OVERVIEW OF AGREEMENT

1.1 Unless otherwise expressly agreed in writing, all Products, Services and Projects are supplied on the following terms and conditions which shall include:

(a) The proposal or quote (“Quote”) provided by Schneider Electric;
(b) these Terms and Conditions;
(c) Each purchase order submitted by the Customer and accepted by Schneider Electric.

For the purposes of these terms a reference to “Agreement” shall mean the above documents in clause 1.1(a) to 1.1(c).

1.2 If there is any conflict or inconsistency between the above documents the documents will rank in order of precedence with the order in which they are listed in clause 1.1 above.

1.3 Each Order issued by the Customer and accepted by Schneider Electric will be accepted on these Terms and Conditions, to the exclusion of all other terms including any terms and conditions referenced or set forth on the face or reverse side of any Order or other document presented by the Customer.

1.4 No amendment or variation of the Agreement is valid or binding on a Party unless made in writing and signed by both Parties.

DEFINITIONS

2.1 The following capitalised terms will be defined as follows:

Acceptance Tests means tests agreed between the Customer and Schneider Electric which are based on agreed objective criteria.
Agreement has the meaning given to that term in clause 1.1 of these Terms and Conditions.
Australian Consumer Law means the Competition and Consumer Act Cth 2010 as amended from time to time.
Background IP means any Intellectual Property owned by that Party existing at the date the Order is made including any modifications made during the course of the Agreement to such Background IP.
Confidential Information means any information of a confidential nature which relates to the business, affairs, or activities of a Party including information comprised in Intellectual Property Rights of any Party, process or operational information, calculations or analysis, financial and business information and information of third parties which is required to be kept confidential.
Customer means the party who Schneider Electric will supply the Products, Services and Projects, as specified in the Order.
Date of Acceptance has the meaning given to that term in clause 20.2 of the Addendum for the Supply of Projects.
Delivery Date has the meaning given to that term in clause 20.1 of these Terms and Conditions.
Delivery Point has the meaning given to that term in clause 4.2 of these Terms and Conditions.
Effective Date has the meaning given to that term in clause 1.3 of these Terms and Conditions.
Fixed Price means the lump sum amount quoted by Schneider Electric for the supply of specified Products, Services and Projects.
Force Majeure has the meaning given to that term in clause 14.2 of these Terms and Conditions.
Intellectual Property Rights means all and any rights in issued patents and patent applications, rights to inventions, design rights, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, moral rights, rights in confidential information (including know-how and trade secrets).
Law means any statute, regulation, order, rule, subordinate legislation or other document enforceable under any statute, regulation, rule or subordinate legislation and includes a modification or re-enactment of it.
Order means the Quote submitted by Schneider Electric and the purchase order issued by the Customer and accepted by Schneider Electric in accordance with clause 1.3 of these Terms and Conditions.
Party means a party to the Agreement.
Price means the aggregate amount payable by the Customer to Schneider Electric in relation to the Products, Services and Projects, as specified in the Order.
Products means any Schneider Electric Products or such other third-party products, equipment, materials, supplies or items, as specified in the Order including Software.
Project means a set of activities including the development, provision, modification, configuration, enhancement and integration of the Products and Services, by Schneider Electric to meet the Specifications.
Project Deliverable means the Products and other deliverables required to be developed or integrated by Schneider Electric pursuant to a particular Project in accordance with agreed Specifications.
Quote means a proposal or quote provided by Schneider Electric relating to the Products, Services and Projects referred to in the Order.
Schneider Electric Products or Schneider Electric Project Deliverables means Schneider Electric's proprietary products, including any and all products manufactured or developed by Schneider Electric.
Schneider Electric Software means Schneider Electric’s proprietary software, including any and all software developed and owned by Schneider Electric or its Affiliates.
Schneider Electric means any of the following entities which will be listed on the Order:
Schneider Electric (Australia) Pty Limited (ACN 004 969 304);
Schneider Electric Buildings Australia Pty Limited (ACN 008 059 345);
Schneider Electric Australia IT Pty Limited (ACN 088 913 866);
SolveIT Software Pty Limited (ACN 113 112 744);
Telvent Australia Pty Limited (ACN 009 299 870) or
Invensys Process Systems (Australia) Pty Limited (ACN 000 522 261).
Services means any services Schneider Electric agrees to perform, as specified in the Order.
Site means the Customer's site where the Products are to be delivered and or installed, the Services are to be performed or, the Project is to be implemented as specified in the Order.
Software means machine readable (i) computer programs that comprise a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer, or other machine, to perform a specific operation or series of operations;
Software Documentation means the printed materials supplied with the Software.
Specifications means the drawings, specifications and/or plans for the Products, Services and Projects as specified in the Order or as otherwise agreed by the Parties in accordance with clause 16 of the Addendum for the Supply of Projects.
Terms and Conditions means these terms and conditions of Sale.
Timetable means the document setting out the dates by which the Products, Services and Projects are to be supplied, as specified in the Order or as otherwise agreed between the Parties in accordance with clause 18 of the Addendum for the Supply of Projects.
Time and Materials means Services supplied in accordance with the Order where (i) all labour time utilised and (ii) expenses incurred are payable by the Customer at the prices set out in Schneider Electric’s schedule of rates and (iii) all products supplied are payable by the Customer in accordance with Schneider Electric’s price list, unless indicated otherwise by Schneider Electric in writing.
Use shall have the same meaning as set out in clause 5.2.
Variation has the meaning given to that term in clause 19.1 of the Addendum for the Supply of Projects.
Warranty Period means:
(a) For all Schneider Electric Products (excluding Software) the earlier of:
(i) eighteen (18) months from the Delivery Date; and
(ii) the date that is twelve (12) months from the delivery of the Products;
(b) For all Services, a period of ninety (90) days from the date of delivery of the Services; and
(c) For all Schneider Electric Software not supplied under the terms of a EULA and media that such Software is supplied on, a period of ninety (90) days from the delivery of the Schneider Electric Software; and
(d) For all Projects, a period of ninety (90) days from the date of acceptance of the Project; and
3 QUOTES AND ORDERING

