



CURRENT TERMS & CONDITIONS OF SALE

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These Fiplex terms and conditions of sale (“**Terms and Conditions**”) are effective February 15, 2022 (the “**Terms and Conditions Effective Date**”), and supersede all prior versions covering the sale of products and related services (collectively, “**Products**”) by Fiplex Communication Inc., a subsidiary of Honeywell International Inc., (collectively, “**Fiplex**”, “**we**”, “**us**”, or “**our**”). References to “**Buyer**”, “**you**”, or “**your**” all pertain to the purchaser of Products. These Terms and Conditions, together with any separate agreement you may have with Fiplex that specifically references these Terms and Conditions (collectively, the “**Agreement**”) set forth the entire agreement between the parties relating to your purchase of Fiplex Products. The Agreement may only be modified by an authorized representative of each party in a signed writing.

1. ORDERS. Orders (including any revised and follow-on orders) (each, an “**Order**”) for Fiplex products (“**Products**”) are non-cancelable except as expressly set forth herein and will be governed by the terms of the Agreement. Every Order must include:

- a. Order number;
- b. Customer’s legal name and address;
- c. Addresses for shipping and invoicing, if different;
- d. List of Products and quantities for each different type of Product;
- e. Price per Product (in the relevant currency); and
- f. Buyer’s approved payment terms.

All Orders are subject to acceptance or rejection by Fiplex. Fiplex’s acknowledgment of receipt of an order shall not constitute acceptance of such order, and an Order is deemed to be accepted upon the earlier of (i) Fiplex’s written acceptance or (ii) shipment of the Products specified in the Order.

Fiplex’s sale of Products is expressly limited to the terms herein, save any changes that the parties explicitly agree to in any separate written agreement signed by the parties’ authorized representatives. Any conflicting, additional, and/or different terms or conditions on Buyer’s Order or any other instrument, agreement, or understanding are deemed to be material alterations and are rejected and not binding upon Fiplex. Fiplex’s acceptance of Customer’s Order is expressly conditioned upon Customer’s assent to the terms and conditions contained herein in their entirety. Buyer’s acceptance of delivery from Fiplex constitutes Buyer’s acceptance of these terms and conditions in their entirety. A valid Order number is required before processing; any Order received without one will be returned to the Buyer. Orders received prior to 4:00 PM ET will be processed the same day.

2. SOFTWARE PRODUCTS. All software Products delivered by Fiplex to Buyer, including, without limitation, SaaS and PaaS licenses or Products that have embedded software (collectively, “**Software**”) are not sold and are subject to separate software license terms provided by Fiplex with such Software. In no event shall Buyer have any right to (or authorize or allow any third party to) distribute, sell, lend, rent, transfer, or convey the Software; grant any sublicense, lease, or other rights in the Software; decompile, disassemble, reverse engineer, or otherwise attempt to reconstruct, identify, or discover any source code, underlying user interface architecture or techniques, or algorithms of the Software by any means; or take any action that would cause the Software or any portion of it to be placed in the public domain. In the event of a conflict between the terms of any Software license terms provided upon download or purchase and this Agreement, the relevant license terms shall control solely with respect to Software.

3. PRICING.

a. Prices, terms, conditions, and Product or Service specifications are subject to change without notice; provided, however, that Fiplex will endeavor to provide at least thirty (30) days’ written notice of any changes. Pricing is subject to immediate change upon announcement of product discontinuance.



b. Fiplex reserves the right to monitor Buyer's Orders during the period between notification of and the effective date of any price increase, if any. If the dollar value of Buyer's Product Orders during that time period is two percent (2%) higher or lower than monthly forecasted or historic purchases determined by averaging the prior three (3) months of purchases by Buyer, Fiplex reserves the right to charge the increased price on the excess, or, in the case of fewer purchases, to charge increased pricing on the entire Order. For Orders placed but not yet delivered, including Orders on backlogged or with long lead-times of twelve (12) months or longer, prices are subject to adjustment in Fiplex's sole discretion once during each sixty (60) day period following the Order date until such Order is delivered in full.

c. All Orders with price deviations or promotional pricing require the appropriate promotion or deviation code (competitive price request code correlating to the approved discount from a discount agreement with Fiplex). Any Orders with price discrepancies that do not contain a promotion or price deviation code will receive a price discrepancy notice from Fiplex Customer Service for resolution. Buyer has 48 hours to provide an updated Order or accept Fiplex's pricing (in writing); otherwise, the Order will be cancelled. Please refer to the Fiplex Price List (or consult your Fiplex representative for your specific codes).

