

## 1. GENERAL

- 1.1. These General Terms of Service ("GTS") shall govern any offer made by Schneider Electric GmbH and the other German companies of Schneider Electric Group (the "Seller" or "Party"), and any service agreements entered into by the Seller with any buyer (the "Buyer" or "Party") for the supply of any and all services to the Buyer (the "Contract").
- 1.2. These GTS shall apply exclusively. Any diverging, contrary or complementary general terms and conditions of Buyer shall only become a part of the Contract if and to the extent Seller has expressly consented to their validity. This consent requirement shall apply where Seller provides the services ordered without reservation to the Buyer even though Seller is aware of the Buyer's general terms and conditions.
- 1.3. The details of the scope of the Services are set forth in these GTS as well as in the Proposal and the Seller's written acceptance of the Order.
- 1.4. Unless expressly agreed otherwise, these GTS shall also apply to all future Contracts for the supply of Services with the Buyer or Services provided to the Buyer even if the Seller does not later refer to them.
- 1.5. The Buyer hereby warrants and represents to the Seller, that it is a business customer acting in the course of business and is not a consumer, for sales made by Seller, within the meaning of Sec. 13 of the German Civil Code (*Bürgerliches Gesetzbuch, BGB*).

## 2. DEFINITIONS

- 2.1. "Anti-Corruption Law" means all applicable laws which prohibit the conferring of any gift, payment or other benefit on any person or any officer, employee, agent or advisor of such person including but not limited to the French "Sapin II" Law, the United States' Foreign Corrupt Practices Act, and the United Kingdom Bribery Act or which prohibit money laundering, tax evasion or the facilitation thereof.
- 2.2. "Business Day" means a day other than a Saturday, Sunday, or public holiday, at the Seller's location.
- 2.3. "Buyer Default" means that which is set out in clause 6.8.
- 2.4. "Buyer IPRs" means all Intellectual Property Rights in any Buyer Materials and in any property of the Buyer to which this Contract relates.
- 2.5. "Buyer Materials" means all equipment, tools, drawings, specifications, data, information, and other materials supplied by the Buyer to Seller.
- 2.6. "Charges" means the charges payable by the Buyer for the supply of the Services as set out in the Proposal or, if not, as calculated on a time and materials basis in accordance with the Seller's daily fee rates together with any expenses reasonably incurred by the individuals whom the Seller engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Seller for the performance of the Services, and for the cost of any materials.
- 2.7. "Confidential Information" means any and all information in any form that each Party provides to each other in the course of the Contract and that either (i) has been marked as confidential; (ii) is of such nature that a reasonable person would treat as confidential under like circumstances. Confidential Information does not include work products resulting from the Services performed hereunder and information which (a) is already known to the other Party at the time of disclosure; (b) is independently developed without the benefit of the other's Confidential Information; (c) is received from a third party that is not under any confidentiality obligation towards the owner of the information; or (d) has entered the public domain through no fault of the recipient.
- 2.8. "Contract Date" means that which is set out in clause 4.3.
- 2.9. "Deliverables" means the documents, goods, spare parts, and materials (excluding the Seller IPRs) provided to the Buyer by the Seller in the course of performing the Services, as detailed in the Proposal.
- 2.10. "Employees of the Buyer" means personnel of the Buyer or any incumbent service provider immediately prior to the relevant transfer of the Services.

- 2.11. “Equipment”** means the items shown on the schedule of maintained equipment (if any) in the Proposal.
- 2.12. “Intellectual Property Rights”** means patents, utility models, rights to inventions, copyright and neighbouring and related rights, trademarks, including trade brands and service marks, business names and domain names, design rights, goodwill and rights deriving from unfair competition, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- 2.13. “Order”** means the Buyer's order for the Services as set out in the Buyer's written document referencing these GTS.
- 2.14. “Proposal”** means the written communication provided by Seller incorporating the Specification provided by the Seller to the Buyer describing the Services which the Seller will supply and the terms on which those Services will be provided.
- 2.15. “Seller Materials”** has the meaning set out in clause 6.1(k).
- 2.16. “Seller IPRs”** means all Intellectual Property Rights subsisting in the Deliverables excluding any Buyer Materials incorporated in them.
- 2.17. “Services”** means the services, including the Deliverables, supplied by the Seller to the Buyer as set out in the Specification.
- 2.18. “Severance Payments”** means any payments required by law, contract or otherwise to be paid as compensation for redundancy, unfair dismissal or wrongful dismissal and which could not have been avoided or mitigated by Buyer and provided that: (a) the termination is made within three (3) months after the relevant transfer date under the Transfer Regulations; and (b) there have been no changes of the terms and conditions of employment in such period.
- 2.19. “Software”** means digital products and content, computer software, applications and firmware in all forms, but excludes source code, which for purposes of these GTS shall be defined as the expression of computer software applications and firmware in human readable language which is necessary for their understanding, maintenance, modification, correction or enhancement.
- 2.20. “Specification”** means the description or specification of the Services provided in the Proposal.
- 2.21. “Successor Service Provider”** means the Buyer or any third party engaged by it in the event that the provision of the Services (in whole or in part) transfers to that party (as the case may be) on the termination or expiry of the Contract for any reason.
- 2.22. “Trade Secret”** means any information, including a formula, pattern, compilation, program, device method, technique, or process that:
- (a) Is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;
  - (b) Has commercial value because it is a secret; and
  - (c) Has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret.
- 2.23. “Transfer Regulations”** means the regulations for the protection of employees in case of a transfer of undertakings (as amended from time to time) applicable for Germany (Sec. 613a BGB) or analogous legislation in a country other than Germany.

