

## TERMS AND CONDITIONS OF SALE (PARTNERS)

All transactions for all products sold or services rendered by Schneider Electric Buildings Americas, Inc. (hereinafter "Seller") re subject to the then current published Terms and Conditions of Sale of Seller and to any special conditions of sale which may be contained in applicable Seller quotations and acknowledgments. The following Terms and Conditions of Sale are subject to change at any time without prior notice; however, such revised conditions will not apply until the next order after the revision.

**1. GOVERNING PROVISIONS:** All quotations are subject to these terms and conditions of sale. Acceptance of an order by Seller shall be expressly conditioned on Buyer's assent to these terms and conditions and Buyer's entering into and maintaining a separate written Partner Agreement establishing its relationship with Seller. Buyer's direction to proceed with engineering, manufacture or shipment by Seller shall be deemed evidence of this assent. No modified or other conditions will be applicable, including but not limited to, any pre-printed terms or conditions on Buyer's purchase order, unless those conditions are so stated in Seller's proposal or are specifically agreed to in writing and signed by an authorized official of Seller. Failure to object to provisions contained in any purchase order or other communication from the Buyer (including, without limitation, penalty clauses of any kind) shall not be construed as a waiver of these terms and conditions of sale, nor an acceptance of any other provisions. These terms are Seller's specific terms of sale and can only be varied by a writing signed by Seller. Seller reserves the right to modify these terms and conditions of sale at any time without prior notice to Buyer. These terms may not be modified by course of dealing, course of performance or usage of trade. These terms and conditions of sale supersede all previous published versions. To the extent of any inconsistencies between the Partner Agreement and these terms and conditions of sale, the terms of the Partner Agreement shall govern.

**1.1.** Any contract for sale by and between the parties shall be governed by and construed according to the laws of the State of Texas without regard to its rules on the conflict of laws. Venue for any dispute shall be in the state or federal courts in Texas. The United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.

**2. QUOTATIONS:** Written quotations shall be valid for no more than thirty (30) days from their date, unless otherwise stated in the quotation. All quotations are subject to change by Seller at any time upon notice to Buyer. It is Buyer's obligation to review the quotation carefully and to immediately advise Seller in writing of any differing interpretation Buyer has so any necessary change can be made.

**3. PRICE:** Prices payable by Buyer for Seller products shall be in accordance with the then current product price list for Buyer's channel, and quantity discount, if any, provided for in Buyer's Partner Agreement, or as otherwise quoted. Price lists and other literature may be ordered on-line or electronically downloaded through Seller's on-line service at <http://iportal2.schneider-electric.com/> or such other site as Seller may indicate from time to time. Buyer is responsible for all material costs including shipping and handling for such literature orders. All prices are subject to change at any time without notice, unless otherwise agreed in writing in Seller's quotation or order acknowledgment. In the event of a net price change and unless otherwise agreed to in writing, prices for orders scheduled for immediate release shall be those in effect at time of order entry. Prices for orders placed for future shipment without an agreed price and ship date will be billed at the pricing in effect as of the shipment date. Seller reserves the right to make price changes within the periods of contracts and blanket orders, unless expressly stated otherwise in the sales contract.

**4. TAXES:** Prices do not include taxes or governmental fees. Any manufacturer's tax, retailer's tax, occupation tax, use tax, sales tax, excise tax, (except federal excise tax on vehicles), duty, customs, inspecting or testing fee, or other tax, fee or charge of any nature whatsoever, imposed by any governmental authority or measured by any transaction between Seller and Buyer, shall be paid by the Buyer

in addition to the prices quoted or invoiced, and such charges will appear as a separate line item on the invoice. In the event Seller will be required to pay any such tax, fee, or charge, Buyer shall reimburse Seller or, in lieu of such payment, Buyer shall supply Seller at the time the order is submitted with an exemption certificate or other document acceptable to the tax authority. Purchase orders must state the existence and amount of any such tax, fee or charge for which Buyer claims an exemption.

**5. ORDERS:** Buyer shall submit orders via Seller's website at <http://iportal2.schneider-electric.com/> or e-mail **USA:** [ccc.purchaseorder@schneider-electric.com](mailto:ccc.purchaseorder@schneider-electric.com); **Canada & Caribbean:** [intccc@schneider-electric.com](mailto:intccc@schneider-electric.com) or such other designation as Seller may establish from time to time, and in accordance with Seller's ordering processes. To contact Seller's Customer Care Center call **888-444-1311** or e-mail at [ccc.inquiries@schneider-electric.com](mailto:ccc.inquiries@schneider-electric.com).

**5.1.** Order must state Buyer's account number, ship to address, catalog part number, item description, quantity ordered and unit price. Orders will not be processed without this information. All orders are subject to approval and acceptance by Seller. A written order acknowledgment or confirmation will confirm order information, anticipated delivery and net price. It is Buyer's obligation to review the order acknowledgment carefully and to immediately advise Seller in writing of any price discrepancy so any necessary change can be made.

**5.2.** Drop shipments are allowed. However, portions of orders for shipment to other addresses will be considered separately for pricing, freight, item minimum and multiple requirements.

**5.3.** Seller may refuse to accept any order for any reason, and will have no liability to Buyer or to any third party in the event Seller decides not to accept any order.

