

HONEYWELL SCANNING AND MOBILITY
TERMS AND CONDITIONS FOR SALE OF PRODUCTS

SECTION 1. ENTIRE AGREEMENT

The Agreement constitutes the final, complete and exclusive agreement between the parties relating to the subject matter hereof, and supersedes all prior or contemporaneous proposals, understandings, representations, warranties, promises and other communications, whether oral or written, relating to its subject matter. Any term or condition in any order, confirmation or other document furnished by Customer at any time which is in any way inconsistent with or in addition to the terms and conditions set forth in this Agreement is hereby expressly rejected, and Honeywell's acceptance of any offer or order of Customer is expressly made in reliance on Customer's assent to all terms and conditions hereof.

SECTION 2. PURCHASE OF PRODUCTS

A. PRICES. The prices applicable to the Products are set forth in Exhibit A and do not include any excise, sales, use or other taxes, and therefore are subject to increase in the amount of any such taxes (excluding any tax on Honeywell's net income) that Honeywell may be required to collect or pay upon the sale or delivery of the Products. In addition, the prices on Exhibit A do not include any charges for the services referred to in Section 2(D) below or any shipping, handling, customs, insurance or similar charges referred to in Section 5 below, all of which will be invoiced to and paid by Customer as provided herein.

B. PURCHASE ORDER PROCESS. Customer shall place orders for the Products to be purchased hereunder by submitting one or more written purchase orders to Honeywell during the term of this Agreement. Each such purchase order must state the descriptions (including Honeywell's part numbers) and quantities of the Products being ordered, the requested shipment date and shipping address for the Products. A purchase order may also state special shipment and insurance information, subject to Honeywell's express consent and Section 5(D) below. In no event shall any other terms or conditions set forth on a purchase order submitted by Customer be binding on Honeywell. No purchase order submitted by Customer shall be binding on Honeywell unless and until Honeywell has accepted such delivery schedule or countered with a different delivery schedule by written acknowledgment or by shipment of the Products applicable to such purchase order.

C. STANDARD PRODUCTS. Unless specifically set forth by Honeywell in writing, (1) all Products shall be Honeywell's standard, off-the-shelf items, and no special or customized version of any Product shall be provided by Honeywell; and (2) Honeywell shall have no obligation to ensure that the Products operate in conjunction with Customer's equipment, software or other products or systems, and Customer shall be responsible for all costs it incurs in connection with any modifications it elects to make to its own equipment, software or other products or systems.

D. RELATED SERVICES. The parties may agree that Honeywell will provide to Customer from time to time certain services relating to Customer's purchase of the Products, including without limitation deployment services and maintenance and support services. The parties agree that, in the

absence of a separate written agreement covering such services, such services shall be covered by the provisions of this Agreement and Customer shall be separately invoiced for all such services in accordance with Section 4 below at Honeywell's then-current rates for such services.

SECTION 3. CERTAIN OBLIGATIONS OF CUSTOMER

A. COMPLIANCE WITH LAWS AND OTHER STANDARDS. Customer is responsible for compliance with all import, export and re-export control laws and regulations. Customer will obtain import, export, and re-export approvals and licenses required for goods, transfers, services and technical data delivered and will retain documentation to support compliance with those laws and regulations. Honeywell will not be liable to Customer for any failure to provide goods, services, transfers or technical data as a result of government actions that impact Honeywell's ability to perform, including: (1) the failure to provide or the cancellation of export or re-export licenses; (2) any subsequent interpretation of applicable import, transfer or export law or regulation after the date of any order or commitment that has a material adverse effect on Honeywell's performance; or (3) delays due to Customer's failure to follow applicable import, export, transfer, or re-export laws and regulations.

Customer shall not sell, transfer, export or re-export any Honeywell goods, services or technical data for use in activities that involve the design, development, production, use or stockpiling of nuclear, chemical or biological weapons or missiles, nor use Honeywell's goods, services or technical data in any facility which engages in activities relating to such weapons or missiles. In addition, Honeywell's goods, services or technical data may not be used in connection with any activity involving nuclear fission or fusion, or any use or handling of any nuclear material, until Customer, at no expense to Honeywell, has insurance coverage; indemnities; and waivers of liability, recourse and subrogation acceptable to Honeywell and adequate in Honeywell's opinion to protect Honeywell against any liability.

B. INCORPORATION OF MICROSOFT PRODUCTS. Customer understands that some of the Products may incorporate Microsoft products pursuant to a separate license agreement between Honeywell and Microsoft. Customer shall not market and shall not quote a separate price for the Microsoft products or Honeywell's binaries contained in the Products.

