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(14.12.2017)

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- 10.8 The limitations or exclusions of warranties and liability contained in this EULA shall apply only to the extent permitted by the law applicable to this EULA and, in particular, do not affect or prejudice the statutory rights which, as the case may be, will benefit You under any mandatory or public order laws or regulation applicable in any such country (on either federal or state level, when applicable).
- 10.9 In case the Software Product was furnished to You by any authorized reseller or other sales representative or another third party supplying the Software Product with or without a third party product, Schneider Electric shall in no event be a party to any purchase order or other agreement between You and such third party and shall not assume or otherwise bear any liability thereunder, with the consequence that any and all claims You may have in relation to the Software Products shall be directed at such third party and shall be subject to the liability sections in any purchase order or other agreement between You and such third party. Schneider Electric shall assume no liability whatsoever under such sections or be bound by their wording.
- 10.10 Subject to the limitations of liability set forth in Sections 10.2 and 10.3 of this EULA, Schneider Electric will defend and indemnify You against a third party claim that the Software Products infringe any copyright enforceable in the jurisdiction where Schneider Electric has its registered office or principal place of business, or misappropriates any trade secret protected under the laws of such jurisdiction (the "Included Jurisdiction"), provided that: (i) You notify Schneider Electric in writing within thirty (30) days of the claim; (ii) Schneider Electric has sole control of the defense and all related settlement negotiations; and (iii) You provide Schneider Electric with the assistance, information and authority necessary in order for Schneider Electric to perform its obligations under this Section.

Schneider Electric will have no obligation to You under this Section relating to claims which arise outside of the Included Jurisdiction, nor for any claims not expressly set out in Section 10.10 above.

If the Software Products are held, or are believed by Schneider Electric, to infringe, then Schneider Electric will have the option, at its expense, to: (i) modify the Software Products to be noninfringing; or (ii) obtain for You a license to continue using the Software Products. If, in Schneider Electric's sole discretion, it is not economically or commercially reasonable to perform either of the above options then Schneider Electric may terminate the license for the infringing

Software Products and refund to You the license fee You paid to Schneider Electric for the infringing Software Products.

The foregoing Schneider Electric obligations do not apply when the claim of infringement results from or is related to: (i) Software Products provided pursuant to Your designs, drawings or specifications; (ii) Software Products stored, used or maintained other than in accordance with Schneider Electric's instructions or recommendations or other than for Your internal business purposes; (iii) claims of infringement resulting from combining the Software Products provided hereunder with any other item not furnished by Schneider Electric; (iv) modifications to the Software Products without the prior written consent of Schneider Electric; (v) software or products supplied or designed by You or third parties; or (vi) Your failure to use corrections or enhancements made available by Schneider Electric.

This Section 10.10 states Schneider Electric's entire liability and Your sole and exclusive remedy for infringement.

11. THIRD PARTY SOFTWARE

- 11.1 The Software Product may embed or be provided to You with third party software(s), in unmodified or modified form. In such case Schneider Electric shall make such information available to You.
- 11.2 By accepting this EULA, You are also accepting the terms and conditions of the software licenses from any third party (hereinafter "**Alternative Licenses**") owning the intellectual property rights on said third party software(s), and any use You will do of any such third party software(s) being part of the Software Product is subject to the terms of those third party licenses. Further to the above, in relation to parts of the Software Product that are subject to Alternative Licenses, Schneider Electric's liability shall be further limited in accordance with the terms and conditions of such alternative license and Schneider Electric will in no event be subject to a wider or more substantial liability than what is evident from such Alternative Licenses, unless and to the extent applicable mandatory law requires otherwise.
- 11.3 Further, the Software Product may contain code, including third party code, for which Schneider Electric is required to provide attribution. Some of this code may be released under Alternative License terms. Such code is not licensed under this EULA and shall be subject only to the Alternative License which shall constitute the sole license for such code and shall govern the relation between You and the alternative licensor. This EULA does not alter any rights or obligations You may have under these Alternative Licenses. Schneider Electric provides no warranty whatsoever in relation to code subject to such Alternative Licenses, unless and to the extent applicable mandatory law requires otherwise.
- 11.4 If you wish to use the Software Product in a specific combination with other software or devices as may be intended by You, You must, at Your own risk and expense, acquire and maintain any such other software or devices, including proper licenses from such third parties. If You do not acquire and maintain appropriate third party licenses and if this somehow results in a third party raising a claim against Schneider Electric, You shall indemnify Schneider Electric against any such third party claim. In case the Software Product includes access to a software development kit (hereinafter "**SDK**") which allows the development of any interface between third party software and the Software Product, Schneider Electric shall not be responsible for any development performed by You through the use of SDK, and Schneider Electric shall have no responsibility to provide You any support in relation thereto and shall not be liable for Your use of SDK or any damages it may cause to You or any third party.
- 11.5 If Your use of SDK somehow results in a third party raising a claim against Schneider Electric, You shall indemnify Schneider Electric against any such third party claim.

