

# **Honeywell General Terms and Conditions - Malaysia**

## **1. RELATIONSHIP OF THE PARTIES**

1.1 Honeywell shall perform and execute the provisions of this Agreement at all times as an independent contractor, and none of Honeywell, any subcontractor, nor any of their respective employees, agents, or representatives shall be, represent, act or purport to be deemed for any purpose to be an agent, servant, representative, or employee of Customer, nor shall Honeywell, any subcontractor, nor any of their respective employees, agents, or representatives be treated as an employee of Customer for any purpose, including tax and social security coverage and withholding, or any Customer provided employee benefits. Nothing herein shall create a relationship of joint venture or partnership between Customer and Honeywell, and neither Party shall have the authority to bind or obligate the other in any manner as a result of the relationship created hereby.

1.2 Customer acknowledges and agrees that Honeywell may elect to have portions of the Services accomplished through subcontractors but shall remain fully responsible for such subcontractor's performance and compliance with this Agreement. Any subcontractors performing Services shall have any licenses or other accreditations required by Applicable Law. Honeywell shall be solely responsible for paying subcontractors and for managing and coordinating their work. No contractual relationship shall exist between Customer and any subcontractor with respect to the Services to be performed pursuant to this Agreement, and no subcontractor is intended to be or shall be deemed a third-party beneficiary of this Agreement.

## **2. TERM AND RENEWAL**

2.1 The Agreement term shall commence on the date stated in this Agreement ("Effective Date") and continue for the period of the initial term of the Agreement (the "Agreement Term").

2.2 The Agreement Term shall automatically be renewed for consecutive terms of one year unless terminated by either party by the delivery of written notice to the other at least sixty (60) days prior to the end of the initial term or such renewal term (as applicable), or unless terminated as provided herein. Through the automatic renewal process, Customer agrees it shall be bound by the updated General Terms and Conditions in effect at the time of such renewal and as periodically updated thereafter by Honeywell.

## **3. WORKING HOURS**

3.1 Unless otherwise stated, all labour and services under this Agreement will be performed during typical working hours of 9:00 a.m. - 5:30 p.m. local time Monday through Friday (or applicable typical working hours for the region in which the Services is being performed), excluding public holidays (in regions where applicable) ("Normal Working Hours"). If for any reason Customer requests Honeywell to furnish any labour or services outside of Normal Working Hours, any overtime or additional expenses, such as repairs or material costs not included in this Agreement, will be billed to and paid by Customer.

## **4. TAXES**

4.1 Customer understands that Honeywell's pricing excludes all taxes (including but not limited to, sales, use, excise, value-added, and other similar taxes), tariffs and duties (including amounts imposed upon any products or goods made available under this Agreement or bill of material relating thereto under any law, rule or regulation (collectively "Taxes"). Customer will pay all Taxes resulting from this Agreement or Honeywell's performance under this Agreement, whether imposed, levied, collected, withheld, or assessed now or later. If Honeywell is required to impose, levy, collect, withhold or assess any Taxes on any transaction under this Agreement, then in addition to the Price, Honeywell will invoice Customer for such Taxes unless at the time of execution of this Agreement, Customer furnishes Honeywell with an

exemption certificate or other documentation sufficient to verify exemption from the Taxes to the satisfaction of Honeywell. In no event will Honeywell be liable for Taxes paid or payable by Customer. This clause will survive expiration or any termination of this Agreement.

## 5. CONFIDENTIAL INFORMATION

5.1 Customer will:

- (a) use the Confidential Information only for the performance of the Agreement (“Purpose”);
- (b) disclose Confidential Information only to its employees and any subcontractors or third parties (“sub-processors”) required to have Confidential Information for the Purpose and who are legally bound in writing to Customer to protect the Confidential Information in accordance with terms and conditions no less stringent than those imposed under this Agreement;
- (c) protect Confidential Information using the same degree of care, but no less than reasonable care, as Customer uses to protect its own confidential information of a like nature;
- (d) reproduce the restrictive legends of the original on copies it makes; and
- (e) disclose Confidential Information to a third party only if authorized in writing and under conditions required by Honeywell.

5.2 Customer is responsible to Honeywell for any violation of the confidentiality obligations by its employees or an authorized third party. Within thirty (30) days of Honeywell’s written request, Customer will return or destroy all Honeywell Confidential Information, including all copies thereof, and will certify to such return or destruction in writing to Honeywell.

5.3 **Limitations.** Confidential Information will not include any information that:

- (a) was in Customer’s possession and not subject to an obligation of confidentiality before receipt from Honeywell;
- (b) is or becomes legally available in the public domain through no fault of Customer;
- (c) was rightfully received by Customer from a third party who had no obligation of confidentiality, either directly or indirectly, to Honeywell; or
- (d) was independently developed by Customer without use of or reference to Honeywell’s Confidential Information. If Customer is required to disclose Confidential Information by applicable law, statute, regulation, or court order, Customer will:
  - (i) give Honeywell prompt written notice of the request and a reasonable opportunity to object to the disclosure and seek a protective order or appropriate remedy; and
  - (ii) disclose Confidential Information only to the extent required.

5.4 **Breach of Obligation.** Customer agrees that a breach of the confidentiality obligations under this Section will cause irreparable damage for which money damages will not be fully adequate, and Honeywell would be entitled to seek injunctive relief, in addition to any other legal remedies.

5.5 **Standard of Care.** Customer agrees to comply with all applicable law or regulation relating to its use of Personal Data, which shall include, without limitation, requirements that the Customer:

- (a) take appropriate technical and organizational security measures or such measures required by Honeywell to protect Personal Data;
- (b) indemnify Honeywell against all losses, costs, expenses, damages, liabilities, demands, claims, actions, or proceedings which Honeywell may suffer in or arising out of any security breach or other breach of this Section concerning Confidential Information (including by any employee or sub-processor); and
- (c) as soon as possible notify Honeywell about any security breach, any request for disclosure of Personal Data by a law enforcement agency (unless otherwise prohibited by law) or any requests received by individuals to whom Personal Data relates, without responding to such request unless otherwise authorized by Honeywell.

## 6. INSURANCE OBLIGATIONS

6.1 Honeywell shall, at its own expense, carry and maintain in force at all times from the effective date of the Agreement through final completion of the Services the following insurance:

Public Liability: US\$1,000,000 any one occurrence and in the aggregate any one period of insurance

Workmen's Compensation: As required by law

6.2 Customer shall be responsible for maintaining its own liability and property insurance.

## **7. HAZARDOUS SUBSTANCES, MOLD AND UNSAFE WORKING CONDITIONS**

7.1 Customer has not observed or received notice from any source (formal or informal) of: (a) Hazardous Substances or Mold, either airborne or on or within the walls, floors, ceilings, heating, ventilation and air conditioning systems, plumbing systems, structure, and other components of the Site, or within furniture, fixtures, equipment, containers or pipelines in a Site; or (b) conditions that, to Customer's knowledge, might cause or promote accumulation, concentration, growth or dispersion of Hazardous Substances or Mold on or within such locations.

7.2 Honeywell is not responsible for determining whether the Covered Equipment or the temperature, humidity and ventilation settings used by Customer, are appropriate for Customer and the Site.

