



Johnson Controls, Inc.

Customer Terms

1. PROVISION OF JCI WORK.

1.1. **Defined Terms.** Capitalized, definitional terms used in these Customer Terms (these “**Customer Terms**”) shall have the meanings ascribed to them within the body of these Customer Terms below or as set forth in Schedule 1 to these Customer Terms. Capitalized, definitional terms used but not defined in these Customer Terms shall have the meaning given to them in the Customer Proposal into which these Customer Terms are incorporated (the “**Customer Proposal**”).

1.2. **Entire Agreement.** The Agreement represents the entire agreement between the Parties on the subject matter of such Customer Proposal, superseding all prior agreements, understandings, representations and negotiations on the subject matter of such Customer Proposal, whether oral or written, that may have been entered into by and between the Parties. No additional or different terms set forth in any of the Customer’s forms, orders, requisitions, correspondence or other communications shall be of any force or effect.

1.3. **Provision of JCI Work.** Subject to the terms and conditions of the Agreement, JCI shall provide to Customer one or more of the following, as set forth in a Customer Proposal, agreed to and executed by both Parties: (a) provision of Products; (b) a license to use Installed Software; (c) subscriptions to Software Services; and/or (d) Professional Services.

1.4. **Customer Proposal.** Details related to the JCI Work, including Project Sites, authorized users, Subscription Metrics, activation date, subscription term, and pricing, are provided in the Customer Proposal.

1.5. **Order of Precedence.** Any conflict or inconsistency between any provision of the Agreement shall be resolved by giving priority in the following order: (1) first, to these Customer Terms and (2) then, to the Customer Proposal. In the event of conflicting or inconsistent terms and conditions in these Customer Terms, the following order of precedence will apply: (a) the terms and conditions of the Supplemental Terms with respect to the JCI Work to which the Supplemental Terms relate; (b) the terms and conditions of the remainder of these Customer Terms; and (c) the terms and conditions of any agreements, addendums, policies, or other documents referenced in these Customer Terms.

1.6. **Offer Change or Revocation.** The Customer Proposal and its terms (including the prices quoted for the Systems) may be changed or revoked by JCI at any time before the Customer Proposal is signed by Customer and returned to JCI and will automatically expire thirty (30) calendar days after its date if Customer has not signed it and returned it to JCI before then.

2. **PRODUCTS.** If Products are purchased by Customer from JCI under the Customer Proposal, the terms and conditions of this Article 2 apply to such purchases in addition to the other applicable terms and conditions of these Customer Terms:

2.1. **Delivery.** Unless otherwise provided in the Customer Proposal, Products shall be delivered to Customer EXW JCI’s loading dock (as the shipping term is defined in *Incoterms 2020*). Title of the Products shall transfer to Customer upon such delivery. Delivery of Products to the carrier will constitute delivery to Customer, and regardless of shipping terms or freight payment, Customer shall bear all risk of loss or damage in transit. JCI reserves the right to make delivery in installments, unless otherwise expressly stipulated in the Customer Proposal; all such installments shall be separately invoiced and paid for when due per such invoice, without regard to subsequent deliveries. Delay in delivery of any installment will not relieve Customer of its obligations to accept remaining deliveries. Claims for shortages or other errors in delivery must be made in writing to JCI within ten (10) calendar days after receipt of shipment, and failure to give such notice will constitute unqualified acceptance and a waiver of all such claims by Customer. All delivery dates are approximate.

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2.2. **Changes in Products by JCI.** JCI may at any time make such changes in design and construction of Products, components or parts as JCI deems appropriate, without notice to Customer. JCI may furnish suitable substitutes for materials unobtainable because of priorities or regulations established by governmental authority, or nonavailability of materials from suppliers.

2.3. **Security Interest.** If the Products are sold on credit pursuant to the Customer Proposal, Customer acknowledges that JCI retains a purchase money security interest in the Products. To secure Customer’s obligations to JCI under the Agreement or any other agreement, Customer hereby grants to JCI a security interest in all the Products sold under the Agreement, whether now owned or hereafter acquired, and all products and proceeds of such Products. JCI may file any financing statements and send any notices necessary or appropriate to perfect or protect such security interest.

2.4. **No Returns.** Except as otherwise agreed in the Customer Proposal, no Products will be accepted for return.

3. **SOFTWARE.** If Software is made available to Customer by JCI under the Customer Proposal, the terms and conditions of this Article 3 apply to such Software in addition to the other applicable terms and conditions of these Customer Terms:

3.1. Installed Software.

3.1.1 ***Installed Software License.*** Subject to the terms and conditions of the Agreement, and the end user license agreement that accompanies the software or, if none, the terms and conditions of the end user license agreement set forth at www.johnsoncontrols.com/techterms (the “**EULA**”), JCI hereby grants to Customer a non-exclusive, non-transferable, non-sublicensable license to use the Installed Software set forth in the Customer Proposal solely for purposes of using, operating, and maintaining the Product in which the Installed Software is installed or using the Installed Software solely for Customer’s internal business purposes. Customer hereby agrees to the EULA.

3.1.2 ***Deployment of Installed Software.*** Customer is solely responsible for the deployment of the Installed Software for operation, including installation, configuration, integration, and testing, unless Customer has contracted under the Customer Proposal to have JCI perform such deployment services as Professional Services.

3.2. Software Services.

3.2.1 ***Software Services License.*** Subject to the terms and conditions of the Agreement, and JCI’s Terms of Service available at www.johnsoncontrols.com/techterms (the “**TOS**”), JCI hereby grants to Customer a non-exclusive, non-transferable, non-sublicensable right to use the Software Services set forth in the Customer Proposal during the applicable subscription term set forth in such Customer Proposal, solely for use according to the applicable subscription metric set forth in the Customer Proposal, which may be authorized users, monitored data points, volume of data processed, or other metric for identifying use of the Software Services by Customer (each, a “**Subscription Metric**”). Such use of the Software Services is limited to Customer’s internal use.

3.2.2 ***Subscriptions.*** The Customer Proposal sets forth the specifics of Customer’s right to access and use the Software Services (each a “**Subscription**”) and will set forth a Subscription Metric for the Subscription. A Subscription shall commence and continue in effect for the subscription term set forth in the Customer Proposal.

3.3. **Updates; Availability of Features and Functions.** JCI may, at any time and in its sole discretion, modify, deprecate, upgrade, or release a new version of the Software, or any portion of their features and functions. Unless otherwise expressly and separately agreed to by JCI in the Customer Proposal, any modification or new version of any Software provided to Customer shall be subject to the terms of the Agreement. Certain features and functions of the Software may be made available based on specific configuration of products and may not be available to Customer without payment of additional fees. JCI will use commercially reasonable efforts to notify Customer of any material change to or discontinuation of the Software that is the subject of a valid Customer Proposal. If Customer establishes that a change made by JCI pursuant to this Section has a materially adverse effect on Customer's authorized use of the Software under the Customer Proposal, Customer may notify JCI in writing, and JCI may propose resolutions or work-arounds. If JCI is unable to provide Customer with a resolution or work-around reasonably satisfactory to Customer, then notwithstanding anything to the contrary, Customer may, as its sole and exclusive remedy and JCI's sole and exclusive liability, terminate the applicable portion of the Customer Proposal upon written notice to JCI and receive a refund for any prepaid license or subscription fees for use of Software after the termination date.

3.4. **Third Party Software.** To the extent any software licensed from third parties, including open source software (collectively, "**Third Party Software**") is provided with or incorporated into the Software, Customer shall comply with the terms and conditions of the applicable third party licenses associated with the Third Party Software, in addition to the terms and restrictions contained in the Agreement (including in the EULA). Customer agrees to be bound to the terms of such third party licenses.

4. **PROFESSIONAL SERVICES.** If JCI performs Professional Services for Customer under the Customer Proposal, the terms and conditions of this Article 4 apply to such Professional Services in addition to the other applicable terms and conditions of these Customer Terms:

4.1. **Provision of Professional Services.** JCI will provide Professional Services to Customer in accordance with the Customer Proposal.

4.2. **Schedule.** Unless otherwise provided in the Customer Proposal, JCI shall commence the Professional Services in accordance with a mutually agreed schedule upon the effective date of a notice to proceed issued by Customer. Customer shall not issue, and JCI shall have no obligation to accept, the notice to proceed until the following conditions have been satisfied: (a) Customer has provided JCI access to the Project Site; (b) Customer shall have obtained all permits that are the responsibility of Customer to obtain in connection with the performance of the Professional Services; (c) Customer has provided access to utilities and fulfilled all of its other obligations identified in the Customer Proposal that are required, or should reasonably be understood to be required, prior to issuance of the notice to proceed; and (d) Customer is not in arrears with respect to any payments due to JCI under the Agreement of any other agreement between the Parties.

