

**O&S HOLDINGS (VIC) PTY LTD t/a OLIVER FOOTWEAR**

 **TERMS AND CONDITIONS OF SALE**

Australia

These terms and conditions (“**Terms**”) apply to all supplies of Goods and Services by O&S Holdings (Vic) Pty Ltd t/a Oliver Footwear (ACN 004 504 018) ("**Honeywell**").

# Definitions

# Australian Consumer Law means the Australian Consumer Law set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth), as supplemented or amended from time to time.

**Consequential Loss** means all indirect, special or consequential loss; loss of profit, revenue, use, data, production, savings or anticipated savings, loss of financing, business opportunity, goodwill, or any such similar type of indirect loss.

**Customer** means any person or entity who purchases Goods or Services from Honeywell.

**Defects** means a failure to operate as described by Honeywell in the relevant published Honeywell user manual or Honeywell product literature.

**Equipment** means products manufactured or developed by Honeywell or its affiliates or such other third party products or Software specified in the Order.

**Force Majeure** has the meaning set out in clause 10.2

**Goods** means Equipment and Software.

**GST** means the tax imposed by the *A New Tax System (Goods & Services) Act 1999* (Cth) and related imposition Acts and regulations.

**Honeywell Equipment** means products manufactured or developed by Honeywell or its affiliates.

**Honeywell’s Official Documentation** means with respect to Goods, Honeywell datasheets, Honeywell marketing materials, letters provided on Honeywell’s company letterhead, other product documentation and materials available on Honeywell’s website.

**Honeywell Software** means software developed or owned by Honeywell or its affiliates.

**Loss or Damage** includes all types of property, pecuniary or other loss or damage, including consequential loss or damage and loss of profits.

**Order** means a proposal issued by Honeywell and accepted by the Customer’s issued purchase order in accordance with clause 2.1 (a) or the purchase order issued by the Customer under clause 2.1(b).

**PPSA** means the *Personal Property Securities Act 2009* (Cth).

**Services** means labour, knowledge, installation or other services provided by Honeywell and stated in the relevant proposal or order.

**Software** means computer programs in the form of machine readable instructions and any documentation or product literature relating to those computer programs.

**Software Licence Agreement** means the printed documentation supplied with the Software.

**System** means a combination of Goods and/or Services and/or third party goods and/or third party services.

# Binding Agreement

* 1. A binding agreement will form:
		1. if these Terms form part of a proposal to Customer, on receipt by Honeywell of Customer's unconditional acceptance of the proposal, evidenced by Customer's purchase order, whether or not the proposal is referenced; or
		2. on Honeywell's written acceptance of Customer's purchase order.
	2. Any proposal incorporating these Terms:
		1. will expire and not be capable of acceptance by Customer after 30 days of its date, unless otherwise agreed in writing by Honeywell; and
		2. may be varied or withdrawn by Honeywell at any time prior to unconditional acceptance by Customer.
	3. No modifications or variation of these Terms (including any statement by Customer that Customer’s terms will apply (including any reference to terms that may be set out on the front face or reverse side of any purchase order issued by the Customer) will bind Honeywell unless expressly agreed to in a formal document issued in writing by an authorised representative of Honeywell. Honeywell will not be deemed to have waived these Terms if it fails to object to provisions submitted by Customer.
	4. Unless expressly provided otherwise in a writing by an authorised representative of Honeywell, the extent of any inconsistency between these Terms and any other documentation agreed by Honeywell under clause 2.3, these Terms will prevail.
	5. These Terms may be amended by Honeywell on 30 days’ notice, including by posting revisions to any online portal commonly used by Honeywell or to the most recent email or postage address provided by Customer.
	6. If a provision of these Terms is invalid under an applicable law, it will be inoperable to the extent of such invalidity. All other provisions will remain in full force and effect.