12. AUDIT

- 12.1 You agree to make all applicable records available for review by Schneider Electric during Your normal business hours so as to permit Schneider Electric (upon reasonable written notice to You) to verify Your compliance with the terms and conditions of this EULA. Further, You agree that upon the request of Schneider Electric or Schneider Electric's authorized representative, You will promptly document and certify in writing to Schneider Electric that Your and Your employees' use of the Software Product complies with the terms and conditions of this EULA.

- 12.2 Schneider Electric may (upon reasonable written notice) inspect Your use of the Software Product during Your normal business hours to ensure Your compliance with this EULA. If the results of any such review or inspection indicate Your unlicensed or non-compliant use of the Software Product or the underpayment by You of applicable fees (if any) contractually due and payable to Schneider Electric, You shall: (i) immediately pay sufficient fees to cover Your use of the Software Product, or such amounts of fees remaining due to Schneider Electric and (ii) reimburse Schneider Electric for the cost of such review or inspection.

13. EXPORT CONTROL

The export of products, software, technology or information may be subject to control or restriction by applicable laws or regulations on the control of export, notably the United States Export Administration Act and the regulations there under, and the European Union Regulation 428/2009 applicable to dual use and cryptographic products and technologies. You are solely responsible for determining the existence and application of any such law or regulation to any proposed export of the Software Product by You or Your representatives and for performing any declaration or obtaining any required authorisation in relation therewith. You agree not to export the Software Product from any country in violation of any applicable legal or regulatory obligations or restrictions on that export. In the event the aforementioned legal or regulatory obligations or restrictions are violated by You or any of Your representatives in relation with the export of the Software Product, You shall indemnify and hold Schneider Electric harmless from any claims and compensate the same against any damages which any third party (including but not limited to governmental and/or international authorities and/or organizations) will claim against Schneider Electric as the result of any such violation by You or Your representative(s).

14. ASSIGNMENT

Your rights or obligations under this EULA may not be sold, sub-licensed, rented, assigned, delegated, transferred or otherwise conveyed by You or Your representatives without Schneider Electric's prior express written consent. Schneider Electric may assign this license to any company within the Schneider Electric Group of companies or to any company it may acquire control of or merge with.

15. DURATION AND TERMINATION

- 15.1 The license right granted to You under this EULA shall come into effect as of the date of Your acceptance of the terms hereof and shall remain effective unless such license right expires or terminates when (i) such license right was granted to You for a limited period of time in accordance with Section 2 and such limited time period expires, or (ii) such license right was granted to You under a trial period in accordance with Section 2 and You do not further activate it upon expiry of said trial period as per Section 2, (iii) this EULA is terminated by either Schneider Electric or You with immediate effect if, respectively, You or Schneider Electric fail to comply with any of its obligations under this EULA.
- 15.2 Upon expiration or termination of the license right granted to You hereunder, You undertake to immediately discontinue use of the Software Product and You must (i) if the Software Product has been provided to You as a physical copy, destroy and delete the Software Product and related copies and data, including without limitation those stored on Your computer hard disks or servers, including all accompanying printed materials along with their containers to the place from which You obtained the Software Product, and (ii) if the Software Product has been provided to You as a download, delete or expunge the Software Product, inclusive all related files and any other electronic material, from Your computer, hard disks, servers or other Device containing it. For both (i) and (ii) You shall upon the request from Schneider Electric provide Schneider Electric with a written certification that You have carried out the required actions set out in this Section 15.2.
- 15.3 Termination of the license granted to You hereunder does not affect any rights or remedies which may have accrued before said termination to the benefit of Schneider Electric under this EULA, at law or otherwise.

