No knowledge or information disclosed to Buyer by Seller which in any way relates to Products and/or Services, shall, unless otherwise specifically agreed in writing by Buyer, be deemed to be confidential or proprietary information, and Buyer shall acquire all such knowledge and information free from any restrictions (subject to Seller's copyright and patent rights), as part of the consideration for this Agreement and Buyer's Order.

(b) Seller agrees that the existence of this Agreement, including the nature of the Products, Services and Deliverables provided hereunder, as well as all information and material (which includes all source and object code if any), any and all technical and other knowledge or information obtained or learned by Seller as a result of this Buyer/Seller relationship and all technical and other information furnished by Buyer or jointly developed by Buyer and Seller, and all information and material that Seller develops under this Agreement in the context of performing any Services and/or Deliverables hereunder (collectively, "**Confidential Information**") shall remain Buyer's property and Seller shall maintain in confidence and safeguard all Confidential Information. Seller agrees to use any Confidential Information only for conducting business with Buyer in a manner contemplated by this Agreement.

(c) Seller shall restrict disclosures of any Confidential Information to only those Seller employees who have a need to know and shall bind such employees to obligations of confidentiality consistent with this Agreement. Upon completion or termination of this Agreement or upon request of the Buyer, Seller shall promptly return all materials incorporating any such Confidential Information and any copies thereof. Without waiving any other rights that Buyer may have, and notwithstanding anything to the contrary herein, Buyer may immediately terminate with cause (with no right to cure) this Agreement upon written notice to Seller in the event that Seller, including any Seller Personnel (as defined in Section 37(a) below), uses or discloses Buyer Confidential Information other than as expressly permitted in this Section.

(d) Seller agrees and represents that all rights, title and interest in and to any programs, systems, data, materials, drawings or any other property furnished or supplied to Seller by or on behalf of Buyer are and shall remain the property of Buyer and shall be returned to Buyer on the termination or expiration of this Agreement. Upon request, Seller shall provide to Buyer drawings, specifications or other documentation evidencing the Products and/or all parts used in manufacture of the Products and/or Services and Deliverables. Buyer shall have no obligations of confidentiality with respect to said documentation unless otherwise agreed in a separate writing signed by both Parties.

(e) Seller represents and warrants that, except as otherwise agreed by Buyer in writing, no software constituting or contained in Products and/or Services and Deliverables supplied to Buyer hereunder is subject to or distributed under any license, other agreement or understanding, that: (i) would require the distribution of source code with the software of any Product or Deliverable into which it is or becomes incorporated, or which would require source code to be made available when such is distributed to any third party; (ii) would impact, restrict or impair in any way Buyer's ability to license such software pursuant to terms of Buyer's choosing; or (iii) would impact or limit Buyer's ability to enforce Buyer's patent or other intellectual property rights against any third party in any manner (a "**FOSS License**"). Seller represents and warrants it has not modified any software or other component that is subject to a FOSS License. Seller will not incorporate any software or other component subject to a FOSS License into the software constituting or contained in Products and/or Services and Deliverables supplied to Buyer hereunder, including by virtue of embodiment of background software into such software other than as expressly approved in writing in advance by Buyer.

(f) Seller further agrees and represents that Seller shall comply with all applicable Buyer information technology guidelines and encryption requirements in accessing Buyer's networks and in transmitting data electronically into Buyer's networks in order to preserve and protect the integrity of Buyer systems and/or Buyer Confidential Information. Failure by Seller to comply with the obligations set forth herein is considered a material breach of this Agreement. Buyer reserves the right to conduct at any time, subject to a prior written notice, an on-site verification of Seller's compliance with obligations relating to the

requirements contained in this Section 9(f), and Seller shall provide access to all concerned facilities, equipment and records in order to conduct such verification.

10. PUBLICATION: Without Buyer's prior written consent, Seller shall not advertise, promote or publish the fact that Buyer has contracted to purchase Products and/or Services and Deliverables from Seller, disclose information relating to this Agreement, publicly identify Buyer as a customer of Seller, or use the name of Buyer or any of Buyer's customers in advertising or any other publications or on any websites.

11. INDEMNIFICATION AND INSURANCE:

(a) Seller shall release, defend, hold harmless and indemnify Buyer (who shall control its own defense), and its affiliates and their respective directors, officers, employees, representatives, successors, assigns and shareholders during the term of this Agreement and thereafter, from and against any and all actual or alleged claims, demands, losses, liability, judgments, damages, costs, or expenses (including attorney fees, overhead and court costs) including without limitation claims for death, personal injury, or property damage, resulting from, arising out of or in any way connected with Seller's (including Seller Personnel's) (i) breach of any Seller representations or warranties hereunder; (ii) delivery of Services and Deliverables; (iii) any alleged or actual infringement or misappropriation of third party intellectual property rights based on Buyer's or its affiliates' use or exploitation of the Products or Deliverables; (iv) any failure of Products and/or Services and Deliverables to comply with applicable specifications (functional, design or otherwise), warranties, or certifications under this Agreement; or (v) any acts or omissions of Seller or any of its directors, officers, or Seller Personnel, including but not limited to, (A) willful misconduct, negligence or other tortious conducts, (B) representations or statements not specifically authorized by Buyer in this Agreement nor otherwise authorized in advance and in writing by Buyer; or (C) a violation by Seller (or any of its directors, officers, or Seller Personnel) of any applicable law, regulation or order. Buyer reserves the right to settle all such claims at its own expense, but such settlement shall not relieve Seller from any of its liabilities under this Agreement. Seller agrees to include this clause in all related subcontracts. Upon Buyer's request, Seller shall advance all attorneys' fees and other dispute resolution expenses related to any indemnified claim. The provisions of this Section 11 shall survive the termination or expiration of this Agreement.

(b) Insurance.

- i. During the Term and for a period of five (5) years thereafter, Seller shall, at its own expense, maintain and carry in full force and effect, at least the following types and amounts of insurance coverage, subject to the requirements set forth in (b)ii.
 - a. Commercial General Liability with limits no less than \$1,000,000 for each occurrence and \$2,000,000 in the aggregate, including bodily injury and property damage, as well as \$2,000,000 in products and completed operations, and \$1,000,000 in personal and advertising liability, which policy will include contractual liability coverage insuring the activities of Seller under this Agreement;
 - b. Worker's Compensation & Employer's Liability as required by applicable state or country law with a minimum limit of \$1,000,000 for each accident, \$1,000,000 for each disease and \$1,000,000 policy limit;
 - c. Commercial Automobile Liability with limits no less than \$1,000,000, combined single limit for each occurrence involving personal injuries and/or property damage;
 - d. If required by Buyer, Employee Dishonesty (Fidelity) and Computer Crime coverage (for losses arising out of or in connection with any fraudulent or dishonest acts committed by employees of Seller, acting alone or in collusion with others) with a minimum limit of one million dollars (\$1,000,000);

- e. If required by Buyer, Errors & Omissions coverage in the amount of one million dollars (\$1,000,000); and
 - f. Umbrella (excess) liability for the coverages in Sections 11(b)i.a - 11(b)i.e. of no less than \$1,000,000. In the event Seller is unable to meet the coverage amounts indicated in Sections 11(b)i.a - 11(b)i.e, such requirements may be met with a combination of such coverage and additional umbrella liability coverage in addition to the \$1,000,000 required by this Section 11(b)i.f.
- ii. Additionally, Seller shall ensure that all insurance policies required pursuant to this section:
- a. be issued by insurance companies reasonably acceptable to Buyer with a Best's Rating of no less than A-;
 - b. provide that such insurance carriers give Buyer at least thirty (30) days' prior written notice of cancellation or non-renewal of policy coverage, *provided that*, prior to such cancellation, Seller has new insurance policies in place that meet the requirements of 11(b)i.
 - c. provide that such insurance be primary insurance and any similar insurance in the name of and/or for the benefit of Buyer shall be excess and non-contributory; and
 - d. name Buyer and its affiliates, including, in each case, all successors and permitted assigns, as additional insureds.
 - e. waive any right of subrogation of the insurers against Buyer and any of its affiliates.
- iii. If Seller fails to procure or maintain in force the insurance specified herein, Buyer may secure such insurance and the cost thereof shall be borne by Seller. It is understood and agreed that the insurance provided by Seller hereunder shall operate independent and apart from any obligations imposed on Seller under the indemnity provisions in this Contract.