# Warranty

* 1. Subject to these Terms, Honeywell expressly warrants that:
		1. Honeywell Equipment (excluding third party products) will be free from Defects for 12 months from date of supply or installation or the period specified in the Honeywell’s Official Documentation for the Equipment (**Equipment Warranty Period**);
		2. Honeywell Software will be free from Defects for the period specified in Honeywell’s Official Documentation for that Software or where supplied under the terms of the relevant EULA, for a period of ninety (90) days from the date of delivery of the Software (**Software Warranty Period**);
		3. Services will be free from Defects for three (3) months from the date of performance or delivery of the Services (**Services Warranty Period**); and
		4. Third party equipment and software will be provided with the same warranty as provided by the original manufacturer or licensor of those third party products or software.
		5. No extension of any Equipment Warranty Period, Software Warranty Period or Services Warranty Period will be binding upon Honeywell unless set forth in writing and signed by a duly authorized representative of Honeywell.
	2. Customer acknowledges and agrees:
		1. Customer will not rely on Honeywell, and Honeywell does not make any representations or give any warranty as to the overall performance or outcome of any System, or the results of any process, with which the Goods or Services are used or integrated; and
		2. all warranties are subject to Honeywell having received payment in full.
	3. If any Defects occur in Honeywell Equipment during the Equipment Warranty Period Honeywell will, at its election, either:
		1. replace the Equipment or supply equivalent Equipment;
		2. repair the Equipment; or
		3. pay the reasonable costs of replacing or repairing the Equipment.
	4. If any Defects occur in Honeywell Software during the Software Warranty Period, Honeywell will, at its election,
		1. repair, modify or make good the Software; or
		2. make available to Customer instructions to enable Customer to repair, modify or make good the Software.
	5. If any Defects occur in Services during the Services Warranty Period, Honeywell will, at its election, either:
		1. supply the Services again; or
		2. pay the reasonable costs of having the Services supplied again, by an affiliate or third party selected by Honeywell.
	6. The warranties given by Honeywell under these Terms will not apply where a Defect is attributable to:
		1. any modification or repair of Honeywell Equipment unless made by Honeywell or with Honeywell’s prior written approval;
		2. negligent use, abuse or misuse by the Customer or a third party;;
		3. the use of Goods under environmental, power or operating conditions beyond the limits or constraints specified by Honeywell;
		4. installation or wiring, other than in accordance with Honeywell's instructions;
		5. wear or burn-out resulting from usage of goods of a kind inherently susceptible to burn-out;
		6. any event of Force Majeure.
	7. Honeywell authorises Customer to pass on the express warranties contained in this clause 3 (as applicable) to end-users, provided that:
		1. Customer must not purport to, pass on to such end-users any warranty rights greater than, or different to, those granted to Customer under these Terms; and
		2. if Customer wishes to pass on the warranty rights granted under these Terms in a writing, Customer must provide Honeywell with a copy of the document which it proposes to use for this purpose for review and written approval by Honeywell before such document is provided to the end-user.
	8. Where Customer is a consumer under certain legislation including the Australian Consumer Law, certain warranties, guarantees or obligations cannot be excluded or restricted. Any Order must be read subject to the relevant statutory provisions, which, if applicable and to the extent to which Honeywell is entitled to do so shall be limited as follows: for Services, at Honeywell’s election to the supply of services again or the payment of the reasonable costs of having those Services supplied again; and for Goods and Equipment, at Honeywell’s election to:
		1. the replacement of the Goods or Equipment
		2. the repair of the Goods or Equipment or
		3. the payment of the reasonable costs of having those Goods or Equipment replaced or repaired.