5. **PRICES AND PAYMENT TERMS.**

5.1. **Invoices.** Fees will be invoiced in advance or otherwise in accordance with the Customer Proposal. Invoices will be issued in Customer's name and mailed or emailed to the address indicated in the Customer Proposal. Customer is responsible for providing complete and accurate billing and contact information to JCI and notifying JCI of any changes to such information.

5.2. **Payment.** Customer shall pay all invoiced amounts within thirty (30) calendar days after the date of invoice, unless the Customer Proposal provides otherwise. In the event that Customer disputes an invoice in good faith (each, a "**Payment Dispute**"), Customer shall notify JCI of such Payment Dispute within twenty one (21) calendar days after the date of such invoice by transmitting a detailed written statement to JCI explaining the reasons for the Payment Dispute. Without limiting JCI's rights under Section 18.3 of these Customer Terms, JCI and Customer shall negotiate in good faith to attempt to resolve all Payment Disputes as promptly as possible. JCI shall charge to Customer a finance charge calculated at the lesser of 18% per annum, accrued, calculated and payable monthly, or the highest rate allowed by applicable law, on all past due amounts owed to JCI, and Customer shall pay such finance charges upon demand. Payment is a condition precedent to JCI's obligation to perform the JCI Work under the Agreement, and JCI may, at its option, suspend any portion or all of the

JCI Work until all past-due amounts (including finance charges) are paid by Customer to JCI; **Customer expressly agrees that JCI shall not be liable for any losses, liabilities or damages of any nature which Customer may suffer or incur as a result of JCI's suspension of the JCI Work in accordance with this Section.** If JCI is required to take action to collect any amount due, then Customer agrees that Customer shall reimburse JCI for all costs JCI incurs in collecting any amounts due under the Agreement, including, but not limited to, attorneys' fees, legal expenses and costs.

5.3. **Expenses.** JCI may charge separately for, and Customer shall pay reasonable out of pocket expenses, such as travel, lodging and living expenses, incurred by JCI or its Representatives in connection with providing the JCI Work.

5.4. **Prices.** Prices for materials and Products covered by the Agreement may be adjusted by JCI, upon notice to Customer at any time prior to shipment, to reflect any increase in tariffs or new tariffs or any increase in JCI's cost of raw materials (e.g., steel or aluminum), labor, or components incurred by JCI after issuance of the Customer Proposal. In addition, unless expressly specified differently in the Customer Proposal, JCI may increase the fees for JCI Work set forth in the Customer Proposal at any time and from time to time upon thirty (30) calendar days' advance written notice to Customer. JCI will have no obligation to continue to provide JCI Work if Customer fails to make timely payment under the Customer Proposal or any other agreement between the Parties. In the event the Customer Proposal provides that the Agreement renews automatically, JCI will provide Customer with notice of any adjustments to the fees for the JCI Work applicable to a renewal period prior to the commencement of such renewal period; unless Customer provides notice of non-renewal within thirty (30) calendar days prior to the commencement of such renewal period, the Agreement shall renew and such adjusted fees shall be the fees for the renewal period.

5.5. **Taxes.** JCI's fees set forth in the Customer Proposal do not include any taxes, tariffs, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, (collectively, "**Taxes**"). Customer is responsible for paying all Taxes associated with its purchases and/or licensing of Systems under the Customer Proposal, in addition to JCI's fees. If JCI has the legal obligation to pay or collect Taxes for which Customer is responsible under this Section or otherwise chooses to so pay or collect such Taxes, JCI will invoice Customer for the amount of such Taxes, and Customer shall pay that amount in addition to the fees set forth in the Customer Proposal or other invoiced amounts, except for any Taxes with respect to which Customer provides JCI a valid tax exemption certificate authorized by the appropriate taxing authority. JCI is solely responsible for taxes assessable against it based on its net income and property ownership.

5.6. **Shipping.** In addition to the fees specified in the Customer Proposal, Customer agrees to pay the costs of shipping the Products to the Project Site or other specified location in the Customer Proposal.

5.7. **Manner of Payment.** Unless specified otherwise in the Customer Proposal, all Customer payments shall be made electronically through the Automated Clearing House network or other payment method identified in writing to Customer by JCI.

5.8. **Delays.** If production or shipment of completed Products or other performance of the JCI Work is delayed by an Excusable Delay, JCI may immediately invoice for, and Customer shall pay, the percentage of the fees corresponding to the percentage of completion of the JCI Work for such Products, Software and Professional Services.

6. **CHANGE ORDERS.** Either Party may request changes or revisions in the JCI Work under the Customer Proposal. Upon such request, the parties will negotiate in good faith an equitable adjustment to the price, time for performance, and any other provisions of the Agreement impacted by such change request. Any such changes and adjustments must be agreed in a writing signed by an authorized representative of both Parties (a "**Change Order**"). JCI may delay performance of the JCI Work at no risk or liability to JCI until requested changes and adjustments are clarified and agreed upon.

7. **CUSTOMER REPRESENTATIONS AND WARRANTIES.** Customer represents and warrants that: (a) it is duly authorized to transact business under the Laws of the jurisdiction(s) in which the Project Sites are

located; (b) it has been duly authorized by all necessary corporate action to execute and deliver the Agreement; (c) the Agreement constitutes the legal, valid and binding obligation of Customer, enforceable against Customer in accordance with the Agreement's terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization, or other Laws affecting creditor's rights generally; (d) it has complied with all public bidding and procurement rules and Laws as may be applicable to the Agreement and the JCI Work; and (e) the financial information provided by Customer to JCI is true and correct, and there have been no material adverse changes in Customer's financial condition since the date of such financial information.

8. JCI WORK WARRANTIES.

8.1. **Product Warranties.**

8.1.1 *Products Manufactured by JCI.* Subject to Sections 8.1.2 and 8.4 of these Customer Terms, JCI warrants the Products in accordance with the standard warranty published by JCI for such Products in effect as of the date of delivery of such Product to Customer (the "**Published Warranty**") or, if no such Published Warranty is in effect, JCI warrants that the Products manufactured by JCI shall be free from defects in materials and workmanship for a period of one (1) year after the delivery of the Products to Customer by JCI. If, within such warranty period, any such Products fail to conform to this limited warranty, JCI shall, in its sole discretion, either (a) repair or replace the affected Product free of charge or (b) refund the price paid by Customer to JCI for such Product. Such repair, replacement, or refund shall be JCI's sole obligation and Customer's exclusive remedy for any deficiency in Products furnished under the Agreement, and shall be conditioned upon Customer's return of such Products to JCI or, in JCI's sole discretion, inspection in the field by a JCI-authorized representative, in either case at Customer's expense and risk of loss. Any parts of Products repaired or replaced under this warranty are warranted only for the balance of the warranty period on the original part that was repaired or replaced.

8.1.2 *Products Not JCI Branded.* JCI shall assign to Customer any assignable warranties of the manufacturer of Products that are not branded by JCI or its affiliates ("Non-JCI Products") sold by JCI to Customer as in effect on the date of delivery of such Products to Customer by JCI, to the extent permitted by such warranties and applicable Law. Customer shall be responsible for its own pursuit of any warranty claims directly with the manufacturer of the Non-JCI Products. Other than the limited obligations set forth in this Section 8.1.2., **JCI MAKES NO WARRANTY, EXPRESS OR IMPLIED, TO CUSTOMER FOR NON-JCI PRODUCTS.**

8.2. **Professional Service Warranties.** Subject to Section 8.4 of these Customer Terms, JCI warrants that any Professional Services that JCI provides under the Customer Proposal will be performed in a professional and workmanlike manner. This limited warranty for Professional Services is provided for thirty (30) days from completion of such Professional Services. If JCI fails to conform to this warranty and is promptly notified of such failure in writing during such thirty (30) day period, JCI shall, in its sole discretion, either (a) re-perform the Professional Services, or (b) provide Customer with a refund of that portion of fees paid by Customer to JCI for the defective Professional Services; such foregoing limited remedies are Customer's sole and exclusive remedy, and JCI's sole and exclusive liability, for JCI's breach of the limited warranty set forth in this Section 8.2.

8.3. **Software Warranties.** Subject to the terms and conditions provided in the Agreement (including Section 8.4), JCI may provide a limited warranty for Installed Software solely to the extent expressly set forth in the EULA and for Software Services solely to the extent expressly set forth in the TOS.

