



GE Power

Tim Wahl
Customer Service Manager

Power Services

11330 Clay Road Suite 500
Houston, TX 77041

Tel: +1 713 857 4978

Date: Monday, June 13, 2016

GE Proprietary Information

To: City of Riverside
Attn: Chuck Casey
Subject: Stage 3-5 HPC Blade Replacement

Chuck Casey,

GE Packaged Power, Inc-USA (hereinafter referred to as "Seller"), is pleased to provide City of Riverside with this Fixed Price proposal #N6EHU1518023r2 for the City of Riverside Stage 3-5 HPC Blade Replacement.

I. Scope of Supply

GE will provide 2x Field Service Reps working day shift to conduct top case & replacement of Stg 3-5 HPC blades and associated consumables. This proposal is for two gas turbines on a Fixed Firm Price basis. Pricing in this quote is based on 2016 weekday labor rates and parts pricing. The blades upon removal become the property of the General Electric Corporation and will be returned to Houston depot.

II. Pricing Estimate

FIRM FIXED PRICE

Estimated Total including Tax (8% of \$51,554)

\$126,138.32

This proposal is a fixed price work scope. Additional work beyond the scope of supply will be invoiced at current Field Service Rates on a Time & Material basis.

Please address your Purchase Order to:

GE Packaged Power, Inc
11330 Clay Road Suite 500
Houston, TX 77041
USA

For GE Energy to accept your Purchase Order, the Purchase Order must very clearly state that the attached Terms and Conditions shall be the controlling documents.

Please email or fax your PO to:
Tim Wahl
Customer Service Manager

tim.wahl@ge.com
281-715-4302

III. Notes and Adjustments

1. **Applicable Rates** – The normal workweek is five consecutive eight-hour days (Monday through Friday). Time in excess of the normal workweek and GE holidays will be billed per the current GE rate sheet.
2. **Minimum Charges** – A minimum charge of 4 hours straight time plus Per Diem and travel is charged for any service job.
3. **Waiting/Standby Time** – If the Field Service representative is available for work, but is requested by the Customer to wait, waiting time will be charged at 4 hours per day, including weekend days.
4. **Travel Time** – Time spent traveling to and from job site will be charged at the straight time rate, on a round trip basis, from the GE representative's point of dispatch.
5. **Travel and Living Expenses (T&L):** - is included for any portion of a day worked as follows: \$253.00 per day, or portions thereof, per employee for all days away from headquarters to cover local traveling expenses, meals, telephone calls, gas laundry, lodging and rental car. No receipts will be furnished. Initial and terminal travel (airfare/mileage) will be charged at cost plus a fifteen percent (15%) administrative adder. An additional \$77.00 per day per employee will be charged for high cost locations.
6. **Holidays** – Holidays are country specific and double time rates are applicable.
7. **Parts and Materials** – (a) Local materials and supplies required to be purchased by the Technician while on the job will be charged at cost plus a thirty percent (30%) handling charge. (b) Parts and materials supplied from APS inventory will be charged at APS list price.
8. **Parts Delivery Charges** – Parts and materials hand carried by APS employees will be invoiced standard GE APS rates.
9. **Payments** – All payments shall be in US Dollars, without offset, back-charge, retention or withholding of any kind. All invoices shall be payable prior to service by wire transfer, or through a confirmed irrevocable letter of credit in form and on banks acceptable to Seller.
10. **US Government** - This quotation is contingent upon there being no US Federal Funding or US Government Federal Acquisition Regulations. Buyer must notify Seller in writing in the event such funding or regulations apply and GE reserves the right to amend or rescind the quotation accordingly.

IV. Validity

This proposal, # N6EHU1518023r2, dated Monday, June 13, 2016, is valid for 90 days from date of issuance.

V. General Terms and Conditions

In the event of any conflict between the terms and conditions set forth in GE proposal #N6EHU1518023r2,

dated Monday, June 13, 2016, and the Terms and Conditions For Sale of Parts and Services, GE Form APS33D (Rev. 12/2002), Modified the City of Riverside, California (attached to this proposal as attachment A), the terms and conditions of GE proposal #N6EHU1518023r2, dated Monday, June 13, 2016, shall take precedence. All other terms of sale are in accordance with GE Standard Terms and Conditions of Sale for Parts and Field Services.

VI. Attachments

Attachment A: Terms and Conditions For Sale of Parts and Services, GE Form APS33D (Rev. 12/2002), Modified the City of Riverside, California

Attachment B: Wire Transfer / Letter of Credit Information / Form

Thank you again for your interest and consideration of this proposal. If there are any other questions or alternatives you may want to discuss, please let me know and I will be pleased to clarify them.

Sincerely,

Tim Wahl
Customer Service Manager
GE Power
Power Services
11330 Clay Road Suite 500
Houston, TX 77041

Phone: +1 713 857 4978
Fax: 281-715-4302
Cell: 713-857-4978
e-mail: tim.wahl@ge.com



Tim Wahl
Customer Service Manager

GE Power & Water

Aeroderivative Gas Turbines

11330 Clay Road Suite 500
Houston, TX 77041

Tel: +1 713 857 4978

Date: Monday, June 13, 2016

GE Proprietary Information

To: City of Riverside
Attn: Chuck Casey
Subject: Stage 3-5 HPC Blade Replacement

Chuck Casey,
GE Packaged Power, Inc.-USA (hereinafter referred to as "Seller"), is pleased to provide City of Riverside with this estimated proposal #N6EHU1518023r2 for the City of Riverside Stage 3-5 HPC Blade Replacement.

I. Scope of Supply

GE will provide 2x Field Service Reps working day shift to conduct top case & replacement of Stg 3-5 HPC blades and associated consumables. This proposal is for one gas turbine on a Time and Material basis. Pricing in this quote is budgetary based on 2016 weekday labor rates and parts pricing. The customer will only be charged for services actually performed and parts used. The blades upon removal become the property of the General Electric Corporation and will be returned to Houston depot.

II. Pricing Estimate

LABOR		
Field Service Labor		\$24,608
Other Labor Fees	Offshore: No High Security: No Emergency Call Out: No	\$0
Labor Subtotal		\$24,608
TRAVEL		
Travel Pay		\$2,640
Airfare (round trip)		\$0*
Rental Cars		\$518*
Mileage		\$0
PerDiem	Per Diem Rate: Standard	\$3,036
Mobilization Fee		\$375
MISCELLANEOUS		

Tooling Transport	\$500
Tooling Rental Fee	\$2,350
Other fees*	\$26,980
Estimated Total	\$61,007

*Airfare and Rental Car totals include a 15% administrative service fee

Other Fees: 738L556G01 - \$22,880.00

Misc Parts - \$4,084.00

This proposal is a budgetary price work scope provided. This price includes no material. Final billing shall be based upon actual time traveled and for any actual time worked, including anything over/beyond the work stated above. Items including, but not limited to, Parts, Stand-by hours due to Customer delays, equipment and/or components requiring replacement, adjustments, modification and/or repairs (additional labor) will be reported and discussed with City of Riverside Management, prior to being corrected. No replacement material and/or parts are included in this quote. Any material and/or parts " i.e. gaskets, O-rings, component pieces" will be billed at published cost.

Additional Labor: Additional time or work scopes in excess of the quoted work scope above shall be invoiced at the following standard time hourly rates: Field Rep - \$244; Specialty Field Rep - \$353; Site Manager - \$360. Overtime and double-time are charged at 1.5 and 2 times standard rate respectively. Per Diem rates of \$253.00/day for each representative or \$330.00 High Cost Per Diem (hotel > \$130 per day) will also be charged.

Travel: Estimated travel time for this proposal is included in this proposal. City of Riverside will be invoiced for the actual cost of the travel plus a (15%) mark up.

Additional Parts: No additional parts are included with this proposal. Should additional parts be required to repair damaged or unserviceable items found during this project City of Riverside shall be informed. Additional parts will be quoted by seller, at list price.

