TERMS & CONDITIONS OF SALE

These terms and conditions of sale (“Terms and Conditions”) are effective May 1, 2022 and supersede all previous publications covering “Honeywell,” “Seller,” “we,” “us,” or “our,” herein and shall differ based upon the entity to which you have issued your purchase order (products or services (hereinafter referred to as “Products”). References to “Buyer,” “you,” “your,” or “are” are to the purchasers of our Products. Certain company, line of business, and contract terms to these Terms and Conditions (“Exceptions”) are set forth in Schedules A, and B attached hereto. Unless otherwise noted in the Exceptions, each Exception shall be read together with the corresponding section of these Terms and Conditions. These Terms and Conditions (and if applicable and specific to these Terms and Conditions) are sets forth in Schedules A, and B attached hereto. Unless otherwise noted in the Exceptions, each Exception shall be read together with the corresponding section of these Terms and Conditions (collectively, the “Agreement”) contain the entire agreement between the parties with respect to the subject matter of the Agreement and supersede any prior representations or agreements, oral or written, and all other communications between the parties relating to the subject matter of the Agreement. The Agreement may not be varied except in a writing signed by an authorized representative of each party. Any conflict in the provisions of the Agreement shall be resolved by giving precedence in the following order: (i) the separate agreement between Seller and Buyer if any; (ii) the Exceptions; and (iii) the Terms and Conditions.

1. PURCHASE ORDERS.

Purchase orders are non-cancellable except as expressly set forth herein, including any revised and follow-on orders, and will be governed by the terms of the Agreement. Purchase orders shall specify: (a) the Agreement; (b) order number; (c) Seller’s Product part number or quotation number, as applicable, including a general description of the items ordered; (d) the location of delivery (delivery dates); (e) applicable price; (f) quantity; (g) location to which the Product is to be shipped; and (h) location to which invoice is to be sent for payment. Purchase orders are subject to acceptance or rejection by Seller. No purchase order is accepted by Seller unless Seller has issued a written order confirmation.

Seller will schedule delivery (and use commercially reasonable efforts) to ship Products within a reasonable time after a purchase order is accepted; provided that the right to ship orders earlier than scheduled delivery dates. Early shipments will be processed using the same method and carrier identified in the order confirmation.

3. ACKNOWLEDGMENTS.

Seller will attempt to meet requested delivery dates. However, if Seller cannot meet Buyer’s delivery date, Seller will notify Buyer in writing or by telephone, fax, email, or other electronic means. Seller shall accept or reject each purchase order in its sole discretion. Seller’s acceptance of an order or performance of any service shall not be construed to mean that Seller will continuously perform under this Agreement.

6. INSPECTION AND ACCEPTANCE.

Buyer will inspect Products and notify Seller of any lack of conformity of the Products within a reasonable period after receipt of the Products, and (2) not later than 2 (two) calendar days. Products will be presumed accepted unless Seller receives written notice of rejection explaining the basis for rejection within that period. Rejection shall be based solely upon the failure of the Products to comply with Seller’s published specifications or such specifications which are mutually agreed to by the parties. Seller will have a reasonable opportunity to repair or replace Products found to be defective, at Seller’s expense, within thirty (30) calendar days of Buyer’s notice of defect. Seller will bear all costs of repair or replacement. Further, if Seller is unable to repair or replace the defective Products, Buyer will, at its option: (a) return Products for credit at Seller’s then-current cost; or (b) return defective Products to Seller at Seller’s expense and Seller will repair or replace them within thirty (30) calendar days. If applicable, Buyer will be responsible for the cost of replacement or repair. All Products returned to Seller shall be shipped prepaid, and such goods will be at Buyer’s risk and expense unless agreed to in writing by Seller.

7. PRODUCT CHANGES.

Seller may, without notice to Buyer, incorporate changes to Products that do not alter form, fit, or function. Seller may, at its sole discretion, also make such changes to Products previously delivered to Buyer.

8. CANCELLATIONS.

No purchase order may be cancelled by Buyer without the prior express written consent of the Seller which consent shall be in Seller’s sole discretion and subject to: (i) payment of reasonable and proper termination charges as determined by Seller from time to time. Seller does not accept cancellations for custom or specialty manufactured products, or for non-stocked, extended lead-time products after the Buyer receives order confirmation.