SECTION 4. TERMS OF PAYMENT. Honeywell will invoice Customer for Products sold to Customer. Payment is due thirty (30) calendar days from the date of invoice. Payments must be made in U.S. currency unless agreed otherwise in writing. If Customer is delinquent in payment to Honeywell, Honeywell may withhold performance until all delinquent amounts and interest, if any, are paid. Additionally, Honeywell may, at its option: (a) repossess Products for which payment has not been made; (b) charge interest on delinquent amounts at the lower of 1.5% per month or the maximum rate permitted by law, for each full or partial month; (c) recover all costs of collection, including but not limited to reasonable attorneys' fees; or (d) combine any of the above rights and remedies as may be permitted by applicable law. These remedies are in addition to those available at law or in equity. Honeywell may re-evaluate Customer's credit standing at any time and modify or withdraw credit. Customer may not set off any invoiced amounts against sums that are due from Honeywell.

SECTION 5. DELIVERY OF PRODUCTS

A. SHIPPING SCHEDULE. Honeywell shall use reasonable efforts to ship Products to Customer in accordance with the shipment schedule provided to Honeywell by Customer. Honeywell reserves the right to ship Products as early as five (5) business days prior to the requested shipment date in order to accommodate Honeywell's overall delivery schedules. Notwithstanding the foregoing and without limiting the generality of Section 10 below, Honeywell shall not be liable for damages of any kind as a result of a delay in delivery for any reason.

B. CHANGES PERMITTED. Customer may change a previously requested shipment date for any standard Products (i.e., Products other than custom or made-to-order Products), provided that Customer gives Honeywell written notice of such change at least thirty (30) business days prior to the previously requested shipment date.

C. CHANGES SUBJECT TO CONSENT. Except as provided in Section 5(B) above, Customer shall not be entitled to change a previously requested shipment date or cancel an order for any Products except with Honeywell's prior express written consent, which consent shall be in Honeywell's sole discretion. If Honeywell gives its consent pursuant to the preceding sentence but the Products involved have already been shipped to Customer, then: (1) Customer shall return the Products to Honeywell and pay all related shipping, handling, customs and insurance charges (for both shipping the Products to Customer and returning the Products to Honeywell); and (2) Customer may be charged by Honeywell a restocking fee to cover rework and handling fees.

D. SHIPMENT PROCESS. All deliveries shall be ex-works (EXW) Honeywell's designated facility, per Incoterms 2010. Unless otherwise specified by Customer in writing at least thirty (30) days prior to a requested shipment date, Honeywell shall determine in its discretion the means of shipment and shall not be responsible for arranging insurance on the Products. Honeywell shall invoice Customer for any and all shipping, handling, customs, insurance and similar charges incurred by Honeywell in shipping Products to Customer, and Customer shall pay such charges pursuant to Section 4 above. Honeywell also reserves the right to ship Products to Customer freight collect. Customer shall be deemed to have accepted the Products upon the date title to such Products passes to Customer; provided, however, that nothing in this Section 5(D) shall be deemed to limit Customer's warranty rights set forth in Section 9 below.

E. INSPECTION AND ACCEPTANCE. Customer will inspect Products within a reasonable period after delivery not to exceed thirty (30) calendar days. Products will be presumed accepted unless Honeywell receives written notice of rejection explaining the basis for rejection within that period. Honeywell will have a reasonable opportunity to repair or replace rejected Products, at its option. Honeywell assumes shipping costs in an amount not to exceed normal surface shipping charges to Honeywell's designated facility for the return of properly rejected Products. Following initial delivery, the party initiating shipment will bear the risk of loss or damage to Products in transit. If Honeywell reasonably determines that rejection was improper, Customer will be responsible for all expenses caused by the improper rejection.

SECTION 6. TITLE TO PRODUCTS

A. PASSAGE OF TITLE. Title to Products, and risk of damage thereto or loss thereof, shall pass to Customer at the time Honeywell makes the Products available to Customer for shipment. Notwithstanding the foregoing, Customer hereby grants to Honeywell a security interest in all Products delivered to Customer, and in all accessions to, replacements of and proceeds from sale or lease of such Products, as security for the performance by Customer of all of Customer's obligations arising under this Agreement.

