



GRAYMATTER

GE Intelligent Platforms Inc. [Digital]

325 Foxborough Blvd
Foxborough, MA 02035
United States

Quote No: BMIQ-08022017-186520

Revision: 1

Quote Date: Aug 2, 2017

Quote Expiration: Nov 30, 2017 ✓

Bill To:

TRI-R SYSTEMS INCORPORATED
1804 E LINCOLN HWY
DEKALB, IL 60115-3959
US

Contact:

CSN: 13404800
Currency: USD

Ship To:

City of Aurora, Illinois
44 East Downer Place
Aurora, IL 60507
US

Contact:

CSN: 12716100
Inco Terms: FOB SHIPPING POINT

End User:

City of Aurora, Illinois
44 East Downer Place
Aurora, IL 60507
US

Contact:

CSN: 12716100

Primary Sales Person: Corey McAuliffe

Sales Support Person: Corey McAuliffe

Sales Support Email: cmcauliffe@graymattersystems.com

Sales Support Phone: 412-741-2410-10

Quote Name:

Customer RFQ:

Line No.	Part No.	Description	Comments	Std Lead Time	Qty	Unit Sell Price	Ext. Sell Price
1	IF59PDUNLEN-S	iFix v5.9 Plus Development Unlimited Points English SCADA Synchronization	100199911	0	1	\$7,024.00	\$7,024.00
2	HS70T0000100000	Historian v7.0 Essential 1000 Points Add On		0	1	\$0.00	\$0.00
3	WN31E	WIN 911 v3.1 Essential Add On		0	1	\$0.00	\$0.00
4	APN-PREM-PER-AUTO-BDL	Acceleration Plan Bundle - Premier Level for Automation Perpetual License Premier; Aug 2, 2017 - Aug 1, 2018			1	\$2,857.44	\$2,857.44
5	DR-G00	Drivers IGS- Industrial Gateway Server for Basic Points	100199911	0	1	\$361.00	\$361.00
6	APN-PREM-PER-AUTO-BDL	Acceleration Plan Bundle - Premier Level for Automation Perpetual License			1	\$115.36	\$115.36

Server #1
Server 1

1 of 16

Reprint Payment Only To:

GE Intelligent Platforms, Inc. [Digital]
Bank of America
1400 Best Plaza Drive
Richmond, VA 23227-0000
Account Name: GE Intelligent Platforms, Inc.
ABA/Routing Number: 111000012
Account Number: 4451132895

International Wires
Bank of America
1400 Best Plaza Drive
Richmond, VA 23227-0000
Swift Code: BOFAUS33
Account Name: GE Intelligent Platforms, Inc.
Routing Number: 111000012
Account Number: 4451132895

Final version



GRAYMATTER

GE Intelligent Platforms Inc. [Digital]

325 Foxborough Blvd
 Foxborough, MA 02035
 United States

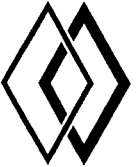
Line No.	Part No.	Description	Comments	Std Lead Time	Qty	Unit Sell Price	Ext. Sell Price
7	ICS9TSDEN-C011	Premier; Aug 2, 2017 - Aug 1, 2018 ✓ iClient v5.9 Thin-Terminal Services Development English 11 Client	100199912	0	1	\$15,135.00	\$15,135.00
8	APN-PREM-PER-AUTO-BDL	Acceleration Plan Bundle - Premier Level for Automation Perpetual License ✓ Premier; Aug 2, 2017 - Aug 1, 2018			1	\$3,973.44	\$3,973.44
9	ICS9THREN	iClient v5.9 Thick Runtime English	100199913	0	1	\$1,289.00	\$1,289.00
10	APN-PREM-PER-AUTO-BDL	Acceleration Plan Bundle - Premier Level for Automation Perpetual License ✓ Premier; Aug 2, 2017 - Aug 1, 2018			1	\$412.48	\$412.48
11	ICS9THREN	iClient v5.9 Thick Runtime English Backup License	200055387	0	1	\$645.00	\$645.00
12	IF59PDUNLEN-S	iFix v5.9 Plus Development Unlimited Points English SCADA Synchronization Backup License	200055386	0	1	\$3,512.00	\$3,512.00
13	HS70T0000100000	Historian v7.0 Essential 1000 Points Add On		0	1	\$0.00	\$0.00
14	WN31E	WIN 911 v3.1 Essential Add On		0	1	\$0.00	\$0.00
15	DR-G00	Drivers IGS- Industrial Gateway Server for Basic Points Backup License	200055386	0	1	\$181.00	\$181.00