16. MISCELLANEOUS

- 16.1 This EULA, including its Appendices, constitutes the entire agreement between You and Schneider Electric in relation to Your right to use the Software Product and replaces any previous agreement or understanding, whether oral, electronic or written, in relation with the same subject matter. Documentation forms an integral part of the license granted under this EULA. In case of a discrepancy between the terms of this EULA and the provisions of the Documentation, the terms of this EULA shall prevail. Should they differ, the terms of the printed version of this EULA, which may be supplied with the Software Product package, shall prevail over those that may be read on a computer screen.
- 16.2 Should any of the provisions of this EULA be held invalid, illegal or unenforceable by a competent jurisdiction, You and Schneider Electric shall take all reasonable steps in order to modify such provision to render it valid and enforceable, bearing in mind their original intentions, and such provision as modified shall be fully enforced by You and Schneider Electric; all other provisions shall remain valid and unaffected by such declared invalidity, illegality or non-enforceability.
- 16.3 No failure or delay on the part of either You or Schneider Electric in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege.
- 16.4 Headings in this EULA are just for ease of reference and will not affect its interpretation.
- 16.5 Words expressed in the singular include the plural and vice versa.
- 16.6 Section 7, 8, 9, 10, 11, 12 and 13 of this EULA shall survive termination of this EULA or expiration of the license right granted to You under this EULA in accordance with Section 15.1. Furthermore, provisions that by their nature are intended to survive termination or expiration of this EULA and the license right granted to You hereunder, shall survive such termination or expiration. Additionally, all of Your indemnity obligations set forth in this EULA shall survive termination or expiration of this EULA.

17. APPLICABLE LAW & DISPUTES

- 17.1 This EULA shall be exclusively governed by the laws of the country (on both federal and state level, when applicable) where Schneider Electric has its registered office or principal place of business, to the exclusion of said country's conflict of law rules. To the extent possible, Schneider Electric and You agree that the United Nations Convention on the International Sale of Goods shall not apply to this EULA.
- 17.2 All disputes arising out of or in connection with this EULA shall be submitted to the International Court of Arbitration of the International Chamber of Commerce and shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance with said Rules. The arbitration shall be conducted in the English language in the country where Schneider Electric has its registered office or principal place of business. Judgment upon the award rendered by the arbitrator may be entered by any court having jurisdiction thereof. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS EULA OR THE RULES OF ARBITRATION, THE ARBITRATOR IS NOT EMPOWERED TO AWARD DAMAGES IN EXCESS OF THE COMPENSATORY DAMAGES (INCLUDING REASONABLE ATTORNEYS' FEES AND EXPERT WITNESS FEES) OR IN EXCESS OF THE LIMITATIONS OF LIABILITY AND DAMAGES SET FORTH IN THIS EULA, AND EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT TO RECOVER SUCH DAMAGES (INCLUDING, WITHOUT LIMITATION, PUNITIVE DAMAGES), IN ANY FORUM. THE ARBITRATOR WILL BE REQUIRED TO FOLLOW THE APPLICABLE LAW AS SET FORTH IN SECTION 17.1 AND FOLLOW THE TERMS OF THIS EULA. The arbitrator may award equitable relief in those circumstances where monetary damages would be inadequate. The successful or prevailing party will be entitled to recover its reasonable attorneys' fees, expert witness fees and other costs of arbitration, in addition to such other relief to which it may be entitled.
- 17.3 You acknowledge and accept that Schneider Electric will be irreparably damaged (and damages at law may be an inadequate remedy) if You breach any provision of this EULA and such provision is not specifically enforced. Therefore, in the event of a breach or threatened breach by You of

this EULA, Schneider Electric shall be entitled, in addition to all other rights or remedies, to (a) an injunction or other injunctive relief restraining such breach, without being required to show any actual damage or to post an injunction or other bond; or (b) a decree for specific performance of the applicable provision of this Agreement; or (c) both to the extent permitted by applicable law in the country where Schneider Electric has its registered office or principal place of business and/or, as relevant in the context, where You will install, copy, run or otherwise use the Software Product, on either federal or state level when applicable.

18. LEGAL EFFECT

In specific jurisdictions, as stated in **Appendix 1** to this EULA, different regulations may impose different terms to apply between Schneider Electric and You in relation with Your use of the Software. All the terms of this EULA that are not amended by the terms defined in said jurisdictions as stated in **Appendix 1** shall apply between Schneider Electric and You in such jurisdictions.

APPENDIX 1 TO END-USER LICENSE AGREEMENT

SPECIFIC REGULATIONS / TERMS IN VARIOUS JURISDICTIONS

USA

In complement to what is stated in Section 2, a) – e) above:

The Software Product is a “Commercial Item(s),” as that term is defined at 48 C.F.R. § 2.101, consisting of “Commercial Computer Software” and “Commercial Computer Software Documentation,” as such terms are used in 48 C.F.R. § 12.212 or 48 C.F.R. § 227.7202, as applicable. Consistent with 48 C.F.R. § 12.212 or 48 C.F.R. § 222.7202-1 through § 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are licensed to U.S. Government end users with only those rights as granted to all other end users, according to the terms and conditions contained in this EULA. Manufacturer is Schneider Electric.

