



## **AGREEMENT**

This Agreement (as defined below) is entered into by and between CETENA and the CUSTOMER.

This Agreement supersedes and replaces all prior agreements, understandings or representations relating to the subject matter hereof.

In case of any conflict between the documents forming this Agreement, the following prevalence rules shall apply:

- (a) the Purchase Order and – if any - the Special Conditions;
- (b) the GT&C.

In no event the general conditions of the CUSTOMER will apply, even if attached to any document prepared following, or on the occasion of the performance of this Agreement.

This Agreement shall be duly signed by the Customer's authorized representative prior to any commencement of its performance, failing which, the Customer acknowledges that CETENA is entitled to postpone or cancel the start of said performance.

Articles and Paragraphs headings are inserted for ease of reference only and shall not affect construction or interpretation of the sentences.

Unless otherwise expressed, references to Articles and Paragraphs are to those appearing in these GT&C.

Words denoting one gender include all genders, words denoting individuals or persons include corporations and trusts and vice versa, words denoting the singular include the plural and vice versa, and words denoting the whole include a reference to any part thereof.

## GENERAL TERMS AND CONDITIONS

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## **DEFINITIONS**

The capitalized terms used in these General terms and Conditions shall have the meaning assigned to each of them herein below, or in the relevant section of these General terms and Conditions:

- “Affiliate”:** means any company controlling, controlled by or under common control of another company, pursuant to Section 2359 of ICC (as defined below).
- “Agreement”:** means, collectively, the Purchase Order (as defined below) together with these GT&C and – if any - the Special Conditions (as defined below), entered into by and between CETENA and the CUSTOMER.
- “Background rights”:** means all rights, including, but not limited to, all Intellectual Property Rights, in whatever manner or form transmitted, already owned by CETENA prior to the signing of the Agreement;
- “Business Day”:** means any day, other than Saturday or Sunday, on which banks are open for ordinary business in places where CETENA and the CUSTOMER have their respective registered offices.
- “CETENA”:** means Centro per gli Studi di Tecnica Navale – CETENA S.p.A., VAT code 00848700100, with registered office in Via Ippolito D’Aste 5 –16121 – Genova (Italy).
- “CETENA Distinctive Signs”:** means, collectively, all distinctive signs owned (licensed to or used by CETENA), including, but not limited to, trade names, logos, common law trademarks and service marks, trademark and service mark registrations and applications thereof throughout the world, web addresses, sites and domain names.
- “CETENA’s documentation”:** means the technical and informative documentation relating to the Products and/or Services;
- “CETENA Rights”:** has the meaning provided for in Paragraph of these GT&C – General Provisions - dedicated to IP rights.
- “CETENA’s Offer”:** means the document indicating CETENA’s scope of work, the relevant price, payment terms, warranties, and the Parties rights and obligations.
- “Competitor”:** means any competitor of CETENA, i.e. any third party directly or indirectly providing research, consultancy and/or marketing services in the naval and maritime field identical or similar to the services provided by CETENA.
- “Confidential Information”:** means any information (including, but not limited to, marketing, promotional and financial information), technical data, trade secrets or know-how of CETENA (whether disclosed before or after the date of this Agreement), including, but not limited to, information relating to business, products or service plans (including the Services), financial projections, patents, patent applications, computer object or source code, research, inventions, processes, designs, drawings, lists of suppliers and potential suppliers, lists of current and potential customers, working methods and strategies, regardless of whether such

information is designated in writing or otherwise to be confidential or proprietary.

Confidential Information does not include information, technical data or know-how which:

- a) is in the possession of the CUSTOMER at the time of disclosure (as shown by CUSTOMER's written files and records preceding the time of disclosure); or
- b) is developed independently by the CUSTOMER without use of any Confidential Information of CETENA, as evidenced by written documentation; or
- c) is or becomes part of the public knowledge or literature, not as a direct or indirect result of any CUSTOMER's improper action or inaction; or
- d) is subsequently disclosed to the CUSTOMER by a party having the legal right to make such disclosure; or
- e) is approved by CETENA, in writing, for release.

**"Control":** means the control exerted by a company on another company as provided for by Section 2359 of ICC.

**"CUSTOMER":** means the entity to which CETENA provides relevant goods or services according to the Agreement, as indicated in the Agreement.

**"CUSTOMER's Documentation":** means any information, data or document provided by the CUSTOMER to CETENA for the purposes of the performance of the Agreement;

**"Deliverable":** means, from time to time, the work product (if any) resulting from the performance of the Services by CETENA pursuant to the Agreement.

**"Delivery Date":** means the date on which the Products (as defined in the applicable section of these GT&C) have been delivered to the CUSTOMER.

**"Delivery Milestone":** means each of the separate delivery dates provided for in the Purchase Order.

**"Documentation":** means the technical and informative documentation regarding the Services or the Products, as the case may be.

**"Force Majeure":** means any cause affecting a Party's performance of its obligations arising from extraordinary, unexpected external and disastrous acts, events, omissions, happenings in each event beyond its control including war, military operations, governmental regulations, fire, earthquakes, volcanic activities, riots, revolution, sabotage, piracy, natural cataclysms, such as violent storms, cyclones, earthquakes, tidal waves, flooding, lightning, strikes at key suppliers facilities, epidemics and quarantine, boycotts, explosions, etc.

**"Foreground rights":** means all rights, including, without limitation, all Intellectual Property Rights, which are a development of, or a derivative of, (or otherwise associated with) the Background Rights, developed by CETENA in the performance of (or independently of) the Agreement (including, without limitation, any reworking, improvement, modification or other adaptation of the

Background Rights carried out for the purposes of the performance of the Agreement);

- “General Terms and Conditions” or “GT&C”:** means these General Terms and Conditions.
- “Hardware”:** means certain ready-made commercial-off-the-shelf (COTS) or industrial hardware
- “ICC”:** means the Italian Civil Code.
- “Initial Subscription Period”:** means the period from the Start Date to the expiry date specified in the Purchase Order.
- “Intellectual Property Rights”:** means any and all of the following and all rights in, arising out of, or associated therewith:
- (a) all patents (including national, European and international) as well as applications thereof and all reissues, divisions, divisional, renewals, extensions, provisional, continuations and continuations-in-part thereof, and all patents, applications, documents and filings claiming priority to or serving as a basis for priority thereof;
  - (b) all inventions (whether or not patentable), invention disclosures, improvements, trade secrets, proprietary information, know how, computer software programs (in both source code and object code form), technology, business methods, technical data and customer lists, tangible or intangible proprietary information, and all documentation relating to any of the foregoing;
  - (c) all copyrights, copyrights registrations and applications thereof, and all other rights corresponding thereto throughout the world;
  - (d) all industrial designs and any registrations and applications thereof throughout the world;
  - (e) all trade names, logos, common law trademarks and service marks, trademark and service mark registrations and applications thereof throughout the world;
  - (f) all databases and data collections and all rights therein throughout the world;
  - (g) all moral and economic rights of authors and inventors, however denominated, throughout the world;
  - (h) all Web addresses, sites and domain names and numbers; and
  - (i) any similar or equivalent rights to any of the foregoing anywhere in the world.
- “Legislative Decree No. 81/2008”:** means the Legislative Decree No. 81 of 9<sup>th</sup> April 2008, as amended and supplemented from time to time.
- “License”:** means a non-exclusive, non-transferable, non-sublicensable, limited licence to use the object code of the Software at the Site [within the Territory,] for the purposes indicated in the Purchase Order.

<b>“License Fee”:</b>	means the amount due by the CUSTOMER to CETENA as a consideration for the granting of the License, as specified in the Purchase Order.
<b>“Licensed Version of the Software”:</b>	means the version of the Software included in the License, as indicated in the Purchase Order.
<b>“New Versions of the Software”:</b>	means the versions of the Software (other than the point releases) implementing new features or substantial additional functionalities, that CETENA may release following to the Delivery Date.
<b>“Personal Data”:</b>	means, pursuant to Section 4, paragraph 1, of the UE Regulation No. 679/2016, any information relating to a physical person, which is directly or indirectly identified or identifiable by reference to any other information, including through a personal identification number.
<b>“Products”:</b>	means any product supplied by CETENA to the Customer in performance of the Agreement, with the express exclusion of any software included therein;
<b>“Purchase Order”:</b>	means CETENA’s offer signed by the CUSTOMER in full and unconditional acceptance or an official document by the Customer reflecting integrally the content of the CETENA Offer
<b>“Products IP Rights”:</b>	means the Intellectual Property Rights related to the Products;
<b>“Renewal Period”:</b>	means each subsequent 12 (twelve) month period (or such other period as the Parties may agree upon in writing) following the expiry of the Initial Subscription Period.
<b>“Services”:</b>	means any service provided by CETENA to the Customer in performance of the Agreement.
<b>“Service Fee”:</b>	means the amount due by the CUSTOMER to CETENA as consideration for the supply of the Services, as specified in the Purchase Order.
<b>“Services”:</b>	means the services, including any Deliverable, performed by CETENA as specified in the Purchase Order, as well as any additional service as agreed upon by the Parties;
<b>“Software” or “CETENA’s Software”:</b>	means CETENA’s software installed on the relevant Products and/or used for the supply of the relevant Services, including any software developed and/or the customizations of the software developed by CETENA in the context of its activities under the Agreement;
<b>“Start Date”:</b>	means the start date of the License.
<b>“Special Conditions”:</b>	means any variations, amendments and/or additions to these GT&C as agreed in writing by and between the Parties.
<b>“Testing Certificate”:</b>	means the document attesting the positive outcome of a testing process (if any).
<b>“Third Party Rights”:</b>	means all third-party rights, including but not limited to all Intellectual Property Rights;
<b>“Updates”:</b>	means, in respect of any version of the Software, any subsequent point release issued by CETENA to the



CUSTOMER for the purpose of improving the Software's performance or solving related technological issues.