9. TERMS OF PAYMENT.

Seller will invoice Buyer for Products sold to Buyer upon shipment. Partial shipments will be invoiced as they are shipped. Buyer for Products sold to Buyer upon shipment. Partial shipments will be invoiced as they are shipped and may, at its sole discretion, cancel or modify any purchase orders or credits for credit terms, prices, or other conditions at any time in its sole discretion. Credit terms are granted. Seller may change Buyer’s credit terms at any time in its sole discretion and may, without notice to Buyer, modify or withdraw credit terms for any order, including open orders. Seller is not required to provide a hard copy of the invoice. Payments must be made in the currency set out in Honeywell’s order confirmation unless agreed otherwise in writing and must be accompanied by remittance detail containing at a minimum the Buyer’s order number, Seller’s invoice number and amount paid per invoice; (ii) Seller may repossess Products for which payment has not been made; (b) charge penalties on delinquent amounts as set out below, for each full or partial month in which payment is overdue; (c) recover all costs of collection, including but not limited to reasonable attorneys’ fees, interest, and any other similar costs. Buyer may request from Seller a return of any Product shipped or a credit for any Product on account of errors or changes at the Buyer’s credit terms at any time in its sole discretion.

10. TAXES.

Seller’s pricing excludes all taxes (including but not limited to sales, use, excise, value-added, and similar taxes), duties (including import and export duties), and charges (collectively “Taxes”). Buyer will pay all Taxes assessed, including but not limited to sales, use, or similar taxes, duties, and charges, imposed by any federal, state, local, or foreign taxing authority or other governmental entity. Seller’s invoicing of Taxes, whether or not exclusive of the purchase price, shall not be construed as an agreement to collect Taxes on behalf of or for the account of Buyer, or as granting Buyer the right to deduct such Taxes from the purchase price. Taxes are exclusive of any shipping, handling, customs, insurance, and similar charges. Seller shall be responsible for any taxes levied upon the delivery of Products, except that Buyer will pay all Taxes levied upon the delivery of Products (including, without limitation, any seller’s sales or use Taxes levied upon or with respect to Seller’s performance of services under the Agreement).

11. PACKING.

If Seller is responsible for packing any items for shipment, Seller will pack such items in accordance with Seller’s general packing instructions, suitable for airfreight.

12. BUYER CAUSED DELAY.

Seller is not liable for any delays or increased costs caused by delays in obtaining required products or services from Buyer or Buyer-designated suppliers. If Buyer or Buyer-designated supplier causes any delay, Seller is not liable for any delays or increased costs caused thereby, or any other costs that may arise as a result of such delays. All risks associated with transportation shall pass to Buyer at the point of origin and Seller shall not be responsible for any delays or increased costs caused to Buyer by any act or omission of Buyer or its agents.

13. FORCE MAJEURE.

Except for payment obligations, neither party will be liable to the other for any failure to meet its obligations due to a “force majeure” event. Force majeure is an event beyond the non-performing party’s reasonable control and may include without limitation acts of God, war, hostilities, armed conflicts, terrorism, civil disobedience, landowner disturbances, armed conflict, terrorism or war, pandemics, quarantines or other government restrictions, or other similar events beyond the control of the performing party.

14. MANUFACTURING HARDSHIP.

If for any reason Seller’s production or purchase costs for the Product (including without limitation costs of energy, equipment, labor, regulation, transportation, raw material, feedstocks, or Product) increases by more than five % over Seller’s production or purchase costs for the Product on the date of entering into this Agreement, Seller may, by written notice to Buyer, increase the purchase price of the Product under this Agreement. In the event the parties are not able to agree on a revised Product price within ten (10) days after a request for renegotiation is given, then Seller may terminate this Agreement on ten (10) days written notice to Buyer.

15. TERMINATION / SUSPENSION.

Seller may, at its sole discretion, suspend or terminate this Agreement and any or all unperformed obligations hereunder. Seller shall not be liable to Buyer for damages or expenses, including but not limited to losses, damages, or expenses, incurred by Buyer for the failure to perform or any other act performed by Seller prior to the date of such termination. The remedies described above are in addition to any available damages or other remedies available by law. Seller shall have the right to perform any act or exercise any remedy hereunder in any manner and by any means that Seller deems appropriate.