3.1 Any quotes provided by Schneider Electric are subject to the Products, Services, Projects being available at such time when the Customer places an Order.

3.2 Unless indicated otherwise by Schneider Electric in writing, all Prices referred to in any Quotes are based on the quantity of Products, Services, Software, Projects and delivery timetable described in the Quote and will only be valid for thirty (30) days from the date the Quote is submitted. In the event the Customer changes the time required for delivery or the volume or scope of Products, Services and Projects required or places an Order more than thirty (30) days after the Quote is submitted, Schneider Electric reserves the right to vary its Prices.

3.3 An Order will not be considered binding on Schneider Electric or come into force until Schneider Electric has received from the Customer a cash deposit or a bank guarantee or other security acceptable to Schneider Electric for 10% of the Price set out in the Order.

4 DELIVERY, RISK AND TITLE

4.1 Schneider Electric agrees to supply the Products, Services and Projects in accordance with the terms of the Agreement and in consideration of payment of the Price by the Customer.

4.2 Unless specified otherwise it will be presumed that delivery of:
   (a) Products manufactured in Australia will occur ex works at the place of manufacture;
   (b) Products which are manufactured outside Australia will occur ex works at a warehouse of Schneider Electric's choosing;
   (c) Software supplied via physical media will occur ex works at a warehouse of Schneider Electric's choosing;
   (d) Software supplied electronically will occur when Schneider Electric has delivered the Software to any carriage service or network.

(Delivery Point)

4.3 Schneider Electric will deliver the Products to the Delivery Point. Risk of any loss or damage to the Products passes to the Customer upon delivery to the Customer at the Delivery Point.

4.4 Title to and property in the Products (excluding Software) will pass to the Customer upon the date the Customer makes payment in full to Schneider Electric for the Products. If the Customer does not pay for the Products on the due date for payment, the Customer authorises Schneider Electric to enter any location where the Products are located, to retake possession of the Products without liability for trespass or damage.

4.5 Each Order creates a purchase money security interest in the Products and the Customer must do all things reasonably required by Schneider Electric to register and perfect that interest. If Schneider Electric repossesses the Products:
   (i) Schneider Electric will credit an amount equal to the invoiced purchase price of the Products to the Customer, less Schneider Electric's costs and expenses related to enforcement of its interest in the Products and any other amount owed by the Customer to Schneider Electric;
   (ii) the Customer must return the Products; and
   (iii) Schneider Electric does not need to provide the Customer with any notice under sections 130 or 135 of the Personal Property Securities Act 2009 (Cth).

4.6 Until the Customer has paid all monies owed to Schneider Electric, the Customer shall:
   (i) hold the Software in trust for Schneider Electric;
   (ii) not convert the Software into any other form or medium;
   (iii) not alter, delete, obfuscate or make unattributable to Schneider Electric any Schneider Electric Software, unless Schneider Electric consents in writing;
   (iv) not distribute, sublicense, lease, lend, distribute, sell, modify, reverse engineer, translate, decompile, disassemble, or create derivative works based on the Software, without the prior written consent of Schneider Electric;
   (v) not disclose the Software to any third party.