B. OWNERSHIP OF PROPRIETARY MATERIAL IN PRODUCTS. Notwithstanding Section 6(A) above, Customer acknowledges that the Products contain proprietary electronics, software and technical information of Honeywell or its licensor (collectively "**Proprietary Materials**") and that (as between Honeywell and Customer) ownership of all patents, copyrights, mask work rights, trademarks, trade names and any other intellectual property rights relating to or residing in the Products and the Proprietary Materials shall remain with Honeywell or its licensor. Customer understands and agrees that this Agreement does not constitute a sale of or license in or to any Proprietary Materials or any other intellectual property rights; provided, however, that Customer and its customers shall have the limited right to use Proprietary Materials in the course of using the Products (subject to Section 6(C) below). Customer shall promptly notify Honeywell of any actual or threatened misappropriation or infringement of Honeywell's proprietary rights which comes to Customer's attention.

C. SOFTWARE, LICENSE FOR SOFTWARE AND DOCUMENTATION.

(i) Certain Products may include software to collect information about how, and under what conditions, the Product is used and functions, including without limitation information regarding use of the touch panel, the keyboard, docking events, system up and down time, backlight use, voice/audio capture, device location and peripheral utilization. Voice enabled Products may collect voice recordings for the purpose of improving product performance. The voice recordings are not connected to any other personally identifiable information about product users. The information collected by the Products may be used by Honeywell for purposes including, but not limited to, assistance with product repairs, diagnostics, research and analytics to improve Product functionality or optimize customer usage, product development and quality control/improvement. No end-user or customer-identifiable data will be provided to any third party. If Customer resells the Products, Customer will notify its customers that Honeywell is collecting this information and will contractually bind its customers to in turn notify their customers that such information may be collected and used by Honeywell as described herein.

(ii) Without limiting the generality of Section 6(B) above, the parties acknowledge that (as between Honeywell and Customer) Honeywell owns all rights (including without limitation all copyrights) in any software provided by Honeywell at any time (whether contained in a Product, provided on a diskette or other media, downloaded remotely or otherwise transferred) and in any documentation provided by Honeywell at any time. The terms "sell" and "buy," and similar terms, as used in this Agreement with respect to any such software or documentation shall mean the grant to Customer subject to Customer's compliance with the terms of this Agreement of a non-exclusive, non-transferable limited license, without the right to sublicense, to use the licensed software in the ordinary and normal operation of the Products on which it is installed or with which it is intended to be used under this license, subject to the provisions in any separate license agreement or other

document relating to such software or documentation supplied by Honeywell to Customer. Honeywell (and its licensors, if applicable) retains all title to the intellectual property related to all material and software provided under this Agreement. Customer may transfer its license to use the licensed software to a third party only in conjunction with Customer's sale of any Honeywell or Customer product on which the licensed software is installed or with which it is used. Customer's transfer of the licensed software as authorized herein must be under terms consistent with and no less stringent than the terms set forth in this Agreement. Except as specifically permitted in this Agreement, the licensed software may not be sublicensed, transferred or loaned to any other party without Honeywell's prior express written consent. Customer agrees that all such sublicenses shall be for the benefit of Honeywell and shall be enforceable directly by Honeywell (in Honeywell's name or on behalf of Customer). Customer shall have no right to market, distribute or otherwise transfer such software or documentation except as expressly provided in this Section 6(C). Unless specifically authorized by Honeywell in writing, Customer is prohibited from making copies of licensed software except for backup purposes. Customer will reproduce and include all Honeywell proprietary and copyright notices and other legends both in and on every copy made.

D. FURTHER RESTRICTIONS. Customer may not directly or indirectly make any effort to deconstruct the software provided, including but not limited to translating, decompiling, disassembling, reverse assembling, reverse engineering, creating derivative works or compilation, or performing any other operation to obtain any portion of its contents. Customer will take all reasonable actions necessary to prevent unauthorized access, disclosure or use of the software provided. Customer shall have no right to obtain source code for any software provided by Honeywell by any means without the prior express written consent of Honeywell.

E. TRADEMARKS. Customer shall not remove from the Products or their packaging or documentation, or alter, any of Honeywell's trademarks, trade names, logos, patent or copyright notices, or other notices or markings, or add any other notices or markings to the Products or their packaging or documentation, without the prior express written consent of Honeywell. Honeywell hereby grants to Customer a non-exclusive, non-transferable limited license to use Honeywell's trademarks relating to the Products during the term of this Agreement, provided, however, that (1) Customer shall use such marks only in connection with advertising or promotion of the Products to denote their origin, (2) Customer shall clearly designate that such marks are owned by Honeywell, and (3) Customer shall otherwise comply with Honeywell's then-current policies for use of its marks. Any use of Honeywell's trademarks by Customer (1) shall be in capital letters, (2) if they are registered in the United States Patent and Trademark Office, shall be accompanied by the "®" symbol, (3) if they are not registered in the United States Patent and Trademark Office, shall be accompanied by the "™" symbol, and (4) shall be followed by a common descriptive name for the Products. Customer shall not, by virtue of the foregoing license, acquire any right, title or interest in Honeywell's trademarks; and Customer shall not contest or otherwise challenge the right, title and interest of Honeywell in its trademarks or the registration thereof. Customer's use of Honeywell's trademarks shall accrue to the benefit of Honeywell.