It has been expressly agreed that, except in case of extension solicited at the latest 10 days before the due date and expressly granted by Seller, invoices remaining unpaid after their due date mentioned on the invoice may, at Seller’s sole discretion, give rise to:

• The application of a late payment penalty, without any prior written notice being necessary to Buyer equivalent to the applicable European Central Bank (ECB)’s semi annual refinancing rate (in force on 1 January or 1 July) plus 2%. Such costs will be added to the invoice effective the due date for payment and the date of the effective payment and/or
• The application of a fixed sum for recovery costs of minimum 40 €.
normal course of business (including the inability to meet its obligations as they mature), or a receiver is appointed for Buyer’s assets, or if any proceedings relating to Buyer under any bankruptcy or insolvency law is brought by or against Buyer, or Buyer makes an assignment for the benefit of creditors; (v) there is a transfer of substantially all of the assets of Buyer to a majority interest in the voting stock of Buyer, or the merger or consolidation of Buyer with one or more parties; (vi) dissolution of Buyer or death of any partner of Buyer; (vii) Buyer (a) any officer, principal, stockholder, manager, member, or partner of Buyer is indicted for or convicted for any felony or convicts of or embezzles any property or funds of others; (viii) any conduct or practice by Buyer is found by a federal, state, or local governmental or administrative body or similar body, is determined to be unlawful, unethical, or wasteful by such government; or (ix) if the Buyer is a distributor or other reseller, the Buyer sells or transfers for sale or resale any Product in contravention of the provision of the Agreement authorizing Buyer to act as distributor or other reseller; (x) any breach of section 16 or 18 of this Agreement, or (xi) any infringement of copyright, trademark or other intellectual property rights as protected in this Agreement and schedules. Termination does not affect any debt, claim or cause of action accruing to any party against the other before the date of termination. In the event of any of these remedies that are not exclusive of other remedies that a party may be entitled to under this Agreement or law or equity.

16. COMPLIANCE WITH APPLICABLE LAW

Buyer shall, at its sole cost and expense, comply with all applicable laws, regulations, decrees, and other requirements relating to or affecting the Agreement, the Products (including their sale, transfer, handling, storage, use, disposal, development), the activities to be performed by Buyer, or the facilities and other assets used by Buyer in performing its obligations under the Agreement. Without limiting the foregoing, Buyer is responsible for the recycling and disposal of Products as required by WEEE Directive 2012/19/EU or similar directives. Buyer agrees that it will not use the Products in connection with any activity involving nuclear fusion or fission, any use or handling of any nuclear material, any nuclear, chemical, or biological weapons.

17. EXPORT AND IMPORT COMPLIANCE

Buyer will comply with all United States (US), United Nations (UN) and other international or national laws or regulations concerning (i) prohibition against commercial bribery or giving anything of value to any governmental official or candidate for political office in exchange for commercial advantage of any kind; (ii) prohibition against exporting or facilitating the export, directly or indirectly, of Products to certain countries which are embargoes or targets of international sanctions; (iii) prohibition against complying with the bylaws of certain countries covered by US anti-corruption legislation; and (iv) transferring any technology, know how or specialized technical information to countries where the transfer is regulated by US export laws or other laws, that might cause such transfers to fall under US export control. Buyer is responsible for obtaining any necessary import/export licenses in connection with any subsequent import, export, re-export, transfer, and use of all goods, technology, and software purchased, licensed, and received from Honeywell. Unless otherwise agreed to by Honeywell, Buyer will not sell, redistribute, or otherwise make available the Products or any of the activities which involve the design, development, production, use or stocking of nuclear, chemical or biological weapons or missiles, nor use the Products or Software in any facility which engages in activities relating to such weapons or missiles. In addition, the Products or Software may not be used in connection with any activity involving nuclear fusion or fission, any use or handling of any nuclear material, or any nuclear, chemical, or biological weapons.