4.7 Schneider Electric will notify the Customer of the Software's location to the Customer on request, provided that such notice does not disclose any confidential or proprietary information.

5 SOFTWARE LICENCE

5.1 If Schneider Electric has agreed to provide Software which has an end user licence agreement (EULA), the Software will be licensed on the terms of the EULA applying to that Software.

5.2 For all other Schneider Electric Software which is not supplied with a EULA, Schneider Electric grants the Customer a non-exclusive, non-transferable license to "Use", in object code form, the version or release of the Schneider Electric Software described in the Order. For the purpose of the phrase "Use" means to install, store, load, execute, and display one copy of the Software on one device at a time for the Customer's internal business purposes. The Customer’s Use of such Software is subject to the following restrictions:
   (a) The Customer may not exceed the number of users, client access licences that are paid for by the Customer and noted on the quote or Order;
   (b) The Customer may not copy the Software (other than or one (1) backup copy of the Software and a reasonable limited number of the user manuals related to the Software);
   (c) The Customer may only use the Software for its internal business processes and shall not use it for the benefit of any third party;
   (d) The Customer acknowledges that such Software is confidential and shall not make it available to any third parties and shall only disclose to those of its employees that need to use it for the purposes of its internal business who has agreed to comply with the terms of this clause 5.
   (e) The Customer may not duplicate, disassemble, translate or emulate the Software;
   (f) Unless otherwise agreed, the Customer may transfer the Software from one computer to another (which may be operated by a third party) provided it is not used on more than one computer at a time. The Customer shall not sublicense, assign or transfer the Software without the prior written consent of Schneider Electric;
   (g) Unless specifically agreed otherwise in writing by Schneider Electric, the licence of the Software does not include any right to any updated versions of the Software;
   (h) Schneider Electric's Software licensed to Customer may contain components that are owned by third parties. The third party owner shall retain exclusive right to any software and any rights in the Software. Use of such third party components may be subject to restrictions contained in the third party's end-user licence agreement in addition to the conditions set forth herein. Schneider Electric shall make available to Customer, on request the third party's end-user licence agreement applicable. Copyright and other proprietary rights notices of Schneider Electric and third parties are contained in the Software and Customer must not modify, delete or obfuscate such notices;
   (i) Customer shall maintain complete and accurate records documenting the location and use of the licensed Software in Customer's possession. No later than thirty (30) days after receipt of Schneider Electric's written request, Customer must provide Schneider Electric with a signed certification of compliance with the Software licensing conditions. Schneider Electric has the right to conduct an audit of Customer's use of the Software. Any such audit shall be conducted during regular business hours at Customer's facilities. If an audit reveals any underpayment of licence fees, Customer shall be invoiced for such additional licence fees consistent with Schneider Electric's then current price list for Software, without any discount being applicable in that instance. Customer shall then immediately pay the invoiced amount together with interest at a rate of one and one-half percent (1.5%) per month or partial month during which such amount was due and unpaid. The assessment of additional licence fees is without prejudice to Schneider Electric's other remedies under this Agreement.

5.3 For non-Schneider Electric Software, the third party supplier’s licence terms that may accompany that Software will solely govern its Use.
Standard Terms & Conditions

6 WARRANTIES

6.1 Schneider Electric warrants that:
(a) All Schneider Electric Products (excluding third party Products) will operate in accordance with their published specifications for the duration of the Warranty Period and shall:
(b) All Services will be performed in a professional manner with due skill and care, using appropriately skilled and qualified personnel and in accordance with all applicable laws and regulations; and
(c) That for Schneider Electric Software licensed under clause 5.2, such software shall during the Warranty Period operate in accordance with the Software Documentation and the media upon which such software is supplied will be free for defects; and
(d) Provided a Project Deliverable identified in the Order, then all Project Deliverables provided pursuant to the Addendum for the Supply of Projects shall perform in accordance with the Specification agreed with the Customer for the Warranty Period defined in the Order. For the avoidance of doubt where there is no reference to an additional warranty period for Project Deliverables in the Order then this Project Deliverable warranty shall not apply.