7.3 If any such materials, situations or conditions, whether disclosed or not, are in fact discovered by Honeywell or others and provide an unsafe condition for the performance of the Services, the discovery of the condition shall constitute a cause beyond Honeywell's reasonable control and Honeywell shall have the right to cease the Services until the area has been made safe by Customer or Customer's representative, at Customer's expense. Honeywell shall have the right to terminate this Agreement if Customer has not fully remediated the unsafe condition within sixty (60) days of discovery.

7.4 Customer represents that Customer has not retained Honeywell to discover, inspect, investigate, identify, prevent or remediate Hazardous Substances or Mold or conditions caused by Hazardous Substances or Mold.

7.5 Customer is responsible for the containment of any and all refrigerant stored on or about the premises. Customer accepts all responsibility for and agrees to indemnify Honeywell against any and all claims, damages, or causes of action that arise out of the storage, consumption, loss and/or disposal of refrigerant, except to the extent Honeywell has brought refrigerant on Site and is directly and solely negligent for its mishandling.

7.6 Customer will maintain a safe workplace for performance of the Services on Site by Honeywell and will ensure that it has health and safety protocols in place addressing the COVID-19 pandemic as needed, as well as any applicable federal, state and local laws regarding workplace safety. Customer will ensure that its workplace is free of any recognized hazards that are likely to cause death or serious physical harm.

7.7 To the fullest extent allowed by law, Customer shall indemnify and hold Honeywell harmless from and against any and all claims and costs of whatever nature, including but not limited to, consultants' and attorneys' fees, damages for bodily injury and property damage, fines, penalties, cleanup costs and costs associated with delay or work stoppage, that in any way results from or arises under the breach of the representations and warranties in this section, the existence of mold or a hazardous substance at a site, or the occurrence or existence of the situations or conditions described in this section, whether or not customer provides Honeywell advance notice of the existence or occurrence and regardless of when the hazardous substance or occurrence is discovered or occurs. this indemnification shall survive termination of this agreement for whatever reason.

## **8. WARRANTY**

8.1 **LIMITED WARRANTY.** CUSTOMER'S EXCLUSIVE REMEDIES AND HONEYWELL'S SOLE LIABILITY AS TO ANY WARRANTY CLAIM ON ANY PRODUCT SOLD IN CONNECTION WITH THIS AGREEMENT IS AS SET FORTH IN THIS SECTION. SUCH REMEDIES ARE IN LIEU OF ANY OTHER LIABILITY OR OBLIGATION OF HONEYWELL, INCLUDING WITHOUT LIMITATION ANY LIABILITY OR OBLIGATION FOR DAMAGE, LOSS, OR INJURY (WHETHER DIRECT, INDIRECT, EXEMPLARY, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR INCIDENTAL) ARISING OUT OF OR IN CONNECTION WITH THE DELIVERY, USE, OR PERFORMANCE OF THE PRODUCTS OR SERVICES. CREDIT, REPAIR, OR REPLACEMENT (AT HONEYWELL'S OPTION) IS THE SOLE REMEDY PROVIDED HEREUNDER. NO EXTENSION OF THIS WARRANTY WILL BE BINDING UPON HONEYWELL UNLESS SET FORTH IN WRITING AND SIGNED BY A HONEYWELL AUTHORIZED REPRESENTATIVE.

8.2 **Product Warranty Terms.** Subject to compliance with this Section 8, Honeywell will replace or repair

any product Honeywell provides under this Agreement that fails within the warranty period of one (1) year because of defective workmanship or materials, except to the extent the failure results from Customer negligence, fire, lightning, water damage, or any other cause beyond the control of Honeywell. This warranty is effective as of the date of Customer acceptance of the product or the date Customer begins beneficial use of the product, whichever occurs first, and shall terminate and expire one (1) year after such effective date. Honeywell's sole obligation, and Customer's sole remedy, under this warranty is repair or replacement, at Honeywell's election, of the applicable defective products within the one (1) year warranty period. All products repaired or replaced, if any, are warranted only for the remaining and unexpired portion of the original one (1) year warranty period.

**8.3 Services Warranty.** Services shall be performed in a professional and workmanlike manner warranted for one (1) year from the date services are performed (the "Service Warranty Period"). Honeywell's obligation and Customer's sole remedy under this warranty is that Honeywell will correct or re-perform defective services or refund fees paid for the services, at Honeywell's sole election, if Customer notifies Honeywell in writing of defective services within the Service Warranty Period. All services re-performed are warranted for the remainder of the original Service Warranty Period.

**8.4 Warranty Exclusions.** THIS WARRANTY IS VOID WITH RESPECT TO ANY PRODUCT OR SERVICE THAT IS:

- (a) software;
- (b) altered or repaired by anyone other than Honeywell's authorized employees or agents;
- (c) installed, used, serviced, or maintained in a manner that fails to conform with Honeywell Product documentation or training;
- (d) lost or damaged, tampered with, or destroyed due to (I) rough or negligent treatment of the Product (including, without limitation, damage during shipment back to Honeywell caused by improper packaging on return); (II) an act of God (including, without limitation, lightning or related voltage surges); or (iii) any other cause not within Honeywell's control, including, without limitation, Customer's failure (or that of its Customers) to apply required or recommended updates or patches to any Software or device in the Product's network environment; and/or
- (d) made and/or provided by a third party.

**8.5 Procedure for Warranty Claim.** If, during the applicable Warranty Period, Customer believes there is a defect in material or workmanship covered by the relevant Product warranty, Customer must immediately discontinue use and notify Honeywell. Customer shall coordinate with Honeywell to facilitate the warranty assessment. Upon receipt of any such Product during the applicable Warranty Period, Honeywell shall, at its expense, (i) examine the product to verify the alleged defect, (ii) in Honeywell's sole discretion, credit Customer or repair or replace any defective Product, including shipment of such replacement or repaired Product back to Customer (at Honeywell's expense). Honeywell will credit Customer for its return shipping costs for any defective Products, but Customer will be responsible for paying any customs or import duties payable upon receipt of any repaired or replacement Products and also paying Honeywell a standard testing charge for any Products not found to be defective.

**8.6 Warranty disclaimer.** except as expressly provided in this section, Honeywell makes no representations or warranties, whether written, express, implied, statutory or otherwise, and hereby disclaims all representations and warranties, including, but not limited to, the implied warranties of merchantability and fitness for particular purpose and any and all warranties regarding hazardous substances or mold. no extension of this warranty will be binding upon Honeywell unless set forth in writing and signed by Honeywell's authorised representative. without limiting the foregoing, Honeywell makes no representation, warranty or guarantee as to the efficacy of, or the results or outcomes that may be produced by, any equipment, software or work provided or made available under this Agreement.

**8.7** Customer acknowledges and agrees that equipment or materials purchased by Customer under this Agreement may contain, be contained in, incorporated into, attached to or packaged together with the products manufactured by a third party. Third party products are generally not covered by this Section and Honeywell makes no representations or warranties regarding any third-party products. However, Honeywell shall, at Customer's request, assign to Customer any and all manufacturers or installers warranties for equipment or materials not manufactured by Honeywell and provided as part of the Services, to the extent

that such third-party warranties are assignable and extend beyond the one (1) year limited warranty set forth in this Section.

