SCHNEIDER ELECTRIC SYSTEMS USA, INC. General Terms & Conditions of Sale of Goods Solely

Article 1: Definitions

1.1 "**Affiliates"** means any legal entity which has an ownership interest in or is under a common ownership interest with a Party and which is defined in attachments to this Agreement or subsequent Purchase Orders.

1.2 **Not applicable.**

1.3 **"Buyer"** shall mean the company and any of its Affiliates which has executed a Purchase Order under this Agreement.

1.4 **"Days"** shall be calculated as calendar days unless otherwise specified under this Agreement.

1.5 **Not Applicable.**

1.6 **"Goods"** shall mean all Schneider Electric Systems USA, Inc. products, equipment, materials, spare parts, hardware, supplies, and accessories to be supplied under a Purchase Order.

1.7 **"Intellectual Property Rights"** shall mean any patent, trademark, service marks, copyrights, trade secrets, ideas, concepts, know-how, techniques or other proprietary right.

1.8 **"Party and Parties"** shall mean Seller, Buyer, any of their affiliate(s) which has executed a Purchase Order hereunder and any third party to which the Parties may have assigned their rights under the Agreement. In its singular form, Party means any one of Seller, Buyer or their Affiliate having executed a Purchase Order or the third party to whom one of them has assigned its rights under the Agreement.

1.9 **"Price"** shall mean the total value of a Purchase Order after all applicable discounts have been applied. Expenses are not included in the Price unless agreed upon in the Purchase Order.

1.10 **"Purchase Order"** shall mean the purchase order, either paper or electronic, with related attachments and changes thereto, which shall describe the specific Goods to be supplied by Seller to the Buyer and the detailed Specifications for such, including without limitation, the pricing and delivery schedules. These terms and conditions herein shall form the Agreement contained in a Purchase Order.

1.11 **"Seller"** shall mean Schneider Electric Systems USA, Inc. and, for purposes of the Purchase Orders, any of its Affiliate which has executed a Purchase Order under this Agreement.

1.12 **Not Applicable.**

1.13 **"Software"** shall mean computer software programs, in object code form including firmware and custom software, and instructions manuals, specifications and related documentation in written or electronic form, their related instructions manuals and documentation, for which Seller grants Buyer a license under the contract.

1.14 **"Specifications"** shall mean the Seller's standard specifications applicable to the Goods at the time of execution of the Agreement or a Purchase Order hereunder or the specific requirements mutually agreed upon between the Parties in Purchase Orders hereunder in relation to the Goods.

1.15 **"Third Party Products"** shall mean products and software of a third party vendor. If Third Party Products are supplied by the Seller under the Agreement, notwithstanding anything to the contrary, such supply is made on a "pass-through" basis only and is subject to the terms and conditions of the third party vendor, including but not limited to warranties, licenses, indemnities, limitation of liability, prices and changes thereto. For time and materials orders, Third Party Products are quoted subject to price changes imposed by third party vendors between the date of Purchase Order encompassing such Third Party Products and the date of Seller's invoice related to that Third Party Product.

1.16 **"Warranty Period"** shall mean the applicable time period during which Goods are guaranteed by Seller under the conditions set forth herein. Third Party Products are warranted as stated in Article 1.15.

Applicability

This policy covers the products of Schneider Electric Systems USA, Inc. and sold under the brand names of Eurotherm, Action, and Zelio.

Warranty

SELLER EXPRESSLY WARRANTS THE PRODUCTS MANUFACTURED BY IT AS MEETING THE APPLICABLE SELLER PRODUCT SPECIFICATIONS. EXCEPT AS SET FORTH HEREIN, SELLER MAKES NO OTHER WARRANTIES EITHER EXPRESS OR IMPLIED (INCLUDING, WITHOUT LIMITATION, WARRANTIES AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE). BUYER RETAINS RESPONSIBILITY FOR THE APPLICATION AND FUNCTIONAL ADEQUACY OF THE OFFERING. IN ADDITION, THE FOLLOWING SHALL CONSTITUTE THE EXCLUSIVE REMEDIES FOR ANY BREACH BY SELLER OF ITS WARRANTIES.

