

Schneider Electric Standard Terms & Conditions Of Sale

Australia, Version 21, April 2026

Standard Terms and Conditions of Sale

1 OVERVIEW OF AGREEMENT

- 1.1 Unless otherwise expressly agreed in writing, all Products, Services and Projects are supplied on the following terms and conditions which shall include:
- (a) the Proposal provided Schneider Electric;
 - (b) the Credit Terms (if applicable);
 - (c) these Terms and Conditions;
 - (d) each purchase order submitted by the Customer and accepted by Schneider Electric.
- For the purposes of these terms a reference to "Agreement" shall mean the above documents in clauses 1.1(a) to 1.1(d).
- 1.2 If there is any conflict or inconsistency between the above documents the documents will rank in order of precedence with the order in which they are listed in clause 1.1 above.
- 1.3 Each Order issued by the Customer and accepted by Schneider Electric will be accepted on these Terms and Conditions, to the exclusion of all other terms including any terms and conditions referenced or set forth on the face or reverse side of any Order or other document presented by the Customer.
- 1.4 No amendment or variation of the Agreement is valid or binding on a Party unless made in writing and signed by both Parties.

2 DEFINITIONS

- 2.1 The following capitalised terms will be defined as follows:

Acceptance means when the Project Deliverables are accepted pursuant to clause 23.

Acceptance Tests means tests agreed between the Customer and Schneider Electric which are based on agreed objective criteria.

Agreement has the meaning given to that term in clause 1.1 of these Terms and Conditions.

Australian Consumer Law means the Competition and Consumer Act 2010 (Cth) as amended from time to time.

Australian Privacy Principles means the Australian Privacy Principles which are contained under schedule 1 of the Privacy Act.

Background IP means with respect to both parties Intellectual Property owned by that party existing at the date the Order is made including any modifications made during the course of the Agreement to such Background IP.

Billing Period shall have the same as set out in the Commercial Details in the Proposal.

Commercial Details means the schedule set out in the Proposal referred to as Commercial Details Schedule.

Confidential Information means any information of a confidential nature which relates to the business, affairs or activities of a Party including information comprised in Intellectual Property Rights of any Party, process or operational information, calculations or analysis, financial and business information and information of third parties which is required to be kept confidential.

Consequential Loss means indirect, special or consequential loss or damage (including but not limited to) loss of profits, revenue, loss of reputation and goodwill and damage to brand, loss of use of Products and systems, loss of data, loss of access to data including corruption of data, loss of production, throughput and output and operations, loss of overheads, costs of capital, costs of financing, loss of business opportunity loss of customers and contracts, loss of anticipated savings return on investment or yield or any increase in operating costs.

Credit Terms means the Credit terms and conditions referred to in the Credit Application completed by the Customer with Schneider Electric.

Customer means the party who Schneider Electric will supply the Products, Services and Projects, as specified in the Order.

Cyber Threat means any circumstance or event with the potential to adversely impact, compromise, damage, or disrupt Customer's Systems or that may result in any unauthorized access, acquisition, loss, misuse, destruction, disclosure, and/or modification of Customer's Systems, including any data, including through malware, hacking, or similar attacks.

Date of Acceptance has the meaning given to that term in clause 23.2 of the Addendum for the Supply of Projects.

Delivery Date has the meaning given to that term in clause 21.1 of these Terms and Conditions.

Delivery Point has the meaning given to that term in clause 4.2 of these Terms and Conditions.

Effective Date means the date of acceptance of an Order by Schneider Electric in accordance with clause 1.3 of these Terms and Conditions.

Energy Consulting Services means Services to support customers in managing financial risks purchasing energy and energy consumption and/or generation.

Excusable Delay means any event beyond the reasonable control of Schneider Electric including but not limited to:

- (a) any shipping or transport delays;
- (b) any delay associated with Covid 19 and its variants which may delay in the transportation or procurement of raw materials, power and/or components which may trigger stoppage, hindrance or delays in Schneider Electric's (or its subcontractors) capacity to produce, deliver, install or service the products, irrespective of whether such stoppage, hindrance or delays are due to measures imposed by authorities or deliberately implemented by Schneider Electric (or its subcontractors) as preventive or curative measures to avoid harmful contamination exposure of Schneider Electric's (or its subcontractors') employees;

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- (c) the failure of the Customer or its contractors or agents to meet their obligations under the Agreement including any agreed delivery schedule;
- (d) any delay in providing free and safe access to the Site if it is required by Schneider to perform its obligations under the Order.

Fixed Price means the lump sum amount quoted by Schneider Electric for the supply of specified Products, Services and Projects.

Force Majeure Event means an event beyond the reasonable control of Schneider Electric whether foreseeable or not, which may include but not be limited to, hostilities, revolution, acts of war or terrorism, civil commotion, pandemic or epidemic, accident or quarantines or regional medical crisis, cyberattacks, ransomware, denial of service attacks or other malicious acts, fire, flood, wind, earthquake or storms, strikes and lockouts or shortage of materials whether at Schneider Electric or one of its suppliers, or any other acts of god or act of any government or governmental agency including laws regulation or ordinance and proclamation affecting the manufacture or delivery of the Product.

GST Act means the A New Tax System (Products and Services) Tax Act 1999 (Cth).

Initial Term shall have the same meaning as set out in clause 3.5.

Intellectual Property Rights means all and any rights in issued patents and patent applications, rights to inventions, design rights, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, moral rights, rights in confidential information (including know-how and trade secrets).

Law means any statute, regulation, order, rule, subordinate legislation or other document enforceable under any statute, regulation, rule or subordinate legislation and includes a modification or re-enactment of it.

Order means the Proposal submitted by Schneider Electric and the purchase order issued by the Customer and accepted by Schneider Electric in accordance with clause 1.3 of these Terms and Conditions.

Party means a party to the Agreement.

Patch means an Update that fixes a vulnerability in a Product, Software or Service.

Personal Information means all information about a person that is "personal information" as defined in the Privacy Act, which is collected and/or handled by any of the Parties in connection with this Agreement.

PPSA means the Personal Property Securities Act 2009 (Cth).

Price means the aggregate amount payable by the Customer to Schneider Electric in relation to the Products, Services and Projects, as specified in the Order.

Privacy Act means the Privacy Act 1988 (Cth) as amended from time to time.

Privacy Policy means Schneider Electric privacy policy which may be found at <https://www.schneider-electric.com.au/en/about-us/legal/privacy-policy.jsp>

Products means any Schneider Electric Products or such other third-party products, equipment, materials, supplies or items, as specified in the Order including Software.

Project means a set of activities including the development, provision, modification, configuration, enhancement and integration of the Products and Services, by Schneider Electric to meet the Specifications.