## **9. INDEMNITY**

9.1 Customer agrees to indemnify, defend and hold harmless Honeywell and its officers, directors, employees, Affiliates (as defined below) and agents from and against any and all actions, lawsuits, losses, damages, liabilities, claims, costs and expenses (including, without limitation, reasonable attorneys' fees) caused by, arising out of or relating to Customer's breach or alleged breach of this Agreement or the negligence or willful misconduct (or alleged negligence or willful misconduct) of Customer or any other person under Customer's control or for whom Customer is responsible.

9.2 Without limiting the foregoing, to the fullest extent allowed by law, Customer shall indemnify and hold Honeywell and each other indemnitee harmless from and against any and all claims and costs of whatever nature, including but not limited to, consultants' and attorneys' fees, damages for bodily injury and property damage, fines, penalties, cleanup costs and costs associated with delay or work stoppage, that in any way results from or arises under the breach of the representations and warranties of Customer in Section 8, the existence of mold or a hazardous substance at a site, or the occurrence or existence of the situations or conditions described in Section 7, whether or not Customer provides Honeywell advance notice of the existence or occurrence and regardless of when the hazardous substance or occurrence is discovered or occurs. Customer may not enter into any settlement or consent to any judgment without the prior written approval of each indemnitee. This Section 9 shall survive termination or expiration of this Agreement for any reason.

9.3 Honeywell agrees to indemnify and hold Customer and its agents and employees harmless from all claims for bodily injury and property damages to the extent such claims result from or arise under Honeywell's negligent actions or willful misconduct in its performance of the Services required under this Agreement, provided that such indemnity obligation is valid only to the extent (i) Customer gives Honeywell immediate notice in writing of any such claims and permits Honeywell, through counsel of its choice and Honeywell's sole cost and expense, to answer the claims and defend any related suit and (ii) Customer gives Honeywell all needed information, assistance and authority, at Honeywell's expense, to enable Honeywell to defend such suit. Honeywell is not responsible for any settlement without its written consent. Honeywell is not liable for loss or damage caused by the negligence of Customer or any other party or such party's employees or agents. This obligation shall survive termination of this Agreement. Notwithstanding the foregoing, Customer agrees that Honeywell shall not be responsible for any damages caused by Mold or any other fungus or biological material or agent, including but not limited to property damage, personal injury, loss of income, emotional distress, death, loss of use, loss of value, adverse health effect or any special, consequential, punitive, exemplary or other damages, regardless of whether such damages may be caused by or otherwise associated with defects in the Services.

## **10. LIMITATION OF LIABILITY**

10.1 Notwithstanding any other provision of this Agreement and except to the extent otherwise not permitted by law (i) in no event shall Honeywell be liable for any incidental, consequential, special, punitive, exemplary, statutory, or indirect damages, loss of profits, revenues, or use, or the loss or corruption of data or unauthorized access to or use or misappropriation of data by third parties, even if informed of the possibility of any of the foregoing, and (ii) the aggregate liability of Honeywell for any claims arising out of or related to this agreement will in no case exceed the annual price (as identified on the price schedule) for the particular Product or Service(s) from which the claim arises. to the extent permitted by applicable law, these limitations and exclusions will apply whether liability arises from breach of contract, indemnity, warranty, tort, operation of law, or otherwise.

## **11. EXCUSABLE DELAYS AND EXTENSION OF TIME**

11.1 Honeywell shall not be liable for damages caused by delay or interruption in the Services due to fire, flood, corrosive substances in the air, strike, lockout, dispute with workmen, inability to obtain material or services,

commotion, war, acts of God, the presence of Hazardous Substances or Mold, or any other cause beyond Honeywell's reasonable control ("Excusable Delays"). Should any part of any system or any Equipment be damaged by fire, water, lightning, acts of God, the presence of Hazardous Substances or Mold, third parties, or any other cause beyond the control of Honeywell, any repairs or replacement shall be paid for by Customer. In the event of any such delay, date of shipment or performance shall be extended by a period equal to the time lost by reason of such delay, and Honeywell shall be entitled to recover from Customer its reasonable costs, overhead, and profit arising from such delay.

11.2 Notwithstanding anything to the contrary, the parties agree that Honeywell shall be entitled to an equitable extension of time to deliver or perform the Services and appropriate additional payment to the extent Honeywell's delivery or performance, or the delivery or performance of its suppliers and/or subcontractors, is in any way delayed, hindered or otherwise affected due to any reason whatsoever, not attributable to Honeywell, including non-availability of the Site.

11.3 No liquidated damages shall be imposed on Honeywell by the Customer during the period of Excusable Delay.

## **12. PATENT INDEMNITY**

12.1 Honeywell shall, at its expense, defend or, at its option, settle any suit that may be instituted against Customer for alleged infringement of any United States patents related to the hardware or software manufactured and provided by Honeywell under this Agreement ("the equipment"), provided that a) such alleged infringement consists only in the use of such equipment by itself and not as part of, or in combination with, any other devices, parts or software not provided by Honeywell hereunder, b) Customer gives Honeywell immediate notice in writing of any such suit and permits Honeywell, through counsel of its choice, to answer the charge of infringement and defend such suit, and c) Customer gives Honeywell all needed information, assistance and authority, at Honeywell's expense, to enable Honeywell to defend such suit.

12.2 If such a suit has occurred, or in Honeywell's opinion is likely to occur, Honeywell may, at its election and expense: a) obtain for Customer the right to continue using such equipment; b) replace, correct or modify it so that it is not infringing; or if neither a) or b) is not reasonable then c) remove such equipment and grant Customer a credit therefore, as depreciated.

12.3 In the case of a final award of damages in any such suit, Honeywell will pay such award. Honeywell shall not, however, be responsible for any settlement made without its written consent.

12.4 THIS ARTICLE STATES HONEYWELL'S TOTAL LIABILITY AND CUSTOMER'S SOLE REMEDY FOR ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY PATENT BY THE HARDWARE MANUFACTURED AND PROVIDED BY HONEYWELL HEREUNDER.

## **13. DISPUTE RESOLUTION**

13.1 With the exception of any controversy or claim arising out of or related to the installation, monitoring, and/or maintenance of fire and/or security systems, the Parties agree that any dispute or differences arising out of or in connection with the Agreement, including its provisions, the breach, termination or validity thereof, which cannot be settled amicably, shall be submitted to arbitration under the auspices of the Asian International Arbitration Centre ("AIAC").

13.2 There shall be a panel of three arbitrators, one to be appointed by each party and the third, who will be the Chairman, to be jointly appointed by both parties. If both parties fail to appoint the third arbitrator, the AIAC shall be the appointing authority. The arbitration shall be conducted in Kuala Lumpur, Malaysia in English and in accordance with the Rules of Arbitration of the AIAC and the Arbitration Act 2005. The arbitration proceedings including the making of the award of the arbitrators shall be final and binding upon the parties. Either party may apply to the arbitrators seeking injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. Either party also may, without waiving any remedy under this Agreement, seek from any court having jurisdiction over the other party any interim or provisional relief that is necessary to protect the rights or property of the party seeking relief, pending the arbitrators' determination of the merits of the controversy.

13.3 If any dispute, or response to any dispute, includes an allegation that potentially concerns whether

any intellectual property right owned, controlled or licensable by either party is invalid, unenforceable or infringed or misappropriated, or is otherwise limited in scope or application, then either party may, in its sole discretion, elect to have such dispute adjudicated before a court of competent jurisdiction and this section shall not be binding on either party with respect to such dispute in its entirety or any related dispute, including any portions of such dispute that do not concern intellectual property rights.

