

# **Terms of Use**

## **Software as a Service Solution**

### **EcoStruxure Energy Hub**

Version: May 25, 2022 (SZ)

**PLEASE READ CAREFULLY THESE TERMS OF USE INCLUDING SUCH OTHER LEGAL DOCUMENTS INCORPORATED HEREIN BY REFERENCE ("TERMS OF USE") BEFORE USING OUR ECOSTRUXURE ENERGY HUB SOFTWARE AS A SERVICE SOLUTION ("SaaS SOLUTION"), AS THESE ARE TERMS OF A LEGAL AGREEMENT BETWEEN YOU AND SCHNEIDER ELECTRIC WHICH DEFINES AND GOVERNS THE CONDITIONS AND RIGHTS TO ACCESS AND USE THE SaaS SOLUTION AND THE DATA COLLECTED AND PROCESSED THROUGH THE USE THEREOF.**

**THESE TERMS OF USE SHALL ONLY APPLY IF THE SaaS SOLUTION IS USED ONLY BY PROFESSIONALS IN THEIR ORDINARY COURSE OF BUSINESS. YOU HAVE NO RIGHT NOR LICENSE TO USE THE SaaS SOLUTION IF YOU ARE NOT A PROFESSIONAL USING THE SaaS SOLUTION IN THE ORDINARY COURSE OF YOUR BUSINESS.**

**IF YOU ARE AN INDIVIDUAL PERSON ACCESSING OR USING THE SaaS SOLUTION ON BEHALF OF A CORPORATION, COMPANY OR ANY OTHER LEGAL ENTITY, YOU ARE AGREEING TO THESE TERMS OF USE ON BEHALF OF THAT CORPORATION, COMPANY OR OTHER LEGAL ENTITY AND DECLARE TO SCHNEIDER ELECTRIC THAT YOU HAVE THE AUTHORITY TO DO SO AND THEREBY BIND THAT CORPORATION, COMPANY OR OTHER LEGAL ENTITY TO THESE TERMS OF USE IN WHICH EVENT, "CUSTOMER", "YOU" AND "YOUR" WILL BE DEEMED TO REFER TO THAT CORPORATION, COMPANY OR OTHER LEGAL ENTITY.**

**IF YOU DO NOT ACCEPT THESE TERMS OF USE, YOU WILL NOT BE ABLE TO CREATE AN ACCOUNT ON THE CLOUD PLATFORM HOSTING THE SaaS SOLUTION AND YOU WILL THEREFORE NOT BE ABLE TO MAKE USE OF THE SaaS SOLUTION.**

**IF YOU AGREE WITH THESE TERMS OF USE AND AGREE TO BE BOUND BY THEM, PLEASE CONFIRM YOUR AGREEMENT BY CHECKING THE CORRESPONDING TICK BOX ON THE REGISTRATION PAGE THAT IS MADE AVAILABLE TO YOU FOR THE PURPOSE OF CREATING AN ACCOUNT ON THE CLOUD PLATFORM HOSTING THE SaaS SOLUTION.**

**THESE TERMS OF USE WILL ALSO APPLY TO YOU AND SHALL REMAIN ENFORCEABLE BETWEEN SCHNEIDER ELECTRIC AND YOU EVEN IF YOU HAVE ORDERED OR OTHERWISE SUBSCRIBED TO THE SaaS SOLUTION THROUGH AN AUTHORIZED SCHNEIDER ELECTRIC DISTRIBUTOR OR RESELLER OR A CERTIFIED SCHNEIDER ELECTRIC PARTNER.**

# 1. Definitions

For the purposes of these Terms of Use, the capitalized terms below shall have the meaning defined herein below:

**"Affiliates"**: means with respect to either Schneider Electric or the Customer, any corporation, company or other legal entity that is directly or indirectly (i) controlling Schneider Electric or the Customer, or (ii) controlled by Schneider Electric or the Customer, or (iii) under common control with Schneider Electric or the Customer, and the term "control" shall, for the purpose of this definition, mean the direct or indirect control of at least 50% of the stock capital and/or of the voting rights. Notwithstanding the aforesaid definition of Affiliates, AVEVA Group Plc. and all its subsidiaries shall not be deemed as Affiliates of Schneider Electric.

**"Application"**: means the SaaS Solution, a web-based software program designed to provide the functions and achieve the purposes defined in the Services Description, and that is made available by Schneider Electric to the Customer having access to the Cloud Platform. The Application includes any update thereto if any is provided as part of the SaaS Solution.

**"Authorized User"**: means any employee or contractor acting under the authority or control and on behalf of the Customer when accessing the Cloud Platform and making use of the SaaS Solution.

**"Commercial Agreement"**: means the agreement between Customer and Schneider Electric or its Affiliates, under which the access to the Application and the Services are provided to the Customer, as the case may be as part of a broader scope of services defined under the Commercial Agreement.

**"Customer" or "You"**: means each corporation, company or other legal entity carrying out a professional activity on behalf of which any Authorized User creates or is provided an account on the Cloud Platform to use the SaaS Solution.

**"Customer's Clients"**: means any third party to whom Customer provides its own services through its use of all or part of the SaaS Solution including the Application.

**"Customer Data"**: means all information, content and data proprietary to Customer, such as but not limited to text, sound or files, to the exception of Personal Information, that Customer or the Application itself uploads, collects, stores and/or processes on the Cloud Platform or in the Application, and/or creates and/or modifies, through Customer's use of all or part of the SaaS Solution.

**"Customer's Clients Data"**: means all information, content, and data, proprietary to Customer's Clients, such as but not limited to text, sound or files, to the exception of Personal Information, that Customer or the Application

itself uploads, collects, stores and/or processes on the Cloud Platform or in the Application, and/or creates and/or modifies, through Customer's use of all or part of the SaaS Solution in connection with Customer's provision of its own services to Customer's Clients.

**"Intellectual Property Rights"**: means any and all rights of any kind and any type arising under statute, regulation, ordinance, common law, treaty, convention or otherwise, and including, without limitation any patents, utility models, moral rights, copyright and neighboring rights, trademarks and trade dress rights, mask work rights, service marks, right in domain names, designs rights, rights in computer software, database rights, rights in confidential information (including right in know-how and trade secrets) and any other intellectual property rights, in each case whether registered or not, including but not limited to applications and renewals, and all rights and forms of protection having equivalent or similar effect, recognized under the laws of each and every jurisdiction throughout the world.

**"Order"**: means any purchase order for subscription to the SaaS Solution issued in writing or electronically by Customer to Schneider Electric or its Affiliates, under which the access to the Application and the Services are provided to the Customer, as the case may be as part of a broader scope of services defined under the Commercial Agreement.

**"Order(s) Confirmation(s)"**: means the confirmation of Customer's Order, issued in writing or electronically by Schneider Electric or Schneider Electric Affiliate, which, among other things, may identify (i) the particular Services ordered or subscribed to by Customer in its Order, (ii) the corresponding Service Period and, if applicable, (iii) the corresponding service fees payable by Customer.

**"Platform"**: means the web or cloud-based platform hosting the Application the access to and the use of which is made available by Schneider Electric as part of the SaaS Solution in accordance with these Terms of Use.

**"Personal Information"**: means any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

**"Schneider Electric"**: means Schneider Electric USA, Inc. with offices located at 201 Washington Street, One Boston Place, Suite 2700, Boston, Massachusetts 02108 USA, which has the right to provide Customer with access to this Application as part of the Services in accordance with these Terms of Use.

**"Schneider Electric Affiliate"**: means any Affiliate of Schneider Electric, in any country whatsoever, which accepts Customer's Order of Services and therefor issues an Order Confirmation.

**“SaaS Solution” or “Services”:** means the cloud-hosted software as a service solution which is described in the Services Description and which comprise the provision by Schneider Electric to the Customer of the access to the Platform with the right to use the Application hosted therein subject to and in accordance with these Terms of Use.

**"Services Description":** means the functional description of the applicable Services as set forth in Schedule A (“Services Description”) attached hereto and any further description in the Commercial Agreement or on the landing page of the Platform giving access to the Services as such page and/or description may be updated from time to time by Schneider Electric. In case of any conflict between the description of the Services in Schedule A, the Commercial Agreement or on the landing page of the Platform giving access to the Services, Schedule A shall prevail.