8.4. **Warranty Exclusions.** Notwithstanding anything in the Agreement to the contrary, JCI shall not be responsible for defects or conditions caused by (a) any acts or omissions of Customer or any third party; (b) any failure by Customer to perform its obligations, including the provision of persistent power to the Systems (if applicable); (c) any use of the System by Customer in excess of the rights granted in the Agreement or in a manner for which it is not designed or intended; (d) any modification, addition or alteration to the System, or repairs by Customer or third parties, without JCI's prior written approval; (e) misuse or abuse of the Systems or a failure to maintain the Systems; (f) harmful System environments, such as outdoor installations, excessive moisture or

excessive dust; or (g) any Force Majeure Event. JCI shall not be required to perform under any warranty where performing would violate Anti-Bribery Laws, International Trade Laws, or both. Any description of Products sold or provided by JCI, whether in writing or made orally by JCI or its Representatives, and any samples, specifications, bulletins, catalogs, drawings, diagrams, or similar materials used in connection with JCI's sales efforts or Customer's orders, are for the sole purpose of identifying the Products, and shall not be construed as an express warranty. Any suggestions by JCI or its Representatives regarding application, use or suitability of the Products shall not be construed as an express warranty.

8.5. **Warranty Disclaimers.** **THE WARRANTIES SET FORTH IN THIS ARTICLE 8 OR IN THE PUBLISHED WARRANTY (IF ANY) ARE EXCLUSIVE AND IN LIEU OF ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED. JCI EXPRESSLY DISCLAIMS AND EXCLUDES ANY IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE, OR FITNESS FOR ANY PARTICULAR PURPOSE, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE. JCI EXPRESSLY DISCLAIMS ANY WARRANTY THAT THE SOFTWARE WILL BE ERROR-FREE, SECURE FROM CYBER THREATS OR UNINTERRUPTED. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THE AGREEMENT, ANY BETA OR TRIAL OFFERINGS, PROTOTYPES, PROOF OF CONCEPTS, OR NON-JCI PRODUCTS ARE PROVIDED "AS IS" EXCLUSIVE OF ANY WARRANTY WHATSOEVER.** Customer agrees that the warranty periods specified in the Agreement shall be a reasonable time for purposes of submitting valid warranty claims with respect to the JCI Work. The exclusive remedies set forth in the Agreement shall not have failed of their essential purpose so long as JCI provides the remedies as set forth in this Article 8 or in the Published Warranty (if any) and, for Non-JCI Products, assigns assignable warranties of other manufacturers to Customer as described in this Article 8.

9. INDEMNIFICATION AND INSURANCE.

9.1. **Indemnification by JCI.**

9.1.1 *Infringement.* Subject to Section 9.1.3 of these Customer Terms, JCI will defend and/or settle, at its cost and expense, any claims made by an unaffiliated third party against Customer alleging that a System infringes a United States patent or a United States registered copyright of that third party (each, an "**Infringement Claim**"), and JCI will pay all damages finally awarded and settlement amounts entered into by JCI on Customer's behalf related to a covered Infringement Claim. The foregoing indemnification obligation of JCI is contingent upon Customer promptly notifying JCI in writing of such Infringement Claim, permitting JCI sole authority to control the defense or settlement of such Infringement Claim, and providing JCI reasonable assistance in connection with such defense or settlement.

9.1.2 *Infringing Systems.* Subject to Section 9.1.3 of these Customer Terms, if an Infringement Claim occurs or JCI determines an Infringement Claim is likely to occur, JCI will have the right, in its sole discretion, to either: (a) procure for Customer the right to continue to use the infringing System free of the Infringement Claim or potential Infringement Claim; or (b) replace or modify the infringing System to make it non-infringing, without loss of material functionality. If JCI determines that either of these remedies is not reasonably available or if required by valid judicial or government order, JCI may terminate Customer's right to access or use the infringing System and refund to Customer any fees paid for the infringing System (unless the infringing System is a Professional Service or a Software Service, in which case JCI would refund the balance of any amounts prepaid for such Professional Service or Software Service that is not yet performed).

9.1.3 *Excluded Claims.* Notwithstanding anything to the contrary in the Agreement, JCI shall have no obligation with respect to any Infringement Claim that is based upon or arises out of an Excluded Claim.

9.1.4 *Exclusive Remedies.* **EXCEPT TO THE EXTENT PROHIBITED BY APPLICABLE LAWS, THE PROVISIONS OF THIS SECTION 9.1 STATE THE SOLE AND EXCLUSIVE OBLIGATIONS AND LIABILITY OF JCI, AND SOLE AND EXCLUSIVE REMEDY OF CUSTOMER, FOR ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT, MISAPPROPRIATION, OR OTHER**

VIOLATION OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS ARISING OUT OF OR RELATING TO THE JCI WORK AND/OR THE AGREEMENT.

9.2. **Indemnification by Customer.** Customer shall indemnify, defend and hold harmless JCI and JCI's affiliates and Representatives, and its and their respective directors, officers, employees, agents, shareholders, affiliates, and assigns and successors, from and against any and all claims, damages (including damages arising from personal injury or death), demands, actions, proceedings, judgments, penalties, fines, losses, liabilities, costs and expenses (including attorneys' fees and legal expenses) that arise from or relate to: (a) any breach by Customer of the Agreement; (b) any violation by Customer of any Law (including, without limitation, any violation by Customer or any of its customers of any data privacy Laws, Anti-Bribery Law, or International Trade Laws); (c) any negligence or willful misconduct by Customer; (d) any Excluded Claims; or (e) Customer's use of, or the storage, release, discharge, handling or presence, of any Hazardous Materials on, under or about the Project Site. Notwithstanding the foregoing, in no event shall Customer be required to indemnify, defend or hold JCI harmless to the extent the claims, damages, demands, actions, proceedings, judgments, penalties, fines, losses, liabilities, costs or expenses result from JCI's negligence or willful misconduct. JCI shall give Customer written notice of any claim for which indemnification is sought under the Agreement, provided that the failure to give such written notice shall not, however, relieve Customer of its indemnification obligations, except and only to the extent that Customer forfeits rights or defenses by reason of such failure. JCI, may, at JCI's option, assume and control the defense of the claim, and in such case, Customer shall indemnify JCI from and against losses, damages, costs and expenses (including attorneys' fees, court fees, and other defense costs) incurred by JCI in defending such claims. If JCI decides not to assume the defense of a claim, then Customer shall assume and control the defense of such claim, at Customer's expense and by Customer's own counsel (which counsel shall be subject to the approval of JCI, which approval will not be unreasonably withheld or delayed); provided that JCI shall have the right to participate in the defense of any claims with counsel selected by it at JCI's expense. JCI and Customer shall cooperate with each other in all reasonable respects in connection with the defense of any claims. Notwithstanding any other provision of this Agreement, Customer shall not consent to the entry of any judgement or enter into any settlement of any claims without the prior written consent of JCI.

9.3. **JCI Insurance Requirements.** JCI shall obtain, pay for, and maintain in full force and effect during the Term insurance as follows: (a) Workers' compensation and employers' liability insurance with limits to conform with the greater of the amount required by applicable law or one million dollars (\$1,000,000) each accident, including occupational disease coverage; (b) Commercial general liability insurance with limits of five million dollars (\$5,000,000) combined single limit per occurrence and in the aggregate for bodily injury, death, and property damage, including personal injury, contractual liability, independent contractors, broad-form property damage, and products and completed operations coverage; (c) Commercial automobile liability insurance with limits of one million dollars (\$1,000,000) each occurrence and in the aggregate combined single limit of liability for bodily injury, death, and property damage, including owned and non-owned and hired automobile coverages, as applicable; and (d) Professional liability insurance (Errors and Omissions) with limits of three million dollars (\$3,000,000) annual aggregate for all claims each policy year. Certificates of Insurance evidencing all coverages described in this Section shall be furnished to Customer upon Customer's written request.

9.4. **Customer Insurance Requirements.** Customer shall obtain, pay for, and maintain in full force and effect, during the Term, insurance as follows: (a) Workers' compensation and employers' liability insurance with limits to conform with the greater of the amount required by applicable law or one million dollars (\$1,000,000) each accident, including occupational disease coverage; (b) Commercial general liability insurance with limits not less than five million dollars (\$5,000,000) combined single limit for bodily injury, death, and property damage, including personal injury, contractual liability, independent contractors, broad-form property damage, and products and completed operations coverage; (c) Commercial automobile liability insurance with limits not less than one million dollars (\$1,000,000) each occurrence combined single limit of liability for bodily injury, death, and property damage, including owned and non-owned and hired automobile coverages, as applicable; and (d) Property insurance with limits not less than three million dollars (\$3,000,000) annual aggregate for all claims each policy year. Further, Customer shall obtain, pay for, and maintain in full force and effect, during the Term, such other insurance of the type and in the amount that JCI may require from time to time. To the extent any insurance coverage required under this Section is purchased on a "claims-made" basis, such

insurance shall cover all prior acts of Customer during the Term, and such insurance shall be continuously maintained until at least four (4) years beyond the expiration or termination of the Term, or Customer shall purchase "tail" coverage, effective upon termination of any such policy or upon termination or expiration of the Term, to provide coverage for at least four (4) years from the occurrence of either such event. JCI shall be named as an additional insured on all such insurance policies with the exception of workers' compensation and employers' liability insurance, and Certificates of Insurance evidencing all coverages described in this Section shall be furnished to JCI upon JCI's written request. Customer shall also comply with any and all additional insurance requirements set forth in the Customer Proposal.