Please address your Purchase Order to:

GE Packaged Power, Inc.
11330 Clay Road Suite 500
Houston, TX 77041
USA

For GE Energy to accept your Purchase Order, the Purchase Order must very clearly state that the attached Terms and Conditions shall be the controlling documents.

Please email or fax your PO to:

Tim Wahl
Customer Service Manager
tim.wahl@ge.com

281-715-4302

III. Notes and Adjustments

1. **Applicable Rates** – The normal workweek is five consecutive eight-hour days (Monday through Friday). Time in excess of the normal workweek and GE holidays will be billed per the current GE rate sheet.
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5. **Travel and Living Expenses (T&L)**: - is included for any portion of a day worked as follows: \$253.00 per day, or portions thereof, per employee for all days away from headquarters to cover local traveling expenses, meals, telephone calls, gas, laundry, and lodging. No receipts will be furnished. Initial and terminal travel (airfare/mileage) will be charged at cost plus a fifteen percent (15%) administrative adder. An additional \$77.00 per day per employee will be charged for high cost locations.
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9. **Payments** – All payments shall be in US Dollars, without offset, back-charge, retention or withholding of any kind. All invoices shall be payable prior to service by wire transfer, or through a confirmed irrevocable letter of credit in form and on banks acceptable to Seller.
10. **US Government** - This quotation is contingent upon there being no US Federal Funding or US Government Federal Acquisition Regulations. Buyer must notify Seller in writing in the event such funding or regulations apply and GE reserves the right to amend or rescind the quotation accordingly.

IV. Validity

This proposal, # N6EHU1518023r2, dated Monday, June 13, 2016, is valid for 30 days from date of issuance.

V. General Terms and Conditions

In the event of any conflict between the terms and conditions set forth in GE proposal #N6EHU1518023r2, dated Monday, June 13, 2016, and the Terms and Conditions For Sale of Parts and Services, GE Form APS33D (Rev. 12/2002), Modified the City of Riverside, California (attached to this proposal as attachment

A), the terms and conditions of GE proposal #N6EHU1518023r2, dated Monday, June 13, 2016, shall take precedence. All other terms of sale are in accordance with GE Standard Terms and Conditions of Sale for Parts and Field Services.

VI. Attachments

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Modified the City of Riverside, California

Attachment B: Wire Transfer / Letter of Credit Information / Form

Thank you again for your interest and consideration of this proposal. If there are any other questions or alternatives you may want to discuss, please let me know and I will be pleased to clarify them.

Sincerely,

Tim Wahl
Customer Service Manager
GE Power and Water
Aero Energy Services
11330 Clay Road Suite 500
Houston, TX 77041

Phone: +1 713 857 4978
Fax: 281-715-4302
Cell: 713-857-4978
e-mail: tim.wahl@ge.com

TERMS AND CONDITIONS

FOR SALE OF PARTS AND SERVICES

GE FORM APS33D (Rev. 12/ 2002)

Modified for the City of Riverside, California

NOTICE 1 Sale of any Parts or Services (as defined in Section 17.11 below) identified herein is expressly conditioned on the Buyer's assent to the terms and conditions contained or referred to herein (hereinafter Terms and Conditions). Any additional or different terms or conditions proposed by Buyer are expressly objected to and will not be binding upon Seller unless specifically assented to in writing by Seller's authorized representative. Any order for, or any statement of intent to purchase hereunder, or any direction to perform work or any assent to Seller's performance of work shall constitute assent to these Terms and Conditions. Unless otherwise specified in writing by Seller, any quotation by Seller shall expire 3 days from its date and may be modified or withdrawn by Seller prior to receipt of Buyer's acceptance.

NOTICE 2 The Parts sold hereunder are not intended for application, and shall not be used, in connection with any nuclear facility or activity except as expressly provided in Article 9 (Prohibition on Nuclear Use).

1. PAYMENT

1.1 (i) For Domestic Parts Transactions Except as otherwise provided in Seller's proposal or the Agreement, Buyer shall pay Seller the agreed purchase price in cash, in United States of America (U.S.) Dollars, without right of set-off, in full within thirty (30) days after shipment. For the purposes of payment, shipment is defined as the date the bill of lading is signed by the carrier covering the shipment of the last major component of each Part. As used herein, a Domestic Transaction shall mean any transaction in which both Buyer and Seller are domiciled in the same country.

(ii) For International Parts Transactions Unless Seller's order acknowledgement

permits payment by check, cash, wire transfer, or electronic fund transfer, payment shall be made in U.S. Dollars upon presentation of the specified documents against one or more irrevocable letters of credit issued or confirmed by a U.S. bank acceptable to Seller (Letter of Credit), which Letter of Credit shall (a) be established by Buyer, at Buyer's expense (including confirmation charges), (b) be opened sixty (60) days prior to the earliest scheduled shipment and (c) remain in effect until ninety (90) days after the latest scheduled shipment. The Letter of Credit shall provide for partial payments pro rata on partial deliveries and for the payment of any charges for storage, export shipment, price adjustments, cancellation or termination, and all other payments due from Buyer under any agreement of which these Terms and Conditions are a part (Agreement)

against Seller's invoice and certification of the charges and grounds for such payment. Buyer will increase the amount(s) and/or extend the validity period(s) and make appropriate modifications to any Letter of Credit within thirty (30) days of Seller's notification that such is necessary to provide for payments to become due. As used herein, an International Transaction is any transaction in which Buyer and Seller are domiciled in separate countries.

(iii) For Primary and Supplementary Services pro rata payment shall become due as work is completed upon receipt of Seller's invoice.

(iv) For Repair Services pro rata payment shall become due as Buyer's Equipment is made available for shipment from the Repair Facility or as work is completed at the Site upon receipt of Seller's invoice. Upon agreement to any suspension of Services, Buyer shall make payment to Seller based on the Contract Price and the percentage of work completed prior to the suspension.

1.2 If Buyer fails to fulfill any condition of its payment obligations, Seller may suspend performance and delivery. Any cost incurred by Seller in accordance with such suspension (including storage costs) shall be payable by Buyer upon submission of Seller's invoices. Performance of Seller's obligations shall be extended for a period equaling the period of Buyer's nonfulfillment of any portion of the payment terms of the Agreement, whether or not Seller suspends performance, and such additional time as may be reasonably necessary in the circumstances. If Buyer does not correct such failure in the manner and time

satisfactory to Seller, then Seller may, at its option, terminate the transaction in respect to the portion of the Parts not delivered and work not yet performed. Buyer shall pay Seller its reasonable and proper termination charges in the event of such termination.

1.3 If Buyer's financial condition or payment practices at any time do not justify continuation of the work to be performed by Seller on the terms of payment set forth above, Seller may require full or partial payment in advance or shall be entitled to terminate this Agreement. If Buyer becomes bankrupt or insolvent, or if any proceeding is brought against Buyer, voluntarily or involuntarily, under the bankruptcy laws or any insolvency laws, Seller shall be entitled to terminate this Agreement. Buyer shall pay Seller its reasonable and proper termination charges in the event of such termination.

If Repair Services are performed at the Repair Facility, Buyer agrees that, in addition to any right of lien which Seller may be entitled to as a matter of law, Seller shall be entitled to a general lien on the Buyer's Equipment in Seller's possession, including any Buyer's Equipment which has already been paid for by Buyer, to the extent of the unpaid Contract Price. If Buyer fails to fulfill any condition of its payment obligations, Seller may suspend or terminate further performance and may retain possession of the Buyer's Equipment until Buyer fulfills its payment obligations. If Buyer's payment obligations are not fulfilled within ninety (90) days after receipt of Seller's invoice, Seller may, upon not less than seven (7) days written notice by registered mail to Buyer, sell the Buyer's Equipment at a public or private sale and apply the net proceeds to offset Buyer's payment obligations.