Project Deliverable means the Products and other deliverables required to be developed or integrated by Schneider Electric pursuant to a particular Project in accordance with agreed Specifications.

Proposal means a proposal or quote provided by Schneider Electric relating to the Products, Services and Projects supplied in the Order.

Schneider Electric Products or Schneider Electric Project Deliverables means Schneider Electric's proprietary products, including any and all products manufactured or developed by Schneider Electric including Schneider Electric Software.

Schneider Electric Software means Schneider Electric's proprietary software, including any and all software developed and owned by Schneider Electric or its Affiliates.

Schneider Electric means any of the following entities which will be listed on the Order:

Schneider Electric Sustainability Business Australia Pty Limited (ABN 16 104 501 091); Schneider Electric (Australia) Pty Limited (ACN 004 969 304); Schneider Electric IT Australia Pty Limited (ACN 088 913 866) Schneider Electric Solar Australia Pty Ltd (ACN 625 549 359); Schneider Electric Systems (Australia) Pty Limited (ACN 000 522 261)

Security Program shall have the meaning set out in clause 18.1.

Services means any services Schneider Electric agrees to perform, as specified in the Order.

Site means the Customer's site where the Products are to be delivered and or installed, the Services are to be performed, or the Project is to be implemented as specified in the Order.

Software means machine readable computer programs that comprise a series of instructions rules, routines, or statements, regardless of the media in which recorded,

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that allow or cause a computer, or other machine, to perform a specific operation or series of operations.

Software Documentation means the printed materials supplied with the Software.

Specifications means the drawings, specifications and/or plans for the Products, Services and Projects as specified in the Order or as otherwise agreed by the Parties in accordance with clause 20 of the Addendum for the Supply of Projects.

Subscription Fee means the Fee set out in the Commercial Details in the Proposal.

Systems shall have the meaning as set out in clause 18.1.

Terms and Conditions means these terms and conditions of Sale.

Timetable means the document setting out the dates by which the Products, Services and Projects are to be supplied, as specified in the Order or as otherwise agreed between the Parties in accordance with clause 21.1 of the Addendum for the Supply of Projects.

Time and Materials means Services supplied in accordance with the Order where (i) all labour time utilised and (ii) expenses incurred are payable by the Customer at the prices set out in Schneider Electric's schedule of rates and (iii) all products supplied are payable by the Customer in accordance with Schneider Electric's price list, unless indicated otherwise by Schneider Electric in writing.

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.

Use shall have the same meaning as set out in clause 7.2.

Variation has the meaning given to that term in clause 22.1 of the Addendum for the Supply of Projects.

Warranty Period means unless otherwise stated in a Proposal or Order:

- (a) for all Schneider Electric Products (excluding Software), the earlier of:
 - (i) eighteen (18) months from the Delivery Date; and
 - (ii) the date that is twelve (12) months from commercial or operational use of the Products by the Customer; and
- (b) for all Services, a period of ninety (90) days from the date of delivery of the Services; and
- (c) for all Schneider Electric Software not supplied under the terms of a EULA and media that such Software is supplied on, a period of ninety (90) days from the date of delivery of Schneider Electric Software; and
- (d) for all Projects, a period of ninety (90) days from the date of Acceptance of the Project Deliverables.

3 PROPOSALS AND ORDERING

- 3.1 Unless Schneider Electric issues a Proposal to the Customer, the applicable prices for any Products will be those set out in Schneider Electric's published product price lists.
- 3.2 Any Proposals provided by Schneider Electric are subject to the Products and Services being available at such time when the Customer places an Order. Any prices will be based on the quantity and scope described in the Proposal and will only be valid for thirty (30) days from the date of the Proposal.
- 3.3 In the event the Customer changes the time required for delivery or the volume or scope of Products, Services and Projects required or places an Order more than thirty (30) days after the Proposal is submitted, Schneider Electric reserves the right to vary its Prices.
- 3.4 Unless otherwise indicated in an Order or Proposal in writing, an Order will not be considered binding on Schneider Electric or come into force until Schneider Electric has received from the Customer a cash deposit or a bank guarantee or other security acceptable to Schneider Electric for 20% of the Price set out in the Order.
- 3.5 In the event Schneider Electric submits a Proposal which refers to Services or Software being supplied on a subscription basis then:
 - (a) The Agreement will become effective upon the earlier of the Customer countersigning the Proposal or submitting a Purchase Order and Schneider Electric issuing written acceptance of the Purchase Order.
 - (b) Subject to clause 15, the Initial Term of the Agreement will be set out in the Commercial Details schedule in the Proposal. Upon expiration of the Initial Term the Agreement will automatically renew for additional twelve month periods unless terminated by either party upon thirty (30) days prior written notice served upon the other party prior to the expiration of the Initial Term or the Renewal Term (Renewal Term).

4 DELIVERY AND DELAYS

- 4.1 Schneider Electric agrees to supply the Products, Services and Projects in accordance with the terms of the Agreement and in consideration of payment of the Price by the Customer.
- 4.2 Schneider Electric will deliver the Products to the Delivery Point. For the purposes of this clause and unless specified otherwise, Delivery Point will mean:
 - (a) For Products the destination and incoterm set out in the Proposal.
 - (b) For Software supplied electronically will occur when Schneider Electric has delivered the Software to any carriage service or network.
- 4.3 Subject to clause 21, the delivery schedule, performance schedule and/or lead times shall be deemed to be indicative unless Schneider Electric expressly accepts firm deadlines in the Order.
- 4.4 If the supply of the Products, Services or Project will be delayed by any of the following events:
 - (a) Force Majeure Event; or

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(b) Excusable Delay; and to the extent the delay was not contributed to by Schneider Electric, then Schneider Electric will be entitled to submit a claim to the Customer for an extension of time to the delivery schedule or Timetable (as the case may be) setting out the details of the cause of the delay, the activities affected and the extension of time needed. The Customer will, acting reasonably, consider Schneider Electric's claim and grant the extension of time requested or such other mutually acceptable period of time as an extension to the Timetable or delivery schedule.

4.5 In the event the delay was caused by the Customer or its contractors or agents or Schneider Electric is not provided safe access to the Site for any on site Services then, Schneider Electric will be entitled to reimbursement of any additional costs incurred by it including additional storage costs, de mobilisation or re mobilisation costs travel and transportation costs.

4.6 If the delay was caused by a Force Majeure Event and it continues for more than 6 weeks then either party may terminate the Order immediately upon written notice.

