

# TERMS AND CONDITIONS OF SALE

The entire selling goods or Services (defined below) (hereinafter collectively referred to as "Goods") hereunder (as applicable, the White-Rodgers or Residential Solutions divisions of Emerson Electric Co. or Verdant Environmental Technologies Inc. or any of their respective affiliates, each individually and not jointly), is herein referred to as the "Seller" and the customer, person, or entity purchasing Goods from Seller hereunder is referred to as the "Buyer". Sale of Goods includes Seller's products, or any other software or hardware or firmware ("Software") which are pre-coded, or to be loaded into such Goods. These Terms and Conditions and any Seller price list or schedule, quotation, acknowledgment or invoice from Seller relevant to the sale of the Goods and all documents incorporated by specific reference therein, constitute the complete and exclusive statement of the terms of the agreement governing the sale of Goods by Seller to Buyer. Buyer's acceptance of the Goods will manifest Buyer's assent to these terms and conditions without variation or addition. Any different or additional terms in Buyer's purchase order or other Buyer documents including Buyer's online tools requiring Seller to accept terms prior to use are hereby objected to. Seller reserves the right in its sole discretion to refuse orders.

1. **PRICES:** The price at which this order is accepted, whether in Seller's price list, schedule, acknowledgment or written quotation, is subject to change without notice and the invoice will reflect price in effect at the time of shipment.

2. **TAXES:** Any current or future tax, tariff, or governmental charge (or increase in same) affecting Seller's costs or production, sale, shipment, or delivery or which Seller is otherwise required to pay or collect in connection with the sale, purchase, delivery, storage, processing, use or consumption of Goods (but excluding any tax on Seller's net income or profit) shall be for Buyer's account, and to the extent paid by or levied or assessed against Seller, Seller shall be either added to the price or billed to Buyer separately, at Seller's election.

3. **TERMS OF PAYMENT:** Unless otherwise specified by Seller, terms are net thirty (30) days from the date of Seller's invoice in U.S. currency. Seller shall have the right, among other remedies, either to terminate this agreement or to suspend further performance under this and/or other agreements with the Buyer in the event Buyer fails to make any payment when due, which other agreements Buyer and Seller hereby amend accordingly, or Seller otherwise deems itself insecure. Buyer shall be liable for all expenses, including attorneys' fees, relating to the collection of past due amounts. If any amount owed to Seller is not paid when due, it shall bear interest at a rate to be determined by Seller, which shall not exceed the maximum rate permitted by law, from the date on which it is due until it is paid. Should Buyer's financial responsibility become unsatisfactory to Seller, cash payments or security satisfactory to Seller may be required by Seller for future deliveries and for the Goods therefore delivered. If such cash payment or security is not provided, in addition to Seller's other rights and remedies, Seller may suspend or delay delivery of Seller's Goods to Buyer. All Goods sold to Buyer by Seller, which security interest shall continue until such Goods are fully paid for in cash or other means approved by Seller, and Buyer, upon Seller's demand, will execute and deliver to Seller such instruments as Seller requires to protect and perfect such security interest.

4. **SHIPMENT DELIVERY AND TITLE:** Unless otherwise expressly provided, shipments are made F.O.B. Seller's shipping point. Any claims for shortages or damages suffered in transit are the responsibility of Buyer and shall be submitted by the Buyer directly to the carrier. Shortages or damages must be acknowledged and signed for at the time of delivery. While Seller will use all reasonable commercial efforts to maintain the delivery date(s) acknowledged or quoted by Seller, all shipping dates are approximate and not guaranteed. Seller reserves the right to make partial shipments. Seller, at its option, shall not be bound to tender delivery of any Goods for which Buyer has not provided shipping instructions. If the shipment of the Goods is postponed or delayed by Buyer for any reason, Buyer agrees to reimburse Seller for any and all handling and storage costs and other additional expenses resulting therefrom. Notwithstanding any provision to the contrary in this or other documents related to this transaction, and regardless of how price was quoted, whether FOB, FAS, CIF or otherwise, legal title to the Goods and risk of loss shall transfer from Seller to Buyer (a) for sales originating from the United States at which the end destination of the Goods is outside of the United States, immediately after the Goods have passed beyond the territorial limits of the United States, and (b) for all other shipments, upon delivery to and receipt by carrier at Seller's shipping point. All claims for shipping errors, lost shipments, or any other discrepancies must be made within ninety (90) days or they will be disallowed and deemed waived.