6.2 If the Customer makes a claim during the Warranty Period it will be handled as follows:
(a) In the case of Schneider Electric Products and Project Deliverables where relevant, where there is a defect in such Products, Schneider Electric will not be responsible for the cost of retrieving, removing, reinstalling, retesting or transporting the Products or Project Deliverables to and from the location where the Products are located.
(b) In the case of Services, where there is a defect in the Services, Schneider Electric will re-perform the Services at a mutually agreed time.
(c) For the avoidance of doubt if Services were delivered on a Time and Materials basis, Schneider Electric will provide any additional warranties for any deliverables provided pursuant to those Services other than the standard warranties referred to in clause 6.1.
(d) In the case of a Project, if it is not practical to return the defective Product to Schneider Electric in accordance with clause 6.2(a), Schneider Electric will bear the cost of correcting the defects, by either attending the Customer’s Site where the Project is located or by remote means, as determined at the sole discretion of Schneider Electric and at a mutually agreed time.
(e) All warranties for any Products repaired or replaced or any Services supplied during the Warranty Period will expire at the same time as the warranty of the products and services as originally supplied.

6.3 The Customer agrees that, unless otherwise agreed in writing by Schneider Electric, any warranty on any third party Products is limited to the warranty given by the manufacturer of those Products and, to the maximum extent permitted by law, Schneider Electric gives no additional warranties in relation to any third party Products or Software.

6.4 Schneider Electric will not be responsible for any defect arising out of or in connection to:
(a) Misuse, abuse, neglect, errors or any other act or omission of or by the Customer or third party not contravened by Schneider Electric; or
(b) Alteration (improper or otherwise) or installation of the Products and Projects by the Customer or any person other than Schneider Electric; or
(c) Power failure, power surge, lightning, flood, fire, accident, waterlogging or other damage caused outside Schneider Electric’s reasonable control; or
(d) The Products not being maintained, installed or energised in accordance with Schneider Electric’s instructions or in the absence of such instructions, in accordance with generally accepted practice for maintenance of such Products; or
(e) Improper environmental conditions where the Products are used or installed; or
(f) The Products being stored for more than twelve (12) months prior to being put into operation; or
(g) Any consumables; or
(h) Following a direction from the Customer where Schneider Electric has recommended to the Customer against following such direction.

6.5 Certain legislation, including the Australian Consumer Law, may imply warranties and guarantees or impose guarantees or obligations upon Schneider Electric which cannot be excluded, restricted or modified or cannot be excluded, restricted or modified except to a limited extent. Any Order and these terms including this clause 6.5 must be read subject to these statutory provisions. If these statutory provisions apply, to the extent to which Schneider Electric is entitled to do so, Schneider Electric limits its liability in respect of any claim under the provisions to:
(a) in the case of goods, at Schneider Electric’s option:
(i) the replacement of the goods or the supply of equivalent goods; or
(ii) the repair of the goods; or
(iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
(iv) the payment of the cost of having the goods repaired; and
(b) in the case of services, at Schneider Electric’s option:
(i) the supply of the services again; or
(ii) the payment of the cost of having the services supplied again.

7 PRICE AND PAYMENT

7.1 The Customer must pay the Price mutually agreed by the Parties in the Order.

7.2 Unless specifically set out in the Order, Schneider Electric will issue all invoices for the Products, Services and Projects as follows:
(a) For Services provided on a Time and Materials basis, Schneider Electric will invoice monthly in arrears.
(b) For Services provided at a Fixed Price, Schneider Electric will invoice in advance.
(c) For Products, Schneider Electric will invoice on or after delivery to the Delivery Point.
(d) For all other Products and Project Deliverables delivered, Schneider Electric will invoice in accordance with agreed payment milestones set out in the Order. If no milestones are set out in the order, invoicing will be monthly in arrears in accordance with the work completed.

7.3 Customer may buy and pay in U.S. Dollars, European Euros or such other currency as Customer and Schneider Electric may agree. If any expenses, charges or any other amounts to be paid to Schneider Electric under this Agreement were incurred by Schneider Electric in a currency other than the currency agreed in a Order, these expenses, charges or other amounts shall be invoiced in such other currency. If the Parties agree that these expenses, charges or other amounts to be paid in the currency indicated in the Order, the amounts to be paid shall be calculated using the official spot rate on the date of payment between the currency indicated in the Order and the other currency. Where the price of quoted Goods are stated to be based in whole or in part on a conversion between two currencies, Customer shall indemnify Schneider Electric against any loss incurred by Schneider Electric which results from any variation in the rates of exchange between the date of the quotation of the Goods and the date upon which payment becomes due to Schneider Electric.