5 RISK AND TITLE

5.1 Risk of any loss or damage to the Products passes to the Customer upon delivery to the Customer at the Delivery Point. Title in the Products (excluding Software) does not pass to the Customer until the Customer has made payment in full for the Products and, further, until the Customer has made payment in full of all the other money owing by the Customer to Schneider Electric (whether in respect of money payable under a specific contract or on any other account whatsoever). Whilst the Customer has not paid for the Products supplied in full at any time, the Customer agrees that property and title in the Products will not pass to the Customer and Schneider Electric retains the legal and equitable title in those Products supplied and not yet sold.

5.2 Until payment in full has been made to Schneider Electric:

- (a) the Customer will hold the Products in a fiduciary capacity for Schneider Electric and agrees to store the Products in such a manner that they can be identified as the property of Schneider Electric, and will not mix the products with other similar products.
- (b) the Customer will be entitled to sell the Products in the ordinary course of its business, but until full payment for the Products has been made to Schneider Electric, the Customer will sell as agent and bailee for Schneider Electric and the proceeds of sale of the Products will be held by the Customer on trust for Schneider Electric absolutely.
- (c) the Customer's indebtedness to Schneider Electric, whether in full or in part, will not be discharged by the operation of clause 5.2(b) unless and until the funds held on trust are remitted to Schneider Electric.
- (d) the Customer agrees that whilst property and title in the Products remains with Schneider Electric, Schneider Electric has the right, with or without prior notice to the Customer, to enter upon any premises occupied by the Customer (or any receiver, receiver and manager, administrator, liquidator or trustee in bankruptcy of the Customer) to inspect the Products of Schneider Electric and to repossess the Products

which may be in the Customer's possession, custody or control when payment is overdue.

- (e) the Customer will be responsible for Schneider Electric's costs and expenses in exercising its rights under clause 5.2(d). Where Schneider Electric exercises any power to enter the premises, that entry will not give rise to any action of trespass or similar action on the part of the Customer against Schneider Electric, its employees, servants or agents.
- (f) the Customer agrees that where the Products have been retaken into the possession of Schneider Electric, Schneider Electric has the absolute right to sell or deal with the Products, and if necessary, sell the Products with the trademark or name of the Customer on those Products, and the Customer hereby grants an irrevocable licence to Schneider Electric to do all things necessary to sell the Products bearing the name or trademark of the Customer.
- (g) for the avoidance of doubt, Schneider Electric's interest constitutes a 'purchase money security interest' pursuant to the PPSA.

5.3 Schneider Electric may register (and the Customer consents to such registration) any actual or impending security interest (in any manner it considers appropriate) on the Personal Properties Securities Register in relation to any interest contemplated or constituted by these Terms and Conditions in the Products and the proceeds arising in respect of any dealing in the Products.

5.4 The Customer must:

- (a) do all things reasonably required by Schneider Electric to (i) register, perfect and maintain one or more security interests under the PPSA in respect of the Products and their proceeds; (ii) register a financing change statement in respect of a security interest contemplated or constituted by these Terms and Conditions; and (iii) ensure that its security interests are not adversely affected by the PPSA.
- (b) Not register a financing change statement in respect of a security interest contemplated or constituted by these Terms and Conditions without the prior written consent of Schneider Electric; and
- (c) Not create or purport to create any security interest in the Products nor register, or permit to be registered, a financing statement or a financing change statement in relation to the Products in favour of a third party without the prior written consent of Schneider Electric.

5.5 Until ownership of the Products passes, the Customer waives its rights it would otherwise have under the PPSA:

- (a) under section 95 to receive notice of intention to remove an accession;
- (b) under section 118 to receive notice that Schneider Electric intends to enforce its security interest in accordance with land law;
- (c) under section 121(4) to receive a notice of enforcement action against liquid assets;
- (d) under section 129 to receive a notice of disposal of Products by Schneider Electric purchasing the Products;
- (e) under section 130 to receive a notice to dispose of Products;

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- (f) under section 132(2) to receive a statement of account following disposal of Products;
- (g) under section 132(4) to receive a statement of account if no disposal of Products for each 6 month period;
- (h) under section 135 to receive notice of any proposal of Schneider Electric to retain Products;
- (i) under section 137(2) to object to any proposal of Schneider Electric to retain or dispose of Products;
- (j) under section 142 to redeem the Products;
- (k) under section 143 to reinstate the security agreement; and
- (l) under section 157(1) and 157(3) to receive a notice of any verification statement.

6 PROVISION OF SERVICES

- 6.1 Schneider Electric will provide suitably qualified, experienced and competent personnel to carry out the Services and related tasks in accordance with these Terms and Conditions and any Specifications in a professional manner with due skill and care.
- 6.2 Schneider Electric will follow all reasonable directions provided by the Customer when delivering the Services which are necessary and incidental to the performance of the Services under this Agreement.
- 6.3 Schneider Electric will ensure the Services are provided in accordance with all applicable laws and regulations and general industry practice.
- 6.4 If an Order indicates that Schneider Electric is to perform Services at the Site, then:
- (a) the Customer will at its cost prepare the Site and provide Schneider Electric with reasonable access to the Site and other associated necessary facilities to allow Schneider Electric to perform its obligations under this Agreement; and
 - (b) The Customer will also ensure that Schneider Electric's representatives attending the Site receive (where appropriate) all necessary safety site induction and personal protection equipment.
 - (c) at the Customer's cost, in a timely manner and so as to avoid any delay to Schneider Electric, provide all information, approvals, permits, authorisations, licenses, customs clearances, instructions, materials, civil works, reports, drawings, geotechnical and survey information, access and other things which may be required in relation to the performance of Schneider Electric's obligations and which are not expressly stated to be Schneider Electric's responsibility.
 - (d) The Customer shall provide to Schneider Electric any approval or comment with respect to drawings submitted by Schneider Electric to the Customer
 - (e) within five (5) days from the date of the submission by Schneider Electric of such drawings unless some other time is provided for in the Order.
 - (f) If Schneider Electric considers the information, documents and other particulars made available to Schneider Electric by the Customer are not sufficient to enable Schneider Electric to provide the services in accordance with the contract and the provision of which is not reasonably to be considered within the responsibility of Schneider Electric under the contract, Schneider Electric may advise the Customer who shall then provide such further assistance, information or other particulars as necessary in the circumstances or as requested by Schneider Electric as the case may be.
- 6.5 If the Customer is ordering Energy Consulting Services, the following additional conditions will apply:
- (a) the Customer shall make all necessary information regarding electrical utilities ("Utility Information") available to Schneider Electric within 14 days of the request. Schneider Electric reserves the right to alter its Price if there is a substantial material change between the information which it has based its Price on and the information provided by the Customer pursuant to this clause;
 - (b) The Customer acknowledges that Schneider Electric is acting as its agent to analyse and interpret the Utility Information that it provides for the purposes of providing the Energy Consulting Services;
 - (c) The Customer warrants that in providing such Utility Information it is not breaching the terms of any contract it has with the Utility Provider or any other third party for the Energy Consulting Services;
 - (d) The Customer warrants that it is the owner or lessee of the premises the subject of the Utility Information.
- 6.6 If Schneider Electric is providing the Customer Services which are cloud based and hosted by Schneider Electric then the following terms and conditions will apply in addition to any terms and conditions of use which the Customer may be required to agree to when accessing the cloud based services:
- (a) Any Personal Information will be collected and used in accordance with the terms of Schneider Electric's Privacy Policy and the terms set out in section 11. By accessing the Services, the Customer signifies its consent to the collection and use of the personal information in accordance with Schneider Electric's Privacy Policy including receiving marketing communications and agreeing to the personal information being used in accordance with this Policy.
 - (b) The Customer represents and warrants that if any data provided by it includes other parties Personal Information that they have obtained all the necessary consents to disclose such Personal Information to Schneider Electric in accordance with these Terms and Conditions and the Privacy Act.
- 6.7 If the Customer wishes to cancel an Order for Services or reschedule the date that Services are to be carried out pursuant to an Order, then it must provide Schneider Electric five (5) Business Days prior written notice. If the Customer fails to do this then the Customer will still be liable for all Fees due under the Order for the Services that were to be cancelled or rescheduled.