1. **Limitation of Liability**
	1. To the full extent permitted by law, and subject to Customer’s rights under the Australian Consumer Law:
		1. Clause 3 of these Terms states Honeywell’s total responsibility and liability, and Customer’s sole remedies, with respect to the supply of Goods and Services;
		2. Honeywell makes no implied warranty and will not be liable for any breach of statutory obligation or implied condition or warranty in respect of Goods or Services or any System with which the Goods or Services are used or integrated;
		3. Honeywell will not, under any circumstances, be liable in any way whatsoever to Customer for any Loss or Damage sustained or incurred by Customer arising directly or indirectly out of the supply of Goods or Services by Honeywell, the use or performance of Goods or Services in isolation or as part of a System, or any breach by Honeywell of these Terms, except to the extent such Loss or Damage is directly attributable to the negligence of Honeywell;
		4. Honeywell’s liability to Customer, if any, in contract, tort or otherwise will be reduced to the extent Customer contributed to the Loss or Damage. Notwithstanding anything else, Honeywell’s total liability is limited to the total amount paid by Customer under the Order pursuant to which Honeywell supplied the Goods or Services said to have caused such Loss or Damage;
		5. the express warranties in clause 3 are in substitution for all other terms, conditions, warranties and representations, implied by statute or otherwise, and all other terms, conditions, warranties and representations are excluded and
		6. in no event shall Honeywell be liable for any Consequential Loss.
	2. To the extent that Honeywell supplies Goods or Services to a “consumer” as defined in the Australian Consumer Law, Honeywell will comply with any applicable consumer guarantees and the following statement will apply: “Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled :

(a) to cancel your service contact with us; and

(b) to a refund for the unused portion, or to compensation for its reduced value.

You are entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage form a failure in the goods or service.”

* 1. This clause 4 will survive termination or completion of these Terms.

# Price, Payment, Overdue Amounts and Set-Off

* 1. Unless stated otherwise in writing, all prices quoted by Honeywell, are exclusive of all taxes (including any GST), duties, levies and any other government charges, and where applicable will be added to the price payable by Customer to Honeywell. When GST is payable by Honeywell in respect of a taxable supply made by Honeywell to Customer, Customer must pay Honeywell, in addition to the GST- exclusive price, the amount on account of GST shown in the tax invoice rendered by Honeywell.
	2. Unless stated otherwise in writing, all prices quoted by Honeywell are based on the then current factory or supplier price list and assume the application of these Terms. Any increase in prices quoted by Honeywell resulting from inflation or other economic constraints including supply chain shortages may result in Honeywell having to pass on the increase to the Customer. In any event Honeywell reserves the right to modify prices on 30 days’ notice.
	3. Honeywell reserves the right to raise and be paid on progress claim invoices. Progress claim invoices may be raised upon the supply of Goods or Services as directed by Customer or upon the completion or achievement of agreed benchmarks or milestones.
	4. Where Honeywell has Goods ready for supply in accordance with a delivery schedule agreed between Honeywell and Customer, but Customer is not able to adhere to that delivery schedule, then Honeywell may invoice Customer in accordance with that delivery schedule. In the absence of an agreed delivery schedule, the current Honeywell delivery schedule, as provided to Customer, will be deemed to be the delivery schedule. Goods paid for by Customer under this clause 5.4 will be held for Customer under Honeywell’s custody, care and control and will be insured by Honeywell for fire and burglary at replacement value.
	5. Except as otherwise agreed or provided for in this Clause 5, invoices will be raised by Honeywell upon the supply of Goods or Services.
	6. Unless Customer has been approved for credit terms by Honeywell, payment for all orders will be made at the time of order placement. In the event Customer has been approved for credit terms, payment for that order will be due no later than 30 calendar days from the date of the invoice, unless a shorter time period is specified on the invoice or otherwise communicated to Customer in writing. Honeywell will determine in its sole discretion if Customer qualifies for credit terms. If credit terms are granted, Honeywell may change Customer’s credit terms at any time in its sole discretion and may, without notice to Customer, modify or withdraw credit terms for any order, including open orders.
	7. Partial shipments will be invoiced as they are shipped. Honeywell is not required to provide a hard copy of the invoice. Payments must be made in Australian Dollars unless agreed otherwise in writing and must be accompanied by remittance detail containing at a minimum the Customer’s order number, Honeywell’s invoice number and amount paid per invoice; Customer agrees to pay a service fee equal to 1% of the invoice amount for each occurrence for its failure to include the remittance detail and minimum information described above.
	8. Payments must be in accordance with the “Remit To” field on each invoice. If Customer makes any unapplied payment and fails to reply to Honeywell’s request for instruction on allocation within seven (7) calendar days, Honeywell may set off such unapplied cash amount against any Customer past-due invoice(s) at its sole discretion. An unapplied payment shall mean payment(s) received from Customer without adequate remittance detail to determine what invoice the payment(s) shall be applied to.
	9. If Customer has a good faith reason to dispute an invoiced amount, Customer must provide Honeywell with written notice of the amount disputed, and the basis of the dispute within 10 business days of the date of invoice, and must pay any undisputed amounts. Honeywell reserves the right to correct any inaccurate invoices. Any corrected invoice must be paid by the original invoice payment due date or the issuance date of the corrected invoice, whichever is later.
	10. Any amounts not subject to a good faith dispute that remain unpaid for thirty (30) days after the due date for payment will, at Honeywell's option, bear interest as from the 31st day from the date of invoice at a rate of 5% p.a. or the then official cash rate published by the Reserve Bank of Australia plus 1.5% (whichever is higher).
	11. In the event amounts remain unpaid for 45 or more days after the due date for payment, Honeywell may do one or more of the following without further notice to Customer:
		1. cancel or suspend Customer’s account;
		2. withhold performance;
		3. reject any future orders;
		4. revoke any credit terms extended to Customer;
		5. refer the unpaid amount to collections and/or commence legal proceedings, in which case Customer acknowledges and agrees to reimburse Honeywell on a full indemnity basis for all associated legal or collection costs.
	12. Any amounts owed by Honeywell to Customer or any affiliate or related party of Customer, whether under these Terms or any other agreement between Honeywell and Customer or Honeywell and any affiliate or related party of Customer, may be set-off by Honeywell (in Honeywell’s sole discretion) against any amounts owed by Customer under these Terms.
	13. All payments must be in the legal tender specified on the applicable Honeywell invoice.