SECTION 7. CONFIDENTIAL INFORMATION

A. "Confidential Information" means: (1) any information, technical data or know-how in whatever form, including but not limited to documented information, machine readable or interpreted

information, information contained in physical components, mask works and artwork, that is clearly identified as being confidential, proprietary or a trade secret; (2) business-related information including but not limited to pricing, manufacturing or marketing information; (3) the terms and conditions of any proposed or actual agreement between the parties or their affiliates; (4) either party's or its affiliates' business policies or practices; and (5) the information of others identified as confidential, proprietary or a trade secret that is received by either party under an obligation of confidentiality. The receiving party will keep all Confidential Information disclosed to it confidential for ten (10) years following the expiration, termination or completion of the work of this Agreement, whichever period is longer. Each party will retain ownership of its Confidential Information including all rights in patents, copyrights, trademarks and trade secrets. No right or license is granted hereby to either party or its customers, employees or agents, expressly or by implication, with respect to the Confidential Information or any patent, patent application or other proprietary right of the other party, notwithstanding the expiration of the confidentiality obligations stated in this clause. Honeywell agrees to use the Confidential Information of Customer only to provide products or services for Customer. Customer agrees that it will not use or disclose Honeywell's Confidential Information for any purpose. Notwithstanding the foregoing, the receiving party has no duty to protect information that is: (a) known, publicly, at the time of disclosure or becomes publicly known through no fault of recipient; (b) known to recipient at the time of disclosure through no wrongful act of recipient; (c) received by recipient from a third party without restrictions similar to those in this clause; or (d) independently developed by recipient. Neither Honeywell nor Customer will publicize the terms of this Agreement or the relationship between Honeywell and Customer in any advertising, marketing or promotional materials without the prior written consent of the other party.

B. Customer will not publicly announce or discuss, or cause any third party to announce or discuss, the Products or the subject matter of this Agreement without having received, in advance, Honeywell's express written consent.

SECTION 8. PATENT, COPYRIGHT AND TRADEMARK INDEMNITY

A. **INDEMNITY**. Subject to the provisions of Section 10 below, Honeywell will defend any suit against Customer arising out of any actual or alleged patent or copyright infringement of a valid United States patent or copyright (except to the extent such action or claim is based on any software or software component provided by Honeywell at any time whether contained in a Product provided on a diskette or media, downloaded remotely, or otherwise transferred) to the extent based on the Product as delivered by Honeywell, and indemnify for any final judgment assessed against Customer resulting from the suit, provided that Customer: (a) notifies Honeywell of the claim in writing by certified mail, return receipt requested, within thirty (30) days after Customer becomes aware of such claim; (b) promptly furnishes to Honeywell a copy of each communication, notice, or other action relating to the claim; (c) gives Honeywell the right, solely at its option, to defend or settle the claim; and (d) gives Honeywell, at its expense, information and assistance necessary to defend or settle the claim. Honeywell will not be responsible for any compromise or settlement made without Honeywell's consent. Because Honeywell has exclusive control of resolving infringement claims under this Agreement, in no event will Honeywell be responsible for Customer's attorney fees or costs. If any Product (including any software or software component provided by Honeywell) becomes, or in Honeywell's opinion is likely to become, the subject of a claim of infringement, then Honeywell may, at its option and expense, either (1) procure for Customer the right to continue using

such Product, (2) replace or modify such Product so that it becomes non-infringing, (3) accept return of such Product, or 4) terminate Customer's license to use the infringing Product and grant Customer a credit for the purchase price or license fee paid for the Product, less a reasonable depreciation for use, damage and obsolescence. Honeywell may cease shipping infringing Products without being in breach of this Agreement. Customer shall not incur any costs or expenses for the account of Honeywell under or pursuant to this Section 8 without Honeywell's express prior written consent, and Honeywell shall not be liable to indemnify Customer for payment of any damages or costs in any settlement unless Honeywell has consented to such settlement beforehand in writing. Any liability of Honeywell under this provision is subject to the limitations of liability set forth in Section 10. THE FOREGOING STATES THE PARTIES' ENTIRE LIABILITY, SOLE RECOURSE AND THEIR EXCLUSIVE REMEDIES WITH RESPECT TO INFRINGEMENT. ALL OTHER WARRANTIES AGAINST INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS, STATUTORY, EXPRESS OR IMPLIED ARE HEREBY DISCLAIMED.