Seller warrants to Purchaser that the equipment to be delivered hereunder will be free from defects in material or workmanship for a period after shipment by Seller as defined in the below chart:

Product	Warranty Period
Eurotherm temperature and process controllers, Piccolo controllers, indicators, Versadac. Action Intelligent Transmitters, TransPak, VisiPak and non-ASIC Action Pak. Eurotherm E+PLC400 and Eurotherm E+HMI.	3 years
Eurotherm power controllers, nanodac recorder/controller, actuators and valves. Eurotherm E+PLC100.	2 years
Eurotherm recorders, Eurotherm Eycon, Eurotherm 2500 , T2550, and T2750. Series 7 and other “fixed function” controllers, atmosphere probes, and the Impressor. Zelio products. Action I/OPak, IP51 & IP61 and other Action products not listed elsewhere. All other products not listed elsewhere.	1 year
Action accessories.	90 days
All PC software	Upon Receipt
Action ASIC-based Action Pak, Ultra SlimPak, Ultra SlimPak II and ASIC-based Action I/Q.	5 years

Remedy

If the equipment delivered hereunder does not meet the foregoing warranty, Purchaser shall promptly notify Seller who shall thereupon replace or repair, free of charge, at Seller’s discretion, provided the defective product, component, or part thereof is returned to the nearest authorized Seller repair facility within the time-frame specified in the applicable warranty term from date of shipment, transportation charges prepaid by Purchaser. The cost to diagnose defects at the job site, if required, shall be paid by Purchaser. Any product or component, or part thereof so replaced or repaired shall be warranted by Seller for the remainder of the original warranty period or three (3) months, whichever is longer. Any and all such replacements or repairs necessitated by inadequate preventive maintenance, or by normal wear and usage, or by the fault of Purchaser or power sources supplied by others, or by attack and deterioration under unsuitable environmental conditions shall be for the account of Purchaser. Seller shall not be obligated to pay any costs or charges including “back charges” incurred by Purchaser or any other party except as may be agreed upon in writing in advance by Seller. The liability of Seller under this warranty, whether the claim is based on contract or negligence, shall not in any case exceed the cost of correcting defects in the equipment or of supplying replacement equipment as herein provided and upon the expiration of the warranty period all such liability shall terminate. The foregoing warranty is exclusive and in lieu of all other warranties (except as to title), whether written, oral, implied or statutory. DISCLAIMER: NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IS MADE.

Schneider Electric Systems USA, Inc. sales policies are available by calling, e-mailing, writing or online at:

Phone: 703-724-7300
Fax: 703-724-7301
Email: info.eurotherm.us@schneider-electric.com
Internet: www.eurotherm.com/
Address: 44621 Guilford Drive, Suite 100
Ashburn, VA 20147

Article 2: Not Applicable.

Article 3: Orders

3.1 Buyer has issued this Purchase Orders to Seller requesting Seller to provide the Goods.

3.2 Not Applicable.

3.3 This Purchase Order constitutes a contract between Buyer and Seller. The Purchase Order shall be deemed to incorporate the terms herein, whether or not stated on the face of the Purchase Order and all other referenced terms on the face of the Purchase Order are rejected in their entirety. Any provision of the Purchase Order that modifies or deletes any provision herein shall be null and void.

Article 4: Changes

4.1 Either Party may request changes that affect the scope, duration, delivery schedule or price of the Purchase Order, including changes in the Specifications and Goods to be delivered. If either Party requests any such change, the Parties shall negotiate in good faith a reasonable and equitable adjustment to the Purchase Order. Neither Party shall be bound by any change requested by the other until an amendment to the Purchase Order in the form of a change order has been accepted in writing by both Parties. Pricing of changes shall be based on the then current Seller's prices.

4.2 Any alteration, deletion or addition to the Work ordered in the Purchase Order or a change in any provision of the Purchase Order shall be effective only if made in a change order is executed by Buyer and Contractor. A change order, however, shall not modify any provisions herein unless the parties agree in writing to do so.

Article 5: Price, Taxes, and Currency

5.1 Prices for Goods shall be in accordance with the Seller's proposal

5.2 Seller's proposals and the Purchase Order Price exclude all sales taxes, value-added taxes, import and export duties and any other taxes, surcharges, duties or tariffs of any kind now existing or hereafter imposed upon Seller, its personnel or subcontractors or their properties in any country or territory either directly or indirectly in respect of the production, sale, supply, delivery, license export and import, or use of the Goods. Buyer shall be responsible for all such taxes, duties and charges.

5.3 If Seller is required to impose, levy, collect, withhold or assess any such taxes, duties and charges, Seller shall invoice Buyer for such taxes, duties and charges unless Buyer furnishes Seller with an exemption certificate or other equivalent documentation demonstrating its exemption from such taxes, duties and/or charges.

5.4 If Buyer is required by law to make any tax withholding from amounts paid or payable to Seller, (i) the amount paid or payable shall be increased to the extent necessary to ensure that Seller receives a net amount equal to the amount that it would have received had no taxes been withheld; (ii) Buyer shall forward proof of such legally required withholding to Seller.

5.5 Buyer shall remit the amount due on the invoice in the currency indicated on the invoice

Article 6: Invoicing

6.1 Invoices shall be sent to the address specified in the Purchase Order.

6.2 Should Buyer dispute any invoice, Buyer shall notify Seller of the nature of the dispute in writing within fifteen (15) days of the invoice date. Buyer shall have the right to withhold payment of the portion of the payment in question until the dispute is resolved ("Disputed Invoice"). If Buyer does not notify Seller of any dispute within fifteen (15) calendar days of the invoice date, then the invoice is deemed to have been accepted and invoice payment is required to be made on the payment due date per contract terms. Notwithstanding any dispute regarding the invoice, Buyer shall pay the undisputed portion of the disputed invoice.