10. **HAZARDOUS MATERIALS.** Customer shall supply JCI with any information in its possession relating to the presence of Hazardous Materials at the Project Site or that may otherwise affect the performance of the JCI Work. If Customer becomes aware of or suspects the presence of Hazardous Materials that may interfere with the JCI Work, Customer shall immediately provide notice to JCI. Upon such notice, or if JCI becomes aware of or suspects the presence of Hazardous Materials that may interfere with the JCI Work, JCI shall promptly stop the JCI Work in the affected area, shall have no obligations to recommence the JCI Work until Customer remediates such Hazardous Materials, and shall receive an equitable adjustment to its obligations under the Customer Proposal to account for such stoppage. Prior to JCI commencing the JCI Work, Customer shall, at its own cost and expense, provide certification from Project Site owners for any facilities constructed prior to 1982 that no asbestos-containing materials are present at such facility. Notwithstanding anything to the contrary in the Agreement, JCI shall have no obligations relating to the identification, abatement, cleanup, control, removal, or disposal of Hazardous Materials.

11. **LIMITATION OF LIABILITY.**

11.1. **Overall Damage Cap. JCI'S LIABILITY UNDER THE AGREEMENT, REGARDLESS OF THE FORM OF ACTION AND WHETHER SUCH LIABILITY IS ASSERTED IN CONTRACT, TORT, INDEMNITY OR OTHERWISE, SHALL IN NO EVENT EXCEED (A) FOR ANY CLAIM, THE AMOUNT OF THE FEES PAID BY CUSTOMER TO JCI FOR THE JCI WORK GIVING RISE TO THE CLAIM IN THE 12 MONTH PERIOD PRECEDING THE DATE ON WHICH SUCH CLAIM AROSE AND (B) IN THE AGGREGATE FOR ALL CLAIMS, THE TOTAL OF ALL FEES PAID BY CUSTOMER TO JCI UNDER THE APPLICABLE AGREEMENT.**

11.2. **No Consequential or Punitive Damages. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE AGREEMENT, JCI SHALL NOT BE LIABLE, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE DAMAGES, LOSS OF PROFITS, LOSS OF EARNINGS, DATA LOSS OR OTHER LOSSES ARISING FROM VIRUSES, RANSOMWARE, CYBER ATTACKS OR FAILURES OR INTERRUPTIONS TO NETWORK SYSTEMS, LOSS OF BUSINESS OR GOODWILL, BUSINESS INTERRUPTION, DOWN-TIME, COST OF CAPITAL, COST OF SUBSTITUTE PRODUCTS, OR FOR ANY OTHER TYPES OF ECONOMIC LOSS, OR FOR CLAIMS OF CUSTOMER'S CUSTOMERS OR ANY THIRD PARTY FOR ANY SUCH DAMAGES, COSTS OR LOSSES, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, AND/OR (B) WHETHER OR NOT JCI WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

11.3. **Exclusive Remedies.** The liability of JCI to Customer, whether in contract, tort (including negligence or strict liability) or otherwise, is exclusively limited to the remedies expressly provided under the terms of the Agreement, in lieu of any and all other remedies at law or in equity.

11.4. **No Liability in Certain Circumstances.** JCI shall not be liable for events or conditions (including, without limitation, JCI's failure to perform the JCI Work) caused by (a) any use of a System for which it was not intended, (b) modification of a System without JCI's written consent, (c) installation of a System other than by JCI, (d) acts of Customer or third parties which interfere with the functioning of a System, (e) Force Majeure Events, or (f) any failure of the Non-JCI Products or Customer's systems.

11.5. **Claims Barred.** No suit or action shall be brought against JCI more than one (1) year after the completion of that portion of the JCI Work that gave rise to the claim on which the suit or action is brought.

11.6. **Fundamental Basis of Agreement.** The foregoing waivers and limitations are fundamental elements of the basis for the Agreement between JCI and Customer, and each Party acknowledges that JCI would not be able to provide the JCI Work on an economic basis in the absence of such waivers and limitations, and would not have entered into the Agreement without such waivers and limitations. This Article 11 in its entirety shall apply to and benefit JCI and its affiliates and its and their Representatives.

12. COMPLIANCE, EXPORT AND IMPORT, ANTI-BRIBERY, AND ANTI-CORRUPTION CONTROLS.

12.1. **Compliance with Laws.** JCI shall comply with all applicable federal, state and local Laws and shall obtain all temporary licenses and permits required for the prosecution of the JCI Work to the extent expressly set forth in the Customer Proposal. Licenses and permits not expressly set forth as an obligation of JCI in the Customer Proposal shall be procured and paid for by Customer.

12.2. **Occupational Safety and Health.** The Parties agree to notify each other immediately upon becoming aware of an inspection under, or any alleged violation of, the Occupational Safety and Health Act relating in any way to the Project or Project Site.

12.3. **International Trade.** In addition to any requirements under the Customer Proposal for Systems in a Foreign Jurisdiction, Customer acknowledges that the Products, Installed Software, Software Services, and Professional Services (including any related technical data) received from JCI may be subject to economic sanctions, export controls, and other restrictive trade measures. Customer further agrees that it will not (and will not permit any of its affiliates or its or their Representatives to) directly or indirectly sell, ship, export, reexport, disclose or transfer any of the foregoing to any party, country, or territory for which the United States Government (or any agency of the United States Government) requires an export license or other approval without first obtaining any licenses, consents or permits that may be required under the applicable Laws of the United States or other Foreign Jurisdictions. Notable examples include, without limitation, (a) the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401-2420) and the Export Administration Regulations, 15 C.F.R. §§ 730-774 (“**EAR**”); (b) the Arms Export Control Act, 22 U.S.C. § 2778, and the corresponding International Traffic in Arms Regulations (“**ITAR**”); (c) the economic sanctions programs administered by the U.S. Department of the Treasury’s Office of Foreign Assets Control (“**OFAC**”), 31 C.F.R. Part 500 et seq., and the U.S. Department of State; (d) the anti-boycott regulations, guidelines, and reporting requirements under the Export Administration Regulations and Section 999 of the Internal Revenue Service Code; and (e) laws of similar effect enforced by Canada, the European Union, the United Kingdom, and other applicable jurisdictions (collectively “**International Trade Laws**”). The obligation of JCI to perform the Agreement is subject to the ability of JCI and any involved JCI affiliate to supply such items consistent with these International Trade Laws, and, as such, Customer agrees that any refusal by JCI to perform the JCI Work or cancellation of the Agreement by JCI, or termination of the Agreement by JCI due to such JCI Work being in violation of these International Trade Laws will not constitute a breach of any of JCI’s obligations under the Agreement, and Customer hereby waives any and all claims against JCI or its affiliates for such refusal, cancellation or termination. In the event that the Customer Proposal describes activities to be undertaken in Cuba, Iran, North Korea, Syria, the disputed Crimea region, or sanctioned territories, such Customer Proposal shall be null and void unless JCI and Customer obtain the necessary authorizations from the U.S. Government and any applicable foreign governments. This provision shall survive the expiration or termination of the Agreement.

12.4. **Anti-Bribery and Anti-Corruption.** JCI and Customer intend that no payments or transfers of value will be made which have the purpose or effect of public or commercial bribery, acceptance of or acquiescence in extortion or kickbacks, or other unlawful or improper means of obtaining business. Customer shall not, directly or indirectly, pay, offer, authorize or promise any monies or anything of value (such as gifts, contributions, travel, or entertainment) to any person or organization (including any employee or official of any governmental authority, government owned or controlled entity, public international organization or political party; any candidate for political office; or

any employees of any of customer of Customer or JCI) for the purpose of improperly influencing their acts or decisions in violation of the U.S. Foreign Corrupt Practices Act (“**FCPA**”), the United Kingdom Bribery Act (“**UKBA**”), the Canadian Corruption of Foreign Public Officials Act (“**CCFPA**”), the OECD Anti-Bribery Convention, or any other applicable anti-bribery or anti-corruption law applicable in the jurisdictions where it or its respective affiliates or agents conduct business (collectively “**Anti-Bribery Laws**”). Customer and its affiliates will maintain appropriate systems and internal controls (e.g., accounting systems, purchasing systems and billing systems) to ensure compliance with such Anti-Bribery Laws, and shall take appropriate actions to ensure that any person representing or acting under its instruction or control, including all its Representatives, will also comply with this Section.

13. OWNERSHIP OF INTELLECTUAL PROPERTY.

13.1. **Background IP.** Each Party is and shall be the sole owner of its Background Intellectual Property.