Except as otherwise provided in Seller's proposal or the Agreement, if Buyer purchases a rotatable assembly, Buyer must return the removed assembly to Seller with thirty (30) days after Buyer's receipt of the rotatable assembly. Assemblies not returned within thirty (30) days are subject to a surcharge of ten percent (10%) of the list price of the purchased rotatable assembly.

2. TAXES AND DUTIES

2.1 Seller shall be responsible for, and shall pay directly, any and all corporate and individual taxes that are measured by net income or profit imposed by any governmental authority of any country on Seller, its employees or subcontractors due to the execution of any agreement or the performance of or payment for work hereunder (the Seller Taxes). If Buyer deducts or withholds Seller Taxes, Buyer shall furnish within one month to Seller accurate official receipts from the appropriate governmental authority for each deducted or withheld Seller Tax. Buyer shall be responsible for, and shall pay directly when due and payable, any and all Buyer Taxes (defined in Section 2.2 below), and all payments due and payable by Buyer to Seller hereunder shall be made in the full amount of the purchase price, free and clear of all deductions and withholding, for Buyer Taxes. If Buyer deducts or withholds Buyer Taxes, Buyer shall pay additional amounts to Seller to cause the amounts actually received by Seller, net of deducted or withheld Buyer Taxes, to equal the full amount of the purchase price, and shall provide to Seller within one month, along with such payments, accurate official receipts from the appropriate governmental authority for deducted or withheld Buyer Taxes. If Seller is required to pay Buyer Taxes, Buyer shall, promptly upon

presentation of Seller's invoice for such Buyer Taxes, pay to Seller in U.S. dollars an amount equal to the U.S. dollar equivalent of such Buyer Taxes (calculated at the exchange rate in effect at the time payment of such Buyer Taxes was made).

2.2 Buyer Taxes means all taxes, duties, fees, or other charges of any nature (including, but not limited to, ad valorem, consumption, excise, franchise, gross receipts, import, license, property, sales, stamp, storage, transfer, turnover, use, or value-added taxes, and any and all items of withholding, deficiency, penalty, addition to tax, interest, or assessment related thereto), other than Seller Taxes, imposed by any governmental authority of any country on Seller or its employees or subcontractors due to the execution of any agreement or the performance of or payment for Services hereunder. Export Parts, which means Parts delivered to a location outside the country of origin, are presumed to be exempt from Buyer Taxes levied within the country of origin. When requested by Seller, Buyer agrees to furnish without charge evidence of tax or duty exemption acceptable to the taxing or customs authorities. Furthermore, if Buyer arranges for export shipment, Buyer agrees to provide Seller without charge, an export bill of lading.

3. DELIVERY, TITLE TRANSFER, RISK OF LOSS, STORAGE

3.1 (i) For Shipments within the Country of Origin or Manufacture Seller shall deliver the Parts to Buyer EXW Seller's facility, place of manufacture or warehouse (Incoterms 2000).

(ii) For U.S. Exports Seller shall deliver the

Parts to Buyer EXW Seller's facility, place of manufacture or warehouse (Incoterms 2000).

(iii) For All Other Export Shipments, Seller shall deliver the Parts to Buyer FCA Port of Export (Incoterms 2000).

(iv) Buyer shall pay all delivery costs and charges. Except for those obligations which are consistent with Incoterms 2000 specifically stated above, Seller shall be without liability on any claim asserted by Buyer with respect to such delivery. Partial deliveries will be permitted. Delivery times are approximate and are dependent upon prompt receipt by Seller of all materials and information necessary to proceed with the work without interruption. Seller may deliver all or any of the Parts in advance of the delivery schedule.

3.2 Title to Parts and materials to be shipped from the U.S. shall pass to Buyer immediately after each item departs from the territorial land, seas and overlying airspace of the U.S. For this purpose, the parties acknowledge that the territorial seas of the U.S. extend to twelve nautical miles from the baseline of the country determined in accordance with the 1982 United Nations Convention of the Law of the Sea. Title to Parts to be shipped from within the country where the Part will be installed shall pass to Buyer when made available for shipment from the manufacturers factory or the storage facility utilized by Seller. Title to Parts shipped direct from a European Union (EU) manufacturer or a EU storage facility outside the country where the Part will be installed shall pass to Buyer at the earlier of the port of export immediately after the Parts have been cleared for export or immediately

after each item departs from the territorial land, seas and overlying airspace of the EU sending country. Title to Parts to be shipped from any other country shall pass to Buyer at the port of export immediately after the Parts have been cleared for export. Seller shall remain responsible for risk of loss to all Parts until the later of passage of title pursuant to this Section 3.2 or delivery pursuant to Section 3.1.

3.3 If any Parts cannot be shipped to Buyer when ready due to any cause not attributable to Seller, upon notice to Buyer, Seller may ship such Parts to storage. If such Parts are placed in storage, including storage at the facility where manufactured, the following conditions shall apply (i) title and all risk of loss or damage shall thereupon pass to Buyer if it had not already passed; (ii) any amounts otherwise payable to Seller upon delivery or shipment shall be payable upon presentation of Seller's invoices and certification as to cause for storage; (iii) all expenses incurred by Seller, such as for preparation for and placement into storage, handling, inspection, preservation, insurance, storage, removal charges and any taxes shall be payable by Buyer upon submission of Seller's invoices; and (iv) when conditions permit and upon payment of all amounts due hereunder, Seller shall resume delivery of the Parts to the originally agreed point of delivery.

3.4 Title to Services shall pass to Buyer as performed.

3.5 If Repair Services are performed at the Repair Facility, the following shall apply:

(i) Buyer shall be responsible for all

actions and costs related to transporting the Buyer's Equipment to and from the Site and the Repair Facilities. Notwithstanding any other provisions in the Agreement, including any reference to Incoterms, Buyer shall bear risk of loss for Buyer's Equipment during the term of the Agreement, whether at the Site, the Repair Facilities or in transit to or from the Repair Facilities. Buyer shall be solely responsible for providing adequate insurance for the Buyer's Equipment during the term of the Agreement.

(ii) Upon notification by Seller that the Repair Services have been completed, Buyer shall arrange for the removal of the Buyer's Equipment from the Repair Facilities within ten (10) days of such notification. Buyer shall reimburse Seller at Seller's then current storage rate for any additional days the Buyer's Equipment remains at the Repair Facilities.

Subject to Seller's lien rights under the Agreement or arising under the law, title and right of possession of Buyer's Equipment shall remain with Buyer.

4. EXCUSABLE DELAYS

4.1 Seller shall not have any liability or be considered to be in breach or default of its obligations under the Agreement, to the extent that performance of such obligations is delayed or prevented, directly or indirectly, due to (i) causes beyond its reasonable control; or (ii) acts of God, acts (or failures to act) of governmental authorities, fires, severe weather conditions, earthquakes, strikes or other labor disturbances, floods, war (declared or undeclared), epidemics, civil unrest, riot, delays in transportation, or

car shortages; or (iii) acts (or omissions) of Buyer including failure to promptly (a) provide Seller with information and approvals necessary to permit Seller to proceed with work immediately and without interruption, or (b) comply with the terms of payment, or (c) provide Seller with such evidence as Seller may request that any export or import license or permit has been issued (if such is the responsibility of Buyer), or (iv) shipment to storage under Article 3 or (v) inability, due to causes beyond the reasonable control of Seller, to obtain necessary materials, necessary components or services. Seller shall notify Buyer in the event of any such delay. The date of delivery or of performance shall be extended for a period equal to the time lost by reason of delay, plus such additional time as may be reasonably necessary to overcome the effect of such excusable delay. Seller shall notify Buyer, as soon as practicable, of the revised delivery date. If Seller is delayed by acts or omissions of Buyer, or by the prerequisite work of Buyer's other contractors or suppliers, Seller shall also be entitled to an equitable price adjustment.