5. **LIMITED WARRANTY:** Subject to the limitations of Section 6, Seller warrants, to its direct purchasers and to no others, that the Goods purchased for resale hereunder will be free from defects in material and workmanship under normal use and regular service and maintenance for the period specified in the Seller's warranty applicable to Goods sold in effect on the date of shipment; a copy of which has been or will be furnished to Buyer upon request. This warranty shall not apply to any Goods which: (a) have been repaired or altered outside Seller's factory by other than Seller in any manner so as, in Seller's judgment, to affect its serviceability or proper operation; (b) have been subjected to persons other than Seller to improper handling, operation, maintenance, repair, or alteration; (c) have been subjected to misuse, negligence, improper installation or accident, including operator error; or (d) are not tagged with a "Returned Goods Identification Tag" or a White-Rodgers warranty tag (Form #3903) before returning such Goods to Seller. Seller is not responsible for faulty performance arising from: (a) operator errors, power failures, electromagnetic or radio frequency interference, equipment malfunctions, or any other cause beyond Seller's control; (b) equipment configuration changes made on a remote management website by Buyer, or any physical interference at Customer's site that interferes with the existing configuration; and (c) any damage done by hardware or software supplied by a third-party. Buyer is responsible for all third-party equipment and services necessary to operate any Goods. Seller's obligation under this warranty, and the Buyer's exclusive remedy for the breach thereof, shall be limited to, at Seller's option, replacement of any alleged defective Goods or issuance of credit, excluding the cost of labor and any other expenses incurred in servicing the unit on which the Goods are returned. Seller requires the return of any allegedly defective Goods, transportation prepaid, before honoring any claim. All returned Goods are subject to inspection, and if examination at the factory does not disclose any defect covered by this warranty, replacement of such Goods or issuance of credit for same will not be approved. Any alteration or modification by Customer without prior written consent of Seller shall void the foregoing warranties and discharge Seller from all its obligations with respect thereto.

THESE WARRANTIES CONSTITUTE SELLER'S SOLE AND EXCLUSIVE WARRANTIES AND BUYER'S EXCLUSIVE REMEDY WHETHER THE CAUSE OF ACTION BASED IN TORT, CONTRACT, STRICT LIABILITY, OR OTHERWISE, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT. THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, WHETHER OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE WHETHER OR NOT THE PURPOSE OR USE HAS BEEN DISCLOSED TO SELLER IN SPECIFICATIONS, DRAWINGS OR OTHERWISE AND WHETHER OR NOT SELLER'S GOODS ARE SPECIFICALLY DESIGNED AND/OR MANUFACTURED BY SELLER FOR BUYER'S USE OR PURPOSE. SELLER SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER IN CONNECTION WITH THE SALE, RESALE OR USE OF THE GOODS.

Products purchased by Seller from a third party for resale to Buyer ("Resale Products") shall carry only the warranty extended by the original manufacturer. This Section applies to any entity or person who may buy, acquire or use the Goods and the same shall be bound by the limitations therein, including Section 6. Buyer agrees to provide such subsequent transferee conspicuous, written notice of the provisions of Sections 5 and 6.

6. **LIMITATION OF REMEDY AND LIABILITY:** THE SOLE AND EXCLUSIVE REMEDY FOR BREACH OF ANY WARRANTY HEREUNDER SHALL BE LIMITED TO REPAIR, REPLACEMENT, REFUND OR CREDIT OF THE PURCHASE PRICE UNDER SECTION 5. SELLER SHALL NOT BE LIABLE FOR DAMAGES CAUSED BY DELAY IN PERFORMANCE AND THE REMEDIES OF BUYER SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE, IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT, OR OTHERWISE), SHALL SELLER'S LIABILITY TO BUYER AND/OR ITS CUSTOMERS EXCEED THE PRICE PAID BY BUYER FOR THE SPECIFIC GOODS OR PORTION OF THE GOODS PROVIDED BY SELLER GIVING RISE TO THE CLAIM OR CAUSE OF ACTION, AND BUYER SHALL INDEMNIFY AND HOLD HARMLESS SELLER FOR ANY DAMAGES INCURRED BY SELLER IN EXCESS THEREOF. BUYER AGREES THAT IN NO EVENT SHALL SELLER'S LIABILITY TO BUYER AND/OR ITS CUSTOMERS EXTEND TO INCLUDE INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHICH ARE WAIVED BY BUYER AND AS TO WHICH BUYER SHALL INDEMNIFY SELLER. The term "consequential damages" shall include, but not be limited to, loss of anticipated profits, business interruption, loss of use of revenue, reputation and data costs incurred, including without limitation, for capital, fuel, power, and/or loss or damage to property, product or equipment. Further, Buyer shall indemnify and hold Seller harmless from any liability to Buyer, Buyer's employees, workers, contractors, or any other persons arising out of Buyer's, or any other persons', use of the Goods. It is further expected that all instruction and warnings supplied by Seller will be passed on to those persons who use the Goods. Seller's Goods are to be used in their recommended applications and all warning labels adhered to the Goods by Seller are to be left intact. Any technical advice furnished by Seller with respect to the use of the Goods is given without charge, and Seller assumes no obligation or liability for the advice given, or results obtained, all such advice being given and accepted at Buyer's sole risk.