**"Warranty Period":**

means a period of 24 (twenty-four) months from the Start Date in which CETENA shall provide the Warranty.

## **SECTION A**

### **GT&C FOR THE SUPPLY OF SERVICES**

#### **1 SCOPE OF WORK: SUPPLY OF SERVICES**

- 1.1 CETENA undertakes to provide to the CUSTOMER, which accepts, the Services as described in detail in the Purchase Order, against the payment of the Service Fee.
- 1.2 CETENA shall affect to the minimum extent possible the business operations of the CUSTOMER when performing its obligations hereunder.

#### **2 VARIATIONS TO THE SERVICES**

- 2.1 Each Party will be entitled to request to the other Party additional services and/or changes to the Services. The terms and conditions of any additional Services and/or any changes to the Services shall be agreed in writing in good faith, from time to time, between the project managers of the Parties.
- 2.2 Sections 1660 and 1661 of ICC (Italian Civil Code) will not apply.

#### **3 OBLIGATIONS OF CUSTOMER**

- 3.1 The CUSTOMER shall:
  - (a) provide CETENA with all the information and documents necessary for the performance of the Services, in the shortest possible time or otherwise within a period that allows compliance with the delivery schedule indicated in Purchase Order (if any);
  - (b) make available to CETENA's personnel a suitable work environment, compliant with all the applicable law regulations, and allow access to its premises in due time;
  - (c) define, together with CETENA, adequate methods for the protection and backup of the project data. In lack of the definition by the CUSTOMER of said data protection methods, CETENA shall independently implement appropriate procedures for the protection of the project data, in line with the IT security and privacy policies that the CUSTOMER shall notify to CETENA in due time (if any);
  - (d) notify, timely and without delay, as soon as reasonably practicable after it comes to the CUSTOMER's attention, any event that may adversely affect or delay the Services or the performance of any obligations under the Agreement;
  - (e) cooperate with CETENA in good faith to achieve satisfactory completion of the Services in a timely and professional manner.
- 3.1.1 In case of breach by the CUSTOMER of its obligations under this Section 3, CETENA will be entitled to evaluate the implications, to propose a review of the timetable and costs and possibly to suspend the supply of the Services until the relevant obligations are duly fulfilled by the CUSTOMER. In case of delays by the CUSTOMER of more than 30 (thirty) days from the applicable term, CETENA will be entitled to terminate the supply of the Service with immediate effect in accordance with Section 1456 of ICC, without prejudice to any other rights and remedies being available to CETENA pursuant to the Agreement and the applicable laws.

#### **4 RESTRICTIONS ON THE USE OF THE SERVICES**

The Customer shall not directly or indirectly (without CETENA's specific prior written consent):

- (a) modify, enhance, adapt, translate, make improvements to, create derivative works based upon, disassemble, decompile, circumvent any technological measure that controls access to, or reverse engineer any Service, Deliverables and portion thereof;
- (b) sell, rent, lease, loan, transfer, assign, distribute, or otherwise dispose of, any Services or Deliverable and any portions thereof;



- (c) use any Services or Deliverables in violation of applicable laws and regulations and/or regulatory requirements or in a manner inconsistent with any applicable Documentation;
- (d) take or permit any other action that could impair CETENA's rights or damage the image or reputation of quality inherent in the Services, CETENA's business, reputation, intellectual property, or other assets or rights.

## **5 OBLIGATIONS OF CETENA**

### **5.1 CETENA shall perform the Services:**

- (a) in compliance with the Agreement and the applicable provisions of law and regulations; and
- (b) in compliance with the reasonable instructions and indications given, from time to time, by the CUSTOMER, it being agreed that such instructions and indications shall relieve CETENA from its responsibilities and liabilities under this Agreement in case CETENA could not immediately assess, on the basis of reasonable professional care and diligence, the unsuitability of such instructions and indications for the intended purpose and results of the Agreement.

5.2 The Services shall be performed by CETENA through its own organization of means and resources, included eventually third-party services if needed.

## **6 SERVICE FEE**

6.1 The Service Fee due by the CUSTOMER is provided in the Purchase Order.

6.2 The Service Fee could be subject to adjustment on account of specifications, quantities, shipment arrangements or other terms and conditions which are not part of the original price quotation provided for in the Purchase Order. Prices are exclusive of all excise, sales, use, and other taxes (including without limitation custom duties, if applicable) imposed by any federal, state, municipal, or other governmental authority, all of which shall be paid by the CUSTOMER. The CUSTOMER is responsible for obtaining and providing to CETENA any certificate of exemption or similar document required to exempt from sales, use, or similar tax liability.

6.3 The relevant invoices shall be issued by CETENA, and settled by the CUSTOMER, according to the time schedule indicated in the Purchase Order.

6.4 In case of missing or partial payment, CETENA shall have the right to charge to the CUSTOMER the interest on the outstanding sums as per Legislative Decree dated 9 October 2002, No. 231 and subsequent amendments and modifications, without prejudice to its right to suspend the supply of the Services and/or terminate the Agreement, pursuant to Section 1456 of ICC.

6.5 Without prejudice to the provisions of Paragraph 6.4 above, in case the Purchase Order provides for a deferred payment of the Service Fees, the late payment of a single instalment shall trigger the forfeiture of the benefit of the term pursuant to, and for the purposes of, Section 1186 of ICC and, consequently, the entire outstanding amount of the Price will become immediately due by the CUSTOMER.

6.6 CETENA reserves the right at any time to require full or partial payment in advance, or to revoke any credit allowance previously granted, if CETENA in its reasonable judgment, believes there is a risk that the CUSTOMER will fail to make full payment when due based on the CUSTOMER's financial conditions or payment history.

6.7 The CUSTOMER shall indemnify CETENA against all expenses and legal costs incurred by CETENA in recovering overdue amounts. Any undisputed amounts owed by the CUSTOMER shall be paid without set-off against any amounts which the CUSTOMER may claim are owed by CETENA and regardless of any other controversies which may exist.

6.8 In case CETENA, for reasons outside its control (including, but not limited to, Force Majeure events), is able to deliver only part of the Services, the CUSTOMER shall pay to CETENA the Services delivered within the relevant Delivery Milestone (or in any event the Services actually delivered to date), at the price indicated in Purchase Order or otherwise documented by CETENA in writing.

6.9 Any expenses related to transfers of CETENA's personnel in connection with the supply of the Services are at the CUSTOMER's charge, unless otherwise agreed between the Parties.

## **7 TESTING**

7.1 The CUSTOMER shall have the right to participate to the testing operations of the Services and/or the Deliverables (if provided in the Purchase Order) without limitations, through its representatives.

7.2 In case of positive testing, the CUSTOMER's project manager will sign the Testing Certificate. The Parties agree that a Testing Certificate showing whatever remarks of the CUSTOMER's project manager will be equivalent to a negative outcome of the testing operations and shall be managed as per below Paragraph 7.3.

7.3 In case of negative testing, CETENA shall remedy to any incompliance of the Services at its own costs and in any event based on the timing due to be agreed between the Parties in writing.

## **8 WARRANTY AND DISCLAIMERS**

8.1 CETENA guarantees that the Services, including any Deliverable, will be provided in substantial compliance with the features and specifications agreed for the entire Warranty Period (the "**Warranty**").

8.2 SAVE AS EXPRESSLY PROVIDED FOR IN THE AGREEMENT, THE SERVICES, INCLUDING ANY DELIVERABLES, ARE PROVIDED ON AN "AS IS" BASIS IN ALL RESPECTS. THERE ARE NO WARRANTIES ASSOCIATED WITH ANY SERVICES AND/OR DELIVERABLES, AND ALL CONDITIONS, WARRANTIES, REPRESENTATIONS AND TERMS, EXPRESS OR IMPLIED (INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY OR SATISFACTORY QUALITY OR FITNESS OF THE SERVICES AND/OR DELIVERABLES FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT), ARE HEREBY EXPRESSLY DISCLAIMED AND EXCLUDED.

## **9 LIMITATIONS OF CETENA'S LIABILITY**

9.1 EXCEPT AS EXPRESSLY SET FORTH IN THE ABOVE SECTION, CETENA MAXIMUM AGGREGATE LIABILITY UNDER OR IN CONNECTION WITH THE AGREEMENT (INCLUDING WITHOUT LIMITATION ITS TERMINATION), WHETHER ARISING UNDER STATUTE OR ARISING IN OR FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, INDEMNITY, MISREPRESENTATION OR OTHERWISE, SHALL IN NO CIRCUMSTANCES EXCEED, IN RESPECT OF THE INITIAL PERIOD OR ANY RENEWAL PERIOD, 100% (ONE HUNDRED PER CENT) OF THE TOTAL SERVICE FEE PAID BY THE CUSTOMER IN THE RELEVANT INITIAL PERIOD OR ANY RENEWAL PERIOD.