#### **14. ACCEPTANCE**

14.1 This proposal including and the pages attached shall become an Agreement upon signature above by Honeywell and Customer. The terms and conditions are expressly limited to the provisions hereof, including Honeywell's General Terms and Conditions attached hereto, notwithstanding receipt of, or acknowledgment by, Honeywell of any purchase order, specification, or other document issued by Customer. Any additional or different terms set forth or referenced in Customer's purchase order are hereby objected to by Honeywell and shall be deemed a material alteration of these terms and shall not be a part of any resulting order.

#### **15. NOTICES**

15.1 Every notice between the parties relating to the performance or administration of this Agreement will be made in writing and, if to Customer, to Customer's authorized representative or, if to Honeywell, to Honeywell's authorized representative.

15.2 All notices required under this Agreement will be deemed received either:

- (a) two (2) calendar days after mailing by certified mail, return receipt requested and postage prepaid; one (1) business day after deposit for next day delivery with a commercial overnight carrier provided the carrier obtains a written verification of receipt from the receiving party; or
- (b) If sent by e-mail, upon receipt of a non-automated response from the receiving party confirming receipt of the notice;

To Honeywell:

Honeywell Pte Ltd

17 Changi Business Park Central 1,

Singapore 486073

#### **16. COVERAGE**

16.1 Customer agrees to provide Honeywell access to all Covered Equipment. Honeywell will be free to start and stop all primary equipment incidental to the operation of the mechanical, control, automation, and life safety system(s) as arranged with Customer's representative.

16.2 It is understood that the repair, replacement, and emergency service provisions apply only to the Covered Equipment included in the attached List of Covered Equipment (if any and only to the extent expressly provided in the attached Work Scope Documents). Repair or replacement of non-maintainable parts of the system such as, but not limited to, ductwork, piping, shell and tube (for boilers, evaporators, condensers, and chillers), unit cabinets, boiler refractory material, heat exchangers, insulating material, electrical wiring, hydronic and pneumatic piping, structural supports and other non-moving parts, is not included under this Agreement. Costs to repair or replace such non-maintainable parts will be the sole responsibility of Customer.

16.3 Honeywell will not reload software, nor make repairs or replacements necessitated by reason of negligence or misuse of equipment by persons other than Honeywell or its employees, or caused by lightning, electrical storm, or other violent weather or by any other cause beyond Honeywell's control. Honeywell will provide such services at Customer's request and at an additional charge.

16.4 Honeywell may install communication or diagnostic devices and/or software to enhance system operation and support. Upon termination of this Agreement, Honeywell may remove these devices and software and return the system to its original operation. Customer agrees to provide, at its sole expense, connection to the Internet and switched telephone network for such devices and/or software.

16.5 Honeywell shall review the Services delivered under this Agreement on an annual basis, unless otherwise

noted.

16.6 This Agreement assumes that the systems and/or equipment included in the attached List of Covered Equipment are in maintainable condition. If repairs are necessary, in Honeywell's sole judgment, upon inspection or seasonal start-up or otherwise, repair charges will be submitted for approval to Customer. Should these charges be declined, those systems and equipment will be eliminated from coverage under this Agreement and the price adjusted accordingly.

16.7 In the event that the system or any equipment component thereof is altered, modified, changed or moved, this Agreement may be immediately adjusted or terminated, at Honeywell's sole option. Honeywell is not responsible for any damages resulting from such alterations, modifications, changes, or movement.

16.8 Honeywell is not responsible for maintaining a supply of, furnishing and/or replacing lost or needed refrigerants not otherwise expressly required under this Agreement. Customer is solely responsible for the cost of material and labor of any such refrigerant not otherwise provided for under this Agreement at current market rates.

16.9 Maintenance, repairs, and replacement of equipment parts and components are limited to using commercially reasonable efforts to restore to proper working condition. Honeywell is not obligated to provide replacement software, equipment, components, and/or parts that represent a betterment or capital improvement to Customer's system(s) hereunder.

16.10 Unless otherwise specified, Customer retains all responsibility for maintaining LANs, WANs, leased lines, and/or other communication mediums incidental or essential to the operation of the system(s) or equipment found included in the Covered Equipment.

16.11 Customer shall promptly notify Honeywell of any malfunction in the system(s) or Covered Equipment covered under this Agreement that comes to Customer's attention.

## **17. TERMS OF PAYMENT**

17.1 **Customer Financial Status.** Customer represents and warrants to Honeywell on a continuing basis that it is in good financial condition and able to pay all invoices when due. Customer shall, from time to time furnish any financial statements or additional information as may be requested by Honeywell in order to enable Honeywell to assess Customer's financial condition and creditworthiness. Additionally, Customer authorises Honeywell to obtain financial information regarding Customer from credit reporting agencies, Customer's banks and suppliers, and other such sources. Honeywell may, in its sole discretion, increase or decrease the amount of credit (if any) that Honeywell has extended to Customer in connection with this Agreement.

17.2 Subject to Honeywell's approval of Customer's credit, Customer shall pay or cause to be paid to Honeywell the full Contract Price for the Services and products (if any) provided at the Site, including any unfixed materials or plant for the Services, delivered to the Site, as specified in this Agreement. Honeywell shall submit monthly invoices to Customer in advance for Services to be performed during the subsequent billing period, and payment shall be due within thirty (30) days from the date of Honeywell's invoice, unless a shorter time period is specified on the invoice or otherwise communicated to Customer in writing. In the event Customer has been approved for credit terms, payment for that order shall be due no later than 30 calendar days from the date of the invoice, unless a shorter time period is specified on the invoice or otherwise communicated to Customer in writing. Honeywell shall determine in its sole discretion if Customer qualifies for credit terms. If credit terms are granted, Honeywell may change Customer's credit terms at any time in its sole discretion and may, without notice to Customer, modify or withdraw credit terms for any order, including open orders.

17.3 Partial shipments shall be invoiced as they are shipped. Honeywell is not required to provide a hard copy of the invoice. Payments must be made in Singapore Dollars (SGD) currency unless agreed otherwise in writing and must be accompanied by remittance detail containing at a minimum the Customer's order number, Honeywell's invoice number and amount paid per invoice; Customer agrees to pay a service fee as determined by Honeywell for each occurrence for its failure to include the remittance detail and minimum information described above.

17.4 Payments to Honeywell must be in accordance with the "Remit To" field on each invoice. If Customer makes any unapplied payment and fails to reply to Honeywell's request for instruction on allocation within seven (7) calendar days, Honeywell may set off such unapplied cash amount against any Customer past-due invoice(s) at its



sole discretion. An unapplied payment shall mean payment(s) received from Customer without adequate remittance detail to determine which invoice the payment(s) shall be applied to.

17.5 Disputes as to invoices must be accompanied by detailed supporting information and are deemed waived 15 calendar days following the invoice date. Honeywell reserves the right to correct any inaccurate invoices. Any corrected invoice must be paid by the original invoice payment due date or the issuance date of the corrected invoice, whichever is later.