7. **PATENTS AND COPYRIGHTS:** Subject to the limitations set forth herein and in Section 6, Seller warrants that the Goods sold, except those goods made specifically for Buyer according to Buyer's drawings or specifications or otherwise at Buyer's direction ("Custom Goods"), do not infringe any patent, trademark, or copyright of any third party existing as of the date of shipment. This warranty is given upon the condition that Buyer promptly notify Seller of any claim or suit involving Buyer in which such infringement is alleged, and that Buyer cooperate fully with Seller and permit Seller to control completely the defense, settlement or compromise of any such allegation of infringement. Seller's warranty as to use patents only applies to infringements arising solely out of the inherent operation, according to Seller's specifications and instructions, of such Goods. In the event such Goods are found to infringe such a U.S. patent or copyright in such suit, and the use of such Goods is enjoined, or in the case of a compromise or settlement by Seller, Seller shall have the right, at its option and expense, to procure for Buyer the right to continue using such Goods, or replace them with non-infringing Goods, or modify same to become non-infringing, or grant Buyer a credit for the depreciated value of such Goods upon their return. In the event of the foregoing, Seller may also, at its option, cancel the agreement as to future deliveries of such Goods, without liability. Buyer agrees to indemnify and make Seller harmless from all expenses and damages resulting from any claim, suit, or proceeding for alleged infringement of any patent or copyright based in whole or in part upon the manufacture, sale, or use of any Goods or any part thereof, in combination or assembly with machinery or apparatus not furnished under this agreement. Seller owns all Output (defined below) generated by the use of the Goods. Subject to the terms and conditions of this Agreement, Seller hereby grants Buyer a worldwide, nonexclusive, nontransferable, perpetual, royalty-free license to use the Output. For purposes of this Agreement, "Output" means all electronic data or information generated through Buyer's use of the Goods. To the extent Buyer intends to sub-license any data or Output to a third-party integrator, Buyer is responsible for ensuring the third-party integrator understand and agrees to the terms of this Section in regards

to the license granted.

8. **EXCUSE OF PERFORMANCE (FORCE MAJEURE):** Seller shall not be liable for delays in performance or for non-performance, if caused directly or indirectly, by acts of God, acts of Buyer, war, fire, flood, weather, sabotage, strikes, lockouts, slow-downs, picketing, or other labor disputes or controversies, civil disturbances or riots; governmental regulations, tariffs, restrictions, embargos, laws, regulations, orders, or actions; unavailability of or delays in transportation; accidents, delays or default of or failure by common carriers; shortage of labor; delay in obtaining or inability to obtain materials, equipment or parts from regular sources; default of suppliers; or unforeseen circumstances or events beyond Seller's reasonable control, or without Seller's fault, whether similar or dissimilar to the foregoing. Deliveries or other performance may be suspended for an appropriate period of time or cancelled by Seller upon notice to Buyer in the event of any of the foregoing, but the balance of the agreement shall otherwise remain unaffected.

If Seller determines that its ability to supply the total demand for the Goods, or to obtain material used directly or indirectly in the manufacture of the Goods, is hindered, limited, or made impracticable due to causes set forth herein, Seller may allocate its available supply of the Goods or such material (without obligation to acquire other supplies of any such Goods or material) among itself and its purchasers on such basis as Seller determines to be equitable without liability for any failure of performance which may result therefrom.

9. **CANCELLATION:** Buyer may cancel orders only upon reasonable advance written notice and upon payment to Seller of Seller's cancellation charges which include, among other things, all costs and expenses incurred to cover commitments made by the Seller and a reasonable profit thereon. Seller's determination of such termination charges shall be conclusive.