### **3. INTERPRETATION**

- 3.1.** A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

#### **4. BASIS OF CONTRACT**

- 4.1.** The Proposal shall not constitute an offer and is only valid for one (1) month from the date of the Proposal unless there are express stipulations in the Proposal to the contrary.
- 4.2.** Buyer shall reference this Contract on all Orders related to this Contract.
- 4.3.** The Order shall only be deemed to be accepted when the Seller issues written acceptance of the Order at which point, and on which date the Contract shall come into existence ("**Contract Date**").
- 4.4.** All Orders placed with the Seller for Services shall be subject to availability and Buyers favorable credit status with the Seller.
- 4.5.** The Parties may correspond and convey documentation via the Internet unless Buyer expressly requests otherwise. Neither Party has control over the performance, reliability, availability, or security of the Internet. Seller shall not be liable for any loss, damage, expense, harm, or inconvenience resulting from the loss, delay, interception, corruption, or alteration of any communication over the Internet due to any reason beyond Seller's reasonable control unless Seller is responsible therefor.

#### **5. SUPPLY OF SERVICES**

- 5.1.** The Contract shall continue for the period stated in the Proposal unless terminated earlier in accordance with clause 16. If the Contract is concluded for an indefinite period of time, it may be terminated by either Party giving to the other not less than three [3] months' written notice to terminate. If a Contract for Recurring Services is concluded for a period of one calendar year or longer (annual or multi-year Contract), the Contract will automatically be renewed by twelve [12] months at a time, unless terminated by either Party at the end of the initial or the respective successive Contract period in accordance with clause 16.
- 5.2.** The Seller shall supply the Services to the Buyer in accordance with the Specification. The Seller reserves the right to amend the Specification if necessary, to comply with any applicable law or regulatory requirement, or if required for another material reason, and the Seller shall notify the Buyer in any such event.
- 5.3.** The Seller shall use all reasonable endeavours to meet any performance deadlines specified in the Contract, but any such deadlines shall be estimates only.
- 5.4.** The Seller warrants to the Buyer that the Services will be provided using reasonable care and skill.
- 5.5.** The Seller may sub-contract all or any part of the Services without the consent of the Buyer but shall remain wholly responsible for performance of the Services notwithstanding any such sub-contracting.
- 5.6.** The Services provided in this clause 5 are subject to the Equipment and any of the Buyer's related systems or services being in good operating condition at the commencement of the provision of the Services.

#### **6. BUYER'S OBLIGATIONS**

- 6.1.** The Buyer shall at its own cost and in a timely manner:
  - (a)** Ensure that the terms of the Order and the Specification are complete and accurate;
  - (b)** Ensure that the Software and Equipment is used in a proper manner only by competent trained employees or by person(s) under their supervision;
  - (c)** Co-operate with the Seller in all matters relating to the Services, including effectively managing its employees, agents and third parties (such as consultants and subcontractors), giving any instructions or decisions as may be requested by the Seller or otherwise necessary for the performance of the Services, providing information, data, and materials which Seller needs for the provision of Services in the format and timeframe as agreed between the Parties, and co-operating fully with the Seller's personnel in the diagnosis of any error or defect in the Equipment or Software.;
  - (d)** Provide the Seller, its employees, agents, consultants, and subcontractors, with unhindered access to the Buyer's premises, assets, equipment and other facilities in accordance with any requirements stated in the

Proposal or otherwise as reasonably required by the Seller for the performance of the Services, however, the Buyer is entitled not to disclose trade secrets;

- (e) Provide all Buyer Materials as the Seller may reasonably require in order to supply the Services, and ensure that these are accurate and complete in all material respects or, as the case may be, suitable for the purpose of performing the Services;
- (f) Prepare the Buyer's premises for the supply of the Services and ensure there is adequate site security at such premises;
- (g) Nominate and provide access to a member of the Buyer's personnel as a point of contact (**Key Contact**) who shall have the authority to act on behalf of the Buyer at each of the premises where the Seller is required to perform the Services, and notify the Seller in writing whenever it changes the Key Contact. The Key Contact shall be suitably qualified, adequately trained, have a sound working knowledge of his/her respective premises and equipment and of all relevant Buyer Materials, and be capable of providing to the Seller all instructions or decisions, access to the Buyer's premises, Buyer Materials and other facilities required to be provided by the Buyer pursuant to this clause 6.1;
- (h) Back up and securely store all data and software on its equipment and in Buyer Materials with the due care of a prudent businessman. The Buyer shall, in particular prior to any installation and/or access by the Seller take a complete data security backup of all systems and applicable data. The data backup is to be stored in such a way that the recovery of the data is possible at any time;
- (i) Obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- (j) Comply with all applicable laws, including health and safety laws;
- (k) Keep all materials, equipment, documents and other property of the Seller ("**Seller Materials**") at the Buyer's premises in safe custody at its own risk, maintain the Seller Materials in good condition until returned to the Seller, and not dispose of or use the Seller Materials other than in accordance with the Seller's written instructions or authorisation; and
- (l) Comply with any additional obligations as set out in the Proposal.

6.2. Any specific environmental conditions which are required for the provision of the Services shall be the responsibility of Buyer unless otherwise specified herein. The Seller shall be entitled to rely on the sufficiency and accuracy of any documentation or data, whether written or oral, provided by Buyer to the Seller regarding site conditions and site preparation requirements.