B. CERTAIN EXCEPTIONS. Honeywell shall have no liability to Customer under this Section 8 or otherwise for any action or claim alleging infringement based upon (1) the use of any Product in a manner other than as specified by Honeywell, (2) the use of any Product for other than its ordinary purpose, (3) the use of any Product in combination with other products, equipment, devices or software not supplied by Honeywell (including without limitation any application software produced by Customer for use with such Product), (4) the alteration, modification or customization of any Product by any person other than Honeywell, (5) use of other than the latest version of software released by Honeywell, or (6) Products provided pursuant to designs, specifications, drawings, or requirements provided by Customer or at its direction or alteration, modification, or customization requests provided by Customer or at its direction (regardless of whether such alteration, modification or customization occurs before or after the Product is originally shipped by Honeywell to Customer). In the event of an infringement action or claim against Honeywell which is based on any conduct described in the preceding sentence, Customer shall at its own expense defend such action or claim, and Customer shall pay any and all damages and costs finally awarded against Honeywell in connection with such action or claim, provided that Honeywell notifies Customer promptly in writing of such action or claim, Honeywell gives Customer sole control of the defense thereof (and any negotiations for its settlement or compromise), and Honeywell cooperates in the defense thereof at Customer's expense. Notwithstanding the absence of any such obligation(s), Honeywell reserves the option, in its sole discretion and at its expense, to assume at any time defense of any such claim.

SECTION 9. LIMITED WARRANTY

A. WARRANTY TERMS. Subject to the provisions of this Section 9 and Section 10 below, with respect to each Product sold by Honeywell hereunder (excluding software or software components), Honeywell warrants that, for the period of time that is published for each Product by Honeywell from time to time commencing on the date such Product is shipped from Honeywell's facility or the date title to such Product passes to Customer, whichever date is earlier (such period referred to herein as the "**Warranty Period**"), all components of such Product, except software and software components, shall be free from faulty workmanship and defective materials. The software and software components, including any documentation designated by Honeywell for use with such software or software components, are provided "AS IS" and with all faults. The entire risk as to satisfactory quality, performance, accuracy and effort for such software is with the Customer.

Honeywell makes no warranties implied or actual regarding any of its software or software components or any of its accompanying documentation. The warranties provided by Honeywell in this Section 9(A) are the only warranties provided by Honeywell with respect to the Products sold hereunder, and may be modified or amended only by a written instrument signed by Honeywell and accepted by Customer. The warranties do not apply if, in the sole opinion of Honeywell, the Product has been damaged by accident, misuse, neglect, or improper shipping or handling. Since the Products are sensitive to static, the responsibility to protect them from static damage is solely that of Customer and user. This warranty is valid only if the Product has not been tampered with or serviced by any party not authorized by Honeywell as a repair facility. Customer's remedies and Honeywell's aggregate liability with respect to the warranties provided by Honeywell in this Section 9(A) are set forth in and are limited by this Section 9 and Section 10 below.

B. WARRANTY CLAIMS. If, during the applicable Warranty Period for a Product sold by Honeywell hereunder, it is determined that any component of such Product, except software components, is defective due to faulty workmanship or defective materials, then such Product shall be returned to Honeywell, it being agreed that Honeywell shall not bear the expense of shipping such Product to Honeywell except as otherwise agreed by Honeywell. Upon receipt of any such Product during the applicable Warranty Period, Honeywell shall, at its expense, (1) in Honeywell's sole discretion, repair or replace such Product, and (2) ship such Product to return it to its original location. Honeywell's obligations hereunder shall arise only if Honeywell's examination of the Product in question discloses to Honeywell's satisfaction that the claimed defect or nonconformity actually exists and was not caused by any improper installation, testing or use; any misuse or neglect; any failure of electrical power, air conditioning or humidity control; or any act of God, accident, fire or other hazard. Repair or replacement of a Product (or any part thereof) does not extend the Warranty Period for such Product.