4.2 If delay excused by this Article extends for more than one hundred twenty (120) days and the parties have not agreed upon a revised basis for continuing the work at the end of the delay, including adjustment of the price, then either party (except where delay is caused by Buyer, in which event only Seller), upon thirty (30) days written notice, may terminate the order with respect to the unexecuted portion of the work, whereupon Buyer shall promptly pay Seller its termination charges determined in accordance with Seller's standard accounting practices upon submission of Seller's invoices therefor.

5. COMPLIANCE WITH LAWS, CODES, AND STANDARDS

5.1 The price is based on Seller's design, manufacture, testing and delivery of the Parts and performance of the Services pursuant to (i) its design criteria, manufacturing processes and procedures and quality assurance program, (ii) those portions of industry specifications, codes and standards in effect as of the date of Seller's proposal to Buyer which Seller has deemed applicable to the Parts and Services, (iii) the national laws and rules of the country of manufacture in effect on the date of Seller's proposal to Buyer and (iv) any mutually agreed upon specification.

5.2 The price will be equitably adjusted to reflect additional costs incurred by Seller resulting from (i) a change in standards and regulations described in 5.1(ii) or 5.1(iii) after the date of Seller's proposal to Buyer which affect the Parts and Services or (ii) changes required to comply with applicable regulatory, legal or industrial requirements in the location where the Parts will be installed and the Services performed. Buyer shall advise Seller of requirements affecting the Parts and Services resulting from the applicability of any laws, rules or regulations in the location where the Parts will be installed and the Services performed. Reasonable adjustments will be made to the delivery date, performance evaluation criteria and Service performance dates as may be appropriate to comply with the foregoing.

5.3 All transactions hereunder shall at all times be subject to and conditioned upon compliance with all applicable export control laws and regulations of the U.S. Government and any amendments thereof.

Buyer hereby agrees that it shall not, except as said laws and regulations may expressly permit, make any disposition by way of transshipment, re-export, diversion or otherwise, of U.S. origin goods or technical data (including computer software), or the direct product thereof, furnished by GE hereunder, other than in and to the ultimate country of destination specified on Buyer's order and/or declared as the country of ultimate destination on Seller's invoice.

5.4 Notwithstanding any other provisions herein, Buyer shall be responsible for timely obtaining any required authorization, such as an export license, import license, foreign exchange permit, work permit or any other governmental authorization, even though any such authorization may be applied for by Seller. Buyer and Seller shall provide each other reasonable assistance in obtaining required authorizations. Seller shall not be liable if any authorization is delayed, denied, revoked, restricted or not renewed and Buyer shall not be relieved thereby of its obligations to pay Seller for the Parts and Services.

5.5 Seller acknowledges that, in connection with the performance of the Agreement, the import and customs laws and regulations of the country in which the Facility is located apply to the furnishing and shipment of the Parts.

5.6 Seller shall not comply with any law, regulation or requirement which would subject Seller to criminal or civil penalties or loss of tax benefits under any federal, state or local law or regulation of the U.S.A., and the execution of the Agreement does not constitute the furnishing of, or an agreement

to furnish, any information which would subject Seller to any of the above mentioned penalties or loss of tax benefits.

6. WARRANTY

6.1 Seller warrants to Buyer that at the time of delivery the Parts shall be free from defects in material, workmanship and title and that the Services will be performed in a competent and diligent manner in accordance with any mutually agreed specifications. Seller provides no warranty for incidental materials and consumables utilized in the performance of the Services and only the warranty given by the manufacturer, if any, shall apply.

6.2 If any failure to meet the foregoing Parts warranty appears within the Warranty Period (as defined in Section 6.3), Buyer shall promptly notify Seller and make the Parts available promptly for correction. Seller shall thereupon correct any defect by, at its option, (i) repairing the defective Parts or (ii) making available necessary replacement Parts EXW Seller's factory (Incoterms 2000). If any failure to meet the foregoing Services warranty with respect to Primary Services appears within the Warranty Period, Buyer shall promptly notify Seller and make Buyer's Equipment available promptly for correction. Seller shall thereupon correct any defect by reperforming defective Primary Services. If any failure to meet the foregoing Services warranty with respect to Repair Services appears within the warranty period for Repair Services, Buyer shall promptly notify Seller in writing of the defect. Seller shall thereupon correct any defect by reperforming the defective Repair Services to the extent necessary and feasible, and, in the case where a Part supplied by Seller in

performing a Repair Service is defective, Seller shall, at its options, repair the defective Part or make available necessary replacement Parts FOB Seller's factory. Buyer shall, at Buyer's cost, make the affected Buyer's Equipment available to Seller at the Site if capable of being repaired at the Site or at the Repair Facilities if Seller determines that such warranty repair cannot be made at the Site. Buyer shall be responsible for performing any decontamination on the affected Buyer's Equipment prior to the performance of Seller's warranty obligations.

6.3 The foregoing warranties (except as to title) for (i) each Part shall apply to defects which appear within eighteen (18) months from delivery of the original Part or twelve (12) months from its first use, whichever occurs first, (ii) Primary Services shall apply to defects which appear within thirty (30) days from completion of the Primary Services, (iii) Repair Services shall apply to defects that appear within twelve (12) months from completion of the Repair Services (the Warranty Period).

6.4 Supplementary Services which are separately warranted in another part of Seller's proposal or the Agreement shall be governed solely by the terms of such separate warranty. Where there is no such separate warranty, Seller warrants to Buyer that the Supplementary Services will be performed in a competent manner. If any failure to meet this warranty appears within one year from the date the Supplementary Service is performed, Buyer shall promptly notify Seller in writing, but not later than thirty (30) days. Seller shall thereupon correct any defect by reperforming the defective Supplementary Service. In the case of any Engineering Study/Inspection/Test Service, Seller does

not warrant the accuracy of or the performance results of any conclusions or recommendations provided, or that any desired objective will result from the Engineering Study/Inspection/Test Service performed.

6.5 The supply of repaired or replacement Parts or the reperformance of Services by Seller pursuant to Section 6.2 shall not extend the duration of the Warranty Period. Seller shall not be responsible for removal or replacement of systems, structures or other portions of Buyer's facility. If a defect in a Part or portion thereof cannot be corrected by Seller's reasonable efforts, the parties will negotiate an equitable adjustment in price with respect to such Part or portion thereof. The condition of any tests shall be mutually agreed upon and Seller shall be notified of and may be represented at all tests that may be made.

6.6 Seller does not warrant the Services, Parts or any repaired or replacement Parts (i) against normal wear and tear including that due to environment or operation, including excessive operation at peak capability, frequent starting, type of fuel, detrimental air inlet conditions or erosion, corrosion or material deposits from fluids or (ii) which have been involved in an accident. The warranties and remedies set forth herein are further conditioned upon (i) the proper storage, installation, operation, and maintenance of the Parts and conformance with the operation instruction manuals (including revisions thereto) provided by Seller and/or its subcontractors, as applicable and (ii) repair or modification pursuant to Seller's instructions or approval. Seller does not warrant any equipment or services of others designated by Buyer where such equipment or services are not normally supplied by Seller.

6.7 The preceding Sections of this Article 6 set forth the exclusive remedies for all claims based on failure of or defect in the Parts and Services provided under the Agreement, 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. The foregoing warranties are exclusive and are in lieu of all other warranties and guarantees whether written, oral, implied or statutory. NO IMPLIED STATUTORY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE SHALL APPLY.