4. SURCHARGES.

a. Fiplex may, from time-to-time and in its sole discretion, issue surcharges on new and existing Orders in order to mitigate and/or recover increased operating costs arising from our related to, without limitation: (a) foreign currency exchange variation, (b) increased cost of third-party content, labor and materials, (c) impact of government tariffs or other actions, and (d) any conditions that increase Fiplex's costs, including without limitation increased labor, freight, material or supply costs, or increased costs due to inflation (collectively, "**Surcharges**"). Such Surcharges will not be considered a "price increase" as contemplated hereunder and will be effective upon notice to Buyer. For avoidance of doubt, Orders placed prior to the Terms and Conditions Effective Date which have not been delivered, including those on backlog or which requested delivery more than twelve (12) months from the date of Order, are subject to Surcharges.

b. Fiplex reserves the right to monitor Buyer's Orders during the period between notification of and the effective date of any price increase, if any. If the dollar value of Buyer's Product Orders during that time period is two percent (2%) higher or lower than monthly forecasted or historic purchases determined by averaging the prior three (3) months of purchases by Buyer, Fiplex reserves the right to charge the increased price on the excess, or, in the case of fewer purchases, to charge increased pricing on the entire Order. For Orders placed but not yet delivered, including Orders on backlogged or with long lead-times of twelve (12) months or longer, prices are subject to adjustment in Honeywell's sole discretion once during each sixty (60) day period following the Order date until such Order is delivered in full.

5. **ORDER MODIFICATIONS.** Buyer may request add-ons or changes to quantities in an Order within 24 hours of Order placement (or later in Fiplex's sole discretion), provided that the Order is open and not in a shipping status or closed, and subject in full to (i) Fiplex's right to accept or reject such request in its sole discretion, and (ii) any price or schedule modification that may be required by the change request, as determined by Fiplex in its sole discretion.

6. **MINIMUM ORDER QUANTITIES & MANUAL ORDER RESTRICTIONS.** Depending on Buyer's local region and the Products being purchased, Fiplex may impose a minimum order value and processing fees for orders below that threshold. Fiplex may also charge processing fees for orders placed manually and not through its ecommerce website.

7. DELIVERY/SHIPPING TERMS.

a. **Delivery Liability.** Delivery and shipment dates for Products are estimates only. Deliveries may be made in partial shipments. Fiplex and its affiliated entities are not liable, either directly or indirectly, for delays of carriers or delays in connection with any Force Majeure Event (as defined in Section 27 below), and the estimated delivery date shall be extended accordingly. Fiplex will not be liable to Buyer or any third party for any damages or penalties whatsoever, whether direct, indirect, special or consequential (including, without limitation, liquidated damages in your contracts with your Customers), resulting from Fiplex's failure to perform or its delay in performing, unless otherwise agreed in a signed writing by an authorized representative. Buyer is, however, liable for any delays or increased costs incurred by Fiplex caused by Buyer's acts or omissions. This includes, but is not limited to, Buyer being billed for any costs Fiplex incurs for redirecting shipments due to any incorrect information or address you or your representatives provide.



b. Delivery Charges. Delivery terms for Products (excluding software and services) are (i) EX Works (EXW Incoterms 2020) Fiplex's point of shipment ("**Fiplex Dock**") for international shipments (except that Fiplex is responsible for obtaining any export license), and (ii) F.O.B. Fiplex Dock for all domestic shipments. For shipments from a Fiplex Dock to a Buyer location within the same country, the import/export provisions of the INCOTERMS do not apply. Buyer will be invoiced for all shipping, handling, customs, insurance, and similar charges incurred by Fiplex in shipping Products to Buyer, and Buyer shall pay such charges pursuant to the agreed-upon payment terms. Fiplex reserves the right to ship Products to Buyer freight collect.

