

These terms and conditions, the attendant offer or acknowledgment, and all documents incorporated by reference herein, for the provision of services (Services) and/or the sale of goods and license of firmware incorporated therein and/or software as provided in Section 9 (Goods) to be provided by Emerson Process Management Asia Pacific Private Limited, hereinafter Seller, to the buyer, hereinafter Buyer, constitute the entire agreement (Agreement) between Buyer and Seller regarding such sale, license and/or provision. Any contrary terms in Buyer's order, acceptance or otherwise shall not be binding upon Seller.

**1. PRICES:** Unless otherwise specified by Seller, Seller's price for the Goods and/or Services shall remain in effect for thirty (30) days after the date of Seller's offer or acceptance of the order for the Goods/Services, whichever is delivered first, provided an unconditional, complete authorization for the immediate manufacture and shipment of the Goods and/or provision of Services pursuant to Seller's standard order processing procedures is received and accepted by Seller within such time period. If Seller does not receive such authorization within such thirty (30) day period, Seller shall have the right to change the price for the Goods/Services to Seller's price in effect for the Goods/Services at the time the order is released to final manufacture. Any changes affecting the Goods or Services, or otherwise affecting Seller's scope of work must be accepted by Seller and any resulting adjustment to price, schedule, or both, must be mutually agreed to in writing. Notwithstanding any of the foregoing to the contrary, the price for Goods/Services manufactured by others, shall be Seller's price in effect at the time of shipment to Buyer.

**2. TAXES:** Any tax or governmental charge payable by the Seller because of the manufacture, sale or delivery of the Goods, or provision of Services, may at Seller's option be added to the price herein specified. The foregoing shall not apply to taxes based upon Seller's net income.

**3. TERMS OF PAYMENT:** All sales under this Agreement shall be on payment in advance terms, unless other payment terms are agreed by Seller's Credit Department or stated in Seller's invoice. Buyer shall pay each invoice in \$/US\$/Euro or other currency and on the terms as stated in such invoice. If any payment owed to Seller hereunder is not paid when due, it shall bear interest, at a rate to be determined by Seller which shall not exceed the maximum rate permitted by law, from the date on which it is due until it is received. Seller shall have the right, among other remedies, either to terminate the Agreement or to suspend further deliveries under this and/or other agreements with Buyer in the event Buyer fails to make any payment hereunder when due. Buyer shall be liable for all expenses attendant to collection of past due amounts, including legal or attorneys' fees. Unless otherwise provided in Seller's written quotation, Seller shall have the right to require periodic milestone payments from Buyer when the purchase price under this Agreement exceeds US\$100,000 (or equivalent). In such cases, invoices shall be issued by Seller and paid by Buyer based on the following milestones: Milestone 1: 30% of price upon acceptance of order by Seller; Milestone 2: 30% of price upon release by Seller of approved bills of material to manufacturing for assembly; Milestone 3: 40% of price upon shipment of the Goods by Seller. Seller reserves the right to designate additional or alternative Milestones where the Agreement provides for provision of Services in excess of US\$50,000 (or equivalent).

**4. DELIVERY AND DOCUMENTATION:** All delivery or shipping dates are approximate and are based upon Seller's prompt receipt of all necessary information from Buyer to properly process the order. In the event that Buyer delays or fails to provide any information necessary for Seller, Seller shall be entitled to a sufficient extension of time to overcome such delay or failure and to an adjustment in the price. Title to the Goods (subject to Section 9) and risk of loss thereto shall pass to Buyer upon delivery. Unless the point of delivery is referenced in the agreed purchase order or other written document accepted by Seller, all Goods shall be shipped Ex-Works (Factory) (Incoterms 2000). Until such time as full payment has been received by Seller, Buyer undertakes not to remove, deface or cover up any identification marks on the Goods and to store the Goods separately from those belonging to Buyer or others. Seller shall provide Buyer with the data/documentation, which is specifically identified in the offer. If additional copies of data/documentation or non-standard data/documentation are to be provided by Seller, they shall be provided to Buyer at Seller's price then in effect.

**5. BUYER SUPPLIED DATA:** To the extent that Seller has relied upon any specifications, information, representation of operating conditions or other data or information supplied by Buyer to Seller in the selection or design of the Goods and/or provision of the Services and the preparation of Seller's offer, and in the event that actual operating conditions or other conditions differ from those represented by Buyer and relied upon by Seller, any warranties or other provisions contained herein which are affected by such conditions shall be null and void, unless otherwise mutually agreed upon in writing.

**6. INSTALLATION:** Buyer shall be responsible for receiving, storing, installing, starting up and maintaining all Goods. Seller shall provide an offer for services to assist Buyer in these functions if requested.