7 SOFTWARE LICENCE

- 7.1 If Schneider Electric has agreed to provide Software which has an end user licence agreement (EULA), the Software will be licensed on the terms of the EULA applying to that Software.
- 7.2 For all other Schneider Electric Software which is not supplied with a EULA, Schneider Electric grants the Customer a non-exclusive, non-transferable license to "Use",

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in object code form, the version or release of the Schneider Software described in the Order. For the purposes of this clause "Use" means to install, store, load, execute, and display one copy of the Software on one device at a time for the Customer's internal business purposes. The Customer's Use of such Software is subject to the following restrictions:

- (a) The Customer may not exceed the number of users, or client access licences that are paid for by the Customer and noted on the Proposal or Order;
 - (b) The Customer may not copy the Software (other than or one (1) backup copy of the Software and a reasonable limited number of the user manuals related to the Software);
 - (c) The Customer may only use the Software for its internal business processes and shall not use it for the benefit of any third party;
 - (d) The Customer acknowledges that such Software is confidential and shall not make it available to any third parties and shall only disclose to those of its employees that need to use it for the purposes of its internal business who have agreed to comply with the terms of this clause 6;
 - (e) The Customer may not decompile, disassemble, reverse assemble, reverse engineer, translate or emulate the Software;
 - (f) Unless otherwise agreed, the Customer may transfer the Software from one computer to another (which may be operated by a third party) provided it is not used on more than one computer at a time. The Customer shall not sublicense, assign or transfer the Software without the prior written consent of Schneider Electric;
 - (g) Unless specifically agreed otherwise in writing by Schneider Electric, the licence of the Software does not include any right to any updated versions of the Software;
 - (h) Schneider Electric's Software licensed to Customer may contain components that are owned by third parties. The third party owner shall retain exclusive right to its firmware and software. Use of such third party components may be subject to restrictions contained in the third party's end-user licence agreement in addition to the conditions set forth herein. Schneider Electric shall make available to Customer on request the third party's end-user licence agreement applicable. Copyright and other proprietary rights notices of Schneider Electric and third parties are contained in the Software and Customer must not modify, delete or obfuscate such notices;
 - (i) Customer shall maintain complete and accurate records documenting the location and use of the licensed Software in Customer's possession. No later than thirty (30) days of receipt of Schneider Electric's written request, Customer must provide Schneider Electric with a signed certification of compliance with the Software licensing conditions. Schneider Electric has the right to conduct an audit of Customer's use of the Software. Any such audit shall be conducted during regular business hours at Customer's facilities. If an audit reveals any underpayment of licence fees,
 - (j) Customer shall be invoiced for additional licence fees consistent with Schneider Electric's then current price list for the Software, without any discount being applicable in that instance. Customer shall then immediately pay the invoiced amount together with interest at a rate of one and one-half percent (1.5%) per month or partial month during which such amount was due and unpaid. The assessment of additional licence fees is without prejudice to Schneider Electric's other remedies under this Agreement.
- 7.3 For non-Schneider Electric Software, the third party supplier's license terms that may accompany that Software will solely govern its Use.

8 WARRANTIES

- 8.1 Schneider Electric warrants that:
- (a) All Schneider Electric Products (excluding third party Product) will operate in accordance with their published specifications for the duration of the Warranty Period; and
 - (b) All Services will be performed in a professional manner with due skill and care, using appropriately skilled and qualified personnel and in accordance with all applicable laws and regulations; and
 - (c) All Schneider Electric Software licensed under clause 7.2, will during the Warranty Period operate in accordance with the Software Documentation and the media upon which such software is supplied will be free from defects; and
 - (d) Provided a separate Project Deliverable warranty is indicated in the Order, then all Project Deliverables provided pursuant to the Addendum for the Supply of Projects shall perform in accordance with the Specification agreed with the Customer for the Warranty Period defined in the Order. For the avoidance of doubt where there is no reference to an additional warranty period for Project Deliverables in the Order then this Project Deliverable warranty shall not apply.
- 8.2 If the Customer makes a claim during the Warranty Period it will be handled as follows:
- (a) In the case of Schneider Electric Products and Project Deliverables (where relevant), where there is a defect in such Products (excluding Software), Schneider Electric will, subject to availability of spare and replacement parts use reasonable efforts to replace or repair the Products. Schneider Electric will not be responsible for the cost of retrieving, removing, reinstalling, retesting or transporting the Products or Project Deliverables to and from the location where the Products are located.
 - (b) In the case of a defect in Software including Software that forms part of a Project Deliverable, Schneider Electric will provide remote troubleshooting support and updates. If any onsite support is required, Schneider Electric will reserve the right to charge for any Services provided onsite.
 - (c) In the case of Services, where there is a defect in the Services, Schneider Electric will re-perform the Services at a mutually agreed time.
 - (d) For the avoidance of doubt if Services were delivered on a Time and Materials basis Schneider Electric will not provide any additional warranties for any

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deliverables provided pursuant to those Services other than the standard warranties referred to in clause 7.1.