c. Early Delivery & Future Delivery. Fiplex will schedule delivery in accordance with its standard lead times unless the Order states a later delivery date, or the parties otherwise agree in writing. Orders will be accepted with a future ship date of up to twelve (12) months from the date of order entry, unless otherwise agreed to by the parties. Fiplex reserves the right to ship orders earlier than scheduled delivery dates. Early shipments will be processed using the same method and carrier identified in the order. You may Opt-Out of this Early Delivery. Send your formal written Opt-Out request to the attention of the relevant Fiplex Customer Service Manager.

d. Risk of Loss. Risk of loss or damage to the Products (excluding software and services) passes to Buyer when Fiplex places the Products at Buyer's disposal at the Fiplex Dock ("**Delivery**"). Title to goods passes to Buyer upon Delivery, but Fiplex retains a security interest in such goods until full payment is received. Fiplex will schedule Delivery (and use commercially reasonable efforts to ship) in accordance with its standard lead time unless Buyer's Order requests a later delivery date, or Fiplex agrees in writing to an earlier delivery date.

8. CUSTOM ORDERS. Special or custom Orders ("**Custom Orders**") for products not listed in Fiplex's standard price list are non-cancelable. In the event of a cancellation of all or part of certain Orders, Buyer will be responsible for the full order. It will be shipped and billed accordingly. Custom Orders may also be subject to different minimum order quantities.

9. PRODUCT CHANGES & DISCONTINUANCE. Manufacturer has a policy of product improvement and reserves the right to change or discontinue any Product at any time. Fiplex may, at its sole discretion, also make such changes to Products previously delivered to Buyer. Where products have been discontinued, Buyer should consult Fiplex regarding availability of replacement parts, repairs, and associated charges.

10. CANCELLATIONS. All custom, special, or made-to-order Orders, Orders for third-party products, and Orders placed after notice of product discontinuance are non-cancelable and nonreturnable. In no event may an Order be cancelled where the order is in a shipping status, closed, or where the raw materials for Products have been committed to at the factory or with a vendor. Fiplex may cancel Orders at any time prior to shipment.

11. PAYMENT.

a. Invoices. Unless Company has been approved for credit terms by Fiplex, payment for all orders will be made at the time of order placement. To the extent Buyer has been approved for credit terms, Fiplex will invoice Buyer for Products sold to Buyer upon shipment, with partial shipments being invoiced as they are shipped. If Buyer is purchasing Software Products, Fiplex will invoice Buyer according to the terms of the relevant software agreement with Fiplex.

b. Payment. Payment is due thirty (30) calendar days from date of any invoice and must be made in U.S. currency, unless agreed otherwise in writing signed by the parties' authorized representatives. Payments must be accompanied by remittance detail containing at a minimum the invoice number and amount paid per invoice ("**Remittance Information**"). Fiplex reserves the right to (i) invoice Buyer a service fee in the amount of \$500 for each occurrence for its failure to include the Remittance Information, and (ii) apply any payment made by Buyer without Remittance Information against any Buyer invoice(s) outstanding in its sole discretion.

c. Payment Disputes. Any disputes must be provided to Fiplex as soon as possible and must be accompanied by detailed supporting information. Disputes as to invoices are deemed waived fifteen (15) days following the invoice date. In the event that any portion of an invoice is undisputed, such undisputed amount must be paid by no later than the invoice due date.