17.6 If Customer is delinquent in payment to Honeywell, Honeywell may at its option:

- a) withhold performance until all delinquent amounts and late charges, if any, are paid;
- b) repossess products or software for which payment has not been made;
- c) assess late charges on delinquent amounts at the lower of 1.5% per month or the maximum rate permitted by law, for each full or partial month;
- d) recover all costs of collection, including but not limited to reasonable attorneys' fees;
- e) combine any of the above rights and remedies as may be permitted by applicable law.

17.7 These remedies are in addition to those available at law or in equity. Honeywell may re-evaluate Customer's credit standing at any time and modify or withdraw credit. The Customer shall not set off any invoiced amounts against sums that are due from Honeywell.

17.8 Price Adjustment. Honeywell may annually adjust the amounts charged for the Services provided upon renewal of this Agreement.

17.9 Additional Payment Claim – In the event Honeywell wishes to make any claims for additional payment or compensation under or arising from any provision of this Agreement, Honeywell shall give written notice of its intention to do so to Customer not later than fourteen (14) working days from the date of the event giving rise to such claim. Honeywell shall then, within thirty (30) days of giving its notice provide to Customer a written account of its claim together with particulars of the amount claimed and the grounds for the claim. Customer shall within thirty (30) days after receiving Honeywell's claim for additional payment: (i) make a fair decision on Honeywell's submissions for claim for additional payment; and (ii) make the additional payment to Honeywell.

## **18. PRICE ADJUSTMENT**

18.1 To the extent permitted by law, Honeywell may, from time to time and in its sole discretion, issue surcharges on this Agreement in order to mitigate and/or recover increased operating costs arising from or related to: (a) foreign currency exchange variation; (b) cost of third -party content, labour and materials; (c) impact of duties, tariffs, and other government actions; and (d) increases in freight, labour, material or component costs, and increased costs due to inflation (collectively, "Economic Surcharges").

18.2 Economic Surcharge shall not exceed 15% from the total Order value. Such Economic Surcharge does not apply if the Agreement is to be delivered upon within four (4) weeks after the Agreement has been concluded. Honeywell will invoice Customer, through a revised or separate invoice, and Customer agrees to pay for the Economic Surcharges pursuant to the standard payment terms in this Agreement. To the extent permitted by law if a dispute arises with respect to Economic Surcharges, and that dispute remains open for more than fifteen (15) days, Honeywell may, in its sole discretion, withhold performance and future shipments or combine any other rights and remedies as may be provided under this Agreement or permitted by law until the dispute is resolved.

18.3 The terms of this Section 18 shall prevail in the event of inconsistency with any other terms in this Agreement. Any Economic Surcharges, as well as the timing, effectiveness, and method of determination thereof, will be separate from and in addition to any changes to pricing that are affected by any other provisions in this Agreement.

## **19. SUSPENSION**

19.1 If Customer fails to:

- (a) make payment for the progress payments due to Honeywell; or
- (b) reasonably evaluate and make payment for loss and expense claimed by Honeywell; and

(c) grant extension of time and additional payment for delays not attributable to Honeywell; then, Honeywell shall be entitled to suspend the Services by giving prior written notice to Customer for the suspension notice to take effect 14 days thereafter, until Customer has remedied such default.

19.2 For the avoidance of doubt, Honeywell shall not be liable for any liquidated and/or general loss and damage to Customer or any other party during the period of suspension as aforesaid, and such period of suspension shall be added to the Services date.

## **20. TERMINATION**

20.1 Subject to the next sentence, Customer may terminate this Agreement for cause if Honeywell defaults in the performance of any material term of this Agreement or fails or neglects to carry forward the Services in accordance with this Agreement, after giving Honeywell written notice of its intent to terminate. If, within thirty (30) days following receipt of such notice, Honeywell fails to cure or perform its obligations, Customer may, by written notice to Honeywell, terminate this Agreement.

20.2 Honeywell may terminate this Agreement for cause if Customer: (a) fails to make payments as agreed herein, after giving Customer written notice of its intent to terminate for non-payment. If, after seven (7) days of the date of such notice, Customer fails to make the payments then due, or otherwise fails to cure or perform its obligations, Honeywell may, by written notice to Customer, terminate this Agreement; (b) fails to reasonably evaluate and make payment for loss and expense claimed by Honeywell under Clause 23 below; (c) fails to grant extension of time for delays not attributable to Honeywell under this Agreement; or (e) fails to make payment for additional payment claimed by Honeywell.

20.3 Cancellation - This Agreement may be canceled at Honeywell's option in the event Honeywell's equipment on Customer's premises is destroyed or substantially damaged. Likewise, this Agreement may be canceled at Customer's option in the event Customer's premises are destroyed. In the event of such cancellation, neither party shall be liable for damages or subject to any penalty, except that Customer shall remain liable for Services rendered to the date of cancellation.

20.4 Either Party may terminate this Agreement by giving written notice to the other Party upon the occurrence of any insolvency or suspension of the other Party's operations or any petition filed or proceeding made by or against the other Party under Applicable Law relating to bankruptcy, arrangement, reorganization, receivership, or assignment for the benefit of creditors or other similar proceedings.

20.5 In all instances above, Honeywell shall be entitled to recover from Customer payment for Services performed and for losses sustained for materials, tools, construction equipment and machinery, including but not limited to, reasonable overhead, profit and applicable damages.

## **21. LOSS AND EXPENSE**

21.1 Honeywell shall be entitled to recover as loss and expense sustained or incurred by Honeywell, and for which Honeywell would otherwise not be reimbursed by any other provision of this Agreement, all loss, expense, costs or damages of whatsoever nature and howsoever arising as a result of:

- (a) the issue of an instruction for a Change Order;
- (b) failure of Customer to give sufficient access or possession of the Site to Honeywell to perform the Services;
- (c) the suspension of any part of the Services not attributable to Honeywell;
- (d) Honeywell not having received from Customer within a reasonable time, the necessary drawings, instructions or other information in regard to the Services;
- (e) specially worked items made on instructions of the Customer which cannot be reasonably used in any works or projects
- (f) unforeseeable adverse physical conditions and Excusable Delay;
- (g) acts or omissions of other contractors or sub-contractors engaged by Customer in executing work not forming part of the Services;
- (h) any act of prevention or breach of contract by Customer not mentioned in this clause; or
- (i) any changes in Applicable Law or by-laws, regulation, order or rule made thereunder by any local or other

public or competent authority.

## **22. COMPLIANCE WITH LAWS**

20.1 Honeywell and Customer will comply with all Applicable Law.

20.2 **Code of Conduct.** Honeywell will comply with Honeywell's Code of Business Conduct ("Code") in performing the Services. A copy of the Code may be obtained at <http://www.honeywell.com/sites/honeywell/codeofconduct.htm>.

20.3 **Anti-Corruption.** Customer shall not take any action that would cause itself or Honeywell to be in violation of any anti-corruption laws or regulations, including without limitations, the U.S. Foreign Corrupt Practices Act.

## **23. SANCTIONS**

23.1 Customer represents, warrants, agrees that:

(a) Customer is not a "Sanctioned Person," meaning any person or entity : (i) named on the U.S. Department of the Treasury's Office of Foreign Assets Control's ("OFAC") list of "Specially Designated Nationals and Blocked Persons," "Sectoral Sanctions Identifications List" or other economic sanctions lists issued pursuant to a United States governmental authority, the European Union Common Foreign & Security Policy or other governmental authority; (ii) organized under the laws of, ordinarily resident in, or physically located in a jurisdiction that is the subject of sanctions administered by OFAC or the U.S. Department of State (each a "Sanctioned Jurisdiction" and including, at the time of writing, Cuba, Iran, North Korea, Syria, and the Crimea region); or (iii) owned or controlled, directly or indirectly, 50% or more in the aggregate by one or more Sanctioned Persons.