- (e) In the case of a Project, if it is not practical to return the defective Product to Schneider Electric in accordance with clause 7.2(a), Schneider Electric will bear the cost of correcting the defects, by either attending the Customer's Site where the Project is located or by remote means, as determined at the sole discretion of Schneider Electric and at a mutually agreed time. Schneider Electric reserves the right to charge the Customer for the cost of travel where the Customer's Site is located more than 60 kilometres from the closest Capital City or if the Customer has relocated the Project Deliverable more than 100 kilometres from the original installation Site.
 - (f) All warranties for any Products repaired or replaced or Services resupplied during the Warranty Period will expire at the same time as the original warranty of the products and services that were replaced or resupplied.
 - (g) All warranty claims will be handled during the hours of 8.00am to 5.00pm Monday to Friday excluding publicly gazetted holidays in the State in which the Site is located.
- 8.3 The Customer agrees that, unless otherwise agreed in writing by Schneider Electric, any warranty on any third party Products is limited to the warranty given by the manufacturer of those Products and, to the maximum extent permitted by law, Schneider Electric gives no additional warranties in relation to any third party Products or Software.
- 8.4 Schneider Electric will not be responsible for any defect arising out of or in connection to the following events in such case Schneider Electric will be entitled to charge the Customer its standard rates for addressing the defect:
- (a) misuse, abuse, neglect, errors or any other act or omission of or by the Customer or third party not contracted by Schneider Electric; or
 - (b) alteration (improper or otherwise) or installation of the Products and Projects by the Customer or any person other than Schneider Electric; or
 - (c) power failure, power surge, lightning, flood, fire, accidental breakage or other events outside of Schneider Electric's reasonable control; or
 - (d) the Products not being maintained, installed or energised in accordance with Schneider Electric's instructions or in the absence of such instructions, in accordance with generally accepted practices for maintenance of such Products; or
 - (e) improper environmental conditions where the Products are used or installed; or
 - (f) the Products being stored for more than twelve (12) months prior to being put into operation; or
 - (g) any consumables including batteries unless otherwise stated in the Order; or
 - (h) following a direction from the Customer where Schneider Electric has recommended to the Customer against following such direction
 - (i) The Customer failing to implement its own appropriate security protections or complying with guidance provided by Schneider Electric including

Schneider Electric's "Recommended Cybersecurity Best Practices which may be found at the following link

<https://www.se.com/us/en/download/document/7EN52-0390/>. Any such security guidance provided by Schneider Electric is provided on an "As Is" basis.

- 8.5 In addition, Schneider Electric will be entitled to charge the Customer for any Services it provides where no defect is found in the Product.
- 8.6 Schneider Electric does not represent, warrant or guarantee that:
- (a) the Products or Services will meet the Customer's requirements or will operate uninterrupted or be secure or error free.
 - (b) the Products or Services will be, protected against errors, vulnerabilities, corruption, attack, viruses, unauthorised access, interference, interruption (including, but not limited to, causes stemming from reliance on networks or the internet), hacking or other security intrusions or cyber threats; and
- Schneider Electric will not be liable for any such events. Unless otherwise agreed in writing between the parties, the Customer agrees that by using the Products and Services it understands these limitations and agrees that it accesses and uses the Products and Services at its own risk and subject to the limitations set out in this clause.
- 8.7 For the avoidance of doubt, where the Customer had a defect repaired by a third party that is not authorised by Schneider Electric it will not be entitled to recover those charges from Schneider Electric.
- 8.8 Certain legislation, including the Australian Consumer Law, may imply warranties or conditions or impose guarantees or obligations upon Schneider Electric which cannot be excluded, restricted or modified or cannot be excluded, restricted or modified except to a limited extent. Any Order and these terms including this clause 8 must be read subject to these statutory provisions. If these statutory provisions apply, to the extent to which Schneider Electric is entitled to do so, Schneider Electric limits its liability in respect of any claim under the provisions to:
- (a) in the case of Products, at Schneider Electric's option:
 - (i) the replacement of Products or the supply of equivalent Products;
 - (ii) the repair of the Products;
 - (iii) the payment of the cost of replacing the Products or of acquiring equivalent Products; or
 - (iv) the payment of the cost of having the Products repaired; and
 - (b) in the case of services, at Schneider Electric's option:
 - (i) the supply of the services again; or
 - (ii) the payment of the cost of having the services supplied again.

9 PRICE AND PAYMENT

- 9.1 The Customer must pay the Price or Subscription Fee mutually agreed by the Parties in the Order.

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- 9.2 Schneider Electric shall be entitled to revise the prices applicable to the Contract as follows:
- (a) by one (1) weeks' written notice to the Customer in the event of:
 - (i) any fluctuation in the currency exchange rates applicable at the date of the Order;
 - (ii) any increases in the cost of raw materials, fuel, transport, energy or labour;
 - (iii) any changes in legislation or technical standards;
 - (iv) other events beyond its reasonable control that affect Schneider Electric's ability to perform or the cost of performance under the Contract; or
 - (b) by two (2) months' written notice to the Customer in all other cases.

9.3 The new prices notified under clause 9.2 shall take effect upon expiry of the relevant notice period, or, if a later date effective date is specified in the notice, on that later date, and the Customer must pay the revised prices from that time.

9.4 For Subscription Fees, if the Initial Term is more than one year or it is renewed, Schneider Electric reserves the right at the end of each twelve month period commencing on the expiry of the first twelve month period of the Agreement, to increase the Subscription Fee.

9.5 Unless specifically set out in the Order, Schneider Electric will issue all invoices for the Products, Services and Projects as follows:

- (a) For Services provided on a Time and Materials basis, Schneider Electric will invoice monthly in arrears.
- (b) For Services provided at a Fixed Price, Schneider Electric will invoice in advance.
- (c) For Products, Schneider Electric will invoice on or after delivery to the Delivery Point.
- (d) For any Software or Services provided on a periodic or subscription basis Schneider Electric will invoice the Subscription Fee at the commencement of each Billing Period.
- (e) For all other Products and Projects delivered, Schneider Electric will invoice in accordance with agreed payment milestones set out in the Order. If no milestones are set out in the order, invoicing will be monthly in arrears in accordance with the work completed.

9.6 The Customer must pay the amount shown on any invoice rendered by Schneider Electric within twenty five (25) days from the date of issue of the invoice without any offset, deduction or counter claim except as required by law .

10 INTELLECTUAL PROPERTY

10.1 Each party will retain all Intellectual Property Rights in their respective Background IP. Subject to payment in full for the Products, Services and Projects, Schneider Electric will grant to Customer a royalty free, non-exclusive, irrevocable and perpetual license to use Schneider Electric's Background IP necessary for Customer to enjoy the benefit of the Products, Services and Projects for the purposes of or in connection with Customer's business.

