



**Please address purchase order out to and remit payment to:**  
GE Intelligent Platforms  
P.O. Box 641275  
Pittsburgh, PA 15264

**Send purchase orders to:**  
orders@graymattersystems.com  
Fax: 412-202-5053  
Gray Matter Systems LLC  
416 Thorn St.  
Sewickley, PA 15143

**Created Date: 3/7/2013**  
**Account Name: City of Columbus Wastewater**  
**Contact: Ken Rau**  
**Quote Number: 216914**

Description	Price	Qty	Ext. Price
iClient Runtime v5.5	\$2,503.00	5	\$12,515.00
Global Care complete for iClients pro-rated to 9/14/2013	\$118.91	5	\$594.55

Total: \$13,109.55

- Quote expires 90 days from created date
- Please reference quote number on your purchase order
- A written purchase order must be provided before order placement
- Subject to GE Intelligent Platforms' terms and conditions

**GE Intelligent Platforms, Inc.**  
**Proficy GlobalCare Complete Support Terms and Conditions**

1. Services. With respect to the Licensed Application Software (as defined in the underlying License Agreement, “Application Software”), GE Intelligent Platforms, Inc. will provide the following services during the applicable period:

1.1. Telephone Support. GE will provide support consultation to Customer regarding use and operation of the Application Software. Such consultation will include telephone call back or web-based communication and will be available 8:00 A.M. to 8:00 P.M. E.S.T. or 9:00 A.M. to 5:00 P.M. Mean Time Europe or 9:00 A.M. to 6:00 P.M. China Standard Time, as applicable, Monday through Friday, excluding holidays at the customer care location. GE will provide the Customer with direct telephone support consultation and/or web-based communication that shall be available 24 hours a day, 7 days a week in cases of emergencies. Such emergencies include when the entire system is down or an existing mission critical product feature is inoperable resulting in disruption or product outage. GE reserves the right to limit the number of authorized callers when deemed necessary by GE in its sole discretion. Once such a limit has been imposed, Customer may register additional individuals for an additional fee. Customer will also have access to the Online Knowledge Base 24 hours a day, 7 days a week. The Online Knowledge Base provides access to support reference information including articles, white papers, error messages, sample code, and developer downloads. A Knowledge Base CD enables access to the Knowledge Base when not connected to the Internet. The Knowledge Base CD will be distributed to Customer (a) upon commencement of any initial or renewal GlobalCare term, and (b) at any other time upon reasonable request from Customer.

1.2. Problem Solving. GE technical personnel will be assigned to attempt correction of problems in the Application Software discovered by Customer and reported to GE in sufficient detail to permit GE to reproduce such problems. Customers are advised that remote access trouble-shooting tools may be called for in order to assist efforts to correct problems, and that such efforts may be impaired if the customer is unable to accommodate the use of such tools. Corrections made by GE to such problems will be available for download by Customer, or, at GE's option, GE may provide such problem correction through its next scheduled release of the Application Software. GE's obligation in such regard shall be to use its reasonable efforts to correct such problems; however, GE does not warrant that all such reported problems will be corrected. In the event a reported problem is determined to be of Customer origin, GE may bill Customer at GE's then current per diem rates for any time expended in an effort to correct such problem.

1.3. Enhancements. GE will provide the Customer with notice of all Service Pack enhancements for the current version of the Application Software that are released during the term of this agreement (“Service Packs”), all software improvement modules for the Application Software version that are released during the term of this agreement (“SIMs”), and all Application Software version upgrades that are released during the term of this agreement (“Upgrades”), at no additional charge, with exceptions noted as follows. GE reserves the right to charge for significant new product functionality introduced in major product releases (“Major Feature”). Major features are features that are licensed separately and will be additional to the base configuration that the Customer is already licensed to use. Service Packs, SIMs, and Upgrades are provided for the quantity of registered Application Software systems on site. Service Packs, SIMs, and Upgrades apply only to the Application Software and do not include any updates, enhancements, service packs, or upgrades to the operating system or other software. The Customer may order any of the Service Packs, SIMs, and/or Upgrades by visiting [www.ge-ip.com/support](http://www.ge-ip.com/support) during the term of this agreement. GE may from time to time make other downloads such as Developer Downloads and I/O Drivers available to Customer (“Other Downloads”).