7. INDENMIFICATION

7.1 Patent Indemnity. Seller agrees to indemnify, defend and hold harmless Buyer from any rightful claim of any third party that the use by Buyer of any Parts manufactured by Seller and furnished hereunder infringes any U.S. patent that is issued before the date of Seller's proposal to Buyer. If Buyer notifies Seller promptly of the receipt of any such claim, does not take any position adverse to Seller regarding such claim, and gives Seller information, assistance and exclusive authority to settle and defend the claim, Seller shall, at its own expense and option, either (i) settle or defend the claim or any suit or proceeding and pay all damages and costs awarded in it against Buyer, or (ii) procure for Buyer the right to continue using the Parts, or (iii) modify the Parts so that they become non-infringing, or (iv) replace the Parts with non-infringing Parts, or (v) remove the infringing Parts and refund the price. If, in any suit arising from such a claim, the continued use of the Parts for the purpose intended is forbidden by any court of competent jurisdiction, Seller shall at its

option take one or more of the actions under (ii), (iii), (iv) or (v) above. The foregoing states the entire liability of Seller for patent infringement of any Parts.

7.2 Section 7.1 shall not apply to (i) any Parts which are manufactured to Buyer's design or (ii) the use of any Parts furnished under the Agreement in conjunction with any other apparatus or material not furnished by Seller. As to any Parts or use described in the preceding sentence, Seller assumes no liability whatsoever for patent infringement.

7.3 With respect to any Parts furnished under the Agreement which are not manufactured by Seller, only the patent indemnity of the manufacturer, if any, shall apply.

7.4 General Indemnity. Seller hereby agrees to indemnify and hold harmless Buyer from the cost of (i) repairing or, in the case of destruction, replacing physically damaged tangible property of third parties or (ii) injury to persons, including death, to the extent resulting directly from the negligence of Seller or its officers, servants, agents, employees, and/or assigns while engaged in activities under this Agreement. Buyer shall likewise indemnify and hold harmless Seller from the cost of (i) repairing or, in the case of destruction, replacing physically damaged tangible property of third parties or (ii) injury to persons, including death, to the extent resulting directly from the negligence of Buyer, its officers, servants, agents, employees, and or assigns, while engaged in activities relating to this Agreement. In no case, however, shall Seller or Buyer have any obligation under the foregoing unless Seller or Buyer is liable to the third party claimant under the law otherwise normally

applicable. In the event such damage or injury is caused by the joint or concurrent negligence of Seller and Buyer, the loss shall be borne by each party in proportion to its negligence.

7.5 The indemnities provided for in Article 7.4 shall only apply if the party demanding to be indemnified gives the other party prompt notice of any such claim and all necessary information and assistance so that the other party, at its option, may defend or settle such claim and the party demanding to be indemnified does not take any adverse position in connection with such claim. For purposes of Article 7.4, third parties shall not include (i) the Buyer; (ii) the Owner (iii) the subsidiaries, parents, affiliates, agents, successors or assigns of the Buyer and the Owner, including any operation or maintenance contractor; or (iv) any party (A) with any equity interest in the foregoing entities, or (B) with a security interest of any nature in any such entity's assets or property, or (C) which claims or seeks to claim any of the rights, powers or privileges of the Buyer or Owner under this Agreement or claims or seeks to claim as a third party beneficiary of the Buyer or Owner under this Agreement.

8. LIMITATION OF LIABILITY

8.1 The total liability of Seller, on all claims of any kind, whether in contract, warranty, indemnity, tort (including negligence), strict liability, or otherwise, arising out of or related to these Terms and Conditions or the Agreement or its performance or breach, or from use of any Parts or Services shall not exceed the price allocable to the Parts or Services giving rise to the claim. All liability of Seller on all claims of any kind shall terminate upon expiration of the Warranty Period, provided that Buyer may enforce a claim of such liability accruing

during the Warranty Period by an action timely commenced in accordance with the applicable statute of limitations and/or statute of repose, but in no event greater than one year after the expiration of the Warranty Period.

8.2 In no event, whether as a result of breach of contract, warranty, indemnity, tort (including negligence), strict liability, or otherwise, shall Seller or its subcontractors or suppliers be liable for loss of profit or revenues, loss of use of the Parts and Services or any associated equipment, facilities or vessels, cost of capital, cost of substitute Parts and Services or any associated equipment, facilities, services or replacement power, downtime costs, damage to associated equipment or facilities, claims for damages or costs related to the clean-up, removal, release or threatened release, remediation or disposal of or any response to any hazardous or nuclear materials, or any special, consequential, incidental, indirect, speculative, punitive or exemplary damages, or claims of Buyer's customers for any of the foregoing damages, and Buyer shall indemnify Seller against all such claims of Buyer's customers.

8.3 If Seller furnishes Buyer with advice or assistance concerning any Parts, Services, systems or work which is not required pursuant to these Terms and Conditions or any mutually agreed written specification, the furnishing of such advice or assistance will not subject Seller to any liability, whether in contract, warranty, indemnity, tort (including negligence), strict liability or otherwise.

8.4 Buyer waives rights of recovery against Seller, whether Buyer's claim is brought under breach of contract, warranty, indemnity, tort (including negligence), strict liability or otherwise, for loss or damage to the property of Buyer. Notwithstanding the foregoing, if Buyer's Property is damaged due to Seller's negligence or willful misconduct during the performance of the Services, Seller's liability for such damage shall not exceed \$500,000.

8.5 Buyer shall not sell, lease, or otherwise transfer the Parts, Services or any interest therein without first providing Seller with a written agreement from the buyer, lessee or other transferee providing protection against liability of Seller at least equivalent to this Article 8, Article (Prohibition on Nuclear Use), and Articles 18, 19 and 20 (Special Terms and Conditions for Nuclear Applications), and such agreement shall preserve to Seller the right to enforce it. Any transfer contrary to this Section 8.5 shall, in addition to any other legal or equitable rights of Seller, make Buyer the indemnitor of Seller to the same extent that Seller would have been protected had no such transfer taken place.

In no event shall Seller be liable for any loss or damage whatsoever arising from its failure to discover or repair latent defects or defects inherent in the design of goods serviced (unless such discovery or repair is normally discoverable by tests expressly specified in the scope of work under the Agreement) or caused by the use of goods by the Buyer against the advice of Seller.

For the purposes of this Article 8, Article (Prohibition on Nuclear Use), and Articles 18, 19 and 20 (Special Terms and Conditions for Nuclear Applications), the term Seller shall mean Seller, its affiliates,

subcontractors and suppliers of any tier, and their respective agents and employees, whether individually or collectively.

The provisions of this Article 8, Article (Prohibition on Nuclear Use), and Articles 18, 19 and 20 (Special Terms and Conditions for Nuclear Applications) shall prevail over any conflicting or inconsistent provisions contained in any of the documents comprising the Agreement between Buyer and Seller, except to the extent that such provisions further restrict Seller's liability.

9. PROHIBITION ON NUCLEAR USE

The Parts and Services sold hereunder are not intended for application, and shall not be used, in connection with any nuclear facility or activity, and Buyer represents and warrants that it shall not use the Parts and Services for any such purpose, or permit others to use the Parts and Services for any such purpose. If, in breach of the foregoing, any such use occurs, Seller shall have no liability for any nuclear or other damage, injury or contamination, and, in addition to any other legal or equitable rights of Seller, Buyer shall indemnify Seller against any such liability, whether arising as a result of breach of contract, warranty, indemnity, tort (including negligence), strict liability or otherwise. In the event of any sale, lease or transfer of the Parts and Services, the provisions of Section 8.5 shall apply. Notwithstanding the foregoing, if Seller's proposal or quotation so states, or Seller expressly agrees in writing, such Parts and Services may be used in connection with a commercial nuclear power plant located in Finland, Japan, Republic of South Korea, Spain, Sweden, Switzerland, Taiwan, the U.K. or the U.S., subject to Articles 15, 16 and 17 (Special Terms and Conditions for Nuclear Applications) set forth below.