Terminal Server
 Middle Computer
 Right Computer
 Server #2
 Server #2

Quote Total: \$35,505.72 ✓

GE Intelligent Platforms, Inc. [Digital]
 Bank of America
 1400 Best Plaza Drive
 Richmond, VA 23227-0000
 Account Name: GE Intelligent Platforms, Inc.
 ABA/Routing Number: 111000012
 Account Number: 4451132895

International Wires
 Bank of America
 1400 Best Plaza Drive
 Richmond, VA 23227-0000
 Swift Code: BOFAUS33
 Account Name: GE Intelligent Platforms, Inc.
 Routing Number: 111000012
 Account Number: 4451132895



GRAYMATTER

Correspondence address to:

GE Intelligent Platforms, Inc.
c/o GRAY MATTER SYSTEMS-Florida
100 GLOBAL VIEW DRIVE SUITE 200
WARRENDALE, PA 15086-0000
US

GE Intelligent Platforms Inc. [Digital]
325 Foxborough Blvd
Foxborough, MA 02035
United States

ATTENTION: Please do not fax or email any export controlled technical data to these fax numbers or email addresses

This Quote does not include any freight charges or applicable taxes. All Items are Commercial items. Please include the Quote Number from this document on your Purchase Order.

If any applicable export control, economic sanction, or other applicable law or regulations of the United States or any other relevant country prohibit, hinder, or make impracticable GE Intelligent Platforms, Inc. [Digital] ability to provide goods or services, GE Intelligent Platforms, Inc. [Digital] will be excused from all performance related to this quote, order, or contract and GE Intelligent Platforms, Inc. [Digital] will not be liable for any losses or damages of any kind, including but not limited to, loss of revenue or increased cost of supply.

GE Intelligent Platforms, Inc. [Digital]
Bank of America
1400 Best Plaza Drive
Richmond, VA 23227-0000
Account Name: GE Intelligent Platforms, Inc.
ABA/Routing Number: 111000012
Account Number: 4451132895

International Wires
Bank of America
1400 Best Plaza Drive
Richmond, VA 23227-0000
Swift Code: BOFAUS3N
Account Name: GE Intelligent Platforms, Inc.
Routing Number: 111000012
Account Number: 4451132895

final-revised
9-28-17

**GE Intelligent Platforms, Inc. [Digital]
On-Premise Non-Monitoring Software and Support**

As negotiated

The license or provision of the GE products and services described in the proposal by the GE Digital business submitting this proposal, whether GE Digital LLC, or its affiliates (hereinafter "GE") is expressly conditioned upon the terms and conditions contained or referred to herein. Any additional or different terms and conditions set forth in Customer's purchase order or similar communication are objected to and will not be binding upon GE, unless specifically agreed to in writing by GE's authorized representative. Policies necessary to enter a Customer facility, even if executed by GE personnel, shall not supersede any provisions contained in these terms and conditions. Authorization by Customer, whether written or oral, to furnish GE Offerings will constitute acceptance of these terms and conditions.

1. DEFINITIONS

The capitalized terms used in this Agreement shall have the meaning given to them in this Section. Words imparting the singular shall also include the plural and vice versa, as the context requires. Section headings are used for convenience only. GE and Customer to be referred each as a "Party" and together as the "Parties". The term "Agreement" shall be interpreted to include all appendices, Orders, Change Orders and Statements of Work subject hereto.

- 1.1. "Affiliate" means, with respect to a Party, an entity that controls, is controlled by, or is under common control with such Party, where control means ownership, directly or indirectly, of 50% or more of the voting shares of the subject entity or the right to appoint a majority of the board of directors of the subject entity.
- 1.2. "Change Order" has the meaning given in Section **Error! Reference source not found.**
- 1.3. "Confidential Information" of a Party means all of that Party's information and documentation disclosed to or accessed by the other Party in connection with this Agreement that is marked (or, if disclosed other than in writing, designated at the time of disclosure) as "confidential" or with a similar designation, including any information developed by reference to or use of the other Party's Confidential Information. GE's Confidential Information includes the GE Offerings. "Confidential Information" does not include information that: (a) is independently developed by the receiving Party, as demonstrated by the recipient's written records, without violating the disclosing Party's proprietary rights; (b) is or becomes publicly known (other than through unauthorized disclosure); (c) is disclosed by the owner of such information to a third party free of any obligation of confidentiality; (d) is already known by the receiving Party at the time of disclosure, as demonstrated by the receiving Party's written records, and the receiving Party has no obligation of confidentiality other than pursuant to this Agreement; or (e) is rightfully received by the receiving Party free of any obligation of confidentiality.
- 1.4. "Customer Content" means data, information, documentation, and software provided by Customer for use in connection with the GE Offerings.
- 1.5. "GE Offerings" means, collectively, the Software, and Support Services.
- 1.6. "Infringement Claim" has the meaning given in Section 12.1.
- 1.7. "Open Source Software" means any software that is distributed as "free software," "open source software" or under a similar licensing or distribution model, including without limitation the GNU General Public License (GPL) (including the GNU Affero GPL License), GNU Lesser General Public License (LGPL), Mozilla Public License (MPL), BSD licenses, the Artistic License, the Netscape Public License, the Sun Community Source License (SCSL), the Sun Industry Standards License (SISL) and the Apache License.
- 1.8. "Order" means, upon acceptance by Customer, this proposal and all documents attached hereto.
- 1.9. "Proposal" means a written proposal, quote, or offer provided by GE to Customer that describes the GE Offerings that GE proposes to provide.