6.3 Seller shall invoice Buyer in accordance with the schedule in the proposal, or if there is no schedule, then upon shipment of the Goods.

Article 7: Payment Terms

7.1 Subject to Seller's approval of Buyer's current credit rating, full payments of all invoiced Goods are due within thirty (30) calendar days from the invoice date. Buyer acknowledges that Seller has the right to reassess Buyer's creditworthiness from time to time. To the extent such is in accordance with law, in the event there is a decline in Buyer's creditworthiness, Seller may, upon thirty (30) days written notice, revise the payment terms between the parties. Upon request, Buyer shall provide financial data evidencing the Buyer's worth in order for Seller to determine the creditworthiness of Buyer. Such information shall include, but not be limited to, annual reports, balance sheets, and bank records.

7.2 Payments advices from Buyer shall include the following information: invoice number, amount of payment, and purchase order number.

7.3 If Buyer is delinquent in its payment obligations, without prejudice to any other remedies available to it by law or in equity, Seller may demand immediate payment and at Seller's option (i) suspend all further deliveries to be made under the Purchase Order or any further performance under any other contract with Buyer or Buyer's Affiliates, in which event Buyer shall not be released in any respect from its obligations to Seller under the Purchase Order; (ii) recover all costs of collection including but not limited to reasonable attorneys' fees; (iii) repossess the Goods for which payment has not been made; (vi) charge interest at 1.5% per month on the past due amount, not to exceed the interest percentage allowed by law; and (vii) reassess the credit worthiness of

Buyer and change any current payment terms. Any discount from Seller's rates, if any, shall cease to apply to the delinquent invoice, Buyer shall be invoiced for such differences in cost, and shall immediately pay the resulting invoice.

7.4 Buyer shall not set off or recoup invoiced amounts or any portion thereof against sums that are due or may become due from Seller and/or its Affiliates

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Article 8: Delivery, Title and Risk of Loss

8.1 Unless otherwise agreed upon in the Purchase Order, title to all Goods sold hereunder, except for Software whose title remains at all times with Seller, shall pass to Buyer upon full payment of the Purchase Order.

8.2 Upon delivery, risk of loss or damage shall pass to Buyer unless delivery has been delayed because of Buyer in which event risk of loss shall pass to Buyer upon the originally scheduled delivery date.

8.3 Delivery, unless otherwise agreed upon in the Purchase Order, shall be FOB, Seller's dock (Incoterms 2010).

8.4 If, as part of the Purchase Order, Seller is responsible for packing any Goods for shipment, Seller shall pack, mark and label such Goods in accordance with its usual packing procedures.

Article 9: Receiving, Inspection and Acceptance

9.1 Buyer shall be responsible for receiving, installing, starting up and maintaining all Goods, unless otherwise agreed in the Specifications.

9.2 If Buyer fails to notify Seller of any material non-conformities with the Specifications within a reasonable period following delivery, not to exceed thirty (30) calendar days, or is using those Goods in a production environment or for the regular conduct of its business, the Goods shall be deemed accepted, without prejudice to the warranty provisions hereunder.

9.3 Buyer shall have the right to reject Goods not materially in accordance with the Specifications in the Purchase Order. Seller shall have a reasonable opportunity to correct non-conformities or replace non-conforming Goods at its option, in accordance with Warranty Article. Should Seller fail to use reasonable efforts to correct non-conformities, replace the non-conforming Goods within a reasonable period of time, based on the complexity of the non-conformities, Buyer may terminate the Purchase Order or portion thereof. Seller's maximum liability under this Article shall be to refund the fees and expenses paid by Buyer for the portion of the Goods that is non-conforming.

9.4 Unless other acceptance criteria are agreed upon in the Specifications, Seller's standard testing procedures, including factory acceptance test and site acceptance test where applicable, shall apply to Goods provided. To the extent that any Goods have been, or can be deemed approved by Buyer pursuant to the terms of this Agreement or the applicable Purchase Order at any stage of Seller's performance, Seller shall be entitled to rely on such approval for purposes of all subsequent stages of its performance hereunder.

Article 10: Warranties for Goods, Software and Services

10.1 Seller warrants to Buyer that the Goods, Software and Services Seller provided hereunder shall, at time of delivery, materially conform to the Specifications agreed between the Parties, including drawings or descriptions, specification sheets, drawings, notes and technical data for such Goods. In the absence of agreed upon Specifications for Goods, Seller warrants the Goods shall meet the applicable standard Specifications available from Seller for such Goods at the time of the issuance of the Purchase Order. If the Services are of an advisory nature, including any services performed on a time and materials basis, the Buyer shall remain the design authority and no specific result is guaranteed or assured.