Sellers will not be liable to Buyer for failure to provide Products, services, transfers, or technical data as a result of any government actions that impact Seller’s ability to perform, including: (1) failure to provide or the cancellation of export or re-export licenses; (2) any subsequent interpretation of applicable import, transfer, export, or re-export regulations of the United States or other countries or international sanctions; (iii) prohibition against complying with the bylaws of certain countries covered by US anti-corruption legislation; and (iv) transferring any technology, know how or specialized technical information to countries where the transfer is regulated by US export laws or other laws, that might cause such transfers to fall under US export control. Buyer is responsible for obtaining any necessary import/export licenses in connection with any subsequent import, export, re-export, transfer, and use of all goods, technology, and software purchased, licensed, and received from Honeywell. Unless otherwise agreed to by Honeywell, Buyer will not sell, redistribute, or otherwise make available the Products or any of the activities which involve the design, development, production, use or stocking of nuclear, chemical or biological weapons or missiles, nor use the Products or Software in any facility which engages in activities relating to such weapons or missiles. In addition, the Products or Software may not be used in connection with any activity involving nuclear fusion or fission, any use or handling of any nuclear material, or any nuclear, chemical, or biological weapons.

18. ANTI-CORRUPTION LAWS AND CODE OF BUSINESS CONDUCT

Buyer certifies that Buyer has read, understands, and agrees to abide by the provisions of the Honeywell Code of Business Conduct (the “Code of Conduct”) and all other applicable anti-bribery and anti-corruption legislation (“Anti-Corruption Law”). Without limiting the foregoing, Buyer hereby certifies and agrees that: (a) that it will not, for the purposes of securing an unfair business advantage, directly or indirectly, offer, solicit, pay, give, promise to pay or give, or authorize the payment or giving of any money, gift, or anything of value to: (i) any “Recipient” (as defined in the Code of Conduct), Honeywell’s acting agents, representatives or contractors, any government official, any government department, agency, or instrumentality, any government-controlled entity, or public international organization; (b) any political party or political official; (c) any candidate for public office; (d) any officer, director, shareholder holding more than ten percent (10%) of the issued shares, employee, or agent of any private company, or any organization, whether or not for profit, with more than ten percent (10%) of its revenues from assistance or support by governmental authorities, or with whom Honeywell or any of its subsidiaries or affiliates do business, in connection with the Products or Software to collect information about how, and under what circumstances, the Products or Software are being used or used for any end-user identifiable data will be provided; (e) that it will not use the Products, services, or technical data in connection with any activity involving nuclear fusion or fission, any use or handling of any nuclear material, or any nuclear, chemical, or biological weapons.

21. WARRANTY TERMS

Subject to the provisions of this section 21 and the “Limitation of Liability” provision of the Agreement (section 25), with respect to each Product sold by Seller hereunder (excluding software or software components). Seller warrants that, for a period of twelve (12) months from the time of shipment by Seller to Buyer or a period of time that is published for a Product by Seller for time to time commencing on the date such Products shipped from Honeywell’s facility (such period referred to herein as the “Warranty Period”), all components of such Product, except software and software components, shall be free from faulty workmanship and defective materials.

(a) Warranty Claims. If, during the applicable Warranty Period for a Product sold by Seller hereunder, it determined that any component of such Product, except software components, is defective due to faulty workmanship or defective materials, then such Product shall be returned to Seller, it being agreed that Seller shall not be responsible for any software component of such Product, except as otherwise agreed by Seller. Upon receipt of the Product the Product has been damaged by accident, misuse, negligence, or improper shipping or handling. This warranty is valid only if the Product has not been tampered with or serviced by any party not authorized by Seller as a repair facility. The customer’s remedies and Seller’s aggregate liability with respect to the warranties provided by Seller under this section 21 are set forth and are limited by this section 21 and the “Limitation of Liability” provision of the Agreement (section 25).
reasonable opinion that the claimed defect or nonconformity actually exists and was not caused by any improper installation, testing, or use; any misuse or neglect; any failure of electrical power, air conditioning, or humidity control; or any act of God, accident, fire or other hazard. Repair or replacement of a Product (or any part thereof) does not extend the Warranty Period for such Product. Products which have been repaired or replaced during the Warranty Period are warranted for the remainder of the unexpired portion of the Warranty Period.

(b) Services Warranty. Services shall be performed in a good workmanlike manner consistent with industry practices and within 60 days from the date of delivery at Buyer’s place of business, unless other terms are agreed to by Seller and Buyer.

SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES OF ANY KIND, OR ANY LOSS OF PROFITS, BUSINESS, OR REVENUE. Seller’s sole election, shall extend a warranty to its customers no broader in scope than the limited warranty or license agreement of any Software provided with the Product, including, but not limited to, consumables (e.g., flashtubes, lamps, batteries, storage capacitors).

shall be performed in a good workmanlike manner consistent with industry practices and within 60 days from the date of delivery at Buyer’s place of business, unless other terms are agreed to by Seller and Buyer. Seller’s sole remedy under this warranty is that Seller will correct or re-perform defective services or refund fees paid for the services, at Seller’s sole election, if Buyer notifies Seller in writing of defective services within the warranty period. Services which have been corrected or re-performed are warranted for the remainder of the original warranty period. Unless otherwise specified in the Agreement, software is provided on an “as is” basis only.  

(2) OTHER LIMITATIONS. THE EXPRESS WARRANTIES OF SELLER STATED IN SECTION 21 DO NOT APPLY TO PRODUCTS NOT MANUFACTURED OR SUPPLIED TO BUYER OR SOFTWARE, CONSUMABLE ITEMS (E.G., PAPER AND RIBBONS), OR SPARE PARTS, AND DO NOT APPLY TO PRODUCTS, OR COMPONENTS THEREOF (INCLUDING WITHOUT LIMITATION ANY SOFTWARE COMPONENTS), WHICH SELLER'S LICENSE AGREEMENT OR OTHER DOCUMENT RELATING TO SUCH SOFTWARE COMPONENT (INCLUDING WITHOUT LIMITATION A "SHRINK WRAP" LICENSE AGREEMENT). THE WARRANTIES, IF ANY, APPLICABLE TO ANY SUCH SOFTWARE COMPONENT SHALL BE SOLELY AS STATED IN SUCH LICENSE AGREEMENT OR OTHER DOCUMENT. NOTWITHSTANDING ANYTHING TO THE CONTRARY EXPRESSLY PROVIDED IN ANY LICENSE AGREEMENT OR OTHER DOCUMENT RELATING TO SUCH SOFTWARE COMPONENT, WHICH LICENSE AGREEMENT OR OTHER DOCUMENT RESTRICTS THE LICENSEE'S REMEDIES OR LIMITS THE LICENSEE'S RECOURSE, AND THEIR USE, INCLUDING ANY AND ALL MATERIALS RELATED TO THE CLAIM IT RECEIVES TO SELLER, AND AGREES TO GIVE SELLER ADEQUATE NOTICE AND OPPORTUNITY TO DEFEND SUCH CLAIM.

23. INDEMNIFICATION AGAINST PATENT AND COPYRIGHT INFRINGEMENT. Seller will defend any suit against the Buyer based on a claim that the Product as delivered by Seller directly infringes a valid United States or European patent or copyright, and indemnify and for any final judgment assessed against Buyer resulting from the suit provided that Buyer notifies Seller at the time it is apprised of the third party’s infringement claims that it’s agreement to the terms of this Agreement and Seller agrees to defend any such suit by Seller on its own behalf only, shall extend a warranty to its customers no broader in scope than the limited warranty or license agreement of any Software provided with the Product, including, but not limited to, consumables (e.g., flashtubes, lamps, batteries, storage capacitors).

SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES OF ANY KIND, OR ANY LOSS OF PROFITS, BUSINESS, OR REVENUE. Seller’s sole election, shall extend a warranty to its customers no broader in scope than the limited warranty or license agreement of any Software provided with the Product, including, but not limited to, consumables (e.g., flashtubes, lamps, batteries, storage capacitors).

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the Licensed Software. (e) Negation of Other Licenses. Except as expressly granted herein, no license or right, including sublicensing rights, either expressly, implicitly, by estoppel, conduct of the parties, or otherwise, is granted by Seller to Buyer.

27. INTELLECTUAL PROPERTY RIGHTS INCLUDING PATENTS

Buyer recognizes that all rights or industrial ownership either intellectual or other, relating to services, to Products, or other manufacture belong either to Seller or its affiliates, subsidiaries or other divisions or units. The contractual relationship between Seller and Buyer only allows the Buyer the right to use the Products, and no rights to either modify or reproduce.