1.10. “Software” means computer software and related documentation delivered to Customer under this Agreement, as described in Section 5. Software also includes any updates provided by GE to the foregoing.

1.11.

2. SCOPE

2.1. Scope. This Agreement sets forth the terms and conditions that govern this Order entered between Customer and GE for the provision of the GE Offerings. This Agreement also incorporates the terms and conditions for specific GE Offerings, as may be set forth in Appendix A and any other appendix attached hereto.

2.2. Order of Precedence. In the event of any inconsistency, the following order of precedence, from highest to lowest priority, shall control: (i) the appendices to this Agreement, (ii) the body of this Agreement, and (iii) any other document attached or incorporated with the Order.

3. RESERVED

3.1.

4. HARDWARE

4.1. Delivery. Delivery of Hardware sold will be made FCA GE’s facility (Incoterms 2010). Title to Hardware shipped by GE from the United States shall pass to Customer immediately after each item departs from the territorial land, seas, and overlying airspace of the United States. Title to all other Hardware sold shall pass when the product is made available for shipment at the point of shipment. Delivery of Hardware leased to Customer shall be made by commercially reasonable means. Title to such leased Hardware shall not pass to Customer. Title to any Software embedded in or included with Hardware does not pass to Customer.

4.2. Embedded Software. If software is provided to Customer as an embedded part of Hardware (“Embedded Software”), Customer may use such software only as embedded within the Hardware provided to Customer. Customer shall have no rights to copy, or modify embedded software. Customer may transfer this license to a third party only to the extent that transfer of the associated Hardware is permitted by this Agreement and only as embedded therein. Embedded Software shall otherwise be governed by the license restrictions set forth in Section 10 below.

4.3. Hardware Warranties.

4.3.1. Hardware Sold. During the applicable warranty period stated below, GE warrants that Hardware sold will be free from material defects in material, workmanship and title and will materially conform to any specifications agreed to by the Parties in writing. If any failure to meet this warranty (excluding any defects in title) appears within applicable warranty period from the date of shipment of the Hardware, and Customer returns such equipment to GE pursuant to GE’s applicable repair and replacement policy, GE will correct any such failure at its option, (i) by repairing any defective or damaged part or parts of the equipment, or (ii) by making available, FCA Customer’s designated site, any necessary repaired or replacement parts. Inbound shipping charges to GE, including associated taxes, duties, tariffs, etc., shall be paid by Customer. Return (outbound) warranty repair shipping charges shall be paid by GE to Customer’s destination. GE shall have no warranty obligation for Hardware damage or malfunction caused by accident, abuse, misuse, neglect, or improper repair, storage or handling by Customer or its agents. If in GE’s reasonable judgment such repair or replacing of Hardware is not practicable, GE shall refund or credit monies paid by Customer for such products. The applicable warranty period for sold Hardware is twenty-four (24) months from shipment date, unless otherwise stated in the Order or an appendix.

4.3.2. Hardware Leased. Provided that Customer has paid all amounts due, GE warrants that Hardware leased will be free from material defects in material, workmanship and title and will materially conform to any specifications agreed to by the Parties in writing during the lease period. If leased Hardware fails to meet this warranty during the lease period, GE will correct any such failure at its option, (i) by repairing any defective or damaged part or parts of the Hardware, or (ii) by delivering, in accordance with standard delivery protocols, any necessary repaired or replacement parts. GE reserves the right, in the event repair or replacement is unsuccessful, to

terminate Customer's lease upon notice. In the event GE determines that the damage to the leased Hardware resulted from accident, abuse, misuse, neglect, or improper repair, storage or handling by Customer or its agents, Customer shall be charged a mutually agreed upon price for the replacement of the Hardware.