9.2 EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, IN NO EVENT SHALL CETENA BE LIABLE UNDER OR IN CONNECTION WITH THE AGREEMENT FOR ANY LOSS OF REVENUE, LOSS OF ACTUAL OR ANTICIPATED PROFITS, LOSS OF CONTRACTS, LOSS OF THE USE OF MONEY, LOSS OF ANTICIPATED SAVINGS, LOSS OF BUSINESS, LOSS OF OPPORTUNITY, LOSS OF GOODWILL, LOSS OF REPUTATION, LOSS OF DAMAGE TO OR CORRUPTION OF DATA, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, RELIANCE, EXEMPLARY, PUNITIVE, OR OTHER SIMILAR LOSS OR DAMAGE OF ANY KIND, IN EACH CASE HOWSOEVER ARISING, WHETHER SUCH LOSS OR DAMAGE WAS FORESEEABLE OR IN THE CONTEMPLATION OF THE PARTIES OR UNFORESEEABLE, AND WHETHER ARISING UNDER STATUTE OR ARISING IN OR FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, INDEMNITY, MISREPRESENTATION OR OTHERWISE.

9.3 CETENA SHALL HAVE NO LIABILITY UNDER OR IN CONNECTION WITH THE AGREEMENT IN RESPECT OF ANY THIRD-PARTY PRODUCTS PROVIDED BY THE CUSTOMER FOR THE PURPOSES OF THE AGREEMENT AND ANY RIGHTS AND/OR REMEDIES OF THE CUSTOMER IN RESPECT OF SUCH NON-CETENA PRODUCTS SHALL BE EXERCISABLE BY THE CUSTOMER SOLELY AGAINST THE RELEVANT THIRD-PARTY.

9.4 THE CUSTOMER EXPRESSLY ACKNOWLEDGES AND ACCEPTS THAT THE OUTPUTS OF THE SERVICES, INCLUDING ANY DELIVERABLE, SHALL NOT, UNDER ANY CIRCUMSTANCES, BE USED AS



EQUIVALENT TO A LEGAL OR PROFESSIONAL ADVICE IN RESPECT OF ANY MATTER ON WHICH SUCH ADVICE IS, SHOULD OR COULD BE SOUGHT, NOR SHALL BE RELIED UPON FOR ANY OF THE ABOVE PURPOSES, WITHOUT PRIOR AUTHORIZATION BY CETENA.

- 9.5 NOTHING IN THIS SECTION OR OTHERWISE IN THE AGREEMENT SHALL EXCLUDE OR IN ANY WAY LIMIT CETENA LIABILITY FOR (I) FRAUD, (II) DEATH OR PERSONAL INJURY CAUSED BY ITS OWN NEGLIGENCE, (III) ANY STATUTORY OR OTHER LIABILITY TO THE EXTENT THE SAME MAY NOT BE LIMITED OR EXCLUDED AS A MATTER OF LAW.
- 9.6 THERE ARE NO CONDITIONS, WARRANTIES, REPRESENTATIONS OR TERMS THAT ARE BINDING ON CETENA EXCEPT AS SPECIFICALLY AND EXPRESSLY STATED IN THE AGREEMENT. ANY CONDITION, WARRANTY, REPRESENTATION OR TERM WHICH MIGHT OTHERWISE BE IMPLIED INTO OR INCORPORATED IN THE AGREEMENT OR ANY COLLATERAL CONTRACT, WHETHER BY STATUTE OR OTHERWISE, IS HEREBY EXPRESSLY EXCLUDED.

## **SECTION B**

### **GT&C FOR THE GRANT OF LICENCE**

#### **1 SCOPE OF WORK: GRANT OF LICENCE**

- 1.1 CETENA hereby grants to the CUSTOMER, that accepts, against the payment of the License Fee, a non-exclusive, non-transferable, non-sublicensable, limited licence (the “**License**”) to use the Software for the purposed, at the site (an within the territory ) indicated in the Purchase Order.
- 1.2 Without prejudice to the provision of the above Paragraph, the CUSTOMER shall make the Software available to the authorized user (or an additional user added as per Paragraph 1.3 below), subject to the execution by and between the CUSTOMER and the latter of a sub-license agreement related to the Software, providing for terms corresponding to these GT&C. A written copy of such sub-license agreement shall be promptly provided to CETENA upon request of the same.
- 1.3 The License is valid limitedly to the authorized users and the site indicated in the Purchase Order. Without prejudice to the above, CETENA, following to a CUSTOMER’s request, may add to the authorized users one or more additional authorized users (as CETENA may deem appropriate in its sole and autonomous judgement), subject to the payment by the CUSTOMER of an additional fee as per Paragraph 4.4 below.
- 1.4 No use of the Software and/or of the Documentation, other than those expressly provided in these GT&C, is permitted to the CUSTOMER and/or any third party.
- 1.5 By way of example, and with no limitation to the maximum extent allowed by the applicable law, the CUSTOMER, neither directly nor indirectly (e.g. through any Affiliate or other third party), shall:
  - (a) make copies of the Software and/or of the Documentation for any purpose or reasons. Without prejudice to this restriction, the CUSTOMER is entitled to make 1 (one) copy of the Software solely for back-up purposes. Said back-up copy of the Software shall include all the copyright/proprietary rights notice(s) embedded in and affixed to the Software;
  - (b) publish or transfer, in any form and through any means, the Software and/or the Documentation, or copies thereto, to any third parties;
  - (c) let the Software and/or the Documentation be used by any third parties;
  - (d) reverse engineer, decompile, disassemble or create derivative works of any kind of the Software and/or of the Documentation.
- 1.6 The License applies to the Licensed Version of the Software and the relevant Updates and does not extend to the New Versions of the Software. CETENA, in its sole discretion, may release to the CUSTOMER the New Versions of the Software subject to the terms and conditions due to be agreed between the Parties in due time.
- 1.7 The CUSTOMER shall inform its personnel (including self-employed personnel and agents) who may have access to the Software of the restrictions contained herein and shall ensure their compliance with these restrictions.

#### **2 INSTALLATION OF THE SOFTWARE**

- 2.1 Unless otherwise agreed between the Parties in writing, the installation of the Software (including the Licensed Version of the Software, the Updates and the New Versions of the Software, if any), as well as of all the relevant hardware and supporting software (so that minimum configuration requirements for installation of the Software are met) shall be made by CETENA.

#### **3 TRAINING**

- 3.1 CETENA may provide to the CUSTOMER certain training services related to the Software, via a range of methods including video calls, face to face meetings, workshops and remote sessions (collectively, the “**Training**”).

- 3.2 The CUSTOMER shall contact CETENA to arrange mutually agreeable methods, dates and times for the Training.
- 3.3 In case of Training based on workshops, the Parties may plan working groups coordinated by a tutor specialized on the Software and appointed by CETENA. CETENA and the CUSTOMER will jointly identify the tools necessary for a profitable performance of the Training activities.
- 3.4 The Training sessions may include operational demonstrations aimed at allowing a more immediate understanding of the Software's functionalities.
- 3.5 All information and documents provided by CETENA in the course of the Training shall be regarded as an integral and substantive part of the Confidential Information and all the results of Training services shall form the sole property of CETENA, as per Section dedicated to the Intellectual Property Rights below.
- 3.6 The CUSTOMER shall ensure that all the trainees designated by it are fully aware of the limitation provided for in Paragraph for the Intellectual Property rights. In any event, the CUSTOMER shall remain fully and directly liable towards CETENA for any breach of the above obligations by any of said authorized third parties.

#### **4 PAYMENT OF THE LICENSE FEE**

- 4.1 The License Fee due by the CUSTOMER is provided in the Purchase Order.
- 4.2 The relevant invoices shall be issued by CETENA (and shall be settled by the CUSTOMER) according to the time schedule indicated in the Purchase Order.
- 4.3 In case of missing or partial payment, CETENA shall have the right to charge the CUSTOMER with the interest on the outstanding sums as per Legislative Decree dated 9 October 2002, No. 231 and subsequent amendments and modifications, without prejudice to its right to terminate the Agreement.
- 4.4 For any additional authorized user the CUSTOMER will pay to CETENA the applicable fee, as indicated in the Purchase Order, pro-rated, for the remainder of the Initial Subscription Period or the then-current Renewal Period (as applicable), unless otherwise specified in the Purchase Order.
- 4.5 The fee due for each additional authorized user shall be invoiced to the CUSTOMER at the end of the month in which said Additional Authorized User has been included among the Authorized Users by CETENA.

#### **5 CHANGES IN THE FEES DUE FOR THE RENEWAL PERIOD**

- 5.1 In case CETENA wishes to modify the License Fee due for any Renewal Period, CETENA will deliver to the CUSTOMER a written notification specifying the proposed changes before the end of the Initial Subscription Period (or of the end of the current Renewal Period, as the case may be).
- 5.2 The proposed changes shall be determined in good faith by CETENA.
- 5.3 In lack of a written acceptance of the proposed changes by the CUSTOMER within the end of the Initial Subscription Period (or of the end of the current Renewal Period, as the case may be) CETENA will be entitled, at its sole decision, to keep the License in force at the then current License Fee for the whole duration of the following Renewal Period, without prejudice to its right to cancel the Agreement by written notice to the CUSTOMER.