10.2 Seller further warrants that Goods, at the time of their delivery will be free from defects in material and workmanship for the Warranty Period.

10.3 If, any time prior to the end of the applicable Warranty Period, the Goods, or any part thereof, do not conform to applicable warranties or Specifications, Buyer shall notify Seller within a reasonable time after its discovery and shall provide written particulars of the non-conformity and all information and assistance necessary to enable Seller to verify the nature and cause of the non-conformity and carry out its warranty obligations hereunder.

10.4 a. Non-conforming Goods subject to a warranty claim shall be returned to the nearest Seller's repair facility, transportation charges prepaid for the account of the Buyer, after a return authorization number is received from Seller. The costs to diagnose any non-conformity on Buyer's site, if required, shall be for the account of the Buyer. Goods returned by Buyer to the Seller and found upon Seller's inspection to be non-conforming shall be repaired, replaced or corrected, at Seller's sole option and return-shipped by Seller to Buyer with transportation prepaid by Buyer.

b. Repaired or replaced Goods shall be warranted by Seller for the remainder of the original Warranty Period or for three (3) months, whichever is longer, free of charge and return-shipped to Buyer with transportation prepaid by Buyer. Seller shall not be responsible for any offshore transport.

c. Goods, software and labor used, as well as any and all Expenses reasonably incurred, by Seller for the diagnosis, repair, replacement or correction of any Goods subject to a warranty claim that are found in whole or in part to be non-conforming for reasons listed under Article 10.5 or that were found upon investigation to comply with Specifications or other contractual requirements shall be for Buyer's account.

d. If applicable, Seller shall not be obliged to accept any Goods delivered hereunder for repair or replacement until the same has been decontaminated by Buyer, if required, at no expense to Seller. Seller shall not be liable for any loss or damage to Goods incurred as a result of decontamination (including any loss or damage occasioned by Seller's rejection of any Goods which have been delivered to Seller for repair, replacement, and warranty service. Buyer shall furnish to Seller, along with the returned Goods, a Certificate of Decontamination signed by the agency performing the decontamination and countersigned by the Buyer. Buyer shall indemnify and save harmless Seller against all damage howsoever incurred as a result of returning contaminated or improperly decontaminated equipment to Seller for repairs or replacement.

e. Seller's obligation and Buyer's sole remedy under this Article is, at Seller's option the repair or replacement, correction, for any non-conforming Goods or part thereof.

10.5 The foregoing warranties do not apply to non-conformities caused by (i) Buyer's design or installation of the Goods, (ii) modification or repair to the Goods otherwise than as authorized in writing by Seller; (iii) handling, storage, use or maintenance of the Goods in a manner or an environment inconsistent with the Specifications and/or instructions or recommendations of Seller; (iv) defect in Buyer's own products or software or use of the Goods in combination with any Third Party Product not procured by Seller; (v) Buyer's failure to observe the payment terms under this Agreement or any other of its obligations under this Agreement; (vi) normal wear and tear; (vii) installation or wiring of the Goods other than in accordance with Seller's instructions. Goods subject to wear or burnout through usage such as lamps, fuses, paper media, filters, trim, packing and the like shall not be deemed not in conformity by reason of such wear or burnout.

10.6 The foregoing warranties do not apply to Third Party Products. Third Party Product shall be warranted only in accordance with the warranties given to Seller in respect thereof by the relevant third party vendor and to the extent that Seller has the right to assign or transfer such warranties. In addition, Buyer shall look solely to third party vendor for all remedies and support with regard to such Third Party Products. Seller shall bear no responsibility for the performance, repair or warranty of any of Buyer's software or hardware product.

10.7 THESE WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, REPRESENTATIONS, CONDITIONS, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

10.8 ALL WARRANTIES PROVIDED HEREIN ARE PERSONAL TO, AND INTENDED SOLELY FOR THE BENEFIT OF, BUYER AND DO NOT EXTEND TO ANY THIRD PARTY.

Article 11: Intellectual Property Ownership

11.1 Seller or the applicable third party owner shall retain at all times the ownership of its Intellectual Property Rights, software, firmware and Third Party Products, regardless of the media upon which the original or copy may be recorded or fixed, and Buyer shall have no right, title or interest in or to the intellectual property residing in the Goods.

Article 12: Seller Software License

12.1 The Software License in Article 12.2 shall apply to generally to Seller's Software. Third Party Product software Licenses are separate end user license agreements ("EULA") and not issued pursuant to the license in Article 12.2.