- 4.3.3. Remanufactured Subassemblies or Parts. Unless prohibited by law, certain products hereunder, including but not limited to Hardware, may contain remanufactured subassemblies or parts which have been cleaned, refinished, inspected, and tested to new-product standards. The warranty for any such product will be as provided in this agreement or any applicable warranty of the third party manufacturer, if applicable.
- 4.3.4. Third Party Hardware. GE warrants equipment manufactured by third parties including, but not limited to, personal computers, micro drives, rotary disks, compact flash, cables and accessories, and embedded third party firmware only to the extent that the manufacturer's or third party's warranty allows GE to transfer such warranty to Customer. GE will pass through to Customer any such warranties. To the extent any such manufacturer or third party fails to provide a pass-through warranty, such Hardware is provided "AS IS" without warranty of any kind and the manufacturers and/or third parties disclaim all warranties, whether express or implied, including but not limited to the implied warranties of merchantability, title, non-infringement or fitness for a particular purpose. The manufacturers or third parties shall not have any liability for special, indirect, punitive, incidental or consequential damages. Customer's sole remedy for breach of such warranty shall be the remedy offered by and available from the manufacturer or third party, if any. GE shall have no liability, whether in contract, tort, negligence, or otherwise, to Customer with respect to third party equipment or associated firmware.
- 4.3.5. The remedies stated above in this Section 4.3 are Customer's exclusive remedy, and GE's sole obligation, for any failure of the foregoing warranties.

5. SOFTWARE

- 5.1. Licenses. Subject to Customer's payment of all applicable fees and compliance with this Agreement, GE grants to Customer a limited, non-transferable, nonexclusive license to use the Software as provided on each Order for Customer's internal business purposes only. Customer must comply with any license limitations (such as named or concurrent user limits, limits on numbers of copies or processors, or restrictions to designated computers or facilities) described on the applicable Order. Customer will use the Software solely for its business purposes as permitted by this Agreement and will not license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit the Software or make the Software available to any third party, other than as expressly permitted by this Agreement.
- 5.2. Separately Licensed Software. Some Software may be supplied to Customer under a separate license agreement, including Open Source Software and commercial third party software. Customer's use of such Software will be governed by such separate agreements.
- 5.3. GE Software Warranty. GE warrants that as of the date of shipment by GE, Software will be in substantial conformance with the product documentation or specifications expressly agreed upon in the applicable Order. If within ninety (90) days of the date of shipment it is shown that the Software does not meet this warranty, and such Software is uninstalled by the Customer or returned to GE with a copy of Customer's purchase confirmation, GE will, at its option, either correct the defect or error in the 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 Software affected. GE warrants that the media on which the Software is shipped will be free from defects in material or workmanship under normal use and service for a period of ninety (90) days from the shipment date. 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 GE Software. The remedy provided in this Section shall be Customer's exclusive remedy, and GE's sole obligation, for any failure of the foregoing warranty.
- 5.4. DISCLAIMERS. WITHOUT LIMITING THE DISCLAIMERS IN SECTION 9.2, GE SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY THAT: (I) SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR-FREE OR WILL MEET CUSTOMER'S SPECIFIC NEEDS.

- 5.5. Delivery. Unless otherwise specified in an Order, Software will be made available for electronic download by Customer. GE shall be deemed to have delivered Software when GE makes the Software available for download by Customer. If an Order specifies that Software is to be delivered to Customer on physical media, then delivery of physical media will be made FCA GE's facility (Incoterms 2010). No title to the Software is transferred.

6. **RESERVED.**

7. **DELIVERY**

- 7.1. General. Unless otherwise agreed by the Parties in writing: (a) GE shall determine the method and routing of all deliveries; (b) delivery dates and times are approximate and based on (i) prompt receipt by GE of all information necessary to permit GE to proceed with work immediately and without interruption, (ii) Customer's compliance with the payment terms, (iii) prompt receipt by GE of all evidence GE may request that any required export or import license, as applicable, is in effect; (c) the prices for the products include only GE's usual quality processes, systems, and tests; and (d) partial deliveries shall be permitted.
- 7.2. Packing. Products shall be prepared, packed and shipped by or on behalf of GE in accordance with good commercial practices unless otherwise agreed by the Parties. A complete packing list shall be enclosed with all shipments. Customer agrees to reimburse GE for any costs for any non-standard packing, marking or shipping directions contained in the purchase order.