1.4. Application Software Terms. All Service Packs, SIMs, Upgrades, corrections, updates, enhancements, documentation, modifications, Other Downloads and other such supporting materials furnished to Customer hereunder shall be considered part of the Application Software and subject to all the terms and conditions of the License Agreement, including those provisions limiting the use of the Application Software to the computer upon which it was initially installed as authorized by the License Agreement.

2. Warranty. GE warrants to the Customer that services provided hereunder shall be performed in a manner consistent with standard commercial practices in the industry. If any failure to meet this warranty appears

within ninety (90) days after completion of the specific services in question, GE will correct any such failure by reperforming any defective portion of the services furnished. If reperformance is not practicable, GE will furnish, without charge, services in an amount essentially equal to those which, in GE's sole judgment, would have been required for reperformance. The warranties and remedies set forth herein are conditioned upon: (i) proper installation, use, and maintenance of the Application Software and the proper design and configuration of the system into which the Application Software is installed, and conformance with any applicable recommendations of GE; and (ii) Customer promptly notifying GE of any defects and making any personnel, software or computer systems available as necessary. The preceding sets forth the exclusive remedy for all claims based on failure of, or defect in, services provided hereunder, whether the failure or defect arises before or during the warranty period, and whether a claim, however instituted, is based on contract, indemnity, warranty, tort (including negligence), strict liability or otherwise. Upon the expiration of the warranty period, all such liability shall terminate. THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER WRITTEN, ORAL, IMPLIED OR STATUTORY. NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE SHALL APPLY. GE DOES NOT WARRANT ANY PRODUCTS OR SERVICES OF OTHERS WHICH CUSTOMER HAS DESIGNATED.

3. Limit of Liability. GE'S LIABILITY ON ALL CLAIMS OF ANY KIND, WHETHER BASED ON CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, FOR ALL LOSSES OR DAMAGES ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY SERVICES COVERED BY OR FURNISHED UNDER THESE TERMS AND CONDITIONS (INCLUDING REMEDIAL WARRANTY EFFORTS), OR FROM THE PERFORMANCE OR BREACH OF THESE TERMS AND CONDITIONS, SHALL IN NO CASE EXCEED THE ANNUAL CONTRACT PRICE OF THE SUPPORT SERVICES FURNISHED HEREUNDER. ALL SUCH LIABILITY SHALL TERMINATE UPON THE EXPIRATION OF THE WARRANTY PERIOD SPECIFIED IN SECTION 2 ABOVE.
4. Exclusion of Consequential Damages. IN NO EVENT, WHETHER BASED ON CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, SHALL GE, ITS EMPLOYEES AND SUPPLIERS BE LIABLE FOR SPECIAL, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF ANY PROPERTY, COST OF CAPITAL, COST OF PURCHASED POWER, COST OF SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES, DOWNTIME COSTS, OR CLAIMS OF CUSTOMERS OF THE CUSTOMER FOR SUCH DAMAGES AND THE CUSTOMER WILL INDEMNIFY GE, ITS EMPLOYEES AND SUPPLIERS AGAINST ANY SUCH CLAIMS FROM THE CUSTOMER'S CUSTOMERS.
5. Gratuitous Advice. If GE furnishes the Customer with advice or assistance concerning any products or systems which is not required pursuant to these terms and conditions, the furnishing of such advice or assistance will not subject GE to any liability, whether in contract, indemnity, warranty, tort (including negligence), strict liability or otherwise.
6. Restrictions on Assignment. Customer may not assign or transfer this agreement without GE's prior written agreement.
7. Conditions of Service. The Application Software must be unmodified and in normal operating condition, and maintained at the latest release or revision level, and must contain the minimum equipment configuration at the revision level specified by GE. Customer must consult with GE before performing any upgrades on any third party software required to run the Application Software.
8. Term and Termination

8.1. GlobalCare Support dates of service will be as stated on the Customer's GlobalCare Support program certificate. Customer shall have the right to renew GlobalCare Support on a yearly basis as provided herein, subject to continuation of the program for the product(s) and payment of the applicable GE yearly service fee then in effect.