6.3. In case of fault by the Buyer, the Seller can hold the Buyer liable for any damage incurred by the Seller due to:

- (a) the alteration, adjustment or interference to any Equipment or Software by any party engaged by Buyer, other than Seller or Seller's authorized engineers; and
- (b) if the Seller is unable to keep Equipment or Software in good working order due to causes within the control of the Buyer.

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

6.5. Without limiting the foregoing, Buyer shall at a minimum:

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

- (b) Promptly update or patch its Systems or implement other appropriate measures based on any reported Cyber Threats and in compliance with any security notification or bulletins, whether publicly disclosed on Seller's security notification webpage at <https://www.se.com/ww/en/work/support/cybersecurity/security-notifications.jsp> or otherwise provided to Buyer;
- (c) Regularly monitor its Systems for possible Cyber Threats;
- (d) Regularly conduct vulnerability scanning, penetration testing, intrusion scanning, and other cybersecurity testing on its Systems; and
- (e) Meet the recommendations of Seller's Recommended Cybersecurity Best Practices, available at <https://www.se.com/us/en/download/document/7EN52-0390/>, as may be updated by Seller from time to time, and then-current industry standards.

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

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

6.8. If the Seller's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Buyer or failure by the Buyer to perform any relevant obligation (**"Buyer Default"**):

- (a) The Seller shall have the right to suspend performance of the Services until the Buyer remedies the Buyer Default. The Buyer Default relieves the Seller from the performance of any of its obligations in each case to the extent the Buyer Default prevents or delays the Seller's performance of any of its obligations; and/or
- (b) The Seller shall be entitled to an extension by such period as is reasonable in all the circumstances of the date or dates by which the Contract requires the Seller to complete the Services or any part thereof which is affected by the Buyer Default; and
- (c) The Seller shall not be liable for any costs, charges or losses sustained or incurred by the Buyer arising directly or indirectly from the Seller's failure or delay to perform any of its obligations as set out in this clause 6.8 unless the Seller is responsible therefor; and
- (d) The Buyer shall reimburse the Seller on written demand for any costs, charges or losses sustained or incurred by the Seller arising directly or indirectly from the Buyer Default, including de-mobilization/re-mobilization costs, travel and transportation costs, provided that the Buyer is responsible therefor.

## 7. CHARGES AND PAYMENT

- 7.1. All amounts payable by the Buyer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (“VAT”).
- 7.2. The Seller shall be entitled to revise the Charges applicable to the Services as follows:
- (a) By one (1) weeks written notice to the Buyer in the event of:
    - (i) Any fluctuation in the currency exchange rates applicable at the date of the Proposal;
    - (ii) Any increases in the cost of raw materials, transport or labour;
    - (iii) Any changes in legislation or technical standards;
    - (iv) Any changes connected to or arising out of the United Kingdom (or part of it) ceasing to be a member state of the EU whether such change occurs before, during or after the date on which the United Kingdom ceases to be a member state of the European Union or, where a transition period has been agreed, the date on which the transition period expires; or
    - (v) Other events beyond its reasonable control that affect the Seller’s ability to perform or the cost of performance; or
  - (b) By two (2) months’ written notice to the Buyer in all other cases, however, changes must be based on an objective reason in any case.
- 7.3. The new prices provided in clause 7.2 shall take effect upon expiration of afore-mentioned notice period, or, if a later date is specified in such notice, on the date so specified.
- 7.4. The Seller shall submit invoices for the Charges plus VAT if applicable to the Buyer at the intervals specified in the Proposal or, if not specified, at the Seller’s discretion, on a monthly, quarterly, or annual basis, in each case in advance.
- 7.5. The Buyer shall pay each invoice submitted by the Seller within thirty (30) days from the invoice date in full and without deductions to the bank account indicated in writing by the Seller.
- 7.6. All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law). The Buyer is, however, entitled to a set-off or retention if its counterclaim has been established with final legal effect, is undisputed or acknowledged by the Seller.
- 7.7. Should the Buyer be in default with payments, the following shall apply:
- (a) The Buyer shall pay default interest in the amount of 9 percentage points above the base rate per annum calculated on the basis of the outstanding amounts; and
  - (b) The Buyer shall be liable to pay a fixed fee of forty (40) euro for each outstanding payment claim to be offset against any claims for damages.
- 7.8. Failure to pay any amount on the due date shall constitute a Buyer Default and shall automatically cause all amounts owed by the Buyer to become payable provided that the Seller has already performed the respective Services. The Seller’s rights pursuant to clause 6.8 shall remain unaffected, including in particular the Seller’s right to suspend performance of the Services and any other obligations under the Contract until receipt of full payment of all payable amounts has been received by the Seller.
- 7.9. The foregoing provisions shall apply without prejudice to all damages which may be claimed by the Seller.
- ## 8. Changes
- 8.1. Either Party may submit a written request for an amendment to the scope, nature, volume or execution of the Services, the Deliverables or any other term of the Contract (“Change”) to the other, but no Change will come into effect until a written record of any Change agreed or to be agreed by the Parties setting out the proposed

Changes and the effect those Changes will have on the Services, the Charges, the timetable for the Services and any terms of the Contract ("**Change Control Note**") has been signed by the authorised representatives of both Parties.