10.2 The Customer acknowledges that Schneider Electric retains ownership of the Intellectual Property Rights of Schneider Electric used or created under the Agreement. Schneider Electric acknowledges that the Customer retains ownership of the Intellectual Property Rights of any Customer Background IP. To enable each party to perform their obligations under each Order and for the Customer to enjoy the benefit of the Products, Services and Projects for the purpose of or in connection with its business, each party grants to the other Party a non-exclusive, royalty free, irrevocable and perpetual licence to use its Intellectual Property Rights for that purpose.

10.3 In the event that any claim is made against the Customer for infringement of any person's Intellectual Property Rights arising of the Customer's use of Schneider Electric Products supplied under the Agreement, Schneider Electric will, at its own expense, conduct any ensuing litigation and all negotiations for a settlement of the claim. Schneider Electric will bear the costs of any payment made in settlement, or as a result of an award in a judgment provided that:

- (a) the Customer promptly notifies Schneider Electric in writing of any such claim being made or action threatened or brought against the Customer;
- (b) the Customer grants Schneider Electric the right to assume sole authority to conduct the defence or settlement of such claim or any related negotiations; and
- (c) the Customer provides Schneider Electric with all reasonable information, co-operation and assistance.

10.4 Notwithstanding any other provision of the Agreement, Schneider Electric will not be liable in any case whatsoever where the claim is based on:

- (a) specifications that the Customer provided to Schneider Electric;
- (b) where the Customer has combined Schneider Electric Products with non-Schneider Electric Products, data or business processes; and
- (c) where the Customer has altered or modified the Products.

11 CONFIDENTIALITY

11.1 Each Party agrees to hold in strict confidence all Confidential Information and not to disclose or permit or cause the disclosure of any Confidential Information to any person except and solely to the extent necessary for the performance of that Party's obligations under the Agreement, unless that Party has obtained the prior written consent of the other Party.

11.2 Clause 11.1 does not apply to:

- (a) information after it becomes generally available to the public other than as a result of the breach of this clause 11.2 or any other obligations of confidentiality imposed on a Party; or
- (b) the disclosure of information in order to comply with any applicable law or legally binding order of any court, government agency or recognised stock exchange, provided that prior to such disclosure the disclosing Party gives notice to the other Party with full particulars or the proposed disclosure.

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12 COMPLIANCE WITH PRIVACY LAWS

- 12.1 Each Party agrees to comply with its obligations under the Privacy Act in respect of Personal Information obtained by or disclosed to it pursuant to this Agreement.
- 12.2 Each Party must only collect, use and disclose Personal Information for the purpose of fulfilling its obligations under this Agreement unless otherwise permitted under this Agreement or the Australian Privacy Principles.
- 12.3 A Party must notify the other Party as soon as possible when it becomes aware of:
- (a) a complaint alleging an interference with privacy;
 - (b) any breach, or possible breach of this clause 12; or
 - (c) in relation to any Personal Information collected and/or handled by any of the Parties in connection with this Agreement.
- 12.4 Customer acknowledges that Schneider Electric is a global company with legal entities, business processes, management structures and technical systems that cross borders. As such, personal information may be collected and stored on servers located in other countries including the United States and in addition Schneider Electric may share information about Customer within the organisation and may need to disclose such Personal Information to other countries in which Schneider Electric does business for the purposes or uses outlined in Schneider Electric Privacy Policy provided that at all times Schneider Electric will comply with its obligations under the Australian Privacy Principles and the Privacy Law and its Privacy Policy.

13 LIMITATION OF LIABILITY

- 13.1 Notwithstanding any other term of the Agreement, whether express or implied, Schneider Electric's total liability under the Agreement arising out of or in connection with the Agreement, whether in contract, tort (including negligence of any kind), statute, strict liability, indemnity or otherwise arising out of Schneider Electric's performance or non-performance of the Agreement, will not exceed in the aggregate the Price actually paid to Schneider Electric pursuant to the Order giving rise to such liability. This limitation shall continue to apply notwithstanding fundamental breach, breach of a fundamental term, rescission, repudiation or termination for any reason or frustration, whether unintentional or by operation of law.
- 13.2 Notwithstanding any other term of the Agreement, whether express or implied, to the maximum extent permitted by law, in no event will either Party, its affiliates, or their officers, directors, employees or their subcontractors be liable in contract or in tort (including negligence of any kind), statute, strict liability, indemnity or otherwise for any form of Consequential Loss arising out of that party's performance or non-performance of the Agreement.

14 TAXES

- 14.1 Unless otherwise stated, all amounts referred to under or in connection with the Agreement are exclusive of GST or any other value added or withholding taxes. In relation to any GST payable for a taxable supply (under GST Act) by a Party, the recipient of the supply will pay the GST subject to the supplier providing a tax invoice (as defined under GST Act). Terms used in this clause 14 which are defined in the GST Act have the same meaning as in the GST Act. In the

case of a withholding or deduction Schneider Electric may increase its prices to include the withholding tax amount and the Customer agrees to pay such increased price.

- 14.2 Prices quoted in an Order are based on the tax Laws and regulations in force at the date of the Order. The Customer will compensate Schneider Electric in the event there is a change in the Laws or interpretation of them, between the date of the Order and the delivery of the Product or Service which increases the cost of providing the Product or Service for Schneider Electric.

15 SUSPENSION, AND TERMINATION

- 15.1 If the Customer fails to pay any sum due under the Agreement by the due date, Schneider Electric may by notice, in addition to any other rights it may have, suspend supplying the Products, Services and Projects until all overdue amounts are paid. The Customer will be liable to Schneider Electric and Schneider Electric may recover from the Customer as a debt due and payable the overdue sum, together with expenses, including reasonable legal fees, relating to the collection of overdue amounts. In addition the Customer will pay interest on the overdue amount equal to 3% above the overdraft interest rate charged by the JP Morgan Bank for the period between the due date of the invoice and the date the overdue amount is received by Schneider Electric.
- 15.2 A Party may terminate the Agreement by providing notice to the other Party if any of the following events or circumstances occurs:
- (a) the other Party goes into liquidation, has a receiver or receiver and manager appointed to it or any part of its assets, enters into a scheme of arrangement with creditors or suffers any other form of external administration (or the equivalent under the laws of another jurisdiction); or
 - (b) a Party fails to remedy any breach of an essential obligation under the Agreement within thirty (30) days after receipt of written notice from the other Party of details of the breach.
- 15.3 If Schneider suspends the Agreement under clause 15.1 or terminates the Agreement under clause 15.2, the Customer must pay Schneider for all monies due (including an allowance for profit) under the Agreement which may include but shall not be limited to:
- (a) payment for the Products and Services provided or performed to the date of the suspension or termination;
 - (b) Products or materials wholly or partially procured by Schneider for the performance of the Agreement;
 - (c) costs of demobilisation from Site.