# Economic Surcharges

* 1. To the extent permitted by law, Honeywell may, from time to time, issue surcharges under these Terms in order to mitigate and/or recover increased operating costs arising from or related to, without limitation:
		1. foreign currency exchange variation;
		2. increased cost of third-party content, labor and materials;
		3. impact of duties, tariffs, and other government actions; and
		4. any other circumstances that increase Honeywell’s costs, including, without limitation, increases in freight, labor, material or component costs, and increased costs due to inflation (collectively, “**Economic Surcharges**”).
	2. Honeywell will invoice Customer, through a revised or separate invoice, and Customer agrees to pay for the Economic Surcharges pursuant to the standard payment terms in this Agreement. If a dispute arises with respect to Economic Surcharges, and that dispute remains open for more than fifteen (15) days, Honeywell may, in its sole discretion, withhold performance and future shipments or combine any other rights and remedies as may be provided under this Agreement or permitted by law until the dispute is resolved.
	3. The terms of this clause 6 shall prevail in the event of inconsistency with any other terms in this Agreement. Any Economic Surcharges, as well as the timing, effectiveness, and method of determination thereof, will be separate from and in addition to any changes to pricing that are affected by any other provisions in this Agreement.

# Risk and Title

* 1. Title and ownership in Equipment will not pass to Customer, but will remain with Honeywell, until the purchase price of the Equipment has been paid in full.
	2. Until property in the Equipment passes to Customer:
		1. Customer holds the Equipment as fiduciary bailee and agent for Honeywell;
		2. unless otherwise notified in writing, Customer is authorised to sell or use the Equipment in the ordinary course of business;
		3. any unsold or unused Equipment must be stored separately and in a manner to enable the Equipment to be identified and cross-referenced to particular invoices;
		4. after giving 48 hours’ notice to Customer, Honeywell will be entitled to enter Customer’s premises between 9am and 5pm to inspect the Equipment;
		5. if Customer sells or uses the Equipment in a manufacturing or value-added process of its own or a third party, then Customer will hold such part of the proceeds of the sale, manufacturing or value-added process as relates to the Equipment in trust for Honeywell. Such part will be deemed to equal in dollar terms the amount owing by Customer to Honeywell for these Equipment at the time.
	3. If Customer:
		1. fails to make payments for the Equipment on the due date; or
		2. commences to be wound up or is placed under official management or suffers a receiver or manager to be appointed or becomes insolvent or bankrupt or commits an act of bankruptcy,

Customer must deliver the Equipment to Honeywell upon demand. In the event Customer does not comply with a demand within 48 hours of receipt, Honeywell will be entitled to enter upon Customer’s premises at any time to do all things necessary in order to take possession of the Equipment. Customer will also pay on demand all costs associated with the exercise of Honeywell’s rights under this clause.