12. NON-ASSIGNMENT: Seller shall not assign this Agreement, or any interest, right or obligation created hereby or any payment due or to become due hereunder without Buyer's written consent. Any attempt by Seller to make such assignment (or any such assignment by operation of law) shall be null and void.

13. INTELLECTUAL PROPERTY WARRANTY AND INDEMNITY: Seller warrants that Products and/or Services and Deliverables delivered hereunder, and that Buyer's use, possession, or import of such Product, Services and Deliverables, do not infringe any patent, copyright or other intellectual property right of any third party. Seller shall hold Buyer harmless against and handle, defend or settle any claim, demand, suit or proceeding brought against Buyer that is based on an allegation that any article, apparatus, material, component or part thereof constituting Products and/or Services or Deliverables, as well as any article, device or process resulting from the intended use thereof or any process or method furnished by Seller for making or using Products and/or Deliverables and/or performing Services, constitutes an infringement of any patent, copyright or other intellectual property right, and Seller shall pay all damages and costs awarded therein or all costs incurred and payment due in settlement thereof, including but not limited to any royalties due for the continuing purchase of, or use of Products and Deliverables and/or the performance of Services from Seller. If any article, apparatus, material, component or part thereof, or any device or process necessarily resulting from the use thereof or process or method for using Products and/or Deliverables and/or performing Services, is held in such suit or proceeding to constitute infringement or misappropriation and the manufacture, sale or use of the article, apparatus, material, component, part, device, process or method is enjoined, Seller shall, at its own expense and at Buyer's option, either procure for Buyer the right to continue using the article, apparatus, material, component, part, device, process or method, or if the form, fit, function or performance thereof will not be materially adversely affected, replace same with a non-infringing article, apparatus, material, component, part, device, process or method, or modify it so it

becomes non-infringing, or remove the article, apparatus or material or component and refund the purchase price and the transportation and installation costs thereof. The provisions of this Section 13 shall survive the termination or expiration of this Agreement.

14. PRICING: Unless otherwise agreed in writing, the prices specified in this Agreement are prices for all Products and/or Services ordered under this Agreement, inclusive in the case of Products, of the packaging for exportation or delivery in full container load quantities of such Products and any taxes and duties imposed on and/or payable by Seller. No additional charges of any kind, including charges or expenses incurred in connection with boxing, containerization, cartage or other transportation or insurance will be allowed.

15. PAYMENTS:

(a) Payment by Buyer will be made following issuance of an Order and acceptance of Products, Deliverables and/or Services, as applicable, by Buyer, and, where applicable, receipt of Seller's invoice. For purposes of Products that are equipment, "acceptance" shall mean that the equipment is installed in Buyer's plant and meets all applicable contractual terms. Unless Buyer directs otherwise, if Seller is required to submit an invoice for payment, Seller shall use Buyer's e-Invoicing system on iSupplier or SupplierNet, as applicable. Seller hereby represents that its wire or electronic funds transfer and other payment instructions shall comply with all applicable banking and currency control laws, rules and regulations. If payment is to be made by means of wire or electronic funds transfer, then such transfer will be initiated within the agreed payment terms. Buyer's Terms and Conditions for ACH/EFT Payment and Implementation as in effect from time to time are incorporated herein by reference and shall govern such electronic funds transfers for Products, Deliverables and/or Services.

(b) In addition to any other rights that Buyer may have under this Agreement, Buyer may charge Seller if Seller fails to submit accurate invoices, reports or other documents or data required by Buyer. The intent of these charges is to reimburse Buyer for the additional out-of-pocket costs associated with auditing and otherwise correcting or accommodating Seller's failure to comply with the requirements of this Section. Such payments are intended as a good faith defrayal by Seller of Buyer's additional costs and not as a waiver of or substitute for the payment of any damages or indemnity otherwise provided under this Agreement. **EACH PAPER INVOICE RECEIVED BUT NOT APPROVED BY ACCOUNTS PAYABLE SHALL BE ASSESSED A PROCESSING FEE OF \$100 OR LESS. Buyer shall have no obligation to pay for Products, any installation of Products, if applicable, or services if Buyer receives required invoices more than six months after Seller is required to submit such invoices or if relevant accounts cannot be reconciled within six months of receipt of Product due to the fault of Seller. Except as time barred under any applicable statute of limitations of lesser duration, any claims by Seller shall be time barred unless Seller commences an arbitration proceeding with respect to such claim within two (2) years after the cause of action has accrued.**

16. RECORDS AND AUDITS: Buyer has the right at any reasonable time and upon reasonable notice to verify any data Seller has prepared or submitted under this Agreement, including financial information of Seller, its sub-suppliers and its affiliates. Seller shall supply financial information reasonably requested by Buyer.

17. INSPECTIONS AND REJECTIONS:

(a) All Products and/or Services and Deliverables covered by this Agreement shall be received subject to Buyer's right of inspection, count, testing and rejection. Payment for Products and/or Services and Deliverables delivered hereunder shall not constitute acceptance thereof, and all payments against documents shall be made with a reservation of rights by Buyer for defects in Products and/or Services or documents, including, without limitation, defects apparent on the face thereof. Seller shall provide and maintain inspection and process control systems acceptable to Buyer for production of the Products and/or performance of the Services. Records of all inspections by Seller shall be kept complete and available to Buyer during the performance of this Agreement or for such longer period as may be required by law. Buyer may inspect Products at Seller's facility at any time without waiving its right subsequently to reject or revoke acceptance of such Products for any defects. Failure of Buyer to inspect shall not relieve Seller from any of its responsibilities hereunder. Seller, at its expense, shall furnish, or cause to be furnished, facilities and assistance reasonably necessary to ensure the safety and convenience of any such inspections.

(b) If any of the Products, Services and/or Deliverables are found at any time to be defective in design, materials or workmanship or otherwise to not conform with the requirements of this Agreement, including any applicable specifications, samples, drawings, designs, plans, instructions or statements of work, Buyer, in addition to such other rights as it may have under this Agreement, at law and/or in equity, at its option may: (i) reject and return such Products and/or Deliverables at Seller's expense; (ii) require Seller at its expense to replace the rejected Products and/or Deliverables and/or re-perform the Services under a revised Order submitted by Buyer; or (iii) require Seller to inspect Products and/or Services and Deliverables and remove and replace nonconforming Products and/or Deliverables with conforming Product or Deliverables, and/or re-perform the Services to conform with this Agreement. Buyer may at its option inspect, sort, remove, correct and replace such Products and/or Services and Deliverables and Seller shall pay the actual cost thereof. If any Products and/or Services are rejected, Buyer will deduct from the current invoice of Seller the cost of rejected Products and/or Services and Deliverables. Buyer may also charge to Seller all direct and indirect costs incurred by Buyer as a result of any nonconforming Products and/or Services and Deliverables (including failure to meet delivery schedules) whether or not Buyer rejects such Products and/or Services and/or Deliverables. Buyer will itemize such costs to Seller, which may include, but not be limited to, cost of defective materials, a fifteen percent (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.