13.2. **Developments.** JCI owns any and all Intellectual Property resulting from the Project or the JCI Work, including any and all rights in any technology, inventions, know-how, computer code or other materials developed by JCI under the Agreement (collectively, the “**Developments**”). The Developments shall not be deemed “works made for hire”.

13.3. **License to Customer.** Upon payment in full by Customer of all amounts owed to JCI under the Agreement and any other agreement by the Parties, JCI grants to Customer, during the Term, a license to use the Developments and the Background Intellectual Property of JCI solely to the extent included in a System and for the sole purpose of utilizing the applicable System to the extent agreed in the Agreement.

13.4. **License to JCI.** During the performance of the JCI Work, if Customer provides the Background Intellectual Property of Customer to JCI, then Customer grants to JCI a non-exclusive license to use, reproduce and modify such Background Intellectual Property for Customer solely as needed by JCI to perform its obligations in connection with the JCI Work.

13.5. **Software.** Notwithstanding anything to the contrary in the Agreement, JCI does not transfer any ownership rights to the Software, and all right, title and interest in and to the Intellectual Property in the Software will remain the property of JCI, other than license rights to the extent set forth in the Customer Proposal. Any Software provided under the Customer Proposal is licensed, and not sold, according to the terms of the Agreement and of the license agreement or TOS included with, or otherwise applicable to, such Software. Without limiting the generality of the foregoing, JCI shall retain all right, title and interest in and to any (a) software source and object code, documentation, technical information or data, specifications and designs and any changes, improvements or modifications of the foregoing or derivatives of the foregoing, and (b) all processes, techniques, concepts, methodologies, tools, analytical approaches, database models and designs, discoveries, and ideas furnished, produced by, developed, employed or used by JCI in the creation or provision of the JCI Work.

13.6. **Reservation of Rights/Restrictions.** All rights not expressly granted in the Agreement are reserved to JCI. Unless specifically agreed in the Customer Proposal, the Systems are for internal use only and Customer may not distribute them or cause them to be distributed. Customer shall not: (a) reverse engineer, decompile or disassemble any System, except to the extent applicable Law permits it despite this limitation; or (b) distribute, sublicense, rent, lease, lend or host any System except as permitted in the Customer Proposal. All Intellectual Property rights and any rights analogous to the same anywhere in the world and existing at any time in the Systems or arising out of or relating to the provision of Systems shall belong to and remain vested in JCI.

13.7. **Data and Feedback.** Customer acknowledges that JCI, as part of the Professional Services, may collect data and information with respect to the function and efficiency of the Project Site and, if applicable, facility improvement measures; JCI shall have the right to use such data and information to provide, maintain, protect, and improve the JCI Work and to improve and develop JCI’s products and services. In addition, JCI may use data as permitted by the EULA and the TOS. As part of the Project, Customer may provide suggestions, comments, or other feedback related to JCI’s product and service

offerings to JCI orally, in writing, or by other means (“**Feedback**”). JCI will be the sole owner of all Feedback and shall not be bound by any non-use or non-disclosure obligations with respect to the Feedback, notwithstanding anything to the contrary in the Agreement. JCI hereby grants to Customer a perpetual, worldwide, royalty-free, non-exclusive license to use Feedback for its own internal purposes.

13.8. **Designs and Tools.** Unless otherwise expressly provided in the Customer Proposal, any design work performed by JCI, and any dies, molds, jigs or other tools that JCI manufactures or acquires, in connection with its performance of the JCI Work will be and remain the sole property of JCI, notwithstanding any charges to Customer for such design work, dies, molds, jigs, or tools. Any such charges convey to Customer the right to have the designs, dies, molds, jigs and/or other tools used by JCI for performance of the JCI Work, but do not convey title or right of possession or any other right.

14. **CONFIDENTIAL INFORMATION AND PRIVACY AND SECURITY.**

14.1. **Confidential Information.** Any and all Confidential Information is and at all times shall remain the exclusive property of JCI. During the Confidentiality Period, Customer agrees that it shall not (a) make any use whatsoever of the Confidential Information except for the purpose(s) of fulfilling its obligations under the Agreement; or (b) disclose the Confidential Information to any third party. Customer acknowledges and agrees that money damages for any and all breaches of Customer’s obligations under this Section are both incalculable and insufficient and that any such breach would irreparably harm JCI. Therefore, in the event of an actual or prospective breach of any such obligation, JCI shall be entitled to seek a permanent and/or preliminary injunction to prevent or remedy such breach and shall have the right to specific enforcement of this Section against Customer in addition to any other remedies to which JCI may be entitled at law or in equity. Customer may disclose Confidential Information to its Representatives only if those Representatives have a need to know about it for purposes of the Parties’ business relationship with each other. Before doing so, Customer shall ensure that such Representatives are required to protect the Confidential Information on terms consistent with the Agreement. Additionally, Customer is responsible and liable for its Representatives’ breach of this Section.

14.2. **Customer Data and Personal Data.** JCI’s collection, processing, and use of Customer Data (as defined in the TOS) is governed by the terms and conditions of the TOS, and the terms of the data processing addendum available at www.johnsoncontrols.com/techterms (the “**DPA**”) shall apply to the extent Customer Data includes Personal Data (as defined in the DPA). Customer consents to the processing of Personal Data by JCI and its Representatives to facilitate the subject matter of the Agreement. Customer may choose to provide Personal Data to JCI on behalf of third parties (including Customer’s contacts, resellers, distributors, administrators, and employees) as part of the Agreement. Customer shall obtain all required consents from third parties under applicable privacy and data protection Law before providing Personal Data to JCI. Personal Data collected through JCI Work may be transferred, stored and processed in the United States or any other country in which JCI or its Representatives maintain facilities.

15. **EXCUSABLE DELAYS.**

15.1. **Excusable Delays.** If JCI’s performance of the JCI Work is delayed, prevented or impacted by an Excusable Delay, JCI shall with reasonable promptness after learning of the Excusable Delay provide written notice to Customer of the existence of, known or estimated extent of, and reason for such Excusable Delay. JCI shall be excused from performance of its obligations under the Agreement to the extent caused by and during the existence of an Excusable Delay. Without limiting the generality of the foregoing, if JCI is delayed in achieving one or more of the schedule milestones set forth in the Customer Proposal due to an Excusable Delay, JCI will be entitled to extend the relevant completion date by the amount of time that JCI was delayed as a result of the Excusable Delay, plus such additional time as may be reasonably necessary to overcome the effect of the delay.

15.2. **Compensable Event.** Without limiting the generality of the foregoing and notwithstanding anything to the contrary contained in the Agreement, if JCI’s performance of the JCI Work is delayed, prevented or impacted by a Compensable Event, then, to the extent JCI’s costs, time of performance and/or ability to generate Project benefits are adversely impacted by

the Compensable Event, JCI will be entitled to equitably adjust the fees charged by JCI, the time for performance of the JCI Work, and, if any, the performance guaranty. In addition, Customer shall pay to JCI any and all damages incurred by JCI properly attributable to the Compensable Event.

16. **JCI PROPERTY.** JCI may provide tools, documentation, panels, or other control equipment at the Project Site for JCI’s convenience in performing its obligations under the Agreement (the “**JCI Property**”). The JCI Property shall remain JCI’s property. Customer assumes all risk of loss, damage, theft or destruction of the JCI Property, regardless of cause from and after the date on which JCI delivers the JCI Property to the Project Site. Customer shall store all JCI Property in such a manner as to protect it from damage or deterioration. Customer shall segregate the JCI Property from all other goods and property located at the Project Site and shall clearly identify the JCI Property as the property of JCI by conspicuous sign or placard. JCI may enter the Project Site and remove the JCI Property without notice to Customer and without liability. Customer shall not remove, or permit the removal of, the JCI Property from the Project Site without the prior written consent of JCI. Customer expressly permits JCI to file Uniform Commercial Code (“**UCC**”) financing statements in any appropriate filing office reflecting JCI’s ownership of the JCI Property. Customer also expressly permits JCI to make any other notification necessary to protect JCI’s interest in the JCI Property (such as those contemplated by UCC § 9-324) to any person or entity that has filed a UCC financing statement that, in JCI’s sole discretion, may evidence a conflicting interest in the JCI Property. Customer agrees to (i) maintain the JCI Property free and clear of all liens and encumbrances of any nature whatsoever and (ii) indemnify and hold harmless JCI from and against any loss or damage caused by any such liens or encumbrances placed upon any JCI Property. The JCI Property shall not become fixtures, regardless of whether the JCI Property is or may be affixed to real property. Customer may not assign, sell, transfer, or attempt to assign, sell or transfer any JCI Property to any person or entity, without JCI’s prior written consent. Customer is not permitted to use the JCI Property. JCI shall not be responsible or liable for any loss, damage, expense or claim incurred by Customer arising out of Customer’s use of, or otherwise related to, the JCI Property.