10. DISPUTE RESOLUTION, GOVERNING LAW

10.1 Any dispute involving a non-U.S. Buyer and arising out of or in connection with these Terms and Conditions or the Agreement, including any question regarding its existence, validity or termination, that cannot be settled by negotiation of the parties shall be referred to and finally resolved by arbitration under the London Court of International Arbitration (LCIA) Rules, which Rules are deemed to be incorporated by reference into this clause. The number of arbitrators shall be one unless the amount in dispute exceeds one million U.S. dollars, in which event it shall be three. When three arbitrators are involved, each party shall have the right to nominate an arbitrator, and the Chairman shall be appointed by the LCIA Court. The seat, or legal place, of arbitration shall be New York, New York, U.S. The arbitration shall be conducted in the English language. In reaching their decision, the arbitrators shall give full force and effect to the intent of the parties as expressed in these Terms and Conditions and the Agreement, and if a solution is not found herein, shall apply the law as described in Section 10.3. The decision of the arbitrators shall be final and binding upon both parties, and neither party shall seek recourse to a law court or other authorities to appeal for revisions of such decision.

10.2 Any claim involving a U.S. Buyer brought by either party against the other party for claims arising out of or related to these Terms and Conditions or the Agreement shall be brought in the U.S. District Court for the Southern District of California, or in the event that court lacks jurisdiction to hear the claim, in the

appropriate state courts of Riverside County, California, and the parties hereto consent to the exclusive jurisdiction of such courts in respect of all such claims. Each party hereby submits to and accepts generally and unconditionally the jurisdiction of those courts with respect to its respective person and property, and irrevocably consents to the service of process in connection with any such action or proceeding by personal delivery to the party or by the mailing thereof by registered or certified mail, postage prepaid to the other party at the address for the party.

10.3 The validity, performance and all matters relating to the interpretation and effect of these Terms and Conditions and the Agreement shall be construed and interpreted in accordance with the laws of the State of California, U.S., excluding its law on the conflict or choice of laws, provided that any provision of such law invalidating any provision of these Terms and Conditions or modifying the intent of the parties as expressed in these Terms and Conditions shall not apply.

11. CHANGES

11.1 **Engineering Changes** All Parts delivered shall conform to Seller's part number specified or (at Seller's option) its equivalent or the superseding part number subsequently assigned by Seller. In the event the Part ordered is not available, Seller is authorized to ship a valid interchangeable Part without notice to Buyer. If the price of an equivalent or superseding part number is adjusted from the price of the original Part, Buyer shall be invoiced at the adjusted price.

11.2 **Buyer Changes** Buyer may, by written change order, make mutually agreed to changes in the Parts and Services order and the scheduled shipment date and/or performance date. If any such change results in an increase or decrease in the cost or time required for the performance of the work under the Agreement, there shall be an equitable adjustment in the Agreement price and the scheduled shipment date and/or performance date. Seller shall not be obligated to proceed with the changed or extra work until the price of such change and its effect on the scheduled shipment date and performance date have been agreed upon in a written change order.

12. CONFIDENTIALITY

12.1 In connection with this transaction, Seller and Buyer (as to information disclosed, the Disclosing Party) may each provide the other party (as to information received, the Receiving Party) with Confidential Information. Buyer shall not provide any Confidential Information to Seller without Seller's prior written consent to receive it. Confidential Information as used in these Terms and Conditions shall mean all Parts and Services pricing, all terms of the Agreement, and all information related to the business or products of the Disclosing Party that is not generally known to the public, provided that the obligations of this Article shall not apply as to any portion of the Confidential Information which (i) is or becomes generally available to the public other than as a result of disclosure by the Receiving Party, its representatives or its affiliates, or (ii) is or becomes available to the Receiving Party or its representatives or affiliates on a non-confidential basis from a source other than the Disclosing Party when such source is not, to the best of the Receiving Party's knowledge, subject to a

confidentiality obligation to the Disclosing Party, or (iii) has been or is subsequently independently developed by the Receiving Party, its representatives or affiliates, without reference to the Confidential Information, or (iv) is necessarily disclosed in connection with permitted uses of the Parts.

12.2 The Receiving Party agrees, except as otherwise required by law (i) to use the Confidential Information only in connection with this transaction and permitted uses of the Parts and Services, and (ii) to take reasonable measures to prevent disclosure of the Confidential Information, except to its employees to the extent necessary to facilitate this transaction and permitted uses of the Parts and Services, or unless legally required to disclose the Confidential Information by operation of law.

12.3 If either party or any of their respective affiliates or representatives is requested or required (by interrogatories, subpoena, or similar legal process, including a request for public disclosure under the Freedom of Information Act, the California Public Records Act or any similar law or regulation) to disclose any Confidential Information, such party agrees to provide the Disclosing Party with prompt notice of each such request, to the extent practicable, so that the Disclosing Party may seek an appropriate protective order.

12.4 Nothing in these Terms and Conditions or the Agreement shall be construed (i) to allow export or re-export of technical information in violation of Section 5.3, or (ii) to limit or abridge the protection of trade secrets under applicable trade secrets law, or (iii) as granting (by implication,

estoppel or otherwise) any licenses or rights under any patents, copyrights, mask works or other legally protectable intellectual property rights (present or future) of either party (although the parties may provide for such a license in an express written agreement), or (iv) subject to Section 6.6, as precluding Buyer from using or furnishing to others information and data necessary to effect any contract or arrangement under which there is to be performed for Buyer, by others (excluding competitors of Seller), non-infringing modification, overhaul, or maintenance work on the Parts and Services, subject to the same limitations set forth above, which shall be confirmed in a written agreement with the party to whom further disclosure is made, or (v) subject to Section 8.5, as precluding Buyer from transferring ownership of Parts and Services, provided that the instrument by which Buyer transfers any Parts and Services may permit the use of such information and data relating to such Parts and Services by its transferee, subject to the same limitations set forth above, and shall preserve to Seller the right to enforce such limitations.

13. INSPECTION AND TESTING

The quality control exercised by Seller in its manufacture of the Parts shall be in accordance with Seller's normal quality control policies, procedures, and practices. Seller is authorized to deliver the Parts after inspection by Seller's quality control representative. Any Certificate of Inspection signed by Seller's quality control representative shall be conclusive regarding inspection and tests. Seller shall attempt to accommodate Buyer's requests to witness Seller's test of the Parts, if such witnessing can be arranged without delaying the work.

14. HEALTH AND SAFETY MATTERS

14.1 Buyer will take all necessary precautions, at all times, for the safety of Seller personnel at Site. This includes, but is not limited to, instruction of Buyer's safety practices, proper and safe handling of hazardous substances and protection of Seller's personnel from exposure thereto, energization / de-energization of all power systems (electrical, mechanical and hydraulic) using a safe and effective lock-out tag procedure, and conducting periodic safety meetings during construction and start-up.

14.2 Seller may, from time to time, conduct safety audits to insure safe conditions exist and make recommendations to Buyer concerning same. Neither the conduct or non-conduct of safety audits nor the making of any recommendation by Seller shall relieve Buyer of the responsibility to provide a safe place to work. If Seller personnel require medical attention, local Buyer facilities will be made available to Seller personnel for the duration of such needs.

14.3 If, in Seller's opinion, the safe execution of Services at the Site is, or is apt to be, imperiled by local conditions, Seller may remove some or all of its personnel from the Site and/or supervise performances of all or any part of its Services and/or evacuate its personnel and Buyer shall assist in said evacuation, any of which shall be considered to be an Excusable Delay.

14.4 In general, Seller personnel will have at least one day of rest in any seven (7) consecutive days. However, with Seller's

written consent and where the nature of the assignment requires, Seller personnel may work seven (7) days a week for a maximum of thirty (30) days. Unless prior written agreement is obtained from Seller's headquarters, Seller personnel shall not work more than one hundred and forty (140) hours in any two (2) consecutive weeks or sixteen (16) hours in any one day.