12.2 Software License

a. In consideration of the receipt of full payment of the Goods, and subject to Buyer's compliance with its obligations under this Agreement and/or the Purchase Order, Seller shall provide to Buyer a personal, non-transferable, non-exclusive limited license, without the right to grant sublicense, to use the Software incorporated into the Goods, if any, for purpose of Buyer's ordinary business. Buyer may not without Seller's prior written express consent (i) copy, modify, sublicense, loan or transfer in any manner the inherent software or firmware, create derivative works, or translate, decompile, disassemble, reverse assemble, reverse engineer, emulate or perform any other operation, unless the operation is specifically authorized by law. Buyer agrees to defend, indemnify and hold harmless Seller from all damages and third party claims arising from unauthorized use or transfer of the software or firmware.

b. If the Software is licensed for use in the performance of a U.S. Government prime contract or subcontract, Buyer agrees that, consistent with FAR 12.211 and 12.212, commercial computer Software, computer Software documentation and technical data for commercial items are licensed under Seller's standard commercial license.

Article 13: Confidentiality

13.1 "Confidential Information" shall mean any and all information in any form that each Party provides to each other in the course of the Agreement and that either (i) has been marked as confidential; or (ii) is of such nature that a reasonable person would treat as confidential under like circumstances. Unless otherwise provided in the Specifications, Confidential Information does not include work products and information which (i) is already known to the other Party at the time of disclosure; (iii) is independently developed without the benefit of the other's Confidential Information; (iv) is received from a third party that is not under any confidentiality obligation towards the owner of the information; or (v) has entered the public domain through no fault of the recipient.

13.2 Each Party retains ownership of its Confidential Information.

13.3 Each party agrees to (i) protect the other's Confidential Information in the same manner as it protects the confidentiality of its own proprietary and confidential materials but in no event with less than reasonable care; (ii) use the other's Confidential Information only in relation to the Purchase Order.

13.4 Upon termination of the Purchase Order or upon written request submitted by the disclosing Party, whichever comes first, the receiving Party shall return or destroy, at the disclosing Party's choice, all of the disclosing Party's Confidential Information.

13.5 Neither Party shall, except with respect to their employees, contractors or agents with a need to know for purposes of this Agreement, disclose to any person any Confidential Information of the other Party without the other Party's prior written consent, except where Confidential Information may be disclosed by law.

13.6 Unless otherwise agreed in Purchase Orders, these confidentiality obligations shall terminate five (5) years after the expiration or termination of the Purchase Order, whichever comes first.

Article 14: Suspension

14.1 Seller's performance of work under the Purchase Order may be suspended by the Buyer in accordance with this article in whole or in part whenever the Buyer may elect, with minimum prior written notice ("Notice of Suspension") of at least thirty (30) business days. Any such suspension shall take place by delivery to the Seller of a Notice of Suspension specifying the extent to which performance of work under the Purchase Order is suspended, and the date upon which suspension becomes effective. Upon receipt of any such notice, Seller shall, unless the notice requires otherwise:

a. discontinue work on the date and to the extent specified in the notice; and

b. make every reasonable effort to stop orders for materials and equipment and reassign personnel.

c. Notwithstanding anything else in the Purchase Order or these terms, with respect to the Goods, Buyer may only suspend the Purchase Order without cause before shipment.

14.2 Upon Notice of Suspension, Buyer shall (i) pay all fees earned and expenses incurred in connection with the performance of the Purchase Order until the effective date of such suspension ("Fees and Expenses") and (ii) any and all reasonable costs directly related to Buyer's suspension pursuant to this provision, including costs associated with restocking charges, storage costs and other administrative requirements ("Suspension Costs"). In the event of partial suspension of the Purchase Order or when suspension occurs between two invoicing milestones, a pro-rated share of the fees shall be added based upon the portion of the Purchase Order completed on the suspension date.

14.3 In addition to the above, in the event of a suspension, Buyer acknowledges the following:

a. all Milestones and/or delivery dates that have been agreed to, will be postponed, and such Milestones and/or delivery dates will be mutually agreed to upon the lifting of the Suspension.

b. when the performance is re-commenced, Buyer shall pay costs associated with extending performance, such as, but not limited to, increased costs for Goods, or the extension of warranties.

c. the suspended Purchase Order shall be recommenced upon the date mutually agreed to between the Parties.

14.4 In the event that the suspension continues for greater than ninety (90) days, Seller, at its sole option, may terminate the Purchase Order, and the suspension shall be treated as a Termination for Convenience pursuant to Article 15.

Article 15: Termination for Convenience

15.1 Seller's performance of work under the Purchase Order may be terminated by the Buyer in accordance with this article in whole or in part whenever the Buyer may elect, with minimum prior written notice ("Notice of Termination") of at least thirty (30) business days. Any such termination shall take place by delivery to the Seller of a Notice of Termination specifying the extent to which performance of work under the Purchase Order is terminated, and the date upon which termination becomes effective. Upon receipt of any such notice, Seller shall, unless the notice requires otherwise:

a. discontinue work on the date and to the extent specified in the notice; and

b. make every reasonable effort to either obtain cancellation of all orders to subcontractors.

c. notwithstanding anything else in the Purchase Order or these terms, with respect to the Goods, Buyer may only terminate a Purchase Order without cause before shipment.