16 DISPUTE RESOLUTION

- 16.1 The parties will attempt in good faith to resolve all disputes, disagreements or claims between the parties relating to an Order. The preferred method of determination of unresolved disputes shall be by amicable agreement at the senior management level of the Customer and Schneider Electric.
- 16.2 If the parties cannot resolve the dispute themselves they may agree to appoint an expert or mediator to help them resolve the dispute. In such event both parties agree to jointly bear the costs of such mediator or expert and be bound by the determination of such person.

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- 16.3 In the event the parties cannot resolve the dispute and:
- (a) the parties cannot agree upon a mediator or expert;
 - (b) a mediator or expert has been appointed but resolution has not been reached within six weeks of appointment of the mediator or expert;
- then either party may initiate legal proceedings.

17 MISCELLANEOUS

- 17.1 Nothing contained or implied in the Agreement will create a relationship of partnership or agency between the Parties and neither Party has any authority to bind the other Party to any obligations.
- 17.2 The Customer agrees that during the term of any Order and for a period of six months after expiry of that Order it will not solicit or hire directly or indirectly any employees that Schneider Electric used to provide any Services or Project under that Order to the Customer.
- 17.3 Neither Party may assign its rights and obligations under the Agreement without the prior written approval of the other Party (such approval not to be unreasonably withheld) provided that either Party may assign its rights and obligations to a related body corporate within the meaning of the *Corporations Act 2001 (Cth)* provided that the related body corporate is of similar financial standing and has the ability to discharge its obligations under the Agreement.
- 17.4 Each Order will be governed by and will be construed in accordance with the laws of the State of New South Wales, Australia. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of the State of New South Wales and its appellate courts and waives any right to object to proceedings being brought in those courts for any reason.
- 17.5 If any provision of the Agreement, or the application thereof to any person, place or circumstance, will be held by a court or tribunal of competent jurisdiction to be invalid, unenforceable, or void, the remainder of the Agreement and such provisions as applied to other persons, places or circumstances will remain in full force and effect.
- 17.6 For the purposes of each Order, the Order together with these Terms and Conditions and the Credit Terms will form the entire agreement between the parties and as such both parties exclude all statements, representations, warranties, conditions, promises, undertakings, covenants and other provisions, express or implied (and whether implied by law including Act of Parliament or otherwise) relating to that Order.

18 CUSTOMER'S OBLIGATIONS

- 18.1 Customer is solely responsible for ensuring its use, integration, and deployment of the Products and Services comply with all applicable laws, regulations and industry standards including those related to cybersecurity, data protection, critical infrastructure and network security (collectively "Cybersecurity Requirements"). Unless expressly identified in an Order, Schneider Electric does not warrant the Products and Services meet specific Cybersecurity Requirements applicable to the Customer including, but not limited to, its intended use. Customer assumes full responsibility for assessing whether the Products and Services meet Customer's compliance obligations and for implementing any additional technical

or organisational measures required by Cybersecurity Requirements.

- 18.2 Schneider Electric strongly recommends Customer (i) follow the security guidance reflected in the technical documentation for the Contract Deliverables, (ii) follow the "Recommended Cybersecurity Best Practices" link <https://www.se.com/us/en/download/document/7EN52-0390/>, (iii) implement and maintain a Security Program, including without limitation, continually tracking the vulnerabilities and promptly updating/patching/mitigating, all as identified by Schneider Electric at <https://www.se.com/ww/en/work/support/cybersecurity/report-a-vulnerability.jsp>. Customer understands that failing to promptly and properly install Updates or Patches for the Products and Services may result in the applicable Products and Services or the Customer's systems becoming vulnerable to certain Cyber Threats or result in impaired functionality, and Schneider Electric shall not be liable or responsible for any losses or damages that may result from such exposure.
- 18.3 If Customer identifies or otherwise becomes aware of any vulnerabilities or Cyber Threats relating to the Products or Services for which Schneider Electric has not released a Patch or Update, Customer will endeavour to notify Schneider Electric of such vulnerability or other Cyber Threat(s) via Service (<https://www.se.com/ww/en/work/support/cybersecurity/report-a-vulnerability.jsp>) and further provide Schneider Electric with any reasonably requested information relating to such vulnerability or other Cyber Threat.
- 18.4 Customer shall not, directly or indirectly, attempt any of the following with respect to the Products or Services or any component or environment leveraged by Schneider Electric:
- (a) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code; or
 - (b) to hack or otherwise exploit or test (eg. by penetration testing, vulnerability scanning, or other probing).
- Use of the Products and Services is limited to authorised users and approved environments.
- 18.5 Schneider Electric may release Updates and Patches for its Products, and Services from time to time. Customer shall promptly install any Updates and Patches for such Products, or Services as soon as they are available in accordance with Schneider Electric's installation instructions and using the latest version of the Products or Software, where applicable. Customer understands that failing to promptly and properly install Updates or Patches for the Products, or Services may result in the Products, or Services or Customer's Systems becoming vulnerable to certain Cyber Threats or result in impaired functionality, and Schneider Electric shall not be liable or responsible for any losses or damages that may result.
- 18.6 If Customer identifies or otherwise becomes aware of any vulnerabilities or other Cyber Threats relating to the Products, or Services for which Schneider Electric has not released a Patch, Customer shall promptly notify Schneider Electric of such vulnerability or other Cyber Threat(s) via the Schneider Electric Report a Vulnerability page

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(<https://www.se.com/ww/en/work/support/cybersecurity/report-a-vulnerability.jsp#Customers>) and further provide Schneider Electric with any reasonably requested information relating to such vulnerability (collectively, "Feedback"). Schneider Electric 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 analyse and fix the vulnerability, to create Patches or Updates for its customers, and to otherwise modify its Products, or Services, in any manner without restrictions, and without any obligation of attribution or compensation to Customer; provided, however, Schneider Electric shall not publicly disclose Customer's name in connection with such use or the Feedback (unless Customer consents otherwise). By submitting Feedback, Customer represents and warrants to Schneider Electric that Customer has all necessary rights in and to such Feedback and all information it contains, including to grant the rights to Schneider Electric described herein, and that such Feedback does not infringe any proprietary or other rights of third parties or contain any unlawful information.

- 18.7 Schneider Electric will not be liable to the Customer for any loss or damage or any third party claims or lawsuits or proceedings to the extent they are caused by the Customer's failure to comply with this clause 18 including Customer's failure to maintain a Security Program in compliance with this clause or Customer's failure to promptly and properly install Updates and Patches provided by Schneider Electric for the Products or Services.