8. **PAYMENT**

- 8.1. Payment Terms. Except to the extent otherwise specified by GE in writing, invoices for GE Offerings shall be issued pro rata as shipments are made or services performed or made available. If GE consents to delay shipments after completion of any equipment, payment shall become due, title shall pass and equipment shall be held at Customer's risk and expense as of the date when GE is prepared to make shipment. Unless otherwise agreed to in writing by GE, payment terms are net thirty (30) days from the date of invoice. All payments shall be made without set-off for claims arising out of other sales by GE. Payment shall be made in the currency quoted.
- 8.2. Financial Condition. If the financial condition of Customer at any time does not, in the judgment of GE, justify continued performance on the terms of payment previously agreed upon, GE may require full or partial payment in advance or shall be entitled to terminate the contract and receive termination charges. In the event of bankruptcy or insolvency of Customer or in the event any proceeding is brought against Customer, voluntarily or involuntarily, under the bankruptcy or insolvency laws, GE shall be entitled to terminate the agreement at any time during the period allowed for filing claims against the estate and shall be entitled to payment for its termination charges.
- 8.3. Late Payments. Customer shall pay a monthly late payment charge computed at the rate of 1%, as set forth in 50 ILCS 505/1, *et seq.* on any past due amount for each calendar month (or fraction thereof) that the payment is overdue. GE retains a security interest and right of possession in the Hardware articles until Customer makes full payment, and Customer agrees to sign documentation at GE's request as reasonably necessary to perfect such interest.
- 8.4. Sales and Similar Taxes. In addition to any price specified herein, 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, licensing, or furnishing of any GE Offering hereunder, or to their use by GE or Customer, or 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 sale, license or furnishing of any GE Offering hereunder.

9. **REPRESENTATIONS AND WARRANTIES**

- 9.1. General Conditions of Warranty. The warranties and remedies set forth herein are conditioned upon: (i) proper storage, installation, use and maintenance of the GE Offering (including any applicable GE documentation), the proper design, operation, and configuration of the system into which the GE Offering is installed, conformance with any applicable recommendations of GE, and GE's ability to reproduce and observe the claimed defect and (ii) Customer promptly notifying GE of any defects and, as required, promptly making any personnel, Software or computer systems available. Any unauthorized modification to or use of the GE Offerings by Customer will void the warranty.
- 9.2. DISCLAIMER OF IMPLIED WARRANTIES. EXCEPT FOR THE EXPRESS WARRANTIES MADE IN THIS AGREEMENT, GE AND ITS LICENSORS MAKE NO WARRANTIES, CONDITIONS, OR REPRESENTATIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, AND GE AND ITS LICENSORS EXPRESSLY DISCLAIM THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, DATA ACCURACY, SYSTEM INTEGRATION, AND FITNESS FOR A PARTICULAR PURPOSE. THE OPERATION OF GE'S OFFERINGS DEPEND ON NUMEROUS FACTORS OUTSIDE OF GE'S CONTROL AND GE THEREFORE DISCLAIMS ANY WARRANTIES CONCERNING THE ACCURACY OF ANY RESULTS OR RECOMMENDATIONS CONCERNING CUSTOMER THAT ARE GENERATED USING THE OFFERINGS. CUSTOMER IS SOLELY RESPONSIBLE FOR THE SELECTION AND USE OF GE OFFERINGS TO ACHIEVE CUSTOMER'S DESIRED RESULTS. CUSTOMER USES RESULTS AND RECOMMENDATIONS GENERATED BY GE OFFERINGS AT CUSTOMER'S OWN RISK, AND CUSTOMER IS SOLELY RESPONSIBLE AND LIABLE FOR VERIFYING ALL RESULTS FROM THEIR USE, FOR TAKING ANY ACTION IN RESPONSE TO SUCH RESULTS OR RECOMMENDATIONS, AND FOR ANY COSTS OF MAINTENANCE OR OTHER COSTS ARISING FROM THE USE OF MONITORED EQUIPMENT.
- 9.3. CUSTOMER WARRANTIES. Customer represents and warrants that (i) Customer has all rights necessary to grant to GE the rights contemplated by this Agreement, (ii) Customer has all rights and consents necessary to make the disclosures to GE contemplated by this Agreement, and (iii) Customer's provision or use of Customer Content or GE Offerings will not violate the Acceptable Use Policy, the rights of any third party, or any applicable law, rule, or regulation.

10. OWNERSHIP

- 10.1. Customer Content. As between Customer and GE, Customer retains all right, title, and interest in and to Customer Content. Except as provided in this Agreement, GE obtains no rights under this Agreement from Customer to any Customer Content.
- 10.2. Service Data. Customer consents to GE's use of Customer Content to perform GE's obligations under this Agreement. Customer further agrees that GE and its Affiliates may use information derived from Customer Content or generated by the GE Offerings to maintain, protect, create, develop and improve the GE Offerings and other GE products and services, to the extent permitted by applicable law. Notwithstanding the foregoing, GE will uphold its obligations with respect to Confidentiality as set forth in Section 11 of this Agreement
- 10.3. Reserved Rights. As between GE and Customer, GE or its Affiliates or licensors own and reserve all rights, title, and interests in the GE Offerings, except those rights and licenses expressly granted to Customer by this Agreement.
- 10.4. Restrictions. Except as expressly authorized by this Agreement, neither Customer nor any of its users may otherwise (a) sublicense, copy, distribute, modify, create derivative works of any GE Offering (except to the extent software included in the GE Offerings is provided to Customer under a separate license that expressly permits the creation of derivative works), (b) reverse engineer, disassemble, or decompile any GE Offering or apply any other process or procedure to derive the source code of the GE Offerings, (c) access or use the GE Offerings in a way intended to avoid incurring fees or exceeding usage limits or quotas, or (d) remove, alter, or obscure any proprietary notices that accompany the GE Offerings. All rights granted to Customer in this Agreement are conditioned on Customer's continued compliance this Agreement, and will immediately and automatically terminate if Customer do not comply with any term or condition of this Agreement.
- 10.5. Suggestions. If Customer provides GE or its Affiliates with any feedback or suggested improvements to the GE Offerings, then notwithstanding any other obligation, GE has the right to use and implement such Suggestions, without compensation to Customer, and as between the Parties, GE will solely own products and services developed by or for GE from such Suggestions.