28. NOTICES. Every notice between the parties relating to the performance or administration of the Agreement shall be in writing and, if to Buyer, to Buyer’s authorized representative or, if to Seller, to Seller’s authorized representative at the addresses set forth in this Agreement between the parties to which these Terms and Conditions apply. All notices required under the Agreement will be deemed received when delivered either (a) two calendar days after mailing by certified mail, return receipt requested and postage prepaid; or (b) one business day after deposit for next day delivery with a commercial overnight carrier provided the carrier obtains a written verification of receipt from the receiving party or (e) if sent by e-mail, upon receipt of a non-automated response from the receiving Party confirming receipt of the notice.

29. SEVERABILITY. In the event any provision or portion of a provision herein is determined to be illegal, invalid, or unenforceable, the validity and enforceability of the remaining provisions shall not be affected and, in lieu of such provision, a provision as similar in terms as may be legal, valid, and enforceable shall be added hereto.

30. WAIVER. All waivers must be in writing. The failure of either party to insist upon strict performance of any provision of the Agreement, or to exercise any right provided for herein, shall not be deemed to be a waiver for the future of such provision or right, and no waiver of any provision or right shall affect the right of the waiving party to enforce any provision or right herein.

31. APPLICABLE LAW AND FORUM. The Agreement will be governed by and interpreted in accordance with the laws of France in which the Honeywell selling entity entering into this Agreement is registered. Seller and Buyer expressly agree to exclude from the Agreement the United Nations Convention on Contracts for the International Sale of Goods, 1980, and any successor thereto. Any potential dispute relating to the Agreement will fall under the exclusive jurisdiction of the courts of France in which the Honeywell selling entity is registered.

32. PUBLICITY. The parties will cooperate in preparing press releases and white papers as they deem appropriate regarding the subject matter of the Agreement. Any such press release or white paper will be subject to the parties’ mutual written approval, which approval will not be unreasonably withheld.

33. INDEPENDENT CONTRACTOR. The parties acknowledge that they are independent contractors and nothing contained in this Agreement shall be construed to constitute either party hereto as the partner, joint venturer, employee, agent, servant, franchisee, or other representative of the other party hereto, and neither party has the right to bind or obligate the other, except as otherwise provided herein. Furthermore, nothing contained in this Agreement shall be construed to constitute Buyer as an exclusive purchaser of the Products in any respect.

34. HEADINGS AND SECTIONS. The various headings in this Agreement are inserted for convenience only and will not affect the meaning or interpretation of this Agreement or any paragraph or section thereof.

35. INSURANCE. Unless agreed otherwise, Buyer shall, at all times that the Agreement is in force and effect, provide and maintain, at a minimum, insurance with the following limits: (i) A Comprehensive General Liability policy with a single limit of EUR 1,000,000 per occurrence and EUR 2,000,000 in the aggregate for bodily injury and property damages. Buyer shall deliver certificates to Seller, containing therein provisions requiring the insurance carrier to notify Seller at least thirty (30) days prior to any expiration or termination of, or material change to the policy. All insurance required under this Agreement shall be placed with insurance carrier(s) that are rated a minimum “A –” by A.M. Best or equivalent rating agency. All certificates shall be delivered to the Seller prior to placement of any orders hereunder. In addition, all such policies shall name Seller as an additional insured.

36. ASSIGNMENT; SUBCONTRACTING. Neither party will assign any rights or obligations under the Agreement without the advance written consent of the other party, which consent will not be unreasonably withheld, conditioned, or delayed, except that either party may assign this Agreement in connection with the sale or transfer of all or substantially all of the assets of the product line or business to which it pertains. Any attempt to assign or delegate in violation of this section will be void, except that Seller may assign this Agreement to any subsidiary or affiliate. Notwithstanding anything to the contrary herein, Seller may engage subcontractors to perform any of its obligations under this Agreement. Use of a subcontractor will not release Seller from liability under the Agreement for performance of the subcontracted obligations.

38. SURVIVAL. All provisions of the Agreement that by their nature should continue in force become the completion or termination of the Agreement will remain in force.

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