- 8.2. If the Buyer requests a Change, it will submit a written request to the Seller containing as much information as is necessary to enable the Seller to prepare a Change Control Note, and within twenty (20) Business Days of receipt of a request, the Seller will, unless otherwise agreed, send to the Buyer a Change Control Note. If the Seller requests a Change, it will send to the Buyer a Change Control Note. A Change shall be priced using the Seller's rates current at the time that the Change is proposed, and there shall be a fair and reasonable adjustment to the date or dates by which the Contract requires the Seller to complete those Services, or any part thereof, which are affected by the Change, and to provide any Deliverables so affected.
- 8.3. If, following the Buyer's receipt of a Change Control Note, the Parties agree the terms of the relevant Change Control Note, they will sign it and that Change Control Note will amend the Contract.
- 8.4. If the Seller submits a Change Control Note in order to comply with any applicable safety or regulatory requirements and such changes do not affect the nature, scope of, or Charges for the Services, the Buyer shall not unreasonably withhold or delay consent to it.

## 9. INTELLECTUAL PROPERTY AND INDEMNIFICATION

- 9.1. The Seller and its licensors shall retain ownership of all the Seller IPRs. The Buyer and its licensors shall retain ownership of all Buyer IPRs. The Seller grants the Buyer or shall procure the direct grant to the Buyer of, a non-exclusive, royalty-free, non-transferable licence of the Seller IPRs to the extent necessary to receive the Services and use Deliverables in the Buyer's business.
- 9.2. The Buyer grants the Seller a worldwide, non-exclusive, royalty-free, non-transferable licence to copy and modify the Buyer IPRs for the term of the Contract for the purpose of providing the Services and the Deliverables to the Buyer in accordance with the Contract.
- 9.3. Under no circumstances is the Seller bound to provide its manufacturing and product- implementation plans, even if the Deliverables are delivered with an installation diagram. The designs, documents and codes forwarded to the Buyer, if any, shall remain the Seller's sole property and are strictly confidential.
- 9.4. Any information pertaining to the Seller IPRs shall be considered by the Buyer as being strictly confidential, including the information set forth in the drawings and documents which may be provided to it. Consequently, the Buyer undertakes not to communicate said information, whether willingly or not, to any third party and further undertakes to only use it for the purpose of receiving the Services and using the Deliverables in the Buyer's business. Any right for the Buyer or any third party appointed by the Buyer to manufacture spare parts, or to have such spare parts manufactured, is hereby excluded. The terms and conditions for using software and databases are set forth in the licences which accompany them. However, regarding third party's technology, such as software embodied in the Deliverables ("**Program**"), the Buyer is granted a non-exclusive, non-transferable, and permanent right to use the Program for the sole purpose of using the Deliverables for the use for which they are intended. The Buyer undertakes to comply with the respective terms of the Proposal and in particular with the instructions for use of the Program or the Seller's technology comprising any part of the Deliverables as the case may be. Consequently, the Buyer undertakes and shall not copy, reproduce, decompile, reverse engineer (if not publicly available), disassemble or otherwise seek to reconstitute the source code of the Program or the Seller's IPR. The Buyer shall indemnify the Seller from each and all claims made by third parties, in particular for damages, arising out of a breach of the aforementioned obligations of the Buyer if the Buyer is responsible therefor.
- 9.5. The Buyer will indemnify, keep indemnified and hold the Seller harmless in full and on demand from and against all liabilities (including any tax liability) direct, indirect and consequential losses, damages, claims, proceedings and legal costs (on an indemnity basis), judgments and costs (including costs of enforcement) and expenses which the Seller incurs or suffers directly or indirectly in any way whatsoever as a result of or in connection with a breach of, or a failure to perform or defect or delay in performance or negligent performance of, any of the Buyer's obligations under this clause 9 if the Buyer is responsible therefor.

## **10. WARRANTY**

This clause 10 shall not apply to purely service-related contracts or service contract elements.

- 10.1.** Seller warrants that the Services are in accordance with the Specification. Unless described otherwise in the Specification, the warranty on Services is one (1) year after delivery or acceptance of such Services.
- 10.2.** Defects must be notified in writing with a comprehensible description of the error symptoms. The notification of the defect should enable the reproduction of the error. This shall not affect the statutory obligations of the Buyer to inspect and notify defects.
- 10.3.** The Seller shall remedy the defect within its statutory obligations.
- 10.4.** Seller shall not be responsible for defects, which are caused by improper use or improper operation by the Buyer.