**5.4.** Seller shall have the right to cancel, in whole or in part, any previously accepted order placed by Buyer at any time or refuse or delay shipment thereof if Buyer shall fail to meet payment schedules or other credit or financial requirements established by Seller or if in Seller's reasonable opinion Buyer's credit or financial ability shall become impaired or if Buyer has failed to comply with any term or condition of its Partner Agreement or any other agreement with Seller or if Buyer causes material delays in releasing product for manufacture or approval of drawings, or excessive changes to specifications or drawings. Seller reserves the right to discontinue certain products and to allocate supplies in times of shortage.

**5.5.** Orders confirmed and acknowledged by Seller may not be canceled or changed or deliveries deferred by Buyer except with Seller's prior written consent, and then only upon such terms as shall be acceptable to Seller. Order changes by Buyer must be made in writing or verified in writing before Seller can complete processing of the order.

**5.6.** If any order is cancelled, in whole or in part, by Buyer such cancellation shall only be of effect upon Buyer's written notice to Seller and upon payment of reasonable and proper cancellation charges based on the price of the cancelled order and reimbursement of all direct costs and expenses associated with the order caused by such cancellation and shall include a reasonable profit. Special order or custom non-stock item cancellation charges shall include, but not be limited to; price of product already shipped (plus freight charges), finished goods, cost for work-in-progress, vendor items Seller cannot

return (plus vendor cancellation charges), and other demonstrated costs relevant to the order.

5.7. Order cancellation charges for special order or custom non-stock items may be assessed as follows:

Type of Product	Delivery Code	Charges*
Any	D3, D5, D10	15%
Any	C	Consult Factory
Valve Assemblies & Software	Any	20%

\*Charges are a percentage of the net order value of the products cancelled.

6. **PAYMENT:** Acceptance of all orders is subject to Buyer providing Seller a credit application and meeting Seller credit standards. If credit is extended, the amount or terms of credit may be changed or credit withdrawn by Seller at any time. Upon Seller's request, Buyer shall furnish updated financial information.

6.1. Unless otherwise specified on the sales order, payment terms shall be cash with order, C.O.D., letter of confirmed credit, or sight draft attached to bills of lading or other shipping documents, at Seller's election. Where Seller has extended credit to Buyer, payment terms are **0.5% 15 days, Net sixty (60) days from date of invoice** of each shipment, unless otherwise stated in Seller's quotation.

6.2. Seller reserves the right at any time to demand full or partial payment before proceeding with a contract of sale if, in its sole judgment, as a result of changes in the financial condition of the Buyer the terms of payment originally specified are no longer justified. Seller further reserves the right to withhold shipments or place Buyer on a C.O.D. basis or require Buyer to provide prepayment or a check in advance if in Seller's sole judgment Buyer presents an unusual credit risk or Buyer's account is not maintained in a current payment status.

6.3. Invoices are due and payable in one installment unless otherwise agreed by Seller in writing. Prorated payments, if agreed to, are due from Buyer as shipments are made by Seller unless progress or milestone payments are provided for on the sales order.

6.4. Payments can be made either via check, certified check, approved credit card (Buyer must prepay, via check or wire transfer prior to shipment of product, all credit card fees Seller will be liable for.), money order, wire transfer, ACH or irrevocable and confirmed letter of credit. Remittance advices for wire transfer or ACH payments should be e-mailed to: ar\_se\_bldgs\_llc@schneider-electric.com. Seller may require check in advance, cash in advance, or a letter of credit (LOC) on international accounts, which Buyer shall furnish upon request. If Buyer's order requires check in advance, supplies may not be purchased, product may not be produced or shipped until payment is received and funds are cleared from the bank upon which they are drawn. Product lead time will not begin until funds clear.

6.5. If delivery is delayed or deferred by the Buyer beyond the scheduled date, payment shall be due in full when Seller is prepared to ship. The product may be stored at the risk and expense of the Buyer. If the Buyer defaults when any payment is due, then the whole contract price shall become due and payable upon demand, or Seller at its option, without prejudice to other lawful remedies, may refuse or defer delivery or cancel the contract for sale. If Buyer becomes insolvent, or bankrupt or in the event any proceeding is brought against the Buyer, voluntarily or involuntarily under the bankruptcy or any insolvency law, Seller may cancel any order outstanding at any time and recover its applicable cancellation charges from the Buyer or the Buyer's estate.

6.6. Payments shall be made to the remittance name and address specified on the invoice, without set off. All billings and payments shall be in United States Dollars (USD). Any payment, or portion thereof, not made when due shall be subject to a service charge at the lesser of one- and one-half percent (1-1/2%) per month

(18% per annum), or the maximum rate permitted by law, from the due date until amount is paid in full. Buyer is responsible for and shall reimburse Seller for all costs for collection, including reasonable attorneys' fees and court costs, incurred by Seller in connection with any amount due Seller from Buyer.

6.7. Seller will retain a security interest in, and right to repossess, any Product until paid therefore.

6.8. Deductions (debit memos) are not allowed without prior written authorization from Seller. Any invoice corrections or money owed Buyer will be issued by Seller in the form of a credit on Buyer's account.

7. **DELIVERY:** The delivery terms for all orders are Ex works (Seller's facility) (EXW, Incoterms 2000), unless otherwise agreed to by Seller in writing, or except as set forth in clause 7.2 below.

7.1. Unless otherwise agreed to by Seller in writing, United States (domestic) regular ground freight will be prepaid by Seller via carrier of Seller's choice at Buyer's expense with freight charges added to Buyer's invoice (freight prepaid and billed).

7.2. Seller reserves the right, from time to time, to designate certain products that do not qualify for freight allowance and/or that may have differing delivery terms.