10. **CHANGES:** Buyer may request changes or additions to the Goods consistent with Seller's specifications and criteria. In the event such changes or additions are accepted by Seller, Seller may revise the price(s), license fee(s), and date(s) of delivery. Seller reserves the right to change designs and specifications for Goods without prior notice to Buyer. Seller shall have no obligation to install or make such change in any Goods manufactured prior to the date of such change. Seller reserves the right to change these Terms and Conditions without notice.

11. **ASSIGNMENT:** Buyer shall not assign its rights or delegate its duties hereunder or any interest herein without the prior written consent of the Seller, and any such assignment, without such consent, shall be void.

12. **INSTALLATION:** Buyer shall be responsible for receiving, inspecting, testing, storing, installing, starting up, and maintaining all Goods.

13. **INSPECTION/TESTING:** Buyer, at its expense, agrees that it will promptly inspect the Goods upon receipt thereof, and in no event later than thirty (30) days from the date of receipt of the Goods. Buyer shall deliver to Seller within fifteen (15) days of inspection, but in no event later than forty-five (45) days from the date of receipt of the Goods, written notice of any and all deficiencies, defects, variations from specifications or complaints of any kind with respect to the quantity, quality, condition, shipment performance, price or appearance of the Goods so received by Buyer. In the event no such written notice is received by Seller, Buyer shall be deemed conclusively to have inspected and accepted all such Goods unconditionally and to have waived any and all rights and claims, including without limitation any right to reject the Goods or to claim damages in respect thereof. Buyer may not return Goods without first advising Seller of the reasons therefore, obtaining from Seller a Returned Goods Authorization Number and observing such instructions as Seller may give in authorizing such return. Buyer, at its option, may inspect and observe the testing by Seller of the Goods for compliance with Seller's standard test procedures prior to shipment, which inspection and testing shall be conducted at Seller's plant at such reasonable time as is specified by Seller. Any alleged rejection of the Goods at Seller's plant must be made promptly by Buyer before shipment. Tests shall be deemed to be satisfactorily completed and the test fully met when the Goods meet Seller's criteria for such procedures.

14. **DRAWINGS:** Seller's prints and drawings (including without limitation, the underlying technology) furnished by Seller to Buyer in connection with this agreement are the property of Seller and Seller retains all rights, including without limitation, exclusive rights of use, licensing and sale of same. Possession of such prints or drawings does not convey to Buyer any rights therein or license thereto. Upon termination of this agreement, or at any time upon Seller's request, all such prints and drawings, and any copies or duplications of same (in whatever medium), shall be immediately returned to Seller.

15. **QUANTITY:** Buyer agrees to accept quantities of plus or minus ten percent (10%) of the order on Goods, including parts. Any such additional items shall be priced at the price per item charged for the specific quantity ordered.

16. **TOOLING:** Tool die, and pattern charges, if any, are in addition to the price of the Goods and are due and payable upon completion of the tooling. All such tools or tooling dies and patterns shall be and remain the property of Seller. Charges for such dies, and patterns do not convey to Buyer, title, ownership interests in, or rights to possession or removal, or prevent their use by Seller for other purchasers, except as otherwise expressly provided by Seller and Buyer in writing with reference to this provision.

17. **DOCUMENTATION:** Seller shall provide Buyer with data/documentation which is specifically identified in Seller's quotation. If additional copies of data/documentation are to be provided by Seller, it shall be provided to Buyer at Seller's applicable prices then in effect.

18. **SERVICES:** Seller grants Buyer a non-exclusive and non-transferable license to use any online, cloud-based or web-based platform and services and any associated electronic correspondence, reporting, database, management, mobile applications or offline components purchased in connection with the Goods and provided by Seller ("Services"). Use of the Goods is subject to Seller's Terms, including Seller's current [Privacy Notice](#), [Terms of Use](#), and any other applicable terms, such as service or license. Any proprietary rights associated with the Services shall and will remain the property of Seller. Buyer may not alter, modify, or reverse engineer (including for the purpose of reverse engineering, disassemble, decompile, determine the source code or protocols, or trace the execution of) the Goods. If this agreement requires Seller to perform or provide any Services hereunder, Seller (including without limitation its successors, assigns, agents or any person or entity acting at Seller's direction) shall not be responsible for any damages, claims, liabilities or expenses of any nature arising out of such Services.