## **11. EXPORT CONTROL & SANCTIONS**

- 11.1.** Seller is subject to the laws of, and the items provided by Seller under this Agreement contain or may contain components and/or technologies from, the United States of America ("US"), the European Union ("EU") or other nations. Buyer acknowledges and agrees that the supply, assignment and/or usage of the products, software, services, information, other items and/or the embedded technologies (hereinafter referred to as "Deliverables"), and all activities carried out under this Agreement shall fully comply with applicable trade, export control, embargo, economic or financial sanctions or anti-boycott laws, regulations, rules and/or restrictive measures imposed, administered or enforced from time to time by the United States, the United Kingdom, the European Union, and other applicable jurisdictions (hereinafter referred to as "International Trade and Sanctions Controls").
- 11.2.** Unless applicable International Trade and Sanctions Controls authorizations have been obtained from the relevant authority and the Seller has approved, the Buyer shall not take any action that may result, directly or indirectly, in the Deliverables (i) being exported and/or re-exported to any destination and party (may include but not limited to an individual, group and/or legal entity) , if export, sale, supply or transfer of the Deliverables to such destination or party is prohibited or restricted by the International Trade and Sanctions Controls applicable to the Seller and/or Deliverables; or (ii) being used for those purposes and fields prohibited or restricted by the International Trade and Sanctions Controls applicable to the Seller and/or Deliverables. Buyer also agrees that the Deliverables will not be used either directly or indirectly in any missiles; 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, or for any other prohibited end-use or end user unless authorized under International Trade and Sanctions Controls.
- 11.3.** Buyer represents and warrants that it shall maintain reasonable compliance policies, procedures and controls designed to ensure compliance with International Trade and Sanctions Controls and shall not otherwise undertake any action that violates or would cause Schneider Electric to violate International Trade and Sanctions Controls.
- 11.4.** Buyer agrees to fully cooperate and provide all documentation that Seller identifies as necessary or advisable to support compliance with International Trade Controls, including but not limited to the end use statement attached as Appendix 1.
- 11.5.** Buyer undertakes to use best endeavors to recover the Deliverables that are exported and/or re-exported in violation of paragraph 2(i) of this clause from any destination or party prohibited or restricted by the International Trade and Sanctions Controls applicable to the Seller and/or Deliverables.
- 11.6.** Seller shall have a right to suspend performance of all obligations under the relevant order or under this Agreement, if: (i) any necessary or advisable licenses, authorizations or approvals are not obtained, whether arising from inaction by any relevant government authority or otherwise, or (ii) any such licenses, authorizations or approvals are denied or revoked, or (iii) the International Trade and Sanctions Controls would prohibit Seller from fulfilling any order, or would in Seller's judgment otherwise expose Seller to a risk of liability under the applicable International Trade and Sanctions Controls if it fulfilled the order, or (iv) the Seller becomes aware that the Deliverables were exported or re-exported in violation of paragraph 2(i) of this clause.

- 11.7.** The Seller may resume the performance of obligations under the relevant order or under this Agreement, once (i) the Buyer obtains the necessary or advisable licenses, authorizations or approvals; or (ii) the applicable International Trade and Sanctions Controls are amended or revised, or any new International Trade and Sanctions Controls are adopted that authorize the Seller to fulfill the order or take other required action without any licenses, authorizations or approvals; or (iii) the Buyer confirms in writing that the Buyer has used best endeavors to recover the Deliverables exported and/or re-exported in violation of paragraph 2(i) of this clause. If the Buyer fails to comply with paragraph 7(iii) of this clause for 6 months, the Seller may terminate the Agreement and will not be liable for any losses of the Buyer associated with such termination.
- 11.8.** Buyer shall be responsible for and shall indemnify the Seller against all liability, losses, administrative fines, damages, and expenses (including reasonable attorney's or other professional services provider's fees) resulting from the (i) Buyer's non-compliance with or violations of International Trade and Sanctions Controls, or (ii) the Buyer causing Seller to be in non-compliance with or to violate such International Trade and Sanctions Controls, or (iii) the Buyer violating this clause (regardless of whether such violation results in a breach of the International Trade and Sanctions Controls by the Buyer or the Seller).
- 11.9.** Buyer shall annually provide (i) an updated end use statement and (ii) an additional certification, certifying that the representations, warranties, and covenants in this clause remain accurate.
- 11.10.** The Seller disclaims all liability for any late deliveries and other consequences caused by the implementation of and amendments to those regulations.
- 11.11.** "Software" is a "commercial item" as those terms are defined under 48 CFR 2.101 (October 1995), consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 CFR 12.212 (September 1995) and is provided to U.S. Government only as a commercial item. Consistent with 48 CFR 12.212 and 48 CFR 227-7202-1 through 227.7202-4 (June 1995), all U.S. Government end-users acquire the Software with only those rights set forth herein.
- 11.12.** Either Party shall execute and deliver to the other any documents as may be required to effect or evidence compliance.
- 11.13.** The Parties may correspond and convey documentation via the Internet unless Buyer expressly requests otherwise. Neither Party has control over the performance, reliability, availability or security of the Internet. Seller shall not be liable for any loss, damage, expense, harm or inconvenience resulting from the loss, delay, interception, corruption or alteration of any communication over the Internet due to any reason beyond Seller's reasonable control.

**12. ENVIRONMENTAL REGULATIONS**

The Party possessing the Equipment waste is responsible for removing and disposing it or for having it removed and disposed. For the professional electrical and electronic equipment (hereinafter "EEE") concerned by European Directive 2012/19/EU entered into force on the 13<sup>th</sup> of August 2012, and European Directive 2006/66/EC dated September 6, 2006 and resulting implementation regulation, the organisational and financial responsibility for the removal and processing of waste originating from this EEE is transferred to the direct Buyer which accepts such. The direct Buyer undertakes to assume responsibility, on the one hand, for the collection and removal of waste originating from the EEE subject to the sale and, on the other hand, for their processing and recycling. The Buyer's failure to comply with these obligations may lead to the application, among other sanctions, of the criminal sanctions provided for by each member state of the European Union.

**13. DATA PROTECTION**

The Seller reserves the right to save and process the Buyer's data for its own purposes in compliance with current data protection legislation. The Buyer, its officers, employees, agents, and representatives will keep all information and data relating to the Seller and the Contract safe and secure and in full compliance with the applicable data protection legislation.