18. SELLER and SELLER PERSONNEL: Seller's relationship and that of Seller Personnel to Buyer in performance of this Agreement shall be that of independent contractor and not as an agent, servant or employee of Buyer. Seller and Seller Personnel shall comply with all rules, including safety, traffic and security, established by Buyer for operations within Buyer's location(s).

19. SET-OFF: Buyer shall have the right at all times to set off any amounts owing at any time from Seller to Buyer, any unincorporated component of Buyer or any of its affiliates, against any amount payable at any time by Buyer to Seller.

20. SUBCONTRACTING: The Parties recognize that the nature of the work of Seller may require Seller to procure materials and services from third parties; however, should Seller elect to subcontract any work under this Agreement, it shall subcontract only after obtaining Buyer's prior written consent. Any consent so granted by Buyer shall not relieve Seller of its obligations hereunder. No contract shall be created or construed to exist between Buyer and Seller's sub-contractors as a result of such consent. If Buyer consents to the use by Seller of subcontractors hereunder, such subcontractors shall be engaged by Seller under terms and conditions no less restrictive than those set forth herein, and Seller shall ensure that each subcontractor has obtained and maintains all licenses required in connection with this Agreement.

21. CHANGES:

(a) Buyer shall have the right at any time to make changes of any kind (including quantity and Buyer's specifications) to this Agreement. If Seller believes that such change affects the price or delivery date for Products or Services hereunder, Seller shall so notify Buyer in writing (with adequate supporting documentation) within five (5) working days after receipt of Buyer's change notice and an equitable adjustment may be considered by Buyer. Seller's request for any adjustments shall be waived unless submitted within such five (5) day period. If released in writing by Buyer, Seller shall comply with and perform such change during the time Seller and Buyer require to mutually agree upon an equitable adjustment, if any.

(b) Seller shall notify Buyer in writing in advance of any and all changes to Products or Services or Deliverables or the specifications or composition of either, and of all process changes, plant moves, equipment changes or moves, or subcontractor changes, and no such change shall occur until Buyer has been given prior notice of such change. No such change shall occur without Buyer's written consent. All such changes shall be documented by Seller by following change procedures issued by Buyer from time to time. It shall be the responsibility of Seller to obtain, complete and submit proper documentation regarding any and all changes. Any such change made without the explicit consent of Buyer shall constitute a material breach, and Buyer shall have the right to terminate this Agreement immediately and without prior notice to Seller.

22. BUYER'S PROPERTY:

(a) Buyer assumes no obligation to furnish Seller with any tools, equipment or materials for the performance of Seller under this Agreement except as may be expressly provided otherwise; however, if Seller or its subcontractors or the employees, representatives, agents or invitees of any of them, make use of any tools, equipment or materials owned by Buyer, such tools, equipment or materials shall be accepted in "as is" condition, without any warranty whatsoever, express or implied, and Seller shall indemnify and save harmless Buyer (including its directors, officers, employees and agents) from and against any and all loss or liability (including reasonable attorneys' fees and court costs) relating to or in respect of any failure of such tools, equipment and/or materials to be suitable for their intended purpose or for any damage, destruction, injury or death arising from the use of such tools, equipment and/or materials.

(b) Any and all tools, equipment, material, and components furnished to Seller by Buyer or specially paid for by Buyer and any replacements thereof or attachments thereto shall be and remain the property of Buyer. Such property shall be adequately identified by Seller if held in the U.S. as "*Property of GE Appliances*" or if held outside the U.S. as property of Buyer's designated affiliate, stored separately from Seller's property, and properly maintained by Seller. Seller shall not substitute any other property for Buyer's property and shall not use such property except in filling Buyer's orders. Buyer's property while in Seller's custody or control shall be held at Seller's risk and shall be kept free of encumbrances and insured by Seller, at Seller's expense, in an amount equal to the replacement cost with loss payable to Buyer. Such property shall be subject to removal at Buyer's request, in which event Seller shall prepare such property for shipment and shall redeliver such property to Buyer in the same condition as originally received by Seller, reasonable wear and tear excepted, all at Seller's expense.

23. BUYER'S RIGHT TO ENTER PREMISES: Seller shall permit and obtain from its sub-suppliers permission for Buyer to have reasonable access to the sites where the work under this Agreement is performed in order to assess (a) work/Product quality, (b) conformance with Buyer's specifications and requirements, and (c) conformance with Seller's representations, warranties, certifications and covenants under this Agreement. As used in this Agreement, "subcontractors" means Seller's sub-suppliers and Seller's service providers. This provision shall include but not be limited to the right to inspect and test all Products, tooling, and workmanship and to inspect and audit Seller's and its sub-supplier's facilities and performance. The failure to audit, test or inspect by Buyer will neither relieve Seller of any liability for defects or Agreement noncompliance, nor create any liability on the part of Buyer.

24. DISPUTE RESOLUTION:

(a) All disputes, controversies and questions directly or indirectly arising out of, in connection with or in relation to this Agreement or its subject matter, including, without limitation, all disputes, controversies and questions relating to the validity, negotiation, interpretation, construction, performance, termination and enforcement of this Agreement (each and all, "**Dispute(s)**"), shall be resolved finally and conclusively in accordance with this section, which shall be the sole and exclusive procedure for the resolution of any Dispute.

(b) The Parties shall attempt in good faith to resolve any Dispute promptly by negotiation. If the matter has not been resolved within sixty (60) days after a Party's request for negotiation, either Party may initiate arbitration as provided herein. Any Dispute, which has not been resolved as provided above, shall, at the request of either Party, be finally settled by arbitration under the International Institute for Conflict Prevention & Resolution ("**CPR**") Rules for Non-Administered Arbitration of Business Disputes in effect on the date of this Agreement, by an independent and impartial arbitrator jointly selected by the Parties. If the Parties cannot agree on an arbitrator, then CPR shall appoint a person whom it deems qualified to serve as the arbitrator. The validity of this arbitration provision, the conduct of the arbitration, any challenge to, confirmation of, or enforcement of any arbitral award or order, or any other question of arbitration law or procedure shall be governed exclusively by the Federal Arbitration Act, 9 U.S.C. sections 1-16; however, the award can be modified or vacated on grounds cited in the Federal Arbitration Act. The place of arbitration shall be in Louisville, Kentucky. The language of arbitration shall be English. The federal and state courts located in the Commonwealth of Kentucky shall have exclusive jurisdiction over any action brought to enforce this arbitration provision, and each Party irrevocably submits to the jurisdiction of those courts for that purpose. Notwithstanding the foregoing sentence, either Party may apply to any United

States District Court of competent jurisdiction, wherever situated, for enforcement or confirmation of any judgment on an arbitral award.

(c) Notwithstanding any other provision of this Agreement, the Parties expressly agree that before the first meeting of the arbitral tribunal, either shall have the right to apply to any state or federal court in Kentucky, or any other court that would otherwise have jurisdiction, for provisional or interim measures.

(d) Each Party hereby consents to a single, consolidated arbitration proceeding of multiple claims, or claims involving more than the Parties. The prevailing Party or Parties in any arbitration conducted under this paragraph shall be entitled to recover from the other Party or Parties (as part of the arbitral award or order) its or their attorneys' fees and other reasonable costs of arbitration. Seller and Buyer hereby mutually agree to waive to the extent permitted by law, trial by jury in any litigation in any court in connection with or arising out of this Agreement or the Seller/Buyer relationship. The provisions of this Section 24 shall survive any termination or expiration of this Agreement.