**7. EXCUSE OF PERFORMANCE:** Seller shall not be liable for delays in performance or for non-performance due to acts of God, war, riot, fire, labor trouble, unavailability of materials or components, explosion, accident, compliance with governmental requests, laws, regulations, orders or actions, or other unforeseen circumstances or causes beyond Seller's reasonable control.

**8. TERMINATION AND SUSPENSION BY BUYER:** Buyer may terminate or suspend its order for any or all of the Goods/Services covered by the Agreement, provided that Buyer gives Seller reasonable advance written notice of such termination or suspension and reimburses Seller for all losses, damages, costs and expenses arising from such termination or suspension.

**9. SOFTWARE AND FIRMWARE:** Notwithstanding any other provision herein to the contrary, Seller or applicable third party owner shall retain all rights of ownership and title in its respective firmware and software, including all copyrights relating to such firmware and software and all copies of such firmware and software. Except as otherwise provided herein, Buyer is hereby granted a nonexclusive, royalty free license to use firmware and software, and copies of firmware and software, incorporated into the Goods only in conjunction with such Goods and only at the Buyer's plant site where the Goods are first used. Buyer shall not reverse engineer, adapt, modify or copy (except for a single copy for backup purposes) any firmware or software unless specifically licensed to do so. Buyer may negotiate with Seller separate licenses to use such copies of firmware and software at other plant sites. Buyer's use of certain firmware (as specified by Seller) and all other software shall be further governed by Seller's and/or third party owner's applicable standard license terms, which Buyer hereby agrees to be bound to or if required by Seller to execute.

**10. LIMITED WARRANTY:** To the full extent permitted by applicable law, subject to the limitations contained in Section 13 and except as otherwise expressly provided herein, Seller warrants that the firmware will execute the programming instructions provided by Seller, and that the Goods manufactured or Services provided by Seller will be free from defects in materials or workmanship under normal use and care until the expiration of the applicable warranty period. Goods are warranted for twelve (12) months from the date of initial installation or eighteen (18) months from the date of shipment by Seller, whichever period expires first. Consumables (which include without limitation glass parts and electrodes, membranes, liquid junctions, electrolytes and reagents, o-rings, plastic tubing etc) and Services are warranted for a period of 90 days from the date of shipment or completion of the Services. Products purchased by Seller from a third party for resale to Buyer ("Resale Products") shall carry only the warranty extended by the original manufacturer. Buyer agrees that Seller has no liability for Resale Products beyond making a reasonable commercial effort to arrange for procurement and shipping of the Resale Products. If Buyer discovers any warranty defects and notifies Seller thereof in writing during the applicable warranty period, Seller shall, at its option, correct any errors that are found by Seller in the firmware or Services, or repair or replace ex works point of manufacture that portion of the Goods or firmware found by Seller to be defective, or refund the purchase price of the defective portion of the Goods/Services. All replacements or repairs necessitated by inadequate maintenance, normal wear and usage, unsuitable power sources, unsuitable environmental conditions, accident, misuse, improper installation, modification, repair, storage or handling, or any other cause not the fault of Seller is not covered by this limited warranty, and shall be at Buyer's expense. Seller shall not be obligated to pay any costs or charges incurred by Buyer or any other party except as may be agreed upon in writing in advance by an authorized Seller representative. All costs of dismantling, reinstallation and freight and the time and expenses of Seller's personnel for site travel and diagnosis under this warranty clause shall be borne by Buyer, unless accepted in writing by Seller. Goods repaired and parts replaced during the warranty period shall be in warranty for the remainder of the original warranty period or ninety (90) days, whichever is longer. This limited warranty is the only warranty made by Seller and can be amended only in a writing signed by an authorized representative of Seller. The warranty for software shall be as set out in Seller's standard license agreement. Except as otherwise expressly provided in the Agreement, THERE ARE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO MERCHANTABILITY, SATISFACTORY QUALITY, ACCEPTABLE QUALITY, FITNESS FOR PARTICULAR PURPOSE, OR ANY OTHER MATTER WITH RESPECT TO ANY OF THE GOODS OR SERVICES. The foregoing sets out Buyer's exclusive remedy for breach of warranty.

**11. PATENTS:** To the full extent permitted by applicable law, subject to the limitations contained in Section 13, Seller shall defend any suit brought against Buyer based on a claim that use of the Goods manufactured by Seller constitutes an infringement of a valid patent of the United States and the country of use of the Goods notified to Seller, and shall pay any damages awarded therein against Buyer, provided that Buyer promptly notifies Seller in writing of the filing of such suit or the threat thereof; permits Seller to control completely the defense or compromise of such claim of infringement;

and provides all reasonable assistance and cooperation requested by Seller for the defense of such suit. In the event that only the Goods manufactured by Seller are held to be infringing in such suit and their use is enjoined, Seller shall, at its sole option and expense, provide a commercially reasonable alternative, including, but not limited to, procuring for Buyer the right to continue using the Goods, replacing them with a non-infringing product, modifying them so they become non-infringing or refund the purchase price. Buyer agrees that Seller shall not be liable for infringement, and that Buyer shall fully indemnify Seller therefore, if infringement is based upon the use of Goods in connection with goods not manufactured by Seller or in a manner for which the Goods were not designed by the Seller or if the Goods were not designed by the Seller or if the Goods were designed by the Buyer or were modified by or for the Buyer in a manner to cause them to become infringing.