8.2. GE shall notify Customer that the applicable service period is ending, no less than thirty (30) days prior to expiration. Timely payment of the applicable yearly service fee, as provided in Section 9 below, shall extend Support Services. If payment is not received as set forth herein, Support Services will be terminated, and Customer will be placed on inactive status. The Customer may reactivate Support Services thereafter by paying a re-instatement fee.

8.3. GE may alter, discontinue, or refuse to permit the renewal of, any GlobalCare Support Program with respect to any or all products at any time. Customers will be notified of any alterations or planned discontinuations in a program at the time of the commencement of any initial or renewal term of such program. In the event of a discontinuation of a program, GE will continue to provide program support to existing Customers, subject to payment of the applicable GE yearly service fee then in effect, until the expiration of the Customer's initial or renewal term.

8.4. Support Services hereunder shall automatically terminate in the event the License Agreement is terminated.

## 9. Charges, Payment Terms and Taxes

9.1. GE may adjust its applicable yearly service fee for GlobalCare Support either up or down for each renewal year following the initial period of its provision of GlobalCare Support, provided that GE notifies Customer of the amount of such adjustment at least thirty (30) days in advance of each such renewal.

9.2. Charges for each renewal year of Support Services are due upon renewal and shall be paid within thirty (30) days of the date of GE's invoice therefore.

9.3 In addition to any price specified herein, the Customer shall pay, or reimburse GE for, the gross amount of any present or future sales, use, excise, income, value-added or other similar tax applicable to the price, sale or furnishing of any services hereunder, or to their use by GE or the Customer, or the Customer shall provide GE with evidence of exemption acceptable to the taxing authorities. If Customer fails to provide GE with requested proof of payment or exemption, GE may pay the taxes due and obtain reimbursement from Customer.

10. Use of Technical Information. With respect to any technical information that the Customer may provide to GE in connection with the GlobalCare Support, GE may use such information for the limited purposes of writing and posting technical notes on the support services website and Knowledge Base CD and compiling aggregate data, for internal use only, on the frequency and type of support services requested. GE will not utilize such technical information in any form that personally identifies the Customer.

## 11. U.S. Government Contracting

If Customer is a U.S. Government entity or elects to sell products or services provided hereunder to the U.S. Government or to a contractor selling to the U.S. Government, the following provisions apply: (a) Customer agrees that all products and services provided by GE meet the definition of "commercial-off-the-shelf" (COTS) or "commercial item" as defined in FAR 2.101, and that the subparagraph terms of FAR 52.212-5(e) or FAR 52.244-6 (or, for orders from the U.S. Government, FAR 52.212-5 and FAR 52.212-4 with tailoring to the extent permitted by FAR 12.302 by replacing all paragraphs except those listed in FAR 12.302(b) with these Conditions of Sale), and (subject to subsection (e) below) DFARS 252.212-7001(c) or DFARS 252.244-7000, whichever are applicable, apply only to the extent applicable to COTS or commercial items and only as appropriate for the dollar value of this order; (b) with regard to any terms related to Buy American Act or Trade Agreements, the country of origin of products is unknown unless otherwise specifically stated in writing by GE; (c) Customer agrees that any services offered by GE are exempt from the Service Contract Act of 1965 (FAR 52.222-41); (d) Customer agrees that this sale is not funded, in whole or in part, by the American Recovery and Reinvestment Act unless otherwise set forth in a written agreement of the parties; and (e) Customer is solely and exclusively responsible for compliance with any other applicable statutes or regulations governing sales to the U.S. Government, and GE makes no representations, certifications or warranties whatsoever with respect to the ability of its goods, services or prices to satisfy any such statutes and regulations other than those contained herein.