**"Services Period":** means the timeframe during which Customer may access and use the Services as set forth in the Order Confirmation and, as the case may apply, on the web pages of the Platform and/or the website(s) or online portals through which You are given access to the Services as such pages may be updated from time to time by Schneider Electric or its relevant Affiliate. In case of any conflict between the Services Period stated on such web pages and in the Order Confirmation, the Services Period defined in the Order Confirmation shall prevail with respect only to the project under which Customer places the corresponding Order of Services.

## 2. Access to and termination of the Services

**2.1** You need to create or request Schneider Electric or its Affiliate to create on your behalf a user account on the Platform in order for you to use the Services and the Application comprised therein. To create Your user account, You shall complete the online registration form made available by Schneider Electric on the Cloud Platform with such information required thereon and thereby provide Schneider Electric with profile information which includes but may not be limited to the name, company name and email address of the individual person(s) You authorize to use the Services and the Application comprised therein, it being understood that, depending upon the jurisdiction, such information may be considered as Personal Information and shall in such case be treated as such by each of You and Schneider Electric in compliance with these Terms of Use and any applicable laws and regulations.

**2.2** When You or Schneider Electric or its Affiliate create Your user account, You agree (a) to create a unique password or change the one created for You by Schneider Electric or its Affiliate to a unique password that You do not use with any other online product or service; (b) to provide accurate, truthful, current and complete information; (c) to promptly update the information You provided to create Your user account; (d) maintain the confidentiality and security of Your user account by protecting Your identification information and password and restricting access to Your user account; (e) promptly notify Schneider Electric if You discover or otherwise suspect any security breach related to Your user account or any misuse thereof; and (f) take responsibility for all activities that occur under Your user account and accept all risks of any authorized or unauthorized access thereto.

**2.3** You may authorize Your Authorized Users to access Your user account and make use of the Services and the Application comprised therein for Your benefit and only for the purposes described in these Terms of Use. You shall be responsible to ensure these Terms of Use are made available in a legible manner to each of Your Authorized Users before any of them can log on to the Platform and make use of the Services and the Application comprised therein. You shall be fully responsible for the acts and omissions of Your Authorized Users, including for all activities that are made through the use of Your user account, and Your Authorized Users' compliance with these Terms of Use. You shall bear responsibility for all activities that are made through the use of Your user account and for any resulting harm caused to You, Your Authorized Users, any third-party, the Platform, the Services, the Application and/or Schneider Electric or Schneider Electric Affiliates. Schneider Electric will have the right to rely upon any information received from any legal or individual person accessing - and/or using Your user account and Schneider Electric will incur no liability arising out of such reliance.

**2.4** Unless earlier termination by Schneider Electric of Your access to the Platform and thereby Your right to use the Services in accordance with these Terms of Use, Your user account shall remain active and the Services shall be provided to You as long as the last applicable Services Period specified in the Order Confirmation is not expired and You pay the sums payable to Schneider Electric or Schneider Electric Affiliate for the Services in accordance with these Terms of Use and the Order Confirmation. Your user account shall be automatically and immediately disabled upon expiration of the last applicable Service Period specified in the Order Confirmation, with the effect that You shall automatically and immediately have the obligation to cease any access to and use of the Services. The foregoing shall apply unless You exercise the possibility to disable or cancel Your user account to the Services, or You elect not to renew the Services Period at any time before expiry of the then-current Services Period as per the Order Confirmation or You electronically terminate Your subscription to the Services if and when any such possibility shall be made available to You on the Platform and/or the website(s) and/or online portals through which You are given access to the Services by Schneider Electric or its relevant Affiliate.

The renewal or cancellation conditions related to the Service Period, as such may depend upon the types of subscription to the Services provided to You by Schneider Electric or Schneider Electric Affiliate, shall be defined in the Order Confirmation and, as applicable, on the landing page of the Platform and/or the aforesaid website(s) and/or online portals giving access to the Services as such page may be updated from time to time by Schneider Electric or its relevant Affiliate.

**2.5** While not obligated to perform investigations, Schneider Electric may investigate violations of these Terms of Use or misuse of the Services and cooperate with appropriate law enforcement authorities with respect to security threats, fraud, or other illegal, malicious, or inappropriate activity by You or any third-party through Your access to the Cloud Platform and/or Your use of the Services.

### **3. Right to use the Application**

Schneider Electric grants to the Customer a license right to use the Application as part of the Services subject to and in accordance with these Terms of Use.

Subject to Your continued compliance with all of the terms and conditions contained herein and Your full payment on the due date of the fees to acquire the right to access and use the Application as part of the Services when applicable under these Terms of Use, Schneider Electric grants to You a non-exclusive, non-transferable and limited license right to use the Application as part of the Services and for the time period during which the Services are available to You according to these Terms of Use, unless this license is earlier terminated in accordance with Section 12 below.

Any right to receive the Application under any tangible media or to download and install the Application on any device, is expressly excluded.

The Application may only be used as part of the Services for purposes of Your ordinary business by the particular named user(s), in the particular location(s), on the particular device(s) and/or on the particular system(s) for which You have acquired the right to access and use the Services in accordance with these Terms of Use, as those named user(s), location(s), device(s) and/or system(s) are identified in these Terms of Use and, as the case may be, in the Order Confirmation.

The Application made available as part of the Services will be made available to You in object code (machine-readable) form only and under no circumstances is Schneider Electric obligated to disclose or make available the source code of the Application to You.

These Terms of Use describe and govern Your right to use the Application as part of the Services. It is expressly agreed that these Terms of Use and any Order Confirmation will prevail over and supersede the terms and conditions contained in any purchase order or other document You may issue or submit in connection with Your use of the Application by You and such other terms and conditions are expressly rejected by Schneider Electric to the extent such other terms and conditions conflict with these Terms of Use.

### **4. Restrictions on use of the Services**

**4.1** Your use of the Services may be subject to certain restrictions set forth in these Terms of Use and other legal documents incorporated herein, which may include without limitation certain limitations on the scope of use, capacity, types and quantities of system resources, and/or duration of the Services. Your use of the Services in a manner inconsistent with such restrictions may adversely impact the performance of the Services, may result in additional charges to You and/or may result in suspension of the Services or termination of Your user account under

the terms of these Terms of Use. You agree that You will comply with such restrictions or technical limitations of the Services.

You acknowledge that You shall solely bear the cost of any toll charges applicable to Your access to the Services through the use of internet or telephone.

If technological measures are designed to prevent unlicensed or illegal use of the Services, You agree that Schneider Electric may use those measures and You agree to comply with any requirements regarding such technological measures and that You will not nor will You permit others to circumvent such measures. Such measures do not constitute a defect in the Services nor do they entitle You to any warranty rights.

#### 4.2 In using the Services, You agree:

- i. not to reverse engineer, decompile, disassemble, modify, adapt or translate any part of the Services such as but not limited to the Application, or create derivative works based on any part of the Services such as but not limited to the Application; further, in case of errors, bugs or defects in any part of the Services such as but not limited to the Application, only Schneider Electric or its designated Affiliate(s) - to the exclusion of the Customer or any third-party not authorized by Schneider Electric - shall have the right to provide Customer with any correction or work-around thereof;
- ii. not to perform or disclose any benchmark or performance tests of the Services without Schneider Electric's prior express written consent;
- iii. not to perform or disclose any security testing of the Services or associated infrastructure without Schneider Electric's prior express written consent, such as but not limited to network discovery, port and service identification, vulnerability scanning, password cracking, remote access testing, or penetration testing;
- iv. not to transfer, license, sublicense, rent, lease, sell, lend, distribute, host, outsource, disclose, permit timesharing or service bureau use, assign, or otherwise commercially exploit or make available the Services or any part thereof including without limitation any materials or programs pertaining to or otherwise consisting in the Services, to any third party without Schneider Electric's prior express written consent and such consent may be withheld in the sole discretion of Schneider Electric;
- v. not to disrupt or interfere with the security of, or otherwise abuse, the Cloud Platform and/or the web site(s) and/or any online portals or associated infrastructure proprietary to or authorized by Schneider Electric or its relevant Affiliate through which You are given access to the Services;

- vi. not to disrupt or interfere with the access to the Cloud Platform and/or the provision by Schneider Electric of the Services to any other customer or user thereof;
- vii. not to upload, post, or otherwise transmit any virus or other harmful, disruptive or destructive files onto the Cloud Platform and/or the web site(s) and/or any online portals or associated infrastructure proprietary to or authorized by Schneider Electric or its relevant Affiliate through which you are given access to the Services;
- viii. not to use or attempt to use the data of any other user of the Services, or create or use a false identity on any of the Cloud Platform and/or the web site(s) and/or any online portals or associated infrastructure proprietary to or authorized by Schneider Electric or its relevant Affiliate through which You are given access to the Services;
- ix. not to transmit through or onto the Cloud Platform and/or the web site(s) and/or any online portals or associated infrastructure proprietary to or authorized by Schneider Electric or its relevant Affiliate through which You are given access to the Services, any spam mail, chain letters, junk mail or any other type of unsolicited mass e-mail to people or entities who have not agreed to be part of such mailings;
- x. not advertise or offer to sell any goods or services onto the Cloud Platform and/or the web site(s) and/or any online portals or associated infrastructure proprietary to or authorized by Schneider Electric or its relevant Affiliate through which You are given access to the Services;
- xi. not to use the Cloud Platform and/or the web site(s) and/or any online portals or associated infrastructure proprietary to or authorized by Schneider Electric or its relevant Affiliate through which you are given access to the Services, to defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy or Intellectual Property Rights where applicable) of Schneider Electric or any - third party;
- xii. not to use the Cloud Platform and/or the web site(s) and/or any online portals or associated infrastructure proprietary to or authorized by Schneider Electric or its relevant Affiliate through which You are given access to the Services, to publish, post, distribute or disseminate any information or material which is obscene, defamatory, indecent or unlawful; and
- xiii. not to use the Cloud Platform and/or the web site(s) and/or any online portals or associated infrastructure proprietary to or authorized by Schneider Electric or its relevant Affiliate through which You are given access to the Services, to take any action which would cause Schneider Electric to be in violation of any law or regulation.



**4.3** Schneider Electric may make changes or updates to the Services (such as infrastructure, security, technical configurations, application features, etc.) during the Services Period, including to reflect changes in technology, industry practices, and patterns of system use. Furthermore, Schneider Electric reserves the right to change, update, add or remove functionalities or features of the Services, and/or add or create new limits to the Services, from time to time. The Services Description is also subject to change in Schneider Electric's sole discretion. Where reasonably possible, Schneider Electric will give You reasonable notice prior to implementing such change, update, addition, removal or withdrawal.

## 5. Price and payment for the Services

The Services shall be provided by Schneider Electric against payment by Customer of the fee amount(s) set forth in the Order Confirmation and, as the case may apply, on the web pages of the Platform and/or the website(s) or online portals through which You are given access to the Services as such pages may be updated from time to time by Schneider Electric or its relevant Affiliate. In case of any conflict between the fee amount(s) stated on such web pages and the fee amount(s) stated in the Order Confirmation, the latter shall prevail with respect only to the project under which Customer places the corresponding Order of Services.

Any revision of said fee amount(s) shall be applied to Services provided to Customer under any Order of Services placed by Customer after the date of validity of such revision.

Terms of payment and taxes applicable to the Services' price(s) shall apply as defined in the Order Confirmation or, by default, in Schneider Electric Affiliate's terms of sale applicable to the Order Confirmation.

## 6. Customer Data

**6.1 Intellectual Property Rights and license grant to Customer Data.** Customer retains all right, title, and interest in the Customer Data. Customer grants Schneider Electric a non-exclusive, perpetual, irrevocable, worldwide, free of charge, royalty-free and sub-licensable license right to use, host, store, upload, import, collect, create, translate, copy, modify, distribute modifications of, perform, create and distribute derivative works of, and display Customer Data for the purpose of and in conjunction only with the following limited purposes: (i) providing the Services to Customer, (ii) improving, modifying or testing the Services, and, as applicable, (iii) creating additional or other services. The license granted in this Section 6.1. includes the right of Schneider Electric to sublicense the same right to its Affiliates and any third-party subcontractors providing all or part of the Services on behalf of Schneider Electric, in either case under Schneider Electric's responsibility towards Customer in accordance with the provisions of these Terms of Use.

When Schneider Electric will propose, promote or provide any improvement to the Services and/or any additional or other services created by Schneider Electric to any third-party other than Customer whose Customer Data are

used by Schneider Electric in accordance with the afore mentioned limited purposes, Schneider Electric shall ensure it shall not contain any information enabling the identification of such Customer and/or the goods, equipment, utilities, buildings or facilities in relation with which such Customer has subscribed to or is using the Services.

In case Customer's Clients Data are uploaded, collected, stored, created and/or modified on the Platform or in the Application by Customer such as but not limited in connection with Customer's acting as service provider to any Customer's Client, Customer shall be solely and fully responsible to obtain from such Customer's Client or other relevant third-party the necessary consents and authorizations to perform any of the aforesaid activities and to grant to Schneider Electric the license rights pertaining to Customer's Clients Data defined in these Terms of Use. Schneider Electric acknowledges that, unless otherwise agreed between Customer and Customer's Clients under their own responsibility, Customer's Clients Data are owned by the Customer's Client to which such Customer's Clients Data relates.

Customer represents that Customer has and will keep in effect during its use of the Services, all licenses and approvals necessary to grant the foregoing license rights, at no charge, to Schneider Electric, its Affiliates and subcontractors. Customer represents that Customer is not exceeding any specified entitlement or permitted use or violating applicable license agreements or applicable laws to grant the foregoing license rights. Customer agrees to indemnify and hold harmless Schneider Electric from any third-party claims and any costs and other amounts that Schneider Electric may incur or otherwise be subject to because of Customer's breach of this Section 6.1.

**6.2 Security and Back-ups.** Customer acknowledges that Customer has reviewed the security features of the Services and has determined that they meet Customer's security needs including any specific requirement of security applicable in the field of activity of Customer or Customer's Clients for which Customer is acting as service provider. Customer is solely responsible for determining the requirements regarding security of Customer Data and Customer's Clients Data. If the security features, procedures and/or controls offered by Schneider Electric with respect to the Services do not meet the requirements determined by Customer regarding security of Customer Data and Customer's Clients Data, Customer should not use the Services. Schneider Electric accepts no liability for any corruption, loss or theft of data caused by security breaches resulting from internet connectivity and/or the environment or systems used by Customer or Customer's Clients to access and use the Services, such as but not limited to security breaches resulting from hackers, unlawful entry or unauthorized access. Schneider Electric shall not be responsible, and Customer is solely responsible at its own costs for the performance, the safety and integrity of back-ups of Customer Data and Customer's Clients Data. Customer acknowledges that the Services do not include any dedicated data back-up or disaster recovery facilities and that Customer should ensure it maintains safe and regular backups of all Customer Data and Customer's Clients Data as necessary to ensure the continuation of Customer's business(es) in accordance with the needs of Customer, its Authorized User and/or as applicable Customer's Client. Though Schneider Electric, its Affiliates and/or its/their third-party hosting service providers may routinely undertake regular backups of the Services (which may include Customer Data and Customer's Clients Data) for its/their own business

continuity purposes, Customer acknowledges that such steps do not in any way make Schneider Electric, its Affiliates and/or said third-party hosting service providers responsible for ensuring that Customer Data and/or Customer's Clients Data does not become inaccessible, damaged, or corrupted.

Except to the extent Schneider Electric has control or monitoring obligations to Customer Data and/or Customer's Clients Data under applicable laws, Customer acknowledges that Schneider Electric has no control over any Customer Data or Customer's Clients Data hosted as part of the provision of the Services and might not actively monitor or have access to the content of Customer Data or Customer's Clients Data. Customer must ensure and is exclusively responsible for the accuracy, quality, integrity, and legality of Customer Data and Customer's Clients Data. Customer must ensure that its use and its grant of rights to use Customer Data and Customer's Clients Data (including in connection with the Services) comply with all applicable laws and any pertaining Intellectual Property Rights.

Except as otherwise stated under these Terms of Use with respect to the return of Customer Data, Customer shall ensure and is exclusively responsible for extracting, transferring and recovering any Customer Data (as well, as applicable per Customer's request, any Customer's Clients Data) it uses in relation to the Services, whether during or after the duration of the Services, and Schneider Electric shall not be responsible for any such activities or providing any assistance in relation therewith.

**6.3 Return of Customer Data.** Customer may at any time during any Services Period request in writing that Schneider Electric returns to Customer all or part of the Customer Data (as well, as applicable per Customer's request, Customer's Clients Data) stored on the Cloud Platform and/or in the Application. Following receipt of such request, Schneider Electric shall, at Customer's expense, use technically and commercially reasonable efforts to extract and return such Customer Data and as applicable Customer's Clients Data, in Schneider Electric's standard format or any other format selected by Schneider Electric without unreasonable delay from receipt of such request. Customer acknowledges and agrees that such extraction and return by Schneider Electric may be subject to prior consent and/or limitations imposed to Schneider Electric by its third-party hosting service providers or third-party licensors. Extraction and return by Schneider Electric of Customer Data and/or Customer's Clients Data upon Customer's request as aforesaid, shall not cause Customer's user account to the Services to be Disabled: Customer's user account shall remain active and the Services shall be continued only with respect to the Customer Data and Customer's Clients Data that Customer shall not have requested to be extracted and returned as aforesaid, until the Service Period expires or is earlier terminated. Schneider Electric shall not bear any obligation to ensure that the extracted and returned Customer Data and Customer's Clients Data are available to Customer under any specific format. The provisions of Section 13 of these Terms of Use shall apply to the return of Customer Data and Customer's Clients Data following the expiration or termination of the Service Period.

**6.4 Disclosure of Customer Data.** Schneider Electric shall not disclose Customer Data and Customer's Clients Data to any third party without Customer's prior express consent, except for (i) disclosure to any third-party subcontractors acting on behalf of Schneider Electric and involved in the performance of the activities authorized under the license granted to Schneider Electric under Section 6.1 above, or (ii) when disclosure of Customer Data and/or Customer's Clients Data is the sole reasonably available manner for Schneider Electric to comply with any legal obligation applicable to Schneider Electric or any valid order by a court or other competent jurisdiction or governmental agency, or to prevent fraud, abuse or security threat of the Services or to enforce or defend Schneider Electric's rights under these Terms of Use such as but not limited in the frame of any litigation or other proceeding. In case Customer is not the legal owner of Customer Data and/or Customer's Clients Data, Customer shall be solely and fully responsible to obtain from the legal owner of such Customer Data and/or Customer's Clients Data its express consent that Schneider Electric is entitled to disclose the same under any of the exceptions defined in this Section 6.4.

## 7. Personal Information

**7.1** Customer's Personal Information will be processed as described in privacy notices and policies, including Schneider Electric's Data Privacy & Cookie Policy on [www.schneider-electric.com](http://www.schneider-electric.com), made available by Schneider Electric. You are advised to check the privacy notices and privacy policies made available to You.

**7.2** Customer is responsible for any third-party Personal Information that Customer uploads, stores, creates, uses, shares, modifies, deletes or otherwise processes with the Application and/or the Services. Customer must comply with all applicable laws and regulations, obtain all required consents and make all required notifications in this respect.

## 8. Intellectual Property Rights

All right, title and interest in and to the Platform, the Services, the Application comprised therein, any and all hardware, software and other items used by Schneider Electric to provide the Services as well as any technology or know-how embodied or otherwise implemented in the Platform, the Services, the Application and/or such other items, and all Intellectual Property Rights pertaining thereto, are and shall remain the full and sole property of Schneider Electric and/or its licensors. No title to or ownership of any Intellectual Property Rights related to the Platform, the Application or the Services is transferred or shall be deemed to be conveyed to You or any third-party pursuant to these Terms of Use or under any business transaction performed between You and Schneider Electric or any Schneider Electric Affiliate in pursuance of the Order Confirmation. Where the Application or the Services is made available through a Platform that is hosted by a third-party licensor of Schneider Electric or any Schneider Electric Affiliate, the Application or the Services is licensed to You solely pursuant to such third-party licensor's terms and conditions that You may be required to agree and accept prior to accessing the Application or the Services on said third-party licensor's Platform.

All rights not explicitly granted to You under these Terms of Use regarding the Platform, the Services and the Application are reserved by Schneider Electric.

All Intellectual Property Rights pertaining to any third party software embedded or implemented in the Platform, the Application or the Services or otherwise provided to You with the Platform, the Application or the Services, shall remain vested in the relevant third party and there will be no deemed or implied transfer of ownership to You of such third party proprietary rights.

All trademarks on the Platform, the Services, the Application comprised therein and any and all hardware, software and other items used by Schneider Electric to provide the Services, are registered trademarks of Schneider Electric and/or its Affiliates or its licensors, or are otherwise protected under any applicable Intellectual Property Rights, and may not be copied, imitated, or used, in whole or in part, without Schneider Electric's prior written permission. The same shall apply to all page headers, custom graphics, button icons and scripts displayed or otherwise available on the Platform, the Services, the Application comprised therein and/or any and all hardware, software and other items used by Schneider Electric to provide the Services. No transfer or grant of rights under any such trademark, page headers, custom graphics, button icons and scripts or any related Intellectual Property Rights is made or implied by any provision of these Terms of Use, Your access to the Platform or Your use of the Services or the Application.

## **9. Warranties and Disclaimers of Warranty**

**9.1** SCHNEIDER ELECTRIC AGREES TO PROVIDE THE SERVICES TO THE CUSTOMER USING A COMMERCIALY REASONABLE LEVEL OF SKILL AND CARE, AND IN ACCORDANCE WITH THE THEN-CURRENT APPLICABLE SERVICES DESCRIPTION AND THE ORDER CONFIRMATION.

**9.2** DURING A PERIOD OF NINETY (90) DAYS FROM THE EFFECTIVE DATE OF THE SUBSCRIPTION TO THE SERVICES TAKEN OUT BY CUSTOMER UNDER THE ORDER CONFIRMATION, SCHNEIDER ELECTRIC WARRANTS THAT THE SERVICES WILL SUBSTANTIALLY PERFORM THE FUNCTIONALITIES DESCRIBED IN THE THEN-CURRENT APPLICABLE SERVICES DESCRIPTION. THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND SCHNEIDER ELECTRIC'S ENTIRE LIABILITY FOR A BREACH OF THIS WARRANTY SHALL BE FOR SCHNEIDER ELECTRIC TO USE TECHNICALLY AND COMMERCIALY REASONABLE EFFORTS TO PROVIDE A PATCHED VERSION OF THE APPLICATION OR A WORKAROUND RELATING TO THE USE OF THE SERVICES SUCH AS, IN PARTICULAR, AT SCHNEIDER ELECTRIC'S DISCRETION, THE USE OF THE SERVICES IN DOWNGRADED MODE. IN THE EVENT SCHNEIDER ELECTRIC IS UNABLE TO FIX OR RESTORE THE DEFECTIVE OR NON-COMPLIANT FUNCTIONALITIES OF THE SERVICES, THE CUSTOMER SHALL BE ENTITLED TO TERMINATE ITS APPLICABLE SUBSCRIPTION ORDER(S) TO THE SERVICES.

NOTWITHSTANDING THE FOREGOING, SCHNEIDER ELECTRIC DOES NOT WARRANT OR PROMISE THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT ALL FAILURES OR DEFECTS OF THE SERVICES WILL BE CORRECTED.

THE CUSTOMER UNDERSTANDS THAT THE SERVICES MAY BE INTERRUPTED OR COMPLETELY UNAVAILABLE FOR PERIODS OF TIME DUE TO CERTAIN CAUSES WHICH MAY INCLUDE, WITHOUT LIMITATION, SCHEDULED OR UNSCHEDULED MAINTENANCE WORK. ONLY SCHEDULED MAINTENANCE WORKS WILL GIVE RISE TO PRIOR NOTIFICATION BY SCHNEIDER ELECTRIC.

ALTHOUGH SCHNEIDER ELECTRIC SHALL MAKE EVERY REASONABLE EFFORT TO KEEP THE PLATFORM AND THE SERVICES FREE FROM VIRUSES OR OTHER CONTAMINATION FEATURES, DUE TO THE INHERENT RISKS OF TELECOMMUNICATION NETWORKS AND THE INTERNET, SCHNEIDER ELECTRIC CANNOT WARRANT THAT THE PLATFORM AND THE SERVICES SHALL BE FREE FROM VIRUSES OR OTHER CONTAMINATION FEATURES OR PROTECTED AGAINST ALL POSSIBLE SECURITY THREATS.

THE CUSTOMER ACKNOWLEDGES THAT ACCESS TO THE PLATFORM AND/OR USE OF THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS AND POTENTIAL FAILURE DUE TO THE INHERENT RISKS OF TELECOMMUNICATION NETWORKS AND THE INTERNET. SCHNEIDER ELECTRIC SHALL NOT BE RESPONSIBLE FOR ANY DELAY OR FAILURE IN THE SERVICES OR ANY LOSS OR DAMAGE RESULTING FROM THE AFORESAID LIMITATIONS, DELAYS AND POTENTIAL FAILURES.

**9.3** WITHOUT PREJUDICE TO ANY STATUTORY WARRANTIES THAT CANNOT BE EXCLUDED AND TO THE FULLEST EXTENT PERMITTED BY LAW, ALL OTHER WARRANTIES, REPRESENTATIONS OR CONDITIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW OR OTHERWISE, INCLUDING WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, NON-INFRINGEMENT OF THIRD- PARTY RIGHTS AND FITNESS OR ACCURACY FOR CUSTOMER'S PARTICULAR PURPOSE, REQUIREMENTS, SPECIFICATIONS OR EXPECTATIONS, ARE EXCLUDED REGARDING THE SERVICES.

## **10. Limitations of liability**

**10.1** IN NO EVENT SHALL SCHNEIDER ELECTRIC NOR SCHNEIDER ELECTRIC'S AFFILIATES, LICENSORS OR CONTRACTORS INVOLVED IN THE CREATION, PRODUCTION OR DELIVERY OF THE CLOUD PLATFORM, THE APPLICATION, THE SERVICES OR ANY COMPONENT THEREOF, BE LIABLE TO THE CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, LOSS OF REVENUE, LOSS OF BUSINESS, LOSS OF PROFITS OR CONTRACTS, LOSS OF ANTICIPATED SAVINGS, BUSINESS INTERRUPTION, LOSS OF AVAILABILITY OF OR CORRUPTION OR DAMAGE TO ANY DATA (INCLUDING CUSTOMER DATA OR CUSTOMER'S CLIENT DATA), LOSS OF REPUTATION OR WASTE OF MANAGEMENT OR OFFICE TIME, ARISING OUT OF OR IN CONNECTION WITH THE CUSTOMER'S ACCESS TO OR INABILITY TO ACCESS THE CLOUD PLATFORM OR THE CUSTOMER'S USE OR INABILITY TO USE THE SERVICES OR ANY MATERIAL, DOCUMENT OR INFORMATION MADE AVAILABLE OR OTHERWISE PROVIDED TO YOU FROM THE CUSTOMER'S USE OF THE PLATFORM, THE APPLICATION, THE SERVICES OR ANY COMPONENT THEREOF, WHETHER BASED ON CONTRACT, TORT, WARRANTY OR OTHER LEGAL GROUND AND EVEN IF SCHNEIDER ELECTRIC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**10.2** EXCEPT IN CASE OF (i) SCHNEIDER ELECTRIC'S FRAUD OR FRAUDULENT MISREPRESENTATION, (ii) SCHNEIDER ELECTRIC'S WILFUL MISCONDUCT OR GROSS NEGLIGENCE, OR (iii) DEATH OR BODILY INJURY TO AN INDIVIDUAL PERSON, WHERE NO LIMITATION OF LIABILITY SHALL APPLY, SCHNEIDER ELECTRIC'S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OF USE, THE PLATFORM, THE APPLICATION, THE SERVICES OR ANY COMPONENT THEREOF, SHALL BE LIMITED TO AND SHALL IN NO EVENT EXCEED (I) THE AMOUNT PAID BY CUSTOMER TO SCHNEIDER ELECTRIC OR SCHNEIDER ELECTRIC AFFILIATE TO OBTAIN ACCESS TO THE SERVICES IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE LIABILITY CLAIM, OR (II) TWENTY-FIVE DOLLARS (\$25 USD) IN THE CASE WHERE THE SERVICES ARE PROVIDED TO YOU FREE OF CHARGE.

**10.3** SCHNEIDER ELECTRIC SHALL NOT BE LIABLE TO THE CUSTOMER OR ANY THIRD PARTY FOR ANY DAMAGE, LOSS, PENALTY, SURCHARGES, INTEREST OR MONETARY LIABILITIES ARISING OUT OF OR IN CONNECTION WITH THE CUSTOMER'S ACCESS TO OR INABILITY TO ACCESS THE PLATFORM OR THE CUSTOMER'S USE OR INABILITY TO USE THE SERVICES OR ANY MATERIAL, DOCUMENT OR INFORMATION MADE AVAILABLE OR OTHERWISE PROVIDED TO THE CUSTOMER FROM ITS USE OF THE SERVICES, THAT IS DUE TO (i) THE SUPPLY BY THE CUSTOMER OR ANY THIRD PARTY NOT BEING UNDER THE CONTROL OF SCHNEIDER ELECTRIC OF INCORRECT OR INCOMPLETE INFORMATION, (ii) THE FAILURE BY THE CUSTOMER OR ANY THIRD PARTY NOT BEING UNDER CONTROL OF SCHNEIDER ELECTRIC TO SUPPLY ANY REQUISITE INFORMATION REQUESTED BY SCHNEIDER ELECTRIC, (iii) ANY ACT, OMISSION, NON-PERFORMANCE OR DELAY

ATTRIBUTABLE TO OR CAUSED BY THE CUSTOMER, ITS SUBCONTRACTORS, EMPLOYEES OR ANY OTHER THIRD PARTY BEING UNDER THE CUSTOMER'S CONTROL, OR (v) ANY MATTER OUTSIDE THE CONTROL OF SCHNEIDER ELECTRIC.

**10.4** SCHNEIDER ELECTRIC'S LIABILITY ARISING OUT OF THESE TERMS OF USE IS REDUCED PROPORTIONALLY TO THE EXTENT TO WHICH THE ACT OR OMISSION OF YOU OR ANY OTHER THIRD PERSON CONTRIBUTED TO THE LOSS OR DAMAGE INCURRED.

**10.5** SCHNEIDER ELECTRIC SHALL NOT BE LIABLE TO THE CUSTOMER OR ANY THIRD PARTY FOR THE USE BY THE CUSTOMER OR ANY THIRD PARTY OF ANY CUSTOMER DATA UPLOADED TO OR DOWNLOADED FROM THE PLATFORM OR THE APPLICATION OR CREATED OR MODIFIED IN CONNECTION WITH THE CUSTOMER'S USE OF THE SERVICES, NOR FOR THE CONSEQUENCES OF ANY DECISION, ACT OR OMISSION, SUCH AS BUT NOT LIMITED TO ANY ELECTRICAL ASSEMBLY, INSTALLATION OR MAINTENANCE, THAT THE CUSTOMER OR ANY THIRD PARTY MAY MAKE ON BASIS OF ANY CUSTOMER DATA.

**10.6** IN CASE THE RIGHT TO ACCESS AND USE THE SERVICES WAS FURNISHED TO YOU BY ANY AUTHORIZED SCHNEIDER ELECTRIC DISTRIBUTOR OR RESELLER OR ANY SCHNEIDER ELECTRIC CERTIFIED PARTNER, WITH OR WITHOUT A THIRD-PARTY PRODUCT, SCHNEIDER ELECTRIC SHALL IN NO EVENT BE A PARTY TO ANY PURCHASE ORDER OR OTHER AGREEMENT BETWEEN YOU AND SUCH DISTRIBUTOR, RESELLER OR PARTNER AND SHALL NOT ASSUME OR OTHERWISE BEAR ANY LIABILITY THEREUNDER.

**10.7** THE EXCLUSIONS, LIMITATIONS AND DISCLAIMERS OF WARRANTY OR LIABILITY STATED IN THESE TERMS OF USE SHALL APPLY ONLY TO THE EXTENT PERMITTED BY THE LAW APPLICABLE TO THESE TERMS OF USE AND DO NOT AFFECT OR PREJUDICE STATUTORY RIGHTS WHICH, AS THE CASE MAY BE, BENEFIT YOU UNDER MANDATORY OR PUBLIC ORDER LAWS OR REGULATIONS APPLICABLE IN ANY COUNTRY FROM WHERE YOU WILL ACCESS AND/OR WHERE YOU WILL USE THE SERVICES .

## **11. Indemnification**

**11.1** You shall defend, indemnify, and hold harmless Schneider Electric, its Affiliates and each of their respective officers, directors, employees, licensors, contractors, successors and assigns ("Schneider Electric Indemnitees") from and against any and all claims, actions, suits, demands, proceedings, judgments, liabilities, losses, damages, costs and expenses (including without limitation reasonable attorneys' fees and court costs) brought or claimed against Schneider Electric Indemnitees by any third-party, arising from or related to: (i) any Customer Data or



Customer's Clients Data; (ii) any breach by You of any of Your obligations under these Terms of Use such as but not limited to any unauthorized access to the Platform and/or any unauthorized use of the Services; (iii) any misuse by You of the Platform and/or the Services such as but not limited to Your use of the Platform and/or the Services in a manner contrary to the Services Description or any other instruction given to You by Schneider Electric, (iv) any failure by You to comply with any applicable law and/or regulation including without limitation any failure of You to obtain all legally required consents to upload and/or otherwise use Customer Data or Customer's Clients Data in connection with Your use of the Services, (v) any use of the Services in combination with any equipment, software or solution not supplied, not specified or otherwise not approved by Schneider Electric; (vi) any modification or alteration of the Platform and/or the Services by anyone other than Schneider Electric without the written approval of Schneider Electric; and/or (vii) any claim that any information (including but not limited to Customer Data or Customer's Clients Data), designs, specifications, instructions, software, service, data, hardware or material furnished or otherwise made available by Customer to Schneider Electric, its Affiliates or subcontractors in connection with or for the purpose of the provision of the Services or otherwise used or uploaded by Customer in connection with the Services, infringes or misappropriates the Intellectual Property Rights or other right or interest of any third party. The foregoing shall apply regardless of whether such damage is caused by the conduct of Customer and/or its Authorized Users or by the conduct of a third-party using Customer's access credentials to the Services.

**11.2** Subject to the limitations set forth in Section 10, Schneider Electric will defend and indemnify You against a third party claim that the Cloud Platform and/or the Services infringe any Intellectual Property Right enforceable in the jurisdiction where Schneider Electric has its registered office or principal place of business, or misappropriates any trade secret protected under the laws of such jurisdiction (the "Included Jurisdiction") hereinafter the "IP Claim", provided that (i) You notify Schneider Electric of the IP Claim in writing immediately upon Your awareness of such IP Claim; (ii) You give Schneider Electric sole authority and control of the defense of such IP Claim and all related settlement negotiations; and (iii) You provide the assistance, information and authority necessary in order for Schneider Electric to handle the defense and settlement of such IP Claim and perform its obligations under this Section 11.2. If the Platform and/or the Services is held or believed by Schneider Electric to constitute an infringement or misappropriation as per this Section 11.2, then Schneider Electric will have the option, at its expense, to: (i) obtain for You the right to continue using the Platform and/or as applicable, the Services; (ii) replace or modify the Platform and/or, as applicable, the Services to make it non-infringing; or (iii) if in Schneider Electric's sole discretion, it is not economically or commercially reasonable to perform either (i) or (ii) above, then Schneider Electric may terminate Your right to access the Platform and to use the Services and refund to You any amount for the Services You would have pre-paid to Schneider Electric or Schneider Electric Affiliate on a pro-rated basis for the corresponding unused portion of the Services Period. This Section 11.2. states Your sole and exclusive remedy against Schneider Electric and Schneider Electric's sole liability for any IP Claim under this Section 11.2.

**11.3** To the extent permitted by law, Schneider Electric will have no liability to the Customer under Section 11.2. of these Terms of Use for any IP Claim that arises out of: (i) any Customer Data or Customer's Clients Data; (ii) any

breach by You of any of Your obligations under these Terms of Use such as but not limited to any unauthorized access to the Platform and/or any unauthorized use of the Services; (iii) any misuse by You of the Platform and/or the Services such as but not limited to Your use of the Platform and/or the Services in a manner contrary to the Services Description or any other instruction given to You by Schneider Electric; (iv) any failure by You to comply with any applicable law and/or regulation including without limitation any failure of You to obtain all legally required consents to upload and/or otherwise use the Customer Data or Customer's Clients Data in connection with Your use of the Services; (v) any use of the Services in combination with any equipment, software or solution not supplied, specified or otherwise approved by Schneider Electric; (vi) any modification or alteration of the Platform and/or the Services by anyone other than Schneider Electric without the written approval of Schneider Electric; (vii) the access to the Platform and/or the use of the Services by the Customer after notice by Schneider Electric or any appropriate authority to the Customer of the alleged or actual infringement or misappropriation of any third party's Intellectual Property Right by the Platform and/or the Services, or (viii) Your failure to use corrections or enhancements made available by Schneider Electric.

## **12. Third-party websites and contents**

In case the Services enable Customer to link to, transmit Customer Data or Customer's Clients Data to, indicate the web address of or otherwise access to, third parties' websites or third parties' content, products, services or information, the Customer shall bear all risks associated with access to and use of such third parties' websites and third parties' content, products, services and information. Schneider Electric does not control and is not responsible for such third parties' websites or any such third parties' content, products, services and information accessible from or provided through such websites. Any access to third parties' websites or any use of third parties' content, products, services or information through Your access to the Platform and/or Your use of the Services shall be subject to said third parties' own terms of use or other legal document which shall govern the relationship between You and said third parties with respect thereto.

## **13. Term, suspension and termination**

**13.1** The legal agreement formed with Schneider Electric by Customer's acceptance of these Terms of Use is valid for the duration of the applicable Services Period specified in the Order Confirmation, including any renewals thereof, and shall expire upon expiration date of the Services Period in result, as the case may apply, of Customer's written notice to Schneider Electric or Schneider Electric Affiliate having issued the related Order Confirmation of Customer's decision not to renew the Services Period. Said legal agreement shall also terminate upon electronic termination by Customer of its subscription to the Services if and when such possibility shall be made available to Customer on the Platform and/or the web site(s) and/or online portals through which Customer is given access to the Services by Schneider Electric or its relevant Affiliate.

**13.2** Without prejudice to any other rights and remedies it may have under these Terms of Use, at law or otherwise, Schneider Electric reserves the right to suspend the Services (in whole or in part) at any time with immediate effect by written notice to the Customer if:

- i. in Schneider Electric's reasonable judgment, the Services or any component thereof are about to suffer a threat to security or functionality; or
- ii. Schneider Electric has requested but has not received from the Customer any information required to enable Schneider Electric to perform the Services; or
- iii. if any sum payable by Customer to Schneider Electric or Schneider Electric Affiliate under the Order Confirmation is in arrears for more than thirty (30) calendar days after the due date; or
- iv. the Customer violates the terms of these Terms of Use and/or any documents expressly incorporated herein; or
- v. the Customer has otherwise breached or failed to comply with any of its obligations under the Order Confirmation and has not cured such breach or failure within a period of thirty (30) calendar days from the date of receipt of a written notice from Schneider Electric or Schneider Electric Affiliate specifying the breach or failure and requiring its remedy.

In any such event of suspension of the Services, the Customer shall remain liable to pay the sums payable to Schneider Electric or Schneider Electric Affiliate under the suspended Services and any resumption of the suspended Services shall be conditional upon the cause giving rise to the suspension of the Services being remedied and the Customer complying with such requirements as Schneider Electric may reasonably specify in its suspension notice to Customer.

Further, if the Customer shall fail to cure the cause giving rise to the suspension or to effect the remedial action required by Schneider Electric within such period of time as Schneider Electric shall specify in its suspension notice, Schneider Electric may, in addition to any other rights and remedies that Schneider Electric or Schneider Electric Affiliate may have, terminate the Services permanently without liability or refund obligation to Customer of any kind; termination of the Services by Schneider Electric shall be achieved by disabling Customer's user account or any other technical means that Schneider Electric shall reasonable determine to disable Customer's access to the Platform.

**13.3** At any time before the effective date of expiration or termination of Services in accordance with Sections 13.1 and 13.2 above, it shall be Customer's responsibility to make, as it may elect to do so, a request to Schneider Electric for the extraction and return of its Customer Data and Customer's Clients Data in accordance with and subject to the conditions defined in these Terms of Use. Customer's request for extraction and return may be made to Schneider

Electric at the latest within thirty (30) calendar days from effective date of expiration or termination of the Services in accordance with Sections 13.1 and 13.2 above. Following receipt of such request, Schneider Electric shall, at Customer's expense, use technically and commercially reasonable efforts to extract and return such Customer Data in Schneider Electric's standard format or any other format selected by Schneider Electric without unreasonable delay from receipt of such request. Customer acknowledges and agrees that such extraction and return by Schneider Electric may be subject to prior consent and/or limitations imposed to Schneider Electric by its third-party hosting service providers or third-party licensors. Schneider Electric shall not bear any obligation to ensure that the extracted and returned Customer Data and Customer's Clients Data are available to Customer under any specific format. Customer agrees that, upon the effective date of expiration or termination of Services, Schneider Electric shall be fully and automatically entitled to delete from the Platform and the Application any Customer Data and Customer's Clients Data for which Schneider Electric does not receive Customer's express request for extraction and return in accordance with the foregoing provisions, and Schneider Electric shall not bear any additional obligation to continue to hold, store, archive, extract or return any such remaining Customer Data and Customer's Clients Data. Schneider Electric shall have no liability whatsoever for deletion of any such remaining Customer Data and Customer's Clients Data from the Services pursuant to these Terms of Use.

**13.4** Expiration of the Service Period or termination of the Services shall automatically and immediately cause (i) termination of Customer's right to access and use the Services, and (ii) termination of the legal agreement which was formed with Schneider Electric by Customer's acceptance of these Terms of Use. Without prejudice to the foregoing, expiration or termination of the Services shall not affect any rights or remedies which may have accrued to Customer or Schneider Electric under these Terms of Use, at law or, if applicable, in equity, with respect to the Services provided before said expiration termination.

**13.5** Without prejudice to Sections 13.3 and 13.4, Schneider Electric may retain one archival copy of whole or part of Customer Data and Customer's Clients Data upon the effective date of expiration or termination of Services, in the case such retention of Customer Data and Customer's Clients Data is the sole reasonably available manner for Schneider Electric either (i) to comply with any legal obligation applicable to Schneider Electric or any valid order by a court or other competent jurisdiction or governmental agency, (ii) to prevent fraud, abuse or security threat of the Services or (iii) to enforce or defend Schneider Electric's rights under these Terms of Use.

**13.6** Sub-section 2.5 of Section 2 "Access to and termination of the Services", Section 8 "Intellectual Property Rights", Section 9 "Warranties and Disclaimers of warranty", Section 10 "Limitations of liability", Section 11 "Indemnification", Section 12 "Third-party websites and contents", Section 14 "International usage of the Services" and Section 16 "Applicable law and attribution of jurisdiction" of these Terms of Use, shall survive expiration of the Service Period or termination of the Services, in addition to any other provisions of these Terms of Use which by their nature are intended to survive.

## 14. International usage of the Services

**14.1 Export Control.** The Services, including but not limited to the Platform, the Application and/or other related information and deliverables, provided by Schneider Electric or Schneider Electric Affiliate in connection with the performance of, respectively, these Terms of Use or any Order Confirmation (hereinafter referred to as “Deliverables”), contain or may contain components and/or technologies from the United States of America (“US”), any member state of the European Union (“EU”) and/or other nations. You acknowledge and agree that the supply, assignment and/or usage of the Deliverables in pursuance of these Terms of Use or any Order Confirmation shall fully comply with related applicable US, EU and other international export control laws and/or regulations.

You are solely responsible for determining the existence and application of any such law or regulation to any proposed export by You or Your representatives of the Services or any service based or otherwise implementing Your right to access and use the Services and for performing any declaration or obtaining any required authorization in relation therewith. Unless applicable export license(s) has been obtained from the relevant authority, You agree that the Deliverables and any service based or otherwise implementing Your right to access and use the Services shall not (i) be re-sold, re-delivered, exported and/or re-exported to any destination and any party (such as but not limited to an individual, group and/or legal entity) restricted by the applicable export control laws and/or regulations; or (ii) be used for those purposes and fields restricted by the applicable export control laws and/or regulations. You also agree that the Deliverables and any service based or otherwise implementing Your right to access and use the Services will not be used either directly or indirectly in (i) any rocket systems or unmanned air vehicles; or (ii) any nuclear weapons delivery systems; or (iii) any design, development, production or use for any weapons which may include but not limited to chemical, biological or nuclear weapons.

In the event the aforementioned legal or regulatory obligations or restrictions are violated by You or any of Your representatives in relation to the export of the Deliverables or any service based or otherwise implementing Your right to access and use the Services, You shall indemnify and hold Schneider Electric, its Affiliates and each of their respective officers, directors, employees, licensors, contractors, successors and assigns harmless from any claims and compensate the same against any damages claimed by any third party (including but not limited to governmental and/or international authorities and/or organizations) against Schneider Electric as the result of any such violation by You or Your representative(s).

If necessary or advisable licenses, authorizations or approvals are not obtained, whether arising from inaction by any relevant government authority or otherwise, or if any such licenses, authorizations or approvals are denied or revoked, or if applicable export control laws and/or regulations would prohibit Schneider Electric or Schneider Electric Affiliates from fulfilling, respectively, these Terms of Use or any Order Confirmation, or would in its judgement otherwise expose Schneider Electric or Schneider Electric Affiliate to a risk of liability under the applicable export control laws and/or regulations if it fulfilled, respectively, these Terms of Use or any Order Confirmation, Schneider

Electric and Schneider Electric Affiliates shall be excused from all obligations under, respectively, these Terms of Use and said Order Confirmation.

**14.2** Although Schneider Electric makes every reasonable effort to enable worldwide access to the Platform and Services, Schneider Electric shall bear no liability and makes no representation, nor warranties that all features of the Platform and the Services will be accessible, available or appropriate for all current or potential customers (including You) in all geographic locations in the world.

**14.3** Should you access to the Platform and use the Services by your connection to the website of any Schneider Electric Affiliate in any country, Schneider Electric makes no representation nor warranty that all features of the Cloud Platform and the Services are accessible, available or appropriate to all current or potential customers (including You) in any other country.

## **15. Miscellaneous**

**15.1** Your rights or obligations under these Terms of Use may not be sold, sub-licensed, rented, assigned, delegated, transferred or otherwise conveyed by You or Your representatives without Schneider Electric's prior express written consent. The rights granted to You under these Terms of Use are granted on a limited personal basis.

**15.2** Schneider Electric is an independent contractor. Each of Schneider Electric and the Customer agrees that no partnership, joint venture, or agency relationship exists or is created by these Terms of Use between Schneider Electric and the Customer. Neither Schneider Electric nor the Customer is granted any right or authority to assume or create any obligation or responsibility, express or implied, on behalf of or in the name of one another.

**15.3** No third-party beneficiary relationship is created by these Terms of Use. These Terms of Use shall not be construed to confer any rights or remedies to any third party.

**15.4** These Terms of Use constitute the entire agreement between Schneider Electric and the Customer in relation to the Customer's right to access to and use the Services and the Application made available as part of the Services, and such legal agreement replaces and supersedes any previous agreement or understanding, whether oral, electronic or written, in relation with the subject matter of these Terms of Use. The Customer agrees to waive to apply any of its own terms of purchase of services or equivalent documents to the subject matter of these Terms of Use.

**15.5** Should any provision of these Terms of Use be declared invalid or unenforceable by any competent court, such provision of these Terms of Use shall be amended by Schneider Electric to achieve as nearly as possible its inner intent, and all other provisions of these Terms of Use shall remain valid and in full force and effect.

**15.6** All notices sent pursuant to these Terms of Use shall be in writing. Notices of a general purpose related to the Cloud Platform and/or the Services by Schneider Electric to all Customers shall be given by means of a general information posted on the Platform. Notices specifically addressed to You shall be given by Schneider Electric, at its election, by electronic mail to the electronic address on record in the information provided by You to create Your user account or by written communication sent by first class mail or pre-paid post to the address of Your registered office or principal place of business. Any notice by You to Schneider Electric shall be in writing sent by first class mail or pre-paid post to the address of Schneider Electric's registered office or principal place of business and shall include the words: "Attention Schneider Electric Legal Department."

**15.7** Schneider Electric's failure to insist on or enforce strict performance of these Terms of Use shall not be construed as a waiver by Schneider Electric of any right to enforce these Terms of Use, nor shall any course of conduct between Schneider Electric and the Customer or any third party be deemed to modify any provision of these Terms of Use.