#### **6 WARRANTY**

- 6.1 CETENA guarantees that the Software will operate in substantial compliance with the features and performance indicated in the Documentation for the entire Warranty Period (the "**Warranty**").
- 6.2 During the Warranty Period CETENA obligations shall be limited to the restoration of the Software to its normal operating conditions, as per above Paragraph 6.1.
- 6.3 EXCEPT FOR THE LIMITED WARRANTY PROVIDED FOR IN THIS SECTION, CETENA DOES NOT MAKE ANY WARRANTY, CONDITION OR OTHER COMMITMENT OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES, CONDITIONS OR OTHER COMMITMENT CONCERNING SYSTEM INTEGRATION, TITLE, NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR SATISFACTORY QUALITY OF THE SOFTWARE. THE CUSTOMER ACKNOWLEDGES THAT NO REPRESENTATIONS OTHER THAN THOSE CONTAINED IN THE AGREEMENT HAVE BEEN MADE WITH RESPECT TO THE SOFTWARE, AND THAT THE CUSTOMER

HAS NOT RELIED ON ANY REPRESENTATION NOT EXPRESSLY SET OUT IN THE AGREEMENT. WITHOUT LIMITING THE FOREGOING, CETENA DOES NOT WARRANT THAT THE SOFTWARE WILL MEET CUSTOMER'S REQUIREMENTS OR THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE. FURTHER, THE CUSTOMER ACKNOWLEDGES AND AGREES THAT CETENA HAS NO CONTROL OVER THE INTERNET, AND THAT CETENA IS NOT LIABLE FOR THE DISCONTINUANCE OF OPERATION OF ANY PORTION OF THE INTERNET OR POSSIBLE REGULATION OF THE INTERNET THAT MIGHT RESTRICT OR PROHIBIT THE OPERATION OF THE SOFTWARE. THE PROVISIONS OF THIS PARAGRAPH SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED UNDER THE APPLICABLE LAW.

- 6.4 The CUSTOMER acknowledges and agrees that the performance of the Software may vary with equipment and telecommunication links with which it is used. The CUSTOMER shall therefore be solely responsible for making the appropriate checks in respect of the systems/software solutions required to duly support the use of the Software.
- 6.5 Any hardware or physical support on which the Software is installed is exclusively subject to the warranties provided by the relevant manufacturers. CETENA does not provide any warranty, nor does undertake any maintenance obligations, in respect of such components.

## **7 LIMITATIONS OF CETENA's LIABILITY**

- 7.1 TO THE MAXIMUM EXTENT PERMITTED BY THE APPLICABLE LAW, THE ENTIRE LIABILITY OF CETENA, AND CUSTOMER SOLE AND EXCLUSIVE REMEDY UNDER THE AGREEMENT, SHALL BE LIMITED TO A MAXIMUM AMOUNT EQUAL TO THE AGGREGATE AMOUNT PAID BY THE CUSTOMER DURING THE 12 (TWELVE) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE RELEVANT CLAIM, WHETHER THE CLAIM IS IN CONTRACT, TORT, OR OTHERWISE. IN NO EVENT SHALL CETENA BE LIABLE FOR ANY INDIRECT DAMAGES, INCLUDING BUT NOT LIMITED TO SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, PERSONAL INJURY, LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION OR ANY OTHER PECUNIARY LOSS RELATING TO OR ARISING FROM CUSTOMER USE OF OR ACCESS TO THE SOFTWARE, EVEN IF CETENA HAD BEEN SPECIFICALLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE USE OF AND ACCESS TO THE SOFTWARE IS AT ITS OWN RISK.
- 7.2 In no event CETENA shall be liable towards the CUSTOMER or any third party for claims directly or indirectly resulting from:
- a) any unauthorized use of the Software;
  - b) CETENA compliance with designs, specifications, instructions, or technical information provided by the CUSTOMER or by third parties appointed by it;
  - c) changes made to the Software by the CUSTOMER, a third party or CETENA at direction of the CUSTOMER;
  - d) non-compliance by the CUSTOMER with the Software requirements set forth in Documentation;
  - e) failure by the CUSTOMER to implement a proper and adequate backup and recovery system;
  - f) failures of the Software due to the hardware, or other mediums, on which the Software is installed;
  - g) use by the CUSTOMER of the Software in combination with other products, software, or services.
- 7.3 The CUSTOMER shall indemnify and defend, at its sole costs and expenses, and hold CETENA and its Affiliates harmless from all actions, claims, damages, costs, expenses (including reasonable legal and experts' fees and costs) and losses whatsoever that CETENA or any of its Affiliates incur arising out of or in connection with any of the occurrences listed in the above Paragraph and, in any event, because of CUSTOMER unauthorized use, misuse, or infringement of the Software and the Documentation.
- 7.4 Nothing in this Agreement confers or may be purported to confer on any third party any benefit or any right to enforce any term of this Agreement.

7.5 None of the terms of this Agreement shall operate to exclude or restrict liability for fraud or for death or personal injury resulting from the negligence of CETENA, its Affiliates or the appointed agents or employees whilst acting in the course of their employment.

## **8 INFRINGEMENT CLAIMS**

8.1 The CUSTOMER shall promptly inform CETENA if it becomes aware of:

- a) any unauthorised use of the Software;
- b) any actual, threatened, or suspected infringement of any Intellectual Property Rights of CETENA, its Affiliates and/or their licensors (if any) in the Software and the Documentation; and
- c) any claim by any third party that any CETENA's Rights infringes the Intellectual Property Rights or other rights of any other person.

8.2 The CUSTOMER shall do all such things as may be reasonably required to assist CETENA in taking or resisting against proceedings in relation to any infringement or claim referred to in this Section and in maintaining the validity and enforceability of the CETENA's Rights. The CUSTOMER shall have the right to join the disputes at its own costs and expenses, in any event under the direction of CETENA.

8.3 In case a claim of infringement is made against CETENA or the CUSTOMER with respect to the Software, CETENA, for the purpose of settling such claim, may, at its option, substitute the Software with equivalent non-infringing software or modify the Software so that it no longer infringes but remains functionally equivalent.

8.4 In no event the CUSTOMER shall settle a third-party infringement claim without CETENA's prior written consent.

## **9 AUDIT**

9.1 Upon a 7 (seven) Business Day notice, CETENA shall have the right to inspect the site in which the Software is installed, for the purposes of checking the CUSTOMER's compliance with all the provisions of the Agreement. The CUSTOMER shall provide to CETENA all records and documents as may be reasonably requested by CETENA for the above purposes.

9.2 CETENA may have the above records and documents reviewed by an independent auditor autonomously appointed by CETENA. CETENA may only make an audit once per calendar year except where it has reasonable grounds to believe that the CUSTOMER has failed to comply with the Agreement.

9.3 If an audit reveals any breach of the Agreement by the CUSTOMER, the CUSTOMER, without limiting CETENA's rights, shall pay to CETENA all the damages suffered by the same, as a direct or indirect consequence of the above breach, including audit costs.

## **10 TERM**

10.1 The Agreement shall stay in force for the Initial Subscription Period.

10.2 Following to the expiration of the latter, it shall automatically renew for subsequent Renewal Periods, unless cancelled by either Party with a cancellation notice to be delivered at least 6 (six) months before then end of the Initial Period or a Renewal Period (as the case may be).

## SECTION C

### GT&C FOR THE SUPPLY OF PRODUCTS

#### **1 SCOPE OF WORK: SUPPLY OF THE PRODUCTS**

- 1.1 CETENA undertakes to provide to the CUSTOMER, which accepts, the Products, against the payment by the CUSTOMER of the Price.
- 1.2 As detailed in the Purchase Order, the Products may integrate:
- (a) certain ready-made commercial-off-the-shelf (COTS) hardware or industrial hardware (the “**Hardware**”);
  - (b) certain third-party developed software (the “**Third-Party Software**”); and
  - (c) the CETENA’s Software (together with the Third-Party Software, the “**Products’ Software**”).
- 1.3 Any Third-Party Software that may be included within or accompany the Product is licensed to the Customer under the terms and conditions of the Third-Party Software license agreements (if applicable). The Customer agrees to abide by these terms and undertakes sole responsibility for obtaining and complying with the necessary licenses. The Customer acknowledges and accepts that CETENA has no responsibility and makes no representations or warranties regarding such Third-Party Software; the Customer shall be responsible for contacting Third Parties for the purpose of obtaining information on products and/or services. The Customer acknowledges and agrees that such Third Parties reserve the right, without prior approval or notification to CETENA (or to the Customer), to make changes and to withdraw any content from their Third-Party Software.

#### **2 RESTRICTIONS ON THE USE OF THE PRODUCTS**

- 2.1 The Customer shall not directly or indirectly (without CETENA’s specific prior written consent):
- (a) modify, enhance, adapt, translate, make improvements to, create derivative works based upon, disassemble, circumvent any technological measure that controls access to, or reverse engineer the Products and any portion thereof;
  - (b) use the Products in violation of applicable laws and regulations and/or regulatory requirements or in a manner inconsistent with any applicable Documentation;
  - (c) take or permit any other action that could impair CETENA’s rights or damage the image or reputation of quality inherent in the Products, CETENA’s business, reputation, intellectual property, or other assets or rights.
- 2.2 The CUSTOMER shall use the Products solely for the purposes indicated in the Purchase Order and the Documentation. Such purposes, as a rule, do not include the use of the Products in systems of protection and/or support of human life, as well as the use in connection with nuclear material or in any other purpose where a malfunction of the Products may pose a health hazard, or cause physical damage or the loss of large and unusual amounts of money.
- 2.3 Any use or reselling by the CUSTOMER of the Products for one or more of the purposes mentioned in Paragraph 2.2 above, shall be at the CUSTOMER’s sole risk and liability.

#### **3 GRANT OF LICENSE ON THE SOFTWARE AND RELEVANT RESTRICTIONS**

- 3.1 CETENA hereby grants to the CUSTOMER, that accepts, against the payment of the Price:
- (a) a perpetual, non-exclusive, non-transferable, non-sublicensable, limited licence on the CETENA’s Software; and
  - (b) a non-exclusive, non-transferable, non-sublicensable, limited OEM (Original Equipment Manufacturer) license on the Third-Party Software;
- to use the Products’ Software, solely for the purposes of operating the Products according to their destined use and to the Agreement.
- 3.2 It is hereby agreed and understood that Products may include certain Third-Party Software not governed by OEM licenses. In reference to such Third-Party Software, that shall be indicated in the Documentation, the CUSTOMER shall abide by the license conditions applicable to the relevant Third-Party Software.



