



# REMARK I64

EDITION JULY 2020

TERMS AND CONDITIONS OF PURCHASE

GE ADDITIVE ITALY S.R.L.

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### **ARTICLE 1 - DEFINITIONS.** As used throughout this Agreement:

- (a) "Affiliate" means any entity controlling, controlled by, or under common control of a party to this Agreement.
- (b) "Agreement" means these terms and conditions ("Supply Agreement"), purchase orders or purchase agreements issued to Seller referencing this Supply Agreement ("Order(s)"), and any pricing agreements, specifications, statements of work, or other papers referenced in such Orders.
- (c) "Direct Procurement" means the purchase of any Good or Service that is provided to Purchaser's customer.
- (d) "Goods" means all products contracted for and supplied by Seller under this Agreement, including all components, raw materials, chemicals, finished goods, intermediate assemblies and associated packaging thereof.



- (e) "Indirect Procurement" means the purchase of any Good or Service that is *not* provided to Purchaser's customer.
- (f) "Intellectual Property" means data, notes, reports, specifications, designs, drawings, computer software including source code and object code, methods, processes, techniques, know-how, ideas, inventions, and discoveries.
- (g) "Intellectual Property Rights" means patents, patent applications, trade secrets, copyrights, trademarks, maskworks, database rights, industrial property rights, and other similar rights.
- (h) "Proprietary Information" means with respect to either party, all information and data, identified either orally or in writing as "Proprietary", "Confidential", or a similar designation, whether technical or non-technical, in any medium, furnished or made available directly or indirectly by one party to the other party.
- (i) "Purchaser" means the party contracting with Seller for Goods and/or Services and identified as the purchasing entity on the Orders.
- (j) "Seller" means the party contracting with Purchaser to perform the work hereunder.
- (k) "Services" means those services contracted for and supplied by Seller under this Agreement and as may further be described in Orders, statements of work, specifications, or other papers included in this Agreement.

#### **ARTICLE 1B - CONSTRUCTION RULES.**

- (a) Plural. Plurals shall be deemed to include the singular, and singular shall include plural.
- (b) Gender. Masculine shall be deemed to include feminine, feminine shall include masculine, and gender neutral shall include both the masculine and feminine.
- (c) Including. The term including, when used herein, shall be deemed to mean including without limitation.
- (d) Headings. The heading designations are supplied for convenience only, and may not accurately or fully describe all of the requirements of a section. The headings or sub-headings do not limit or modify the scope and applicability of the sections.

**ARTICLE 2 - TERMS AND CONDITIONS.** Either Seller's written acknowledgement or Seller's full or partial performance, whichever occurs first, will constitute acceptance of the Orders or any amendment thereto. Any acceptance of this Supply Agreement by Seller is limited to acceptance of the express terms of the offer set forth in this Supply Agreement. Any proposal for additional or different terms and conditions (whether included in Seller's quote, acknowledgement, or any other document) is rejected unless accepted in writing by the Purchaser. **ADDITIONAL OR DIFFERING TERMS OR CONDITIONS PROPOSED BY SELLER OR INCLUDED IN SELLER'S ACKNOWLEDGMENT HEREOF ARE HEREBY OBJECTED TO BY PURCHASER AND HAVE NO EFFECT UNLESS EXPRESSLY ACCEPTED IN WRITING BY PURCHASER.**

Seller acknowledges and confirms that: (1) it has had an opportunity to carry out a thorough due diligence exercise in relation to the requirements of this Agreement and has asked the Purchaser all the questions it considers to be relevant for the purpose of establishing whether it is able to provide the Goods and Services in accordance with the terms of this Agreement; (2) it has received all information requested by it from the Purchaser to enable it to determine whether it is able to provide the Goods and Services in accordance with the terms of this agreement; (3) it has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of the Purchaser pursuant to this Article 2; (4) it has raised all relevant due diligence questions with the Purchaser before entering into this agreement; (5) the terms of this agreement have been specifically negotiated; and (6) it has entered into this agreement in reliance on its own due diligence.

#### **ARTICLE 3 - PACKING LIST, INVOICES AND PAYMENT TERMS.**



- (a) Packing list. Each packing list shall refer to a single Order. Goods and/or Services must be accompanied by one original packing list plus a copy for administrative purposes detailing: name of Seller, part number, serial number (if applicable), product name, shipping date, Order number, Order line item number, quantity shipped, country of origin as well as any further data expressly requested on the Order.
- (b) Invoice. Each invoice shall contain: (i) Purchaser part number or material code; (ii) item description; (iii) Order number and line item reference; (iv) item value; (v) delivery terms; (vi) number of the relative dispatch notes and the item/line number; (vii) country of origin for each Good supplied; (viii) Seller and Purchaser VAT number or equivalent; (ix) export classification number (ECN) for each Good supplied; (x) export license of the country of origin for each Good supplied, if applicable. Applicable to Italian Supplier only for which the “*dichiarazione di intento*” was issued: the invoice shall contain the number of the “*dichiarazione di intento*” and the stamp duty. If the Seller shall send the invoice by email, the Seller shall specify on the invoice that the stamp duty has been already paid.
- (c) In the event Italian law n° 136 dated 13 August 2010 applies to the Agreement and to the extent of its application, Seller agrees to comply with the provisions thereof governing financial flow traceability. If Seller infringes such obligations, Purchaser shall have the right to terminate the Agreement in accordance with article 5 letter (a).
- (d) Payment terms. Purchaser shall proceed with the payment within, and at the expiry date of, the terms agreed, subject to: (i) successful completion of acceptance test under art. 13 of the Agreement; and (ii) receipt of a completed invoice as per paragraph (b) of this article.
- (e) Taxes. All sums payable under this Agreement shall be exclusive of VAT or other sales tax, which shall (if applicable) be payable by the Purchaser.
- (f) Set-off. Purchaser shall be entitled to set off any amount owing from Seller to Purchaser or to any of Purchaser's Affiliated companies against any amount payable under this Agreement.
- (g) Functional Currency. All payments shall be made in the currency stated on the Order.

#### **ARTICLE 4 - TRANSPORTATION AND DELIVERY.**

- (a) Unless otherwise stipulated on the face of the Order, the applicable shipping and delivery Incoterms will be FCA (named place) Incoterms® 2020. Title of Goods shall pass to Purchaser upon delivery. If the delivery takes place in advance of the due date, title of Goods remains to Supplier and shall pass to Purchaser upon acceptance in writing of the Goods; the acceptance of the Goods shall take place no later than the date originally agreed by the parties. Purchaser insures all Goods for which it accepts risk of loss while such Goods are in transit. Therefore, Seller shall not declare any insurance value on such Goods shipped via Purchaser's carrier.
- (b) Seller shall release truck, air or ship at the lowest released valuation permitted in the governing tariff or classification. Purchaser will pay no charges for unauthorized transportation. Any unauthorized shipment, which results in excess transportation charges, must be fully prepaid by the Seller. If Seller does not comply with the stated delivery schedule, Purchaser shall require delivery by the fastest way and the Seller shall absorb the full cost of the shipment. The charges resulting from this mode of transportation must be fully prepaid by Seller and, if not, the Purchaser shall charge to Seller the full cost of the shipment without any Seller's authorization.
- (c) Seller agrees to contact Purchaser upon knowledge of any known or suspected security breach affecting the Goods (contraband, smuggling, threatening or suspicious activities detected, tampered container, trailer, lock or seal including a seal broken during a customs inspection).
- (d) Upon Purchaser's request, all shipment containers for Goods shall be labeled in accordance with Purchaser's Bar Code Shipping Label Instructions. Seller shall designate an individual responsible for compliance with said instructions and shall act as the Seller's contact for issues concerning bar code labels. If Seller uses Purchaser's supplier collaboration portal, Seller shall not print bar code shipping labels more than twenty-four hours prior to transit of Goods to Purchaser.



(e) Delivery Delays.