d. Remedies for Nonpayment. If Buyer is delinquent in its payment obligation to Fiplex, Fiplex may refuse to take any additional Orders from Buyer and/or withhold performance until all delinquent amounts and late charges are paid. Fiplex may also, at its option: (a) repossess Products for which payment has not been made; (b) impose a late charge on delinquent amounts at the lower of 1.5% per month or the maximum rate permitted by law, for each full or partial month in which payment is overdue; (c) recover all costs of collection, including but not limited to reasonable attorneys' fees; (d) withhold any amounts payable to Buyer (including any applicable rebate payments); and (e) combine any of the above rights and remedies as may be permitted by applicable law. In the event an invoice (i) is not disputed in a timely and good faith, and (ii) has not been timely paid by Buyer in accordance with this Section, the purchases to which such invoice relates shall be deemed disqualified from any benefits under any program that Fiplex may make available from time to time (including, without limitation, co-op funds, rebates, and other growth-based incentives). These remedies are in addition to all other remedies available at law or in equity. This Section will survive expiration or any termination of the Agreement.

e. Modification of Credit Terms. Fiplex may reevaluate Buyer's credit standing at all times. If payment is not made timely or Fiplex reasonably determines in its sole discretion that Buyer fails to qualify for the above payment terms at any time, then Fiplex may without notice to Buyer suspend production, shipment, or delivery; modify or withdraw credit terms, including but not limited to requiring advance payment or guarantees, or other security; or terminate any program or other benefits.

f. Assignment of Receivables. Fiplex may assign its rights relating to payment for sales made under this Agreement without Buyer's consent and notwithstanding any confidentiality obligations and may provide any purchaser of any such rights information and documents reasonably related to such sales, provided such purchaser has a confidentiality agreement in place with Fiplex that precludes disclosure of any Buyer confidential information to any third party without Buyer's consent.

g. Credit Card Payments. Credit Card payments may be accepted subject to applicable Cred Card Convenience Fees described below. Online orders may not be modified once submitted. In the event there is credit due back to you in connection with any order paid by credit card, the credit will be posted to your account only. No credit will be issued back to the credit card. Pre-payment or prompt payment discounts are not applied to orders paid by credit card. Credit card payments will be accepted when applied to the entire amount due on an order; partial payment of orders by credit card will not be processed. Payments by credit card have at least a seven (7) day authorization period, meaning that after order is cancelled, the payment will remain pending on the credit card account for the authorization period. Contact your credit card provider for details of your authorization period. If your credit card has to be reauthorized for any reason after an order is submitted, you will be charged additional fees. Only United States credit cards are accepted.

h. Credit Card Convenience Fees. The following convenience fees shall apply to every order paid for by credit card.

- i. Purchase orders for the amounts of \$0 to \$4,999 shall incur a \$100 convenience fee
- ii. Purchase orders for the amounts of \$5,000 to \$9,999 shall incur a \$200 convenience fee
- iii. Purchase orders for the amounts of \$10,000 to \$49,999 shall incur a \$300 convenience fee
- iv. Purchase orders for the amounts of \$50,000 or great shall incur a \$500 convenience fee

12. SET OFF. Neither Buyer nor its affiliated entities (nor any representative or agent thereof) shall attempt to set off or recoup any invoiced amounts or any portion thereof against other amounts that are due or may become due from Fiplex, its parent, affiliates, subsidiaries or other legal entities, business divisions, or units.

13. TAXES. Fiplex's pricing excludes all taxes (including but not limited to sales, use, excise, value-added, and other similar taxes), tariffs and duties (including, but not limited to, amounts imposed upon the Product(s) or bill of material thereof under any Trade Act, including, but not limited to, the Trade Expansion Act, section 232 and the Trade Act of 1974, section 301) and charges (collectively "**Taxes**"). Buyer will pay all Taxes resulting from the Agreement or Fiplex's performance under the Agreement, whether imposed, levied, collected, withheld, or assessed now or later. If Fiplex is required to impose, levy, collect, withhold, or assess any Taxes on any transaction under the Agreement, then in addition



to the purchase price, Fiplex will invoice Buyer for such Taxes unless, at the time of Order placement, Buyer furnishes Fiplex with a valid exemption certificate or other documentation sufficient to verify exemption from the Taxes, including, but not limited to, a direct pay permit. If any Taxes are required to be withheld from amounts paid or payable to Fiplex under this Agreement, (i) the amount due to Fiplex will be increased so that the amount Fiplex receives, net of the Taxes withheld, equals the amount Fiplex would have received had no Taxes been required to be withheld, (ii) Buyer will withhold the required amount of Taxes and pay such Taxes on behalf of Fiplex to the relevant taxing authority in accordance with applicable law, and (iii) Buyer will forward proof of such withholding sufficient to establish the withholding amount and recipient to Fiplex within sixty (60) days of payment. In no event will Fiplex be liable for Taxes paid or payable by Buyer. This Section will survive expiration or termination of the Agreement.