17. **TERMINATION.**

17.1. **Customer’s Right to Terminate the Agreement for Cause.** Upon the occurrence of a JCI Default under the Agreement, Customer may terminate such Agreement by providing written notice of termination to JCI.

17.2. **JCI’s Right to Terminate the Agreement for Cause.** Upon the occurrence of a Customer Default under any Agreement, JCI may, in addition to all rights and remedies available to JCI under the Agreement or at law, terminate such Agreement, any or all other Agreements, and/or any or all other agreements between the Parties by providing written notice of termination to Customer.

17.3. **Other JCI Rights Upon Customer Default.** If (a) Customer fails to timely provide financial assurances as required under [Section 19.6](#) of these Customer Terms; or (b) Customer fails to timely pay amounts properly due to JCI under the Agreement or under any other agreement between the Parties; or (c) any other Customer Default occurs, then, in addition to any other rights afforded under the Agreement or at law, (1) all outstanding amounts owed by Customer to JCI under the Agreement or any other agreement shall become immediately due and payable by Customer to JCI and (2) JCI may stop the JCI Work (including, without limitation, stop performing Professional Services or Software Services, withhold deliveries of Products and other materials, and/or terminate any unpaid Software licenses). If JCI intends to stop the Professional Services pursuant to this [Section 17.3](#), JCI shall provide written notice to Customer that JCI intends to stop the Professional Services unless the deficiency is cured within five (5) calendar days of Customer’s receipt of such notice. If Customer fails to timely cure such issue, then JCI may stop the Professional Services until such time as Customer cures the deficiency. JCI shall be entitled to seek an adjustment of the fees charged by JCI and/or the time for performance of the JCI Work if JCI’s cost or time to perform the JCI Work has been adversely impacted by any such stoppage of the JCI Work, in addition to any other damages or remedies available to JCI at law or under the Agreement. JCI may suspend any and all deliveries of Products until all overdue invoices are paid by Customer to JCI or are made on a cash-in-advance basis only, in JCI’s sole discretion.

17.4. **Effect of Termination.** Unless the Customer Proposal expressly provides differently, if the Customer Proposal is terminated by

Customer as the result of a JCI Default, JCI will refund Customer any prepaid fees covering what would otherwise have been the remainder of the term of the Customer Proposal after the effective date of termination. Unless the Customer Proposal expressly provides differently, if the Customer Proposal is terminated by JCI as the result of a Customer Default, Customer shall pay any unpaid fees covering what would otherwise have been the remainder of the original term of the Customer Proposal. In no event will termination or expiration of the Agreement relieve Customer of its obligation to pay any fees payable to JCI for the period prior to the effective date of termination or expiration.

17.5. **Survival.** Articles 5, 8, 9, 11, 13, 14, 16, and 18 and Sections 12.3, 17.3, 17.4, 17.5, 19.7, and 19.10 will survive the expiration or termination of the Agreement, as will those provisions which by their nature or express terms are intended to survive.

18. **GOVERNING LAW AND DISPUTE RESOLUTION.**

18.1. **Governing Law.** The laws of the State of Wisconsin, U.S.A. (without giving effect to its conflicts of laws principles and excluding Chapter 135 of the Wisconsin Statutes) govern all matters arising out of the Agreement, including, without limitation, its interpretation, construction, performance, and enforcement. **THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER WILL NOT BE GOVERNED BY THE 1980 U.N. CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS.**

18.2. **Arbitration; Waiver of Class Action.** Except to the extent otherwise set forth in the Customer Proposal and subject to Section 18.3, any dispute, claim or controversy arising out of or relating to the Agreement or the breach, termination, enforcement, interpretation or validity of the Agreement, including the determination of the scope or applicability of the agreement to arbitrate, shall be determined by confidential and binding arbitration in the city of Milwaukee in the state of Wisconsin, U.S.A. before a single arbitrator. The language to be used in the arbitral proceedings shall be English. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures and in accordance with the Expedited Procedures in those Rules. Judgment on the arbitrator's award may be entered in any court having jurisdiction under U.S. law or, where relevant, pursuant to the 1958 United National Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The Parties agree to keep all disputes arising under the Agreement confidential, except as necessary in connection with a judicial challenge to or enforcement of an award or unless otherwise required by Law or judicial decision. The arbitrator may issue orders to treat any information regarding such proceedings, including the award, as Confidential Information under the Agreement. This Section shall not preclude either Party from seeking equitable relief to protect its interests, including but not limited to injunctive relief, from a court of appropriate jurisdiction. Customer and JCI each agree that any dispute resolution proceedings will be conducted only on an individual basis and not in a class, consolidated, or representative action.

18.3. **Disputes Regarding Payment.** Notwithstanding anything to the contrary contained in the Agreement, including Section 18.2, in the event that Customer fails to pay any amount owed to JCI when due, JCI is hereby permitted to bring an action and carry a claim in any court of competent jurisdiction in the United States and/or in any court or forum of the local jurisdiction of Customer. Nothing in the Agreement shall limit any rights of JCI under construction or other statutory lien laws.

18.4. **No Jury Trial; Jurisdiction.** If, for any reason, a claim proceeds in court rather than in arbitration, **CUSTOMER AND JCI EACH WAIVE ANY RIGHT TO A JURY TRIAL.** If, for any reason, a claim proceeds in court rather than in arbitration, Customer hereby consents and submits to the jurisdiction of the federal and state courts located in Milwaukee, Wisconsin, U.S.A., and hereby waives any right it may have to assert the doctrine of forum non conveniens or any similar doctrine or to object to venue with respect to any proceeding brought under the Agreement.

19. **MISCELLANEOUS.**

19.1. **Government Contracts.** If the provision of Systems by JCI under the Customer Proposal is subject to mandatory provisions of Law concerning contracts or subcontracts with or for the benefit of the United States or any state government, Customer shall so notify JCI in advance of signing such

Customer Proposal specifying the mandatory provisions of U.S. or state Law which apply.

19.2. **Language.** The Agreement will be in English, which will be the language controlling the interpretation of the Agreement. If required by the Law of a Foreign Jurisdiction identified in the Customer Proposal, these Customer Terms and the Customer Proposal will also be provided in the required second language and those second language versions shall only control the interpretation of these Customer Terms and the Customer Proposal only to the extent required by the Law of the Foreign Jurisdiction.

19.3. **Amendments.** No change, modification, or amendment of the Agreement will be effective except by written agreement signed by both Parties.

19.4. **Work by Others.** The performance by JCI of JCI Work under the Customer Proposal shall not constitute an assumption by JCI of the obligations of Customer or any Customer Party. JCI shall not control or have charge of, and shall not be responsible for design and engineering; construction means, methods, techniques, sequences, or procedures of construction; or health or safety programs, or precautions connected with the work of Customer or any Customer Party. JCI has not assumed any contractual or other duties or made any representations with respect to the JCI Work to any Customer Party (other than to Customer as expressly set forth in the Agreement), and any claims any Customer Party may have for additional compensation or economic loss of any kind or character arising out of the performance of such obligations under or otherwise in connection with such Customer Party's agreements with Customer shall be made solely to Customer.

19.5. **Customer Information.** JCI's ability to deliver JCI Work will depend on Customer's reasonable and timely cooperation and the accuracy and completeness of any data from Customer needed to deliver the JCI Work. Customer shall provide to JCI any and all data necessary for JCI to perform the JCI Work. Customer shall ensure that all data furnished by Customer is reliable and accurate such that JCI can rely on such information without further investigation; and Customer shall be responsible for any and all costs incurred by JCI as a result of any incomplete and/or erroneous Customer-furnished information/data. JCI is not liable and Customer waives any claim for the consequence of any action by JCI based on any incomplete or inaccurate information furnished by Customer or third parties upon which JCI reasonably relies, and Customer agrees to defend, indemnify and hold harmless JCI against third party claims resulting from the consequences of such incomplete or inaccurate information, including reasonable attorneys' fees and other expenses incurred in defending against such claims. Customer shall furnish decisions, information, and approvals required by the Agreement in a timely manner so as not to delay the performance of the JCI Work.

19.6. **Financial Assurances.** At JCI's request, Customer shall promptly furnish reasonable evidence satisfactory to JCI that Customer has adequate funds and/or financing available and committed to fulfill all of Customer's contractual obligations under the Agreement.

19.7. **Publicity.** In the marketing and promotion of its products and services, JCI, with Customer's permission, may use Customer's trade name, service mark and photographs of the Project Site in JCI promotional materials, publish case studies based on data and work completed for Customer, and issue news releases regarding the JCI Work performed at the Project Site. Customer shall not make or issue any press release, publication, advertisement, or other type of announcement arising out of or otherwise relating to JCI or the Agreement without JCI's prior written approval.