7.2.a. Such products shall include orders for butterfly valves (p/n series Vxxx-62xx-xxx-L-xx and Vxxx-63xx-xxx-L-xx) with delivery terms of Ex works (Houston, Texas), freight prepaid and billed.

7.3. International Buyer's freight is freight collect, unless otherwise agreed to in writing by Seller. Freight forwarder must be specified at time of order. If no freight forwarder is supplied, shipments will be held.

7.4. Delivery by Seller to the point of shipment (Seller's facility) constitutes delivery to the Buyer; and title and all risk of loss or damage in transit shall pass to the Buyer at time of delivery at the ship point. Seller is not responsible for breakage after having received "in good order" receipts from the carrier. Buyer is responsible for pursuing any damage claims with the carrier.

7.5. Shipping dates given in advance of actual shipment are approximate and are subject to prior orders received by Seller. Seller will not be liable for any loss or expense incurred by Buyer in the event that Seller fails to meet the specified delivery schedule due to production or other delay, nor any loss or expense due to Seller Seller's selection of the carrier.

7.6. In the absence of instructions by Buyer prior to delivery, Seller shall select the method of transportation, carrier and the routing of the shipment. Buyers that request expedited or special modes of transportation or routing involving air, premium or any other non-standard Seller shipping shall be assessed additional charges for shipping, handling, freight and expediting. If Buyer requests Seller, in Seller's discretion, to arrange for shipment of products as an accommodation to Buyer, Buyer must furnish Seller with Buyer's carrier account number and carrier information. All freight, storage, insurance or other costs of shipment shall be paid by Buyer and if advanced by Seller, shall be added to Buyer's invoice. Any rebates, allowances, discounts or incentives received by Seller from its carriers shall be retained by Seller. All prices include Seller's domestic standard packaging for commercial shipment. When other than domestic standard packaging is required Buyer may be subject to additional charges.

7.7. Seller attempts to ship prior to the schedule date where possible and acceptable. Indicate "on but not before" if material will not be accepted prior to the scheduled date. Seller reserves the right to make shipments in installments, unless otherwise expressly stated on the specific purchase order and indicated as "ship complete" if partial order shipments are not acceptable.

Delivery Code	Description
D3	3-day delivery. Shipped within 3 business days from receipt of order
D5	5-day delivery. Shipped within 5 business days from receipt of order.
D10	10-day delivery. Shipped within 10 business days from receipt of order.
C	Consult factory Customer Service Representative.
DD	Direct Delivery from vendor. Freight will be prepaid and added to invoice.

**NOTE:**

1. For large quantity orders, consult Customer Service Representative for delivery information.
2. Requests for deferred or reschedule delivery beyond the defined schedule terms must be approved by Seller's factory management.
3. Canadian and International Buyers – Add one (1) week to published delivery schedule for factory consolidation and paperwork.

**7.8. EXPRESS ORDERS:** Depending on item availability, EXPRESS ORDERS for items will be shipped by close of business the same business day when order is received by 3:00 p.m. Central time. A five percent (5%) premium or \$10.00, whichever is greater, is applied to the standard pricing when this service is requested. **To qualify order must be marked EXPRESS ORDER and submitted online or via e-mail as provided for in Section 5.0 herein. If faxing express orders, send to: 888-223-2465.** Freight will be prepaid and added to invoice regardless of order value. If the sales order calls for delivery by installments, these conditions shall be construed as severable as to each installment. Each such installment shall be deemed to be sold under a separate and independent contract, and default in any shipment or delivery shall not invalidate these conditions in respect of any other shipments or deliveries. Delay in delivery of any installment shall not relieve Buyer of its obligation to accept remaining deliveries.

**8. INSPECTION AND ACCEPTANCE:** Buyer is responsible for pursuing damage claims with the carrier; therefore inspection for shortages or damages caused by carrier must be made within time period required by carrier. All other non-carrier claims for all other discrepancies, shortages or errors must be made in writing to Seller within fifteen (15) days after invoice date, and failure to give such notice shall constitute an irrevocable acceptance and a waiver of all such claims by the Buyer, and Buyer shall pay the price of the products in accordance with these terms and conditions of sale. Return of products subject to a claim may only be returned with Seller's prior written authorization and must be returned per instructions provided on Seller's Return Material Authorization ("RMA") document. Returns must be accompanied by a packing slip including Seller's Return Material Authorization number ("RMA#"), purchase order number, invoice number, number of cartons, description of items received, condition of cartons and any other relevant facts that are helpful in tracing the cause of discrepancy, and with transportation charges prepaid. Seller will verify all reports of shipping discrepancies, and where applicable, a credit invoice will be issued. No prior debits will be accepted.

**9. EXCUSABLE DELAYS:** Seller shall not be liable for any damages as a result of any delays due to any causes beyond Seller's control, including, without limitation: an act of God; act of Buyer or Seller supplier; embargo or other governmental act, regulation or request (whether compliance is mandatory or voluntary); fire; accident; strike; slowdown; flood; fuel or energy shortage; sabotage; war; riot; act of terrorism; delay in transportation; mechanical breakdown; or inability to obtain necessary labor, materials or manufacturing facility supplies from usual sources, or any other force majeure event. In the event of any such delay, the date of delivery shall be extended for a period of time reasonably necessary to overcome the effect of such delay. If any

such delay shall continue for more than thirty (30) days, the quantities undelivered may be cancelled without liability at Seller's option, to be exercised by Seller giving written notice to Buyer at any time during the period of the sales contract.