14. LIMITED WARRANTY. BUYER'S EXCLUSIVE REMEDIES AND FIPLEX'S SOLE LIABILITY AS TO ANY WARRANTY CLAIM ON ANY PRODUCT SOLD IN CONNECTION WITH THIS AGREEMENT IS AS SET FORTH IN THIS SECTION. SUCH REMEDIES ARE IN LIEU OF ANY OTHER LIABILITY OR OBLIGATION OF FIPLEX, INCLUDING WITHOUT LIMITATION ANY LIABILITY OR OBLIGATION FOR DAMAGE, LOSS, OR INJURY (WHETHER DIRECT, INDIRECT, EXEMPLARY, SPECIAL, CONSEQUENTIAL, PUNITIVE OR INCIDENTAL) ARISING OUT OF OR IN CONNECTION WITH THE DELIVERY, USE, OR PERFORMANCE OF THE PRODUCTS. REPAIR OR REPLACEMENT (AT FIPLEX'S OPTION) IS THE SOLE REMEDY PROVIDED HEREUNDER. NO EXTENSION OF THIS WARRANTY WILL BE BINDING UPON FIPLEX UNLESS SET FORTH IN WRITING AND SIGNED BY A FIPLEX AUTHORIZED REPRESENTATIVE

a. Product Warranty Terms. Subject to compliance this Section 14, Fiplex warrants that the Products (excluding Software) will be free from defects in workmanship and materials for the relevant period of time published by Fiplex on the relevant Product website or in a separate Agreement between Fiplex and Buyer (the "**Warranty Period**"). This limited warranty does not cover defects caused by normal wear and tear or maintenance. Fiplex's sole liability and Buyer's exclusive remedy, which shall be determined in Fiplex's sole discretion, is limited to replacement or repair of the relevant Product(s) or a credit for the purchase price of the relevant Product, less depreciation. The Warranty Period does not restart for replacement Products, and any replacement Products will only be warranted for the remainder of the original Warranty Period, if any.

b. Services Warranty. Services shall be performed in a professional and workmanlike manner warranted for ninety (90) days from the date services are performed (the "**Service Warranty Period**"). Fiplex's obligation and Buyer's sole remedy under this warranty is that Fiplex will correct or re-perform defective services or refund fees paid for the services, at Fiplex's sole election, if Buyer notifies Fiplex in writing of defective services within the Service Warranty Period. All services re-performed are warranted for the remainder of the original Service Warranty Period.

C. Warranty Exclusions. THIS WARRANTY IS VOID WITH RESPECT TO ANY PRODUCT OR SERVICE THAT IS:

- i. Software;
- ii. altered or repaired by anyone other than Fiplex's authorized employees or agents;
- iii. installed, used, serviced, or maintained in a manner that fails to conform with Fiplex Product documentation or training;
- iv. lost or damaged, tampered with, or destroyed due to (I) rough or negligent treatment of the Product (including, without limitation, damage during shipment back to Fiplex caused by improper packaging on return); (II) an act of God (including, without limitation, lightning or related voltage surges); or (iii) any other cause not within Fiplex's control, including, without limitation, Buyer's failure (or that of its Customers) to apply required or recommended updates or patches to any Software or device in the Product's network environment.

d. Procedure for Warranty Claims. If, during the applicable Warranty Period, Buyer believes there is a defect in material or workmanship covered by the relevant Product warranty, Buyer must immediately discontinue use and notify Fiplex. Written authorization from Fiplex, including a Returned Material Authorization ("**RMA**") number, must be obtained prior to returning any Product(s) to Fiplex for warranty assessment. Return shipments and insurance must be prepaid by Buyer, include the RMA number, and be appropriately packed. Upon receipt of any such Product during the applicable Warranty Period, Fiplex shall, at its expense, (i) examine the product to verify the alleged defect, (ii) in Fiplex's sole discretion, repair or replace any defective Product, including shipment of such replacement or repaired Product back to



Buyer (at Fiplex's expense). Fiplex will credit Buyer for its return shipping costs for any defective Products, but Buyer will be responsible for paying any customs or import duties payable upon receipt of any repaired or replacement Products and also paying Fiplex a standard testing charge for any Products not found to be defective.

e. WARRANTY DISCLAIMERS.