25. LIENS: Unless otherwise agreed by Buyer in writing, Seller hereby waives the right to assert and hereby releases any and all liens, claims or encumbrances which Seller may assert against Buyer, Buyer's property, the Products or Deliverables. In addition, Seller shall pay, satisfy, and discharge all liens, claims, encumbrances or other obligations or liabilities which may be asserted against Buyer or its property by reason of any act or omission of Seller, its employees, agents, subcontractors, or sub-suppliers in connection with or relating to performance under this Agreement. Before any final payment from Buyer, Seller shall be required to show payment and release of all debts, taxes, liens, claims, charges and obligations arising out of or connected with the performance of this Agreement. Seller shall execute affidavits or provide such lien release certificates as Buyer may require evidencing such release. In the event a lien is asserted against Buyer or its property by reason of any act or omission of Seller, its employees, agents, subcontractors or sub-suppliers, Buyer may exercise its right of setoff hereunder for any amounts paid by Buyer to release such lien.

26. WAIVER: No claim or right arising out of a breach of this Agreement can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the waiving Party. The failure of Buyer to enforce at any time or for any period of time any of the provisions of this Agreement shall not be construed to be a waiver of such provisions nor the right of Buyer thereafter to enforce each and every such provision.

28. TRADEMARKS: The names and trademarks of each Party shall remain the sole and exclusive property of that Party or its affiliates and shall not be used by the other Party for any purpose whatsoever unless expressly authorized in writing by the owning Party.

29. NOTICES: Notices and other communications required to be made under this Agreement must be in writing in English, addressed to the Parties at such addresses as may be designated in writing by either Party to the other and shall be deemed received when a) delivered by hand, b) on the date indicated on the signed receipt if mailed by first-class registered or certified mail, postage prepaid, return receipt requested, c) delivered by overnight courier or d) delivered through electronic media such as email or fax.

30. ENTIRE AGREEMENT: This Agreement, any Confidentiality Agreement or Nondisclosure Agreement entered into by the Parties, and anything referenced and incorporated herein, including all terms and conditions on the Order, sets forth the entire agreement between the Parties as to the subject matter herein and supersedes any prior or contemporaneous agreements, written or oral, between the Parties. The order of precedence for resolution of conflicts is: (a) any separate, written supply or sourcing agreement under which the Order containing this Agreement is issued; (b) this Agreement; and (c) Buyer Standing Instructions, Specifications and Standards. This Agreement may only be amended by a written agreement signed by Buyer and Seller.

31. BUYER'S COMMITMENT UNDER ORDER:

(a) Buyer is not committed to purchase any Products except for such Products and in such quantity as may be specified as firm orders in an Order. Under no circumstances shall Buyer be under an

obligation to Seller for Products not specifically covered by an Order, in an amount in excess of the quantity so specified in any of the foregoing, or for forecast quantities specified in any of the foregoing.

(b) Unless otherwise agreed to in writing, Seller shall not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet the requirements of the Order. Products shipped in advance or in excess of such requirements may be returned to Seller at Seller's risk and expense, and Seller shall reimburse Buyer for all costs incurred for warehousing, storage and handling of said Products.

32. DELIVERY:

(a) Time is of the essence under this Agreement. If Seller for any reason anticipates that deliveries will not be made as required, it shall immediately give Buyer written notice setting forth the cause(s) of the anticipated delay. If delay or inability to perform arises from interruption of supply or scarcity of raw materials or parts used by Seller, Buyer's orders shall be given priority in production scheduling. Buyer reserves the right, without liability, to take any or all of the following actions if for any reason Seller does not substantially comply with its delivery obligations: (i) assess a late delivery fee of no more than one percent (1.0%) per day of the invoice amount of late deliveries of Products, (ii) submit a revised Order, (iii) terminate the Order, or this Agreement and purchase the Products elsewhere, and Seller shall be liable for any resultant loss, (iv) direct Seller to ship by a method other than that indicated in this Agreement, work such overtime or do whatever is necessary to avoid the delay, and pay any and all transportation charges, concessions to Buyer's customers, liquidated damages, and any other costs and expenses incurred by Buyer, or (v) seek specific performance of Seller's obligation to deliver.

(b) Seller shall use only Buyer-approved carriers and forwarders for transportation of Products. Seller shall reimburse Buyer for all costs and expenses incurred by reason of shipment by an unapproved method or carrier.

(c) Unless otherwise stipulated in writing, title to and risk of loss of the Products shall pass to Buyer at Buyer's dock or at the dock of Buyer's designee, upon completion of unloading of the Products and Seller shall bear the risk of loss of the Products until such delivery. If the Products are to be delivered in installments, title to each installment shall pass in the same way as provided in this Agreement.

(d) The Products shall be suitably packed and/or protected for shipment and transportation, the cost for which shall be borne by Seller or Seller's representative. Each package shall bear Buyer's order number and be accompanied by a readily accessible packing note detailing the contents and conforming with any applicable importation regulations. Failure of Seller to comply with the shipping and transportation instructions or to provide sufficient packing shall render Seller liable for any resulting damage and/or expense incurred by Buyer.

33. ENVIRONMENTAL, HEALTH, SAFETY AND SECURITY REQUIREMENTS:

(a) For all Products and other materials sold or otherwise transferred to Buyer under this Agreement, Seller shall provide all relevant information including without limitation, safety data sheets in the language and the legally required format of the location to which the Products will be shipped and mandated labeling information, required pursuant to applicable requirements such as: (i) Occupational Safety and Health Act ("OSHA") regulations codified at 29 CFR 1910.1200, or (ii) Regulation (EC) No 1907/2006 ("REACH") or EU Directive 67/548/EC, as amended, if applicable, and (iii) any other applicable law, rule or regulation, or any similar requirements in any other jurisdictions to which Buyer informs Seller the goods are likely to be shipped, whether or not the standard applies to the activities of Seller.

(b) Seller represents, warrants, certifies and covenants that each chemical substance constituting or contained in the Products sold or otherwise transferred to Buyer (including packing) hereunder is on the list of chemical substances compiled and published by (i) the Administrator of the 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 Buyer informs Seller or Seller knows the Products will likely be shipped to or through; or that Seller is exempt from the foregoing lists, in which case Seller shall provide adequate documentation

of the validity of the claimed exemption. Seller further represents, warrants, certifies and covenants that each chemical substance constituting or contained in Products sold or otherwise transferred to Buyer hereunder is manufactured, imported, used and supplied in full compliance with the provisions of REACH, and is pre-registered or registered, if required, under REACH, is not restricted under Annex XVII of REACH and if subject to Authorization under REACH Annex XIV, is authorized for Buyer's use. In each case, Seller will timely provide Buyer with supporting documentation, including without limitation, (iv) pre-registration numbers for each such substance, (v) the exact weight by weight percentage of any REACH candidate list (as defined below) substance constituting or contained in the Products, (vi) all relevant information that Buyer needs to meet its obligations under REACH to communicate site use to its customers and (vii) the documentation of the authorization for Buyer's use of an Annex XIV substance.

(c) Seller shall notify Buyer if it decides not to register substances that are subject to registration under REACH and constitute or are contained in Products supplied to Buyer at least six (6) months before their registration deadline. Seller will monitor the publication by the European Chemicals Agency of the list of substances meeting the criteria for authorization under REACH (the "*candidate list*") and immediately notify Buyer if any of the Product supplied to Buyer is manufactured by Seller with or contains a substance officially proposed for listing on the candidate list. Seller shall provide Buyer with the name of the substance as well as with sufficient information to allow Buyer to safely use the Product or fulfill its own obligations under REACH.