**14. TRANSFER OF UNDERTAKINGS**

- 14.1.** The Parties hereby acknowledge and agree that the engagement of the Seller to provide the Services shall not constitute a transfer of undertakings under the Transfer Regulations.
- 14.2.** If, notwithstanding clause 14.1, the Transfer Regulations are held to apply on the commencement of the Contract:
- (a)** Buyer will pay Seller the amount of any Severance Payments made by Seller to the Employees; and
  - (b)** Buyer hereby indemnifies Seller in respect of all costs, losses, claims, demands, damages, actions, fines, penalties, awards, liabilities, legal and other professional fees and expenses, directly in connection with or as a result of any claim or demand in relation to:
    - (i)** anything done or omitted to be done in respect of any of the Employees which is deemed to have been done by the Seller by virtue of the Transfer Regulations save as set out in clause 14.2(a) above; and
    - (ii)** any claim made at any time by any employee of the Buyer other than the Employees who claim to have become an employee of or have rights against the Seller by virtue of the Transfer Regulations;
- provided that such costs, claims, expenses, and liabilities are not payable as a result of any act or omission of the Seller.

## **15. LIABILITY**

- 15.1.** Nothing in the Contract and the GTS shall limit or exclude the Seller's liability:
- (a)** regarding injuries to life, body or health;
  - (b)** for fraud or fraudulent misrepresentation and/or fraudulent concealment of a defect;
  - (c)** for any breach of export regulations;
  - (d)** for intent and gross negligence;
  - (e)** in case of the assumption of a guarantee; or
  - (f)** for claims under the German Product Liability Act (Produkthaftungsgesetz, ProdHaftG).
- 15.2.** With regard to slight negligence, the Seller's liability shall be limited to the foreseeable damage that might typically occur under the Contract if an obligation is violated the fulfilment of which is essential for the proper performance of the Contract and on the fulfilment of which Buyer may regularly rely (cardinal duty).
- 15.3.** Insofar as the Seller's liability is excluded or limited, such exclusion or limitation shall also apply to the personal liability of its employees, workers, staff members, representatives and vicarious agents.

## **16. SUSPENSION AND TERMINATION OF THE CONTRACT**

- 16.1.** Either Party may suspend the performance of its obligations if the other Party has not effectively performed its own obligations that are due, including but not limited to, Buyer's non-compliance with its obligations to secure the site where the Seller shall perform services or works, or non-payment by the Buyer of Seller's invoice.
- 16.2.** If the Contract is suspended for a reason that is attributable to the Buyer, the Buyer shall reimburse all reasonable costs and expenses incurred by the Seller as a result of such suspension. The costs to be reimbursed may include handling, insurance and labour costs, financial costs and the bank fees charged to extend the validity of the bank guarantees borne by the Seller and its subcontractors and, all costs generated by the extended delivery time. If the performance of the Contract is suspended for more than ninety (90) days for any reason whatsoever, the Seller will be entitled to rescind the Contract or, if the Contract is a continuing obligation, to terminate the Contract for cause (*außerordentlich*) and receive all costs referred to above, without prejudice to any potential claim.
- 16.3.** If the Buyer fails to make any payment by its due date or fails to deliver input data or validate Deliverables issued by the Seller, in accordance with the Contract, the Seller may, after providing written notice to perform with which the Buyer fails to comply, rescind the Contract following expiry of a reasonable grace period or, if the Contract is a continuing obligation and provided that the non-performance is based on a compelling reason, to terminate the Contract for cause (*außerordentlich*). Either Party may terminate the Contract if the other Party

fails to fulfil any of its obligations and fails to cure that breach within the reasonable grace period set by the respectively other Party or, if the Contract is a continuing obligation and provided that the non-performance is based on a compelling reason, to terminate the Contract for cause (*außerordentlich*). The provisions relating to confidentiality, intellectual property and liability will survive any termination, regardless of the reason for the termination.

- 16.4.** The Contract may be terminated at the end of the Contract period by either Party, provided that at least three [3] months' written notice is given prior to the end of the Contract period.
- 16.5.** During a fixed Contract period, the Buyer has no right to terminate for convenience (ordentliche Kündigung). However, if an ordinary right to terminate the Contract before the end of the agreed Contract period is individually agreed with the Buyer, in the event of such termination by the Buyer, the Buyer shall be obligated to pay all fees for the entire Contract period, unless such termination is due to a breach by the Seller. However, the Seller must offset the expenses saved because of the premature termination of the contract (agreed fees minus saved expenses).
- 16.6.** The Seller may terminate the Contract immediately by giving written notice to that effect to the Buyer if the Buyer:
- (a) Has a receiver, administrator or provisional liquidator appointed;
  - (b) Is subject to a notice of intention to appoint an administrator;
  - (c) Passes a resolution for its winding-up (save for the purpose of a solvent restructuring);
  - (d) Has a winding up order made by a court in respect of it;
  - (e) Enters any composition or arrangement with creditors (other than relating to a solvent restructuring);
  - (f) Suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
  - (g) Has any steps or actions taken in connection with any of these procedures, and the Buyer notifies the Seller immediately upon the occurrence of any such event or circumstance; or
  - (h) The Buyer's financial position deteriorates to such an extent that in the Seller's opinion the Buyer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 16.7.** In addition to the Seller's rights pursuant to clause 6.8 and without affecting any other right or remedy available to it, the Seller may suspend the supply of Services under the Contract or any other contract between the Buyer and the Seller if the Buyer becomes subject to any of the events listed in clause 16.6, or the Seller reasonably believes that the Buyer is about to become subject to any of them.
- 16.8.** Following termination of the Contract:
- (a) Any condition which expressly or impliedly continue to have effect after termination will continue in force; and
  - (b) All other rights and obligations will immediately cease without prejudice to any rights, obligations, claims (including claims for damages for breach) and liabilities which have accrued prior to the date of termination.
- 16.9.** Within ten (10) days after the date of termination of the Contract each Party will:
- (a) Return to the other Party all confidential information (including all copies and extracts) and all other property (whether tangible or intangible) of the other Party in its possession or control; and
  - (b) Cease to use the confidential information of the other Party;

Provided that each Party may retain any confidential information of the other Party which it has to keep in order to comply with any applicable law or which it is required to retain for insurance, accounting or taxation purposes. Clause 18 will continue to apply to retained Confidential Information.