GERMANY

Section 9 Warranties shall be replaced as follows:

9. WARRANTIES

- 9.1 Schneider Electric warrants that for a period of twelve (12) months from the date of its delivery to You by Schneider Electric or its authorised reseller (or any other warranty period depending upon the Software Product’s reference and its related description available from Schneider Electric website), (i) the Software Product will perform substantially in accordance with its specifications as described in the Documentation, and (ii) the medium on which the Software Product is provided to You (if provided under a tangible form) and the License Key (if any) will be free from defects in materials and workmanship.

If the Software Product does not function as warranted during the warranty period Schneider Electric will, at Schneider Electric’s option either fix the defect or non-compliance or replace the defective Software Product, the medium or the License Key without charge to You, provided that (i) You give notice of the defect to Schneider Electric or its authorised reseller within the above mentioned warranty period, and (ii) the defect does not fall under the exclusions set under Section 9.4 below. In the event Schneider Electric is not able to remedy a defect or non-compliance during the warranty period after having had reasonable opportunity to do so, You may either adequately reduce the fees paid or – unless the defect or non-compliance is non-material – rescind from the contract for the affected Software Product.

- 9.2 Schneider Electric’s warranty shall be excluded to the extent the Software Product, its medium or License Key has been altered without prior written authorization by Schneider Electric or fails to perform in any way, as the result of Your negligent or unauthorized use such as, for instance but not limited to, the use of the Software Product with third party products (hardware, software, firmware or operating system) which are not intended by Schneider Electric for use with the Software Product, or the utilization of an improper hardware or software key (if applicable) with the Software Product, or the unauthorized maintenance of the Software Product.

Any replacement Software Product, media or License Key supplied to You pursuant to Section 9.1 hereinabove will be warranted for the remainder of the original warranty period or six (6) months, whichever is longer.

- 9.3 Schneider Electric’s warranty shall also be excluded in case of defect or malfunction of the Software Product, to the extent such defect or malfunction could have been prevented by implementing the Software Product update or upgrade made available by Schneider Electric pursuant to Section 5.4, which You were entitled and encouraged to do.
- 9.4 The foregoing defines Schneider Electric’s entire warranty obligations to You except as otherwise required by applicable statutory law.
- 9.5 No oral or written information, statement, opinion or advice allegedly given by Schneider Electric, its authorized resellers, agents or employees, or anyone else on its behalf, shall create any liability or in any way extend or vary the scope of the warranties expressed in this EULA.

Subsections 10.1 to 10.3 of Section 10 Liability shall be replaced as follows:

10. Liability

- 10.1 Unless stipulated otherwise in the EULA including the following provisions, Schneider Electric shall be liable for breaches of contractual and non-contractual duties pursuant to the applicable statutory provisions.
- 10.2 Schneider Electric can be held liable for damages - irrespective of their legal grounds - in cases of intent and gross negligence. In cases of slight negligence, Schneider Electric shall only be liable
- a) for damages resulting from injuries to life, body or health,
 - b) for damages resulting from an infringement of an essential contractual obligation (an obligation which must be fulfilled to enable a due performance of the contract and on whose fulfillment the contractual partner generally relies and may rely); however, in this case Schneider Electric's liability shall be limited to compensation for the foreseeable, typically occurring damage,
 - c) for damages resulting from a loss of data Schneider Electric's liability shall be limited to the typical recovery effort that a diligent user would incur using regularly and risk-adequate created backup copies.
- 10.3 The limitations of liability pursuant to Section 10.2 shall not apply where Schneider Electric fraudulently concealed a defect or guaranteed the quality of the Software Products. The same applies to claims of You pursuant to the German Product Liability Act (ProdHaftG). An exclusion or restriction of Schneider Electric's liability also applies with respect to Schneider Electric's statutory representatives and vicarious agents.

APPENDIX 2 TO END-USER LICENSE AGREEMENT

SPECIFIC TYPES OF LICENSE

Specific other use rights may be granted to You depending upon the type of license You have acquired.