# Retention of Title and PPSA

* 1. Title
		1. All Goods supplied in accordance with these Terms or any other agreement between Honeywell and Customer remain Honeywell's property until Customer has paid in full all moneys that Customer owes to Honeywell from time to time.
		2. If Customer purchases Goods for re-supply, then Customer may sell the Goods in the ordinary course of business but must hold all proceeds from any such sale in trust for Honeywell.
			1. for the purposes of the PPSA, Honeywell has a security interest in the Goods and in all proceeds from disposal of the Goods; and
			2. Honeywell may register its security interest under this clause 7.2 including as a purchase money security interest.
	2. Undertakings
		1. Customer agrees:
			1. to the maximum extent permitted by law, to waive any right to receive a verification statement under the PPSA in respect of the security interest under this clause 7;
			2. to do all things Honeywell considers necessary or desirable to ensure that Honeywell's security interest in the Goods is enforceable, continuously perfected and afforded the highest priority position available to Honeywell;
			3. to indemnify, and on demand reimburse Honeywell for all expenses incurred in registering a financing statement or financing change statement on the Personal Properties Securities Register or releasing any Goods the subject of the security interest; and
			4. to give Honeywell 10 Business Days' prior written notice of any proposed change in Customer's name and/or any other change in Customer's details (including but not limited to changes in Customer's address, facsimile number, email address, or business practice) and immediately advise Honeywell of any material change in Customer's business practices of selling or using any of Honeywell's products subject to the security interest which would result in a change in the end products produced or the nature of proceeds derived from such sales.
	3. Confidentiality
		1. Neither party will disclose any information of the kind mentioned in section 275 of the PPSA, unless Customer or Honeywell are otherwise required to disclose such information under the PPSA.

# Delay

* 1. Any Goods or Services to be supplied by Honeywell will be supplied during regular working hours on regular working days. If Customer requests Honeywell to supply Goods or Services outside regular working hours, any overtime or additional expenses occasioned thereby will be invoiced to and paid by Customer to Honeywell as part of the purchase price for such Goods or Services, at Honeywell's then current labour rates.
	2. Extra costs incurred by Honeywell due to cessation of work occasioned by Customer's instructions or lack of instructions, interruptions, mistakes, or work for which Honeywell is not responsible, must be reimbursed by Customer to Honeywell upon demand.

# Work to be done by others

* 1. Without prior written agreement with Customer to the contrary, Honeywell will not set in place or install equipment or services piping nor carry out any electric wiring work, welding or entry into process lines, or building work such as concreting, cutting and making good, or painting. Such work is the sole responsibility of Customer.
	2. Honeywell will not set the cut out or operating points of safety devices unless under the supervision and at the sole responsibility of Customer.
	3. Honeywell will not provide lifting machinery, scaffolding, toilets or other site amenities.

# Delivery, force majeure etc.

* 1. Delivery of Goods not agreed to be installed by Honeywell will be FOB a Honeywell warehouse or Honeywell affiliate or office selected by Honeywell.
	2. The delivery times made known to Customer are estimates only. Honeywell does not accept any responsibility for delays or non-performance whether caused by fire, strike, lockout, labour disputes, delays caused by suppliers or others, flood, accident, transportation delays, fuel shortage, cyber-attack, inability to obtain material, war, demand or requirement of Government or statutory authorities, quarantines, epidemic or pandemic or any other cause beyond its control. In event of any delay, the date or dates for performance by Honeywell will be extended for a period at least equal to the time lost by reason of such delay.
	3. If Goods or Services are unable to be supplied to Customer by the scheduled delivery date, Honeywell will notify Customer and with Customer's consent, Honeywell may substitute equivalent Goods or Services in place of the Goods and Services ordered by Customer, in order to satisfy Customer's order.