- i. SOFTWARE AND ANY ACCOMPANYING DOCUMENTATION IS PROVIDED "AS IS" WITHOUT ANY WARRANTY OF ANY KIND AS TO DEFECTS OR FUNCTIONALITY. BUYER BEARS ALL RISK AS TO SOFTWARE AND FIPLEX MAKES NO WARRANTIES IMPLIED OR ACTUAL REGARDING ANY OF ITS SOFTWARE OR DOCUMENTATION.
- ii. FIPLEX MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND AS TO THE SECURITY AND FUNCTIONALITY OF THE PRODUCTS OR THAT THE PRODUCTS WILL PREVENT ANY PERSONAL INJURY OR PROPERTY LOSS, FIRE OR OTHERWISE; OR THAT THE PRODUCTS WILL IN ALL CASES PROVIDE ADEQUATE WARNING OR PROTECTION. BUYER UNDERSTANDS THAT PROPERLY INSTALLED AND MAINTAINED PRODUCTS MAY ONLY REDUCE THE RISK OF FIRE, THEFT, PROPERTY DAMAGE OR OTHER EVENTS OCCURRING WITHOUT THE PRODUCTS, BUT IT IS NOT INSURANCE OR A GUARANTEE THAT SUCH WILL NOT OCCUR OR THAT THERE WILL BE NO PERSONAL INJURY OR PROPERTY LOSS AS A RESULT.
- iii. THE EXPRESS WARRANTIES OF FIPLEX STATED HEREIN DO NOT APPLY TO PRODUCTS NOT MANUFACTURED BY FIPLEX, SOFTWARE, CONSUMABLE ITEMS (E.G., PAPER AND RIBBONS), SPARE PARTS, OR SERVICES. THE WARRANTIES, IF ANY, APPLICABLE TO ANY SOFTWARE OR SOFTWARE COMPONENT SHALL BE SOLELY AS STATED IN SUCH OTHER LICENSE AGREEMENT OR DOCUMENT. FIPLEX MAKES NO WARRANTIES THAT THE SOFTWARE COMPONENTS OF ANY PRODUCT WILL OPERATE IN CONJUNCTION WITH ANY OTHER SOFTWARE OR WITH ANY EQUIPMENT OTHER THAN THE PRODUCTS. BUYER ACKNOWLEDGES THAT FIPLEX HAS NO OBLIGATION TO PROVIDE ANY FORM OF CYBERSECURITY OR DATA PROTECTION RELATING TO THE OPERATION OF THE PRODUCT OR THE NETWORK ENVIRONMENT. BUYER FURTHER ACKNOWLEDGES THAT FIPLEX HAS NO OBLIGATION TO GUARANTEE CONTINUED OPERATION AND FUNCTIONALITY OF THE PRODUCT BEYOND THE STATED LIFECYCLE OF THE PRODUCT.

15. TRAINING. To the extent Buyer purchases training from Fiplex with respect to any Products, cancellations without penalty are only permitted more than fifteen (15) days prior to the date of the training. Buyer would be eligible to receive a fifty percent (50%) credit for cancellations made between fifteen (15) and ten (10) days in advance of the training. Cancellations made by Buyer with ten (10) or fewer days prior to the scheduled training will not receive any credit and will result in Buyer forfeiting all enrollment fees. Extenuating circumstances will be considered on an individual basis.