- i) For all deliveries to be made pursuant to this Agreement, the Parties agree and acknowledge that time is of the essence. In the event Seller for any reason anticipates any difficulty in complying with the required delivery date or any of the other requirements of this Agreement, Seller shall promptly notify Purchaser in writing, and upon request, provide Purchaser adequate assurance of performance.
- ii) Any delay that is attributable to the Seller and that Seller does not cure within one (1) week shall result in Purchaser's right to assess the following as liquidated damages: (A) from the second week to the third of deliveries that are delinquent to the material requirement date ("Delinquency") the 2% of the price of each Good or Service that is delayed; from the fourth week of Delinquency the 10% of the price of each Good or Service that is delayed; and (B) any amount of liquidated damages Purchaser owes to its customer as a result of Seller's failure to timely deliver the Goods/Services, and (C) all justified costs (including the travel and living) borne by Purchaser's employees or any other third party (to travel to Seller's facility/es) to help the Seller in solving the Delinquency ((A), (B) and (C) together, "Delivery Damages"). The Parties agree that such Delivery Damages, if assessed are a reasonable pre-estimate of the damages Purchaser will suffer because of delay based on circumstances existing at the time the Order was established; and are to be assessed as liquidated damages for such delay and not as a penalty. Such remedies are not exclusive and shall not be in lieu of any other remedy available at law or under this Agreement.
- iii) Further, if Seller is more than thirty (30) days delinquent in delivery, then Purchaser may (1) reduce the market share percentages (if applicable) for the specific delayed Goods until such time as Seller is no longer delinquent and/or (2) consider the delay a material default of this Agreement exclusive of delays resulting from force majeure and delays directly caused by the Purchaser, giving rise to termination rights as set forth in Article 5 of this Agreement. Purchaser's remedies are cumulative, and Purchaser shall be entitled to pursue any and all remedies available at law or equity (if applicable).

**ARTICLE 5 - TERMINATION.**

- (a) Delay and Default. In the event Seller for any reason anticipates any difficulty in complying with the required delivery date or any of the other requirements of this Agreement, Seller shall promptly notify Purchaser in writing, and upon request, provide Purchaser adequate assurance of performance. In the event of a delivery delay, non-delivery or any other default by Seller in meeting its obligations under this Agreement, Purchaser (without prejudice to other rights it may have in law) may terminate all or any part of this Agreement without further compensation to Seller. For Goods and Services, Purchaser may procure, upon such terms and from any source or service provider as it shall deem appropriate, supplies or services similar to those terminated. In each case Seller shall continue performance of such Agreement to the extent not terminated and shall be liable to Purchaser for any excess costs for Purchaser's procurement of such similar supplies or services. If Purchaser has made any progress payments under this Agreement, Seller shall refund to Purchaser any such payments immediately upon termination.
- (b) Termination for Convenience. Purchaser may terminate all or any part of this Agreement for convenience at any time after notice in writing specifying the extent of termination and the effective date. After receipt of notice of termination, unless otherwise directed by Purchaser, Seller shall immediately: (1) stop work as directed in the notice; (2) place no further subcontracts or orders for materials, services, or facilities, except as necessary to complete the continued portion of the Agreement; and (3) terminate all subcontracts to the extent they relate to work terminated. Seller shall submit a final termination settlement to Purchaser in the form prescribed by Purchaser within ninety (90) days from the effective date of the termination. In the event that Purchaser wrongfully terminates this Agreement under paragraph (a), in whole or in part, such termination becomes a termination for convenience under this paragraph (b).
- (c) Termination for Insolvency. If any proceeding under the bankruptcy or insolvency laws is brought against Seller, Purchaser may terminate the Agreement forthwith without liability to the fullest extent permitted by the governing



law, except for Goods or Services completed, delivered and accepted within a reasonable period after termination (which will be paid for at the order price).

- (d) Termination in force of Legislative Decree n° 159 dated 6 September 2011. In case of Seller's declaration of compliance to Legislative Decree n° 159 dated 6 September 2011 that might be required by Purchaser results incorrect, Purchaser reserves the right to terminate the Agreement forthwith without any obligation of compensation.

In no event shall Purchaser be liable for lost or anticipated profits, or unabsorbed indirect costs or overhead, or for any sum in excess of the total Agreement price.

#### **ARTICLE 6 - DISPUTE RESOLUTION.**

- (a) Arbitration. If a dispute arises under or relating to this Agreement in any way, the parties will endeavor to resolve the dispute amicably, including by designating senior managers who will meet and use commercially reasonable efforts to resolve any such dispute. If the parties' senior managers do not resolve the dispute within sixty (60) days of first written request, either party may request that the dispute be settled and finally determined by binding arbitration. The arbitration will be conducted in accordance with the Rules of the Milan Chamber of Arbitration (the Rules) and the seat of the arbitration shall be in Milan, Italy by one arbitrator in case of the total amount in dispute will be equal or lower than US\$100,000.00 (or the local currency equivalent), or by three arbitrators in case of the total amount in dispute will be higher than US\$100,000.00 (or the local currency equivalent), appointed in accordance with the Rules, which are deemed to be incorporated by reference into this clause. The arbitrator(s) will have no authority to award attorney's fees and related costs or any other damages not measured by the prevailing party's actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of the Agreement and applicable law. The award of the arbitrator(s) will be final, binding and not appealable to the greatest extent the law permits, and judgment may be entered thereon in any court of competent jurisdiction. All statements made or materials produced in connection with this dispute resolution process and arbitration are confidential and will not be disclosed to any third party except as required by law or subpoena. Except as specified in paragraph (b) below, the parties intend that the dispute resolution process set forth in this Article will be their exclusive remedy for any dispute arising under or relating to this Agreement or its subject matter. Any claim against Purchaser shall be barred unless Seller has requested that it be resolved by arbitration in accordance with this Article within one year of the dispute, which shall be the effective date of termination if the dispute is related to termination.
- (b) Exception. Either party may at any time, without inconsistency with paragraph (a) above, seek from a court of competent jurisdiction any provisional relief to avoid irreparable harm or injury. Paragraph (a) above will not apply to and will not bar litigation regarding claims related to a party's Proprietary Information or Intellectual Property, nor will paragraph (a) above be construed to modify or displace the ability of the parties to effectuate any termination contemplated by this Agreement.

#### **ARTICLE 7 - PURCHASER'S PROPERTY.**

- (a) Property includes equipment, materials, bailed materials, samples, parts, tooling, tooling drawings and software ("Property"). Purchaser's Property includes Property furnished to Seller by Purchaser or on behalf of Purchaser or paid for by Purchaser ("Purchaser's Property"). Purchaser's Property is the property of Purchaser.
- (b) Seller may use Purchaser's Property for the sole purpose of performing its obligations under this Agreement. Nothing in this article or elsewhere in this Agreement shall be interpreted as being an implied license or a license by estoppel to Intellectual Property Rights in Purchaser's Property.
- (c) Seller shall: plainly mark or otherwise adequately identify Purchaser's Property as being the property of Purchaser, where practical; safely store Purchaser's Property apart from other Property; hold Purchaser's Property at Seller's risk and insured for replacement cost with loss payable to Purchaser while in Seller's custody or control; maintain Purchaser's Property; and upon Purchaser's written request, remove and deliver



Purchaser's Property to Purchaser in the same condition as originally received by Seller, except for reasonable wear and tear.

- (d) Seller shall not analyze, have analyzed, or cause to be analyzed Purchaser's Property to determine its chemical composition, physical properties, or for reverse engineering.
- (e) Seller may not use, disclose to others or reproduce Purchaser's Property for any other purpose, including, but not limited to, (1) the design, manufacture, or repair of parts, ; or (2) to provide any part by sale or otherwise, to any person or entity other than Purchaser.
- (f) Government Contracts. If Property under this Agreement is furnished or paid for under a government subcontract (as defined in Appendix 1, below) that includes ownership of Property by the government, the government shall retain ownership of such Property. Seller hereby grants to Purchaser an irrevocable, fully paid up, perpetual (if the governing law does not allow perpetuity, the license shall last at 60 years) license to use such Property.