## 12. General Provisions.

12.1. These Terms and Conditions, along with any terms and conditions or documents referenced herein, contain the complete agreement between the parties, and no modification, amendment, rescission, waiver or other change will be binding on GE unless agreed to in writing by GE's authorized representative. Any oral or written representation, warranty, course of dealing or trade usage not contained or referenced herein will not be binding on GE. The invalidity, in whole or part, of any sections or subsections hereof shall not affect the remainder of such section or subsection or any other section or subsection hereof.

12.2. This Agreement shall be governed by the laws of the State of New York without regard to its conflict of law provisions. The provisions of the United Nations Convention on the International Sale of Goods shall not apply to this Agreement.

12.3. Customer shall not transmit to GE any information, suggestions, or ideas claimed by Customer to be confidential except pursuant to a writing, signed by an authorized representative of GE, which identifies such information and addresses its confidentiality.

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## **GE Intelligent Platforms, Inc. (“GE”) End User License Agreement**

The license by GE and/or usage by Customer of any software is expressly conditioned upon the terms and conditions contained or referred to herein. Any additional or different terms and conditions set forth in the Customer's purchase order or similar communication are objected to and will not be binding upon GE Intelligent Platforms, Inc. (herein called GE) unless specifically assented to in writing by GE's authorized representative. Authorization by the Customer, whether written, electronic or oral, to furnish software and/or usage of the software by Customer will constitute acceptance of these terms and conditions.

### **1. DEFINITIONS**

1.1 "Application Software" shall mean those portions of the Licensed Software, in object code form only, created by GE.

1.2 "Application Templates" shall mean the part numbered software components created by GE for a specific application, which can include forms, displays, workflows, reports, user activities, device configuration, and system configuration.

1.3 "Designated Computer" shall mean the one (1) computer upon which Customer shall run the Licensed Software, except in the case of MAX-ON Software for which

"Designated Computer" shall mean the one (1) redundant PLC system consisting of one or two PLC CPU's upon which Customer shall run the Licensed Software.

1.4 "Third Party Software" shall mean software, including but not limited to operating systems, owned or licensed by a third party that is supplied to Customer by GE and which is not branded as GE software, and not integrated into the Application Software.

1.5 "Licensed Software" shall mean the Application Software plus any other software (including Third Party Software), in object code form only, and any Application Templates supplied by GE pursuant to this Agreement. If no operating system software is included in the software provided under this Agreement, Customer must make provision for any required operating system software licenses.

### **2. LICENSE**

2.1 Except as provided in Section 2.2 below, Customer is granted only a personal, non-transferable, nonexclusive license to install and use one copy of the Licensed Software only on the Designated Computer. Customer may make one copy of the Licensed Software in machine readable form for backup purposes in support of Customer's use of the Licensed Software on the Designated Computer. No other copies shall be made unless authorized in writing by GE. Customer may not reverse engineer, decompile or reverse compile or disassemble, re-engineer or otherwise modify the software. The Licensed Software, comprising proprietary trade secret information of GE and/or its licensors, shall be held in confidence by Customer and protected from copying or disclosure to third parties. No title to the intellectual property is transferred. Customer must reproduce and always include all applicable copyright notices and proprietary markings on any copy. Customer hereby acknowledges and agrees that any Licensed Software that is embedded within GE hardware, shall be used, redistributed and/or resold only to the extent permissible under this Agreement and only embedded within the GE hardware with which it was provided.

2.2 If Customer is an authorized GE distributor or an Original Equipment Manufacturer or a system provider who incorporates the Licensed Software into its equipment or system for sale to an end user, or if Customer uses the Licensed Software to create redistributables, Customer may only transfer the Licensed Software to an end user provided that the end user agrees to be bound by the provisions of this Agreement. Customer shall use its best efforts to enforce its agreement with customers made in accordance with this section, and shall promptly report any violation or suspected violation to GE.