19 EXPORT COMPLIANCE

- 19.1 Neither party shall comply with any foreign boycott laws or requirements, which are in violation of any federal or state law, rule, or regulation of Australia.
- 19.2 The Products and Services provided by Schneider Electric under this Agreement contain or may contain components and/or technologies from the United States of America ("US"), the European Union ("EU"), Australia and/or other nations. Customer acknowledges and agrees that the supply, assignment and/or usage of the Products and Services, information, other deliverables and/or the embedded technologies (hereinafter referred to as "Deliverables") under this Agreement shall fully comply with related applicable US, EU, Australian and other national and international export control laws and/or regulations. Unless applicable export license/s has been obtained from the relevant authority and Schneider Electric has approved, the Deliverables shall not (i) be exported and/or re-exported to any destination and party (may include but not limited to an individual, group and/or legal entity) restricted by the applicable export control laws and/or regulations; or (ii) be used for those purposes and fields restricted by the applicable export control laws and/or regulations. Customer also agrees that the Deliverables will not be used either directly or indirectly in any rocket systems or unmanned air vehicles; nor be used in any nuclear weapons delivery systems; and will not be used in any design, development, production or use for any weapons which may include but not limited to chemical, biological or nuclear weapons. If any necessary or

advisable licenses, authorisations or approvals are not obtained, whether arising from inaction by any relevant government authority or otherwise, or if any such licenses, authorisations or approvals are denied or revoked, or if the applicable export control laws and/or regulations would prohibit Schneider Electric from fulfilling any Order, or would in Schneider Electric's judgment otherwise expose Schneider Electric to a risk of liability under the applicable export control laws and/or regulations if it fulfilled the order, Schneider Electric shall be excused from all obligations under such Order and/or this Agreement.

- 19.3 Each party shall execute and deliver to the other any documents as may be required to effect or evidence compliance.
- 19.4 The Parties may correspond and convey documentation via the Internet unless Customer expressly requests otherwise. Neither Party has control over the performance, reliability, availability or security of the Internet. Schneider Electric shall not be liable for any loss, damage, expense, harm or inconvenience resulting from the loss, delay, interception, corruption or alteration of any communication over the Internet due to any reason beyond Schneider Electric's reasonable control.

Addendum for the Supply of Projects

20 AGREEMENT ON SPECIFICATIONS AND PROVISION OF INFORMATION

- 20.1 If the Products, Services and Projects involve preparing and agreeing the Specifications with the Customer, Schneider Electric will prepare the necessary Specifications in conjunction with the Customer in accordance with the Timetable, or if there is no Timetable, within thirty (30) days of acceptance of the Order or such other time as is agreed between the Parties. The Customer will review and either provide amendments or approve the Specifications within five (5) working days of receipt of the Specifications. In the absence of any written comments within five (5) working days the Customer will be deemed to have approved the Specifications. Any changes to the approved Specifications will be considered a Variation in accordance with clause 22.
- 20.2 The Customer will respond to any requests for further information or instructions from Schneider Electric within five (5) working days after the receipt of such request for further information or instructions by the Customer. If the Customer does not respond within that period (or such other period identified by Schneider Electric), Schneider will have the right to claim an extension of time relating to such failure to provide the necessary information.

21 DELAY AND EXTENSION OF TIME

- 21.1 Where the Order is for a Project and unless already specified in the Order, Schneider Electric will, if so requested by the Customer, submit a Timetable to the Customer for approval prior to commencing the supply of the Products, Services pursuant to the Project.
- 21.2 Any Timetable submitted by Schneider Electric pursuant to clause 21.1 as requiring the Customer's approval will be approved or commented on in writing by the Customer within five (5) working days after the receipt of such Timetable by

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the Customer. If the Customer does not respond within that period (or such other period agreed with Schneider Electric), it will be deemed to have approved the Timetable.

- 21.3 Schneider Electric will, at all times, take all reasonable steps to ensure that the Project is delivered in accordance with the Timetable.

22 VARIATIONS

- 22.1 If the Customer wishes to alter, amend, omit, add to or otherwise vary an Order or Timetable including suspend the delivery of the Order, it will issue Schneider Electric with a written Variation request (**Variation**). Schneider Electric will review the Variation request and provide a Proposal to the Customer setting out the cost of the Variation and the impact on the Timetable.

- 22.2 As soon as practicable after receipt of the Proposal from Schneider Electric, the Customer will either accept the Proposal by signing and returning it to Schneider Electric or reject the Proposal in writing. If the Customer and Schneider Electric are unable to agree upon the amount of the difference in cost or impact on the Timetable the provisions of clause 22.3 shall apply.

- 22.3 If the parties can agree upon the variation to the Timetable and the only outstanding item is pricing, the Customer may direct Schneider Electric to proceed with the Variation request on a Time and Materials basis in accordance with Schneider Electric's standard schedule of rates. Unless Schneider Electric reaches agreement with the Customer under clause 22.2 or it receives a direction under this clause, Schneider Electric will not be required to proceed with the Variation request.

23 TESTING AND ACCEPTANCE

- 23.1 For Products, the Customer will be deemed to have accepted the Products on the date that the Products are delivered to the Customer at the Delivery Point (**Delivery Date**).

- 23.2 For all Project Deliverables, the following provisions will apply:

(a) Schneider Electric will notify the Customer in writing when the Project Deliverables are ready to be submitted for Acceptance Tests and within ten (10) days after receiving such notice, the Customer will conduct Acceptance Tests on the Project Deliverables and advise Schneider Electric in writing of whether the Project Deliverables have passed the Acceptance Tests or the Project Deliverables have failed the Acceptance Tests.

(b) If the Project Deliverables fail to pass the Acceptance Tests then the Customer must notify Schneider Electric in writing setting out details of the known defects in the Project and permit Schneider Electric, within a reasonable period of time taking into account the nature of the defects and the likely time it will take to remedy the defects, which period shall not be less than ten (10) working days, to correct the defects and resubmit the Project to the Customer to conduct Acceptance Tests again.

(c) The Project Deliverables will be deemed accepted upon the occurrence of the earlier of:

- (i) the date that the Customer gives written notice to Schneider Electric that the Project Deliverables have passed the Acceptance

Tests; or

- (ii) the date that is fourteen (14) days after completion of the Acceptance Tests, provided that during the fourteen (14) day period after completion of the Acceptance Tests the Customer did not notify Schneider Electric in writing of any defects in the Project Deliverables; or
- (iii) the date the Customer makes commercial or operational use of the Project Deliverables other than for the purposes of conducting the Acceptance Tests (**Date of Acceptance**).