(d) Seller shall disclose to Buyer the existence of any and all hazardous materials contained in Products and other materials sold or otherwise transferred to Buyer hereunder. Seller represents, warrants, certifies and covenants that none of the Products supplied under this Agreement contains any: (i) lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBBs), polybrominated diphenyl ethers (PBDEs) (flame retardants), or any other hazardous substances the use of which is restricted under EU Directive 2002/95/EC (27 January 2003) (RoHS Directive), as amended; (ii) arsenic, asbestos, benzene, polychlorinated biphenyls (PCBs), or carbon tetrachloride; (iii) any chemical restricted under the Montreal Protocol on ozone-depleting substances; (iv) any substance listed on the REACH candidate list, subject to authorization and listed on Annex XIV of REACH, or restricted under Directive 76/769/EEC and when it shall be repealed, Annex XVII of REACH; or (v) any other chemical or hazardous material the use of which is restricted in any other jurisdictions to which Buyer informs Seller or the Seller knows the goods are likely to be shipped to or through; unless Buyer expressly agrees otherwise in writing as an addendum to this Order and Seller identifies an applicable exemption from any relevant legal restriction on the inclusion of such chemicals or hazardous materials in the Products sold or transferred to Buyer. Upon request from Buyer and subject to reasonable confidentiality provisions which enable Buyer to meet its compliance obligations, Seller will provide Buyer with the chemical composition, including proportions, of any substance, preparation, mixture, alloy contained in or incorporated into the Products supplied under this Agreement and any other relevant information or data regarding the properties including without limitation test data and hazard information. Seller also represents, warrants, certifies and covenants that any substance contained in Products which is a "*hazardous substance*" as defined under CERCLA, is produced in compliance with applicable state and federal requirements and OSHA regulations.

(e) Seller represents warrants, certifies and covenants that, except as specifically listed in writing as an addendum to this Agreement, none of the goods supplied under this Agreement are (i) subject to electrical or electronic reuse or recycling take back requirements pursuant to applicable national law, or (ii) contain batteries or accumulators or are batteries or accumulators subject to labeling or take back requirements pursuant to applicable law.

(f) Seller represents that any wood packing, wood pallet materials, and/or Products containing wood fiber are in compliance with the import restrictions and treatment requirements of the United States Code of Federal Regulations, 7 CFR 319.40-1 through 319.40-11, as may be changed or amended, the International Plant Protection Convention Standards on Wood Packing Materials, any requirements of the Formaldehyde Standards for Composite Wood Products Act, which amended the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), the Lacey Act (16 U.S.C. 3371 et seq., as amended), and, for those Products sold in California, Proposition 65 labeling requirements and the California Air Resources Board 93120 for emissions. Seller shall provide Buyer with any certifications required by Buyer to evidence such compliance.

(g) Seller also represents, warrants, certifies and covenants that it has developed and

implemented a company security and crisis management plan and procedures (“**Security Plan**”) that provide for measures that ensure the physical integrity and security of all shipments against the unauthorized introduction of harmful or dangerous materials in accordance with (i) the recommendations of the United States Customs Service under the provisions of the Customs-Trade Partnership Against Terrorism (“**C-TPAT**”) for Seller’s type of business, (ii) the requirements or recommendations of the EU Authorized Economic Operator (“**AEO**”) program, and (iii) any other governmental program for protection of international supply chains in which Buyer does or may in the future participate. The Security Plan shall include improvements in physical security, access control, procedural security, personal security and awareness education and training. Seller shall (iv) communicate C-TPAT security recommendations or other relevant security recommendations to its sub-suppliers and transportation providers and condition its relationship with those entities upon their implementation of a Security Plan, and (v) upon request of Buyer, provide a written copy of the Security Plan. If Seller is found not to be compliant with C-TPAT, AEO or any other relevant program, Seller shall immediately take such steps as required to be compliant and hold Buyer harmless and reimburse Buyer for all costs, losses, claims or penalties charged to or imposed upon Buyer by reason of Seller’s noncompliance.

(h) Seller represents, warrants, certifies and covenants that it has established an effective program to ensure that the activities of any suppliers it utilizes to provide any chemicals, substances, mixtures, preparations, components, finished products or services that will be incorporated into the Products or services supplied under this Agreement will be conducted in conformance with this Section 33.

34. IMPORTS:

(a) Unless otherwise specifically provided by Buyer in writing, Buyer shall be Importer of Record.

(b) Seller warrants that all sales made hereunder are and shall be made in circumstances that will not give rise to the imposition of anti-dumping or countervailing duties under United States law (19 U.S.C. § 1671), European Union (Council Regulation (EC) No. 384/96 of December 22, 1995, Commission Decision No. 2277/96/ECSC of November 28, 1996), similar laws in such jurisdictions or of any other country to which the Products may be exported, as currently in force or as may be amended. To the extent permitted by law, Seller shall indemnify, defend and hold Buyer harmless from and against any costs or expenses (including but not limited to any countervailing and/or dumping duties which may be imposed, and to the extent permitted by law, and any preliminary dumping duties that may be imposed) arising out of or in connection with any breach of the above warranty and covenant.

(c) If Seller is Importer of Record, Seller agrees that Buyer will not be a party to the importation of Products, that the transaction(s) contemplated by this Agreement will be consummated subsequent to importation, and that Seller will neither cause nor permit Buyer’s name to be shown as “*importer of record*” on any customs entries or declarations. Upon request and where applicable, Seller will provide Buyer with all documents and properly executed forms as required by U.S. export control laws and regulations and will further provide all commercial invoices in proper form to allow Buyer to apply for and receive duty drawback. Seller will not disclose any information regarding Buyer and/or Products contrary to export control laws and regulations of the United States.

(d) Seller shall provide, in a timely, complete and accurate manner, to Buyer or Buyer’s designated agent, all data required to enable Buyer’s compliance with the U.S. Customs Importer Security Filing and additional Carrier Requirements regulation, 19 C.F.R. Part 149 (the “**ISF Rule**”) for all of Seller’s ocean shipments of Products to Buyer destined for or passing through a United States port, including without limitation, the timely, complete and accurate provision of the ISF-10 Elements thereunder. Seller shall indemnify and hold harmless Buyer, its directors, officers, employees, agents, representatives, successors and assigns from and against any and all actions or proceedings, at law or in equity, and from and against any and all claims, demands, losses, judgments, damages, costs, fines, expenses or liabilities resulting from or in any way connected with Seller’s breach of its obligations under this Section 34(d). The provisions of this Section 34(d) shall survive any termination or expiration of this Agreement.

35 FOREIGN TRADE ZONE: If Buyer and Seller agree to operate from the Foreign Trade Sub-Zone established on Buyer’s property, any benefit arising from operation in such Foreign Trade Sub-Zone will inure to Buyer, and both Parties will cooperate and adopt procedures designed to capture and maximize

such benefit. Seller shall be reimbursed immediately for any reasonable additional expense incurred to capture and maximize such benefit for Buyer.