C. OTHER LIMITATIONS. THE EXPRESS WARRANTIES OF HONEYWELL STATED IN SECTION 9(A) ABOVE DO NOT APPLY TO PRODUCTS NOT MANUFACTURED BY HONEYWELL, SOFTWARE NOT DEVELOPED BY HONEYWELL, CONSUMABLE ITEMS (E.G., PAPER AND RIBBONS), SPARE PARTS OR SERVICES, AND DO NOT APPLY TO PRODUCTS, OR COMPONENTS THEREOF (INCLUDING WITHOUT LIMITATION ANY SOFTWARE COMPONENT), WHICH HAVE BEEN ALTERED, MODIFIED, REPAIRED OR SERVICED IN ANY RESPECT EXCEPT BY HONEYWELL OR ITS REPRESENTATIVES. IN ADDITION, THE EXPRESS WARRANTIES OF HONEYWELL STATED IN SECTION 9(A) ABOVE DO NOT APPLY TO ANY SOFTWARE COMPONENT OF A PRODUCT WHICH IS SOLD OR LICENSED SUBJECT TO A SEPARATE LICENSE AGREEMENT OR OTHER DOCUMENT RELATING TO SUCH SOFTWARE COMPONENT (INCLUDING WITHOUT LIMITATION A "SHRINK WRAP" LICENSE AGREEMENT). THE WARRANTIES APPLICABLE TO ANY SUCH SOFTWARE COMPONENT SHALL BE SOLELY AS STATED IN SUCH OTHER LICENSE AGREEMENT OR DOCUMENT. HONEYWELL MAKES NO WARRANTIES THAT THE SOFTWARE COMPONENTS OF ANY PRODUCT WILL OPERATE IN CONJUNCTION WITH ANY OTHER SOFTWARE OR WITH ANY EQUIPMENT OTHER THAN THE PRODUCTS.

D. DISCLAIMER. THE EXPRESS WARRANTIES OF HONEYWELL STATED IN SECTION 9(A) ABOVE ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR

IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. EXCEPT AS PROVIDED IN SECTION 8 ABOVE, (1) THE EXPRESS OBLIGATION OF HONEYWELL STATED IN SECTION 9(B) ABOVE IS IN LIEU OF ANY OTHER LIABILITY OR OBLIGATION OF HONEYWELL, INCLUDING WITHOUT LIMITATION ANY LIABILITY OR OBLIGATION FOR DAMAGE, LOSS OR INJURY (WHETHER DIRECT, INDIRECT, EXEMPLARY, SPECIAL, CONSEQUENTIAL OR INCIDENTAL) ARISING OUT OF OR IN CONNECTION WITH THE DELIVERY, USE OR PERFORMANCE OF THE PRODUCTS, AND (2) REPAIR OR REPLACEMENT (AT HONEYWELL'S OPTION) IS CUSTOMER'S SOLE REMEDY FOR ANY SUCH DAMAGE, LOSS OR INJURY.

SECTION 10. LIMITATION OF LIABILITY

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT: (A) HONEYWELL'S AGGREGATE LIABILITY IN CONNECTION WITH THIS AGREEMENT AND THE SALE OF PRODUCTS AND PROVISION OF SERVICES TO CUSTOMER, REGARDLESS OF THE FORM OF ACTION GIVING RISE TO SUCH LIABILITY, AND INCLUDING ANY LIABILITY UNDER SECTIONS 8 AND 9 ABOVE, SHALL NOT EXCEED THE AGGREGATE PURCHASE PRICE FOR THE PRODUCTS IN QUESTION PAID BY CUSTOMER TO HONEYWELL UNDER THIS AGREEMENT; (B) HONEYWELL SHALL NOT BE LIABLE FOR ANY EXEMPLARY, SPECIAL, PUNITIVE, STATUTORY, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION LOST PROFITS, LOST REVENUES, LOSS OF USE OR THE LOSS OR CORRUPTION OF DATA), EVEN IF HONEYWELL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY; AND (C) EXCEPT AS PROVIDED IN SECTIONS 8(A) AND 9(B) ABOVE (BUT ONLY TO THE EXTENT AND SUBJECT TO THE LIMITATIONS SET FORTH IN SECTIONS 8 AND 9 AND THIS SECTION 10), HONEYWELL SHALL NOT BE LIABLE FOR ANY CLAIMS OF THIRD PARTIES RELATING TO THE PRODUCTS, AND CUSTOMER SHALL DEFEND HONEYWELL FROM, AND INDEMNIFY AND HOLD HONEYWELL HARMLESS AGAINST, ALL SUCH CLAIMS. THE PARTIES EXPRESSLY AGREE THAT THE PRODUCTS ARE NOT CONSIDERED TO BE GOODS FOR USE PRIMARILY FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES, OR CONSUMER GOODS, FOR PURPOSES OF THE UNIFORM COMMERCIAL CODE OR OTHERWISE. THE FOREGOING STATES THE ENTIRE LIABILITY OF HONEYWELL WITH REGARD TO THIS AGREEMENT AND THE PRODUCTS. THE LIMITATIONS OF LIABILITY CONTAINED IN SECTIONS 8 AND 9 ABOVE AND THIS SECTION 10 ARE A FUNDAMENTAL PART OF THE BASIS OF HONEYWELL'S BARGAIN HEREUNDER, AND HONEYWELL WOULD NOT ENTER INTO THIS AGREEMENT ABSENT SUCH LIMITATIONS. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE LIMITATIONS AND EXCLUSIONS OF THIS SECTION 10 WILL APPLY WHETHER LIABILITY ARISES FROM BREACH OF CONTRACT, INDEMNITY, WARRANTY, TORT, OPERATION OF LAW, OR OTHERWISE.