19.8. **Cumulative Remedies.** JCI's rights and remedies under the Agreement are cumulative and in addition to all other rights and remedies available to JCI at law or in equity.

19.9. **Relationship of Parties.** Customer and JCI are independent contractors, and nothing in the Agreement shall be construed to create a partnership, joint venture, agency, or employment relationship. Neither Party has nor will have any power to bind the other, or to assume or create any obligation or responsibility, express or implied, on behalf of the other Party.

19.10. **Assignment and Subcontracting.** The Agreement will be binding upon and will inure to the benefit of the Parties hereto and their respective

heirs, representatives, successors and permitted assignees. The Agreement may not be assigned, transferred, shared or divided in whole or in part by Customer without JCI's prior written consent. JCI shall be entitled to subcontract any or all of its obligations under the Agreement to a subcontractor, without obtaining prior consent, but by doing so JCI shall be responsible for the work of the subcontractor to the same extent as if JCI had carried out the obligations itself pursuant to the Agreement.

19.11. **Severability.** In the event that any clause, provision, or portion of the Agreement or any part of any clause, provision, or portion of the Agreement shall be declared invalid, void, or unenforceable by any court having jurisdiction, such invalidity shall not affect the validity or enforceability of the remaining portions of the Agreement unless the result would be manifestly inequitable or materially impair the benefits intended to inure to either Party under the Agreement.

19.12. **Interpretation.** The language of the Agreement will be construed in accordance with its fair meaning and not for or against any Party. The headings and captions in the Agreement are inserted for convenience and are not to be used in construing the Agreement.

19.13. **Third Party Beneficiaries.** Except as otherwise expressly provided in the Agreement, the Agreement is for the sole and exclusive benefit of the Parties, and nothing in the Agreement, express or implied, shall give, or be construed to give, any person or entity, other than the Parties, any legal or equitable rights under the Agreement.

19.14. **Notices.** To be effective, any notice, consent, or communication required or permitted to be given in connection with the Agreement must be in writing and (a) delivered in person, (b) mailed by certified or registered mail, return receipt requested, postage prepaid, (c) sent by same-day messenger or nationally recognized overnight delivery service, with all fees prepaid, in each case to the address set forth in the Customer Proposal. A Party may update its contact information by providing notice of such update to the other Party. A notice, consent, or communication is effective on the earlier of (i) the date it is delivered in person, (ii) the date it is delivered to the address required by the Agreement as indicated by the date of the acknowledgement or signed receipt, or (iii) the date delivery is refused or deemed undeliverable at the address required by the Agreement, as the U.S. Postal Service, messenger service, or overnight courier, as the case may be, indicates through its records. Customer shall provide a copy of any notices to JCI at: Johnson Controls, Inc., Legal Department, 507 E. Michigan St., Milwaukee, WI, 53202, Attn: General Counsel.

19.15. **Counterparts.** The Agreement may be executed in any number of counterparts, all of which when taken together shall constitute one single agreement between the Parties. Signed counterparts exchanged as scanned copies sent by e-mail will have the same force and effect as a signed original.

19.16. **No Waiver.** The failure of either JCI or Customer to insist, in any one or more instances, on the performance of any of the obligations required by the Agreement shall not be construed as a waiver or relinquishment of such obligation or right with respect to future performance.

20. COUNTRY SPECIFIC AND OTHER SUPPLEMENTAL TERMS.

20.1. **Supplemental Terms.** Specific supplemental terms governing the use of particular JCI Professional Services, Products and Software are located at www.johnsoncontrols.com/customerterms/supplemental (the "Supplemental Terms"). Applicable Supplemental Terms are incorporated by referenced herein. In the event JCI is providing fire, security or other alarm or other remote monitoring services under the Customer Proposal, such services are governed by additional Supplemental Terms. Customer understands that JCI is not an insurer regarding those services, and that JCI shall not be responsible for any damage or loss that may result from fire safety or security equipment that fails to prevent a casualty loss.

20.2. **Location of Project Sites and Country-Specific Terms.** The Customer Proposal shall identify the country or other jurisdiction in which the Project Sites are located as either within the United States of America or in a Foreign Jurisdiction. Country-specific terms for Foreign Jurisdictions are available at www.johnsoncontrols.com/customerterms/local (the "Country-Specific Terms"), are incorporated by reference in these Customer Terms, and

shall replace, modify, or add to the terms of the Agreement for the Foreign Jurisdiction(s) identified in the Customer Proposal as set forth in the Country-Specific Terms. Changes to the terms of the Agreement set forth in the Country-Specific Terms are limited to those required for the Parties to perform in the Foreign Jurisdiction identified in the Customer Proposal.

* * * *

Schedule 1

Definitions

“**Agreement**” means each Customer Proposal, together with these Customer Terms.

“**Anti-Bribery Laws**” has the meaning ascribed to it in Section 12.4 of these Customer Terms.

“**Background Intellectual Property**” means, with respect to a Party, (a) any Intellectual Property that such Party owns, controls, or otherwise has the right to use as of the first date on which JCI begins performing JCI Work for Customer under any Agreement or (b) any Intellectual Property that is conceived or developed by such Party outside the scope of a Project or the JCI Work after the first date on which JCI begins performing JCI Work for Customer under any Agreement. By way of example and not by limitation, the Johnson Controls Digital Vault, JEM, and Building Management System products and all associated Intellectual Property, constitute the Background Intellectual Property of JCI.

“**CCFPA**” has the meaning ascribed to it in Section 12.4 of these Customer Terms.

“**Change Orders**” has the meaning ascribed to it in Section 6 of these Customer Terms.

“**Compensable Event**” means any one or more of the following: (a) acts or omissions of a Customer Party, including without limitation, any Customer Default; (b) inaccuracy or incompleteness in any data or information supplied to JCI by or on behalf of Customer; (c) any damage to or loss of equipment furnished or to be furnished as part of the JCI Work not caused by JCI; (d) inability of Customer to provide JCI access to the Project Site; (e) Unforeseen Site Conditions; (f) discovery of Hazardous Materials that may be disturbed or released by the performance of the JCI Work, including any delays caused by, or associated with any permitted Hazardous Material remediation by a third party service provider; or (g) failure of any utility supplier to take timely actions necessary for the performance of the JCI Work; provided, however, that Compensable Events shall not include delays caused by the negligent acts or omissions of JCI.

“**Confidential Information**” means any and all designs, sketches, models, or samples, drawings, bills of materials, blueprints, plans, devices, machinery, specifications, processes, techniques, expertise, business and financial records, part numbers, plans and projections, and other similar information, items, documents and materials made available by JCI or its affiliates or its or their Representatives to Customer or its affiliates or its or their Representatives, or otherwise acquired, obtained or developed by Customer under or in connection with the Agreement. “Confidential Information” shall not include any item of information that Customer can demonstrate by documentary evidence: (a) is or has become public knowledge, whether by publication or otherwise, through no act, omission or fault of Customer or any of its affiliates or its or their Representatives, or (b) is disclosed to Customer by a third party who is in lawful, rightful possession of the information and who has the legal right to make disclosure of such information without confidentiality restrictions.

“**Confidentiality Period**” shall mean, for all Confidential Information that constitutes a ‘trade secret’ under applicable Law, the period beginning on the date of disclosure to Customer and ending on the later of (a) the date such Confidential Information is no longer a trade secret under applicable Law, or (b) the date that is three (3) years after the date that the Agreement terminates or expires; and shall mean, for all other Confidential Information, the period beginning on the date of disclosure to Customer and ending three (3) years after the date that the Agreement terminates or expires.

“**Country-Specific Terms**” has the meaning ascribed to it in Section 20.1 of these Customer Terms.

“**Customer**” has the meaning ascribed to it in the Customer Proposal or, if not defined in the Customer Proposal, means the party to the Customer Proposal that is not JCI.

“**Customer Default**” means: (a) any failure by Customer to timely pay to JCI any amount payable under the Agreement or any other agreement between the Parties within five (5) business days of the date when due; (b) any other failure by Customer to perform or comply with the terms and conditions of the Agreement, provided that such failure continues without cure for fifteen (15) calendar days after JCI provides written notice of such failure to Customer demanding that such failure to perform be cured; and/or (c) commencement of any proceeding in bankruptcy, receivership, or insolvency by or against Customer, or appointment of a trustee or receiver for Customer or for any substantial part of the Project Site.

“**Customer Party**” means any of Customer, Customer’s affiliates, Customer’s Representatives, Project Site owners, architects, or any parties under the control of Customer.

“**Customer Proposal**” has the meaning ascribed to it in Section 1.1 of these Customer Terms.

“**Customer Terms**” has the meaning ascribed to it in Section 1.1 of these Customer Terms.

“**Developments**” has the meaning ascribed to it in Section 13.2 of these Customer Terms.