15.2 Upon Notice of Termination, Buyer shall (i) pay all fees earned and expenses incurred in connection with the performance of the Purchase Order until the effective date of such termination ("Fees and Expenses") and (ii) any and all reasonable costs directly related to Buyer's termination pursuant to this provision, including costs associated with restocking charges and other administrative requirements ("Termination Costs"). In the event of partial execution or termination of the Purchase Order between two invoicing milestones, a pro-rated share of the fees shall be added based upon the portion of the Purchase Order completed on the termination date.

15.3 In addition to the remittance of any Termination Cost, in the event of Termination for Convenience by Buyer, Buyer shall remit to Seller a termination fee of ten percent (10%) of the remaining value of the so terminated Purchase Order.

Article 16: Termination for Default

16.1 Either Party may terminate the Purchase Order for default if the other has materially breached any of its obligations under the Purchase Order and has not cured the breach within thirty (30) days of receipt of a notice from the other Party.

16.2 Termination of the Purchase Order by either Party whether for default or for convenience shall not affect continuing performance by the Parties of their respective obligations under a different Purchase Order, unless otherwise agreed upon by the Parties.

Article 17: Not Applicable

Article 18: Compliance

18.1 Neither Party shall comply with any foreign boycott laws or requirements, which are in violation of any federal or state law, rule, or regulation.

18.2 Buyer acknowledges that each product and any related software and technology, including technical information supplied by Seller or contained in documents (collectively "Items"), is subject to export controls of the U.S. government. Buyer may not export the "Items" to another country without Seller's written permission and payment of any applicable country specific surcharges. Buyer agrees to comply fully with all relevant export laws and regulations of the United States and foreign nations in which the "Items" will be used ("Export Laws") to ensure that neither the "Items" nor any direct product thereof are (i) exported, directly or indirectly, in violation of any Export Laws; or (ii) are intended to be used for any purposes prohibited by the Export Laws. Without limiting the foregoing, Buyer will not export or re-export the "Items": (i) to any country to which the United States has embargoed or restricted the export of goods or services or to any national of any such country, wherever located; (ii) to any end user who Buyer knows or has reason to know will utilize the "Items" in the design, development or production of nuclear, chemical or biological weapons; or (iii) to any end-user who has been prohibited from participating in U.S. export transactions by federal agency of the U.S. government.

18.3 Either Party shall execute and deliver to the other any documents as may be required to effect or evidence compliance.

18.4 The Parties may correspond and convey documentation via the Internet unless Buyer expressly requests otherwise. Neither Party has control over the performance, reliability, availability or security of the Internet. Seller shall not be liable for any loss, damage, expense, harm or inconvenience resulting from the loss, delay, interception, corruption or alteration of any communication over the Internet due to any reason beyond Seller's reasonable control.

Article 19: Force Majeure

19.1 Except for Buyer's payment obligations, neither party shall be liable for delays caused by conditions beyond their reasonable control, ("Force Majeure"), provided notice thereof is given to the other party as soon as practicable. Force Majeure shall include, without limitation, hostilities, revolution, acts of war (whether or not declared), act of terrorism, civil commotion, strike, epidemic accident, quarantines or regional medical crisis, fire, flood, wind, earthquake or other inclement weather conditions and any impending threat of the foregoing, blockade, embargoes, shortage of materials or transportation facilities, strikes and lockouts, any other Acts of God or act of any Government or governmental agency, including laws, regulation or ordinance and proclamation affecting the parties, the Goods without the fault or negligence of the parties hereto.

19.2 All such Force Majeure conditions preventing performance shall entitle the Party hindered in the performance of its obligations hereunder to an extension of the date of delivery of the Goods by a period of time equal to the period of delay incurred as a result of the Force Majeure or to any other period as the Parties may agree in writing.

Article 20: No Partnership or Joint Venture

20.1 Nothing in this Agreement shall be deemed to constitute a partnership, joint venture, or fiduciary relationship between Buyer and Seller, nor shall anything in this Agreement be deemed to create an agency relationship between Buyer and Seller. Neither Buyer nor Seller shall be or become liable or bound by any representation, act or omission whatsoever of the other.

Article 21: Not Applicable

Article 22 Insurance

22.1 Seller maintains insurance and shall provide upon request to Buyer, certificates of such insurance policies.

Article 23: Indemnification

23.1 General Indemnity. Seller shall indemnify, defend and hold Buyer harmless against third party claims (including without limitation, the Parties' employees) for personal injury, death or loss or damage to property caused by and to the extent of Seller's negligence in the performance of its obligations hereunder, provided (i) Seller is entitled to exclusively control the defense against the claim; (ii) Seller is immediately notified of such claim and (iii) Buyer provides reasonable assistance in the defense of the claim and does not enter into any settlement or make any concession without the Seller's prior written approval.