(b) Customer is in compliance with and will continue to comply with all economic sanctions laws administered by OFAC, the U.S. Department of State, the European Union, Australia or other nations ("Sanctions Laws"). Customer will not involve any Sanctioned Persons or group of Sanctioned Persons in any capacity, directly or indirectly, in any part of this transaction and performance under this transaction. Customer will not take any action that would cause Honeywell to be in violation of sanctions Laws.

(c) Customer will not sell, export, re-export, divert, or otherwise transfer, any Honeywell products, technology, or software: (i) to any Sanctioned Persons; or (ii) for purposes prohibited by any sanctions program enacted by the U.S. Government.

(d) Customer's failure to comply with this provision will be deemed a material breach of the Agreement, and Customer will notify Honeywell immediately if it violates, or reasonably believes that it will violate, any terms of this provision. Customer agrees that Honeywell may take any and all actions required to ensure full compliance with all sanctions laws without Honeywell incurring any liability. Should Honeywell be subjected to any liability as a result of Customer's non-compliance with Sanctions Laws, then Customer shall indemnify Honeywell to the extent of such liability.

## **24. CHANGE ORDERS**

24.1 A Change Order is a written order signed by Customer and Honeywell authorising a change in the Services, schedule or Price ("Change Order")

24.2 Honeywell may make a written request to Customer to modify this Agreement based on the receipt of, or the discovery of, information that Honeywell believes will cause a change to the scope, price, schedule, level of performance, or other facet of the Agreement. Honeywell will submit its request to Customer within a reasonable time after receipt of, or the discovery of, information that Honeywell believes will cause a change to the scope, price, schedule, level of performance, or other facet of the Agreement. Honeywell's request will include information necessary to substantiate the effect of the change and any impacts to the Services, including any change in schedule or Price. If Honeywell's request is acceptable to Customer, Customer will issue a Change Order consistent therewith. If Customer and Honeywell cannot agree on the amount of the adjustment in the Price, or the schedule, it shall be determined pursuant to the Dispute Resolution provisions of this Agreement. Any change in the Price or the schedule resulting from such claim shall

be authorised by a Change Order.

## 25. SOFTWARE LICENCE

25.1 All software made available in connection with this Agreement (“Licensed Software”) shall be licensed and not sold and subject to all terms of the Software Licence Agreement (as defined below). All Software is made available subject to the express condition that the end user of the Software sign and deliver to Honeywell the then-current and applicable version of Honeywell’s standard software license agreement, end user license agreement (“EULA”), or a software licence agreement otherwise satisfactory to Honeywell in its sole discretion (in each case, the “Software License Agreement”). Customer is responsible for ensuring that all Licensed Software provided to an end user under this Agreement is subject to the Software License Agreement. Notwithstanding any other provision of this Agreement or any other document or instrument, the terms of the Software Licence Agreement shall govern and supersede any inconsistent or conflicting terms to the extent relating to Software. Payment for any and all Software made available in connection with this Agreement shall be due and payable at the time the end user of the Software executes the Software Licence Agreement.

## 26. SOFTWARE-AS-A-SERVICE TERMS

26.1 **General.** To the extent the Services made available or provided to Customer under this Agreement include any software applications, online portals or dashboards or other software - as-a-service items or services, including, without limitation, Honeywell Forge, Honeywell Connected Life Safety Services or the Honeywell Vector Occupant Application (each, a “**Honeywell App**”), the terms and conditions applicable to use of each Honeywell App are set forth in this Section 26. A Honeywell App may enable the Customer to view certain dashboards, service case history, service reports, and other documentation provided by Honeywell from time to time. In the event of a conflict between this Section 26 and any other provision of this Agreement or other document or instrument, this Section 26 shall prevail. **HSSTs.**

26.2 “**HSSTs**” means these Software-as-a Service Terms set forth in this Section 26 (the “**HSSTs**”). Each of the Honeywell Apps is a software as a service running in the cloud and on Site software and hardware that enables cloud connectivity (the “**SaaS**”) and the HSSTs set out the terms and conditions applicable to the use of the SaaS in relation to the Services, including your use of and access to the SaaS.

26.3 **Parties.** “**Honeywell**”, “**we**”, “**us**” or “**our**” means Honeywell International Inc. and/or Affiliate(s) who execute or assent to this Agreement and/or any related documents or instruments. “**You**” or “**your**” means collectively Customer and any other entities executing or assenting to this Agreement and/or any related documents or instruments. “**Affiliate**” means any entity that controls, is controlled by, or is under common control with, another entity. An entity “controls” another if it owns directly or indirectly a sufficient voting interest to elect a majority of the directors or managing authority or otherwise direct the affairs or management of the entity.

26.4 **Use Rights.** Subject to payment of agreed fees and strict compliance with the terms of access and acceptable use, we shall provide you solely for your internal business purposes:

(a) remote access to the SaaS through means we provide (and which may include online portals or interfaces such as https, VPN or API); and (b) a personal, revocable, non-exclusive, non-assignable, non-transferable license to: (i) download, install, and use software we provide solely to operate the SaaS; and (ii) use SaaS documentation as reasonably required in connection with the SaaS (collectively, “**Use Rights**”). You, your employees and any party accessing the SaaS on your behalf (“**Users**”) may exercise Use Rights, provided that, you must bind them to the Agreement and are responsible for their compliance with it, any breach by them and their acts and omissions. You may not resell Use Rights or permit third parties (except Affiliates or service providers) to be Users or make copies of the SaaS except as agreed by us in writing. We have no responsibility with respect to actions or inactions of Users.

26.5 **Acceptable Use.** The Use Rights are the only acceptable use of the SaaS. You shall not use the SaaS for purposes of, or in connection with: (a) reverse engineering, making machine code human readable or

creating derivative works or improvements; (b) interfering with its security or operation (including probing, scanning or testing the vulnerability of any security measures or misrepresenting transmission sources); (c) creating, benchmarking or gathering intelligence for a competitive offering; (d); infringing another's IPR; (e) employing it in hazardous environments requiring fail-safe performance where failure could lead directly or indirectly to personal injury or death or property or environmental damage; or (f) any use that would reasonably be expected to cause liability or harm to us or our customers or breach the Agreement. We have the right to monitor usage. We may terminate upon written notice if use is fraudulent, continued use would subject us to third party liability or we cease making the SaaS generally available to third parties. We may suspend Use Rights if we determine that you or Users are violating or may violate the Agreement.

**26.6 Support.** We will use commercially reasonable efforts to maintain the SaaS, repair reproducible defects and make available as a whole 99% of the time 24x7x365 subject to scheduled downtime, routine and emergency maintenance and force majeure. We are not responsible or liable for any issues, problems, unavailability, delay or security incidents arising from or related to: (i) conditions or events reasonably outside of our control; (ii) cyberattack; (iii) the public internet and communications networks; (iv) data, software, hardware, services, telecommunications, infrastructure or networking equipment not provided by us or acts or omissions of third parties you retain; (v) your and Users negligence or failure to use the latest version or follow published documentation; (vi) modifications or alterations not made by us; (v) loss or corruption of data; (vi) unauthorized access via your credentials; or (vii) your failure to use commercially reasonable administrative, physical and technical safeguards to protect your systems or data or follow industry-standard security practices.