“**DPA**” has the meaning ascribed to it in Section 14.3 of these Customer Terms.

“**EAR**” has the meaning ascribed to it in Section 12.3 of these Customer Terms.

“**EULA**” has the meaning ascribed to it in Section 3.1.1 of these Customer Terms.

“**Excluded Claims**” means: (a) the use or combination of the Systems with any hardware, software, products, data, or other materials not provided by JCI, including Customer’s own systems and data; (b) modification or alteration of the Systems by anyone other than JCI or its Representatives; (c) Customer’s misuse of the Systems or Customer’s use of the Systems in excess of the rights granted in the Agreement; (d) use of infringing aspects of the Systems after JCI has provided a non-infringing alternative or after JCI has terminated Customer’s rights to access or use the applicable Systems, and/or (e) JCI’s compliance with Customer’s designs, specification or instructions.

“**Excusable Delay**” means (a) a Compensable Event, or (b) an occurrence or existence of a Force Majeure Event.

“**FCPA**” has the meaning ascribed to it in Section 12.4 of these Customer Terms.

“**Feedback**” has the meaning ascribed to it in Section 13.7 of these Customer Terms.

“**Force Majeure Events**” is a condition or event that is beyond the reasonable control of JCI, whether foreseeable or unforeseeable, including, without limitation, acts of God, acts of government, severe weather (including but not limited to hurricanes, tornados, severe snowstorms or severe rainstorms), wildfires, floods, earthquakes, seismic disturbances, or other natural disasters, acts or omissions of any governmental authority (including change of any applicable law or failure to issue a timely building certificate, permit or approval), epidemics, pandemics, disease, viruses, quarantines, or other public health risks and/or responses thereto, condemnation, strikes, lock-outs, labor disputes, an increase of 5% or more in tariffs or other excise taxes for materials to be used on the Project, fires, explosions or other casualties, thefts, vandalism, civil disturbances, insurrection, mob violence, riots, war or other armed conflict (or the serious threat of same), acts of terrorism, electrical power outages, interruptions or degradations in telecommunications, computer, network, or electronic communications systems, data breach, cyber-attacks, ransomware, unavailability or shortage of parts, materials, supplies, or transportation, or any other cause or casualty beyond the reasonable control of JCI.

“**Foreign Jurisdictions**” means a jurisdiction outside of the United States.

“**Hazardous Materials**” means any material or substance (a) that, whether by its nature or use, is now or hereafter defined or regulated as a hazardous waste, hazardous substance, pollutant or contaminant under applicable Law relating to or addressing public or employee health and safety and protection of the

environment, or (b) that is toxic, explosive, corrosive, flammable, radioactive, carcinogenic, mutagenic or otherwise hazardous, or (c) that is or contains petroleum, gasoline, diesel, fuel, another petroleum hydrocarbon product, or polychlorinated biphenyls. "Hazardous Materials" specifically includes, without limitation, mold, mildew, fungi, or similar microbial conditions, lead-based paint, and asbestos-containing materials.

"**Infringement Claim**" has the meaning ascribed to it in [Section 9.1.1](#) of these Customer Terms.

"**Installed Software**" means any JCI software included with the Products set forth in the Customer Proposal (including any firmware pre-installed on the Products) and any other JCI software provided for installation on premises at a Project Site, provided that "Installed Software" does not include any Third Party Software or Software Services.

"**Intellectual Property**" as used in the Agreement means (a) all methods, discoveries, processes, ideas, and designs (including any changes or improvements to the foregoing) and (b) all intellectual property and industrial property rights and assets, whether registered or unregistered, including, but not limited to any and all: (i) inventions and all associated patent rights (including, without limitation, all patents and applications); (ii) industrial designs and all registrations or applications for industrial designs; (iii) trade secrets and know-how; (iv) works of authorship or information fixed in any tangible medium of expression, including copyrights and all registrations or applications for copyrights; (v) software and firmware including source code and object code, and semiconductor chips and mask works; and (vi) trademarks, service marks, trade names, logos or trade dress, together with the goodwill connected with the use of and symbolized by, and all registrations, applications and renewals for, any of the foregoing.

"**International Trade Laws**" has the meaning ascribed to it in [Section 12.3](#) of these Customer Terms.

"**ITAR**" has the meaning ascribed to it in [Section 12.3](#) of these Customer Terms.

"**JCI**" has the meaning ascribed to it in the Customer Proposal or, if not defined in the Customer Proposal, means the Johnson Controls affiliate that is entering into the Customer Proposal.

"**JCI Default**" means (a) any failure by JCI to comply with a material term of the Agreement that is not caused by an Excusable Delay, and said failure continues for thirty (30) calendar days after Customer provides written notice of such failure to JCI without cure or, if cure cannot reasonably be effected in such thirty (30) calendar days, without commencement of a cure and diligent subsequent completion of such cure within ninety (90) calendar days; and/or (b) institution of any proceeding in bankruptcy, receivership, or insolvency by or against JCI, or appointment of a trustee or receiver for JCI.

"**JCI Property**" has the meaning ascribed to it in [Article 16](#) of these Customer Terms.

"**JCI Work**" means JCI's obligations to Customer under the Agreement, including, without limitation, the supply of the Systems to Customer.

"**Laws**" mean any and all laws, ordinances, rules, regulations, codes, and/or lawful orders of public authorities that apply to the Parties, the Agreement, the Project, the Project Site, the Systems, or the JCI Work.

"**Non-JCI Products**" has the meaning ascribed to it in [Section 8.1.2](#) of these Customer Terms.

"**OFAC**" has the meaning ascribed to it in [Section 12.3](#) of these Customer Terms.

"**Party**" has the meaning ascribed to it in the Customer Proposal or, if not defined in the Customer Proposal, means the Customer or JCI.

"**Parties**" has the meaning ascribed to it in the Customer Proposal or, if not defined in the Customer Proposal, means the Customer and JCI.

"**Person**" means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.

"**Products**" means any equipment or other products, other than Software, sold by JCI to Customer under the Customer Proposal.

"**Professional Services**" mean any implementation, configuration, professional, consulting, integration, installation, maintenance, site surveying, commissioning or other services to be provided by JCI under the Customer Proposal, as described in more detail in the Customer Proposal, other than Software Services.

"**Project**" has the meaning ascribed to it in the Customer Proposal or, if not defined in the Customer Proposal, means the performance of the JCI Work contemplated by the Customer Proposal.

"**Project Site**" has the meaning ascribed to it in the Customer Proposal or, if not defined in the Customer Proposal, means the physical site of the Project.

"**Published Warranty**" has the meaning ascribed to it in [Section 8.1.1](#) of these Customer Terms.

"**Representative**" is an employee, agent, subcontractor, advisor, or consultant of one of the Parties or of one of the Parties' affiliates.

"**Software**" means Installed Software and/or Software Services.

"**Software Services**" means any JCI software-as-a-service offerings or other JCI-hosted software offerings to be provided by JCI to Customer pursuant to the Customer Proposal.

"**Software Terms**" has the meaning ascribed to it in [Section 3.1.1](#) of these Customer Terms.

"**Subscription**" has the meaning ascribed to it in [Section 3.2.2](#) of these Customer Terms.

"**Subscription Metric**" has the meaning ascribed to it in [Section 3.2.1](#) of these Customer Terms.

"**Supplemental Terms**" means the terms and conditions set forth in, or incorporated into, [Article 20](#) of these Customer Terms, to the extent such terms and conditions are applicable to a particular Customer Proposal according to the terms of [Article 20](#) of these Customer Terms.

"**Systems**" means, collectively, the Products, Installed Software, Software Services, and/or Professional Services provided by JCI to Customer pursuant to one or more Customer Proposals.

"**Taxes**" has the meaning ascribed to it in [Section 5.6](#) of these Customer Terms.

"**Term**" has the meaning ascribed to it in the Customer Proposal or, if not defined in the Customer Proposal, means the period of time beginning on the earlier to occur of (1) the date on which both Parties sign the Customer Proposal or (2) the date on which JCI begins performing JCI Work for the Customer under the Customer Proposal; and ending on the date on which JCI completes the JCI Work for the Customer under the Customer Proposal, unless sooner terminated as set forth in these Customer Terms or in the Customer Proposal.

"**Third Party Software**" has the meaning ascribed to it in [Section 3.4](#) of these Customer Terms.

"**TOS**" has the meaning ascribed to it in [Section 3.2.1](#) of these Customer Terms.

"**Unforeseen Site Conditions**" means conditions at the Project Site that are concealed or latent physical conditions or subsurface conditions that (a) materially differ from the conditions indicated in the Customer Proposal, or (b) are of an unusual nature, differing materially from the conditions ordinarily encountered, or generally recognized as inherent, in the JCI Work.

“**UKBA**” has the meaning ascribed to it in Section 12.4 of these Customer Terms.