# Loss of or Damage to Goods

* 1. To the extent permitted by law and subject to clause 4, in the case of Goods not agreed to be installed by Honeywell, Honeywell will not be liable for any Loss of or Damage to the same after delivery FOB point of shipment, including any Loss or Damage in transit.
	2. To the extent permitted by law and subject to clause 4, in the case of Goods agreed to be installed by Honeywell, Honeywell will not be responsible for Loss of or Damage to goods, after those Goods have been delivered to the site. Should any Goods, after being delivered and prior to payment by Customer, be damaged or destroyed in any way whatsoever, other than by the fault of Honeywell, Customer will continue to be liable to pay for such Goods in accordance with these Terms.

# Claims

* 1. Goods must be examined by Customer promptly upon delivery. To the full extent permitted by law and subject to the warranties provided for in these Terms, no claim for missing or damaged product will be recognised by Honeywell unless reported to Honeywell within seven (7) days after delivery of the Goods to which the claim relates.

# Return of Goods

* 1. Subject to this clause 13, Goods may be returned for credit if they do not correspond with the description under which they were sold.
	2. Goods of current design in original sealed cartons, will be considered for credit upon request from Customer. Honeywell may reject a request to return Goods for credit for any or no reason. If Honeywell agrees to accept Goods in return for credit, Customer acknowledges and agrees a handling charge will be levied by Honeywell and paid by Customer to cover necessary inspection, adjustment, repacking, return delivery to the closest Honeywell warehouse or warehouse of a Honeywell affiliate, and clerical work, and that such handling charge may be deducted from any credit otherwise owing to Customer.
	3. Goods invoiced more than three (3) months prior to attempted return, Goods which are special in any nature whatsoever, software wirings and tubing cut to length and Goods bought in to special order may not be returned.
	4. Goods may not be returned without Honeywell’s prior written authorisation. Goods return is subject to proof of purchase.

# Variations

* 1. Subject to its statutory obligations under the Australian Consumer Law, Honeywell reserves the right to revise at any time the extent or type of Goods or Services it supplies to Customer, if it believes that other Goods or Services can fulfil the same function.

# Dispute Resolution

* 1. The parties agree that if a dispute arises out of or relates to these Terms, a party may not commence any court or arbitration proceedings relating to the dispute unless it has complied with the provisions of this clause 15, except to seek urgent interlocutory relief.
	2. A party claiming that a dispute has arisen must give written notice to the other party specifying the nature of the dispute. On receipt by the other party of the notice, the matter must be referred to the senior management of each party for resolution. If the managers are unable to resolve the dispute within 10 Business Days’, the parties must mediate the dispute under the mediation rules of the Law Society of New South Wales and the President of the Law Society, and if a mediator is not agreed between the parties, the Law Society of New South Wales President's nominee will select the mediator and determine the mediator's compensation.

# Software Licence

* 1. Honeywell agrees to grant to Customer a licence to use any Software provided pursuant to these Terms, upon and subject to the terms and conditions set out in Honeywell's standard Software License Agreement or relevant third party licence agreement (where applicable) which Customer must execute prior to delivery or installation of such Software.

# Governing Law

* 1. These Terms are governed by the laws of New South Wales. Each party submits to the non-exclusive jurisdiction of the courts of New South Wales.

# Indemnity

* 1. Customer agrees to indemnify Honeywell, its employees and agents from and against all Loss or Damage, resulting directly or indirectly from any acts, errors or omissions of Customer in connection with these Terms or Customer’s negligent use or operation of the Goods or Services (including use or operation of Goods and Services other than as specified by Honeywell). This clause will survive termination or completion of these Terms.
	2. Except to the extent caused by or attributable to Customer or covered by Customer’s indemnity to Honeywell under this clause 18 and subject to this clause 18, Honeywell agrees to indemnify Customer, its employees and agents from and against all Loss or Damage arising from:
		1. third party claims for personal injury or death directly

attributable to defective Goods or Services;