11. CONFIDENTIALITY

- 11.1. **Non-Disclosure and Non-Use.** A Party receiving Confidential Information (the "Receiving Party") will not directly or indirectly, at any time, without the prior written consent of the Party disclosing such Confidential Information (the "Disclosing Party"), use or disclose the Confidential Information or any part thereof for any use other than necessary for the performance of the Receiving Party's obligations under this Agreement or as otherwise expressly permitted by this Agreement. The Receiving Party will use reasonable efforts, but not less than those efforts it uses to protect its own information of a similar nature, to avoid disclosure, dissemination, or unauthorized use of the Confidential Information of the Receiving Party.
- 11.2. **Compelled Disclosure.** If Receiving Party is requested by a governmental authority to disclose any Confidential Information, it will promptly notify Disclosing Party, to the extent permitted by law, to permit Disclosing Party to seek a protective order or take other appropriate action, and will assist in such activities. Receiving Party will only disclose that part of the Confidential Information as is required by law to be disclosed and Receiving Party will use commercially reasonable efforts to obtain confidential treatment therefor.
- 11.3. **Injunctive Relief.** In addition to any other rights and remedies under this Agreement or at law, Receiving Party acknowledges and agrees that, due to the nature of the Confidential Information, its confidentiality obligations to Disclosing Party under this Agreement are of a unique character and agrees that any breach of such obligations may result in irreparable and continuing damage to Disclosing Party for which there may be no adequate remedy in damages and accordingly Disclosing Party will be authorized and entitled to seek injunctive or other equitable relief, without the necessity of posting a bond or other security, even if otherwise normally required.

12. INDEMNIFICATION

- 12.1. **By GE.** GE shall, at GE's expense, defend or, at GE's option, settle any claim brought against Customer that the GE Offerings infringe any third party's United States patent, copyright, trademark, or trade secret (an "Infringement Claim"), and pay any final judgments awarded by a court of competent jurisdiction or settlements entered into by GE on Customer's behalf. As a condition of GE's obligation, Customer must notify GE promptly of any Infringement Claim in writing, tender to GE sole control and authority over the defense or settlement of such claim, and reasonably cooperate with GE, at GE's expense, and provide GE with available information in the investigation and defense of such claim. Any effort by Customer to settle an Infringement Claim without GE's involvement and written approval shall void any indemnification obligation hereunder. If use of any GE Offering becomes, or in GE's opinion is likely to become, enjoined, GE may, at GE's option, (i) procure, at no cost to Customer, the right to use such GE Offering, (ii) modify the GE Offering or provide a substitute that is non-infringing, or (iii) terminate this Agreement with respect to such GE Offering and refund Customer a pro-rata portion of applicable subscription fees (based on period of use) or purchase price (less reasonable depreciation). GE shall have no obligation or liability under this Section for any Infringement Claim to the extent such infringement is caused by: (a) a modification to the GE Offerings not provided or performed by GE, (b) Customer Content and customer designs and specifications, (c) the combination of the GE Offerings with other hardware, software, content, or services not provided by GE, or (d) use of an infringing GE Offering after GE has provided a non-infringing alternative or terminated the license or subscription for it. This Section states GE's sole obligation and exclusive liability (express, implied, statutory, or otherwise) and Customer's sole remedy for any third party claims of infringement of any intellectual or proprietary right.
- 12.2. **By Customer.** To the extent permitted by law and the Illinois Constitution, Customer shall defend, indemnify, and hold harmless GE, GE's Affiliates and licensors, and each of their respective employees, officers, directors, and representatives from and against any claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or relating to any third party claim concerning: (a) Customer's use of the GE Offerings, other than an Infringement Claim.