**12. GENERAL PROVISIONS:** (a) Buyer shall not assign its rights or obligations under the Agreement without Seller's prior written consent. (b) There are no understandings, agreements or representations, express or implied, not specified in the Agreement. (c) No action, regardless of form, arising out of transactions under the Agreement, may be brought by either party more than two (2) years after the cause of action has accrued. (d) Any modification of these terms and conditions must be set forth in a written instrument signed by a duly authorized representative of Seller. (e) GOODS AND SERVICES PROVIDED HEREUNDER ARE NOT SOLD OR INTENDED FOR USE IN ANY NUCLEAR OR NUCLEAR RELATED APPLICATIONS. Buyer (i) accepts Goods and Services in accordance with the restriction set forth in the immediately preceding sentence, (ii) agrees to communicate such restriction in writing to any and all subsequent purchasers or users and (iii) agrees to defend, indemnify and hold harmless Seller from any and all claims, losses, liabilities, suits, judgments and damages, including incidental and consequential damages, arising from use of Goods and Services in any nuclear or nuclear related applications, whether the cause of action is based in tort, contract or otherwise, including allegations that the Seller's liability is based on negligence or strict liability. (f) The 1980 United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. (g) The provisions of the Singapore Contracts (Rights of Third Parties) Act 2001, or any similar law in any jurisdiction, shall not apply to this Agreement. (h) If any provision of the Agreement is invalid under any statute or rule of law, such provision, to that extent only, will be deemed to be omitted without affecting the validity of the remainder of the Agreement. (i) Buyer shall be responsible for all dealings with any governmental authority including obtaining, maintaining and paying for all licenses, permits and authorizations for the Services/Goods furnished hereunder. (j) Sections 9, 12, 13, 15, 17 and 18 shall survive the expiration or termination of this Agreement.

**13. LIMITATION OF REMEDY AND LIABILITY:** TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, THE REMEDIES HEREIN PROVIDED, FOR THE TIMES SPECIFIED, ARE EXCLUSIVE. SELLER SHALL NOT BE LIABLE FOR DAMAGES CAUSED BY DELAY IN PERFORMANCE. THE SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY HEREUNDER SHALL BE LIMITED TO REPAIR, CORRECTION, REPLACEMENT OR REFUND OF PURCHASE PRICE UNDER THE LIMITED WARRANTY CLAUSE IN SECTION 10. IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE (OTHER THAN FOR DEATH OR PERSONAL INJURY RESULTING FROM SELLER'S NEGLIGENCE), STRICT LIABILITY, OTHER TORT OR OTHERWISE, SHALL SELLER'S AGGREGATE LIABILITY TO BUYER AND/OR ITS CUSTOMERS EXCEED THE PRICE TO BUYER OF THE SPECIFIC GOODS MANUFACTURED OR SERVICES PROVIDED BY SELLER GIVING RISE TO THE CLAIM OR CAUSE OF ACTION. BUYER AGREES THAT IN NO EVENT SHALL SELLER'S LIABILITY TO BUYER AND/OR ITS CUSTOMERS EXTEND TO INCLUDE SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES; DAMAGE TO OR LOSS OF PROPERTY OR EQUIPMENT; INCREASED COSTS OF ANY KIND INCLUDING, BUT NOT LIMITED TO, COST OF OPERATION OR MAINTENANCE, FUEL COST OR COST OF PURCHASED OR REPLACEMENT POWER. THE TERM "CONSEQUENTIAL DAMAGES" SHALL INCLUDE, BUT NOT BE LIMITED TO, LOSS OF ACTUAL OR ANTICIPATED PROFITS, LOSS OF USE, LOSS OF REVENUE, LOSS OF PRODUCTION, LOSS OF BUSINESS, LOSS OF GOODWILL OR REPUTATION, LOSS OF, DAMAGE TO OR CORRUPTION OF DATA AND COST OF CAPITAL.