**10. EXPORT CONTROL:**

**10.1.** Buyer acknowledges and agrees that the Products and Services provided by Seller under this Contract are subject to U.S., EU and other export control laws, and remain subject to such controls following delivery, and may not be exported, re-exported or transferred (in-country) to any other territory, end-use or end-user except as authorized by U.S, EU laws and regulations, in addition to the export control laws of any other applicable jurisdiction.

**10.2.** Buyer represents, warrants and covenants that it shall not directly or indirectly take any action to engage in or facilitate the export, re-export or transfer (in-country) of these items, any part thereof, or to the extent applicable any direct product thereof, without the required authorization under U.S., EU and other applicable laws to any of the following:

**10.2.a.** any territory subject to Embargoes and Other Special Controls under EU or U.S. Export Administration Regulations (including but not limited to, as of the date of this Acknowledgment, Russia, Belarus, Crimea and other Covered Regions of Ukraine including Donetsk and Luhansk, Cuba, Iran, Syria, and North Korea

**10.2.b.** any other country or territory to which such export or re-export is restricted or prohibited under EU, U.S. laws and, to the extent applicable, the laws of any other jurisdiction;

**10.2.c.** any individual or entity that is (x) included on any lists of sanctioned individuals or entities maintained by the United Nations, the United Kingdom, the United States, or the European Union, and any other relevant jurisdiction including but not limited to the following lists: the Specially Designated Nationals and Blocked Persons List, the Foreign Sanctions Evaders List, the Sectoral Sanctions Identifications List, the Non-SDN Communist Chinese Military-Industrial Complex Companies List and any other lists administered by OFAC, as amended from time to time; the U.S. Denied Persons List, the U.S. Entity List, and the U.S. Unverified List, all administered by the U.S. Department of Commerce; the consolidated list of Persons, Groups and Entities Subject to EU Financial Sanctions, as implemented by the EU Common Foreign & Security Policy; and similar lists of restricted parties maintained by other relevant governmental authorities; (y) any person owned or controlled by, or acting on behalf of, any of the foregoing; or (z) any other person who is the target of sanctions and export control restrictions; or,

**10.2.d.** any military end-use or military end-user (including army, navy, marine, air force, coast guard, national guard and national police, government intelligence or reconnaissance organizations, or any person or entity whose actions or functions are intended to support military end uses), any proliferation related end-use, or any other prohibited end-use under EU, U.S. and other applicable export control laws.

**10.3.** Buyer represents, warrants, and covenants that it shall maintain reasonable compliance policies, procedures and controls designed to ensure compliance with the laws, regulations and undertakings set forth above, and shall not otherwise undertake any action that violates or would cause the Seller to violate EU, U.S. export control laws or the export control laws of any other applicable jurisdiction.

**11. PRODUCT CHANGES AND SUBSTITUTION:** Seller reserves the right, without notice to Buyer, to discontinue products or make changes in its products, including, without limitation, changes to the component parts, dimensions, design or specifications and further reserves the right to substitute complete devices or material when unobtainable because of priorities in production or regulations established by

governmental authority or non-availability of materials from suppliers, provided the modification or substitution does not adversely affect the technical soundness of the product or its performance for the use intended by Seller. Seller assumes no liability for deviation from published dimensions and descriptive information not essential to proper performance of the product. If changes or substitutions are made, Seller assumes no obligation to provide the changed or substituted products previously purchased by Buyer or to continue to supply any discontinued product.

**12. TOOLING:** Notice will be given if special patterns or tools are required to complete any order. Payment of charges for such patterns or tools or related written data, if any, do not convey title thereto or the right to remove tools or equipment from Seller's plant. All tools (including testing equipment) and other items furnished by Buyer to Seller used to produce or test the products shall remain the property of Buyer and shall be at Buyer's risk and expense and will be removed at Seller's request. If patterns or tools are not used for a period of two (2) years, Seller shall have the right to scrap them without notice.

**13. WARRANTY (NON-SOFTWARE):** This warranty extends only to persons or organizations that directly purchase Seller products. Seller warrants product manufactured by it and sold through authorized sales channels to be free from defects in materials and workmanship, to conform to Seller's product specifications (with performance consideration to the specific application), to conform to written specifications and drawings approved by Seller in writing, under normal use and service (subject to reasonable tolerances), and that the product is used and placed as directed in the specifications for:

Product Line	Warranty Period
SmartX Actuators	60 months from date of manufacture - when distributed and installed in North America.
Globe & Ball Valves	60 months from date of manufacture – when distributed and installed in North America
All other manufactured non-software product	24 months from date of shipment as estimated from manufacture date and shipping record.
Sourced Product	Per third party manufacturer terms

Some products may contain extended or other warranties. Refer to the product's documentation or package inserts, as applicable.

If within such applicable Warranty Period, as may be changed from time to time, any product or its components shall be proved to Seller's satisfaction to be defective or non-conforming, such product, at Seller's option, shall be; (i) repaired, or (ii) replaced, or (iii) credited to Buyer's account at Buyer's lowest net invoice amount over the previous twelve (12) months. Costs of product removal or installation, including labor, are not the responsibility of Seller.