#### **ARTICLE 8 - INTELLECTUAL PROPERTY RIGHTS.**

##### **(a) Background Intellectual Property.**

- i) Intellectual Property developed or acquired by either party before or outside the scope of this Agreement is considered Background Intellectual Property ("Background Intellectual Property").
- ii) Nothing in this Agreement shall entitle a party to ownership rights in any Background Intellectual Property of the other party.
- iii) Seller grants to Purchaser a non-exclusive, perpetual (if the governing law does not allow perpetuity, the license shall last at 60 years), irrevocable, fully paid-up, worldwide license to use, copy, and make derivative works of Seller's Background Intellectual Property and to disclose Seller's Background Intellectual Property to Purchaser's customers, partners, Affiliates, and contractors in connection with the sale, test, qualification, adaptation, modification, servicing, or repair of Goods and/or Services, including where such Goods and/or Services are incorporated into a higher tier assembly. The license granted herein shall supersede any restrictions stated in any Proprietary Information Agreement and shall take precedence over any restrictive or proprietary markings contained on the face of any Goods and/or Services documentation and/or data deliverables pursuant to an Order. To the extent Purchaser discloses Seller Proprietary Information under this paragraph, such disclosure will be subject to the confidentiality terms consistent with those set forth in Article 9(c).

##### **(b) Foreground Intellectual Property.**

- i) Intellectual Property developed by Seller when performing its obligations under this Agreement is considered Foreground Intellectual Property ("Foreground Intellectual Property").
- ii) Purchaser shall own all Foreground Intellectual Property along with any Intellectual Property Rights thereto. As required under the terms of an Order or at Purchaser's request, Seller shall deliver all such Foreground Intellectual Property to Purchaser.
- iii) Seller hereby assigns and agrees to assign all rights in Foreground Intellectual Property to Purchaser. In addition, Seller, will provide reasonable, timely assistance to Purchaser (at Purchaser's expense) to enable Purchaser to secure Intellectual Property Rights in Foreground Intellectual Property.
- iv) When an Order includes line items for Goods and/or Services or an adaption or improvement to existing Goods and/or Services, Intellectual Property relating to such line items shall be considered Foreground Intellectual Property unless Seller establishes by documented evidence that such Intellectual Property was developed wholly outside of the scope of this Agreement, and without use of Purchaser's funds, Purchaser's Property, and Purchaser's Background Intellectual Property.





- v) Except as provided by Italian Law No. 633 of Apr. 22, 1941, all Foreground Intellectual Property that is considered “Work Made for Hire” as defined in Section 101 of the United States Copyright Act, 17 U.S.C. § 101, and used in 17 U.S.C. § 201 (or relevant EU legislation and the UK Copyright, Design and Patents Act 1988, c. 48, as amended), shall be deemed a “work made for hire” under this Agreement, with all right, title and interest in such Foreground Intellectual Property vesting with Purchaser.
  - vi) Seller will procure from its employees and subcontractors at Seller’s sole expense (including any compensation due Seller’s employees), all Intellectual Property Rights in Foreground Intellectual Property. Further, Seller will secure from Seller’s employees and subcontractors the execution of all patent applications, assignments, and other instruments necessary for procuring Intellectual Property Rights and vesting title in Foreground Intellectual Property for Purchaser.
- (c) Government Contracts. If the Goods or Services under this Agreement are being delivered pursuant to a government subcontract that includes retention of ownership of Foreground Intellectual Property by the Seller, provision (b) above shall not apply, and Seller shall retain ownership of such Foreground Intellectual Property (“Seller’s Foreground Intellectual Property”). Seller hereby grants to Purchaser a perpetual (if the governing law does not allow perpetuity, the license shall last at 60 years), irrevocable, fully paid up, worldwide license to use, copy, and make derivative works of Seller’s Foreground Intellectual Property, with the right to sublicense and to disclose Seller’s Foreground Intellectual Property to Purchaser’s customers, partners, Affiliates, and contractors in connection with the sale, test, qualification, adaptation, modification, servicing, or repair of Goods and/or Services, including where such Goods and/or Services are incorporated into a higher tier assembly. Purchaser, Purchaser’s customers, suppliers, partners, Affiliates, regulators, auditors, and inspectors shall not use Seller’s Foreground Intellectual Property for the purposes of manufacturing the Goods and/or Services or procuring the Goods and/or Services from sources other than Seller, without Seller’s written approval. The license granted in this Article 8(c) shall supersede use restrictions stated in any Proprietary Information Agreement, provided that to the extent Seller’s Foreground Intellectual Property is considered Seller’s Proprietary Information, such Seller’s Foreground Intellectual Property will be subject to the confidentiality terms of Article 9.
- (d) Patent Markings. If Purchaser notifies Seller that Goods ordered under this Agreement are patented, Seller agrees to mark such Goods with any patent numbers or other markings designated by Purchaser, including updates to such numbers or markings.
- (e) Intellectual Property Representations and Warranties. Seller represents and warrants:
- i) It is not the proprietor of any Intellectual Property Rights that would impair or restrict the freedom of Purchaser, Purchaser’s Affiliates, and their respective vendors and customers to make use of the Goods and/or Services;
  - ii) Goods and/or Services shall not infringe any Intellectual Property Rights of any third party;
  - iii) Seller will not assert any Intellectual Property Rights against Purchaser, Purchaser’s Affiliates, and their respective vendors and customers based on their use of the Goods and/or Services or their use, copying, and making derivative works of Seller’s Background Intellectual Property; and
  - iv) Seller will obtain the same warranties and commitment contained in this article running in favor of Purchaser, Purchaser’s Affiliates and their respective vendors and customers from each of Seller’s subcontractors.

#### **ARTICLE 9 - CONFIDENTIALITY AND DATA PROTECTION.**

- (a) Each party’s Proprietary Information shall remain the property of that party except as expressly provided otherwise by the other provisions of this Agreement.



- (b) All Purchaser's Property, Purchaser's Background Intellectual Property, Foreground Intellectual Property, and Orders shall be deemed Purchaser's Proprietary Information.
- (c) Seller shall not disclose Purchaser's Proprietary Information to any third party or use Purchaser's Proprietary Information for the benefit of any third party without Purchaser's consent. Seller shall protect Purchaser's Proprietary Information against unauthorized use or disclosure using at least those measures that it takes to protect its own Proprietary Information of a similar nature, but no less than reasonable care. Seller will permit access to Purchaser's Proprietary Information to only Seller's personnel who have a need to know for the purpose of performing Seller's obligations under this Agreement. In the event that Purchaser is required by applicable law or regulation to disclose Seller's Proprietary Information, Purchaser shall provide Seller with prompt notice thereof and a reasonable opportunity to comment or undertake protective measures prior to such disclosure. Purchaser may disclose only the information that is required by such law or regulation to be disclosed without liability under this Agreement.
- (d) Notwithstanding the restrictions in this Article, Seller may disclose Purchaser's tooling and tooling drawings to Seller's sub-contractors for the sole purpose of assisting Seller in performing its obligations under this Agreement, provided that Seller's sub-contractors agree in writing to obligations of confidentiality at least as restrictive as those set forth in this Agreement for Purchaser's benefit.
- (e) Seller shall be liable to Purchaser for any unauthorized use or disclosure by Seller's personnel or any third party to which Seller discloses Purchaser's Proprietary Information.
- (f) Supplier shall comply with the "GE Privacy and Data Protection Appendix", which is incorporated into this Agreement and available at <http://www.gesupplier.com/html/GEpolicies.htm>.