## **17. ANTIBRIBERY AND CORRUPTION**

- 17.1.** The Buyer acknowledges that Seller is committed to eliminating all risk of bribery and corruption, influence peddling, money laundering and tax evasion or the facilitation thereof in its business activities. The Buyer must immediately notify Seller of any suspected, or known, breaches of Anti-Corruption Law. The Buyer may raise this alert through their point of contact or through the Trust Line: <https://secure.ethicspoint.eu/domain/media/en/gui/104677/index.html>.
- 17.2.** None of the Buyer's employees, beneficial owners, shareholders, or any other person who is involved in or will benefit from the performance of the Contract or has an interest in the Buyer:
- (a)** Is a civil servant, public or governmental official;
  - (b)** Is an official or employee of Seller or one of its affiliates; or
  - (c)** Has been convicted of, or otherwise been subjected to any administrative sanction or penalty for, any offence involving fraud, bribery, corruption, influence peddling, money laundering, or any other criminal offence involving dishonesty as an element. Buyer will immediately notify Seller if any such individuals are the subject of any investigation into any such offenses.
- 17.3.** The Buyer undertakes and covenants to Seller that it shall not, alone or in conjunction with any other person, directly or indirectly, offer, pay, give, promise to pay or give, or authorize the payment or giving of any money, gift, undue advantage, or anything of value to any employee, official or authorized representatives of Seller.
- 18. CONFIDENTIALITY**
- 18.1.** Each Party retains ownership of its Confidential Information.
- 18.2.** Each Party agrees to (i) protect the other's Confidential Information in the same manner as it protects the confidentiality of its own proprietary and confidential materials but in no event with less than reasonable care; (ii) use the other's Confidential Information only in relation to the Orders.
- 18.3.** Upon termination of the Contract or a relevant Order or upon written request submitted by the disclosing Party, whichever comes first, the receiving Party shall return or destroy, at the disclosing Party's choice, all of the disclosing Party's Confidential Information.
- 18.4.** Neither Party shall, except with respect to their employees, contractors or agents with a need to know for purposes of the Contract, disclose to any person any Confidential Information of the other Party without the other Party's prior written consent, except where Confidential Information may be disclosed by law.
- 18.5.** Unless otherwise agreed in an Order, these confidentiality obligations shall:
- (a)** terminate five (5) years after the expiration of the relevant Order or termination of the Contract, whichever comes first in respect of all Confidential Information, which is not a Trade Secret; and
  - (b)** continue indefinitely in respect of all Trade Secrets.
- 19. FORCE MAJEURE**
- 19.1.** Except for the Buyer's payment obligations, neither Party shall be liable for delays caused by conditions beyond their reasonable control or events occurring in or affecting the Seller's premises or business or those of its subcontractor and/or its suppliers, which may disrupt the organisation or business activity of the company and for which the respective Party is not responsible ("**Force Majeure**"), provided notice thereof is given to the other Party as soon as practicable. Force Majeure shall include without limitation, act of God, lock-outs, strikes, illness, epidemic, pandemic, war, insurrection, riot, civil commotion, act or threat of terrorism, embargos, lightning, earthquake, fire, flood, storm or extreme weather condition, theft, malicious damage, lockout, industrial dispute (whether affecting the workforce of a Party and/or any other person) breakdown or failure of plant or machinery or machinery accident, rejection of parts during the manufacturing process, interruption or delay in the transportation or procurement of raw materials, power or components, or any other event outside the control of the Seller, its subcontractors and/or its suppliers or any other consequences arising as a result of or in connection with the United Kingdom's withdrawal from the EU.
- 19.2.** All such Force Majeure conditions preventing performance shall entitle the Party hindered in the performance

of its obligations hereunder to an extension of the date of completion of the Services by a period of time equal to the period of delay incurred as a result of the Force Majeure or to any other period as the Parties may agree in writing.

- 19.3.** The Buyer acknowledges that the Services will be performed in areas already affected by, or that may be affected in the future by, the prevailing COVID-19 epidemics/pandemic and that the situation may trigger stoppage, hindrance or delays in Seller's (or its subcontractors) capacity to service the Equipment, irrespective of whether such stoppage, hindrance or delays are due to measures imposed by authorities or deliberately implemented by Seller (or its subcontractors) as preventive or curative measures to avoid harmful contamination exposure of Seller's (or its subcontractors') employees. The Buyer therefore recognizes that such circumstances shall be deemed a Force Majeure event and therefore shall be considered as a cause for an excusable delay. The Buyer may not assert any contractual sanctions, delay penalties, liquidated or other damages or declare a termination for default unless in case of fault by the Seller with respect to the realisation of the measures.

**20. ASSIGNMENT**

The Buyer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the Seller's prior written consent.

**21. VARIATION**

No variation of the Contract shall be effective unless it is in writing and signed by the Parties (or their authorised representatives).

**22. ENTIRE AGREEMENT**

- 22.1.** The Contract constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, and understandings between them, whether written or oral, relating to its subject matter.