- 3.3 No use of the Products' Software and/or of the Documentation, other than those expressly provided in these GT&C and/or the relevant third-party general terms and conditions, is permitted to the CUSTOMER and/or any third party.
- 3.4 By way of example, and with no limitation, to the maximum extent allowed by the applicable law, the CUSTOMER, neither directly nor indirectly (e.g. through any Affiliate or other third party), shall:
- (a) make copies of the Products' Software and/or of the Documentation for any purpose or reasons. Without prejudice to this restriction, the CUSTOMER is entitled to make 1 (one) copy of the Products' Software solely for back-up purposes. Said back-up copy of the Products' Software shall include all the copyright/proprietary rights notice(s) embedded in and affixed to the Products' Software;
  - (b) publish or transfer, in any form and through any means, the Products' Software and/or the Documentation, or copies thereto, to any third parties;
  - (c) let the Products' Software and/or the Documentation be used by any third parties;
  - (d) reverse engineer, decompile, disassemble or create derivative works of any kind of the Products' Software and/or of the Documentation.
- 3.5 Without prejudice to the provisions of paragraph 3.2 above, the License applies to the Licensed Version of the Software and the relevant Updates and does not extend to the New Versions of the Products' Software. CETENA, in its sole discretion, may release to the CUSTOMER the New Versions of the Products' Software subject to the terms and conditions due to be agreed between the Parties in due time.
- 3.6 The CUSTOMER shall inform its personnel (including self-employed personnel and agents) who may have access to the Products' Software of the restrictions contained herein and shall ensure their compliance with these restrictions.

#### **4 TESTING**

- 4.1 The Parties may agree a factory acceptance test (and related testing protocols) of the Products, at CETENA's premises and/or a site acceptance test, at the CUSTOMER's premises; the tests shall be aimed at assessing that the Products comply with the specifications provided for in the Agreement.
- 4.2 If the CUSTOMER's representatives fail to take part to the testing agreed and do not ask to reschedule it, CETENA may autonomously perform the testing and, in case of a positive outcome of the latter according to CETENA's reasonable judgment, the relevant Products shall be deemed as tacitly accepted by the CUSTOMER.

#### **5 PRICE AND PAYMENT OF THE PRICE**

- 5.1 The Price due by the CUSTOMER is provided for in the Purchase Order.
- 5.2 The Price could be subject to adjustment on account of specifications, quantities, shipment arrangements or other terms and conditions which are not part of the original price quotation provided for in the Purchase Order. Prices are exclusive of all excise, sales, use, and other taxes (including without limitation custom duties, if applicable) imposed by any federal, state, municipal, or other governmental authority, all of which shall be paid by the CUSTOMER. The CUSTOMER is responsible for obtaining and providing to CETENA any certificate of exemption or similar document required to exempt from sales, use, or similar tax liability.
- 5.3 The relevant invoices shall be issued by CETENA according to the time schedule indicated in the Purchase Order and shall be settled by the CUSTOMER as indicated in Purchase Order.
- 5.4 In case of missing or partial payment, CETENA shall have the right to charge to the CUSTOMER the interest on the outstanding sums as per Legislative Decree dated 9 October 2002, No. 231 and subsequent amendments and modifications, without prejudice to its right to suspend the supply of the Product and/or terminate the Agreement, pursuant to Section 1456 of ICC.
- 5.5 Without prejudice to the provisions of Paragraph 5.4 above, in case the Purchase Order provides for a deferred payment of the Price, the late payment of a single instalment shall trigger the forfeiture of the benefit of the term pursuant to, and for the purposes of, Section 1186 of ICC and, consequently, the entire outstanding amount of the Price will become immediately due by the CUSTOMER.

- 5.6 CETENA reserves the right at any time to require full or partial payment in advance, or to revoke any credit allowance previously granted, if CETENA in its reasonable judgment, believes there is a risk that the CUSTOMER will fail to make full payment when due, based on the CUSTOMER's financial conditions or payment history.
- 5.7 The CUSTOMER shall indemnify CETENA against all expenses and legal costs incurred by CETENA in recovering overdue amounts. Any undisputed amounts owed by the CUSTOMER shall be paid without set-off against any amounts which the CUSTOMER may claim are owed by CETENA and regardless of any other controversies which may exist.
- 5.8 In case CETENA, for reasons outside its control (including, but not limited to, Force Majeure events), is able to deliver only part of the Products, the CUSTOMER shall pay to CETENA the Products delivered within the relevant Delivery Milestone (or in any event the Products actually delivered to date), at the price indicated in Purchase Order or otherwise documented by CETENA in writing.

## **6 RETENTION OF TITLE ON THE PRODUCTS**

- 6.1 Title to the Products will remain with CETENA until full payment with cleared funds of all the amounts due by the CUSTOMER to CETENA under the Agreement has been made. CETENA will be entitled to take all steps and actions that, under the provisions of applicable law, may be necessary in order to make such retention of title fully valid and enforceable vis-à-vis the CUSTOMER and/or any third party and the CUSTOMER, if so requested, shall provide CETENA with any reasonable cooperation for the purposes hereof.
- 6.2 Until title to the Products passes to the CUSTOMER, the same CUSTOMER shall (i) hold the Products on a fiduciary basis as CETENA's bailee, (ii) store the Products (at no costs for CETENA) so that they are easily identifiable as CETENA's property, (iii) not destroy or deface any identifying marks on the Products or their packaging, (iv) if so required by CETENA, execute and deliver an "all risks" insurance policy covering loss and/or damages to the Products for an amount not lower than their Price, naming CETENA as beneficiary of the relevant proceeds (the CUSTOMER shall be obliged to provide copy of such insurance policy to CETENA upon simple request of CETENA).
- 6.3 Until title to the Products passes to the CUSTOMER, the same CUSTOMER shall not use or otherwise dispose of the Products out of the ordinary course of its business, unless expressly authorized by CETENA in writing and subject to the terms and conditions set forth by the latter.

## **7 DELIVERY AND SHIPMENT OF THE PRODUCTS**

- 7.1 The CUSTOMER acknowledges and agrees that terms and conditions for Delivery and Shipment, will be as stated in Purchase Order.
- 7.2 CETENA will not be liable for any loss or damage resulting from any delay in delivery or failure to deliver which is due to any cause outside of CETENA's control. The CUSTOMER will be liable for all costs and expenses incurred by CETENA in holding or storing the Products for the CUSTOMER if delivery is delayed by the CUSTOMER or at the CUSTOMER's request.

## **8 WARRANTY**

- 8.1 CETENA guarantees that the CETENA's Software will operate in substantial compliance with the features and performance indicated in the Documentation for the entire Warranty Period (the "**Warranty**").
- 8.2 During the Warranty Period CETENA obligations shall be limited to the restoration of the CETENA Software to its normal operating conditions, as per Paragraph 8.1 above.
- 8.3 In respect of the Hardware and the Third-Party Software, as well as of any hardware or physical support on which the CETENA's Software is installed, the warranty provided for by the relevant manufacturers, as indicated in Purchase Order will be applied.
- 8.4 EXCEPT FOR THE LIMITED WARRANTY PROVIDED FOR IN THIS ARTICLE 8, CETENA DOES NOT MAKE ANY WARRANTY, CONDITION OR OTHER COMMITMENT OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES, CONDITIONS OR OTHER COMMITMENT CONCERNING SYSTEM INTEGRATION, DATA ACCURACY, TITLE, NON-INFRINGEMENT,

MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR SATISFACTORY QUALITY OF THE PRODUCTS. THE CUSTOMER ACKNOWLEDGES THAT NO REPRESENTATIONS OTHER THAN THOSE CONTAINED IN THE AGREEMENT HAVE BEEN MADE WITH RESPECT TO THE PRODUCTS, AND THAT THE CUSTOMER HAS NOT RELIED ON ANY REPRESENTATION NOT EXPRESSLY SET OUT IN THE AGREEMENT. WITHOUT LIMITING THE FOREGOING, CETENA DOES NOT WARRANT THAT THE PRODUCTS WILL MEET CUSTOMER'S REQUIREMENTS OR THAT THE OPERATION OF THE PRODUCTS WILL BE UNINTERRUPTED OR ERROR-FREE. FURTHER, THE CUSTOMER ACKNOWLEDGES AND AGREES THAT CETENA HAS NO CONTROL OVER THE INTERNET, AND THAT CETENA IS NOT LIABLE FOR THE DISCONTINUANCE OF OPERATION OF ANY PORTION OF THE INTERNET OR POSSIBLE REGULATION OF THE INTERNET THAT MIGHT RESTRICT OR PROHIBIT THE OPERATION OF THE PRODUCTS. THE PROVISIONS OF THIS PARAGRAPH SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED UNDER THE APPLICABLE LAW.

- 8.5 The CUSTOMER acknowledges and agrees that the performance and functioning of the Products may vary with equipment and telecommunication links with which they are used. Therefore, the CUSTOMER shall be solely responsible for making the appropriate checks in respect of the systems/software solutions required to duly support the use of the Products.
- 8.6 The CUSTOMER acknowledges and accepts that the outputs of the Products shall not, under any circumstances, be considered equivalent to a legal or professional advice in respect of any matter on which advice is, should or could be sought.