#### **ARTICLE 10 - CHANGES.**

(a) Purchaser reserves the right at any time to make changes within the general scope of this Agreement. Such changes may include: (1) drawings, designs or specifications; (2) technical clarifications; (3) artwork; (4) quantity; (5) method of shipment or packing; (6) quality; (7) place or time of delivery; or (8) amount of Purchaser's furnished property.

i) If any change causes a significant impact on the cost of, or the time required for, performance of any work under this Agreement, an equitable adjustment shall be made in the price or delivery schedule, or both as applicable, in writing. Any Seller claim for adjustment under this article shall be deemed waived unless asserted in writing within twenty (20) days after receipt by Seller of the notice to make the change and may only include reasonable, direct and demonstrable costs that will necessarily be incurred as a direct result of the change.

ii) Seller shall not proceed to implement any change for which Seller will seek an equitable adjustment until Purchaser provides for such change in writing.

iii) Nothing in this section, including any disagreement with Purchaser as to the equitable adjustment to be made, shall excuse Seller from proceeding with the change provided that Purchaser pays Seller all undisputed amounts pursuant to this Agreement.

(b) Seller shall notify Purchaser in writing in advance of any and all: (1) changes to the Goods and/or Services, their specifications and/or composition; (2) process changes; (3) plant and/or equipment/tooling changes or moves; (4) transfer of any work hereunder to another site; and/or (5) sub-supplier changes, and no such change shall occur until Purchaser has had the opportunity to conduct such audits, surveys and/or testing necessary to determine the impact of such change on the Goods and/or Services and has approved such change in writing.

i) Seller shall be responsible for obtaining, completing and submitting proper documentation regarding any and all changes, including complying with any written change procedures issued by Purchaser.

ii) For Goods that require Purchaser's source approval, Seller agrees to provide a minimum advance notice of 18 months to Purchaser of any changes to significant processes, including, but not limited to physical





relocation of any manufacturing or quality operations. Within fourteen (14) days of such notice, Seller will generate a Critical Process Control plan, which is subject to Purchaser's review and approval.

#### **ARTICLE 11 - ANTICIPATION OF DELIVERY SCHEDULE.**

It is Seller's responsibility to comply with its scheduled lead times but not to anticipate Purchaser's requirements. Any material commitments or production arrangements made by Seller in excess of the amount or in advance of the time necessary to meet schedules that are within lead time shall be at Seller's sole risk and expense. Goods shipped to Purchaser in advance of Purchaser's requirements may be returned to Seller at Seller's expense.

#### **ARTICLE 12 - ASSIGNMENT AND CHANGE IN OWNERSHIP.**

- (a) **Assignment.** Any assignment or attempt to assign or subcontract Seller's obligations under this Agreement without the advance written consent of Purchaser shall be null and void and shall give Purchaser the right to terminate this Agreement for default.
- (b) **Change in Ownership.** If a third party submits a solicited or unsolicited offer (whether or not binding or part of a process lead by Seller) to Seller that would result in a Change of Ownership or Control of Seller, as defined below, Seller shall give notice of such offer, including the identity of the offeror, to Purchaser as early as commercially practical following Seller's receipt of the offer. Before Seller accepts the offer, or enters into definitive documentation with respect to a Change of Ownership or Control, it shall give Purchaser an opportunity, within a reasonable time, to advise Seller of its impact on performance of this Agreement. If the Change in Ownership or Control occurs, Purchaser has the right at its discretion to terminate this Agreement. In the event of such termination, Seller agrees to render full cooperation to Purchaser in order to minimize disruption to the Purchaser's program. Pending termination or in lieu of termination, Purchaser may require Seller to provide adequate assurance of performance, including, but not limited to the instruction of special controls regarding the protection of Purchaser's Property, Purchaser's Background and Foreground Intellectual Property and Proprietary Information.

For purposes of this sub-paragraph (b), the terms "Change in Ownership or Control" shall mean any of the following in each case, either directly or indirectly: (1) the sale of equity shares controlling 20% or more of the voting rights in Seller or Seller's ultimate parent, (2) the sale, lease, transfer or other disposition of substantially all of the assets of Seller or Seller's ultimate parent, (3) a merger, reorganization, consolidation, share exchange, recapitalization, business combination, liquidation or dissolution or similar transaction, involving Seller or Seller's ultimate parent, (4) a tender offer or exchange offer for any of the outstanding shares of capital stock of Seller or Seller's ultimate parent, (5) a sale by Seller of the assets relating to the product Seller produces or will produce for Purchaser, or (6) any public disclosure of a proposal or plan or intention to do any of the foregoing.

#### **ARTICLE 13 - QUALITY ASSURANCE, INSPECTION AND TEST**

With respect to any products or other materials sold or otherwise transferred to Buyer hereunder, Supplier 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) the Occupational Safety and Health Act ("OSHA") regulations codified at 29 CFR 1910.1200; (ii) EU REACH Regulation (EC) No. 1907/2006, EU Regulation (EC) No. 1272/2008 classification, labeling and packaging of substances and mixtures ("CLP"), EU Directives 67/548/EEC and 1999/45/EC, as amended, if applicable, and (iii) any other applicable law, rule or regulation or any similar requirements in any other jurisdictions to or through which Buyer informs Supplier the products are likely to be shipped or through which Supplier otherwise has knowledge that shipment will likely occur, such as U.S. Department of Transportation regulations governing the packaging, marking, shipping and documentation of hazardous materials, including hazardous materials specified pursuant to 49 CFR, the International Maritime Organization ("IMO") and the International Air Transport Association ("IATA").



**Counterfeit Goods.** For purposes of this Article, Goods consist of those parts deliverable under this Agreement that are the lowest level of separately identifiable items (e.g., articles, components, goods and assemblies). “Counterfeit Goods” means Goods that have been misrepresented as having been designed and/or produced under an approved system or other acceptable method. Counterfeit Goods include, but are not limited to: (i) Goods that are an illegal or unauthorized copy or substitute of an Original Equipment Manufacturer (OEM) item; (ii) Goods that do not contain the proper internal or external materials or components or are not manufactured in accordance with the OEM design; (iii) Goods that are used, refurbished, or reclaimed but that Seller represents as being new; (iv) Goods that have not successfully passed all OEM required testing, verification, screening, and quality control but that Seller represents as having met those requirements; (v) Goods with a label or other marking intended, or reasonably likely, to mislead a reasonable person into believing a non-OEM Good is a genuine Good when it is not, and (vi) Goods that are an unauthorized copy or substitute that have been identified, marked, and/or altered by a source other than the item's legally authorized source and has been misrepresented to be an authorized item of the legally authorized source.

- i) Seller warrants and certifies that Goods delivered pursuant to this Agreement, unless otherwise specifically stated on the face of the Order, shall (i) be new, (ii) be and only contain materials obtained from the OEM or an authorized OEM reseller or distributor, (iii) not be or contain any Counterfeit Goods, and (iv) contain only authentic, unaltered OEM labels and other markings. Seller shall provide to Purchaser the OEM's certificate of conformance for any Goods acquired from an authorized OEM reseller or distributor. Goods shall not be acquired from independent distributors or brokers unless specifically authorized in writing by Purchaser.
- ii) Seller shall maintain a method of item traceability that ensures tracking of the supply chain back to the manufacturer of all Electrical, Electronic, and Electromechanical (EEE) parts included in assemblies and subassemblies being delivered per this Agreement. This traceability method shall clearly identify the name and location of all of the supply chain intermediaries from the manufacturer to the direct source of the product for Seller, and shall include the manufacturer's batch identification for the item(s) such as date codes, lot codes, serializations, or other batch identifications. When requested by Purchaser, Seller shall provide OEM documentation that authenticates traceability of the affected items to the applicable OEM.
- iii) Seller shall immediately notify Purchaser and the GIDEP system if it knows or suspects that it has provided Counterfeit Goods.
- iv) In the event Goods delivered under this Agreement constitute Counterfeit Goods, Seller shall at its expense promptly replace such Goods with genuine Goods conforming to the requirements of this Agreement. Notwithstanding any other provision of this Agreement, Seller shall be liable for all costs relating to the removal or replacement of Counterfeit Goods, including without limitation Purchaser's or Purchaser's customer's costs of removing such Counterfeit Goods, reinserting genuine Goods, and any testing necessitated by the reinstallation of any Goods after Counterfeit Goods have been exchanged. Purchaser reserves the right to turn over suspected Counterfeit Goods to US and IT Governmental authorities for investigation and reserves the right to withhold payment for the suspect items pending the results of the investigation. The remedies available under this Article are in addition to any other remedies Purchaser may have available to it in law or in any other provisions in this Agreement.
- v) This paragraph (f) applies in addition to any other quality provision, specification, or statement of work included in this Agreement addressing the authenticity of Goods and Services. To the extent such provisions conflict with this paragraph (f), this paragraph prevails.
- vi) Seller shall flow the requirements of this paragraph 13 (f) to its subcontractors and suppliers at any tier for the performance of this contract.