**23. WAIVER**

A delay in exercising or failure to exercise a right or remedy under or in connection with the Contract will not constitute a waiver of, or prevent or restrict future exercise of, that or any other right or remedy, nor will the single or partial, exercise of a right or remedy prevent or restrict the further exercise of that or any other right or remedy. A waiver of any right, remedy, breach or default will only be valid if it is in writing and signed by the Party giving it and only in the circumstances and for the purpose for which it was given and will not constitute a waiver of any other right, remedy, breach or default.

**24. SEVERANCE**

If any of these GTS (including any exclusion from, or limitation of, liability set out in clause 15 is found by any court or body or authority of competent jurisdiction to be illegal, unlawful, void or unenforceable, such term will be deemed to be severed from these GTS and this will not affect the remainder of these GTS which will continue in full force and effect.

**25. PRESS RELEASES**

Neither Party shall issue any press release concerning Seller's work without the other Party's consent. Notwithstanding the foregoing, Seller may identify Buyer as a client of Seller, use Buyer's name and logo and release an announcement regarding the award of the Contract. Seller may generally describe the nature of the Services in Seller's promotional materials, presentations, case studies, qualification statements and proposals to current and prospective clients.

**26. NO PARTNERSHIP OR AGENCY**

- 26.1.** Nothing in these GTS and no action taken by the Parties in connection with it or them will create a partnership or joint venture or relationship of employer and employee between the Parties or give either Party authority to act as the agent of or in the name of or on behalf of the other Party or to bind the other Party or to hold itself

out as being entitled to do so.

**26.2.** Seller is performing the Services as an independent contractor and not as an employee of Buyer and none of Seller's personnel shall be entitled to receive and compensation, benefits, or other incidents of employment from Buyer. Seller shall be responsible for all taxes and other expenses arising from the employment or independent contractor relationship between Seller and its personnel and the provision of services hereunder by such personnel to Buyer.

**26.3.** At all time and notwithstanding anything to the contrary herein or in an Order, Seller retains full control over the methods, details, persons employed or otherwise used to perform the Services and any other means of performance of its obligations under an Order and vary the composition of the team assigned to the performance of the Services or make different arrangements to achieve completion of its obligations.

**27. RIGHTS AND REMEDIES**

The Seller's rights and remedies set out in these GTS are in addition to and not exclusive of any rights and remedies provided by law.

**28. NOTICES**

**28.1.** Any notice or other communication given to a Party under or in connection with the Contract shall be in writing (including by email except for terminations) and shall be: delivered by hand or by post or another delivery service with regular delivery at the latest on the next Business Day or, in case of email, with an acknowledgement of receipt at its registered office (if a company) or its principal place of business (in any other case).

**28.2.** This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

**29. THIRD PARTY RIGHTS**

The Parties do not intend that any term of these GTS will be enforceable by any person other than a Party to the Contract.

**30. APPLICABLE LAW – DISPUTES**

**30.1.** The Contract which is the subject of these GTS is governed by the laws of the Federal Republic of Germany, to the exclusion of the 1980 Vienna Convention on the International Sale of Goods ("CISG").

**30.2.** Any dispute relating to any offer issued, or any sales agreement entered into, by the Seller, which is unable to be settled out-of-court, shall be subject to the exclusive jurisdiction of the Court of the Seller's registered seat, even in the event of summary proceedings, the introduction of third parties or multiple defendants.

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**Appendix 1 – End Use Statement**

Place on Customer / End User  
Letter Header

**END USE STATEMENT**

Export of these commodities is subject to European Union, United States &/or other Government Export Control regulations. Please complete and sign-off this certification so we may finish the export control review on your project / purchase order promptly. **PLEASE INPUT IN ENGLISH and PRINT CLEARLY**

**1. Customer (Other than any Schneider Electric legal entities or employee)**

Name:	Address:
Country:	Telephone/website/Fax:

2.  This is a **Blanket EUS** for the period of:

Validity Start Date	Validity End Date
Country of Ultimate Destination	

**OR**  This is a **Non-Blanket EUS** for the period of:

Schneider Sales Order No. (or quotation no.)	Order Date
Purchase Order No.	Country of Ultimate Destination

**3. End User (if different from Customer)**

Name:	Address:
Country:	Telephone/website/Fax:

**4. End Use and Application (as detailed as possible) of all ordered Product(s)**


**5. All customers must complete the following information, whether or not the confidentiality clause above is invoked:**

The products or technology acquired from Schneider will be used for the following sensitive or restricted applications (all applications are subject to review by Schneider Trade Compliance Department):

Military	Nuclear/Nuclear-Sensitive	Missile	Chemical/Biological (other than Oil & Gas)	None of these
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**6. We, \_\_\_\_\_, hereby confirm and/or agree:**

- The products or technology acquired from Schneider will not be transferred, exported or re-export, directly or indirectly to any country, company or individual that is prohibited by the EU, US &/or other government, including all embargos and sanctions. The products will not be used in activities involving deep water drilling, Arctic oil exploration and production, or shale oil projects in Russia.
- "Heavy Water" will not be a product and/or by-product in any of our production processes.
- We understand the availability of appropriate export compliance information is available to us and we agree to comply with all EU, US &/or other governmental laws and regulations
- We hereby certify all information provided is true and correct. We agree to notify and obtain prior authorization from Schneider Electric before any deviation and/or change to this information.

7. In the event this statement cannot be signed off by the end user, please indicate the reason why below:


**8. Signature and Stamp of the End User / the Customer**

Signature and Stamp

Date

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Print Name

Title