36. WARRANTIES:

(a) **Products** – All Products sold by Seller hereunder shall be covered by the following warranties:

- 1) Seller warrants that all Products shall be free of any claim of any nature by any third party and that Seller will convey clear title to Buyer.
- 2) Seller warrants that all Products sold to Buyer shall be new and of merchantable quality, fit for Buyer's particular purpose and will contain new parts and components. Seller further warrants that all Products shall strictly conform to all specifications, samples, drawings, designs, plans, instructions, statements of work or other requirements (including functional performance specifications) furnished, approved or adopted by Buyer. Products shall be free from all defects, whether latent or patent, in design, workmanship and materials, and shall comply with all applicable national, state and local laws.
- 3) Seller represents and warrants that it has not engaged in any sharing or exchange of prices, costs or other competitive information or undertaken any other collusive conduct with any third party seller or bidder in connection with the preparation of any bid or proposal to Buyer or negotiation of this Agreement.
- 4) The foregoing warranties shall survive Buyer's inspection, acceptance, sale and use of the Products and/or Services. The warranties contained in this Section shall be in addition to, and shall not be construed as restricting or limiting, any warranties or remedies of Buyer, express or implied, which are provided by contract or law.
- 5) In the event that any Products do not conform to any of the foregoing warranties, Seller at its sole expense and at Buyer's option shall promptly repair or replace such Products. In the event of Seller's failure to do so, Buyer may make such repair or replacement at Seller's expense, after notice to Seller. The warranties contained in this Section 36 shall apply to any repaired or replacement Products.
- 6) Seller hereby extends to Buyer any and all warranties received from Seller's sub-suppliers and agrees to enforce such warranties on Buyer's behalf. All of Seller's warranties shall run collectively and separately to Buyer, its successors, assigns, customers and users.
- 7) Any claim by Buyer under this paragraph (or any other provision of this Agreement), shall be asserted through a notice of arbitration filed within four (4) years after the cause of action has accrued.

(b) **Services/Deliverables** – Seller represents and warrants as follows:

- 1) all Services and/or associated Deliverables in connection therewith shall be performed by qualified individuals in a professional and workmanlike manner conforming to the highest industry standards and practices in a timely manner and in accordance with generally accepted practices and professional standards used by internationally recognized providers performing services similar to the Services hereunder;
- 2) all Deliverables and resulting Products shall be of merchantable quality, free from all defects in design, workmanship and materials; shall be fit for the particular purposes for which they are purchased, and shall conform to any and all required specifications and/or statement of work requirements;
- 3) Seller has the legal right to provide all the of the Services and Deliverables hereunder;

- 4) all Deliverables shall be free of any claim of any nature by any third party and Seller shall convey clear title thereof to Buyer;
- 5) all Services and Deliverables shall comply with any and all applicable federal, state, commonwealth, county and local, including those of any foreign country, laws and ordinances and all lawful orders, decrees, rules, regulations, codes and other requirements issued thereunder (hereinafter collectively referred to as "**Legal Requirements**"), including Legal Requirements to provide a safe and healthy workplace, to protect local environmental quality, to comply with applicable privacy or data protection laws of any country where work relating to this Agreement is performed, and compliance with export control laws and regulations of the United States and of any foreign country;
- 6) the Services supplied under this Agreement will not be provided utilizing forced, indentured or convict labor or utilizing the labor of persons in violation of the tax, immigration or minimum working age law in the country where the Services are being carried out, or in violation of minimum wage, hour of service, or overtime laws of the country where the Services are being carried out;
- 7) Seller is in full compliance with the Immigration Reform and Control Act of 1986, as amended, and that it will only provide Buyer with Seller Personnel whose employment eligibility has been verified; that it is in full compliance with all applicable laws relating to equal employment opportunity; and that it has implemented appropriate "*revolving door*" and conflict of interest screening mechanisms, and that its employees are in full compliance with all related regulations and laws, including but not limited to, 5 CFR. Sect. 2635 et. seq., 18 U.S.C. Sec. 204, 207 and 208, and FAR Subpart 3.104 et seq.
- 8) Seller has or will obtain appropriate agreements with Seller Personnel sufficient to enable full compliance with all the provisions of this Agreement, including, without limitation, Section 39 below. In addition, Seller warrants that it will cause Seller Personnel to sign any documentation required for access to Buyer Confidential Information and other technology; and
- 9) that the Deliverables (A) do not and will not contain any restrictive devices such as any key, node lock, time-out, time bomb, or other function, whether implemented by electronic, mechanical or other means which may restrict or otherwise impair the operation or use of the Deliverables or any material embodying or comprising Deliverables; and (B) shall be free of viruses and other harmful code (including, without limitation, time-out features) which may interfere with the use of the Deliverables regardless of whether Seller or Seller Personnel purposefully placed such code in the Deliverables. In addition to exercising any of Buyer's other rights and remedies under this Agreement or otherwise at law or in equity, Seller shall provide Buyer, free of charge, with any and all new versions, upgrade, updates, releases, maintenance releases and error or bug fixes of the Deliverables (collectively, "**Revised Code**") that prevents a breach of any of the warranties provided under this Agreement or corrects a breach of such warranties. Revised Code contained in Deliverables constitutes Deliverables for purposes of this Agreement.
- 10) Seller is solely responsible for procuring and maintaining, and for ensuring that all of its personnel providing Services agree to comply with, all necessary permits and licenses of governmental entities required in connection with Seller's performance of the Services, including, where applicable, processing and procuring all necessary visas, work permits, and passport documents for its employees in advance of their assignment in connection with the provision of any Services in a timely manner to avoid any unnecessary delay.
- 11) If any Services, Deliverables or results provided by Seller do not conform to this Agreement, Seller agrees to re-perform the Services and/or Deliverables and reimburse Buyer for losses, injuries, remedial costs and other direct damages related thereto. The warranties contained in this Section 36 shall apply to any re-performed Services and/or Deliverables.

12) Seller hereby extends to Buyer any and all warranties received from Seller's Subcontractors and agrees to enforce such warranties on Buyer's behalf. All of Seller's warranties shall run collectively and separately to Buyer, and its successors and assigns.

13) Any claim by Buyer under this paragraph (or any other provision of this Agreement), shall be asserted through a notice of arbitration filed within four (4) years after the cause of action has accrued.

37. SELLER PERSONNEL:

(a) The term "**Seller Personnel**" means all Seller employees and third parties (including, but not limited to, contractors, agents, representatives, leased-workers, consultants, suppliers and Subcontractors) used by Seller that directly or indirectly provide items or services used in furnishing Services, Products and/or Deliverables to Buyer. "**Subcontractor**" means any individual, firm, corporation or third party engaged directly or indirectly by Seller in the performance of any part of the Services and/or Deliverables, including any individual, firm or corporation furnishing materials or services necessary for the performance of the obligations under this Agreement. Seller shall not assign, delegate or subcontract any portion of its rights, duties or obligations without the express prior written consent of Buyer; any actions taken by Seller in contravention of the foregoing is hereby deemed null and void. Notwithstanding Seller's retention of Seller Personnel and any such Buyer's consent, Seller shall remain entirely responsible for Seller's as well as Seller Personnel's delivery of all Products, Services and Deliverables, as well as compliance with all terms of this Agreement.

(b) Buyer shall, at all times, have the right to review and approve any Seller Personnel assigned to perform Services and to reject or have removed immediately from the provision of Services hereunder, any Seller Personnel. The exercise of this right shall be independent of any alleged breach by Seller of this Agreement. Seller shall pay the costs of familiarizing any replacement Seller Personnel for the provision of Products, Services or Deliverables and Buyer agrees that time deadlines and cost estimates, if any, may require adjustment as a result of replacing Seller Personnel unless removal is for good cause. Buyer may request to interview and approve any replacement Seller Personnel for the provision of Services and/or Deliverables prior to such individual's commencement of such Services for Buyer; Buyer's approval shall not be unreasonably withheld.

(c) Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between Buyer and either Seller or any Seller Personnel. Seller shall be solely responsible for payment of all compensation owed to Seller Personnel, as well as federal and state income tax withholding, social security taxes, and unemployment insurance applicable to such Seller Personnel as employees, and Seller shall bear sole responsibility for any health or disability insurance, retirement benefits, or other welfare or pension benefits (if any) to which Seller Personnel may be entitled. Neither Seller nor Seller Personnel shall have any right or authority to assume or create any obligation of any kind, expressed or implied, in the name of or on behalf of Buyer. Seller is responsible for all employer obligations toward all Seller Personnel under all applicable laws and Buyer policies. Seller will defend, indemnify and hold Buyer harmless against any claims that in any way (i) assert that any Seller Personnel are employees or joint employee of Buyer, (ii) relate to the conduct of any Seller Personnel; and/or (iii) pertain to a breach of this Agreement by any Seller Personnel.