#### **ARTICLE 14 - NON-CONFORMING GOODS.**

- (a) Seller agrees that, notwithstanding the provisions of any warranties, expressed or otherwise, negotiated with respect to Goods purchased from Seller by Purchaser or Purchaser's customer, Seller shall reimburse Purchaser for labor and material cost, including overhead and general and administrative expense reasonably incurred by Purchaser in connection with:
- i) Failure of Goods or Services to conform to the requirements of this Agreement or defective material, workmanship or design; or
  - ii) Any removal of said Goods at Seller's request; or
  - iii) Any removal of said Goods required due to any previously required changes to said Goods that Seller has failed to incorporate.
- (b) Remedies in this Section are not exclusive and shall not be in lieu of any other remedy available at law or under this Agreement.

#### **ARTICLE 15 - INDEMNITY AND INSURANCE.**

- (a) General Indemnification. Seller shall defend, indemnify, and hold harmless the Purchaser, its directors, officers, employees, agents representatives, successors and assigns (each an "Indemnified Party"), whether acting in the course of their employment or otherwise, from and against any and all loss, cost, expense, damage, claim, demand or liability (including reasonable attorney and professional fees and costs) arising from Seller's negligence, willful misconduct or breach of Agreement. An Indemnified Party shall have the right to participate in the selection of counsel and Seller shall not enter into any settlement agreement that contains any admission of liability on the part of Purchaser and/or any other Indemnified Party.
- (b) Intellectual Property Indemnification. Seller shall indemnify, defend, and hold harmless an Indemnified Party, from and against any and all loss, cost, expense, damage, claim, demand or liability (including reasonable attorney and professional fees and costs) arising out of any claim that the manufacture, use, sale, or furnishing of Goods and/or Services constitutes infringement of any Intellectual Property Rights, or for a breach of any of the representations and warranties contained in Article 8, above. If an injunction should issue, Seller shall (i) Procure for Purchaser, and Purchaser's subsidiaries and Affiliates, and their respective vendors and customers, the rights to continue using said Goods and/or Services; or (ii) At the election and with written approval of Purchaser, (x) modify the Goods and/or Services in a manner acceptable to Purchaser so they become non-infringing; (y) remove and replace the Goods with non-infringing Goods; or (z) remove the Goods and/or discontinue the Services, refund the purchase price and reimburse Purchaser for all damages and costs associated with obtaining and installing a non-infringing alternative.
- (c) Insurance. Seller shall obtain and keep in force for the benefit of the Seller and Purchaser the following insurance to be issued by insurance carriers with a minimum A.M. Best's rating of A-: VII, or S&P A, or better and licensed to provide insurance in the jurisdiction in which work is to be performed, with minimum limits as set forth below:
- i) Comprehensive General Liability – \$1,000,000 combined single limit per occurrence;
  - ii) Comprehensive Automobile Liability – Bodily injury/property damage covering all vehicles used in connection with the Goods in the amount of \$1,000,000 combined single limit each occurrence;
  - iii) Statutory Workers' Compensation and or Employer's Liability as required by state or country law.

If insurance coverage is maintained in Seller's local currency, the amounts stated above shall be applicable based upon the exchange rates set forth in a reputable listing of currency exchange rates, such as the Wall Street Journal.



- (d) Seller shall provide Purchaser with a certificate of insurance evidencing that the required minimum coverage is in effect and that Purchaser is named as an additional insured, provide a waiver of subrogation clause in favor of the Purchaser, and provide that all coverage provided by the Seller shall be primary. Such insurance shall not exclude the actions of any subcontractor that Seller may utilize under this Agreement. The insurance provided by Seller hereunder shall have no effect on any obligations imposed upon Seller under this Agreement.

#### **ARTICLE 16 - SELLER'S REPRESENTATIONS.**

- (a) Compliance with Laws. Seller represents and warrants that it shall perform all activities required under this Agreement in compliance with all applicable international, EU, national, state and local laws.
- (b) Integrity Guide. Seller represents and warrants to Purchaser that Seller has been made aware of the applicable rules in force governing the administrative responsibility of legal entities, and, more specifically, of the provision of Law Decree 231 of June 8, 2001.. Seller represents and warrants that it maintains a high standard of ethical behavior, uphold straightforward and honest conduct and operate with personal and professional integrity. Seller represents and warrants that it has adopted and effectively implemented corporate procedures and behaviors in order to prevent occurrence of the offences under Law Decree 231 of June 8, 2001 and has instructed its employees, agents, subcontractors and representatives. Seller agrees to comply with any such procedures, behaviors and instructions for the duration of the Agreement. Consequently, Seller agrees that it will act according to correctness and transparency and prevent fraudulent behaviors or any other illegal activity, in any form or manner whatsoever, by its employees, agents, subcontractors and representatives. In the event of violation of the afore – mentioned obligations, Purchaser reserves the right to: (i) suspend performance of the Agreement, by registered letter to Seller briefly setting forth any information, including any press releases, relevant to either circumstances or legal proceedings wherefrom Seller's failure to perform the afore obligations may be reasonably inferred; and/or (ii) withdraw from, also during performance thereof, or terminate the Agreement for default in accordance with article 5 letter a). For the purposes of exercising the rights under (i) and (ii) hereinabove, any extra costs and expenses directly or indirectly arising out of or resulting from failure to perform the aforesaid obligations, shall be borne by Seller. Moreover, Seller shall be liable for any loss or damage arising out of or resulting from Seller's failure to perform and shall guarantee and indemnify Purchaser from and against any third party actions arising out of, or resulting from, such failure to perform.
- (c) Release of Information. Seller shall not release any information concerning this Agreement or its business relationship with Purchaser, to any third party, except as required by applicable law, rule, injunction or administrative order, without Purchaser's prior written consent. Seller shall not use Purchaser's name, photographs, logo, trademark, or other identifying characteristics or that of any of its subsidiaries or Affiliates without Purchaser's prior written approval.
- (d) International Electrotechnical Commission ("IEC") Standards. If the Goods contain software, Seller represents and warrants that it will adopt policies and establish systems to comply with IEC 62443-4-1 on or before it is adopted as an international standard and will provide data regarding Seller's compliance to Purchaser upon request. If the Services involve Industrial Automation Control Systems (as defined by the IEC), Seller represents and warrants that it has adopted policies and systems to comply with IEC 62443-2-4 and will provide data regarding Seller's compliance to Purchaser upon request.

#### **ARTICLE 17 - SELLER'S EMPLOYEES.**

- (a) Seller's personnel performing services under this Agreement shall remain employees of Seller subject to its right of direction, control and discipline and by virtue of this Agreement, shall neither become employees of Purchaser nor be entitled to any rights, benefits or privileges of Purchaser employees. As appropriate, Purchaser shall give direction as to the ultimate objective of the project to the Seller. The Seller shall ensure that its personnel adhere to the terms and policies in this Agreement and that they have the requisite knowledge, training and ability to perform work under this Agreement competently and in accordance with applicable laws and regulations.