The Customer must pay the amount shown on any invoice rendered by Schneider Electric within twenty five (25) days from the date of issue of the invoice.

8 INTELLECTUAL PROPERTY

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

The Customer acknowledges that Schneider Electric retains ownership of the Intellectual Property Rights of Schneider Electric used or created under the Agreement. Schneider Electric acknowledges that the Customer retains ownership of the Intellectual Property Rights of any...
11.1 Unless otherwise stated, all amounts referred to under or in connection with the Agreement are exclusive of GST or any other value added or withholding taxes. In relation to any GST payable for a taxable supply (under GST Law), a Party, the recipient of the supply will pay the GST subject to the terms in clause 9.2.

11.2 Notwithstanding any other term of the Agreement, to the extent arising out of Schneider Electric’s performance under the Agreement, Schneider Electric will, at its own expense, conduct any ensuing litigation and all negotiations for a settlement of the claim. Schneider Electric will bear the costs of any payment made in settlement, or as a result of an award in a judgment provided that:

(a) The Customer promptly notifies Schneider Electric in writing of any such claim being made or action threatened or brought against the Customer;

(b) The Customer permits Schneider Electric the right to assume sole authority to conduct the defence or settlement of such claim or any related negotiations; and

(c) The Customer provides Schneider Electric with all reasonable information, co-operation and assistance.

9 CONFIDENTIALITY

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

9.2 Clause 9.1 does not apply to:

(a) Information after it becomes generally available to the public other than as a result of the breach of this clause 9.2 or any other obligations of confidentiality imposed on a Party or

(b) The disclosure of information in order to comply with any applicable law or legally binding order of any court, government agency or recognised stock exchange, provided that prior to such disclosure the disclosing Party gives notice to the other Party with full particulars of the proposed disclosure.

10 LIMITATION OF LIABILITY

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

(a) Specifications that the Customer provided to Schneider Electric;

(b) Where the Customer has combined Schneider Electric Products with non-Schneider Electric Products, data or business processes; and

(c) Where the Customer has altered or modified the Schneider Electric Products.

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

(a) The Customer promptly notifies Schneider Electric in writing of any such claim being made or action threatened or brought against the Customer;

(b) The Customer permits Schneider Electric the right to assume sole authority to conduct the defence or settlement of such claim or any related negotiations; and

(c) The Customer provides Schneider Electric with all reasonable information, co-operation and assistance.

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(c) Where the Customer has altered or modified the Schneider Electric Products.

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(a) The Customer promptly notifies Schneider Electric in writing of any such claim being made or action threatened or brought against the Customer;

(b) The Customer permits Schneider Electric the right to assume sole authority to conduct the defence or settlement of such claim or any related negotiations; and

(c) The Customer provides Schneider Electric with all reasonable information, co-operation and assistance.

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(a) Specifications that the Customer provided to Schneider Electric;
14.5 Each Order will be governed by and will be construed in accordance with the laws of the State of New South Wales, Australia. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of the State of New South Wales and its appellate courts and waives any right to object to proceedings being brought in those courts for any reason.

14.6 If any provision of the Agreement, or the application thereof to any person, place or circumstance, will be held by a court or tribunal of competent jurisdiction to be invalid, unenforceable, or void, the remainder of the Agreement and such provisions as applied to other persons, places or circumstances will remain in full force and effect.

15 COMPLIANCE

15.1 Neither party shall comply with any foreign boycott laws or requirements, which are in violation of any federal or state law, rule, or regulation of Australia.

15.2 Customer acknowledges that each Product and any related software and technology, including technical information supplied by Seller or contained in documents (collectively “Items”), is subject to export controls of the U.S. government. Software is licensed for use in the specific location identified in the Orders and licences attached. Customer may not export the “Items” to another country without Seller’s written permission and payment of any applicable country specific surcharges. Customer agrees to comply fully with all relevant export laws and regulations of the United States and foreign nations in which the “Items” will be used (“Export Laws”) to ensure that neither the “Items” nor any direct product thereof are

(i) exported, directly or indirectly, in violation of any Export Laws; or
(ii) are intended to be used for any purposes prohibited by the Export Laws. Without limiting the foregoing, Customer will not export or re-export the “Items”:
(iii) to any country to which the United States has embargoed or restricted the export of goods or services or to any national of any such country, wherever located;
(iv) to any end user who Customer knows or has reason to know will utilise the “Items” in the design, development or production of nuclear, chemical or biological weapons; or
(v) to any end-user who has been prohibited from participating in U.S. export transactions by federal agency of the U.S. government.