(d) Seller shall be responsible for maintaining satisfactory standards of personnel competency, conduct and integrity, and shall be responsible for taking such disciplinary action with respect to all such Seller Personnel as may be necessary. Without limitation to the foregoing and when Seller Personnel are on Buyer's premises or other locations providing Services and/or Deliverables, Seller will immediately remove and replace any Seller Personnel if Buyer determines that such Seller Personnel violated or may have violated any Buyer policies. In addition, for Seller Personnel providing Services in the United States, Seller shall also assure the Seller Personnel's status to rightfully work in the United States through compliance with the Immigration and Naturalization Service's I-9 process. For Seller Personnel providing Services in jurisdictions outside the United States, Seller shall assure that such Seller Personnel comply with local law requirements in such jurisdictions with respect to the right to work in such jurisdiction.

38. BACKGROUND CHECKING:

(a) Unless prohibited by applicable law, Seller shall, through the utilization of any authorized background checking agency and prior to deploying any Seller Personnel to perform the Services at any Buyer location, facility or work site, or granting access to Seller Personnel of Buyer networks (i.e. having a Buyer issued single sign-on account) to perform the Services and/or Deliverables, and after securing appropriate written authorization from its Seller Personnel:

- (i) Verify such Seller Personnel's identity (e.g. using social security numbers or the equivalent, and credit reporting databases to verify identity gaps);
- (ii) Perform a watchlist screen to ensure that no such Seller Personnel is included on the following government or organization lists, and not place any Seller Personnel that is identified on such lists: Consolidated List of Financial Sanctions Targets (formerly the Bank of England Consolidated List); Bureau of Industry and Security Lists; Consolidated List-Australia; Consolidated List-Canada; DTC Disbarred List; EU Consolidated List; FBI Most Wanted Terrorists; FBI Seeking Information; FBI Top Ten Most Wanted; FBI Most Wanted; Hong Kong Monetary Authority List; Interpol Most Wanted; Ministry of Export, Trade and Investment (METI)-Japan; Monetary Authority of Singapore; OFAC Sanctions Programs; OFAC list of Specially Designated Nationals and Blocked Persons; Primary Money Laundering Concern List (US Dept. of Treasury List of Financial Institutions Specially Designated as Being of Primary Money Laundering Concern); State Department Proliferation List; Terrorist Exclusion List; United Nations Consolidated List;
- (iii) Perform a search of all applicable national, state/provincial sex offender registries to ensure that no such Seller Personnel is included on such registries and not place any Seller Personnel identified on such registries.
- (iv) Conduct a background screen as follows:
 - (A) using Buyer's "*Guidelines for Background Checking*", which will be provided by Buyer to Seller upon Seller's written request, perform a criminal record check through an authorized background-reporting agency (including in-person searches of county courthouse records where such records are available (e.g. United States, Mexico, etc.)) covering at least the last seven (7) years, including all locations of residence and locations of employment, as stated on the Seller Personnel's resume; and
 - (B) verify the past seven (7) years of employment (e.g. position or job title held, dates of employment and duties).

(b) Unless Buyer agrees in writing after having been fully informed, Seller shall not assign any Seller Personnel to perform Services with Buyer (i) if such Seller Personnel lied or failed to disclose any prior criminal conviction, on his or her pre-placement or employment application; (ii) if the Seller Personnel has been convicted of or pled guilty to a felony; (iii) if the Seller Personnel is serving probation for any criminal conviction, whether or not a felony.

(c) Further, Buyer in its sole discretion, may determine certain Services the Seller Personnel will be performing to be security sensitive in nature, in which case Buyer may mandate, to the extent permitted by applicable law, the foregoing screening/verifications be conducted regardless of whether or not the Seller Personnel are performing the Services on Buyer premises or having access to Buyer's network. Additionally, Buyer may require further verifications and/or searches as may be deemed necessary, to the extent permitted by applicable law, such as, for example, verifying the Seller Personnel's highest level of education and conducting a department of motor vehicle search.

(d) Seller shall maintain, as records, all of the foregoing screenings/verifications for the duration of this Agreement and for three (3) years thereafter. At Seller's request and at Buyer's discretion, Buyer may provide the names of its background checking suppliers to Seller to conduct the foregoing background checks. Seller agrees to cooperate with Buyer, in good faith, to establish and implement any

background verification process that Buyer may propose to verify that any or all of the foregoing background checks have been satisfied.

39. DRUG USE POLICIES: Unless conflicting with any applicable laws, Seller will advise any Seller Personnel who provide Services under this Agreement on Buyer's premises of Buyer's right to require an initial drug screen prior to the commencement of the Services and, further, to require a drug screen at any time during the provision of Services: (a) if Buyer believes in good faith that the Seller Personnel is under the influence of an illegal substance, (b) as a consequence of an accident caused by or involving the Seller Personnel on Buyer's premises during the performance of this Agreement and likely to have been related to the Seller Personnel's use of an illegal substance, or (c) if mandated by applicable regulations in connection with the Service being provided. Any drug screen shall be performed by Seller at Seller's expense and Seller will address any positive results and handle accordingly. Seller Personnel will not be permitted to perform the Services if a positive result of said drug screen is determined.

40. EXPENSES: In the event that the Order specifies that Buyer shall reimburse Seller for travel and lodging expenses incurred solely in the context of Seller rendering Services, Seller is responsible for ensuring that said expenses are documented, reasonable, and conform to the following:

(a) **Airline Travel:** only actual costs of the fare shall be charged to Buyer. Only coach fare shall be used. Cost of ground transportation and parking for airline travel is charged at actual incurred cost including any reasonable gratuities. Seller shall schedule airline travel at least fourteen (14) days in advance, unless otherwise specified by Buyer in writing.

(b) **Auto Expense:** the current IRS mileage standard per mile shall be reimbursable, plus any tolls. If Buyer has agreed in writing to reimburse rental car fees, then only actual costs shall be reimbursed by Buyer; provided, however, that Seller is responsible for all costs associated with maintaining sufficient insurance coverage.

(c) **Lodging:** standard, single room rates shall be reimbursable, not to exceed Buyer's negotiated rate per day, unless otherwise authorized in advance and in writing by Buyer.

(d) **Meals and incidentals:** actual out-of-pocket expenses shall be reimbursable, including any reasonable gratuities. Daily meals shall not exceed Thirty United States Dollars (U.S. \$30.00) per day, unless Buyer has provided prior written approval to the contrary.

All other expenses, costs and fees are the sole responsibility of Seller and are not reimbursable by Buyer. All reimbursable expense charges shall be based on documented, actual out-of-pocket, incurred charges. No "service" charge or other similar form of additional charge shall be reimbursable. Seller shall provide copies of all original receipts. When Buyer's corporate discounts are available and are to be used, Buyer shall notify Seller, and Seller agrees to comply with such notification for reimbursable expenses or otherwise waives its right to seek reimbursement from Buyer.