- (b) Seller shall indemnify Purchaser for any claims (including attorneys' fees) brought by the Seller's employees, agents or subcontractors, including but not limited to any co-employment and/or salary payment claims. Seller shall indemnify Purchaser for any requests (including attorneys' fees) made by any local authorities in relation to payments of social security and insurance contributions relating to Seller's employees and for which Purchaser may be liable under applicable laws.
- (c) Seller's employees are not authorized to enter into any agreements or to make any commitments financial or otherwise on behalf of Purchaser. Specifically, no employee of Seller shall make contact with any government official regarding the continuation, renewal, amendment or modification of a Prime Contract.

#### **ARTICLE 18 - RECORD RETENTION REQUIREMENTS.**

- (a) Record Retention. For U.S. Government subcontracts, Seller shall maintain complete and accurate records in connection with its performance under this Agreement for seven (7) years after completion of performance under this Agreement, including but not limited to, Orders, memoranda of negotiations showing the principal elements of price negotiations, and records substantiating charges for labor or services, including proper time clock cards, time vouchers, or other similar records. The Seller shall retain such records of quality documents for ten (10) years.
- (b) Classified Information. Upon completion of work by Seller under this Agreement, Seller shall return to Purchaser any classified information furnished by Purchaser, including all reproductions thereof, and Seller shall surrender classified information or materials developed by Seller in connection with this Agreement, unless the information has been destroyed, or the retention of the information is authorized in writing, by Purchaser or the government.
- (c) Protected Materials.
  - i) In relation to Protected Material (where Protected Material means information, software, hardware, and equipment that are defined as classified information by a national or international security classification regulation and/or law), Seller's represents and warrants that, in case the supply of the Goods or Services in accordance with this Agreement caused the Seller to access to classified information, it will comply with the applicable security instructions. Purchaser may request to Seller to give evidence of facilities security clearance releasable by its National Security Authority as well as similar communication and information systems security clearance.
  - ii) Only Seller's personnel with appropriate IT security clearances shall have access to the Protected Material and Seller acknowledges that Purchaser facilities and systems do contain Protected Material; in the event Seller's personnel needs to require access to Protected Materials, Seller will provide personnel with appropriate IT security clearances at no additional cost to Purchaser;
  - iii) Seller shall, at all times maintain Protected Material in accordance with applicable security policies related to the protection and preservation of data, including but not limited to Purchaser internal policies;
  - iv) Seller personnel shall only access, store, process or transmit Protected Material on Purchaser and/or GE Aviation Information Systems that have been duly designated and accredited for that purpose;
  - v) Seller shall indemnify and hold harmless Purchaser for any breaches or violations of this Article 18(c).

#### **ARTICLE 19 - EXPORT CONTROL REQUIREMENTS.**

- (a) Compliance with Export Laws. Seller agrees to comply with all applicable government export control laws and regulations, including but not limited to the International Traffic in Arms Regulations ("ITAR", 22 CFR Part 120-130), the Export Administration Regulations ("EAR," 15 CFR Parts 730-774) and the European Union and Member State regulation. Moreover, the Seller agrees to provide Purchaser with all documents or information





requested to the Purchaser by Purchaser's national authority or European Union's Authority compliance with the applicable laws.

- (b) Export Licenses. Unless otherwise agreed to by Purchaser, Seller agrees to obtain any required export licenses, and provide the relative references.
- (c) Munitions List Item: In the event the Goods or Services are subject to the Purchaser's national regulations on Arms Controls, including Goods or Services subject to the ITAR or Commerce Control List (CCL) 9X515 Series or 600 Series, Seller agrees to maintain a valid and current registration, as required by the Seller's national authority on Arms Control, and agrees to provide confirmation of such registration upon Purchaser's request.
- (d) Prohibited Goods and Services. The E.U. and the U.S. prohibit the importation of Goods or the purchase of services from certain countries, entities, or individuals. No Goods or services from prohibited countries, entities, or individuals may be used directly or indirectly in the activities covered by this Agreement. The List of prohibited countries can change from time to time and it is always Seller's responsibility to ensure compliance with such list (located inter alia,
  - Italy / European Union – [Italian Ministry Of Foreign Affairs](#); [Italian Ministry Of Economic Development](#); [European Union Sanctions Policy](#); [EU Sanctions Map](#);
  - United States – [OFAC](#); [EAR](#); [ITAR](#); and
  - United Nations – [United Nations Security Council](#)

The Seller further agrees to comply with European Union and/or Member State prohibitions on the importation of Goods or the purchase of services from certain countries, entities, or individuals regardless of the legality of such a transaction under local law.

- (e) Export Classification Information. Seller shall provide Purchaser, the export classification information (e.g., Export Control Classification Number, United States Munitions List Code, European Union (EU) Common Military List Code, Harmonized Tariff Schedule, Country of Origin) for the "Goods".
- (f) For U.S. origin technical data: In the event Seller designs, develops, produces or manufactures the "Goods" using US-origin technical data or source code, Seller agrees to comply with applicable deemed exports, deemed re-exports, or re-transfer controls.
- (g) With respect to Purchaser's technical data, Seller agrees to the following:
  - i. The use of the technical data is limited to the manufacture of the Good;
  - ii. Disclosure of the technical data is prohibited to any other person except subcontractors approved by the Purchaser and acknowledged and/or approved on the applicable export license;
  - iii. Acquisition of any rights in the data by any foreign person is prohibited;
  - iv. Any subcontract(s) between the Seller and other foreign persons in the approved country for manufacture of Goods contain all the limitations of this paragraph;
  - v. Seller and its subcontractors shall destroy or return to the Purchaser in Italy all of the technical data exported pursuant to this Agreement upon fulfillment of their terms; and
  - vi. Delivery of the Goods manufactured abroad must be made only to the Purchaser in Italy or to an agency of the Italian or U.S. Government as directed by Purchaser.
- (h) Drawback.
  - i) If Seller is an importer of record, upon request and where applicable, Seller will provide Purchaser customs form 7552 entitled "Certificate of Delivery" properly executed (this paragraph is applicable only to U.S. Seller).



ii) For Munitions Listed Goods returned to Seller (only if requested by Purchaser):

- (1) For any Good that is/are listed on ITAR Part 121 - The United States Munitions List (USML) or on Commerce Control List (CCL) 9X515 Series or 600 Series, returned to Seller, located outside the European Union, it is required to demonstrate receipt of such Goods. In consideration of the above, the Seller shall provide Purchaser the acknowledgement of receipt of such Goods, in a timely manner, after notification by the Purchaser of such request.

Acknowledgment will be done by providing a company certificate, signed by the recipient's authorized representative at the delivery location. If the Seller is not located in a nation member of The Hague Convention Abolishing the Requirement for Legislation for Foreign Public Documents (more often known as the Apostille Treaty), the signed certificate must be authenticated by an authorized representative of the Purchasers' national Embassy in the country of destination of the Goods.

- (2) Where the transfers occur within the European Union, and to permit the Purchaser use of issued authorization, the Seller shall provide, in a timely manner, acknowledgement of receipt of the letter communicating the relative license conditions imposed by the Italian authorities and/or other governments' authorities.
- (3) The receiving party of Goods that are listed on ITAR Part 121 - The United States Munitions List (USML) or Commerce Control List (CCL) 9X515 Series or 600 Series, will be liable for any fees and/or fines incurred by the Purchaser also for delays in receiving the acknowledgement of receipt of such Goods.