SECTION 11. U.S. GOVERNMENT RESTRICTED RIGHTS

If the Products are acquired under the terms of a U.S. Government contract, use, duplication and disclosure are subject to the restrictions contained in the Rights in Technical Data and Computer Software clause at 252.227-7013 (DOD Contracts) and subdivisions (a) through (d) of 52.227-19 as applicable.

SECTION 12. GENERAL

A. FURTHER ASSURANCES. At any time upon the request of Honeywell, Customer shall promptly and duly execute and deliver any such further instruments and documents and take such further action as Honeywell may reasonably deem desirable for Honeywell to obtain the full benefits of this Agreement. Customer hereby irrevocably appoints Honeywell as its attorney-in-fact (which appointment is coupled with an interest) for the purpose of executing any documents necessary to perfect or to continue the security interest granted in Section 6(A) above. Customer authorizes Honeywell to file a carbon, photographic or other reproduction of this Agreement as a financing statement.

B. GOVERNING LAW. This Agreement shall for all purposes be governed by and interpreted in accordance with the laws of the State of New York and the United States of America, without regard to conflicts of law principles. Honeywell and Customer expressly agree to exclude from the Agreement the United Nations Convention on Contracts for the International Sale of Goods, 1980, and any successors thereto. The Federal or State Courts located within New York, New York, USA will have exclusive jurisdiction to adjudicate any dispute arising out of or related to this Agreement.

C. SEVERABILITY. If any provision or portion of a provision of the Agreement is determined to be illegal, invalid, or unenforceable, the validity of the remaining provisions will not be affected and will remain in full force and effect.

D. MODIFICATIONS. Honeywell may unilaterally modify, amend, supplement or otherwise change this Agreement upon at least ten (10) days' prior written notice to Customer. Any such future modification, amendment, supplement or other change (a "**Change**") shall apply only with respect to orders accepted after the effective date of such Change. As used herein, the term "Agreement" shall include any such future Change. Without limiting the generality of the foregoing, Honeywell may establish terms and conditions which apply to one or more particular Products (including without limitation "shrink wrap" license agreements for software products), and in this event such terms and conditions shall, with respect to the Products addressed therein, supersede this Agreement.

E. ASSIGNMENTS. No right or obligation of Customer under this Agreement shall be assigned, delegated or otherwise transferred, whether by agreement, operation of law or otherwise, without the prior express written consent of Honeywell, and any attempt to assign, delegate or otherwise transfer any of Customer's rights or obligations hereunder without such consent shall be void. Notwithstanding the foregoing, either party may assign this Agreement to any affiliate of that party or in connection with the sale or transfer of all or substantially all of the assets of the product line or business to which it pertains. This Agreement shall bind Customer and its permitted successors

and assigns. Notwithstanding anything to the contrary herein, Honeywell may engage subcontractors to perform any of its obligations under this Agreement.

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

G. EQUITABLE REMEDIES. The parties agree that any breach of Section 6 or 7 above would cause irreparable injury to Honeywell for which no adequate remedy at law exists; therefore, the parties agree that equitable remedies, including without limitation injunctive relief and specific performance, are appropriate remedies for Honeywell to redress any breach or threatened breach of Section 6 or 7 above, in addition to all other remedies available to the parties.

H. RIGHTS AND REMEDIES. All rights and remedies hereunder shall be cumulative, may be exercised singularly or concurrently, and shall not be deemed exclusive except as provided in Sections 8, 9 and 10 above. This Agreement is not intended to provide any rights or remedies to any person or entity other than Honeywell and Customer and their respective permitted successors and assigns, if any.