**13.1.** This warranty shall not apply to product subjected to: (i) abuse or damage as may be indicated by, but not limited to; dropping or mishandling, negligence, accident, unusual physical stress (incl. stripped threads, split castings), unusual electrical stress (incl. lightning strikes), abnormal conditions of temperature (incl. fire, burned contacts), abnormal conditions of moisture, dirt or corrosive chemicals, or damage by circumstances beyond Seller's control; or (ii) misuse or improper installation, operation, maintenance or storage; or (iii) tampering and altered after leaving factory, or removal or alteration of original identification marks, or missing parts; or (iv) damage by carrier in shipment; (v) other than normal use or service; or (vi) being returned without obtaining prior return material authorization ("RMA") or failure to properly identify return packaging; or (vii) plastic items after installation in a machine or assembly; or (viii) repair or alteration by other than Seller, or an authorized Seller service facility or field office, so as, in Seller's judgment, to affect the same adversely; or (ix) products not manufactured by Seller With respect to products not manufactured by Seller the warranty obligations of Seller shall in all respects conform and be limited to the warranty actually extended to Seller by its supplier and Seller shall assign or make such warranty available to Buyer to the extent permitted.

**13.2.** If product is confirmed by Seller to be covered under warranty, Seller may, at its expense (for parts and labor necessary to remedy defect), repair or replace the product with a new or reconditioned unit and return to Buyer freight allowed. Expedited or premium shipping will be at Buyer's request and expense. If product is repaired or replaced (includes Advance Warranty Returns ("AWR")/Immediate Exchanges), Seller will warranty the repaired/replaced product for **ninety (90) days** from date of the repair/replacement or the remainder of the original warranty, whichever is longer.

**13.3. REPAIRS – OUT OF WARRANTY PRODUCTS:** Contact Seller Customer Service for inquiries on whether out-of-warranty product may be repaired. To the extent offered by Seller on certain products, Seller warrants repaired or replaced "out-of-warranty" products for ninety (90) days from date of repair or replacement.

**13.4. REPAIRS – OBSOLETE PRODUCT WARRANTY:** Contact Seller Customer Service for inquires on whether obsolete product component parts may be repaired. To the extent offered by Seller on certain product components, Seller warrants repaired components of obsolete products for ninety (90) days from date of repair.

**13.5.** All repair orders are subject to parts availability and Buyer is responsible for all repair charges. Contact Customer Service for repair prices.

**13.6.** The foregoing warranties do not cover reimbursement for labor, packing or other transportation charges, removal, installation, temporary power, theft or other repair, or any other expenses that may be incurred by Buyer. Seller reserves the right to supply suitable substitutes when warranty items are not currently in production or otherwise available. This warranty shall not be enlarged, diminished, or affected by, and no obligation or liability shall arise out of, Seller's rendering technical advice or service in connection with Buyer's order of Seller's products.

**13.7.** Non-conforming products must be returned at Buyer's expense for evaluation unless waived in writing by Seller. To initiate warranty service Buyer must follow Seller's return process as set forth in the Returns clause herein.

**13.8. THE REMEDIES PROVIDED HEREIN ARE THE BUYER'S SOLE AND EXCLUSIVE REMEDY FOR FAILURE OF SELLER PRODUCT TO CONFORM TO THE WARRANTY.**

**13.9. Final disposition of any warranty claim shall be determined solely by Seller.**

**13.10. EXTENDED WARRANTIES:** If requested by the Buyer, and specifically accepted in writing by Seller, the standard warranty may be extended on a per product basis under terms as agreed to by the parties under a separate Extended Warranty Agreement.

**13.11. ADVANCE WARRANTY RETURNS / IMMEDIATE REPLACEMENT:** Products still under warranty may qualify for immediate replacement where, upon Buyer's request, Seller will ship freight prepaid by Seller via carrier of Seller's choice at Buyer's expense with freight charges added to Buyer's invoice (freight prepaid/billed) for an immediate replacement product (subject to parts availability) in advance of product being returned to Seller for warranty consideration. Provided, however, Buyer must contact Seller for an Advanced Warranty Return Number (AWR#) and furnish Seller with Buyer's purchase order. Any questions on billable amounts must be resolved prior to AWR# being issued and exchange product being shipped. Seller must receive the returned warranty claim product within thirty (30) days from replacement product ship date, and returned warranty product must qualify under Seller's warranty policy for warranty replacement. If returned warranty product qualifies for warranty claim replacement/credit, a credit for the replacement product will be applied directly to the purchase order given when AWR# was requested. If returned warranty product does not qualify for warranty

claim, all postage, insurance, shipping charges and product price are the responsibility of Buyer.

**14. SOFTWARE WARRANTY:** Seller software or computer information ("Software Product(s)") are licensed, not sold, to Buyer or its end-user customers, and all title to Software Products remains in Seller. To the extent that the phrase "sale of product" or "purchase of product" or the like relate to Software Products, such phrases shall be deemed to refer to the granting of a non-exclusive license or sub-license, as applicable, to use such Software Products and shall not be construed as conveying ownership or title to such Software Products. Similarly, to the extent the phrase "sales price," "purchase price," "price" or the like relate to Software Products, such phrases shall be deemed to refer to the license fees therefore. Any Software Product sold by Seller, is licensed to Buyer solely pursuant to standard licenses of Seller or its supplier of such Software Product, which licenses are hereby incorporated by reference.

**14.1. Seller warrants to the original licensee:**

Software Product	To perform substantially in accordance with its specification for a period of ninety (90) days from date of dispatch.
Software Media	Media upon which the Software is recorded is free from defects in materials and workmanship under normal use and service for a period of ninety (90) days from date of dispatch.

**14.2.** Buyer's remedy in case of defects in media shall be the replacement by Seller of any computer storage media or documentation not meeting Seller's limited warranty herein.