#### **ARTICLE 20 - IMPORTER OF RECORD.**

- (a) **Importer of Record.** Seller must show proper notification on all shipping waybills. In addition, shipping cartons and documentation must meet all applicable customs country of origin marking and invoicing requirements. Seller will be responsible for any fines or liabilities resulting from insufficient, improper or negligent invoicing or marking of shipments. In addition, Seller is obliged to provide on an yearly bases a declaration/certification related to the correct country of origin for each part number listed in the Agreement. The Seller is obliged to inform immediately Purchaser of any changes in the country of origin that occurs, also during the year, providing a new declaration/certification for the part number that have changed.
- (b) **Anti-Dumping.** Seller warrants that all sales made hereunder are or will be made at not less than fair value under applicable Anti-Dumping law, and Seller will indemnify, defend and hold Purchaser harmless from and against any costs or expenses (including but not limited to any anti-dumping duties which may be imposed) arising out of or in connection with any breach of this warranty.

**ARTICLE 21 - WORK ON PURCHASER'S OR ITS CUSTOMER'S PREMISES.** If Seller's work under this Agreement involves operations by Seller on the premises of Purchaser or Purchaser's customer or access to Purchaser's systems or its computers, then:

- (a) Seller shall comply with all of Purchaser's safety and security procedures and shall take all necessary precautions to prevent the occurrence of any injury to person or property during the progress of such work.
- (b) Seller represents and warrants that all of its employees who will perform work under this Agreement on Purchaser's or its customer's premises have been tested and are free from illegal drugs. The term "illegal drugs" does not include the use of a controlled substance pursuant to a valid prescription. The prescription medication must not prevent the employee from performing competent and safe work.

OR to be used in circumstances where Seller does not have the right to conduct routine drug testing:

- (b) Seller represents and warrants that it will use reasonable endeavors to ensure that all of its employees who will perform work under this Agreement on Purchaser's or its customer's premises are free from illegal drugs.



In the event that Seller has reason to suspect that any employee performing work under this Agreement on Purchaser's or its customer's premises is using illegal drugs, Seller agrees to take immediate steps to remove such employee from Purchaser's or its customer's premises and ensure that the employee does not continue to perform work under this Agreement. The term "illegal drugs" does not include the use of a controlled substance pursuant to a valid prescription. The prescription medication must not prevent the employee from performing competent and safe work.

- (c) As permitted by applicable law, Seller represents and warrants that it will conduct a criminal convictions records investigation of its employees through the use of an approved third-party background check vendor before they are assigned to work on any Order that requires that employee to enter Purchaser's or its customer's premises. Seller further agrees that it shall not assign any person to perform work on Purchaser's or its customer's premises if, further to criminal convictions investigations, the concerned person is found to have been finally convicted or has been subjected to preventative measures according to Legislative Decree n° 159 dated 6 September 2011 and subsequent modifications and additions.
- (d) Seller shall include this provision in any subcontract placed pursuant to this Agreement where the subcontractor will perform work on Purchaser's or its customer's premises.
- (e) As permitted by applicable law, Purchaser reserves the right to deny any of Seller's employees, agents or subcontractors access to its or its customer's premises and/or systems for any reason in Purchaser's sole discretion.

#### **ARTICLE 22 - ENVIRONMENTAL MATTERS.**

- (a) Seller covenants that the Goods (1) comply with all laws governing the management, handling, shipping, import, export, notification, registration or authorization of chemical substances such as the Montreal Protocol, the Stockholm Convention on Persistent Organic Pollutants, the U.S. Toxic Substances Control Act, the Regulation (EC) No. 1907/2006 (REACH) for those Goods manufactured or imported in EU and other comparable chemical regulations (collectively "Chemicals Legislation"); and (2) can be used as contemplated by Purchaser in full compliance with the Chemicals Legislation.
- (b) Unless Purchaser has expressly agreed otherwise in writing, Seller covenants that the Goods do not contain (1) any chemicals that are restricted or otherwise banned under Chemicals Legislation and/or (2) contain lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB), polybrominated diphenyl ethers (PBDE), arsenic, asbestos, benzene, polychlorinated biphenyls, carbon tetrachloride, beryllium or radioactive materials. Seller shall notify Purchaser in writing of the presence of any engineered nanoscale material contained in the Goods or used in Seller's operations. Upon request Seller shall provide, subject to reasonable protection of Seller's confidential business information, the chemical composition of the Goods and any other relevant information regarding the Goods, including without limitation, test data and safe use and hazard information.
- (c) Unless specifically defined as a requirement by Purchaser's engineering drawings or specifications, the use of cadmium plating or nickel cadmium plating is strictly prohibited in the manufacture of Goods. The use of cadmium plating or nickel cadmium plating is strictly prohibited on all tooling, fixtures, and test equipment that is used for manufacturing, assembly, test, or material handling of the Goods unless Seller has notified Purchaser in advance and has obtained its prior written consent to such use.
- (d) If Seller is located outside of the U.S. and is shipping Goods into the U.S., regardless of which party is the importer of record, Seller agrees to comply with the import restrictions contained in section 13 of the Toxic Substance Control Act (TSCA) 15 U.S.C. 2601 et seq., provide the appropriate TSCA Certification required under 19 CFR 12.121, and be responsible for any fines or liabilities resulting from breaches of this provision.
- (e) Seller shall ensure Purchaser the full respect of all the appropriate requirements according to the Regulation (EC) No. 1907/2006 (REACH) and Regulation (EC) No. 1272/2008 (CLP) for the Good provided, both for its own and within its Supply Chain.



- (f) In accordance with the art. 33 of the REACH Regulation, regarding the presence into the articles of “Substances of very high concern” (SVHC) as per listed in “Candidate List”, for those Goods manufactured or imported in EU, if during all production/repair/overhaul activities such types of substance are introduced in the Goods, Seller must at least declare the presence of any SVHC from “Candidate List” in a concentration above 0,1% weight by weight (w/w) and provide sufficient information to allow safe use of such articles, by using the appropriate tools made available by Purchaser. Here is the updated list of these substances: <http://echa.europa.eu/candidate-list-table>.
- (g) Seller shall ensure Purchaser the full respect of the conditions laid down by the restrictions for each substance on its own, in mixtures or in articles, as per listed in the Annex XVII of the REACH Regulation and subsequent amendments and integrations. Here is the updated list of these substances: <https://echa.europa.eu/substances-restricted-under-reach>.
- (h) Seller shall notify to Purchaser any substance, on its own and/or in mixture, as per listed in the Annex XIV of the REACH Regulation and subsequent amendments and integrations, when the authorization is in progress or already granted according to the art. 60 of the same Regulation, and shall guarantee that the Purchaser’s uses and conditions of use are included and covered by the pending authorization request or into the authorization already received by the Commission.
- (i) Seller commits also to monitor periodically and to update possibly the notifications to Purchaser further to modifications and integrations of the substance lists mentioned above, or “Candidate List”, Annexes XIV and XVII of the REACH Regulation and subsequent amendments and integrations.
- (j) Hazardous substances and mixtures provided shall be classified, labeled and packaged in accordance with the requirements of the CLP Regulation and subsequent amendments and integrations. Where the CLP hazard label is required, it shall be issued in Italian language. If the art. 31 of the REACH Regulation and subsequent amendments and integrations is applicable, a Safety Data Sheet (SDS), in compliance with Annex II of the REACH Regulation and subsequent amendments and integrations of the same Annex, shall be issued in Italian language. In accordance with the art. 31.7 of the REACH Regulation and subsequent amendments and integrations, the appropriate exposure scenarios shall be attached to the SDS or, alternatively, the consolidated scenarios integrated within the 16 Sections of the SDS in the relevant mixtures cases. Also the appropriate exposure scenarios shall be issued in Italian language. Seller commits to send automatically any update of the SDS in accordance with the art. 31.9 of the REACH Regulation and subsequent amendments and integrations. If any change in the SDS also involves a change in the CLP label, Seller commits to send a sufficient number of labels to cover the quantity supplied in the previous 12 months. The substances or mixtures provided, for which a safety data sheets is not required according to the art. 31 of the REACH Regulation, shall be accompanied by safety information documents required by art. 32 of the same Regulation, issued in Italian language.
- (k) When Seller ships Goods to Purchaser, Seller shall provide the following information, in the language(s) of the location where the Goods are delivered to Purchaser or Purchaser’s designee: (1) safe transport; and (2) certificate of conformity. All the documentation shall reference the stock or the part number of the delivered Good.
- (l) If Seller fails to comply for the Good provided with REACH and CLP requirements, legally applicable either on its own Legal Entity or on the appointed Only Representative (OR) in compliance with the art. 8 of REACH Regulation, Purchaser may terminate all or any part of the Order in accordance with the art. 5 of the I64. Seller shall hold harmless and indemnify Purchaser if Purchaser will be subject to penalties issued by REACH and CLP national authorities due to the Goods provided.
- (m) Seller covenants that it has included requirements substantially similar to the covenants in this Agreement in all sub-contracts it enters into related to the fulfillment of this Agreement.