* + 1. claims by a third party that the Goods or Services (but not any System) breach that third party’s intellectual property rights;
		2. subject to clause 4.1, directly attributable to the negligence of Honeywell.
	1. Customer’s right to indemnification (if any) under these Terms is conditional upon:
		1. Customer providing Honeywell with prompt notice of any claim;
		2. Customer providing Honeywell with all reasonable assistance and documentation required by Honeywell to defend the claim; and
		3. Customer providing Honeywell with sole and complete authority to defend and dispense of the claim using counsel of Honeywell’s choice and subject only to Honeywell not agreeing to settle or compromise any claim made against Customer without Customer’s written approval, such approval not to be unreasonably withheld or subject to any demand by Customer for compensation or reimbursement of legal fees.
	2. For the avoidance of doubt, if Customer elects to retain its own independent counsel to advise it with respect to any claim to which Customer seeks to be indemnified under clause 18.2, such independent advice will be at Customer’s sole expense and is not reimbursable under Honeywell’s indemnity.

# Intellectual Property

* 1. Subject to clause 16, nothing in these Terms confer on Customer any licence, right, title or interest in or to any intellectual property comprised in the Goods or Services, which will at all times remain the property of Honeywell or its suppliers

# Cybersecurity Incidents and Warranties.

* 1. Notwithstanding any other provision of the Agreement,
		1. in no event will Honeywell be responsible or liable for protection against, or mitigation of consequences associated with, a Cyber Incident (as defined by the United States Computer Emergency Readiness Team) or other similar cyber-related events and/or attacks that may affect Customer’s site or systems,
		2. Customer is solely responsible for ensuring that the Covered Node Types and Node Counts, and its sites and systems are protected against such a Cyber Incident or other similar cyber-related events and/or attacks including, but not limited to, ensuring that all software is kept up to date, that all cybersecurity products used are compatible with one another and that any patches are correctly and appropriately installed,
		3. all remedial, reinstallation or update works provided by Honeywell, if any, as a result of or related to a Cyber Incident or other similar cyber-related events and/or attacks will be performed subject to additional fees for such work, plus applicable taxes, to be paid by Customer to Honeywell (in addition to fees otherwise due under the Agreement).
		4. Customer represents, warrants, agrees that :
			1. Customer is not a “Sanctioned Person,” meaning any individual or entity: (1) named on a governmental denied party or restricted list, including but not limited to: the Office of Foreign Assets Control (“OFAC”) list of Specially Designated Nationals and Blocked Persons (“SDN List”), the OFAC Sectoral Sanctions Identifications List (“SSI List”), and the sanctions lists under any other Sanctions Laws; (2) organized under the laws of, ordinarily resident in, or physically located in a jurisdiction subject to comprehensive sanctions administered by OFAC (currently Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine/Russia) (“Sanctioned Jurisdictions”); and/or (3) owned or controlled, directly or indirectly, 50% or more in the aggregate by one or more of any of the foregoing.
			2. Relating to this transaction and/or Agreement, Customer is in compliance with and will continue to comply with all economic Sanctions Laws administered by OFAC, other U.S. regulatory agencies, the European Union and its Member States, the United Kingdom, and the United Nations (“Sanctions Laws”). Customer will not involve any Sanctioned Persons in any capacity, directly or indirectly, in any part of this transaction and performance under this transaction. Customer will not take any action that would cause Honeywell to be in violation of Sanctions Laws.
			3. Customer will not sell, export, re-export, divert, use, or otherwise transfer any Honeywell products, technology, software, or proprietary information: (i) to or for any Sanctioned Persons or to or involving Sanctioned Jurisdictions; or (ii) for purposes prohibited by any Sanctions Laws. Customer will not source any components, technology, software, or data for utilization in Honeywell products or services: (i) from any Sanctioned Persons or Sanctioned Jurisdictions or (ii) in contravention of any Sanctions Laws.
			4. Customer’s failure to comply with this provision will be deemed a material breach of the Agreement, and Customer will notify Honeywell immediately if it violates, or reasonably believes that it will violate, any terms of this provision. Customer agrees that Honeywell may take any and all actions required to ensure full compliance with all Sanctions Laws without Honeywell incurring any liability.