**26.7 IP.** All right, title and interest, including all intellectual property rights (including copyrights, trademarks and patents), proprietary rights (including trade secrets and know-how), and moral rights (including rights of authorship and modification) throughout the world ("IPR") in and to the SaaS and all of its derivative works, modifications and improvements, are retained by Honeywell or its licensors and are our confidential information. We shall own all IPR that is: (i) developed by us or our Affiliates by processing or analysis of Input Data (excluding Input Data itself, but including derived data that is sufficiently different from Input Data so that Input Data cannot be identified from analysis or further processing of such derived data); or (ii) generated through support, monitoring or other observation of your and your Users' use of the SaaS. The internal operation and performance of the SaaS is our confidential information. If you provide any suggestions, comments or feedback regarding the SaaS, you hereby assign to us all right, title and interest in and to the same without restriction. You and Users shall not remove, modify or obscure any IPR notices on the SaaS.

**26.8 Security.** We will use commercially reasonable administrative, physical and technical safeguards to protect personal data and Input Data and follow industry-standard security practices. You are solely responsible for costs and liability incurred due to unauthorized use or access through your or Users account credentials or systems.

**26.9 Privacy.** Data about you, users and/or your or their employees, customers, contractors or Affiliates that is recognized under applicable law as "personal data" or equivalent terms ("**Personal Data**") may be processed in relation to the Agreement, including: (i) data subjects - employees of you and your customers, contractors or Affiliates; and (ii) data categories - name, contact information (e.g. addresses, emails and telephone), IP address, location, images, video and system, facility, device or equipment usage data. If the applicable laws of a jurisdiction recognize the roles of "controller" and "processor" as applied to Personal Data then, as between you and us, you act as controller and we act as processor and shall process Personal Data on behalf of and in accordance with your documented instructions, the Agreement and applicable laws and only to the extent, and for so long as necessary, to provide, protect, improve or develop the SaaS and/or related services and perform rights and obligations under the Agreement. You authorize us to share Personal Data with sub-processors located in any jurisdiction, provided we use legally enforceable transfer mechanisms and contractually require them to abide by similar terms with regards to processing of Personal Data. We have no liability arising from processing of Personal Data in compliance with the Agreement. You will, at your cost and expense, defend, indemnify and hold harmless us and our Affiliates, sub-contractors and licensors from and against all losses, awards and damages (including attorneys' fees), arising

out of claims by third parties related to our possession, processing or use of Personal Data in accordance with the Agreement. We shall refer data subject requests to you and provide reasonable assistance to enable you to:

- (a) comply with requests;
- (b) enable security;
- (c) respond to complaints or inquiries or conduct any impact assessments; and
- (d) verify compliance with our obligations in this Section (including participating in Personal Data audits), provided you reimburse all reasonably incurred costs.

26.10 Upon termination we shall delete or anonymize all Personal Data, except if required or permitted by applicable law for compliance, audit or security purposes. If we believe any instruction will violate applicable privacy laws, or if applicable law requires us to process Personal Data relating to data subjects in the European Economic Area (“EEA”) in a way that is not in compliance with your or users’ documented instructions we shall notify you in writing, unless the law prohibits such notification on important grounds of public interest. We shall upon request make available the identity of sub-processors and notify intended addition or replacement and you have 5 business days to object. If you object, we may terminate without penalty on written notice. We shall ensure personnel processing Personal Data of data subjects have committed to confidentiality in relation to such processing. Where transfers of Personal Data require: (a) you authorize us and our Affiliates to act as agent for the limited purpose of binding you as principal, in the capacity of “data exporter”, to a Honeywell inter group or Honeywell and service provider data transfer agreement comprising the Standard Contractual Clauses for the transfer of personal data to processors established in third countries adopted by the European Commission (“**SCC**”); and (b) the parties agree that the SCCs ([https://ec.europa.eu/info/law/law-topic/data-protection/data-transfers-outside-eu/model-contracts-transfer-personal-data-third-countries\\_en](https://ec.europa.eu/info/law/law-topic/data-protection/data-transfers-outside-eu/model-contracts-transfer-personal-data-third-countries_en) or more recent website) shall be deemed to have been signed by you or your Affiliates, in the capacity of “data exporter”, and by us or our Affiliates, in the capacity of “data importer”.

26.11 **Warranty, Disclaimer.** The SaaS is provided with no warranties or representations of any kind, whether express, implied or statutory. to the maximum extent permitted by law, we expressly disclaim all warranties and representations including merchantability and fitness for purpose. we do not warrant that the SaaS will meet your requirements, or that it will operate without interruption, or be error free.

26.12 **Limitation.** We are not liable for indirect, incidental, exemplary, punitive, special or consequential damages, including lost profits and revenues, in relation to the SaaS. our cumulative, aggregate liability will in relation to the SaaS be limited to direct damages in an amount equal to the greater of: (a) total amounts paid for the SaaS during the 12 months immediately preceding the assertion of any claim; and (b) AUD. \$50,000. all claims that a party may have shall be aggregated and multiple claims shall not enlarge the foregoing limit. our liability under evaluation or trial rights is limited to \$100.

26.13 **Miscellaneous.** Any descriptions of future product direction or intended updates (including new or improved features or functions) other than the features and functions deployed as of date of the Agreement are intended for information purposes only and are not binding commitments on us to deliver any material, code or functionality. The development, release and timing of any such updates is at our sole discretion unless agreed otherwise in writing. We reserve the right to charge additional fees for new or improved features or functions. You must comply with all laws and regulations applicable to your use of the SaaS and your rights to use the SaaS is subject to such compliance. The HSSTs take precedence over any other terms in the Agreement to the extent related to the SaaS. Sections 23.7 to 23.12 and those portions of the HSSTs that by their nature should survive, survive termination or expiration of the Agreement.

## 27. CYBERSECURITY INCIDENTS

Notwithstanding any other provision of the Agreement, (a) in no event will Honeywell be responsible or liable for protection against, or mitigation of consequences associated with, a Cyber Incident being an unwanted or unexpected occurrence of a system, service or network state indicating a possible breach of security policy, failure of safeguards or a previously known situation that may be relevant to security), or a series of such

events that have a significant probability of affecting or compromising business operations, (b) Customer is solely responsible for ensuring that its Site(s) and systems are protected against such a Cyber Incident or other similar cyber-related events and/or attacks including, but not limited to, ensuring that all software is kept up to date, that all cybersecurity products used are compatible with one another and that any patches are correctly and appropriately installed, and (c) all remedial, reinstallation or update works provided by Honeywell, if any, as a result of or related to a Cyber Incident or other similar cyber-related events and/or attacks will be performed subject to additional fees for such work, plus applicable GST, to be paid by Customer to Honeywell (in addition to fees otherwise due under the Agreement).

## **28. MISCELLANEOUS PROVISIONS**

**28.1 Entire Agreement.** This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof and supersedes any prior agreements and commitments with respect thereto. There are no oral or written understandings, terms, or conditions, and neither Party has relied upon any representations, express or implied, not contained in this Agreement.