**14.3.** Seller does not warrant; that such software will operate error free or without interruption, that the software will meet Licensee's requirements, that software errors will be corrected, or that the software will operate in combinations other than as specified and approved by Seller. Seller warrants only that during the warranty period applicable to the Software Product that if such software or computer information fails to conform to such warranty, Seller will, at its option, use commercially reasonable efforts to provide an update to correct the non-conformance or replace the Software Product with the latest available version containing a correction. However, Seller shall have no obligation to provide updates or revisions.

**14.4. BUYER ASSUMES THE ENTIRE RISK AS TO THE RESULTS AND PERFORMANCE OF ANY SOFTWARE OFFERED BY SELLER. ANY SOFTWARE OFFERED BY SELLER IS LICENSED FOR PRIVATE OR COMMERCIAL USE ONLY.**

**15. LIMITATIONS:** The following disclaimers and limitations of remedies apply to all warranties offered to Buyer and to all purchases by Buyer.

**15.1. THE WARRANTIES SET FORTH IN ARTICLES 13 AND 14 ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESSED OR IMPLIED WARRANTIES (EXCEPT WARRANTIES OF TITLE), INCLUDING, BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.** Except as may be expressly provided in an authorized writing by Seller, Seller shall not be subject to any other obligations or liabilities whatsoever, other than as stated herein with respect to product sold or services rendered by Seller.

**16. RETURNS**

**16.1. ALL RETURNS:**

**16.1.a.** NO PRODUCT MAY BE RETURNED WITHOUT FIRST CONTACTING SELLER AND OBTAINING SELLER'S WRITTEN PERMISSION AND A RETURNED MATERIAL AUTHORIZATION NUMBER (RMA#). RMA# is valid only if the product

it refers to is received at the address specified on the RMA form, **freight prepaid**, within **thirty (30) days** from date Seller issued authorization. If product is received after thirty (30) days, Seller may reject the request. Buyer must furnish: i) Buyer information (Buyer name, address, telephone number, contact name); and ii) product identification (model number, serial number, part number and quantities desired to be returned); and iii) Buyer's original order information (invoice number, sales order number (or Buyer's purchase order number)); and iv) return shipment information (shipping address and shipping carrier); and v) reason for return with detailed description of failure or service required.

**16.1.b.** Copy of completed RMA form must be enclosed in package.

**16.1.c.** RMA# must be prominently displayed on outside of packaging and written on enclosed paperwork.

**16.1.d.** Seller is not responsible for returns without a RMA# or any product returned without the RMA# prominently displayed on packaging, which will not be accepted by Seller receiving department and will be returned to Buyer unopened, freight collect.

**16.1.e.** Buyer to properly clean and/or decontaminate the product. Products that are static sensitive must be shipped in static protective bags or containers.

**16.1.f.** Product must be securely packed to reach Seller without damage. Damaged items will not be accepted for return, even if RMA# has been issued.

**16.1.g.** Product must be shipped with postage, insurance and transportation charges prepaid to Seller's facility from which product initially shipped (return address will be indicated on RMA form furnished by Seller).

**16.1.h.** Products manufactured by Seller shall have returns sent to address as indicated on RMA.

**NOTE:** For specific product families, special shipping instructions may be required. These instructions will be indicated on the RMA#. International Buyers must contact their Seller for return procedures.

**16.2. ADDITIONAL RETURN REQUIREMENTS FOR WARRANTY CONSIDERATION:** In addition to above return requirements, in order for returned product to be considered for warranty claim, Buyer shall provide Seller: i) warranty verification (date of purchase, in-service date or proof of purchase invoice number); and ii) date of installation, and iii) date of failure; and iv) detailed description of failure or service required (problems or symptoms experienced); and v) personnel contact name in case further information is required. Buyer must supply written detailed information about the application, failure modes, failure rates, environmental concerns and general observations. The type of problem should be explained in as much detail as practical. Warranty data is a vital tool in maintaining and improving product quality and Buyer's cooperation is greatly appreciated. All miscellaneous parts associated with the product must also be returned.

**16.2.a.** Upon receipt of item, Seller will inspect the product to determine, in its sole discretion, if item qualifies under warranty policy. If Seller's inspection does not disclose any defect covered by warranty, repair, replacement or credit will not be approved and Seller will notify Buyer. Buyer shall then have the option to request Seller to either; 1) retain or scrap the product with no liability to Seller, or 2) return product to Buyer, freight collect. Buyer shall have one (1) week from Seller's notification to elect which disposition it chooses. If Buyer's response is not received in writing within the one (1) week period, the former (#1) disposition will take effect.

**16.3. ADDITIONAL RETURN REQUIREMENTS FOR NEW AND UNUSED PRODUCT RETURNS:** In addition to above return requirements, returned new and unused product must be of current

manufacture and/or distributed products that are in warranty (excludes obsolete product) that have been purchased within ninety (90) days prior to the return date ("Return Period"), in the original packaging, unused, undamaged and in original saleable condition, including all accessories and inserts. Credit for return will be based on net purchase price paid on invoice, less any applicable inspection, testing, handling or restocking charges. At Seller's sole discretion, the restocking charge may be waived in the event Buyer has made a mistake requesting an item and Buyer returns such unused item in its original packaging and in saleable condition within thirty (30) days of order date, provided RMA# is requested and authorized according to the terms herein and Buyer places an order for a similar item and quantity at time of RMA request. Restocking charges are as follows:

Product Line	Restocking Charge
System/Controllers	30%
Manufactured Field Devices	30%
Sourced Field Devices	Minimum 30%- or third-party manufacturer terms.