14.5 The operation of Buyer's Equipment at the Site is the responsibility of Buyer. If Buyer requires or permits Seller's personnel to operate Buyer's Equipment at the Site, Buyer shall indemnify and save Seller, its employees and agents, harmless from expense and liability (including reasonable attorneys' fees) incurred by or imposed upon Seller, its employees and agents, based upon injury to persons (including death) or damage to property resulting from operation of equipment at the Site by Seller personnel.

15. DIFFERING SITE CONDITIONS; HAZARDOUS MATERIALS

15.1 Seller shall promptly and, if feasible, before such conditions are disturbed, notify Buyer in writing of (i) subsurface or latent physical conditions at the Site differing materially from those indicated in the Agreement, or (ii) unknown physical conditions at the Site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work of the character provided for in the Agreement. Buyer shall promptly investigate the conditions. If it is determined that such conditions do materially differ and cause an increase in Seller's cost of, or the time required for, performance of any part of the work under

the Agreement, an equitable adjustment in price and time of performance shall be made and the Agreement modified in writing accordingly.

15.2 If, at the Site, Seller encounters toxic substances, hazardous substances or hazardous wastes (as such terms may be defined in any statute or ordinance or regulations promulgated by any federal, state or local governmental authority of the United States or the country of the Site) (collectively, the Hazardous Materials) which require special handling and/or disposal, Buyer shall immediately take whatever precautions are required to legally eliminate such hazardous conditions so that the work under the Agreement may safely proceed. If any such Hazardous Materials cause an increase in Seller's cost of or the time required for performance of any part of the work, an equitable adjustment shall be made in the price and schedule. Buyer agrees to properly dispose of all Hazardous Materials produced or generated in the course of Seller's work at the Site. Buyer shall indemnify Seller for any and all claims, damages, losses, causes of action, demands, judgments and expenses arising out of or relating to (i) the presence of any Hazardous Materials which are present on the Site prior to the commencement of Seller's work or (ii) improperly handled or disposed of by Buyer or (iii) brought on to the Site or produced thereon by parties other than Seller.

16. SOFTWARE LICENSE

16.1 Buyer is granted a limited license for any Software (defined below) delivered by Seller, whether as part of any Parts or equipment or separately. Buyer is not granted a license for any other Software.

This license allows Buyer to:

16.2 Use the Software only on the Parts or equipment on which it is installed at the time of delivery or, if Software is supplied separately, in connection with Parts or equipment supplied by Seller. Buyer must obtain a supplementary license from Seller (which Seller may or may not grant in its sole discretion) before using the Software in connection with any other equipment or for any other purpose.

16.3 Make one copy of the Software in machine-readable form solely for backup purposes. Buyer must reproduce on each copy the copyright notice and any other proprietary legends that were on the original copy.

16.4 Transfer the Software and all rights under this license to another party as part of the sale of the equipment with which it is used, but only if the other party agrees in writing to be bound by the terms of this Article 16 and the other provisions of the Agreement.

16.5 Buyer may not distribute copies of the Software to others or electronically transfer the Software from one computer to another over a network. The Software contains trade secrets. In order to protect them Buyer may not decompile, reverse engineer, disassemble, or otherwise reduce the Software to a human-perceivable form. BUYER MAY NOT MODIFY, ADAPT, TRANSLATE, RENT, LEASE, LOAN, RESELL FOR PROFIT, DISTRIBUTE, NETWORK, OR CREATE DERIVATIVE WORKS BASED UPON THE SOFTWARE OR ANY PART THEREOF.

16.6. All Software is protected by the copyright laws of the United States and by applicable international treaties. No rights under copyrights are transferred to Buyer, except as specifically provided above.

16.7 All Software provided by Seller remains Seller's property. If Buyer receives Software that renders Software that Buyer then has redundant, Buyer must return the redundant Software to Seller or certify in writing that Buyer has erased all copies of it.

16.8 Software means a computer program or compilation of data that is fixed in any tangible medium of expression, or any storage medium from which the program may be perceived, reproduced or otherwise communicated, either directly or with the aid of a machine or device, and shall include without limitation any of Seller's proprietary operating Software, provided for the ordinary operation of the Equipment, any optional Software to enhance the operation of the Equipment, as well as any upgrades or revisions of this material the Seller provides in fulfillment of a specific written commitment or otherwise. Nothing herein shall be deemed to create an obligation on the part of Seller to provide any upgrade or revision to any Software other than pursuant to a written obligation to do.

17. GENERAL CLAUSES

17.1 Buyer may terminate the Agreement only upon paying Seller its termination charges determined in accordance with Seller's standard accounting practices upon submission of Seller's invoices therefore. Termination of the Agreement shall not

relieve either party of any obligation arising out of work performed prior to termination.

17.2 Seller may assign or novate its rights and obligations regarding the Parts and Services, in part or in whole, to one or more of its subsidiaries or affiliates without the consent of Buyer. Upon the effective date of such assignment or novation, all of the rights and obligations of Seller under these Terms and Conditions and the Agreement shall vest solely in Seller's assignees and novatees. However, Seller guarantees the performance of its assignees or novatees after the assignment or novation takes effect. Buyer agrees to execute such documents as may be necessary to effect the assignment or novation. The delegation or assignment by Buyer of any or all of its duties or rights under these Terms and Conditions or the Agreement without Seller's prior written consent shall be void. Buyer shall notify Seller immediately upon any change in its ownership or control. If Buyer fails to so notify Seller or if Seller objects to the change in ownership or control, Seller shall have the unilateral right to terminate the Agreement. In lieu of termination, Seller may require Buyer to provide adequate assurance of performance of the Agreement, and/or institute special controls, including but not limited to, special controls regarding the protection of the Confidential Information of Seller.

17.3 Except as provided in Section 8.7, these provisions are for the benefit of the parties hereto and not for any other third party.

17.4 These Terms and Conditions and the Agreement represent the entire agreement between the parties, and no modification,

amendment, rescission, waiver or other change shall be binding on either party unless assented to in writing by the parties authorized representatives. Any oral or written representation, warranty, course of dealing or trade usage not contained or referenced in the Agreement shall not be binding on either party. Each party agrees that it has not relied on, or been induced by, any representations of the other party not contained in these Terms and Conditions or the Agreement.

17.5 The invalidity, in whole or in part, of any of these Terms and Conditions or any provision of the Agreement shall not affect the validity of the remainder of these Terms and Conditions or any provision of the Agreement.

17.6 The following Articles and Sections shall survive termination or cancellation of, and completion of work under, any Agreement between Buyer and Seller regarding the Parts Article 2 (Taxes and Duties); Sections 5.3 and 5.5 of Article 5 (Compliance With Laws, Codes and Standards); Article 6 (Warranty), Article 7 (Patent Indemnification), Article 8 (Limitation of Liability), Article (Prohibition on Nuclear Use), Article 1(Dispute Resolution, Governing Law), Article 12 (Confidentiality), Article 17 (General Clauses), and Articles 18, 19 and 20 (Special Terms and Conditions for Nuclear Applications).

17.7 Nothing in these Terms and Conditions or the Agreement shall be construed to impose any overall system responsibility on Seller.

17.8 Any Part or Service provided

hereunder shall be considered a commercial item as defined in FAR PART 2, 2.101 Definitions and in accordance with FAR 52.244-6. If the reasonableness of the price cannot be established through the presence of adequate price competition or price elaboration, or if cost or pricing data should be required for any other reason, or if the Part or Service cannot be considered a commercial item, Seller reserves the right to withdraw the proposal or cancel the Agreement without penalty.

17.9 The specifications and standards explicitly cited in the statement of work, drawings, or elsewhere in the Agreement, are first tier specification and standards, and are applicable only to the extent specified in the Agreement. Second tier and lower documents referenced in those first tier documents are for guidance only, and are not contractually binding. Seller shall only comply with the specifications specifically included in the Agreement and shall have no obligation to comply with any additional specifications incorporated within those specifications or otherwise referenced.