13. LIMITATIONS OF LIABILITY

- 13.1. EXCEPT WITH RESPECT TO CUSTOMER'S OBLIGATIONS REGARDING SOFTWARE (SECTION 5), NEITHER PARTY, INCLUDING ITS AFFILIATES AND LICENSORS, SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL, OR CONSEQUENTIAL DAMAGES, OR FOR ANY LOSS OF PROFITS OR REVENUE, USE,

GOODWILL, DATA, OR COSTS OF SUBSTITUTE GOODS OR SERVICES, REGARDLESS OF THE THEORY OF LIABILITY (INCLUDING NEGLIGENCE). CUSTOMER IS SOLELY RESPONSIBLE FOR, AND BEARS ALL RISKS ASSOCIATED WITH THE CONTROL, OPERATION, AND USE OF CUSTOMER EQUIPMENT.

13.2. GE'S CUMULATIVE LIABILITY UNDER THIS AGREEMENT, WITH THE EXCEPTION FOR ALL INFRINGEMENT CLAIMS AS SET FORTH IN SECTION 12.1 ABOVE, SHALL NOT EXCEED CUSTOMER'S ACTUAL DIRECT DAMAGES, UP TO THE AMOUNTS PAID BY CUSTOMER FOR THE PRODUCT OR SERVICE GIVING RISE TO THE LIABILITY.

14. TERM AND TERMINATION

14.1. Term. The term of this Agreement will commence on the Effective Date and will expire upon the completion, expiration, or termination of all services or other performance obligations of GE set forth in the Order.

14.2. Automatic Renewal. Except as otherwise stated in the Order, each license or subscription for Software or Hosted Services having a fixed initial term shall automatically be renewed for successive one (1) year renewal terms unless a Party provides the other Party with written notice of its intent to not renew at least thirty (30) days prior to the end of the initial or successive term.

14.3. Termination.

14.3.1. Without Cause. A Party may terminate an Order or Statement of Work issued hereunder without cause or for convenience only as expressly permitted by the applicable Order or Statement of Work.

14.3.2. For Breach. Either Party may terminate this Agreement for a material breach by the other Party, which breach is not cured within thirty (30) days of written notice provided to the breaching Party, or which breach is incapable of being cured.

14.3.3. For Insolvency. A Party may terminate this Agreement upon notice to the other Party if the other Party becomes insolvent, makes an assignment for the benefit of creditors, has a receiver or trustee appointed, or is the subject of a proceeding under bankruptcy or insolvency law that is not dismissed within thirty (30) days of the filing date thereof.

14.3.4. Effect of Termination. The expiration or termination of any individual Order or Statement of Work will not affect the term of any other Order or Statement of Work, or of this Agreement. Upon any termination or expiration of this Agreement, the licenses and rights granted to Customer hereunder will cease, unless otherwise expressly stated. Upon any termination or expiration of this Agreement, GE will not delete Customer Content stored by Hosted Services for a period of thirty (30) days, and Customer may retrieve such Customer Content if Customer is otherwise in compliance with this Agreement. Upon any termination or expiration of this Agreement, Customer shall certify to GE, at GE's written request, the deletion or return of all GE Confidential Information, including any copies of Software in Customer's possession for which Customer's license is expired or terminated. GE may offer to Customer post-termination assistance that GE generally makes available to Customers at GE's then-current fees, subject to mutual written agreement. Upon any termination or expiration of this Agreement, the following Sections survive: 10 (Ownership), 11 (Confidentiality), 12 (Indemnification), 13 (Limitations of Liability), 14 (Term and Termination), and 15 (Miscellaneous).

15. MISCELLANEOUS

15.1. Performance by GE. GE shall have the right to use subcontractors to perform its obligations under this Agreement provided that GE remains responsible to Customer for such obligations.

15.2. Excusable Delays. GE shall not be liable for delay due to causes beyond its reasonable control, including, but not limited to, acts of God, acts of Customer, prerequisite work by others, acts of civil or military authority, government priorities, fires, strikes or other labor disturbances, floods, epidemics, war, terrorism, riot, delays in transportation or car shortages, or inability to obtain or delay in obtaining suitable labor, materials, or facilities, due to causes beyond its reasonable control. In the event of any such delay, the time of performance shall be extended for a period equal to the time lost by reason of the delay. In the event GE is delayed by acts of Customer or by prerequisite work by other contractors or suppliers of Customer, GE shall be entitled to an equitable price adjustment in addition to extension of the time of performance.