15.3 Each party shall execute and deliver to the other any documents as may be required to effect or evidence compliance.
Addendum for the Supply of Projects

16 AGREEMENT ON SPECIFICATIONS AND PROVISION OF INFORMATION

16.1 If the Products, Services and Projects involve preparing and agreeing the Specifications with the Customer, Schneider Electric will prepare the necessary Specifications in conjunction with the Customer in accordance with the Timetable, or if there is no Timetable, within thirty (30) days of acceptance of the Order or such other time as is agreed between the Parties. The Customer will review and either provide amendments or approve the Specifications within five (5) working days of receipt of the Specifications. In the absence of any written comments within five (5) working days the Customer will be deemed to have approved the Specifications. Any changes to the approved Specifications will be considered Variation in accordance with clause 19.

16.2 The Customer will respond to any requests for further information or instructions from Schneider Electric within five (5) working days after the receipt of such request for further information or instructions by the Customer. If the Customer does not respond within that period (or such other period identified by Schneider Electric), Schneider Electric will have the right to claim an extension of time relating to such failure to provide the necessary information.

17 PROVISION OF SERVICES

17.1 Schneider Electric will provide suitably qualified, experienced and competent personnel to carry out the Services and related tasks in accordance with these Terms and Conditions and any Specifications in a professional manner with due skill and care.

17.2 Schneider Electric will follow all reasonable directions provided by the Customer when delivering the Services which are necessary and incidental to the performance of the Services under this Agreement.

17.3 Schneider Electric will ensure the Services are provided in accordance with all applicable laws and regulations and general industry practice.

17.4 If an Order indicates that Schneider Electric is to perform Services at the Site then the Customer will at its cost prepare the Site and provide Schneider Electric with reasonable access to the Site and other associated necessary facilities to allow Schneider Electric to perform its obligations under this Agreement.

18 DELAY AND EXTENSION OF TIME

18.1 Unless there is a Timetable specified in an Order, Schneider Electric will, if so requested by the Customer, submit a Timetable to the Customer for approval prior to commencing the supply of the Products, Services and Projects.

18.2 Any Timetable submitted by Schneider Electric pursuant to clause 18.1 as requiring the Customer’s approval will be approved or commented on in writing by the Customer within five (5) working days after the receipt of such Timetable by the Customer. If the Customer does not respond within that period (or such other period agreed with Schneider Electric), it will be deemed to have approved the Timetable.

18.3 Schneider Electric will, at all times, take all reasonable steps to ensure that the Products, Services and Projects are supplied in accordance with the Timetable. If the supply of the Products, Services and Projects will be delayed by an act or omission of the Customer or by an event beyond Schneider Electric’s reasonable control, and the delay was not contributed to by Schneider Electric, Schneider Electric will promptly submit a claim to the Customer for an extension of time to the Timetable setting out the details of the cause of the delay, the activities affected and the extension time needed. The Customer will, acting reasonably, consider Schneider Electric’s claim and grant the extension of time requested or such other mutually acceptable period of time as an extension to the Timetable.

18.4 Any changes to the approved Timetable including those pursuant to clause 18.3 will be considered Variation in accordance with clause 19.

19 VARIATIONS

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

19.2 As soon as practicable after receipt of the quote from Schneider Electric, the Customer will either accept the quote by signing and returning it to Schneider Electric or reject the quote in writing. If the Customer and Schneider Electric are unable to agree upon the amount of the difference in cost or impact on the Timetable the provisions of clause 19.3 shall apply.

19.3 If the parties can agree upon the variation to the Timetable, the Customer will submit a Timetable to the Customer for approval prior to the work or activity in question on a Time and Materials basis in accordance with Schneider Electric’s standard schedule of rates. Unless Schneider Electric reaches agreement with the Customer under clause 19.2 or it receives a direction under this clause, Schneider Electric will not be required to proceed with the Variation request.

20 TESTING AND ACCEPTANCE

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

20.2 For all Project Deliverables, the following provisions will apply:

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

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

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

(i) The date that the Customer gives written notice to Schneider Electric that the Project Deliverables have passed the Acceptance Tests; or

(ii) The date that is fourteen (14) days after completion of the Acceptance Tests, provided that during the fourteen (14) day period after completion of the Acceptance Tests the Customer did not notify Schneider Electric in writing of any defects in the Project Deliverables; or

(iii) The date the Customer makes commercial or operational use of the Project Deliverables other than for the purposes of conducting the Acceptance Tests.

(Date of Acceptance).