## **9 LIMITATIONS OF CETENA's LIABILITY**

- 9.1 TO THE MAXIMUM EXTENT PERMITTED BY THE APPLICABLE LAW, THE ENTIRE LIABILITY OF CETENA, AND CUSTOMER SOLE AND EXCLUSIVE REMEDY UNDER THE AGREEMENT, SHALL BE LIMITED TO THE PRICE ACTUALLY PAID BY THE CUSTOMER, WHETHER THE CLAIM IS IN CONTRACT, TORT, OR OTHERWISE. IN NO EVENT SHALL CETENA BE LIABLE FOR ANY INDIRECT DAMAGES, INCLUDING BUT NOT LIMITED TO SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, PERSONAL INJURY, LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION OR ANY OTHER PECUNIARY LOSS RELATING TO OR ARISING FROM CUSTOMER USE OF OR ACCESS TO THE PRODUCTS, EVEN IF CETENA HAD BEEN SPECIFICALLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE USE OF AND ACCESS TO THE PRODUCTS IS AT ITS OWN RISK.
- 9.2 In no event CETENA shall be liable towards the CUSTOMER or any third party for claims directly or indirectly resulting from:
- (a) any unauthorized use of the Products;
  - (b) CETENA compliance with designs, specifications, instructions, or technical information provided by the CUSTOMER or by third parties appointed by it;
  - (c) changes made to the Products by the CUSTOMER, a third party or CETENA at direction of the CUSTOMER;
  - (d) non-compliance by the CUSTOMER with the Products requirements set forth in Documentation;
  - (e) failure by the CUSTOMER to implement a proper and adequate backup and recovery system;
  - (f) failures of the Products' Software due to the Hardware, or other mediums, on which the Products' Software is installed;
  - (g) use by the CUSTOMER of the Products in combination with other products, software, or services.
- 9.3 The CUSTOMER shall indemnify and defend, at its sole costs and expenses, and hold CETENA, its Affiliates and any manufacturer or developer of the Products harmless from all actions, claims, damages, costs, expenses (including reasonable legal and experts' fees and costs) and losses whatsoever that CETENA or any of its Affiliates or any manufacturer or developer of the Products may incur and arising out of or in

connection with any of the occurrences listed in the above Paragraph and, in any event, because of CUSTOMER unauthorized use, misuse, or infringement of the Products and/or the Documentation.

- 9.4 None of the terms of this Agreement shall operate to exclude or restrict liability for fraud or for death or personal injury resulting from the negligence of CETENA, its Affiliates or the appointed agents or employees whilst acting in the course of their employment.

## **10 INFRINGEMENT CLAIMS**

- 10.1 The CUSTOMER shall promptly inform CETENA if it becomes aware of:
- (a) any unauthorised use of the Products;
  - (b) any actual, threatened, or suspected infringement of any Intellectual Property Rights of CETENA, its Affiliates (and/or their third-party manufacturers of the Hardware and the Third-Party Software) in the Products and the Documentation; and
  - (c) any claim by any third party coming to its notice that any Products IP Rights infringe the Intellectual Property Rights or other rights of any other person.
- 10.2 The CUSTOMER shall do all such things as may be reasonably required to assist CETENA in taking or resisting against proceedings in relation to any infringement or claim referred to in this Article and in maintaining the validity and enforceability of the Products IP Rights. The CUSTOMER shall have the right to join the disputes at its own costs and expenses, in any event under the direction of CETENA.
- 10.3 In case a claim of infringement is made against CETENA or the CUSTOMER with respect to the Products, CETENA, for the purpose of settling such claim, may, at its option, substitute the Products with equivalent non-infringing goods or modify the Products so that they no longer infringe but remain functionally equivalent.
- 10.4 In no event the CUSTOMER shall settle a third-party infringement claim without CETENA's prior written consent.

## **11 SPECIFICATIONS**

- 11.1 Unless otherwise expressly agreed upon in writing by the Parties, CETENA reserves the right to make substitutions and modifications in the specifications of any Products provided that such substitutions or modifications do not materially affect the performance of the Products.
- 11.2 At CETENA's discretion, reconditioned components can be used in the manufacture of the Products, provided that any such reconditioned components shall in all respects be functionally equivalent to new components.

## **12 MAINTENANCE SERVICES**

- 12.1 CETENA shall provide to the CUSTOMER, in respect of the Products, the maintenance services as indicated in the Purchase Order.
- 12.2 The supply by CETENA of said maintenance services shall be governed by the CETENA's GT&C for the supply of services as attached to the Purchase Order.
- 12.3 In case of assignment by CUSTOMER of the above maintenance services to any third party, the Warranty will automatically expire.

## SECTION D

### GT&C FOR MAINTENANCE SERVICES

#### **1 SCOPE OF WORK: MAINTENANCE SERVICES**

- 1.1 This document describes the scope of supply of the “**maintenance services**” that CETENA will supply to the CUSTOMER and the relevant methods of supply.
- 1.2 CETENA shall supply to the CUSTOMER, in respect of the Products, one or more of the following Services, as provided for in the Purchase Order:

**a) corrective maintenance:**

The corrective maintenance Service is aimed at solving the relevant issues, preserving and/or restoring, in the shortest possible time, the functionalities of the Products as provided for in the Agreement, minimizing the impact on the CUSTOMER and/or the end user (if any).

**b) evolutive maintenance:**

The evolutive maintenance Service is aimed at introducing new functionalities in or modifying the Products in respect of the relevant features provided for in the Agreement (e.g. for the purposes of adapting the Products to new requirements indicated by the CUSTOMER) as well as at preventing the vulnerabilities of the Products (if any).

**c) information service:**

This Service consists in the delivery to the CUSTOMER of the information requested by the same with respect to the Products, their features and functioning.

**d) supply of documentation**

CETENA will provide to the CUSTOMER and/or the end user (if any) the documentation (e.g. manuals, operating procedures) that, in CETENA's reasonable judgment, is necessary to support the use of the Products according to the Agreement.

#### **2 CONDITIONS PRECEDENT TO THE SUPPLY OF THE SERVICES BY CETENA**

- 2.1 The Parties hereby acknowledge and agree that CETENA will not be able to provide the Services unless and until the CUSTOMER has made available to CETENA an Internet connection, meeting the requirements indicated in Purchase Order and/or has made available to CETENA the spaces necessary for the correct provision of the Services, should it be necessary to have a physical presence of CETENA's personnel at the premises of the CUSTOMER and/or the End User.
- 2.2 The CUSTOMER acknowledges that the non-fulfillment of the above obligations may delay the Services and entail a review of any applicable timescale and costs.

#### **3 AVAILABILITY HOURS AND LANGUAGES**

- 3.1 Unless otherwise indicated in the Purchase Order, the Services will be made available by CETENA to the CUSTOMER from Monday to Friday, from 9:00 to 17:00, with the exception of the holidays observed at CETENA's headquarters.
- 3.2 The Services will be delivered in Italian and English language.

## **SECTION E**

### **GT&C: GENERAL PROVISIONS**

#### **1 CETENA WITHDRAWAL RIGHT**

- 1.1 CETENA may withdraw from the Agreement, at any time and at its sole discretion, by giving a 3 (three)-month prior written notice to the CUSTOMER. The above-mentioned withdrawal shall be notified to the CUSTOMER by (i) registered letter, return receipt requested, or (ii) certified e-mail, to the addresses indicated by the CUSTOMER.
- 1.2 In case of withdrawal, CETENA shall be entitled to the Service Fee to be paid by the CUSTOMER up to the effective date of the withdrawal.

#### **2 SINGLE RISK ASSESSMENT DOCUMENT (“DUVRI”)**

- 2.1 Pursuant to the derogation provided for by Section 26, paragraph 3-bis, of Legislative Decree No. 81/2008 the preparation of the DUVRI pursuant to Section 26, paragraph 3 of Legislative Decree No. 81/2008 shall be omitted in case the Services to be performed at the CUSTOMER's facilities have a duration not exceeding 5 (five) days or consist in activities of intellectual nature. In such a case, there will be no specific costs relating to the measures adopted in order to avoid or reduce the risks in matter of health and security on the workplace deriving from working interferences as provided for by Section 26, paragraph 5 of Legislative Decree No. 81/2008.
- 2.2 In the event that the derogation provided for by Section 26, paragraph 3-bis, of Legislative Decree No. 81/2008 is not applicable, the CUSTOMER shall (i) prepare the DUVRI pursuant to Section 26, paragraph 3 of Legislative Decree No. 81/2008, which shall then be attached hereto by means of an appropriate written addendum and (ii) indicate in the relevant DUVRI the specific costs relating to the measures adopted in order to avoid or reduce the risks in matter of health and security on the workplace deriving from working interferences as provided for by Section 26, paragraph 5 of Legislative Decree No. 81/2008.