41. OWNERSHIP OF DELIVERABLES: Buyer is hereby the exclusive owner of all Deliverables and all intellectual property rights including trade secrets, copyrights, moral rights, database rights and patents) thereto. All Deliverables considered "*works made for hire*" under the U.S. Copyright Act of 1976 (the "**Act**") shall be considered "*works made for hire*" under this Agreement. Seller hereby assigns to Buyer all right, title and interest to all other Deliverables, including any works of authorship and all intellectual property rights hereto, that are not considered "*works made for hire*" under the Act. To the extent that any Seller, including Seller Personnel, pre-existing materials (including third party or open source software) are contained in the Deliverables, said pre-existing materials must be identified as such in writing to Buyer prior to Seller rendering any Services or Deliverables, and Seller (on its behalf and on behalf of Seller Personnel) hereby grants Buyer an irrevocable, worldwide, nonexclusive, paid-up, royalty-free, sublicenseable (through all tiers of sublicensees) right and license to use, execute, reproduce, perform, display, distribute, and prepare derivative works of such pre-existing material and derivative works, and to make, have made, use, sell, offer to sell, and import products and processes utilizing such pre-existing materials, but in any case limited to the extent needed by Buyer to exploit the Deliverables. Upon Buyer's request and at Seller's expense, Seller will provide Buyer with such assistance as Buyer may require, including whatever documents, information or materials are in Seller's possession or available to Seller, in order to enable Buyer to protect its ownership rights, including copyrights and patents, in any Deliverables. With respect

to inventions for which Buyer wishes to seek patent protection, Seller agrees to secure all necessary agreements with Seller Personnel to ensure assignment of their interests in each such invention to Buyer as well. Seller at its expense will take all reasonable steps necessary to secure cooperation of Seller Personnel with Buyer in filing such patent applications, including obtaining the signatures of inventors on all necessary legal documents. To the extent a Deliverable includes or consists of software, Seller shall deliver to Buyer the complete source code and object code versions.

42. PERSONAL DATA PROTECTION:

(a) Seller agrees that Buyer Personal Data shall be kept confidential, and shall only be viewed, Processed or disclosed to third parties to the extent necessary to perform this Agreement or upon Buyer's written instructions, and agrees that for the purposes of this Agreement: (i) "**Personal Data**" is any information relating to an identified or identifiable natural person ("**Data Subject**"); (ii) "**Processing**" of Personal Data shall mean and include any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, accessing, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction; and (iii) "**Buyer Personal Data**" shall include (A) Personal Data obtained by Seller from Buyer; (B) Personal Data (from whatever source) being Processed by Seller on behalf of Buyer; and (C) Personal Data (from whatever source) pertaining to Buyer personnel.

(b) Seller shall implement technical and organizational measures to ensure the security and confidentiality of Buyer Personal Data in order to prevent, among other things: (i) accidental, unauthorized or unlawful destruction, alteration, modification or loss of Buyer Personal Data, (ii) accidental, unauthorized or unlawful disclosure or access to Buyer Personal Data, (iii) unlawful forms of Processing. The security measures taken shall be in compliance with applicable data protection regulation and shall be adapted to the risks represented by the Processing and the nature of the Buyer Personal Data to be Processed, having regard to the state of the art and the cost of implementation. Seller shall immediately inform Buyer of any breach of this security and confidentiality undertaking and shall immediately identify and mitigate the effects of any of (i), (ii) or (iii) above, at Seller's expense.

(c) Seller's staff shall Process and have access to Buyer Personal Data only on a need-to-know basis, in connection with the performance of this Agreement. Seller shall implement all measures necessary to ensure compliance by its staff with the obligations relating to Buyer Personal Data, and shall require its staff as a condition of having access to Buyer Personal Data to sign individual confidentiality agreements in which they each agree individually to comply with the obligations of this "Personal Data Protection" section of the Agreement. Buyer may also require Seller's staff, as a condition of participating in specific assignments, to sign individual confidentiality agreements that are tailored for specific assignments.

(d) Failure by the Seller to comply with the obligations set forth in this Agreement relating to Buyer Personal Data and Personal Data is considered a material breach of this Agreement. Buyer reserves the right to conduct at any time, subject to a prior written notice, an on-site verification of Seller's compliance with obligations relating to Buyer Personal Data, even after the termination of this Agreement. Seller shall provide access to all concerned facilities, equipment and records in order to conduct such verification. Upon termination of this Agreement, for whatever reason, Seller shall stop any Processing of Buyer Personal Data and shall return to Buyer any copy and reproduction of Buyer Personal Data. These undertakings remain in force even after termination of this Agreement for whatever reason.

(e) If in the course of the Parties' performance of this Agreement, any Personal Data will be transferred from a member state of the European Union (EU) to a jurisdiction outside the EU that has not been declared "adequate" for personal data protection by the European Commission, the Party becoming aware of this situation will inform the other, and Buyer and Seller (or other Processor, if approved by Buyer) will enter into the EU Commission's Standard Contractual Clauses for Controller-to-Processor Transfers, or a mutually agreeable document with equivalent protections for the Personal Data.

(f) If Seller Processes any Buyer Data that is "*protected health information, including any medical, demographic, visual or descriptive information that can be used to identify a particular patient/individual*" subject to the U.S. "*Health Insurance Portability & Accountability Act of 1996*" and

regulations promulgated under that Act (collectively "**HIPAA**"), Seller agrees to the terms and conditions on the subcontractor Business Associates Agreement ("**BAA**").

(g) If Seller Processes any Buyer Personal Data or other information of Buyer's customers ("**Customer Information**") that is subject to Title V of the Gramm-Leach-Bliley Financial Services Modernization Act of 1999 and regulations promulgated under that Act (collectively "**GLB**") or other federal, state, and local laws, rules, regulations, and ordinances governing the privacy and security of Customer Information (collectively "**Customer Information Privacy Laws**"), Seller agrees to comply with GLB and other Customer Information Privacy Laws, and to protect and maintain the privacy of such Customer Information accordingly. Such compliance shall include, but not be limited to, Seller: (i) not disclosing any Customer Information to any third party except as expressly provided in this Agreement or otherwise directed or authorized in writing by Buyer; (ii) ensuring that its employees and subcontractors who obtain or have access to Customer Information comply at all times with the Privacy Laws and the provisions of this Agreement regarding the use and protection of Customer Information; and (iii) protecting and maintaining the security of all Customer Information in Seller's custody or under Seller's control. Seller shall immediately report to Buyer any unauthorized disclosure or use of or any unauthorized access to any Customer Information in Seller's custody or under Seller's control.

(h) If Seller Processes any Personal Data that is obtained in the context of a person's working relationship with Buyer or an Affiliate of Buyer ("**Employment Data**"), Seller will process the data consistent with Buyer's "*Employment Data Protection Standards*." Such persons include, for example, job applicants, employees (whether temporary or permanent), contingent workers, retirees, and former employees, as well as any dependents or others whose personal data have been given to Buyer or an Affiliate by such persons. Seller must obtain prior written approval from Buyer regarding the scope of Employment Data to be collected and the consent language to be used.

(i) Seller understands and agrees that Buyer may use any "*Contact Information*" (such as name, address, telephone number, e-mail address, etc.) provided by Seller or any of its representatives for purposes reasonably related to the performance of this Agreement, including but not limited to Seller administration and payment administration, and that such contact information may be transferred to and stored in a global database located in the United States of America and maintained by Buyer or one of its Affiliates. Seller agrees that it will comply with all legal requirements (e.g., obtaining consent of the Data Subject, where required) prior to the transfer of any Contact Information or other Personal Data to Buyer. The Contact Information will not be shared beyond Buyer, its Affiliates and their contractors who will be contractually bound to use the information only as reasonably necessary to for purposes of performing under their contractual obligations with Buyer and its Affiliates. Buyer will take appropriate measures to ensure that Contact Information is stored securely and in conformity with applicable data protection laws.

rev. 8/2016