19. **CONFIDENTIALITY:** Seller (including without limitation its successors, assigns, agents or any person or entity acting at Seller's direction) shall not be responsible for keeping confidential any specifications, drawings, designs, manufacturing data or other information of any nature provided by Buyer hereunder; and further, Seller shall not be liable for any damages, costs or expenses of any nature arising out of any dissemination of such documents or information.

20. **EXPORT CONTROL REGULATIONS:** Buyer agrees that all applicable import and export control laws, regulations, orders, and requirements, including without limitation those of the United States and the jurisdictions in which the Seller and Buyer are established or from which Goods and Services may be supplied, will apply to their receipt and use. Buyer shall not sell, transfer, or otherwise dispose of any Goods or data/software, know-how, technical data, documentation or any other products and materials ("Items") furnished pursuant to this agreement to any party, in any manner which would constitute a violation of applicable laws, regulations, orders or requirements, including U.S. Export Control Laws (now or hereafter in effect). The U.S. Export Control Laws prohibit, without limitation, exports, transfer, transshipments or re-exports of Items to: (a) such countries or regions that are subject to U.S. sanctions or embargo programs or (b) such entities or individuals that appear on certain U.S. government lists (now or hereafter in effect), including but not limited to: (1) Specially Designated Nationals List (2) Denied Persons List; (3) Unverified List;

(4) Debarred List or (5) Entity List, available at: <http://www.bis.doc.gov/complianceandenforcement/undex.htm#ftc>.

21. **SOFTWARE:** Notwithstanding any other provision herein to the contrary, Seller or applicable third-party licensor to Seller shall retain all rights of ownership and title in its respective Software, including without limitation all rights of ownership and title in its respective copies of such Software. Except as otherwise provided herein, Buyer is hereby granted a nonexclusive non-transferable royalty free license to use the Software incorporated into the Goods solely for purposes of Buyer properly utilizing such Goods purchased from Seller. All other Software shall be furnished to, and used by, Buyer only after execution of Seller's (or the licensor's) applicable standard license agreement, the Terms of which are incorporated herein by reference. Buyer further acknowledges the Software is subject to the copyright of and is the exclusive property of Seller. All information related to the nature and use of the Software is confidential information and Buyer shall always exert its best effort to protect the confidentiality of such information, and to take whatever steps necessary to assure such protection.

22. **MISCELLANEOUS:** These terms and conditions supersede all other communications, negotiations and prior oral or written statements regarding the subject matter of these terms and conditions. No change, modification, rescission, discharge, abandonment or waiver of these terms and conditions shall be binding upon the Seller unless made in writing and signed on its behalf by its duly authorized representative. No conditions, usage or trade, course of dealing or performance, understanding or agreement purporting to modify, vary, explain, or supplement these terms and conditions shall be binding unless hereafter made in writing and signed by Seller. No modification shall be affected by the Seller's receipt or acceptance of Buyer's purchase orders, shipping instructions, forms, or other documentation containing terms at variance with or in addition to those set forth herein. Any such modifications or additional terms are specifically rejected by Seller. No waiver by Seller with respect to any breach or default of any right or remedy and no course of dealing, shall be deemed to constitute a continuing waiver of any other breach or default of any other right or remedy, unless such waiver be expressed in writing and signed by the Seller. All typographical or clerical errors made by Seller in any quotation, acknowledgment or publication are subject to correction.

The validity, performance, and all other matters relating to the interpretation and effect of this agreement shall be governed by the laws of the state of Missouri without regard to its conflict of law principles. Buyer and Seller agree that the proper venue for all actions arising in connection herewith shall be only in Missouri and the parties agree to submit to such jurisdiction. No action, regardless of form, arising out of transactions relating to this contract, may be brought by either party more than two (2) years after the cause of the action has accrued. Further, the United Nations Convention on the International Sale of Goods (1980) (as amended from time to time) shall not apply to this Purchase Order or any transactions relating thereto. In case any one or more provisions contained in these Terms & Conditions should be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions will not be affected or impaired thereby.

23. **NOT FOR USE IN ANY NUCLEAR AND RELATED APPLICATIONS:** Buyer accepts goods and/or Services with the foregoing understanding, agrees to communicate the same in writing to any subsequent purchaser or users and to defend, indemnify, and hold harmless Seller from any claims, losses, suits, judgments, and damages, including incidental and consequential damages, arising from such use, whether the cause of action be based in tort, contract, or otherwise, including allegations that the Seller's liability is based on negligence or strict liability.