#### **3 INTELLECTUAL PROPERTY RIGHTS**

- 3.1 The CUSTOMER acknowledges and accepts that CETENA, in the performance of the Agreement, may (at its own discretion) make use of its Background Rights and may develop Foreground Rights (the Foreground Rights and the Background Rights, collectively, “**CETENA's Rights**”). The CUSTOMER acknowledges and accepts CETENA's exclusive ownership of the aforementioned CETENA's Rights and hereby waives the right to exercise or claim any right (including, without limitation, any Intellectual Property Rights and/or any right of license or use of any kind or nature whatsoever) without CETENA's express written consent.
- 3.2 The CUSTOMER will retain ownership of the CUSTOMER's Documentation. Without prejudice to the foregoing, the Customer grants CETENA a free, irrevocable, transferable, sublicensable and worldwide license to use the CUSTOMER's Documentation for the purposes of the performance of the Agreement. CETENA may use the above documents in any way and by any means CETENA deems necessary or appropriate, subject to applicable law (including data protection) and taking into account the requests of the CUSTOMER, which shall not be unreasonably withheld by CETENA.
- 3.3 The Customer represents and warrants to CETENA that the CUSTOMER's Documentation does not include, form the subject matter of or infringe any Third-Party Rights or, alternatively, that the Customer has obtained from the rightful owners of such rights all necessary authorization to grant CETENA the full and legitimate availability of all rights of use under this Agreement.
- 3.4 The CUSTOMER undertakes to keep CETENA totally indemnified and unharmed in the event of claims of any kind and nature, by anyone and at any time, related to CETENA's use of the CUSTOMER's Documentation, including, but not limited to, claims relating to the violation of the rights of Third-Party Rights.
- 3.5 Upon full and timely performance by the CUSTOMER of all its obligations under the Agreement (including, without limitation, full and timely payment of the agreed consideration) CETENA grants the CUSTOMER title

to CETENA's Products and Documentation (without prejudice to the Third-Party Rights that may be included therein), under the terms and conditions specified below:

- (a) CUSTOMER hereby grants CETENA an irrevocable, transferable, sublicensable, worldwide license to use the CETENA's Documentation in any manner CETENA deems appropriate, including the right to create derivative works (without prejudice to any CUSTOMER's Confidential Information). The CUSTOMER acknowledges and accepts CETENA's full ownership of all rights (including, but not limited to, Intellectual Property Rights) in the work created in the course of and as a result of the above activities, and hereby waives all rights and claims in respect thereof, including in respect of any profits CETENA may receive from the commercial exploitation of such work; and
- (b) CETENA grants to Customer, to the extent that CETENA's Products or Documentation include CETENA's Rights or Third-Party Rights, a non-exclusive, non-transferable, non-assignable, non-sublicensable license to use such CETENA's Rights or Third-Party Rights for the sole purpose of enabling CUSTOMER to use CETENA's Products and Documentation in accordance with the terms and conditions of the Agreement. Any Third-Party Rights license granted by CETENA to Customer shall be valid to the same extent and subject to the same terms and conditions as the license granted to CETENA by the relevant Third-Party Rights holders from time to time.

- 3.6 The Parties mutually acknowledge that the licences thus granted shall be remunerated by the reciprocal services performed by the Parties in execution of the Agreement.
- 3.7 CETENA shall have the right to develop, market and offer directly or indirectly, for its own use or for the use of third parties, products, services and/or documentation of any kind or nature, similar and/or having the same characteristics as those developed for the CUSTOMER, subject in any case to compliance with the Confidential Information supplied by the CUSTOMER.
- 3.8 The provisions of this article 3 constitute the integral manifestation of the agreements concluded between the Parties concerning the rights relating to the activities commissioned to CETENA under the Agreement and therefore, this article cancels and replaces any previous understanding and/or agreement between the Parties relating to the same subject matter.
- 3.9 In the event of any discrepancy between the provisions of this Section 3 and the provisions of other parts of the GT&C, the provisions of this Section 3 shall prevail unless otherwise agreed in writing between the CUSTOMER and CETENA.

#### **4 INFRINGEMENT CLAIMS**

- 4.1 The CUSTOMER shall promptly inform CETENA if it becomes aware of:
  - (a) any actual, threatened, or suspected infringement of any Intellectual Property Rights of CETENA, its Affiliates and/or their licensors (if any) in the Services, the Documentation and the Deliverables; and
  - (b) any claim by any third party coming to its notice that any CETENA's Rights infringe the Intellectual Property Rights or other rights of any other person.
- 4.2 The CUSTOMER shall do all such things as may be reasonably required to assist CETENA in taking or resisting against proceedings in relation to any infringement or claim referred to in this Section and in maintaining the validity and enforceability of the CETENA's Rights. The CUSTOMER shall have the right to join the disputes at its own costs and expenses, in any event under the direction of CETENA.
- 4.3 In case a claim of infringement is made against CETENA or the CUSTOMER with respect to any Service or Documentation, CETENA, for the purpose of settling such claim, may, at its option, substitute a Service (or Deliverable) with equivalent non-infringing Service (or Deliverable) or modify the Service (or Deliverable) so that it no longer infringes but remains functionally equivalent.
- 4.4 In no event the CUSTOMER shall settle a third-party infringement claim without CETENA's prior written consent.

#### **5 CONFIDENTIAL INFORMATION**

- 5.1 The CUSTOMER agrees to use the Confidential Information exclusively for the purpose of performing the Agreement, and not for any other purpose.

- 5.2 The CUSTOMER shall not disclose, nor permit the disclosure of, any Confidential Information to any third party, other than its personnel (including self-employed personnel and agents) who have a documentable need to access such information in connection with the performance of the Agreement (and subject to the execution by said personnel of a non-disclosure agreement providing, with respect to the Confidential Information, for terms substantially comparable to those set forth in these GT&C).
- 5.3 The CUSTOMER shall take all reasonable measures to protect the secrecy of any Confidential Information in order to prevent it from falling into the public domain or the possession of other persons. Such measures shall include the highest degree of care that the CUSTOMER utilizes to protect its own confidential information of similar nature, which shall be no less than reasonable care.
- 5.4 Without prejudice to what stated at Paragraph 1.4, upon written request by CETENA, and in any event following the expiration or termination of the Agreement, for whatever reason occurred, the CUSTOMER shall promptly and in no event later than 2 (two) weeks thereafter:
- (a) return to CETENA (and procure the return to CETENA), from all persons and entities, if any, to whom a disclosure has been made, of all documents supplied by CETENA containing the Confidential Information and all copies of those documents. For the above purposes the term "documents" includes, among others, computer discs and all other materials capable of storing data and information; and/or
  - (b) permanently delete or destroy (and procure the deletion and destruction by all persons and entities, if any, to whom a disclosure has been made) all embodiments of the Confidential Information or any part thereof from all electronic means of storage.

## **6 FORCE MAJEURE**

- 6.1 In no event a Party will be liable towards the other Party for any delay or failure in performing its obligations under the Agreement due to a Force Majeure event.
- 6.2 The Party experiencing the Force Majeure event shall notify the other Party of the relevant event, first verbally and without delay, then by registered letter return receipt requested, or by another equivalent means, specifying the start date, the nature of the impediments, the probable duration and foreseeable effects of the relevant event on the obligations and shall try to remove such impediments as far as possible.
- 6.3 If the provision of the Services affected by the Force Majeure Event may be restored through the adoption of particular technical measures, CETENA shall notify the CUSTOMER of any relevant costs and expenses other than those defined hereunder; the terms and conditions of any additional Services and/or any changes to the Services shall be agreed in writing in good faith between the Parties.
- 6.4 It is understood that each Party shall continue to perform its obligations hereunder which are not prevented or limited by the Force Majeure Event.

## **7 NO ASSIGNMENT AND SUBCONTRACTING**

- 7.1 In no event the CUSTOMER shall assign, novate or transfer any or all of its rights or obligations under the Agreement without CETENA's prior written consent.
- 7.2 CETENA may, upon written notice to the CUSTOMER, assign or transfer this Agreement or any rights and obligations hereunder either to an Affiliate or to a third-party successor to all or substantially all of its business or assets.
- 7.3 CETENA will be entitled to subcontract the Services or any part thereof to third parties. In case of subcontracting, CETENA will remain liable, within the limitations set forth in the Agreement, for any actions or omissions of its subcontractors.

## **8 PUBLICITY**

- 8.1 Each Party shall not publicize or disclose any specific term of this Agreement to any third party without the prior written consent of the other Party, except as required by the law.
- 8.2 As an exception to above Paragraph, CETENA will be entitled to disclose the existence of this Agreement for the purpose of selling and marketing its products and services to its customers and prospects.



## **9 INDEPENDENCE OF THE PARTIES**

- 9.1 CETENA and the CUSTOMER are fully independent parties and shall carry out the respective activities as provided for in the Agreement in complete autonomy, without any reciprocal subordination, and in no event the Agreement will give rise to an association, company, consortium, common organization or agency relationship between the Parties.
- 9.2 No Party shall have the power to bind the other Party or to assume obligations on behalf of the latter without the prior written consent of such Party.
- 9.3 In any case, the Parties shall operate in the spirit of collaboration and in compliance with any applicable law or regulation and in any case in compliance with the highest ethical standards.

## **10 NO HIRING OF CETENA'S PERSONNEL**

For the entire duration of the Agreement and for 12 (twelve) months following its expiration or termination, for whatever reason occurred, the CUSTOMER shall not hire (nor have any relationship for scopes outside the due and timely performance of the Agreement with) CETENA's personnel who have been engaged in any activity related to the Agreement.

## **11 EXPORT LAWS, CUSTOM DUTIES AND REGULATIONS**

- 11.1 The Parties expressly agree that:
- (a) the CUSTOMER shall be responsible for compliance with the applicable laws and regulations regarding export control and economic sanctions programs, as well as custom duties and regulations, that may be relevant in respect of the Agreement;
  - (b) no Party shall in any way be required or entitled, pursuant to the Agreement, to provide directly or indirectly goods, software, results, deliverables, outputs, services and / or technical data that may be prohibited by the rules on the export controls or economic sanctions programs applicable to the Agreement.
  - (c) in case the Products are subject to dual use Regulations, as per Law No. 185/1990 or equivalent EU provisions, the Parties shall duly cooperate in obtaining all necessary export licenses, it being agreed and understood that all import licenses (if required) shall be obtained by the CUSTOMER.