**16.3.a.** Software Product, Software Media, Special order, custom and non-stock items are not returnable.

**16.3.b.** Costs incurred by failure to follow Seller direction will be borne by the Buyer.

**16.3.c.** If product is returned outside of the Return Period, Buyer shall direct Seller to either; 1) retain or scrap the product with no credit given to Buyer, or 2) return product to Buyer, freight collect. Buyer shall have one (1) week from Seller's notification to elect which disposition it chooses. If Buyer's response is not received in writing within the one (1) week period, the former (#1) disposition will take effect.

**17. INTELLECTUAL PROPERTY:** As to product manufactured by Seller, Seller shall defend any suit or proceeding brought against Buyer so far as based on a claim that such product, used as specifically authorized by Seller, or any part thereof, constitutes an infringement of any copyright, trademark or patent of the United States. This obligation shall be effective only if Buyer shall have made all payments then due and if Seller is notified promptly in writing and given authority, information, and assistance by Buyer (at Seller's expense) for the defense of the same. In the event the use of such product by Buyer is enjoined in such a suit, Seller shall, at its expense and at its sole option, either (i) procure for the Buyer the right to continue using such product, or (ii) modify such product to render it non-infringing, or (iii) replace such product with non-infringing product, or (iv) refund or credit the purchase price (less depreciation). Seller will not be responsible for any compromise or settlement made without its written consent. The foregoing states the entire liability of Seller for patent, trademark or copyright infringement, and in no event shall Seller be liable if any infringement charge is based on the use of Seller product for a purpose other than that for which it was sold by Seller or if Buyer contributed in any way to the infringement. As to any product furnished by Seller to Buyer and manufactured in accordance with designs, specifications or instructions proposed by Buyer, or if a Seller product, or any part thereof, is altered or used in combination with other manufacturers' products not furnished or approved in advance by Seller and results in directly infringing a patent, copyright, or misappropriates a trade secret, the Buyer shall indemnify Seller against any award made against Seller for patent, trademark, or copyright infringement.

**18. PRODUCT APPLICATIONS:** Unless otherwise agreed in writing by a duly authorized representative of Seller, products sold hereunder are not intended for use in or in connection with any nuclear facility or activity. If so used, Seller disclaims all liability for any damage, injury or

contamination; and Buyer shall indemnify Seller, its officers, directors, shareholders, employees and agents against any such liability, whether arising as a result of breach of contract, warranty or tort (including negligence) or otherwise.

**18.1.** Buyer acknowledges that Seller's products are designed for specific applications and Buyer agrees it shall not market, resell, distribute, or recommend the use of any of Seller's products in any application where the use of the product does not conform to Seller's specification for use, and indemnifies Seller, its officers, directors, shareholders, employees and agents over same. Seller shall have no responsibility, and the product warranty shall be void, if Buyer uses any product for any application for which it is not designed. Contact Product Support at the following or such other address as Seller may designate from time to time.

**18.1.a.** For Field Devices (Valves, Actuators & Sensors) email [ProductSupport.NAM-HVAC@schneider-electric.com](mailto:ProductSupport.NAM-HVAC@schneider-electric.com) or phone 888-444-1311, Option 4, Option 1.

**18.1.b.** For Building Management Systems email [ProductSupport.NAM-BMS@schneider-electric.com](mailto:ProductSupport.NAM-BMS@schneider-electric.com) or phone 888-444-1311, Option 4, Option 2.

**19. PRODUCT NOTICES:** Buyer shall promptly supply the user (including its employees) of the product with all Seller supplied product notices, warnings, instructions, recommendations and similar materials.

**20. ERRORS:** Seller reserves the right to correct errors or omissions in quotations, acknowledgments, invoices, price lists or other documents.

**21. OSHA COMPLIANCE:** Compliance with OSHA or similar federal, state or local laws during the operation or use of the product(s) is the sole responsibility of the Buyer or end-user.

## 22. LIMITATION OF LIABILITY

**22.1.** NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, NEITHER SELLER, ITS CONTRACTORS, OR SUPPLIERS OF ANY TIER, SHALL BE LIABLE IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE FOR LOST TIME, LOST PROFITS OR REVENUES, LOSS OF USE, LOSS OF FOOD PRODUCT, LOSS OF GOODWILL, INCREASE IN OPERATING COSTS, OR ANY OTHER SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE REMEDIES OF THE BUYER ARE EXCLUSIVE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT TO THE CONTRARY, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE TOTAL CUMULATIVE LIABILITY OF SELLER, ITS CONTRACTORS AND SUPPLIERS OF ANY TIER, IN RELATION TO THIS CONTRACT SHALL NOT EXCEED THE PURCHASE PRICE OF THE PRODUCT, PART, OR SERVICE ON WHICH SUCH LIABILITY IS BASED.

**22.2.** Seller shall not be liable to Buyer for any claims, damages, expenses, fees, costs, losses, causes of action or suits, which result from, in whole or in part, Buyer's direction, negligence, acts, omissions, use of the product in a manner not specifically authorized by Seller, willful misconduct, or other fault of any nature of Buyer, its employees, agents, servants, or customers.