23.2 Intellectual Property Infringement Indemnity. Seller shall defend, indemnify and save harmless Buyer from and against any third party claims, suits, judgments, court costs, reasonable attorney's fees and other liabilities, demands or losses (altogether "Liabilities") to the extent such Liabilities result from an infringement due to the Goods in the country of manufacture of such Goods at the time of execution of the relevant Purchase Order under which the alleged infringement has occurred, provided that (i) Seller shall be promptly notified of the bringing of said suits; (ii) Seller shall be given the sole control of the defense and all related settlement negotiations; (iii) Buyer agrees to fully assist Seller in the defense of the claim and (iv) Buyer complies with Seller's direction to cease any use of the Goods which in Seller's reasonable opinion, is likely to constitute an infringement. Vendor shall not be responsible for any settlement made without its consent. The foregoing obligations do not apply when the claim of infringement results from or is related to: (i) Goods provided pursuant to Purchaser's designs, drawings or specifications; (ii) Goods stored, used or maintained otherwise than in accordance with Seller's instructions or recommendations or other than for the Buyer's internal business purpose; (iii) claims of infringements resulting from combining Goods provided hereunder with any other item not furnished by Seller; (iv) modifications to the Goods without prior written consent of Seller; (v) parts supplied or designed by Buyer or third parties; and (vi) Buyer's failure to use corrections or enhancements made available by Seller. Seller may cease to deliver any Goods, which it reasonably considers could infringe third party's rights, without being in breach of this Agreement. In case said results of Goods, or any part thereof, is in such suit held to constitute infringement and/or its use is enjoined, the Seller shall, at its own expense and option either: (i) procure for the buyer a royalty-free license to continue using such Goods, or (ii), replace same with substantially equal but non-infringing equipment or modify it so it becomes non-infringing, provided that no such replacement or modification shall in any way amend or relieve Seller of its warranties set forth in this Agreement. In the event Seller is unable to do either of the foregoing, the allegedly infringing item shall be returned to Seller and Seller's maximum liability shall be to refund to Buyer the amount paid for such item, less a reasonable depreciation for use and damage. This Clause 23.2 states the Parties' entire liability and sole remedy with respect to infringement or claims thereof.

Article 24: LIMITATION OF LIABILITY

24.1 IN NO EVENT SHALL SELLER HAVE ANY LIABILITY UNDER THE PURCHASE ORDER FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOSS OF PRODUCTION, LOSS OF REVENUES, INTEREST, CAPITAL, FINANCING, GOOD WILL, USE, BUSINESS REPUTATION, OPPORTUNITY OR PRODUCTIVITY, HOWSOEVER ARISING, EVEN IF BUYER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

24.2 SELLER'S LIABILITY UNDER THE PURCHASE ORDER FOR ANY DIRECT DAMAGES ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT (WHETHER ARISING UNDER TORT, NEGLIGENCE, CONTRACT, WARRANTY, STRICT LIABILITY OR ANY OTHER CAUSE OR COMBINATION OF CAUSES) SHALL IN NO EVENT EXCEED THE SPECIFIC PRICE OF THE GOODS PROVIDED UNDER THE PURCHASE ORDER GIVING RISE TO LIABILITY.

24.3 THE TERMS OF THIS AGREEMENT SHALL NOT BENEFIT OR CREATE ANY RIGHT OR CAUSE OF ACTION IN OR ON BEHALF OF ANY PERSON OR ENTITY OTHER THAN BUYER AND SELLER. ANY ACTION AGAINST THE OTHER MUST BE BROUGHT WITHIN TWELVE (12) MONTHS AFTER THE EVENTS GIVING RISE TO THE CAUSE OF ACTION EXCEPT THAT AN ACTION FOR NON-PAYMENT MAY BE BROUGHT BY A PARTY NOT LATER THAN ONE YEAR FOLLOWING THE DATE OF THE LAST PAYMENT DUE TO SCH PARTY HEREUNDER.

Article 25: Assignment

25.1 This Agreement shall extend to and be binding upon the parties hereto, their successors, and assigns, provided, however, that neither Party shall assign or transfer the Purchase Order hereunder without the other party's express prior written consent, which shall not be unreasonably withheld. Notwithstanding the foregoing, Seller shall have the right to assign the Purchase Order hereunder to any of its parent, affiliates without prior written consent of Buyer and Buyer shall have the right to transfer the licensed Software in accordance with the applicable License.