**ARTICLE 23 - MISCELLANEOUS.**



- (a) English Language. Except as the parties may otherwise agree, this Agreement, Orders, data, notices, shipping invoices, correspondence and all other writings shall be in Purchaser's native language or the English language. In the event of any inconsistency between any terms of this Agreement and any translation thereof into another language, the English language meaning shall control.
- (b) Governing Law. All dispute between the parties shall be governed according to Italian Law. The application of the United Nations Convention on the International Sale of Goods is hereby excluded.
- (c) Waiver. Any failure or delay in the exercise of rights or remedies under this Agreement will not operate to waive or impair such rights or remedies. Any waiver given will not be construed to require future or further waivers.
- (d) Modifications. No waiver, alteration or modification of any of the provisions of this Agreement shall be binding upon either party unless in a subsequent writing signed by the duly authorized representative of the party intended to be bound thereby.
- (e) Severability. If any portion of this Agreement is determined to be contrary to any controlling law, rule or regulation, such portion will be revised or deleted from this Agreement, but the balance of this Agreement will remain in full force and effect.
- (f) Reports. Upon request, Seller shall provide progress reports pertaining to the status of the work being performed under this Agreement. Such reports shall be in a form acceptable to Purchaser.
- (g) Data Sharing. Seller agrees that data exchange is required to support the development, delivery, and quality of Goods and Services provided per this Agreement. Seller agrees to provide data including, but not limited to, transactional information (e.g., part level commit quantities), operational information (e.g., part level yields, starts, and WIP (work in process), SWIP, monthly raw material on PO, and finished goods data), technical data (e.g., characteristic dimensional information that is critical to quality and downstream manufacturing), capacity, process management, quality, lean and resource management. To facilitate this exchange of data, Seller agrees to share data at least weekly or as otherwise requested by Purchaser to support stable operations.
- (h) Business Continuity Plan. Upon request, Seller shall provide written business continuity plans and/or crisis management protocol, to Purchaser (or a third party identified by Purchaser).
- (i) Financial Records. Upon request, Seller will provide financial records, such as income statements, balance sheets, and cash flow statements, to Purchaser (or a third party identified by Purchaser) to enable Purchaser to evaluate the financial health of Seller. If Seller purchases GE-directed raw material, Seller agrees that the supplier of such raw material may provide Purchaser information regarding Seller's accounts.
- (j) Labor Disputes. The Seller shall notify Purchaser of all impending or existing labor complaints, troubles, disputes or controversies that may affect Seller's ability to perform its obligations under this Agreement. Purchaser shall have no liability or bargaining obligations under any collective bargaining agreement between Seller and its employees. Seller agrees to give Purchaser prompt notice of any union organization with respect to its employees.
- (k) Security Interest. If items are bailed to Seller or progress payments made, Seller grants Purchaser a security interest in equipment, machinery, contract rights, inventory, goods, merchandise and raw materials, whether now existing or hereafter arising, and any replacements, improvements, substitutions, attachments, accessories and accessions thereto or thereon provided by Purchaser or purchased by Seller with progress payments or advances made by Purchaser and to be used by Seller in manufacturing products ordered by Purchaser under this Agreement. Seller agrees to execute and deliver all documents requested by Purchaser to protect and maintain Purchaser's security interest.
- (l) Offset Requirements. All offset or countertrade credit value resulting from this Agreement shall accrue solely to the benefit of Purchaser. Seller agrees to cooperate with Purchaser in the fulfillment of any foreign offset/countertrade obligations. Purchaser considers its future and current offset/countertrade obligations as a factor in all Purchaser transactions.
- (m) Audit Rights. Purchaser shall have the right to audit, at no charge to Purchaser, all pertinent books and records and systems of Seller, receive answers to reasonable information requests to Seller and to make reasonable





inspections of Seller's facilities to verify compliance with this Agreement. In the event of non-compliance, Purchaser may take appropriate actions, up to and including termination pursuant to Article 5(a).

- (n) Survival. All rights, duties and obligations which by nature should apply beyond the term of the Agreement will remain in force after the complete performance of the Agreement.
- (o) Privacy  
The Parties undertake to comply to the EU regulation set forth in \_General Data Protection Regulation n. 2016/679\_(GDPR) and agree that, to this purpose, the Privacy and Data Protection Appendix available on <http://www.gesupplier.com/html/GEPolicies.htm> ("PDPA") is applicable to this Agreement.

**ARTICLE 24 – FORCE MAJEURE**

- (a) Neither party shall be responsible for nor be deemed to be in default or delay in performance of this Agreement or any Order resulting from causes beyond its reasonable control, including but not limited to, events such as acts of God, pandemics and/or epidemics, fires, floods, extreme wheatear conditions, earthquakes, war, warlike operations, terrorist acts, insurrections, Government disposition, court order, general and/or national labor strike or riots, and the effects of the foregoing events ("Force Majeure Event"). It is expressly agreed that Seller's ability to sell Goods and/or Services at a more advantageous price or Seller's economic hardship in buying the materials necessary to manufacture the Goods shall not constitute a Force Majeure Event.
- (b) Should a case of Force Majeure Event occur, the Party affected by the impediment (the "Affected Party") shall promptly give a written notice to other Party of said impediment and its effects on the Affected Party's ability to perform and shall provide such information as is available to the Affected Party regarding the progress and the possible cessation of such impediment. The Affected Party shall perform its obligations to the extent possible while such impediment continues. The performance of obligations hereunder of the Affected Party shall be resumed by the Affected Party as soon as practicable after such impediment has ceased. In addition to the foregoing the Parties shall adopt all reasonable actions to avoid or to reduce and mitigate any adverse effect of such impediment.
- (c) If a Force Majeure Event will exceed twenty (20) calendar days from the scheduled delivery date in the Agreement and/or in the Order, Purchaser may obtain the Good(s) and Services from an alternate source until such time as Seller is able to resume fulfillment of its delivery obligations. If the inability to perform continues for longer than 90 days, Purchaser may terminate this Agreement and/or any Order by providing written notice to Seller.

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Read, confirmed and signed.

IN ACCEPTANCE

Stamp  
and  
Signature \_\_\_\_\_

Date \_\_\_\_\_

We specifically approve, under and in accordance with art. 1341 of the Italian civil code, the following clauses of the afore Terms and Conditions of Purchase: article; article 3 - PACKING LIST, INVOICES AND PAYMENTS TERMS; article 4 - TRANSPORTATION AND DELIVERY; article 5 - TERMINATION; article 6 - DISPUTE RESOLUTION; article 7 - PURCHASER'S PROPERTY; article 8 - INTELLECTUAL PROPERTY; article 10 - CHANGES; article 12 - ASSIGNMENT AND CHANGE IN OWNERSHIP; article 13 - QUALITY ASSURANCE, INSPECTION AND TEST; article 14 - NON CONFORMING GOODS; article 15 - INDEMNITY AND INSURANCE; article 23 - MISCELLANEOUS.

EXPRESS ACCEPTANCE

Stamp  
and  
Signature \_\_\_\_\_

Date \_\_\_\_\_