**14. BUYER RESPONSIBILITIES:** Buyer shall provide Seller ready access to the site where Services are to be performed and adequate workspace and facilities. Buyer understands and agrees that any access to the facilities by Seller may affect the performance of Buyer's process system and that Buyer shall not hold Seller liable for any losses incurred by Buyer, including without limitation data loss, production loss, or other consequential damages, as a result of the authorized access. Buyer shall indemnify Seller from all third party claims, damages, losses, costs or expenses (including legal or attorneys fees) arising out of or relating to Seller's access to Buyer's facilities. Seller shall comply with and make known to its employees all safety, security, and health rules issued to Seller by Buyer. Buyer shall not require Seller or its employees, as a condition to site access or otherwise, to further agree or enter into any agreement which waives, releases, indemnifies or otherwise limits or expands any rights or obligations whatsoever. Any such agreements shall be null and void. Buyer shall inform Seller, in writing, at the time of order placement, of any known hazardous substance or condition at the site and shall provide Seller with any applicable material data safety sheets regarding same. Buyer shall appoint a representative familiar with the site and the nature of the Services to be performed by Seller to be present at all times that Seller personnel are at the site. Seller shall not be liable for any expenses incurred by Buyer in removing, replacing or refurbishing any Buyer equipment or any part of Buyer's building structure that restricts Seller access. Buyer personnel shall cooperate with and provide all necessary assistance to Seller. Unless otherwise agreed to by Seller, Buyer shall arrange for all utilities as may be needed in the course of Seller performance of Services. Seller shall not be liable or responsible for any work performed by Buyer. Seller shall not perform any power switching unless specifically requested by Buyer. Notwithstanding Buyer's request, Seller may refuse to perform power switching, if in the opinion of Seller, such action would be unsafe. In the event that Seller performs power switching, Buyer shall indemnify, defend and hold Seller harmless from any and all liability, actions, suits, claims, demands, damage, costs and expenses resulting from Seller's performance of power switching.

**15. CONFIDENTIAL INFORMATION:** Specifications, drawings, data, software and other information transmitted by Seller to Buyer are the property of Seller or its suppliers. Information marked proprietary or confidential are trade secrets and shall only be disclosed in confidence on a need to know basis on the condition that it is not to be reproduced, copied, reverse engineered or used for any other purpose than the purpose for which it is provided and shall not be disclosed to third parties without prior written permission from Seller. The provision of this section shall not apply to that part of the information which is: (i) or becomes generally available to the public through no fault of Buyer; (ii) already in the possession of Buyer prior to disclosure hereunder; (iii) hereafter received from a third party who did not receive the same from Seller or under an obligation of confidence; or (iv) required by law or governmental agency to be disclosed provided that Buyer notifies Seller of the disclosure requirement and assists Seller in objecting to or limiting such disclosure.

**16. HIRING OF EMPLOYEES:** Buyer agrees that during the execution of the Services by Seller, and for a period of twelve (12) months after performance of the Services, it will not hire any employee(s) of Seller or its project team and will not notice or counsel any such employee(s) to leave Seller's employ. Buyer agrees that this covenant shall extend to its agents and affiliates. In the event that an employee of Seller is hired or leaves the employ of Seller in such circumstances, the Buyer shall pay Seller, as compensation for the cost incurred by Seller in recruiting and training the employee, the sum equivalent to six (6) months salary for each employee hired from or leaving the employment of Seller.

**17. COMPLIANCE WITH LAWS:** Buyer agrees that all applicable import, export control and sanctions laws, regulations, orders and requirements, as they may be amended from time to time, including without limitation those of the United States, the European Union and the jurisdictions in which Seller and Buyer are established or from which items may be supplied, and the requirements of any licenses, authorisations, general licences or licence exceptions relating thereto will apply to its receipt and use of hardware, software, services and technology. In no event shall Buyer use, transfer, release, export or re-export any such hardware, software or technology in violation of such applicable laws, regulations, orders or requirements or the requirements of any licenses, authorisations or licence exceptions relating thereto. Buyer agrees furthermore that it shall not engage in any activity that would expose the Seller or any of its affiliates to a risk of penalties under laws and regulations of any relevant jurisdiction prohibiting improper payments, including but not limited to bribes, to officials of any government or of any agency, instrumentality or political subdivision thereof, to political parties or political party officials or candidates for public office, or to any employee of any customer or supplier. Buyer agrees to comply with all appropriate legal, ethical and compliance requirements.

**18. GOVERNING LAW AND DISPUTE RESOLUTION:** This Agreement is formed and shall be construed, performed and enforced under the laws of the Republic of Singapore and Buyer and Seller agree that the proper venue for all actions arising under the Agreement shall be only in the Republic of Singapore. At Seller's sole determination, and Buyer hereby irrevocably consents to any such determination, Seller may choose to submit any claim, dispute or controversy or part thereof whether resulting from a claim in contract, tort or otherwise arising out of or relating to this Agreement to confidential, final and binding arbitration by the Singapore International Arbitration Centre in accordance with its then existing rules and procedures before a single neutral arbitrator in the English language. The Buyer hereby irrevocably consents to the enforcement of any award resulting from any such arbitration proceedings. The costs of the arbitration, including legal and attorney's fees, shall be determined by the arbitrator.