Educational license. If You wish to acquire the Software Product for educational purpose only, please contact Schneider Electric's organization or its authorized reseller serving Your country. In case the Software Product is identified as academic or educational software, You must be a qualified educational user to be entitled to use said Software Product; if You are not a qualified educational user, You have no rights under this EULA with respect to said academic or educational software. To determine whether You are a qualified educational user, please contact Schneider Electric's organization or its authorized reseller serving Your country. Once licensed to use said academic or educational Software Product, You may not sell or transfer any such Software Product or sub-license Your license right to use the same to anyone except to another person who is qualified by Schneider Electric as a qualified educational user.

As used in this Section of EULA, the term '**person**' shall be broadly interpreted to include without limitation any individual, any corporation, company or other legal entity.

License for Field-Test. If You have acquired a license for field-test purposes, You acknowledge and agree that the Software Product licensed to You under a field-test license is a pre-release software only. As such, said Software Product may not be fully functional and You assume the entire risk as to the results and performance of the Software Product. You may install and use the Software Product licensed to You under a field-test license on computers in Your workplace only for the purpose of testing said Software Product before it is commercialized by Schneider Electric and potentially identifying any errors, bugs or defects in said Software Product. You also agree to use reasonable efforts to provide feedback to Schneider Electric regarding Your use of the Software Product, including a prompt report to Schneider Electric of errors, bugs or defects that You might find. Therefore, notwithstanding anything in this EULA to the contrary, You may not distribute or transfer any applications You create with the Software Product licensed to You under a field-test license. Schneider Electric will not update the Software Product licensed to You under a field-test license, nor provide support in relation thereto. The Software Product licensed to You under a field-test license may contain code that will, after a certain time period, deactivate the Software Product and render it unusable. Although said Software Product will attempt to warn You of the time frame in which it will be disabled, You acknowledge and agree that said Software Product may be deactivated or rendered unusable with or without warning. Upon such deactivation, this EULA will be considered terminated. Prior to deactivation of the Software Product, You may contact Schneider Electric to convert Your field-test license on the Software Product to a standard license governed by this EULA on the final release of said Software Product if and when available from Schneider Electric by paying to Schneider Electric the applicable license fee (if any) and obtaining from Schneider Electric the relevant activation code(s).

Corporate license.

You may not acquire a Corporate License unless You are a company or a corporation.

If You acquire a Corporate License from Schneider Electric, the media on which the Software Product is provided to You shall be configured so that it can only be used to operate the Software Product under a Corporate License; said media shall expressly mention the name of Your company, corporation or Group of Companies as being the licensee of a Corporate License on said Software Product.

The media containing the Software Product shall be provided to You separately from the license file necessary to activate said Software Product; said license file shall be configured so that it can only activate said Software Product under a Corporate License.

If and when acquiring a Corporate License, You acquire a concurrent use license under the following limits:

- You may install the Software Product for use by Authorized Users from and to the Sites only; - Any use of a Software Product licensed to You under a Corporate License is strictly prohibited by any person who or which is not an Authorized User, and from or to a location which does not qualify as a Site as defined hereunder.

If and when acquiring a Corporate License, it is agreed as an express deviation to Section 2.2 (i) of this EULA, that:

- You acquire the right to copy or reproduce the Software Product including the right to duplicate the media on which the Software Product is provided to You and the related license file; and
- You acquire the right to permit the use of the Software Product by any company or corporation which is part of Your Group of Companies (as defined hereunder),

in both cases, for the sole and restricted purpose of exercising the concurrent use license right granted to You under said Corporate License within the limits set forth hereinabove.

This Appendix forms an integral part of this EULA, and all terms and conditions of this EULA which are not expressly deviated under this Appendix, shall apply to You in accordance with the foregoing in addition to the terms and conditions set forth in this Appendix.

As used herein and for the purposes of Corporate Licenses only, the following terms shall have the following meaning:

- the term '**Group of Companies**' means any company or corporation:
 - a) in which You directly or indirectly own or control the voting rights attached to more than 50% of the issued ordinary share capital, or (ii) control directly or indirectly the appointment of a majority of directors (or equivalent) of its board of directors (or equivalent body); or
 - b) which directly or indirectly (i) owns or controls the voting rights attached to more than 50% of Your issued ordinary share capital, or (ii) controls the appointment of a majority of directors (or equivalent) of Your board of directors (or equivalent body); or
 - c) which is directly or indirectly owned or controlled by the same company or corporation as You in accordance with sub-case b) above.
- the term '**Authorized Users**' means any end-users at the Sites who use the Software Product;
- the term '**Sites**' means Your facility to which Schneider Electric initially supplied the Software Product as well as all of Your facilities and the facilities of Your Group of Companies, irrespective whether said facilities are located within the same country or several countries.