I. FORCE MAJEURE. Except for payment obligations, neither party will be liable to the other for any failure to meet its obligations due to any Force Majeure event. “**Force Majeure**” is an event beyond the reasonable control of the non-performing party and may include but is not limited to: (a) delays or refusals to grant an export license or the suspension or revocation thereof; (b) any other acts of any government that limit a party’s ability to perform the Agreement; (c) fires, earthquakes, floods, tropical storms, hurricanes, tornadoes, severe weather conditions, or any other acts of God; (d) quarantines or regional medical crises; (e) labor strikes or lockouts; (f) riots, strife, insurrection, civil disobedience, landowner disturbances, armed conflict, terrorism or war, declared or not (or impending threat of any of the foregoing, if such threat might reasonably be expected to cause injury to people or property); or (g) shortages or inability to obtain materials or components. If a Force Majeure event causes a delay, then the date of performance will be extended by the period of time that the non-performing party is actually delayed or for any other period as the parties may agree in writing.

J. CONSTRUCTION AND SURVIVAL. The headings and subheadings contained herein shall not be considered a part of this Agreement. Provisions of this Agreement that by their nature should continue in force beyond the completion or termination of the Agreement will remain in force.

K. NOTICES. Any notice or communication permitted or required hereunder shall be in writing and shall be delivered in person or by courier or mailed by certified or registered mail, postage prepaid, return receipt requested. If notice is given in person or by courier, it shall be effective upon receipt; if notice is given by mail, it shall be effective three (3) business days after deposit in the mail.

L. RELATIONSHIP BETWEEN PARTIES. The parties acknowledge that they are independent contractors and nothing contained in this Agreement shall be construed to constitute either party hereto as the partner, joint venturer, employee, agent, servant or other representative of the other party hereto, and neither party has the right to bind or obligate the other, except as provided

in Section 12(A) above. Furthermore, nothing contained in this Agreement shall be construed to constitute Customer as an exclusive purchaser of the Products in any respect.

M. DISCONTINUED PRODUCTS. From time to time, Honeywell, at its sole discretion, will discontinue Products. In such an event, Honeywell will use reasonable commercial efforts to suggest a Product migration strategy to Customer.

N. TERMINATION. Either party may terminate this Agreement and any or all unperformed purchase orders by giving written notice to the other party upon the occurrence of any of the following events:

- 1) the other party materially breaches this Agreement and fails to remedy the breach within sixty (60) calendar days after receipt of written notice that specifies the grounds for the material breach;
- 2) the other party fails to make any payment required to be made under this Agreement when due, and fails to remedy the breach within three (3) calendar days after receipt of written notice of non-payment; or
- 3) any insolvency or suspension of the other party's operations or any petition is filed or proceeding made by or against the other party under any state, federal or other applicable law relating to bankruptcy, arrangement, reorganization, receivership or assignment for the benefit of creditors or other similar proceedings.

Either party may terminate this Agreement at any time without cause or penalty upon providing the other party with ninety (90) days' advance written notice.

Honeywell may suspend performance under this Agreement at Customer's expense if Honeywell determines that performance may cause a safety, security, or health risk. Termination does not affect any debt, claim or cause of action accruing to any party against the other before the termination. The rights of termination provided in this clause are not exclusive of other remedies that either party may be entitled to under this Agreement or in law or equity.

O. COSTS AND ATTORNEY'S FEES. In the event of default by either party to this Agreement or in the event any legal action is brought to enforce any obligations hereunder, the prevailing party will be entitled to reimbursement for all costs and expenses, including reasonable attorney's fees, incurred by the prevailing party in exercising any of its rights or remedies hereunder or enforcing any of the terms, conditions or provisions hereof.

P. PRODUCT SUBSTITUTION. In the event of a change in local product regulations, Honeywell may, at its discretion, substitute part numbers ordered by Customer with those providing the same product form, fit and function as the originally ordered part number. The substituted part number will comply with the regulatory requirements of the region indicated on Customer's purchase order ship-to address.

Q. HEADINGS AND PARAGRAPHS. The various headings in this Agreement are inserted for convenience only and will not affect the meaning or interpretation of this Agreement or any paragraph or provisions hereof.

R. CHOICE OF LANGUAGE. The language of contracts and correspondence will be English. In the event that this Agreement is translated into other languages, the English version alone will be authoritative.

S. MISCELLANEOUS. The software and documentation provided pursuant to this Agreement are “Commercial Items,” as that term is defined at 48 C.F.R. §2.101, consisting of “Commercial Computer Software” and “Commercial Computer Software Documentation,” as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein.