



END-USER LICENSE AGREEMENT

MagiCAD 2019 UR 1

progman

MagiCAD

NB: Please scroll down for EULA in German, French, Russian, Chinese and special terms regarding Ecodial engine (part of MagiCAD Revit Electrical).

IMPORTANT: An improved product activation procedure is introduced on the release of MagiCAD version 2010.11. All previous licensees must return protection dongles to Progman Ltd and/or destroy license files promptly after the installation of the new release.

END-USER LICENSE AGREEMENT

This End-User License Agreement ("Terms") shall apply to [MagiCAD] software in object code form and any related documentation ("Product") ordered and made available to the licensee by Progman Oy* ("PROGMAN"). You as either the licensee or a permitted person user ("you") agree to be legally bound by these Terms by selecting the 'I accept the terms in the license agreement' option or by using the Product. If you do not agree to these Terms, select the 'I do not accept the terms in the license agreement' option and do not use the Product.

*MagiCAD is licensed to the licensee in China by Glodon Company Limited.

GENERAL

You may download an evaluation version of the Product, in which case you are entitled only to evaluate the Product before purchasing a commercial version of the Product. You shall be responsible for acquiring at your own expense all necessary third party software, equipment, and telecommunications required for using the Product.

The Product, is neither intended nor fit for the use of consumers but businesses and non-profit organizations only. Furthermore, the Product is not designed to be fault-tolerant and therefore it is not intended to be used for the purposes of hazardous environments

For the avoidance of doubt, any calculations, data, or other results generated from the usage of the Product are for the references only and must be checked by you. Neither Progman nor any supplier of Progman shall be responsible for the reliability and validity of the results, as it is your responsibility to ensure the results are correct.

LICENSES OF EVALUATION VERSION, EDUCATIONAL VERSION, COMMERCIAL VERSION AND DEMONSTRATION AND TRAINING VERSION

You shall have a limited, non-exclusive and non-transferable right to install and use the Product. You are entitled to make and install several copies of the Product provided that having several copies is justifiable for the customary use of the Product. All such copies must include notices concerning the copyright and other rights of PROGMAN. If you have downloaded an evaluation version of the Product, you are entitled to use the Product, free-of-charge, strictly for the sole purpose of evaluating the features and usability of the Product, during a separately specified license period.

The educational version of the Product is intended for (i) educational Institutions, (ii) students, (iii) other educational licensee authorized by PROGMAN. If you have downloaded an educational version of the Product as an educational Institution or other educational licensee authorized by PROGMAN, you are entitled to use the Product, subject to the payment of applicable license fees, strictly within one Institution and only for the Educational purposes of such institution, during a separately specified license period and for such maximum number of simultaneous person users you have purchased licenses for. Students are entitled to use the Product only for the Educational purposes during a separately specified license period. Students may be required to proof their enrollments to educational Institutions or otherwise are to be approved by PROGMAN. The features and functionalities of the educational version of the Product may differ from the features and functionalities of the commercial version of the Product. For the purposes of this clause, "Institution" means a degree-granting or certificate-granting educational Institution; "person user" means the student or faculty member of the Institution; "Student" means an individual person enrolled as a student at educational Institution, and "Educational purposes" mean internal education activities, which exclude all commercial or for-profit instructional or other purposes, and which are carried out only at and from such locations that are not operated for commercial or for-profit purposes.

If you have downloaded a commercial version of the Product, you are entitled to use the Product, subject to the payment of applicable license fees, strictly within one legal entity identified by its individual company ID and only for the internal business

purposes of such entity, during a separately specified license period and for such maximum number of simultaneous person users you have purchased licenses for.

PROGMAN's authorized Resellers, Manufacturers, who order product data services from PROGMAN, or other Partners and Agents, may obtain Demonstration and Training version, which you can use to demonstrate the Product, test product data services results, sell your solutions, and train employees. However, these licenses must not be resold or used for direct revenue-generating activities (excluding customer trainings), commercial purposes (excluding customer trainings), or personal purposes.

After the license period has expired, the Product may disable itself automatically, and you shall discontinue using the Product and destroy the software copy you have installed. However, subject to the availability of the Product, you may purchase a (new) commercial version of the Product, or an educational version if applicable. You shall not (i) modify, work around any technical limitations, decompile, disassemble, reverse-engineer, or otherwise endeavor to examine the function or structure of the Product, or create derivative works based on the Product, or use detached files, libraries or other parts of the Product in connection with third party software unless expressly permissible under the Product specifications; or (ii) assign, transfer, sublicense, rent, pledge, or otherwise distribute or make available, the Product or your limited right to use the Product; save to the extent that is otherwise expressly provided for by mandatory provisions of applicable law.

TERRITORY

PROGMAN grants licenses only for the use on Territory stated in the delivery agreement. Nothing in these Terms permits you to install or access the Product outside of the Territory (including, without limitation, use of virtual machines or other technology).

LIMITED WARRANTY AND DISCLAIMERS

PROGMAN guarantees the performance of the Product in its intended use as specified in the related documentation. The warranty is valid for a sixty (60) days warranty period as of the day of delivery. PROGMAN shall correct the errors by replacing any defective versions of the Product with a new update version or a service pack version. Alternatively, PROGMAN can provide a work-around if it does not cause unreasonable inconvenience for you.

The warranty is not applicable to any defect or deficiency that results from (i) the use of the Product contrary to PROGMAN's written instructions such as requirements on the operating environment, (ii) any modification taken without PROGMAN's authorisation or (iii) the use of the Product in combination with any product or service not supplied or authorized by PROGMAN.

SUPPORT

PROGMAN may but is not obliged to provide you with maintenance, support or other consulting services, or bug fixes or upgrades of the Product. However, if you have purchased and duly paid for the commercial version of the Product, PROGMAN shall provide you from time to time free-of-charge with service releases containing minor corrections to the latest released version of the Product.

PROPERTY RIGHTS AND CONFIDENTIALITY

Title, ownership and all intellectual property rights to the Product belong exclusively to PROGMAN or any supplier of PROGMAN. You are granted only a limited right to use the Product.

Aspects of the Product, including the specific design and structure, and license activation codes enabling the use of the Product, are confidential and trade secrets of PROGMAN or any supplier of PROGMAN. You shall maintain such information as strictly confidential, and shall not disclose them to any third party or use them for any unauthorized purpose. These confidentiality obligations remain in force even after your right to use the Product has ended.

LIMITED LIABILITY

Due to the fact that the Product is licensed to you strictly on an "AS IS" basis, to the maximum event permitted by the applicable law neither PROGMAN nor any supplier of PROGMAN shall be liable for any damages whatsoever, including but without limitation to direct, indirect, special, consequential, punitive or incidental damages, and loss of revenue, profit or data. In any case the maximum liability of PROGMAN shall be equal to the amount paid by you for the right to use the Product. These limitations of liability constitute an essential part of these Terms.

LAWS AND FORUM

Your right to use the Product and these Terms shall be governed by substantial laws of Finland. Any and all disputes arising out of these Terms shall be intended to be settled amicably. In case an amicable settlement is not reached, the dispute shall be submitted to the District Court of Helsinki, Finland.

Please note that you must use the Product in compliance with applicable export and import laws, regulations and rules.

TERMINATION OF LICENSE

Either PROGMAN or you may terminate with immediate effect these Terms and the License granted hereunder if:

The other party is in material breach of any of its obligations or:

the other party (i) goes into liquidation, or (ii) any proceeding is instituted seeking to adjudicate the other Party as bankrupt or insolvent, or (iii) has a receiver appointed in respect of any of its assets, or (iv) if the other party is a partnership, if any of the partners in the partnership is adjudicated bankrupt or executes an assignment for the benefit of his/its or their creditors or otherwise compounded with his/its or their creditors, or (v) becomes subject to any similar act or process in any other jurisdiction, or (vi) becomes generally unable to pay its debts as and when they fall due.

ENTIRE AGREEMENT AND AMENDMENTS

These Terms are an integral part of the agreement between you and PROGMAN with regard to the use of the Product, and shall supersede any previous written or oral agreements and understandings.

Any and all amendments to these Terms shall be made in writing and expressly accepted by both you and PROGMAN.

WICHTIG: Mit der Veröffentlichung der Version 2010.11 von MagiCAD wird ein verbessertes Produktaktivierungsverfahren eingeführt. Alle bisherigen Lizenznehmer müssen ihre Schutz-Dongles an Progman OY zurückgeben und/oder Lizenzdateien unverzüglich nach der Installation der neuen Version vernichten.

ENDNUTZER-LIZENZVERTRAG

Dieser Endnutzer-Lizenzvertrag („Bestimmungen“) gilt für die Software [MagiCAD] in Object Code Form und für alle zugehörigen Dokumentationen („Produkt“), die der Lizenznehmer bei Progman Oy* („PROGMAN“) bestellt hat oder dem Lizenznehmer von PROGMAN zur Verfügung gestellt wurden. Sie als Lizenznehmer oder berechtigter Benutzer („Sie“) stimmen zu, durch Aktivierung der Option „I accept the terms in the license agreement“ (Ich stimme den Bestimmungen dieses Lizenzvertrages zu) oder durch Verwendung des Produkts an diese Bestimmungen gebunden zu sein. Wenn Sie diesen Bestimmungen nicht zustimmen, wählen Sie die Option „I do not accept the terms in the license agreement“ (Ich stimme den Bestimmungen des Lizenzvertrages nicht zu) aus, und verwenden Sie das Produkt nicht.

*MagiCAD wird in China durch Glodon Company Limited an den Lizenznehmer lizenziert

ALLGEMEINES

Sie können eine Testversion des Produkts herunterladen. In diesem Fall sind Sie nur berechtigt, das Produkt zu prüfen, bevor Sie eine kommerzielle Version des Produkts erwerben.

Sie sind selbst und auf eigene Kosten dafür verantwortlich, die für die Nutzung des Produkts erforderliche Software anderer Hersteller, Ausrüstung und Telekommunikation zu erwerben.

Das Produkt ist weder für die Verwendung durch Konsumenten bestimmt noch geeignet sondern nur für Unternehmen und gemeinnützige Organisationen. Das Produkt ist außerdem nicht fehlertolerant entworfen. Daher ist es nicht zur Nutzung in gefährlichen Umgebungen vorgesehen, in denen eine ausfallsichere Leistung erforderlich ist.

Zur Klarstellung: Berechnungen, Daten oder andere mithilfe des Produkts erzielten Ergebnisse dienen nur als Referenz und müssen von Ihnen überprüft werden. Weder Progman selbst noch Lieferanten von Progman sind für die Zuverlässigkeit und Gültigkeit der Ergebnisse verantwortlich. Sie allein tragen die Verantwortung dafür, dass die Ergebnisse korrekt sind.

LIZENZEN FÜR TESTVERSIONEN, VERSIONEN FÜR BILDUNGSEINRICHTUNGEN, KOMMERZIELLE VERSIONEN SOWIE VORFÜHR- UND SCHULUNGSVERSIONEN

Sie haben das beschränkte, nicht ausschließliche und nicht übertragbare Recht, das Produkt zu installieren und zu nutzen. Sie sind berechtigt, mehrere Kopien des Produkts zu erstellen und zu installieren, sofern die Erstellung mehrerer Kopien zur gewöhnlichen Nutzung des Produkts gerechtfertigt ist. Alle diese Kopien müssen Hinweise zum Urheberrecht und zu anderen Rechten von PROGMAN enthalten.

Wenn Sie eine Testversion des Produkts heruntergeladen haben, sind Sie berechtigt, das Produkt während einer eigens angegebenen Lizenzlaufzeit kostenlos zur Bewertung der Funktionen und Eignung des Produkts zu nutzen.

Die Version für Bildungseinrichtungen des Produkts richtet sich an (i) Bildungseinrichtungen, (ii) Studierende und (iii) andere von PROGMAN autorisierte Lizenznehmer aus dem Bildungswesen. Haben Sie als Bildungseinrichtung oder anderweitiger Lizenznehmer aus dem Bildungswesen eine nicht-kommerzielle Version des Produkts heruntergeladen, sind Sie berechtigt, das Produkt nach Zahlung der geltenden Lizenzgebühren während einer separat festgelegten Lizenzlaufzeit für die maximale Anzahl gleichzeitiger Nutzer, für die Sie Lizenzen erworben haben, innerhalb einer Einrichtung und ausschließlich gemäß dem Bildungsauftrag dieser Einrichtung zu nutzen. Studierende sind berechtigt, das Produkt während einer separat festgelegten Lizenzlaufzeit ausschließlich zu Bildungszwecken zu nutzen. Studierende müssen unter Umständen einen Nachweis über ihren Ausbildungsstatus erbringen oder anderweitig eine Genehmigung von PROGMAN einholen. Die Features und Funktionalität der nicht-kommerziellen Produktversion kann sich von den Features und der Funktionalität der kommerziellen Produktversion unterscheiden. Für die Zwecke dieser Vereinbarung gelten folgende Begriffsbestimmungen: „Einrichtung“ bezeichnet eine Bildungseinrichtung, die anerkannte Schul- oder Studienabschlüsse erteilt; „Studierender“ bezeichnet eine natürliche Person, die an einer Bildungseinrichtung studiert, und „Bildungszwecke“ bezeichnet interne Ausbildungsaktivitäten ohne kommerziellen, gewinnorientierten oder

sonstigen bildungsfremden Hintergrund, die ausschließlich an sowie von Standorten aus erfolgen, die keine kommerzielle oder gewinnorientierte Zwecke verfolgen.

Wenn Sie eine kommerzielle Version des Produkts heruntergeladen haben, sind Sie berechtigt, das Produkt nach Zahlung der geltenden Lizenzgebühren grundsätzlich nur innerhalb einer juristischen Einheit, gekennzeichnet durch die individuelle Unternehmens-ID und nur für den Gebrauch innerhalb dieser Organisation, während einer eigens angegebenen Lizenzlaufzeit und für die Anzahl gleichzeitiger Benutzer, für die Sie Lizenzen erworben haben, zu nutzen.

Autorisierte Reseller von PROGMAN, Hersteller, die Produktdatendienste von PROGMAN bestellen, oder andere Partner und Vertreter können eine Vorführ- und Schulungsversion erhalten, um das Produkt vorzuführen, die Ergebnisse der Produktdatendienste zu testen, ihre Lösungen zu verkaufen und Mitarbeiter zu schulen. Die Lizenzen dürfen nicht weiterverkauft oder für umsatzsteigernde Aktivitäten (außer Kundens Schulungen), kommerzielle Zwecke (außer Kundens Schulungen) oder private Zwecke genutzt werden.

Nach Ablauf der Lizenzlaufzeit deaktiviert sich das Produkt möglicherweise automatisch selbst. Sie haben die Nutzung des Produkts einzustellen und die installierte Software-Kopie zu vernichten. Abhängig von der Verfügbarkeit des Produkts können Sie jedoch möglicherweise eine (neue) kommerzielle Version des Produkts, oder falls zutreffend, eine Version für Bildungseinrichtungen des Produkts, erwerben.

Es ist Ihnen untersagt, (i) die Funktionsweise oder die Struktur des Produkts zu verändern, zu dekompile, zu disassemblieren, zurückzuentwickeln oder anderweitig zu untersuchen oder technische Beschränkungen des Produkts zu umgehen, abgeleitete Werke zu erstellen, die auf dem Produkt beruhen, oder einzelne Dateien, Libraries oder andere Teile des Produkts in Verbindung mit Software anderer Hersteller zu verwenden, es sei denn, dies ist gemäß den Produktspezifikationen ausdrücklich gestattet, oder (ii) das Produkt oder Ihre beschränkte Berechtigung das Produkt zu nutzen, abzutreten, zu übertragen, unterzulizenzieren, zu vermieten, zu versprechen oder anderweitig zu vertreiben oder zur Verfügung zu stellen, es sei denn dies ist gesetzlich ausdrücklich erlaubt.

NUTZUNGSGBIET

Die von PROGMAN gewährten Lizenzen dürfen ausschließlich innerhalb des im Bereitstellungsvertrag genannten Nutzungsgebiets genutzt werden. Die vorliegenden Bestimmungen erlauben es Ihnen in keiner Weise, das Produkt außerhalb des Nutzungsgebiets zu installieren oder außerhalb des Nutzungsgebiets darauf zuzugreifen (insbesondere mithilfe virtueller Maschinen oder anderer Technologien).

EINGESCHRÄNKTE GARANTIE UND HAFTUNGSAUSSCHLÜSSE

PROGMAN garantiert die ordnungsgemäße Funktionsweise des Produkts bei einer vorgesehenen Nutzung gemäß der dazugehörigen Dokumentation. Die Geltungsdauer der Garantie beträgt sechzig (60) Tage ab dem Bereitstellungsdatum. PROGMAN verpflichtet sich, etwaige Fehler zu beheben und mangelhafte Versionen des Produkts durch eine aktualisierte Version oder eine Service-Pack-Version auszutauschen. Alternativ kann PROGMAN einen Workaround anbieten, sofern dies für Sie keine unzumutbaren Unannehmlichkeiten verursacht.

Die Garantie gilt nicht für Mängel oder Fehler, die aus folgenden Handlungen resultieren: (i) der Nutzung des Produkts entgegen der schriftlichen Vorgaben von PROGMAN (z. B. Systemvoraussetzungen), (ii) einer Modifikation, die nicht von PROGMAN genehmigt wurde oder (iii) der Nutzung des Produkts in Verbindung mit einem Produkt oder einer Dienstleistung, das bzw. die nicht von PROGMAN bereitgestellt oder autorisiert wurde.

SUPPORT

PROGMAN stellt möglicherweise Wartungs-Support oder andere Beratungsdienstleistungen, Bug-Fixes oder Upgrades des Produkts bereit, ist dazu aber nicht verpflichtet. Wenn Sie die kommerzielle Version des Produkts gekauft und ordnungsgemäß bezahlt haben, stellt Ihnen PROGMAN von Zeit zu Zeit kostenlos Service-Releases zur Verfügung, die kleinere Korrekturen für die aktuellste Version des Produkts enthalten.

EIGENTUMSRECHTE UND VERTRAULICHKEIT

Eigentum und alle Rechte am geistigen Eigentum am Produkt gehören ausschließlich PROGMAN oder Anbietern von PROGMAN. Ihnen wird lediglich ein beschränktes Recht zur Nutzung des Produkts gewährt.

Bestimmte Bestandteile des Produkts, einschließlich Design und Struktur, sowie die Lizenzaktivierungscodes für die Nutzung des Produkts sind vertraulich und Geschäftsgeheimnisse von PROGMAN oder Anbietern von PROGMAN. Sie haben diese Informationen streng vertraulich zu behandeln und dürfen sie keinem Dritten gegenüber

offenlegen oder sie zu nicht genehmigten Zwecken verwenden. Diese Vertraulichkeitsverpflichtungen behalten auch dann Gültigkeit, wenn Ihr Recht zur Nutzung des Produkts nicht mehr besteht.

BESCHRÄNKTE HAFTUNG

Denn das Produkt lizenziert "WIE ES IST", soweit gesetzlich zulässig, haften weder PROGMAN noch Anbieter von PROGMAN für Schäden. Dies gilt insbesondere für unmittelbare, mittelbare, konkrete oder zufällige Schäden, Folgeschäden oder Schäden mit Strafcharakter, für entgangene Umsätze, Gewinne oder verlorene Daten. Die Haftungshöchstgrenze von PROGMAN entspricht in jedem Fall dem Betrag, den Sie für das Recht zur Nutzung des Produkts gezahlt haben.

Diese Haftungsbeschränkungen sind essenzieller Bestandteil dieser Bestimmungen.

GELTENDES RECHT UND GERICHTSBARKEIT

Ihr Recht zur Nutzung des Produkts und diese Bestimmungen unterliegen den geltenden Gesetzen von Finnland. Alle Streitigkeiten aufgrund dieser Bestimmungen sollten in gegenseitigem Einvernehmen beigelegt werden. Kann ein gegenseitiges Einvernehmen nicht erreicht werden, sind die Streitigkeiten dem Amtsgericht von Helsinki, Finnland vorzulegen.

Beachten Sie, dass Sie das Produkt nur in Übereinstimmung mit geltenden Export- und Importgesetzen, -vorschriften und -regeln nutzen dürfen.

BEENDIGUNG VON LIZENZEN

PROGMAN oder Sie können mit sofortiger Wirkung diesen Vertrag kündigen und die hierunter gewährte Lizenz beenden, wenn

- (i) eine wesentliche Pflichtverletzung der anderen Partei vorliegt oder
- (ii) die andere Partei in die Liquidation geht,
- (iii) ein Gerichtsverfahren zur Feststellung der Insolvenz der anderen Partei eingeleitet wurde,
- (iv) die andere Partei für all ihre Vermögenswerte einen Insolvenzverwalter bestellt hat,
- (v) die andere Partei partnerschaftlich organisiert ist und die Insolvenz eines Partners aus der Partnerschaft beantragt wird oder ein Partner aus der Partnerschaft einen Vergleich mit seinen Gläubigern anmeldet oder sich anderweitig mit seinen Gläubigern einigt,
- (vi) die andere Partei unter einer anderen Gerichtsbarkeit Gegenstand einer ähnlichen Handlung oder eines ähnlichen Prozesses wird oder
- (vii) im Allgemeinen nicht mehr in der Lage ist, fällige Schulden zu begleichen.

VOLLSTÄNDIGER VERTRAG UND ÄNDERUNGEN

Diese Bestimmungen sind integraler Bestandteil des Vertrages zwischen Ihnen und PROGMAN hinsichtlich der Nutzung des Produkts und gehen allen vorherigen schriftlichen oder mündlichen Vereinbarungen oder Abreden vor.

Alle Änderungen an diesen Bestimmungen bedürfen der Schriftform und müssen ausdrücklich von Ihnen und PROGMAN angenommen werden.

IMPORTANT : une procédure améliorée d'activation du produit a été ajoutée à la version 2010.11 de MagiCAD. Tous les détenteurs d'une licence antérieure sont invités à renvoyer leurs dongles à Progman Oy et/ou à supprimer leurs fichiers de licence rapidement après avoir installé la nouvelle version.

CONTRAT DE LICENCE UTILISATEUR FINAL

Le présent Contrat de Licence Utilisateur Final (« CLUF ») s'applique au logiciel [MagiCAD] sous forme de code objet ainsi qu'à toute documentation s'y rapportant (le « Produit »), que le détenteur de licence a commandés et que Progman Oy* (« PROGMAN ») lui a fournis. En cochant la case « J'accepte les termes du contrat de licence » ou en utilisant le Produit, vous acceptez, en tant que détenteur de la licence ou en tant que personne autorisée, l'obligation légale de respecter ce CLUF. Si vous êtes en désaccord avec le CLUF, cochez la case « Je n'accepte pas les termes du contrat de licence » et n'utilisez pas le produit.

*Gldon Company Limited autorise l'utilisation du MagiCAD aux titulaires des licences en Chine.

GÉNÉRALITÉS

Vous avez la possibilité de télécharger une version d'évaluation du Produit ; dans ce cas, vous êtes uniquement autorisé à évaluer le Produit avant d'en acheter une version commerciale.

L'acquisition, à vos frais, de tous les logiciels tiers, équipements et terminaux de télécommunications nécessaires à l'utilisation du Produit relève de votre responsabilité.

Le Produit s'adresse exclusivement aux entreprises et organisations à but non lucratif ; il n'est pas destiné à répondre aux besoins des particuliers. Par ailleurs, le Produit n'est pas conçu pour la tolérance aux pannes ; par conséquent, il est incompatible avec une utilisation dans des environnements dangereux nécessitant un fonctionnement sécurisé.

Pour éviter tout doute, chaque calcul, donnée ou tout autre résultat provenant de l'usage du Produit doivent uniquement servir de référence et doivent être vérifiés par vous. Ni Progman, ni aucun fournisseur de Progman ne pourra être tenu responsable à l'égard de la fiabilité et de la validité des résultats, puisque vous êtes responsable de veiller à l'exactitude des résultats.

LICENCES DE LA VERSION D'ÉVALUATION, DE LA VERSION PÉDAGOGIQUE, DE LA VERSION COMMERCIALE ET DE LA VERSION DE DÉMONSTRATION ET DE FORMATION

Vous bénéficiez d'un droit limité, non exclusif et non transférable, d'installation et d'utilisation du Produit. Vous avez le droit de créer et d'installer plusieurs copies du Produit, sous réserve de justifier que l'utilisation courante du Produit nécessite l'existence de ce nombre de copies. Toutes les copies doivent contenir des notices concernant le droit d'auteur et les autres droits de PROGMAN.

Si vous avez téléchargé une version d'évaluation du Produit, vous avez le droit d'utiliser le Produit à titre gratuit exclusivement dans le but d'évaluer les fonctions et la facilité d'utilisation du Produit, et ce durant une période limitée donnant lieu à une licence spécifique.

La version pédagogique du Produit est conçue pour (i) des établissements d'enseignement, (ii) des étudiants, (iii) d'autres détenteurs d'une licence d'enseignement autorisés par PROGMAN. Si, en tant qu'établissement d'enseignement ou autre détenteur d'une licence d'enseignement autorisé par PROGMAN, vous avez téléchargé une version pédagogique du Produit, vous avez le droit d'utiliser le Produit, sous réserve du paiement des frais de licence applicables, dans le strict cadre d'un établissement et uniquement dans un but pédagogique d'un tel établissement, durant une période limitée spécifiquement définie et pour le nombre maximum d'utilisateurs simultanés pour lequel vous avez acquis des licences. Les étudiants sont uniquement autorisés à utiliser le Produit dans un but pédagogique et durant une période limitée spécifiquement définie. Progman peut demander aux étudiants de prouver leur inscription dans un établissement d'enseignement ou, dans le cas contraire, les étudiants doivent être approuvés par PROGMAN. Les caractéristiques et fonctionnalités de la version pédagogique peuvent différer de celles de la version commerciale du Produit. Dans le cadre de cette clause, par « établissement », on entend une institution délivrant un diplôme ou un certificat ; par « utilisateur », on entend l'étudiant ou le membre du corps professoral de l'institution ; par « étudiant », on entend un individu inscrit en tant qu'étudiant dans un établissement d'enseignement, et par « fins éducatives », on entend des

activités éducatives internes, ce qui exclut tout objectif commercial ou pédagogique à but lucratif ou autres, qui sont uniquement réalisées dans et depuis de tels établissements, lesquels ne sont pas dirigés à des fins commerciales ou lucratives.

Si vous avez téléchargé une version commerciale du Produit, vous avez le droit d'utiliser le Produit, sous réserve du paiement des frais de licence applicables, dans le strict cadre des activités professionnelles de l'entité juridique définie par l'identité de l'entreprise et durant une période limitée spécifiquement définie et pour le nombre maximum d'utilisateurs simultanés pour lequel vous avez acquis des licences. Les revendeurs agréés PROGMAN et les fabricants qui commandent des services de données des produits à PROGMAN, ainsi que les autres partenaires et mandataires, peuvent obtenir une version de démonstration et de formation permettant d'assurer une démonstration du produit, de tester les résultats des services des données produits, de vendre des solutions et de former des employés. Toutefois, ces licences ne doivent être ni revendues ni utilisées pour des activités générant des revenus directs (à l'exclusion des formations de clients), à des fins commerciales (à l'exclusion des formations de clients) ou à des fins personnelles.

À l'expiration de la période de licence, le Produit sera automatiquement désactivé ; vous devrez arrêter de l'utiliser et supprimer la copie du logiciel que vous avez installée. Cela étant, et sous réserve de disponibilité du Produit, vous pourrez acheter une (nouvelle) version commerciale ou pédagogique du Produit.

Vous n'êtes pas autorisé (i) à modifier le Produit, à en contourner les limitations techniques, à le décompiler, à le désassembler ou à tenter d'en reconstituer la logique ou la structure, à créer des outils dérivés du Produit, à utiliser des fichiers détachés, des bibliothèques de programmes ou d'autres parties du Produit avec un logiciel tiers, sauf stipulation contraire expresse dans les spécifications du Produit ; (ii) à attribuer, transférer, concéder sous licence, louer, gager, distribuer ou transmettre de quelque manière que ce soit le Produit ou votre droit de l'utiliser, sauf dans la mesure où ces opérations seraient expressément permises par la réglementation applicable.

TERRITOIRE

PROGMAN accorde uniquement des licences pour une utilisation sur le Territoire mentionné dans le contrat de livraison. Aucune disposition des présentes conditions ne vous autorise à installer le produit ou à y accéder en dehors du Territoire (y compris, entre autres, via l'utilisation de machines virtuelles ou d'autres technologies).

GARANTIE LIMITÉE ET CLAUSES DE NON-RESPONSABILITÉ

PROGMAN garantit le bon fonctionnement du Produit dans le cadre de son utilisation prévue, telle qu'indiquée dans la documentation correspondante. La garantie est valable pour une période de soixante (60) jours, à compter de la date de livraison. PROGMAN s'engage à corriger les erreurs en remplaçant toute version défectueuse du Produit par une nouvelle version mise à jour ou par un Service pack. À titre d'alternative, PROGMAN peut fournir une solution provisoire, si cela ne vous provoque pas d'inconvénient majeur.

La garantie ne s'applique pas à tout défaut ou insuffisance résultant de (i) une utilisation du Produit contraire aux instructions écrites de PROGMAN, par exemple en matière de conditions requises pour l'environnement d'exploitation, (ii) toute modification effectuée sans l'autorisation préalable de PROGMAN ou (iii) l'utilisation du Produit en combinaison avec tout produit ou service non fourni ou autorisé par PROGMAN.

ASSISTANCE

PROGMAN peut être amené (sans toutefois y être obligé) à vous fournir des services de maintenance, d'assistance et de conseil, des correctifs ou des mises à niveau du Produit.

Toutefois, si vous avez acheté et payé la version commerciale du Produit, PROGMAN est tenu de vous fournir de temps en temps et à titre gratuit des ensembles de correctifs logiciels apportant des corrections mineures ajoutées à la dernière version commerciale du Produit.

DROITS DE PROPRIÉTÉ ET CONFIDENTIALITÉ

Les droits de propriété, droits d'auteur et autres droits de propriété intellectuelle du Produit restent la propriété exclusive de PROGMAN ou de ses fournisseurs. Par conséquent, le droit d'utilisation du Produit qui vous est accordé est limité.

Les caractéristiques du Produit, notamment sa conception et sa structure spécifiques, ainsi que les codes d'activation de la licence permettant d'utiliser le Produit, sont confidentiels et relèvent des secrets commerciaux de PROGMAN ou de ses fournisseurs.

Vous devez traiter ces informations de manière strictement confidentielle et vous abstenir de les divulguer à des tiers ou de les utiliser à des fins non autorisées. Cette obligation de confidentialité continue de s'appliquer après l'expiration de votre droit d'utilisation du Produit.

LIMITATION DE RESPONSABILITÉ

Le Produit sous licence vous étant livré strictement « EN L'ÉTAT », dans les limites maximales permises par la loi en vigueur, ni PROGMAN ni ses fournisseurs ne sauraient être tenus responsables de la survenue d'éventuels dommages, de quelque nature que ce soit, y compris entre autres des dommages directs, indirects, spéciaux, consécutifs, accessoires, punitifs, ou d'une perte de chiffre d'affaires, de bénéfices ou de données. Dans tous les cas, la responsabilité maximale de PROGMAN sera limitée au montant que vous avez réglé pour utiliser le Produit.

Ces limitations de responsabilité constituent un des principaux aspects du présent CLUF.

DROIT APPLICABLE ET JURIDICTION COMPÉTENTE

Votre droit d'utilisation du Produit et le CLUF sont régis par les lois en vigueur en Finlande. En cas de litige à propos du CLUF, les parties devront s'entendre sur un règlement à l'amiable. Si elles n'y parvenaient pas, le litige sera soumis au Tribunal d'Helsinki, en Finlande.

Veillez noter que votre utilisation du Produit doit être conforme aux lois, réglementations et règles en vigueur en matière d'import et d'export.

RÉSILIATION DU CONTRAT DE LICENCE

PROGMAN ou vous-même pouvez résilier, avec effet immédiat, les présentes Conditions et la Licence accordée en vertu des présentes si :

L'autre partie commet une violation substantielle de l'une de ses obligations, ou :

- si l'autre partie (i) est mise en liquidation, ou (ii) si une procédure est engagée afin de déclarer l'autre partie en faillite ou insolvable, ou (iii) si un séquestre a été nommé pour l'un de ses actifs, ou, (iv) dans l'hypothèse où l'autre partie est un partenariat, si l'un des partenaires est déclaré en faillite ou exécute une tâche pour le compte de son ou ses créanciers, ou s'est arrangé avec ses créanciers de quelque autre manière que ce soit, ou (v) si l'autre partie devient l'objet de tout acte ou processus similaire dans toute autre juridiction, ou (vi) si elle est dans l'incapacité générale de payer ses dettes en temps voulu.

EXHAUSTIVITÉ DU CONTRAT ET MODIFICATIONS

Le présent CLUF constitue l'intégralité du contrat qui vous lie à PROGMAN envers l'utilisation du Produit et remplace toutes les éventuelles conventions et ententes antérieures, verbales ou écrites.

Toute modification du présent CLUF doit faire l'objet d'une déclaration écrite et obtenir votre accord express ainsi que celui de PROGMAN.

ВАЖНО: Начиная с версии MagiCAD 2010.11 введена усовершенствованная процедура активации продукта. Все предыдущие лицензиаты должны вернуть ключи аппаратной защиты компании Progman Oy и / или уничтожить лицензионные файлы сразу же после установки новой версии.

ЛИЦЕНЗИОННОЕ СОГЛАШЕНИЕ С КОНЕЧНЫМ ПОЛЬЗОВАТЕЛЕМ

Настоящее Лицензионное соглашение («Условия») применяется к программному обеспечению [MagiCAD] в виде выходной программы и к любой относящейся к нему документации («Продукт»), заказанной и предоставленной лицензиату со стороны Progman Oy* («PROGMAN»). Вы как лицензиат или допущенный персональный пользователь («Вы») соглашаетесь быть юридически связанными этими условиями, выбрав вариант «Я принимаю условия лицензионного соглашения» (“I accept the terms in the license agreement”) или используя Продукт. Если Вы не согласны с этими условиями, выберите вариант «Я не принимаю условия лицензионного соглашения» (“I do not accept the terms in the license agreement”) и не используйте Продукт.

*Лицензиаром MagiCAD в Китае является компания Glodon Company Limited.

ОБЩИЕ ПОЛОЖЕНИЯ

Вы можете загрузить пробную версию Продукта, в этом случае Вы имеете право только оценить Продукт перед покупкой коммерческой версии Продукта.

Вы несете ответственность за приобретение за свой счет всего необходимого стороннего программного обеспечения, оборудования и телекоммуникаций, необходимых для использования Продукта.

Продукт не предназначен и не пригоден для использования потребителями, Его могут использовать только коммерческие и некоммерческие организации. Кроме того, Продукт не разработан для работы в отказоустойчивом варианте и поэтому он не предназначен для использования в опасных условиях, требующих безотказной работы.

Примите во внимание, что любые расчеты, данные и результаты, полученные с помощью Продукта, следует проверять и использовать только как рекомендации. Компания Progman и ее поставщики не несут ответственности за достоверность таких результатов. Проверка их правильности возлагается на Вас.

ЛИЦЕНЗИИ НА ПРОБНУЮ, ОБРАЗОВАТЕЛЬНУЮ, КОММЕРЧЕСКУЮ, ДЕМОНСТРАЦИОННУЮ И УЧЕБНУЮ ВЕРСИИ

Вам предоставляется ограниченное, неисключительное и непередаваемое право на установку и использование Продукта. Вы имеете право сделать и установить несколько копий Продукта при условии, что наличие нескольких копий является оправданным для обычного использования Продукта. Все такие копии должны включать уведомления, касающиеся авторских и других прав PROGMAN.

Если Вы загрузили пробную версию Продукта, Вы имеете право на использование Продукта бесплатно, строго с единственной целью оценки возможности и удобства использования Продукта в течение отдельно указанного срока действия лицензии.

Образовательная версия Продукта предназначена для, а) образовательных учреждений; б) учащихся; в) других организаций с лицензией на образовательную деятельность, одобренных компанией PROGMAN. Если вы загрузили образовательную версию Продукта как образовательное учреждение или организация с соответствующей лицензией, одобренная компанией PROGMAN, вы имеете право использовать Продукт строго в образовательном учреждении и в рамках его образовательных целей, уплатив надлежащий лицензионный сбор. Продукт могут использовать пользователи, для которых приобретены лицензии с заранее определенным периодом действия. Учащиеся могут использовать Продукт только в образовательных целях и в течение указанного периода действия лицензии. Учащимся может потребоваться документально подтвердить свою принадлежность к образовательному учреждению или иным образом получить одобрение компании PROGMAN. Возможности образовательной и коммерческой версий Продукта могут различаться. В контексте данного положения «учреждение» означает образовательное заведение, в котором присуждается ученая степень или выдается документ государственного образца о получении образования; «пользователь» – учащийся или преподаватель учреждения; «учащийся» – лицо, зарегистрированное в образовательном учреждении в качестве учащегося; «образовательные цели» – внутренняя образовательная деятельность учреждения, исключая учебную и любую другую деятельность на коммерческой основе. Образовательные цели осуществляются только в тех местах, которые функционируют не в коммерческих целях и не для получения прибыли. Если Вы загрузили коммерческую версию Продукта, Вы имеете право на использование Продукта, при условии уплаты соответствующих лицензионных платежей, исключительно одним юридическим лицом, идентифицированным индивидуальным номером компании, и только для внутренних деловых целей данного лица, в течение отдельно указанного срока действия

лицензии, а также с максимальным количеством одновременных персональных пользователей, соответствующем количеству приобретенных лицензий.

Авторизованные реселлеры компании PROGMAN, Производители, заказывающие у компании PROGMAN услуги, связанные с моделированием оборудования или разработкой плагинов, а также другие Партнеры и Агенты могут получить демонстрационную и учебную версии, которые можно использовать для демонстрации Продукта, проверки результатов услуг, продажи своих решений и обучения сотрудников. Эти лицензии запрещается перепродавать или использовать непосредственно для получения прибыли (за исключением обучения клиентов), в коммерческих (за исключением обучения клиентов) или личных целях.

После истечения срока действия лицензии, Продукт может отключиться автоматически, а Вы должны прекратить использование данного Продукта и уничтожить копии программного обеспечения, которые у вас установлены. Тем не менее, при условии наличия данного Продукта, Вы можете приобрести (новую) коммерческую версию Продукта или образовательную версию, если это применимо.

Вы не должны (I) изменять, пытаться обойти технические ограничения, декомпилировать, отделять составляющие части, переконструировать или иным образом стремиться изучить функции или структуру Продукта или создавать производные материалы, основанные на Продукте, либо использовать отдельные файлы, библиотеки или другие части Продукта вместе со сторонним программным обеспечением, если специально не оговорено в технических характеристиках Продукта; или (II), переуступать, передавать, сдавать по лицензии, давать в залог, или иным образом распространять или предоставлять Продукт или Ваше ограниченное право на использование Продукта; за исключением тех случаев, которые четко предусмотрены обязательными положениями действующего законодательства.

ТЕРРИТОРИЯ

Предоставляемые компанией PROGMAN лицензии предназначены исключительно для использования на Территории, указанной в договоре о поставке. Никакие положения настоящих Условий не дают права на установку или использование Продукта за пределами Территории (включая использование виртуальных машин и других технологий).

ОГРАНИЧЕННАЯ ГАРАНТИЯ И ПРАВОВЫЕ ОГОВОРКИ

Компания PROGMAN гарантирует эксплуатационные характеристики Продукта в рамках предполагаемого использования согласно сопутствующей документации. Срок действия гарантии составляет шестьдесят (60) дней с даты поставки. Компания PROGMAN обязуется устранять ошибки путем замены дефектных версий Продукта обновленной версией или версией с пакетом обновления. В качестве альтернативы PROGMAN может предложить обходное решение, если это не создаст для вас чрезмерных неудобств.

Действие гарантии не распространяется на дефекты или ошибки, ставшие результатом i) использования Продукта в нарушение письменных инструкций PROGMAN, таких как требования к эксплуатационной среде, ii) внесения каких-либо изменений без разрешения PROGMAN либо iii) использования Продукта в сочетании с другим продуктом или услугой, не предоставленными или не разрешенными компанией PROGMAN.

СОПРОВОЖДЕНИЕ

Компания PROGMAN может, но не обязана, обеспечить поддержку, сопровождение или другие консультационные услуги, устранение ошибок либо обновление Продукта.

Тем не менее, если Вы приобрели и должным образом заплатили за коммерческую версию Продукта, Компания PROGMAN будет обеспечивать Вас время от времени бесплатными сервис-релизами, содержащими небольшие исправления для последней выпущенной версии Продукта.

ПРАВА СОБСТВЕННОСТИ И КОНФИДЕНЦИАЛЬНОСТЬ

Название, право собственности и все права интеллектуальной собственности на Продукт принадлежат исключительно Компании PROGMAN или любому поставщику Компании PROGMAN. Вам предоставляется только ограниченное право на использование Продукта.

Конфигурация Продукта, в том числе специфический дизайн и структура, а также коды активации лицензии, позволяющие использовать Продукт, являются конфиденциальными и коммерческими тайнами компании PROGMAN или любого поставщика PROGMAN. Вы обязаны сохранить конфиденциальность такой информации и не предоставлять её третьим лицам или не использовать для любых неразрешенных целей. Настоящие обязательства по соблюдению конфиденциальности остаются в силе даже после того, как Ваше право на использование Продукта заканчивается.

ОГРАНИЧЕННАЯ ОТВЕТСТВЕННОСТЬ

В связи с тем, что Продукт лицензируется для Вас «КАК ЕСТЬ», в максимальной степени, допустимой применимым законодательством, ни компания PROGMAN, никакой другой поставщик PROGMAN не несет ответственности за любые убытки, включая, но не ограничиваясь перечисленными, прямые, косвенные, специальные, вытекающие, штрафные или побочные

ущербы, а также потерю доходов, прибыли или потерю данных. В любом случае максимальная материальная ответственность Компании PROGMAN не должна превышать сумму, выплаченную за право использовать Продукт.

Эти ограничения являются неотъемлемой частью условий соглашения.

ПРАВА И МЕСТО УРЕГУЛИРОВАНИЯ СПОРА

Ваши права по использованию Продукта и условия соглашения будут регулироваться в соответствии с действующим законодательством Финляндии. Любые споры и разногласия, возникающие в рамках контракта, должны быть урегулированы мирным путем. Если мирное урегулирование не достигнуто, урегулирование спора передается в районный суд Хельсинки, Финляндия.

Пожалуйста, обратите внимание на то, что использование Продукта должно осуществляться в соответствии с действующими законами, правами и правилами, касающимися экспорта-импорта.

ПРЕКРАЩЕНИЕ ДЕЙСТВИЯ ЛИЦЕНЗИИ

Действие настоящих Условий и Лицензии может быть незамедлительно прекращено компанией PROGMAN либо вами в случае, если:

вторая сторона допустила существенное нарушение своих обязательств либо i) вторая сторона начала процесс ликвидации, ii) в отношении второй стороны начат процесс признания банкротства или несостоятельности, iii) назначен управляющий активами второй стороны, iv) вторая сторона является коллективным юридическим лицом, а кто-либо из партнеров в рамках этого лица признан банкротом, по решению суда переуступает свое имущество своим кредиторам либо заключает с ними компромиссное соглашение, v) в отношении второй стороны осуществляются аналогичные действия или процессы в какой-либо другой юрисдикции, vi) вторая сторона оказывается в целом не в состоянии обслуживать свою задолженность в установленные сроки.

ПРЕДМЕТ ДОГОВОРА И ПОПРАВКИ

Настоящие Условия являются неотъемлемой частью соглашения между Вами и компанией PROGMAN, которое касается использования Продукта, и заменяет все предыдущие письменные или устные соглашения и договоренности.

Любые поправки к настоящим условиям должны быть оформлены в письменном виде и приняты обеими сторонами, т.е. Вами и компанией PROGMAN.

重要提示：从MagiCAD 2010.11版开始，我们改进了产品激活过程。在安装新版本后，所有以前的授权许可用户必须将加密狗返还PROGMAN有限公司，而且/或者将授权许可文件及时销毁。

最终用户授权许可协议

本最终用户授权许可协议（“条款”）适用于授权许可用户订购的[MagiCAD]软件（代码形式）及其他相关文件（“产品”），该产品由Progman有限公司*（“PROGMAN”）提供。不管您是授权许可人还是授权许可人授权的用户（“您”），在选择“我接受授权许可协议”选项或直接使用产品时，都意味着您将在法律上同意接受这些条款的约束。如果您不同意这些条款，请选择“我不接受授权许可协议”选项，同时请不要使用该产品。

* MagiCAD 由广联达科技股份有限公司为中国的授权许可用户进行授权

综述

您可以下载产品的评估版，在这种情况下，在购买商业版产品之前，您仅限于对其进行测试评估。

您应承担使用该产品所需的相关必要第三方软件、设备与电信设施等费用。

该产品既不针对也不适用于消费者使用，而仅适用于商业和非营利性组织。此外，该产品设计尚无容错功能，因此，它并不适用于故障防患处理要求高的危险环境。

为避免产生疑问，用户必须明确知道：利用此产品生成的任何计算、数据或者其他结果均仅供参考，而且必须由用户自行验证。PROGMAN 或任何 PROGMAN 供应商均不对此类结果的可靠性和有效性负责，因为用户需自行确认结果是否正确。

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 - (i) provide a statutory declaration signed by You to Schneider Electric that confirms You have permanently lost or destroyed the Software Product or License Key that is to be replaced and that You have not retained the Software Product or License Key in any form nor included it with any other software or system owned, operated or controlled by You; and

- (ii) comply with any other direction of Schneider Electric related to the replacement.
- 6.5 If the License Key is faulty, and provided that such fault is attributable to an act or omission by Schneider Electric, Schneider Electric will replace the License Key if the faulty License Key is returned within the warranty period specified by Schneider Electric. Subject to Section 9 "Warranties" below, if the faulty License Key is not returned within said warranty period, Schneider Electric will replace the License Key upon payment by You of an administration fee to be advised by Schneider Electric at the time.
- 6.6 When applicable as per Section 1 above, the License Key might be rendered unusable (with or without prior warning) upon expiry of the trial period or of the limited period of time for which the license was granted to You.

7. TITLE

- 7.1 The Software Product, as well as all rights, title, interest, technology and know-how, whether patented or not, embodied in the Software Product, as well as all industrial and/or intellectual property rights attached to the Software Product, including but not limited to copyright, shall remain the sole property of Schneider Electric, to the exclusion of any third party software embedded in the Software Product or otherwise provided to You with the Software Product.
- 7.2 Nothing in this EULA shall be deemed to convey to You any of Schneider Electric's proprietary rights in the Software Product; all rights not specifically granted in this EULA are reserved by Schneider Electric. Schneider Electric does not sell the Software Product to You but only grants You the license rights defined in this EULA.
- 7.3 All industrial and/or intellectual property rights pertaining to any third party software embedded in the Software Product or otherwise provided to You with the Software Product 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.
- 7.4 Should You become aware of any infringement to the proprietary rights of Schneider Electric on the Software Product, You shall immediately inform Schneider Electric of such infringement and provide all relevant information required by Schneider Electric to defend its interests.

8. TRADEMARKS

Schneider Electric and other trademarks contained in the Software Product are registered trademarks of the Schneider Electric group. Except as otherwise expressly prescribed by statute under applicable law, You may not remove or alter any trademark, trade names, product names, logo, copyright or other proprietary notices, legends, symbols or labels in the Software Product. This EULA does not authorise You to use any names or trademarks of Schneider Electric or its authorised resellers.

9. WARRANTIES

- 9.1 Schneider Electric warrants that it is entitled to license and otherwise make available the Software Product and Documentation to You in accordance with the terms and conditions set out in the EULA. Notwithstanding the foregoing, no warranties shall apply to the license types referred to in Section 3.1.
- 9.2 The warranty period shall be of ninety (90) days from the date of delivery of the Software Product to You.
- 9.3 Within such warranty period Schneider Electric warrants that: (i) the Software Product will perform substantially in accordance with its specifications as described in the Documentation, and (ii) the medium on which the Software Product is provided to You (if provided under a tangible form) and the License Key (if any) will be free from defects in materials and workmanship.

Schneider Electric's sole obligation and Your sole remedy with respect to the foregoing limited warranty shall be, at Schneider Electric's option to fix the

defect or non-compliance or to replace the defective Software Product, the medium or the License Key without charge to You, provided that (i) You give notice of the defect to Schneider Electric within the above mentioned warranty period, and (ii) the defect does not fall under the exclusions set under Section 9.4 below.

- 9.4 Schneider Electric's warranty shall be excluded to the extent the Software Product, its medium or License Key has been altered or fails to perform in any way, as the result of Your negligent or unauthorized use such as for instance but not limited to the use of the Software Product with third party products (hardware, software, firmware or operating system) which are not intended by Schneider Electric for use with the Software Product, or the utilization of an improper hardware or software key (if applicable) with the Software Product, or the unauthorized maintenance of the Software Product.

Any replacement Software Product, media or License Key supplied to You pursuant to Section 9.3 hereinabove will be warranted for the remainder of the original ninety (90) warranty period or thirty (30) days, whichever is longer. Laws of some countries (either on federal or state level) do not allow limitations on duration of an express or implied warranty, so the above or any other limitation provided herein may not apply to You. In such event, such warranties are limited to the minimum warranty period legally allowed in said countries.

- 9.5 Schneider Electric's warranty shall also be excluded in case of defect or malfunction of the Software Product, to the extent such defect or malfunction could have been prevented by implementing the Software Product update or upgrade made available by Schneider Electric pursuant to Section 5.4, which You were entitled and encouraged to do.
- 9.6 TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW (ON BOTH FEDERAL AND STATE LEVEL, WHEN APPLICABLE), SCHNEIDER ELECTRIC MAKES NO OTHER WARRANTY THAN THOSE CONTAINED IN THIS SECTION 9 AND EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES OR REPRESENTATIONS, EITHER EXPRESS OR IMPLIED, AS TO THE SOFTWARE PRODUCT, ITS UPDATES AND ITS DOCUMENTATION, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY, SATISFACTORY QUALITY, NON-INFRINGEMENT, TITLE OR SAMPLE. FURTHER, WHILE SCHNEIDER ELECTRIC HAS TAKEN REASONABLE STEPS TO ENSURE THE ACCURACY OF THE INFORMATION CONTAINED IN OR SHOWN BY THE SOFTWARE PRODUCT AND ITS DOCUMENTATION, SCHNEIDER ELECTRIC MAKES NO WARRANTY OR REPRESENTATION OF ANY KIND, WHETHER EXPRESS OR IMPLIED, AS TO WHETHER THE SOFTWARE PRODUCT OR ANY INFORMATION CONTAINED IN OR SHOWN BY THE SOFTWARE PRODUCT AND ITS DOCUMENTATION WILL MEET YOUR REQUIREMENTS, EXPECTATIONS OR PURPOSES OR THE OPERATION OF THE SOFTWARE PRODUCT WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT THE SOFTWARE PRODUCT WILL BE PROTECTED AGAINST ALL POSSIBLE SECURITY THREATS, INTERNET THREATS OR OTHER THREATS OR INTERRUPTIONS.
- 9.7 No oral or written information, statement, opinion or advice allegedly given by Schneider Electric, its authorized resellers, agents or employees, or anyone else on its behalf, shall create any liability or in any way extend or vary the scope of the warranties expressed in this EULA.

10. LIABILITIES

- 10.1 You expressly acknowledge and accept that Your use of the Software Product and the performance, fitness and/or accuracy of the Software Product for any application, environment or purpose within or for which You shall use the Software Product, is and shall remain Your sole and full responsibility, unless Schneider Electric has expressly agreed upon such application, environment or purpose and has provided You express warranties as to the use, performance, fitness and/or accuracy of the Software Product when used within such agreed environment and for such agreed application or purpose. To the maximum extent permitted by applicable law, the Software Product is provided "as is", with all faults and without warranty of any kind not contained in Section 9.
- 10.2 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS EULA OR IN THE ORDER CONFIRMATION, IN NO EVENT SHALL SCHNEIDER ELECTRIC NOR ANYONE ELSE WHO HAS BEEN INVOLVED IN THE CREATION, PRODUCTION OR DELIVERY OF THE SOFTWARE PRODUCT, INCLUDING BUT NOT LIMITED TO SCHNEIDER ELECTRIC'S LICENSORS, BE LIABLE FOR ANY INDIRECT, INTANGIBLE, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, LOSS, EXPENSE OR CAUSE OF ACTION, WHETHER BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, STATUTE OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS

- OF BUSINESS, LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, BUSINESS GOODWILL, LOSS OF DATA OR FOR ANY OTHER PECUNIARY OR NON-PECUNIARY LOSS OR DAMAGE, ARISING OUT OF OR IN CONNECTION WITH THIS EULA, OR THE USE, INABILITY TO USE OR MISUSE OF THE SOFTWARE PRODUCT, EVEN IF SCHNEIDER ELECTRIC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 10.3 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS EULA OR IN THE ORDER CONFIRMATION, SCHNEIDER ELECTRIC'S AGGREGATE LIABILITY FOR DAMAGES AND EXPENSES ARISING OUT OF OR IN CONNECTION WITH THIS EULA OR THE USE, INABILITY TO USE OR MISUSE OF THE SOFTWARE PRODUCT, WHETHER BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, STATUTE OR OTHERWISE SHALL IN NO CASE EXCEED THE TOTAL AMOUNT PAID BY YOU TO LICENSE THE SOFTWARE PRODUCT WHICH CAUSED THE DAMAGES OR EXPENSES.
- 10.4 You shall indemnify and hold Schneider Electric harmless from any and all claims, damages, demands or proceedings (including attorney's fees) brought against Schneider Electric, including those brought by any third party arising out of or in connection with the use, inability to use or misuse of the Software Product by You, and whether based in contract, warranty, tort (including negligence), strict liability, statute or otherwise, unless and to the extent any such claim resulted from Schneider Electric's non-fulfillment of the warranty set out in Section 9.1.
- 10.5 The license granted under this EULA does not cover any modification, update, translation or adaptation, whether authorized or not, that might have been made to the Software Product by any person other than Schneider Electric where the Software Product is supplied along with a third party product. Such modifications shall be governed by the terms of license issued by such third party. Schneider Electric shall in no case be liable, whether in contract, warranty, tort (including negligence), strict liability, statute or otherwise, for damages or consequences arising out of or in connection with said modification, update, translation or adaptation and makes no representation or warranty in connection therewith.
- 10.6 Notwithstanding any other term of this EULA, Schneider Electric's liability arising out of this EULA 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.
- 10.7 In case the Software Product is intended as per its Documentation to be used for the purpose of collecting, storing and/or processing data such as but not limited to personal individual information, it is Your sole and full responsibility when making such use of the Software that You comply with any applicable data protection laws and regulations. In no event shall Schneider Electric be held liable for Your use of the data collected, stored or processed by the Software or Your non-compliance with any applicable data protection laws and regulations and You shall indemnify and hold Schneider Electric harmless from any and all claims, damages, demands or proceedings (including attorney's fees) brought against Schneider Electric, including those brought by any third party, arising out of or in connection with any breach by You of any such laws or regulations.
- 10.8 The limitations or exclusions of warranties and liability contained in this EULA shall apply only to the extent permitted by the law applicable to this EULA and, in particular, do not affect or prejudice the statutory rights which, as the case may be, will benefit You under any mandatory or public order laws or regulation applicable in any such country (on either federal or state level, when applicable).
- 10.9 In case the Software Product was furnished to You by any authorized reseller or other sales representative or another third party supplying the Software Product 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 third party and shall not assume or otherwise bear any liability thereunder, with the consequence that any and all claims You may have in relation to the Software Products shall be directed at such third party and shall be subject to the liability sections in any purchase order or other agreement between You and such third party. Schneider Electric shall assume no liability whatsoever under such sections or be bound by their wording.
- 10.10 Subject to the limitations of liability set forth in Sections 10.2 and 10.3 of this EULA, Schneider Electric will defend and indemnify You against a third party

claim that the Software Products infringe any copyright 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"), provided that: (i) You notify Schneider Electric in writing within thirty (30) days of the claim; (ii) Schneider Electric has sole control of the defense and all related settlement negotiations; and (iii) You provide Schneider Electric with the assistance, information and authority necessary in order for Schneider Electric to perform its obligations under this Section.

Schneider Electric will have no obligation to You under this Section relating to claims which arise outside of the Included Jurisdiction, nor for any claims not expressly set out in Section 10.10 above.

If the Software Products are held, or are believed by Schneider Electric, to infringe, then Schneider Electric will have the option, at its expense, to: (i) modify the Software Products to be noninfringing; or (ii) obtain for You a license to continue using the Software Products. If, in Schneider Electric's sole discretion, it is not economically or commercially reasonable to perform either of the above options then Schneider Electric may terminate the license for the infringing Software Products and refund to You the license fee You paid to Schneider Electric for the infringing Software Products.

The foregoing Schneider Electric obligations do not apply when the claim of infringement results from or is related to: (i) Software Products provided pursuant to Your designs, drawings or specifications; (ii) Software Products stored, used or maintained other than in accordance with Schneider Electric's instructions or recommendations or other than for Your internal business purposes; (iii) claims of infringement resulting from combining the Software Products provided hereunder with any other item not furnished by Schneider Electric; (iv) modifications to the Software Products without the prior written consent of Schneider Electric; (v) software or products supplied or designed by You or third parties; or (vi) Your failure to use corrections or enhancements made available by Schneider Electric.

This Section 10.10 states Schneider Electric's entire liability and Your sole and exclusive remedy for infringement.

11. THIRD PARTY SOFTWARE

- 11.1 The Software Product may embed or be provided to You with third party software(s), in unmodified or modified form. In such case Schneider Electric shall make such information available to You.
- 11.2 By accepting this EULA, You are also accepting the terms and conditions of the software licenses from any third party (hereinafter "**Alternative Licenses**") owning the intellectual property rights in said third party software(s), and any use You will make of any such third party software(s) being part of the Software Product is subject to the terms of those Alternative Licenses. Further to the above, in relation to parts of the Software Product that are subject to Alternative Licenses, Schneider Electric's liability shall be further limited in accordance with the terms and conditions of such Alternative License and Schneider Electric will in no event be subject to a wider or more substantial liability than what is evident from such Alternative Licenses, unless and to the extent applicable mandatory law requires otherwise.
- 11.3 Further, the Software Product may contain code, including third party code, for which Schneider Electric is required to provide attribution. Some of this code may be released under Alternative License terms. Such code is not licensed under this EULA and shall be subject only to the Alternative License which shall constitute the sole license for such code and shall govern the relation between You and the alternative licensor. This EULA does not alter any rights or obligations You may have under these Alternative Licenses. Schneider Electric provides no warranty whatsoever in relation to code subject to such Alternative Licenses, unless and to the extent applicable mandatory law requires otherwise.

- 11.4 If you wish to use the Software Product in a specific combination with other software or devices as may be intended by You, You must, at Your own risk and expense, acquire and maintain any such other software or devices, including proper licenses from such third parties. If You do not acquire and maintain appropriate third party licenses and if this somehow results in a third party raising a claim against Schneider Electric, You shall indemnify Schneider Electric against any such third party claim. In case the Software Product includes access to a software development kit (hereinafter "SDK") which allows the development of any interface between third party software and the Software Product, Schneider Electric shall not be responsible for any development performed by You through the use of SDK, and Schneider Electric shall have no responsibility to provide You any support in relation thereto and shall not be liable for Your use of SDK or any damages it may cause to You or any third party.
- 11.5 If Your use of SDK somehow results in a third party raising a claim against Schneider Electric, You shall indemnify Schneider Electric against any such third party claim.

12. DATA PROTECTION/CONSENT TO USE DATA

- 12.1 With respect to the processing of any personal data under or in relation to this EULA or the use of the Software Product, each party agrees to comply with its respective obligations under any local applicable data protection laws or regulations in the relevant jurisdiction.
- 12.2 In addition to the Software Update Utility (also known as "SESU") described in Section 5.3, You acknowledge that some Software Products may include analytic and diagnostic features which enable Schneider Electric to gather technical and End User information from the Software Product. You agree that Schneider Electric may collect and use such technical and End User information for analytic and diagnostic purposes and to improve the user experience with the Software Product and/or with other products and services offered by Schneider Electric. If any of the information so collected contains personal information (such as email address, username and password or location) Schneider Electric will process such information in accordance with Schneider Electric's Data Privacy Policy which is available at <https://www.schneider-electric.com/en/about-us/legal/data-privacy.jsp>.

13. AUDIT

- 13.1 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 the terms and conditions of this EULA. 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 Software Product complies with the terms and conditions of this EULA.
- 13.2 Schneider Electric may (upon reasonable written notice) inspect Your use of the Software Product during Your normal business hours to ensure Your compliance with this EULA. If the results of any such review or inspection indicate Your unlicensed or non-compliant use of the Software Product or the underpayment by You of applicable fees (if any) contractually due and payable to Schneider Electric, You shall: (i) immediately pay sufficient fees to cover Your actual use of the Software Product, or such amounts of fees remaining due to Schneider Electric and (ii) reimburse Schneider Electric for the cost of such review or inspection.

14. EXPORT CONTROL

The export of products, software, technology or information may be subject to control or restriction by applicable laws or regulations on the control of export, notably the United States Export Administration Act and the regulations there under, and the European Union Regulation 428/2009 applicable to dual use and cryptographic products and technologies. You are solely responsible for determining the existence and application of any such law or regulation to any

proposed export of the Software Product by You or Your representatives and for performing any declaration or obtaining any required authorisation in relation therewith. You agree not to export the Software Product from any country in violation of any applicable legal or regulatory obligations or restrictions on that export. In the event the aforementioned legal or regulatory obligations or restrictions are violated by You or any of Your representatives in relation with the export of the Software Product, You shall indemnify and hold Schneider Electric harmless from any claims, losses, costs or expenses and compensate the same against any damages which any third party (including but not limited to governmental and/or international authorities and/or organizations) will claim against Schneider Electric as the result of any such violation by You or Your representative(s).

15. ASSIGNMENT

Your rights or obligations under this EULA 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. Schneider Electric may assign this license to any company within the Schneider Electric Group of companies or to any company it may acquire control of or merge with.

16. DURATION AND TERMINATION

- 16.1 The license right granted to You under this EULA shall come into effect as of the date of Your acceptance of the terms hereof and shall remain effective unless such license right expires or terminates when (i) such license right was granted to You for a limited period of time in accordance with Section 2 and such limited time period expires, or (ii) such license right was granted to You under a trial period in accordance with Section 2 and You do not further activate it upon expiry of said trial period as per Section 2, (iii) this EULA is terminated by either Schneider Electric or You with immediate effect if, respectively, You or Schneider Electric fail to comply with any of its obligations under this EULA.
- 16.2 Upon expiration or termination of the license right granted to You hereunder, You undertake to immediately discontinue use of the Software Product and You must (i) if the Software Product has been provided to You as a physical copy, destroy and delete the Software Product and related copies and data, including without limitation those stored on Your computer hard disks or servers, including all accompanying printed materials along with their containers to the place from which You obtained the Software Product, and (ii) if the Software Product has been provided to You as a download, delete or expunge the Software Product, inclusive all related files and any other electronic material, from Your computer, hard disks, servers or other Device containing it. For both (i) and (ii) You shall upon the request from Schneider Electric provide Schneider Electric with a written certification that You have carried out the required actions set out in this Section 16.2.
- 16.3 Termination of the license granted to You hereunder does not affect any rights or remedies which may have accrued before said termination to the benefit of Schneider Electric under this EULA, at law or otherwise.

17. MISCELLANEOUS

- 17.1 This EULA, including its Appendices, constitutes the entire agreement between You and Schneider Electric in relation to Your right to use the Software Product and replaces any previous agreement or understanding, whether oral, electronic or written, in relation with the same subject matter. Documentation forms an integral part of the license granted under this EULA. In case of a discrepancy between the terms of this EULA and the provisions of the Documentation, the terms of this EULA shall prevail. Should they differ, the terms of the printed version of this EULA, which may be supplied with the Software Product package, shall prevail over those that may be read on a computer screen.
- 17.2 Should any of the provisions of this EULA be held invalid, illegal or unenforceable by a competent jurisdiction, You and Schneider Electric shall take all reasonable

steps in order to modify such provision to render it valid and enforceable, bearing in mind their original intentions, and such provision as modified shall be fully enforced by You and Schneider Electric; all other provisions shall remain valid and unaffected by such declared invalidity, illegality or non-enforceability.

- 17.3 No failure or delay on the part of either You or Schneider Electric in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other right, power or privilege.
- 17.4 Headings in this EULA are just for ease of reference and will not affect its interpretation.
- 17.5 Words expressed in the singular include the plural and vice versa.
- 17.6 Section 7, 8, 9, 10, 11, 12 and 14 of this EULA shall survive termination of this EULA or expiration of the license right granted to You under this EULA in accordance with Section 16.1. Furthermore, provisions that by their nature are intended to survive termination or expiration of this EULA and the license right granted to You hereunder, shall survive such termination or expiration. Additionally, all of Your indemnity obligations set forth in this EULA shall survive termination or expiration of this EULA.

18. APPLICABLE LAW & DISPUTES

- 18.1 This EULA shall be exclusively governed by the laws of the country (on both federal and state level, when applicable) where Schneider Electric has its registered office or principal place of business, to the exclusion of said country's conflict of law rules. To the extent possible, Schneider Electric and You agree that the United Nations Convention on the International Sale of Goods shall not apply to this EULA.
- 18.2 All disputes arising out of or in connection with this EULA shall be submitted to the International Court of Arbitration of the International Chamber of Commerce and shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance with said Rules. The arbitration shall be conducted in the English language in the country where Schneider Electric has its registered office or principal place of business. Judgment upon the award rendered by the arbitrator may be entered by any court having jurisdiction thereof. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS EULA OR THE RULES OF ARBITRATION, THE ARBITRATOR IS NOT EMPOWERED TO AWARD DAMAGES IN EXCESS OF THE COMPENSATORY DAMAGES (INCLUDING REASONABLE ATTORNEYS' FEES AND EXPERT WITNESS FEES) OR IN EXCESS OF THE LIMITATIONS OF LIABILITY AND DAMAGES SET FORTH IN THIS EULA, AND EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT TO RECOVER SUCH DAMAGES (INCLUDING, WITHOUT LIMITATION, PUNITIVE DAMAGES), IN ANY FORUM. THE ARBITRATOR WILL BE REQUIRED TO FOLLOW THE APPLICABLE LAW AS SET FORTH IN SECTION 18.1 AND FOLLOW THE TERMS OF THIS EULA. The arbitrator may award equitable relief in those circumstances where monetary damages would be inadequate. The successful or prevailing party will be entitled to recover its reasonable attorneys' fees, expert witness fees and other costs of arbitration, in addition to such other relief to which it may be entitled.
- 18.3 You acknowledge and accept that Schneider Electric will be irreparably damaged (and damages at law may be an inadequate remedy) if You breach any provision of this EULA and such provision is not specifically enforced. Therefore, in the event of a breach or threatened breach by You of this EULA, 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; or (b) a decree for specific performance of the applicable provision of this Agreement; or (c) both 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 You will install, copy, run or otherwise use the Software Product, on either federal or state level when applicable.

19. LEGAL EFFECT

In specific jurisdictions, as stated in Appendix 1 to this EULA, different regulations may impose different terms to apply between Schneider Electric and You in relation with Your use of the Software. All the terms of this EULA that are not amended by the terms defined in said jurisdictions as stated in Appendix 1 shall apply between Schneider Electric and You in such jurisdictions.

APPENDIX 1 TO END-USER LICENSE AGREEMENT
SPECIFIC REGULATIONS / TERMS IN VARIOUS JURISDICTIONS

USA:

In complement to what is stated in Section 2 "**Restrictions**", a) - e) above:

The Software Product is a "Commercial Item(s)," 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 licensed to U.S. Government end users with only those rights as granted to all other end users, according to the terms and conditions contained in this EULA. Manufacturer is Schneider Electric.

ARGENTINA:

Subsection 9.2 of Section 9 "**Warranties**", shall be replaced as follows:

9.2 The warranty period shall be of one hundred and eighty (180) days from the date of delivery of the Software Product to You.

The language in which the arbitration mentioned in Subsection 18.2 of Section 18 "**Applicable Law & Disputes**" shall be conducted shall be Spanish.

AUSTRALIA:

Subsection 9.6 of Section 9 "**Warranties**" shall be replaced as follows:

9.6 Certain legislation, including the Australian Consumer Law, may imply warranties or conditions or impose guarantees or obligations upon Schneider Electric which cannot be excluded, restricted or modified or cannot be excluded, restricted or modified except to a limited extent. Subject to this section 9.6 Schneider Electric limits its warranty in respect of any claim under the provisions to, at Schneider Electric's option:

- (i) the replacement of Software Products or the supply of equivalent Software Products;
- (ii) the repair of the Software Products;
- (iii) the payment of the cost of replacing the Software Products or of acquiring equivalent Software Products; or
- (iv) the payment of the cost of having the Software Products repaired.

BRAZIL:

Subsection 2.2 (v) of Section 2 "**Restrictions**", shall be replaced as follows:

- (v) directly or indirectly, export, re-export, download, or ship the Software Product in violation of the laws and regulations of the U.S.A. or the applicable jurisdiction in which You use or are downloading the Software Product, in specially in violation of the Law n. 9.609 dated February 19, 1998 and regulations of the Brazil.

Section 18 "**Applicable Law & Disputes**": Applied the Rules of Arbitration of the Chamber of Commerce Brazil - Canadá located in São Paulo City, State of São Paulo, Brazil.

CANADA:

The following Sections shall be added:

Application of Local Mandatory Laws

The Parties do not intend that execution of this EULA to override or exclude the application of any mandatory local laws or legislation. The parties further agree to execute any necessary amendments to take into account any mandatory local laws or legislation applicable at the effective date.

Langue Français / French Language

Les parties aux présentes ont demandé que les Conditions de vente soient rédigées en langue anglaise. You agree to this Eula be drawn up in the English language only.

GERMANY

Section 9 "Warranties" shall be replaced as follows:

9. WARRANTIES

9.1 Schneider Electric warrants that for a period of twelve (12) months from the date of its delivery to You by Schneider Electric or its authorised reseller (or any other warranty period depending upon the Software Product's reference and its related description available from Schneider Electric website), (i) the Software Product will perform substantially in accordance with its specifications as described in the Documentation, and (ii) the medium on which the Software Product is provided to You (if provided under a tangible form) and the License Key (if any) will be free from defects in materials and workmanship.

If the Software Product does not function as warranted during the warranty period Schneider Electric will, at Schneider Electric's option either fix the defect or non-compliance or replace the defective Software Product, the medium or the License Key without charge to You, provided that (i) You give notice of the defect to Schneider Electric or its authorised reseller within the above mentioned warranty period, and (ii) the defect does not fall under the exclusions set under Section 9.4 below. In the event Schneider Electric is not able to remedy a defect or non-compliance during the warranty period after having had reasonable opportunity to do so, You may either adequately reduce the fees paid or - unless the defect or non-compliance is non-material - rescind from the contract for the affected Software Product.

9.2 Schneider Electric's warranty shall be excluded to the extent the Software Product, its medium or License Key has been altered without prior written authorization by Schneider Electric or fails to perform in any way, as the result of Your negligent or unauthorized use such as, for instance but not limited to, the use of the Software Product with third party products (hardware, software, firmware or operating system) which are not intended by Schneider Electric for use with the Software Product, or the utilization of an improper hardware or software key (if applicable) with the Software Product, or the unauthorized maintenance of the Software Product.

Any replacement Software Product, media or License Key supplied to You pursuant to Section 9.1 hereinabove will be warranted for the remainder of the original warranty period or six (6) months, whichever is longer.

9.3 Schneider Electric's warranty shall also be excluded in case of defect or malfunction of the Software Product, to the extent such defect or malfunction could have been prevented by implementing the Software Product update or upgrade made available by Schneider Electric pursuant to Section 5.4, which You were entitled and encouraged to do.

9.4 The foregoing defines Schneider Electric's entire warranty obligations to You except as otherwise required by applicable statutory law.

9.5 No oral or written information, statement, opinion or advice allegedly given by Schneider Electric, its authorized resellers, agents or employees, or anyone else

on its behalf, shall create any liability or in any way extend or vary the scope of the warranties expressed in this EULA.

Subsections 10.1 to 10.3 of Section 10 "**Liabilities**" shall be replaced as follows:

10. LIABILITIES

10.1 Unless stipulated otherwise in the EULA including the following provisions, Schneider Electric shall be liable for breaches of contractual and non-contractual duties pursuant to the applicable statutory provisions.

10.2 Schneider Electric can be held liable for damages - irrespective of their legal grounds - in cases of intent and gross negligence. In cases of slight negligence, Schneider Electric shall only be liable

- a) for damages resulting from injuries to life, body or health,
- b) for damages resulting from an infringement of an essential contractual obligation (an obligation which must be fulfilled to enable a due performance of the contract and on whose fulfillment the contractual partner generally relies and may rely); however, in this case Schneider Electric's liability shall be limited to compensation for the foreseeable, typically occurring damage,
- c) for damages resulting from a loss of data Schneider Electric's liability shall be limited to the typical recovery effort that a diligent user would incur using regularly and risk-adequate created backup copies.

10.3 The limitations of liability pursuant to Section 10.2 shall not apply where Schneider Electric fraudulently concealed a defect or guaranteed the quality of the Software Products. The same applies to claims of You pursuant to the German Product Liability Act (ProdHaftG). An exclusion or restriction of Schneider Electric's liability also applies with respect to Schneider Electric's statutory representatives and vicarious agents.

PERU:

The third paragraph of the introduction **IMPORTANT - READ CAREFULLY** shall be replaced as follows:

This EULA is a legal agreement between your corporation, company or other legal entity, to which the Software Product has been provided, (hereinafter "You"), and Schneider Electric (as defined hereunder). You declare that any person acting on your behalf or in your interest and completing the installation of the Software Product has the mandate or legal authority to bind You and confirm Your acceptance of the terms and conditions of this EULA. If a system integrator, contractor, consultant or any other party installs or uses the Software Product on Your behalf, in your interest or prior to Your use of the Software Product, such party will be deemed to be Your agent or representative acting on Your behalf, and You will be deemed to have accepted all of the terms and conditions contained in this EULA as if You had installed or used the Software Product Yourself. If You are a third party (e.g. a system integrator, contractor, consultant or any other third party) installing or using the Software Product on behalf of, in the interest of or prior to an end user- or licensee- of the Software Product (hereinafter "End User"), it is Your responsibility to ascertain that You have obtained the mandate or legal authority to bind the End User to this EULA.

Subsection 3.2 (iv) of Section 3 "**Description of Other Rights**" shall be replaced as follows:

3.2 Authorized Applications.

(...)

- (vi) You indemnify, hold harmless, and defend Schneider Electric from and against any claims whether based in contract, warranty, tort (including negligence), strict liability, statute or otherwise, including, without limitation, damages for loss of business, loss of chance, loss of profits, business interruption, lawsuits, including attorneys' fees, loss of data, moral damage, or for any other pecuniary or non-pecuniary loss or damage,

either directly or indirectly, either foreseeable or unforeseeable, that arise or result from the use or distribution of Your Authorized Applications, provided however that Your contractual obligation of indemnification shall not extend to the percentage of the claimant's damages or injuries or the settlement amount attributable to Schneider Electric's fault or to strict liability imposed upon Schneider Electric as a matter of law in any country (on either federal or state level, when applicable); the foregoing obligation of indemnification shall survive the expiry or termination of this EULA until any possibility for such claims to arise is completely extinguished; and

Subsection 3.3 (v) of Section 3 "**Description of Other Rights**" shall be replaced as follows:

3.3 **Embedding or integrating the Software Product.** You may embed or otherwise integrate the Software Product within Your own product or a third party product, provided that:

(...)

(v) You indemnify, hold harmless, and defend Schneider Electric from and against any claims whether based in contract, warranty, tort (including negligence), strict liability, statute or otherwise, including, without limitation, damages for loss of business, loss of chance, loss of profits, business interruption, lawsuits, including attorneys' fees, loss of data, moral damage or for any other pecuniary or non-pecuniary loss or damage, either directly or indirectly, either foreseeable or unforeseeable, that arise or result from You embedding the Software Product or otherwise integrate the Software Product within Your own product or a third party product, provided however that Your contractual obligation of indemnification shall not extend to the percentage of the claimant's damages or injuries or the settlement amount attributable to Schneider Electric's fault or to strict liability imposed upon Schneider Electric as a matter of law in any country (on either federal or state level, when applicable); the foregoing obligation of indemnification shall survive the expiry or termination of this EULA until any possibility for such claims to arise is completely extinguished; and

Subsection 10.2 of Section 10 Liabilities shall be replaced as follows:

10.2 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS EULA OR IN THE ORDER CONFIRMATION, IN NO EVENT SHALL SCHNEIDER ELECTRIC NOR ANYONE ELSE WHO HAS BEEN INVOLVED IN THE CREATION, PRODUCTION OR DELIVERY OF THE SOFTWARE PRODUCT, INCLUDING BUT NOT LIMITED TO SCHNEIDER ELECTRIC'S LICENSORS, BE LIABLE FOR ANY INDIRECT, INTANGIBLE, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, LOSS, EXPENSE OR CAUSE OF ACTION, WHETHER BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, STATUTE OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS, LOSS OF CHANCE, LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, BUSINESS GOODWILL, LOSS OF DATA, MORAL DAMAGE OR FOR ANY OTHER PECUNIARY OR NON-PECUNIARY LOSS OR DAMAGE, ARISING OUT OF OR IN CONNECTION WITH THE USE, INABILITY TO USE OR MISUSE OF THE SOFTWARE PRODUCT, EVEN IF SCHNEIDER ELECTRIC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

The following sentence will be inserted at the end of Subsection 10.7 of Section 10 Liabilities:

You declare that Schneider electric does not perform any processing on data on your behalf or in your interest and, therefore, must not be considered as a *data processor*.

Subsection 18.1 of Section 18 "**Applicable Law & Disputes**" shall be replaced as follows:

18.1 This EULA shall be exclusively governed by the laws of the Republic of Peru, to the exclusion of said country's conflict of law rules. To the extent possible, Schneider Electric and You agree that the United Nations Convention on the International Sale of Goods shall not apply to this EULA.

POLAND:

Subsection 10.8 of Section 10 "**Liabilities**" shall be replaced as follows:

10.8 The limitations or exclusions of warranties and liability contained in this EULA shall apply only to the extent permitted by the law applicable to this EULA and, in particular, do not affect or prejudice the statutory rights which, as the case may be, will benefit You under any mandatory or public order laws or regulation applicable in any such country (on either federal or state level, when applicable). In particular Schneider Electric can be held liable for damages - irrespective of their legal grounds - in cases of intent and gross negligence or damages resulting from injuries to life, body or health.

Section 15 "**Assignment**" shall be replaced as follows:

Your rights or obligations under this EULA may be sold, sub-licensed, rented, assigned, delegated, transferred or otherwise conveyed by You or Your representatives only upon Schneider Electric's prior express written consent otherwise being null and void. Schneider Electric may assign this license to any company within the Schneider Electric Group of companies or to any company it may acquire control of or merge with.

Subsection 18.2 of Section 18 "**Applicable Law & Disputes**" shall be replaced as follows:

18.2 Without prejudice the statutory rights which, as the case may be, will benefit You under any mandatory or public order laws or regulation applicable, all disputes arising out of or in connection with this EULA shall be submitted to the International Court of Arbitration of the International Chamber of Commerce and shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance with said Rules. The arbitration shall be conducted in the English language in the country where Schneider Electric has its registered office or principal place of business. Judgment upon the award rendered by the arbitrator may be entered by any court having jurisdiction thereof. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS EULA OR THE RULES OF ARBITRATION, THE COURT IS NOT EMPOWERED TO AWARD DAMAGES IN EXCESS OF THE COMPENSATORY DAMAGES (INCLUDING REASONABLE ATTORNEYS' FEES AND EXPERT WITNESS FEES) OR IN EXCESS OF THE LIMITATIONS OF LIABILITY AND DAMAGES SET FORTH IN THIS EULA, AND EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT TO RECOVER SUCH DAMAGES (INCLUDING, WITHOUT LIMITATION, PUNITIVE DAMAGES), IN ANY FORUM. THE COURT WILL BE REQUIRED TO FOLLOW THE APPLICABLE LAW AS SET FORTH IN SECTION 18.1 AND FOLLOW THE TERMS OF THIS EULA. The court may award equitable relief in those circumstances where monetary damages would be inadequate. The successful or prevailing party will be entitled to recover its reasonable attorneys' fees, expert witness fees and other costs of proceedings, in addition to such other relief to which it may be entitled.

RUSSIA:

Section 9 "**Warranties**" shall be replaced as follows:

9.1 All other warranties, whether express or implied, statutory or otherwise are excluded.

9.2 Although Schneider Electric has taken reasonable steps to scan the Software Product for virus, bugs and other anomalies using commercially available means, Schneider Electric does not represent nor warrant that the Software Product is error free nor, if such errors exist, that they can be fixed. The Software Product under the above license is provided to You on an "as is" basis.

In complement to what is stated in Section 14 "**Export Control**" above:

The Software Product under this EULA contain or may contain components and/or technologies from the United States of America ("US"), the European Union ("EU") and/or other nations. You acknowledge and agree that the supply, assignment and/or usage of the Software Product and/or the embedded technologies under this EULA shall fully comply with related applicable US, EU and other national and international export control laws and/or regulations. Unless applicable export license/s has been obtained

from the relevant authority and the Schneider Electric has approved, the Software Product shall not (i) be exported and/or re-exported to any destination and party (may include 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 Software Product will not be used either directly or indirectly in any rocket systems or unmanned air vehicles; nor be used in any nuclear weapons delivery systems; and will not be used in any design, development, production or use for any weapons which may include but not limited to chemical, biological or nuclear weapons. If any 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 the applicable export control laws and/or regulations would prohibit Schneider Electric from fulfilling any order, or would in Schneider Electric's judgment otherwise expose Schneider Electric to a risk of liability under the applicable export control laws and/or regulations if it fulfilled the order, Schneider Electric shall be excused from all obligations under such order and/or this EULA.

In complement to what is stated in Section 17 "**Miscellaneous**" above:

The parties of this EULA accept the performance of procedures for the prevention of corruption and monitor their compliance. The parties shall take all reasonable efforts to minimize the risk of business with counterparties, which may be involved in corrupt practices and provide mutual assistance in order to prevent corruption. With this the parties shall ensure the implementation of audit procedures in order to prevent risk of the parties' involvement in corrupt practices.

Subsection 18.2 of Section 18 "**Applicable Law & Disputes**" shall be replaced as follows:

18.2 All disputes arising out of or in connection with this EULA shall be submitted to the Court on Intellectual Rights (Russia, Moscow).

UNITED KINGDOM AND IRELAND

The Country shall be United Kingdom and/or Ireland as applicable and all references to country, jurisdiction and applicable statutes shall be construed accordingly.

Subsection 10.2, 10.3 and 10.5 of Section 10 "**Liabilities**" shall be replaced as follows:

10.2 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS EULA OR IN THE ORDER CONFIRMATION, IN NO EVENT SHALL SCHNEIDER ELECTRIC NOR ANYONE ELSE WHO HAS BEEN INVOLVED IN THE CREATION, PRODUCTION OR DELIVERY OF THE SOFTWARE PRODUCT, INCLUDING BUT NOT LIMITED TO SCHNEIDER ELECTRIC'S LICENSORS, BE LIABLE FOR ANY INDIRECT, INTANGIBLE, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, LOSS, EXPENSE OR CAUSE OF ACTION, WHETHER BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PURSUANT TO AN INDEMNITY, STATUTE OR OTHERWISE, INCLUDING OR FOR, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, BUSINESS GOODWILL, LOSS OF DATA OR FOR ANY OTHER PECUNIARY OR NON-PECUNIARY LOSS OR DAMAGE (WHETHER DIRECT OR INDIRECT), ARISING OUT OF OR IN CONNECTION WITH THIS EULA, OR THE USE, INABILITY TO USE OR MISUSE OF THE SOFTWARE PRODUCT, EVEN IF SCHNEIDER ELECTRIC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES."

10.3 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS EULA OR IN THE ORDER CONFIRMATION, SCHNEIDER ELECTRIC'S TOTAL AGGREGATE LIABILITY FOR DAMAGES AND EXPENSES ARISING OUT OF OR IN CONNECTION WITH THIS EULA OR THE USE, INABILITY TO USE OR MISUSE OF THE SOFTWARE PRODUCT, WHETHER BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, STATUTE OR OTHERWISE SHALL IN NO CASE EXCEED THE TOTAL AMOUNT PAID BY YOU TO LICENSE THE SOFTWARE PRODUCT WHICH CAUSED THE DAMAGES OR EXPENSES, PROVIDED THAT NOTHING SHALL LIMIT SCHNEIDER ELECTRIC'S LIABILITY FOR DEATH OR PERSONAL INJURY ARISING OUT OF SCHNEIDER ELECTRIC'S NEGLIGENCE OR FOR FRAUD OR FRAUDULENT MISREPRESENTATION

10.5 The license granted under this EULA does not cover any modification, update, translation or adaptation, whether authorized or not, that might have been made to the Software Product by any person other than Schneider Electric where the Software Product is supplied along with a third party product. Such modifications shall be governed by the terms of license issued by such third party. Schneider Electric shall in no case be liable, whether in contract, warranty, tort (including negligence), strict liability, pursuant to an indemnity, statute or otherwise, for damages or consequences arising out of or in connection with said modification, update, translation or adaptation and makes no representation or warranty in connection therewith.

A new subsection 17.7 to Section 17 **"Miscellaneous"** shall be inserted as follows:

17.7 "Schneider Electric will not be responsible or liable to You, or deemed in default or breach hereunder by reason of any failure or delay in the performance of our obligations hereunder where such failure or delay is due to strikes, labour disputes, civil disturbances, riot, rebellion, invasion, epidemic, hostilities, war, terrorist attack, embargo, natural disaster, acts of God, flood, fire, sabotage, fluctuations or non-availability of electrical power, heat, light, air conditioning, or Your equipment, loss and destruction of property, or any other circumstances or causes beyond Schneider Electric's reasonable control.

APPENDIX 2 TO END-USER LICENSE AGREEMENT
SPECIFIC TYPES OF LICENSE

Specific other use rights may be granted to You depending upon the type of license You have acquired.

Educational license. If You wish to acquire the Software Product for educational purpose only, please contact Schneider Electric's organization or its authorized reseller serving Your country. In case the Software Product is identified as academic or educational software, You must be a qualified educational user to be entitled to use said Software Product; if You are not a qualified educational user, You have no rights under this EULA with respect to said academic or educational software. To determine whether You are a qualified educational user, please contact Schneider Electric's organization or its authorized reseller serving Your country. Once licensed to use said academic or educational Software Product, You may not sell or transfer any such Software Product or sub-license Your license right to use the same to anyone except to another person who is qualified by Schneider Electric as a qualified educational user.

As used in this Section of EULA, the term '**person**' shall be broadly interpreted to include without limitation any individual, any corporation, company or other legal entity.

License for Field-Test. If You have acquired a license for field-test purposes, You acknowledge and agree that the Software Product licensed to You under a field-test license is a pre-release software only. As such, said Software Product may not be fully functional and You assume the entire risk as to the results and performance of the Software Product. You may install and use the Software Product licensed to You under a field-test license on computers in Your workplace only for the purpose of testing said Software Product before it is commercialized by Schneider Electric and potentially identifying any errors, bugs or defects in said Software Product. You also agree to use reasonable efforts to provide feedback to Schneider Electric regarding Your use of the Software Product, including a prompt report to Schneider Electric of errors, bugs or defects that You might find. Therefore, notwithstanding anything in this EULA to the contrary, You may not distribute or transfer any applications You create with the Software Product licensed to You under a field-test license. Schneider Electric will not update the Software Product licensed to You under a field-test license, nor provide support in relation thereto. The Software Product licensed to You under a field-test license may contain code that will, after a certain time period, deactivate the Software Product and render it unusable. Although said Software Product will attempt to warn You of the time frame in which it will be disabled, You acknowledge and agree that said Software Product may be deactivated or rendered unusable with or without warning. Upon such deactivation, this EULA will be considered terminated. Prior to deactivation of the Software Product, You may contact Schneider Electric to convert Your field-test license on the Software Product to a standard license governed by this EULA on the final release of said Software Product if and when available from Schneider Electric by paying to Schneider Electric the applicable license fee (if any) and obtaining from Schneider Electric the relevant activation code(s).

Corporate license.

You may not acquire a Corporate License unless You are a company or a corporation.

If You acquire a Corporate License from Schneider Electric, the media on which the Software Product is provided to You shall be configured so that it can only be used to operate the Software Product under a Corporate License; said media shall expressly mention the name of Your company, corporation or Group of Companies as being the licensee of a Corporate License on said Software Product.

The media containing the Software Product shall be provided to You separately from the license file necessary to activate said Software Product; said license file shall be configured so that it can only activate said Software Product under a Corporate License.

If and when acquiring a Corporate License, You acquire a concurrent use license under the following limits:

- You may install the Software Product for use by Authorized Users from and to the Sites only; - Any use of a Software Product licensed to You under a Corporate License is strictly prohibited by any person who or which is not an Authorized User, and from or to a location which does not qualify as a Site as defined hereunder.

If and when acquiring a Corporate License, it is agreed as an express deviation to Section 2.2 (i) of this EULA, that:

- You acquire the right to copy or reproduce the Software Product including the right to duplicate the media on which the Software Product is provided to You and the related license file; and
- You acquire the right to permit the use of the Software Product by any company or corporation which is part of Your Group of Companies (as defined hereunder), in both cases, for the sole and restricted purpose of exercising the concurrent use license right granted to You under said Corporate License within the limits set forth hereinabove.

This Appendix forms an integral part of this EULA, and all terms and conditions of this EULA which are not expressly deviated under this Appendix, shall apply to You in accordance with the foregoing in addition to the terms and conditions set forth in this Appendix.

As used herein and for the purposes of Corporate Licenses only, the following terms shall have the following meaning:

- the term '**Group of Companies**' means any company or corporation:
 - a) in which You directly or indirectly own or control the voting rights attached to more than 50% of the issued ordinary share capital, or (ii) control directly or indirectly the appointment of a majority of directors (or equivalent) of its board of directors (or equivalent body); or
 - b) which directly or indirectly (i) owns or controls the voting rights attached to more than 50% of Your issued ordinary share capital, or (ii) controls the appointment of a majority of directors (or equivalent) of Your board of directors (or equivalent body); or
 - c) which is directly or indirectly owned or controlled by the same company or corporation as You in accordance with sub-case b) above.
- the term '**Authorized Users**' means any end-users at the Sites who use the Software Product;
- the term '**Sites**' means Your facility to which Schneider Electric initially supplied the Software Product as well as all of Your facilities and the facilities of Your Group of Companies, irrespective whether said facilities are located within the same country or several countries.