- 15.11. Assignment. Except as expressly permitted in Section 15.1, neither Party may assign or delegate this Agreement, or any of its rights or obligations hereunder, without the prior written consent of the other Party, and any assignment or delegation in violation of this provision shall be void. Notwithstanding the foregoing, either Party may assign or delegate this Agreement, or any of its rights or obligations hereunder, without the necessity for obtaining consent, to any Affiliate of such Party. Subject to these requirements, this Agreement will be binding upon, and inure to the benefit of the Parties and their respective successors and assigns.
- 15.12. Entire Agreement. This Agreement is the entire agreement between Customer and GE regarding the subject matter of this Agreement. This Agreement supersedes all prior or contemporaneous representations, understandings, agreements, or communications between Customer and GE, whether written or oral, regarding the subject matter of this Agreement.
- 15.13. Amendments. Any Amendments to this Agreement must be in writing and must be signed by both Parties. No oral agreement, course of dealing, or trade usage shall be deemed to modify this Agreement.
- 15.14. Waivers. The failure of a Party to enforce any provision of this Agreement will not constitute a present or future waiver of such provision or limit a Party's right to enforce such provision at a later time. All waivers must be in writing and signed by the Party issuing the waiver.
- 15.15. Choice of Law. This Agreement shall be governed by the laws of the State of Illinois, without reference to its conflict of laws provisions. The provisions of the United Nations Convention on the International Sale of Goods shall not apply to this Agreement. The obligations of this Section shall not apply to any claim (including for injunctive relief) by a Party arising from an infringement of its copyright, patent or patent application, trademark, or trade secret, or for any breach of confidentiality hereunder. Venue shall be proper in Kane County Circuit Court or any Federal District court in Illinois.
- 15.16. U.S. Government Contracting. If Customer is a U.S. Government entity or elects to sell Products 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 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 Terms and Conditions), 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; (e) GE makes no representations, certifications or warranties whatsoever with respect to the ability of its Products to satisfy DFARS 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals; (f) with regard to DFARS 252.204-7012, Customer agrees that no Unclassified Controlled Technical Information or Covered Defense Information will be provided to GE, delivered by GE to Customer, or used by GE in the performance of this Agreement; and (g) 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 Products or prices to satisfy any such statutes and regulations other than those contained herein.

GE DIGITAL LLC

City of Aurora

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Appendix A

Product Specific Terms and Conditions

The following terms and conditions apply to specific products and services listed below, in addition to the terms and conditions of the main body of the Master Products and Services Agreement. In the event of any conflict between the terms and conditions in this Appendix and the main body of the Master Products and Services Agreement, these terms and conditions shall take precedence with respect to the products and services described below.

16. Acceleration Plans (Support Services).

- 16.1. Support Services. GE shall provide the support program and associated level of support as reflected in the applicable Order ("Support Services"). The applicable program, level of service and included or *a la carte* components that constitute the Support Services are further described in the *Acceleration Plans Support & Services Guide* and shall be acknowledged by GE (the "Support Confirmation"). Support Services may include various types of Services as described in the *Acceleration Plans Support & Services Guide*.
- 16.2. Nature of Support Services. Support Services may be provided independently as a GE Offering or as a required component of another GE Offering. To the extent Support Services are provided as a component part of another GE Offering, the relevant Support Services must be purchased and shall terminate when such GE Offering is terminated or shall be extended to the extent such GE Offering is extended (including any automatic renewals thereof). To the extent Support Services are associated with Software, such Support Services shall automatically terminate in the event the license to the underlying Software is terminated.
- 16.3. Adoption Services and Managed Services. "Adoption Services" and "Managed Services" are available as part of some Support Services plans, as further described on Customer's Order. These services provide Customer with assistance, information, and advice in adopting, implementing, and monitoring GE Digital Offerings by providing Customer with key indicators and metrics. Customer acknowledges that the interpretation or application of any such indicators, information, or advice depends on many factors outside of GE's ability to control or foresee, and therefore, Customer assumes sole responsibility for confirming such information or advice with appropriate testing and validation prior to taking any action or decision. GE does not and cannot guarantee that every fault condition can be foreseen or detected or that GE will be able to provide any particular amount of advance warning of any impending fault or failure.
- 16.4. Term, Renewal and Termination
 - 16.4.1. Support Services Associated with Software. The Support Services subscription term will be as stated on the Confirmation. The subscription term shall be for such initial term and thereafter be renewed automatically for successive one (1) year renewal terms unless a Party provides the other Party with written notice of its intent to not renew at least thirty (30) days prior to the end of the initial or successive term. The renewal rate shall be increased at each renewal to reflect the annually published Consumer Price Index plus one percent (1%) over the prior period. CPI shall mean the U.S. City Average (December to December percent) for ALL Urban Consumers (CPI-U).
 - 16.4.2. Reinstatement Fee. If for any reason, Customer permits the Support Services to lapse, then GE may charge a reinstatement fee as a condition to reactivating such Support Services.
- 16.5. No Right of Refund. Payment for any and all Support Services is required in advance, without right of refund for any reason.