2.3 All rights and benefits afforded to GE under this Agreement shall apply equally to the owner of the Third Party Software and its licensors (collectively, the "Third Parties") with respect to the Third Party Software. The Third Parties are intended third party beneficiaries of this Agreement. The provisions of this Agreement relating to the Licensed Software, as the same incorporate Third Party Software, are made expressly for the benefit of, and are enforceable by, the Third Parties. The Third Parties retain title to the Third Party Software. **Unless the Third Parties extend a pass-through warranty covering the Third Party Software to Customer, all Third Party Software is provided "AS IS" without warranty of any kind, and the Third Parties disclaim all warranties, either express or implied, including but not limited to the implied warranties of merchantability, title, non-infringement or fitness for a particular purpose with regard to the Third Party Software. The Third Parties shall not have any liability for special, indirect, punitive, incidental or consequential damages.**

2.4 EXCEPT AS PROVIDED IN SECTION 2.2 ABOVE, IF CUSTOMER TRANSFERS POSSESSION OF ANY COPY OF THE LICENSED SOFTWARE TO ANOTHER PARTY WITHOUT WRITTEN CONSENT OF GE, THIS LICENSE IS AUTOMATICALLY TERMINATED. Any attempt otherwise to sublicense, assign or transfer any of the right, duties or obligations

hereunder is void.

### 3. WARRANTY

3.1 GE warrants that the Application Software will be in substantial conformance with the manual pertaining thereto as of the date of shipment by GE. If, within ninety (90) days of date of shipment it is shown that the Application Software does not meet this warranty, GE will, at its option, either correct the defect or error in the Application Software, free of charge, or make available to Customer satisfactory substitute software, or, if none of the foregoing is reasonably available, return to Customer all payments made as license fees and terminate the license with respect to the Application Software affected. GE does not warrant that operation of the Application Software will be uninterrupted or error free or that it will meet Customer's needs. All other portions of the Licensed Software are provided "as is" without warranty of any kind.

3.2 GE warrants that the media on which the Application Software is delivered will be free from defects in material or workmanship under normal use and service for a period of ninety (90) days from the date of delivery. If any defects are discovered in the media and reported by Customer within ninety (90) days after delivery, GE shall, at no cost to Customer, upon return of media to GE, replace the media and deliver to Customer a new and complete copy of the Application Software.

3.3 Any modification to the Licensed Software by the Customer without the express written consent of GE shall void the warranty.

**3.4 WITH RESPECT TO THE SOFTWARE WHICH IS THE SUBJECT OF THIS AGREEMENT, THE FOREGOING WARRANTIES ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES WITH RESPECT TO THE LICENSED SOFTWARE WHETHER WRITTEN, ORAL, IMPLIED OR STATUTORY. NO IMPLIED OR STATUTORY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE SHALL APPLY. NO WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE SHALL APPLY.**

### 4. LIMITATION OF LIABILITY

4.1 IN NO EVENT, WHETHER BASED ON CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE SHALL GE OR ITS SUPPLIERS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFIT OR REVENUE, LOSS OF USE OF THE LICENSED SOFTWARE OR ANY PART THEREOF OR ANY ASSOCIATED EQUIPMENT, DAMAGE TO ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE PRODUCTS, FACILITIES, SERVICES OR REPLACEMENT POWER, DOWNTIME COSTS, OR CLAIMS OF CUSTOMER'S CUSTOMERS AND TRANSFEREES FOR SUCH DAMAGES EVEN IF GE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

4.2 EXCEPT AS PROVIDED IN SECTION 5, INDEMNITY, IN NO EVENT, WHETHER BASED ON CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, SHALL GE'S LIABILITY TO CUSTOMER FOR ANY LOSS OR DAMAGE ARISING OUT OF, OR RESULTING FROM THIS AGREEMENT, OR FROM ITS PERFORMANCE OR BREACH, OR FROM THE LICENSED SOFTWARE OR ANY PART THEREOF, OR FROM ANY SERVICE FURNISHED HEREUNDER, EXCEED THE FEES PAID BY CUSTOMER FOR THE LICENSED SOFTWARE. ALL SUCH LIABILITY SHALL TERMINATE UPON THE TERMINATION OF THE WARRANTY PERIOD AS SET FORTH IN SECTION 3.