## **12 GOVERNING LAW AND JURISDICTION**

- 12.1 The Agreement is governed by the laws of Italy, with exclusion of its conflict of laws principles (in particular the Vienna Convention on the International Sale of Goods dated April 11, 1980 shall not apply, where relevant).
- 12.2 If a dispute arises between the Parties connected in any manner with this Agreement (including disputes relating to its interpretation, validity, performance and termination), the Parties shall co-operate in good faith to resolve the dispute as amicably as possible within 10 (ten) days of the dispute being notified by one Party to the other. If the Parties failed to resolve the dispute in the allotted time, the relevant Party will be entitled to pursue its rights at law pursuant to the below Paragraph. The information exchanged by the Parties in connection with the procedure hereunder shall be deemed Confidential Information and shall not be disclosed or used for other purposes or constitute acknowledgment of, or waiver of rights. The Parties shall keep performing their respective obligations under this Agreement during the above-mentioned procedure.
- 12.3 Without prejudice to the above, any disputes between the Parties arising out of, or in connection with, this Agreement shall be subject to the exclusive competence of the Courts of Genova (Italy).

## **13 PRIVACY**

- 13.1 With reference to the Personal Data, as processed in the context of the execution and performance of the Agreement, the Parties undertake to treat such Personal data in compliance with the current legislation on privacy.
- 13.2 In particular, the Parties acknowledge that each of them assumes the status of independent "data controller" for the purposes and effect of existing privacy laws and to this end undertakes to: (i) limit the processing of

Personal Data to the sole purpose of implementing the Agreement; (ii) make such Personal Data accessible, for the aforementioned purposes, to the employees and collaborators of the other Party, authorized for this purpose; (iii) keep the Personal Data in compliance with the principles of proportionality and necessity, and in any case until the purpose of the processing has been pursued; and (iv) implement all the necessary measures, as required by the European Regulation No. 679/2016 (the "GDPR") and any other legislation as applicable from time to time.

#### **14 ANTI-CORRUPTION COMPLIANCE**

- 14.1 The Parties declare to have adopted and to implement their own model of organization, management and control and a code of ethics consistent with the principles established by Legislative Decree of 8 June 2001 No. 231 and are obliged, each for their own, to comply with the principles and procedures set forth therein.
- 14.2 The Parties shall maintain and enforce adherence to lawful business practice and shall act in good faith and transparency.
- 14.3 The Parties agree that they will not, in connection with this Agreement, either directly or indirectly, make any payment, transfer anything of value, offer, promise or give a financial or other advantage or request, agree to receive or accept a financial or other advantage from, in each case: (a) any government official or employee (including employees of a government corporation or public international organization); (b) any political party or candidate for public office or (c) any other person or entity with an intent to obtain or retain business or otherwise gain an improper business advantage.
- 14.4 In case of violation of the obligations set forth in this Section by one of the Parties, the other will have the right, at any time and upon written notice, to terminate the Agreement pursuant to Section 1456 of ICC and request the compensation for all damages resulting from such non-performance.

#### **15 TERMINATION**

- 15.1 Without prejudice to any other rights and remedies being available to CETENA under this Agreement and the applicable laws, CETENA will be entitled to terminate this Agreement with immediate effect according to Section 1456 of ICC in case of breach by the CUSTOMER of any of its obligations under the following Articles of these GT&C:
- (a) SECTION A (GT&C FOR THE SUPPLY OF SERVICES): 1 (SCOPE of WoRK: SUPPLY OF SERVICES); 3 (OBLIGATIONS OF CUSTOMER); 6 (SERVICE FEE);
  - (b) SECTION B (GT&C FOR THE GRANT OF LICENSE): 1 (SCOPE OF WORK: GRANT of LICENCE); 4 (PAYMENT OF THE LICENSE FEE);
  - (c) SECTION C (GT&C FOR THE SUPPLY OF PRODUCTS): 1 (SCOPE OF WORK: SUPPLY of the PRODUCTS); 3 (GRANT OF LICENSE ON THE SOFTWARE AND RELEVANT RESTRICTIONS); 5 (PRICE AND PAYMENT OF THE PRICE); 6 (RETENTION OF TITLE ON THE PRODUCTS);
  - (d) SECTION E (GT&C: GENERAL PROVISIONS): 2 (SINGLE RISK ASSESSMENT DOCUMENT ("DUVRI")); 3 (INTELLECTUAL PROPERTY RIGHTS); 5 (CONFIDENTIAL INFORMATION); 7 (NO ASSIGNMENT AND SUBCONTRACTING); 10 (NO HIRING OF CETENA'S PERSONNEL); 14 (ANTI-CORRUPTION COMPLIANCE).
- 15.2 CETENA will also be entitled to terminate the Agreement with immediate effect if a Competitor takes the Control of the CUSTOMER.
- 15.3 Either Party will be entitled to terminate the Agreement:
- (a) pursuant to Section 1454 of ICC if the other Party is in default or breaches any of the terms and conditions of the Agreement and fails to cure such default or breach within 30 (thirty) days from receipt of the written notice thereof submitted by the other Party;
  - (b) if the other Party becomes insolvent or enters into liquidation or any arrangement or composition with or assignment for the benefit of its creditors.
- 15.4 Upon termination of the Agreement, for whatever reason occurred:



- (a) CETENA shall return to the CUSTOMER all amounts paid under the Agreement prior to such termination, exception made for the amounts covering all the documented expenses borne by CETENA up to the termination date;
- (b) the CUSTOMER shall promptly return the Products to CETENA at CUSTOMER's sole costs and expenses. Failing the CUSTOMER to return the Products to CETENA, CETENA or its successors or assignees, and their respective employees and/or agents, will be authorized to enter the CUSTOMER's premises (with or without vehicles) during normal business hours to remove the Products and/or sell or otherwise dispose of the Products. It is agreed and understood that any costs and expenses of the activities hereunder shall be borne by the CUSTOMER.

**16 NOTICES AND COMMUNICATIONS**

If a Party is required or permitted under the Agreement to deliver or submit a written notice to the other Party, such delivery shall be made only by personal delivery, nationally recognized overnight courier, or certified mail, postage prepaid, return receipt requested (in all cases, effective upon receipt), and addressed to the other Party as set forth by the Parties.

**17 MISCELLANEA CLAUSES**

- 17.1 The Agreement represents the entire agreement between the Parties with reference to its subject matter and replaces all the previous engagements, agreements, promises, proposals, representations, obligations, letters of intents, correspondence, communications from and/or between the Parties, both oral and written, which may be in any way related to the subject matter of the Agreement. Any amendments to this Agreement, waiver or disclaimer of liability shall be, under penalty of being null and void, expressed in writing and make specific reference to this Agreement.
- 17.2 The invalidity or ineffectiveness of any provision of this Agreement shall not entail in any event the invalidity or ineffectiveness of the entire Agreement. However, the Parties agree as of now that they will negotiate in good faith for the purpose of replacing the provisions forming the subject of invalidity or ineffectiveness declaration, with other provisions that are able to determine, insofar as legally possible, substantially the same effects, making reference to the subject matter and purpose of this Agreement.
- 17.3 A waiver of any right or remedy under this Agreement is only effective if given in writing and will not be deemed as a waiver of any subsequent breach or default. No failure or delay by one Party to exercise any right or remedy provided for under the Agreement or by law will operate as a waiver of that right or remedy, nor will any single or partial exercise of any right or remedy preclude or restrict any further exercise of that or any other right or remedy. Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by the law.
- 17.4 The Agreement could be translated into Italian language for convenience purposes only. In the event of any inconsistency between Italian and English versions of the Agreement, the English version shall prevail.

**Signed for**

**CETENA S.p.A.:** .....

[Insert signature]

**By:** .....

[Insert name]

**Title:** .....

[Insert signatory's business title]

**Date:** .....



[Insert date]

.....  
**Signed for the CUSTOMER:** [Insert signature]

By: .....  
[Insert name]

Title: .....  
[Insert signatory's business title]

Date: .....  
[Insert date]

**18 SPECIFIC APPROVAL**

18.1 The CUSTOMER hereby declares, also for the purposes of Section 1341 of ICC, that it has specifically reviewed, and hereby approves, the following Sections of these GT&C:

- (a) SECTION A (GT&C FOR THE SUPPLY OF SERVICES): 6.5 (FORFEITURE OF THE BENEFIT OF TERM); 6.7 (LIMITATIONS TO THE RIGHT OF SET-OFF); 7 (TESTING); 8 (WARRANTY and DISCLAIMERS); 9 (LIMITATIONS OF CETENA LIABILITY);
- (b) SECTION B (GT&C FOR THE GRANT OF LICENSE): 6 (WARRANTY); 7 (LIMITATIONS OF CETENA's LIABILITY);
- (c) SECTION C (GT&C FOR THE SUPPLY OF PRODUCTS): 2 (RESTRICTIONS ON THE USE OF THE PRODUCTS); 3 (GRANT OF LICENSE ON THE SOFTWARE AND RELEVANT RESTRICTIONS); 5.5 (FORFEITURE OF THE BENEFIT OF TERM); 5.7 (LIMITATIONS TO THE RIGHT OF SET-OFF); 6 (RETENTION OF TITLE ON THE PRODUCTS); 8 (WARRANTY); 9 (LIMITATIONS OF CETENA LIABILITY);
- (d) SECTION E (GT&C: GENERAL PROVISIONS): 1 (CETENA WITHDRAWAL RIGHT); 3 (INTELLECTUAL PROPERTY RIGHTS); 7 (NO ASSIGNMENT AND SUBCONTRACTING); 10 (NO HIRING OF CETENA'S PERSONNEL); 12 (GOVERNING LAW AND JURISDICTION).

.....  
**Signed for the CUSTOMER:** [Insert signature]

By: .....  
[Insert name]



Title: .....

[Insert signatory's business title]

Date: .....

[Insert date]