**15.8** Headings in these Terms of Use are just for ease of reference and will not affect its interpretation.

**15.9** Words expressed in the singular include the plural and vice versa.

**15.10** Schneider Electric reserves the right, at its sole discretion, to amend, add or remove any provision to or from these Terms of Use at any time. Any such amendment, addition or removal to these Terms of Use will be posted by Schneider Electric on the Platform. It is the Customer's responsibility to check these Terms of Use prior to each use of the Services. The Customer's continued use of the Services after any amendment, addition or removal to these Terms of Use is posted on the Platform by Schneider Electric, shall be deemed as the Customer's acceptance and agreement to the changed Terms of Use. Changes to these Terms of Use shall not apply with retroactive effect.

**15.11** You agree to make all applicable records available for review by Schneider Electric during Your normal business hours so as to permit Schneider Electric (upon reasonable written notice to You) to verify Your compliance with these Terms of Use. Further, You agree that upon the request of Schneider Electric or Schneider Electric's authorized representative, You will promptly document and certify in writing to Schneider Electric that Your and Your employees' use of the Application, the Platform and the Services complies with these Terms of Use.

Schneider Electric may (upon reasonable written notice) inspect Your use of the Platform and the Services during Your normal business hours to ensure Your compliance with these Terms of Use. If the results of any such review or inspection indicate Your unlicensed or non-compliant use of the Application, the Platform or the Services or the underpayment by You of applicable license or other fees (if any) contractually due and payable to Schneider Electric, You shall: (i) immediately pay sufficient fees to cover Your use of the Application, the Platform and/or as applicable the Services or such amounts of fees remaining due to Schneider Electric and (ii) reimburse Schneider Electric for the cost of such review or inspection.

**15.12** These Terms of Use are a separate document of the Order Confirmation and Schneider Electric Affiliate's general terms and conditions of sale applicable to the Order Confirmation. Without prejudice to the foregoing and unless otherwise expressly agreed between Customer and Schneider Electric Affiliate issuing the Order Confirmation, these Terms of Use shall automatically apply without deviation or amendment to the Services accessed and used by Customer in pursuance of any Order Confirmation. You agree that in case of conflict between the provisions of these Terms of Use on the one hand and on the other hand, the provisions of Schneider Electric Affiliate's general terms and conditions of sale applicable to any Order Confirmation, these Terms of Use shall prevail with respect to Customer's access and use of the Services to the sole extent of the point in conflict such as but not limited to any conflict of provisions related to warranty and liability.

## **16. Applicable law & Disputes**

**16.1** These Terms of Use and the Services shall be governed by and construed in accordance with the laws of the State of Massachusetts (USA), to the exclusion of its conflict of law rules. In any country where Customer will access and use the Services, mandatory or public order laws or regulations may impose statutory rights and/or obligations between Customer and Schneider Electric or Schneider Electric Affiliate issuing the related Order Confirmation in relation to the supply, the access or the use of the Services. These Terms of Use shall apply to the extent they do not affect or prejudice such statutory rights and obligations. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to these Terms of Use.

**16.2** Any legal action or proceeding between Schneider Electric and the Customer arising out or in connection with these Terms of Use and/or and the Services shall be brought exclusively in the federal or state courts having jurisdiction in the State of Massachusetts and Schneider Electric and Customer hereby submit to the personal jurisdiction and venue therein. Schneider Electric and Customer forever waive and agree not to assert any defense that is based upon an argument that the courts mentioned in this paragraph lack personal jurisdiction, that venue is improper or that the forum is inconvenient. SCHNEIDER ELECTRIC AND CUSTOMER HEREBY IRREVOCABLY WAIVE ANY RIGHT EACH MAY HAVE, AND AGREE NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THESE TERMS OF USE AND/OR THE SERVICES.

**16.3** The Customer acknowledges and accepts that Schneider Electric will be irreparably damaged (and damages at law may be an inadequate remedy) if Customer breaches any provision of these Terms of Use and such provision is not specifically enforced. Therefore, in the event of a breach or threatened breach by the Customer of these Terms of Use, Schneider Electric shall be entitled, in addition to all other rights or remedies, to (a) an injunction or other injunctive relief restraining such breach, without being required to show any actual damage or to post an injunction or other bond, and/or (b) a decree for specific performance of the applicable provision of these Terms of Use, to the extent permitted by applicable law in the country where Schneider Electric has its registered office or principal place



of business and/or, as relevant in the context, where Customer will use the Services, on either federal or state level when applicable.

## **17. Principles of Responsibility / Trust Charter**

In the event Customer has concerns related to ethics, compliance or Schneider Electric's Principles of Responsibility / Trust Charter, and/or any potential violations of these policies, Customer is welcome to make use of Schneider Electric's GreenLine. The GreenLine is Schneider Electric's global helpline for external stakeholders. It is a confidential channel through which Customers can ask questions and raise concerns. Reports can be made using the link below:

<https://secure.ethicspoint.eu/domain/media/en/gui/104677/index.html>

## SCHEDULE A

### **SERVICES DESCRIPTION EcoStruxure™ Energy Hub**

THIS SCHEDULE A IS INCORPORATED IN AND SUBJECT TO THE TERMS OF USE TO WHICH IT IS APPENDED. ALL CONDITIONS AND RESTRICTIONS CONTAINED IN THIS SCHEDULE A ARE IN ADDITION TO AND NOT IN LIEU OF THE PROVISIONS SET FORTH IN THE TERMS OF USE. UNLESS OTHERWISE DEFINED HEREIN, ALL CAPITALIZED TERMS SHALL HAVE THE MEANING SET FORTH IN THE TERMS OF USE.

#### **1. Services Description**

The Services comprise of:

- access to the web-based Platform by End Users and service providers;
- the ability to connect compatible devices and upload data to the Platform;
- the ability to access and use the functions and capabilities that are provided in the platform and updated from time to time.
- ongoing updates to add new features and capabilities
- storage of logged data for a length of time according to the terms of the purchased subscription

Types of data collection and usage:

| <b>Recurring Services</b>  | <b>Description</b>  | <b>Data collection purpose and usage</b>   |
|----------------------------|---|--|
| EcoStruxure™<br>Energy Hub | Data collected by and from devices and sensors; data entered by users in the software; facility and building models; factory information about devices and assets manufactured in our facilities. | Data is collected and used <ul style="list-style-type: none"><li>• to deliver the functionality offered by the service</li><li>• to provide troubleshooting and support;</li><li>• to make improvements to the service</li><li>• to test new capabilities of the service</li><li>• to help manage our business including customer satisfaction and adoption of our service</li></ul> |

In order to provide security for Customers and Customer's Clients, the software collects the name, email, and corporate affiliation of users who require access to the platform, in order to deliver the service.

The archival or the deletion of Customer's Data and Customer's Clients' Data shall be performed by Schneider Electric as part of the Services at no additional charge to Customer.

Customers may, on behalf of itself or the Customer's Clients, request:

- a) To view the data collected for use by the Services
- b) To have an export of their data
- c) To modify or update their own personal data (name, email, corporate affiliation)
- d) To have their data destroyed

Customer is entitled to use the Services for the purpose of performing its own services to its own clients.

**Exclusions:** the following are excluded from the Services and shall remain the sole responsibility of the Customer:

- Any product and equipment installed on the Customer's site(s);
- any infrastructure or communication devices used by the Customer to access and use the Services; and,
- Any service or supply that is not explicitly defined in Schneider Electric's catalogue.

#### **2. Services Period**

The Services shall be provided by Schneider Electric to Customer during the period defined in the applicable Order of Services placed by Customer and accepted by Schneider Electric's Order Confirmation, or if no such timeframe is specified in said Order, the Services Period shall be a twelve (12) month period running from the date of Schneider Electric Order Confirmation of said Order of Services.

Upon expiry of its Services Period, the Services may be continued for one further Service Period of twelve (12) months only if Customer places a new Order for Services and Schneider Electric issues Order Confirmation of such Order. Unless otherwise agreed in writing by Schneider Electric, any new Order for Services shall be governed by the Terms of Use to which this Schedule A is appended. Schneider Electric reserves the right to update or change the Terms of Use at any time.

**3. Service and Other Fees**

ALL FEES SHALL BE AS SET FORTH IN SCHNEIDER ELECTRIC'S INVOICE AND/OR ORDER CONFIRMATION OR IN A SIGNED WRITTEN AGREEMENT BETWEEN THE PARTIES.

© 2022 Schneider Electric. All rights reserved.