4.3 If GE furnishes Customer with advice or other assistance which concerns Licensed Software or any portion thereof supplied hereunder or any system or equipment on which any such software may be installed and which is not required pursuant to this Agreement, the furnishing of such advice or assistance will not subject GE to any liability, whether in contract, indemnity, warranty, tort, (including negligence), strict liability, or otherwise.

4.4 The products to be licensed or sold hereunder are not intended for use in any nuclear or weapons production facility or activity, or other activity where failure of the products could lead directly to death, personal injury or severe physical or environmental damage. If so used, GE disclaims all liability for any damages arising as a result of the hazardous nature of the business in question, including but not limited to nuclear, chemical or environmental damage, injury or contamination, and Customer shall indemnify, hold harmless and defend GE, its officers, directors, employees and agents against all such liability, whether based on contract, indemnity, warranty, tort (including negligence), strict liability, or otherwise, regardless of whether GE had knowledge of the possibility of such damages.

### 5. INDEMNITY

5.1 GE warrants that the Application Software shall be delivered free of any rightful claim for infringement of any United States patent, copyright, trademark or trade secret. If notified promptly in writing and given authority, information and assistance, GE shall defend, or may settle, at its expense, any suit or proceeding against Customer so far as based on a claimed infringement which would result in a breach of this warranty and GE shall pay all damages and costs awarded therein against Customer due to such breach. In case the Application Software is in such suit held to constitute such an infringement and its use is enjoined, GE shall, at its expense and option, either procure for Customer the right to continued use, or replace same with a non-infringing product or part, or modify the Application Software so that it becomes non-infringing, or remove the software and refund the license charge

pertaining thereto (less reasonable depreciation for any period of use) and any transportation costs separately paid by Customer. The foregoing states the entire liability of GE for patent, copyright, trademark and trade secret infringement by the Licensed Software or any part thereof.

5.2 The indemnity under the preceding paragraph shall not apply to any use of Application Software in conjunction with any other product in a combination not furnished by GE as a part of this transaction. As to any such use in such combination, or any improper or unauthorized use, installation, or operation of the Application Software, GE assumes no liability whatsoever for patent, copyright, trademark or trade secret infringement and Customer will hold GE harmless against any infringement claims arising therefrom (including, but not limited to reasonable attorney's fees).

## 6. TERM AND TERMINATION

6.1 Customer may terminate the license granted hereunder at any time by destroying the Licensed Software together with all copies thereof and notifying GE in writing that all use of the Licensed Software has ceased and that the Licensed Software has been destroyed.

6.2 GE, upon thirty (30) days notice, may terminate this Agreement and/or any license hereunder if Customer fails to perform any obligation or undertaking to be performed by it under this Agreement or if Customer attempts to assign this Agreement without the prior written consent of GE. Within twenty (20) days after any such termination of this Agreement, Customer shall certify in writing to GE that all use of the Licensed Software or the affected portion thereof has ceased, and that the Licensed Software or portion thereof has been returned or destroyed, in accordance with GE's instructions.

6.3 Sections 4, 6 and 7 of this Agreement shall survive any expiration or termination and remain in effect. Termination of this Agreement or any license hereunder shall not relieve Customer of its obligation to pay any and all outstanding charges hereunder nor entitle Customer to any refund of such charges previously paid.

## 7. EXPORT

If Customer intends to export (or reexport), directly or indirectly, the software products or technical data relating thereto supplied hereunder or any portion thereof, it is Customer's responsibility to assure compliance with U.S. and any other applicable governmental export control laws and, if appropriate, to secure any required export licenses or approvals in Customer's own name. Customer is also responsible for the accuracy and completeness of any information or certification Customer provides for purposes of export control compliance.

## 8. PAYMENT TERMS AND TAXES

8.1 All quoted charges arising pursuant to this Agreement are due upon delivery of the Licensed Software or any hardware delivered as part of the same Customer order (whichever is earlier) to which such charges pertain and shall be paid within thirty (30) days of the date of invoice therefor.

8.2 In addition to any price quoted and exclusive of any taxes based on GE's net income, the Customer shall pay, or reimburse GE for, the gross amount of any present or future sales, use, excise, and income, value-added or other similar tax applicable to the licensing of the Licensed Software, or the Customer shall provide GE with evidence of exemption acceptable to the taxing authorities. If Customer fails to provide GE with requested proof of payment or exemption, GE may pay the taxes due and obtain reimbursement from Customer. Customer shall pay all import duties and registration fees arising from the licensing of the Licensed Software hereunder.

## 9. FORCE MAJEURE

GE shall not be responsible for failures to fulfill its obligations under this Agreement due to causes beyond its control.

## 10. GOVERNING LAW

This Agreement shall be governed by the laws of the State of New York, without regard to its conflict of law provisions. The provisions of the United Nations Convention on the International Sale of Goods shall not apply to this Agreement.

## 11. U.S. GOVERNMENT CONTRACTING

If Customer is a U.S. Government entity or elects to sell products or services provided hereunder to the U.S. Government or to a contractor selling to the U.S. Government, the following provisions apply: (a) Customer agrees that all products and services provided by GE meet the definition of "commercial-off-the-shelf" (COTS) or "commercial item" as defined in FAR 2.101, and that the subparagraph terms of FAR 52.212-5(e) or FAR 52.244-6 (or, for orders from the U.S. Government, FAR 52.212-5 and FAR 52.212-4 with tailoring to the extent permitted by FAR 12.302 by replacing all paragraphs except those listed in FAR 12.302(b) with these Conditions of Sale), and DFARS 252.212-7001(c) or DFARS 252.244-7000, whichever are applicable, apply only to the extent applicable to COTS or commercial items and only as appropriate for the dollar value of this order; (b) with regard to any terms related to Buy American Act or Trade Agreements, the country of origin of products is unknown unless otherwise specifically stated in writing by GE; (c) Customer agrees that any services offered by GE are exempt from the Service Contract Act of 1965 (FAR 52.222-41); (d) Customer agrees that this sale is not funded, in whole or in part, by the American Recovery

and Reinvestment Act unless otherwise set forth in a written agreement of the parties; and (e) Customer is solely and exclusively responsible for compliance with any other applicable statutes or regulations governing sales to the U.S. Government, and GE makes no representations, certifications or warranties whatsoever with respect to the ability of its goods, services or prices to satisfy any such statutes and regulations other than those contained herein.

## 12. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement with respect to the subject matter hereof and supersedes all proposals, oral or written, all previous negotiations and all other communications between the parties with respect to the subject matter hereof. These terms and conditions shall prevail, notwithstanding any different, conflicting, or additional terms and conditions that may appear on any purchase order or other instrument submitted by Customer. Deviation from these terms and conditions are not valid unless confirmed in writing by an authorized representative of GE. The invalidity of any portion of this Agreement shall not affect the remainder of this Agreement.

CUSTOMER ACKNOWLEDGES THAT CUSTOMER HAS READ THIS AGREEMENT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. CUSTOMER FURTHER AGREES THAT IT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN CUSTOMER AND GE AND SUPERSEDES ANY PROPOSAL OR PRIOR AGREEMENT, ORAL OR WRITTEN, AND ANY OTHER COMMUNICATIONS BETWEEN US RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT. FURTHER, NO CHANGE OR AMENDMENT TO THIS AGREEMENT SHALL BE EFFECTIVE UNLESS AGREED TO BY WRITTEN INSTRUMENT SIGNED BY A DULY AUTHORIZED REPRESENTATIVE OF GE.

Should you have any questions concerning this Agreement, you may contact GE by contacting: Legal Department, GE Intelligent Platforms, 2500 Austin Drive, Charlottesville, VA 22911 or 1-800-433-2682.