25.2 Seller shall have the right at any time without prior consent of Buyer to subcontract all or part of its obligations under the Purchase Order. Such subcontract shall not relieve Seller from its obligations under the Purchase Order.

Article 26: Laws and Dispute Resolution

26.1 The Purchase Order shall be governed by and construed in accordance with the laws of Massachusetts, USA, without regard to the conflict of laws provisions thereof. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. The governing language for the Purchase Order shall be English, and no concurrent or subsequent translation of the Purchase Order into any language shall modify any term of the Purchase Order.

26.2 Any claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by final and binding arbitration administered by the American Arbitration Association ("AAA") in accordance with its Commercial Arbitration Rules and its Optional Procedures for Large, Complex Commercial Disputes. The arbitration shall be heard and determined by a panel of three (3) arbitrators selected by the AAA. The arbitrators shall have exclusive authority to resolve any and all disputes relating to procedural and substantive questions of arbitrability, including but not limited to, choice of venue and choice of law issues, and the formation, interpretation, applicability, scope, and enforceability of this agreement to arbitrate. Each party shall bear its own costs relating to such arbitration, the parties shall equally share the arbitrators' fees, and the arbitration and all related proceedings and discovery shall take place pursuant to a protective order entered by the arbitrators that adequately protects the confidential nature of the parties' proprietary and confidential information. In no event shall any arbitration award provide a remedy beyond those permitted under this Agreement, and any award providing a remedy beyond those permitted under this Agreement shall not be confirmed, no presumption of validity shall attach, and such award shall be vacated. No claim may be brought as a class action, combined or consolidated with any other proceeding, nor may any proceeding be pursued in a representative capacity or on behalf of a class. Neither party has the right to act as a class representative or participate as a member of a class of claimants with respect to any claim.

26.3 Upon the request of either Party, mediation shall be conducted prior to the arbitration pursuant to the mediation rules of the AAA.

Article 27: Miscellaneous

27.1 Waiver. Failure by either Party to insist upon strict performance of any of the terms and conditions hereof or failure or delay to exercise any rights or remedies provided herein or by law or to properly notify the other in the event of breach shall not be construed as a waiver of any provision of the Purchase Order. No waiver by a party of a right or default under this Order shall be effective unless in writing.

27.2 Press Releases and Client List Reference. Neither Party shall issue any press release concerning Seller's work without the others consent. Notwithstanding the foregoing, Seller may identify Buyer as a client of Seller; use Buyer's name and logo and release and announcement regarding the award of this Agreement. Seller may generally describe the nature of the Services in Seller's promotional materials, presentations, case studies, qualification statements and proposals to current and prospective clients.

27.3 Severability. If any provision or portion of the Purchase Order shall be adjudged invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, that provision or portion of the Purchase Order shall be deemed omitted and the remaining provisions and portions shall remain in full force and effect.

27.4 Amendments. Any amendment to the terms of the Purchase Order shall only be effective if made in writing and signed by Buyer and Seller.

27.5 Notice. All notices hereunder shall be deemed given if delivered in writing personally, by courier, sent via US mail, electronic transmission, telephone facsimile, telex, or telegram to Buyer or to Seller at the address(es) set forth in the Purchase Order(s). Electronic transmission must be acknowledged by a process requiring human action. Any notice given by US mail shall be deemed given at the time such notice is deposited with the US mail service.

27.6 Survivorship. The provisions of this Agreement that by their nature survive final acceptance under a Purchase Order, expiration, cancellation or termination of any Purchase Order or Agreement and shall remain in full force and effect after such acceptance and payment for the period specified herein, or if not specified then for the maximum time allowed by law. These provisions are: (i) Definitions, Article 1; (ii) Price, Article 5; (iii) Payment Terms, Article 7; (iv) Warranties, Article 10; (v) Intellectual Property, Article 11; (vi) Software License, Article 12; (vii) Confidentiality, Article 13; (viii) Compliance, Article 18; (iv) Force Majeure,

Article 19; (x) Indemnification, Article 23; (xi) Limitation of Liability, Article 24; (xii); Laws and Dispute Resolution, Article 24; (xiii) Severability, Survivorship, Waiver, and Headings, Article 27.

27.7 Headings. The headings in this Agreement are for ease of reference only and shall not be used to construe or interpret the provisions of the Agreement.

Article 28: Sole Agreement

28.1 Purchase Order entered into pursuant hereto, constitutes the entire agreement of the parties hereto with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions, and communications, whether oral or in writing with respect to this subject matter. This Purchase Order may be modified only by means of a duly executed written amendment signed by the authorized representatives of both Parties. Neither the terms of any invoice or other instrument documenting a payment or transaction that is issued by Buyer in connection the Purchase Order, nor any other act, document, pre-printed form or statement, usage, custom, or course of dealing shall modify the terms herein. In the event of any conflict between the terms of the Purchase Order, the provisions of herein shall govern.

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