## 22. ETHICS AND TRUST LINE:

**22.1.** In the event Buyer has concerns related to ethics, compliance, or Seller's Trust Charter (Code of Ethics) and/or any potential violations of these policies, Buyer is welcome to make use Seller's Trust Line. The Trust Line is Seller's global helpline for external stakeholders. It is a confidential channel through which Buyers can ask questions and raise concerns. Reports can be made using the

link below:

<https://secure.ethicspoint.eu/domain/media/en/gui/104677/index.html>

**22.2** None of Buyer's employees, beneficial owners, shareholders, or any other person who is involved in or will benefit from the performance of the Contract or has an interest in Buyer:

**22.2.a.** is a civil servant, public or governmental official;

**22.2.b.** is an official or employee of Seller or one of its affiliates; or

**22.2.c.** has been convicted of, or otherwise been subjected to any administrative sanction or penalty for, any offence involving fraud, bribery, corruption, influence peddling, money laundering, or any other criminal offence involving dishonesty as an element. Buyer will immediately notify Seller if any such individuals are the subject of any investigation into any such offenses.

**22.3** Buyer undertakes and covenants to Seller that it shall not, alone or in conjunction with any other person, directly or indirectly, offer, pay, give, promise to pay or give, or authorize the payment or giving of any money, gift, undue advantage, or anything of value to any employee, official or authorized representatives of Seller.

### **23. CYBERSECURITY OBLIGATIONS:**

**23.1** Buyer's Obligations for Its Systems: Buyer is solely responsible for the implementation and maintenance of a comprehensive security program ("Security Program") that contains reasonable and appropriate security measures and safeguards to protect its computer network, systems, machines, and data (collectively, "Systems"), including those Systems on which it runs the Products or which it uses with the Services, against Cyber Threats. "Cyber Threat" means any circumstance or event with the potential to adversely impact, compromise, damage, or disrupt Buyer's Systems or that may result in any unauthorized access, acquisition, loss, misuse, destruction, disclosure, and/or modification of Buyer's Systems, including any data, including through malware, hacking, or similar attacks.

**23.2** Without limiting the foregoing, Buyer shall at a minimum:

**23.2.a.** have qualified and experienced personnel with appropriate expertise in cybersecurity maintain Buyer's Security Program, and have such personnel regularly monitor cyber intelligence feeds and security advisories applicable to Buyer's Systems or Buyer's industry;

**23.2.b.** promptly update or patch its Systems or implement other appropriate measures based on any reported Cyber Threats and in compliance with any security notifications or bulletins, whether publicly disclosed on Seller's security notification webpage at <https://www.se.com/ww/en/work/support/cybersecurity/security-notifications.jsp> or otherwise provided to Buyer;

**23.2.c.** regularly monitor its Systems for possible Cyber Threats;

**23.2.d.** regularly conduct vulnerability scanning, penetration testing, intrusion scanning, and other cybersecurity testing on its Systems; and

**23.2.e.** meet the recommendations of Seller's Recommended Cybersecurity Best Practices, available at <https://www.se.com/us/en/download/document/7EN52-0390/>, as may be updated by Seller from time to time, and then-current industry standards.

**23.3.** Buyer's Use of the Products, Software, and Services: Seller may release Updates and Patches for its Products, Software, and Services from time to time. Buyer shall promptly install any Updates and Patches for such Products, Software, or Services as soon

as they are available in accordance with Seller's installation instructions and using the latest version of the Products or Software, where applicable. An "Update" means any software that contains a correction of errors in a Product, Software, or Service and/or minor enhancements or improvements for a Product, Software, or Service, but does not contain significant new features. A "Patch" is an Update that fixes a vulnerability in a Product, Software, or Service. Buyer understands that failing to promptly and properly install Updates or Patches for the Products, Software, or Services may result in the Products, Software, or Services or Buyer's Systems becoming vulnerable to certain Cyber Threats or result in impaired functionality, and Seller shall not be liable or responsible for any losses or damages that may result.

**23.4.** Identification of Cyber Threats: If Buyer identifies or otherwise becomes aware of any vulnerabilities or other Cyber Threats relating to the Products, Software, or Services for which Seller has not released a Patch, Buyer shall promptly notify Seller of such vulnerability or other Cyber Threat(s) via the Seller Report a Vulnerability page (<https://www.se.com/ww/en/work/support/cybersecurity/report-a-vulnerability.jsp#Customers>) and further provide Seller with any reasonably requested information relating to such vulnerability (collectively, "Feedback"). Seller shall have a non-exclusive, perpetual and irrevocable right to use, display, reproduce, modify, and distribute the Feedback (including any confidential information or intellectual property contained therein) in whole or part, including to analyze and fix the vulnerability, to create Patches or Updates for its customers, and to otherwise modify its Products, Software, or Services, in any manner without restrictions, and without any obligation of attribution or compensation to Buyer; provided, however, Seller shall not publicly disclose Buyer's name in connection with such use or the Feedback (unless Buyer consents otherwise). By submitting Feedback, Buyer represents and warrants to Seller that Buyer has all necessary rights in and to such Feedback and all information it contains, including to grant the rights to Seller described herein, and that such Feedback does not infringe any proprietary or other rights of third parties or contain any unlawful information.

**23.5.** Buyer agrees to indemnify, defend, and hold harmless Seller from and against any and all claims, lawsuits, demands, actions, or other proceedings brought against it by any third party due to, arising out of, or related to Buyer's failure to comply with its obligation as identified under this article, including Buyer's failure to maintain a Security Program in compliance with what was agreed with the Seller or Buyer's failure to promptly and properly install Updates and Patches for the Products, Software or Services in accordance with this article.