**28.2 Amendments.** No change, amendment or modification of this Agreement shall be valid or binding upon the Parties hereto unless such change, amendment or modification shall be in writing and duly executed by both Parties hereto. Any subsequent purchase order or other document unilaterally issued by Customer shall not be binding unless duly executed by both Parties.

**28.3 Joint Effort.** Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not be construed more severely against one of the Parties than against the other.

**28.4 Captions.** The captions contained in this Agreement are for convenience and reference only and in no way define, describe, extend, or limit the scope of intent of this Agreement or the intent of any provision contained herein.

**28.5 Severability.** The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the portion or provision held to be void. The Parties further agree to reform this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Paragraph shall not prevent this entire Agreement from being void should a provision which is the essence of this Agreement be determined to be void.

**28.6 No Waiver.** Any failure of any Party to enforce any of the provisions of this Agreement or to require compliance with any of its terms at any time during the pendency of this Agreement shall in no way affect the validity of this Agreement, or any part hereof, and shall not be deemed a waiver of the right of such Party thereafter to enforce such provisions or require compliance with such terms.

**28.7 Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their successors and permitted assigns.

**28.8 Standards and Codes.** The latest edition or revision of any standards or codes referenced in this Agreement for performance of the Services shall apply, unless otherwise expressly set forth in this Agreement.

**28.9 Survival.** Provisions of this Agreement which by their nature contemplate or govern performance or observance subsequent to the termination or expiration of this Agreement shall survive such termination or expiration; provided, that all warranties and licenses granted by Honeywell to Customer pursuant to this Agreement shall terminate upon Honeywell's termination for Customer's default based on Customer's failure to pay Honeywell in accordance with this Agreement.

**28.10 Governing Law.** This Agreement shall be governed by the laws of Malaysia, without regard to conflicts of laws principles. The courts located within Malaysia will have exclusive jurisdiction to adjudicate any dispute arising out of or related to this Agreement. Honeywell may seek an injunction or enforce a judgment against Customer in any jurisdiction. Customer will not bring a legal action more than two (2) years after the cause of action arose unless a shorter period is provided by applicable law.

**28.11 Non-Assignment/Delegation by Customer.** Customer may not assign its rights or delegate its obligations

under this Agreement, in whole or in part, without the prior written consent of Honeywell. Honeywell may assign this Agreement or any or all of its rights under this Agreement without Customer's consent.

**28.12 Risk of Loss/Transfer of Title.** Risk of loss or damage to any Products provided under this Agreement (excluding software and services) passes to Customer when Honeywell places the goods at Customer's disposal at the Honeywell Dock ("Delivery"). Title to goods passes to Customer upon Delivery, but Honeywell retains a security interest in such goods until full payment is received. Honeywell will schedule Delivery (and use commercially reasonable efforts to ship) in accordance with its standard lead time unless Customer's order requests a later delivery date, or Honeywell agrees in writing to an earlier delivery date.

**28.13 Custom Orders.** Special or custom orders ("Custom Orders") for products not listed in Honeywell's standard price list are non-cancellable. In the event of a cancellation of all or part of a Custom Order, Customer will be responsible for the full order.

**28.14 Data Rights.** Customer retains all rights that Customer already holds in data and other information that Customer or persons acting on Customer's behalf input, upload, transfer, or make accessible in relation to, or which is collected from its devices or equipment by, any services provided by Honeywell or its Affiliates under this Agreement ("Input Data"). Customer grants to Honeywell the right to duplicate, analyze, modify and otherwise use Input Data to provide, improve and develop the Offering and related products and services. Customer has sole responsibility for obtaining all consents and permissions (including providing notices to users or third parties) and satisfying all requirements necessary to permit our use of Input Data. Honeywell and its Affiliates may also use Input Data for any other purpose provided it is in an anonymized form that does not identify Customer. Any Customer data contained within Input Data shall only be used or processed in accordance with the data privacy terms of this Agreement (if any) and applicable law. All information, analysis, insights, inventions and algorithms derived from Input Data by Honeywell and/or its Affiliates (but excluding Input Data itself) and any intellectual property rights related thereto, are owned exclusively and solely by Honeywell and its Affiliates and are their proprietary information. Honeywell does not archive Input Data for Customer's future use. This Section 27.14 shall survive termination or expiration of this Agreement.

**28.15 Remote Services.** Customer agrees that Honeywell may provide some or all of the Services remotely using an Internet connection and may install additional software and related communication and/or diagnostic devices on Customer's applicable systems (the "Systems") to enable such connection and/or remote Services. Notwithstanding any other provision of the Agreement, such software and devices will remain the property of Honeywell and shall be removed from the Systems and returned to Honeywell promptly at Honeywell's request. Customer agrees to fully cooperate with Honeywell's installation and commissioning of such software and devices on the Systems. To the extent required by Honeywell, Customer will enable and consents to Internet connectivity between its applicable Systems and Honeywell's applicable computer server(s)/system(s) and/or the Honeywell cloud platform(s) throughout the term of the Agreement. Honeywell and its Affiliates may, in any country in which they or their agents or suppliers conduct business, collect, transmit, receive, process, maintain, and use for the purpose of providing the Services all data obtained in connection with the Agreement. Customer represents and warrants that Customer is the owner of the Site is the subject of this Agreement or, if not, that the owner of such Site consents to the foregoing, to the extent such consent is required.

## **29 DEFINITIONS**

**29.1 "Agreement"** means these Honeywell General Terms and Conditions for Services and the Proposal.

**29.2 "Applicable Law"** means the laws of Singapore.

**29.3 "Contract Price"** means the price for the Services to be paid to Honeywell by Customer.

**29.4 "Covered Equipment"** means the equipment covered by the Services to be performed by Honeywell under this Agreement, and is limited to the equipment included in the respective work scope attachments.

**29.5 "Hazardous substance"** includes all of the following, whether naturally occurring or manufactured, in quantities, conditions or concentrations that have, are alleged to have, or are believed to have an adverse effect on human health, habitability of the Site, or the environment: (a) any dangerous, hazardous or toxic pollutant, contaminant, chemical, material or substance defined as hazardous or toxic or as a pollutant or contaminant under



state or federal law, and (b) any petroleum product, nuclear fuel or material, carcinogen, asbestos, urea formaldehyde, foamed-in-place insulation, polychlorinated biphenyl (PCBs), and (c) any other chemical or biological material or organism, that has, is alleged to have, or is believed to have an adverse effect on human health, habitability of the Site, or the environment.

29.6 "Mold" means any type or form of fungus or biological material or agent, including mold, mildew, moisture, yeast and mushrooms, and any mycotoxins, spores, scents, or by-products produced or released by any of the foregoing. This includes any related or any such conditions caused by third parties.

29.7 "Personal Data" means all personal information as defined under the Personal Data Protection Act that is collected or managed by any of the parties under this Agreement.

29.8 "Personal Data Protection Act" means the Personal Data Protection Act 2012 as amended from time to time.

29.9 "Services" means all work, labour and services and obligations to be undertaken by Honeywell in support of, or to maintain, the Covered Equipment, as more fully detailed in the attached work scope document(s), which are incorporated herein.

29.10 "Site" means Customer's site or premises where the Services will be performed.