17.10 Insurance

Comprehensive General Liability. The Seller shall furnish and maintain Comprehensive General Liability insurance with limits of not less than \$1,000,000 per occurrence for bodily injury or death, and \$1,000,000 per occurrence property damage plus Contractual Liability coverage.

Automobile Liability. The Seller shall furnish and maintain automobile liability insurance with limits of not less than \$1,000,00for each person, \$1,000,00for

each occurrence and \$1,000,000 for property damages.

Workers Compensation. The Seller will comply with all federal and state workers compensation or similar laws which might impose any charge or liability on the Buyer in connection with this Agreement.

Certificates of Insurance. Upon written request by the Buyer, the Seller shall furnish the Buyer with certificates of insurance evidencing that insurance has been provided to meet the above requirements.

Buyer shall be included as Additional Insured on Seller's Commercial General Liability policy with respect to Services performed by Seller under this Agreement but only to the extent of liability resulting from the negligent acts or omissions of Seller and only to the extent that the Seller is held liable for the negligence or other culpability of Seller and in accordance with the indemnity provisions specified in Section 7.4 of this Agreement. However, no coverage is provided for liability arising out of Buyer's own negligence.

17.11 As used in these Terms and Conditions:

Buyer's Equipment means Buyer's equipment on which the Services will be performed.

Contract Price means the price to be paid by Buyer to Seller under the Agreement for Parts and Services.

Owner shall mean that corporation, partnership, or individual which owns the facility in which the Parts will be installed or the Services performed.

Part(s) means all equipment, parts, materials, supplies, components, and other goods which Seller has contracted to supply to Buyer under the Agreement;

Technical Advisory Services or Field Engineering Services means technical advice and counsel from Technical Advisors or Field Engineers provided by Seller based on Seller's current engineering, manufacturing, installation and operation practices as applicable to the Buyer's Equipment. To the extent specified in the Seller's proposal, such services may also include testing, adjustment, programming and other similar services. Unless otherwise specified in the Seller's proposal or the Agreement, Technical Advisory Services/Field Engineering Services do not include supervision or management of Buyer's employees, agents, or other contractors.

Site Work Services meaning any combination of planning, management, Technical Advisory Services, labor, tools and incidental goods necessary to move, install, assemble, modify, repair, modernize, start-up and/or maintain the Buyer's Equipment at the Site.

Job Management, meaning any combination of planning scheduling, monitoring, selection of crews, as specified

in the Agreement but does not include responsibility for supervision of labor or for the quality or acts of craft labor.

Repair Facility means Seller's service shop where Repair Services will be performed.

Repair Services means service shop work performed in a service shop or at the Site, such as, but not limited to machining; welding; grinding; polishing; cleaning; inspection; disassembly or reassembly and machine tool work such as lathe work or vertical bore mill work.

Seller means the entity issuing the proposal and its successors and permitted assigns.

Services means the Primary Services, Repair Services and Supplementary Services specified in the proposal or the Agreement.

Site means the premises where the Buyer's Equipment is located.

Supplementary Services means: Engineering Study/Inspection/Test Services, meaning system design and/or analysis of equipment or systems by competent, experienced personnel using special techniques, instruments or devices with the objective of reporting opinions or recommendations related to the current condition and future serviceability of the equipment or system.

Such other services as the parties agree in writing will be performed as Buyer and Seller may mutually agree in the Agreement.

SPECIAL TERMS AND CONDITIONS FOR NUCLEAR APPLICATIONS

18. NUCLEAR PLANTS LOCATED IN THE U.S.

18.1 This Article 18 applies with respect to any nuclear power plant located in the U.S. for which nuclear use of Parts is permitted pursuant to Article (the Plant, as used in this Article).

18.2 Buyer will, without cost to Seller, obtain and maintain for the Plant until decommissioning of the Plant(i) an agreement of indemnification as contemplated by Section 17 of the Atomic Energy Act of 1954, as amended, (the Act) and applicable regulations thereunder, and (ii) nuclear liability insurance from American Nuclear Insurers in such form and in such amount as will meet the financial protection requirements of the NRC pursuant to Section 17 of the Act.

18.3 In the event that the nuclear liability protection system contemplated by Section 17 of the Act is repealed, is changed, or expires after the date of Seller's quotation or proposal, Buyer, without cost to Seller, will maintain in effect until the decommissioning of the Plant, to the extent available, liability protection through government indemnity, limitation of liability and/or liability insurance which will not result in a material impairment of the protection

afforded Seller by such nuclear liability protection system and this Article 18.

Seller shall not have any liability to Buyer or its insurers for nuclear damage to any property located at the Plant site. To the extent that Buyer recovers damages from a third party for nuclear damage to which the foregoing waiver applies, Buyer shall indemnify Seller against any liability for any damages which such third party recovers over from Seller for such nuclear damage. As used in this Article 18, liability means liability of any kind at any time whether in contract, warranty, indemnity, tort (including negligence), strict liability or otherwise; nuclear damage means any loss, damage, or loss of use, which in whole or in part is caused by, arises out of, results from, or is in any way related, directly or indirectly, to the hazardous properties of source, special nuclear or byproduct material, as those materials are defined in the Act; and site means the area identified as the location in either (i) the nuclear liability insurance policy or (ii) the governmental agreement of indemnity issued pursuant to the Act or (iii) both. This provision will not affect Seller's obligation under the warranty provisions.

19. NUCLEAR PLANTS LOCATED OUTSIDE THE U.S.

19.1 This Article 19 applies with respect to any nuclear power plant located outside the U.S. for which nuclear use of Parts is permitted pursuant to Article (the Plant, as used in this Article).

19.2 Buyer will, without cost to Seller, obtain and maintain for the Plant, until decommissioning of the Plant, government indemnities, insurance and/or other financial

protection against liability to third parties for nuclear damage (i) in amount and scope of coverage as required by the applicable laws, treaties, and regulations of the country in which the Plant is located, and (ii) under which no rights of recourse or subrogation against Seller are retained by the government, insurers, or other financial guarantors. Buyer will at all times be the responsible operator of the Plant as described in the applicable law and hereby waives all rights of recourse and subrogation which it may have or acquire against Seller with respect to liability for nuclear damage.

19.3 In the event that the nuclear liability protection system contemplated by the applicable law referred to in Section 19.2 above is repealed, is changed, or expires after the date of Seller's quotation or proposal, Buyer, without cost to Seller, will maintain in effect until the decommissioning of the Plant, to the extent available, liability protection through government indemnity, limitation of liability and/or liability insurance which will not result in a material impairment of the protection afforded Seller by such nuclear liability protection system and this Article 19.

19.4 Seller shall not have any liability to Buyer or its insurers for nuclear damage, and to the extent that Seller is not otherwise protected against liability for nuclear damage, Buyer shall indemnify, defend and hold Seller harmless against any such liability. As used in this Article 19, liability means liability of any kind at any time whether in contract, warranty, indemnity, tort (including negligence), strict liability or otherwise; nuclear damage means damage or loss of any kind, wherever it may occur, which in whole or in part is caused by, arises out of, results from, or is in any way related, directly or indirectly, to the radioactive

properties or a combination of radioactive properties with toxic, explosive or other hazardous properties of nuclear fuel or radioactive products or waste or with any of them, including without limitation any loss of life or personal injury (including to Buyer's employees), or any loss of, loss of use of, or damage to, property of Buyer or others, on or off the site, including the Plant itself; and site means the location of the Plant. This provision will not affect Seller's obligation under the warranty provisions.

20. ALL NUCLEAR PLANTS - DECONTAMINATION

Any decontamination necessary for Seller's performance (including remedial warranty efforts) shall be performed by Buyer without cost to Seller. Any of Seller's material or equipment which becomes contaminated (including becoming radioactive) at the work site shall, at Seller's option, be decontaminated or purchased.