16. TECHNICAL ADVICE. Any recommendation or assistance provided by Fiplex concerning the use, design, application, or operation of a Product shall not be construed as representations or warranties of any kind, express or implied, and such information is accepted by Buyer at Buyer's own risk and without any obligation or liability to Fiplex. It is the Buyer's sole responsibility to determine the suitability of a Product for use in Buyer's application(s). The failure by Fiplex to make recommendations or provide assistance shall not give rise to any liability for Fiplex.

17. INTELLECTUAL PROPERTY RIGHTS. Fiplex retains for itself (or, if applicable, its suppliers) all rights, title and ownership in and to all Products and accompanying documentation, including, without limitation, all rights in patents, copyrights, trademarks, and trade secrets related thereto. Distributor shall not attempt any sale, transfer, sublicense, reverse compilation, disassembly, or redistribution of Products (including Software Products) except as expressly permitted herein or by mandatory intellectual property laws.

18. INDEMNIFICATION. In addition to any other Buyer indemnification obligations in Section 21 (Liability Disclaimer for Buyer Services) and Section 26(Compliance with Applicable Law and Code of Business Conduct) of this Agreement, Buyer will indemnify, defend, and hold Fiplex and its related entities (including, without limitation, their respective directors, officers, employees, and representatives) (collectively, "**Fiplex Indemnitees**") harmless against third-party allegations, claims, damages, settlements, penalties and costs, including without limitation attorneys' fees (collectively, "**Claims**")



arising out of Buyer's negligence or willful misconduct due to any act or omission under the Agreement or Buyer's breach of its obligations under the Agreement. In connection with these indemnification obligations, Buyer agrees to the following **"Indemnification Procedures"**: (a) Buyer will be entitled to control the defense and Fiplex shall give prompt notice of any such claim; (b) at Buyer's expense, Fiplex will reasonably cooperate in defense of the claim including, but not limited to, promptly furnishing Buyer with all relevant information within its possession or control; (c) Fiplex may participate in the defense at its own expense and through counsel of its choosing; and (d) Buyer may not enter into any settlement, assume any obligation, or make any concession without the prior written approval of Fiplex, which approval may not be unreasonably withheld, conditioned or delayed.

19. PATENT & COPYRIGHT INDEMNIFICATION. Fiplex will defend and indemnify against any third-party suit alleging that any Products, as delivered by Fiplex, directly infringes any patent or copyright; provided that Buyer notifies Fiplex when it is apprised of the claim and provides complete authority, information, and assistance (at Fiplex's expense) as to the defense and disposition via counsel of Fiplex's choice. Fiplex will not be responsible for any compromise, settlement, attorneys' fees, expenses, damages, or costs incurred by Buyer without Fiplex's involvement and prior, written consent. Fiplex has no obligation or liability for claims arising out of the following: (a) Products made to Buyer's designs, drawings, or specifications; (b) use of Products in a manner not supported by the applicable documentation; (c) combination or use of any Product with materials not furnished by Fiplex; (d) use of a version of any Software Product other than the current version; or (e) any alteration, customization, or other modification of the Product other than by Fiplex. Further, Buyer agrees to defend, indemnify and hold the Fiplex Indemnitees and its related entities harmless against any claim of infringement resulting from those circumstances set forth in subparagraphs (a), (b), (c), (d), and (e) of this Section, as per the Indemnification Procedures of Section 18 (Indemnification). If a claim of infringement is made for which Fiplex has indemnification obligations or if Fiplex believes that such a claim is likely, Fiplex may, at its sole option and expense, (i) procure for Buyer the right to continue using the Product; (ii) replace or modify the Product so that it is non-infringing; or (iii) require Buyer to return the Product (and terminate Buyer's license to the same) in exchange for a credit of the purchase price or license fee, less reasonable depreciation. Further, Fiplex may cease shipping Products it believes may be subject to a claim of infringement without being in breach of the Agreement. This Section shall be subject to Fiplex's rights under Section 20 (Limitation of Liability). THIS PROVISION STATES THE PARTIES' ENTIRE LIABILITY, SOLE RECOURSE, AND THEIR EXCLUSIVE REMEDIES WITH RESPECT TO CLAIMS OF IP INFRINGEMENT. ALL OTHER WARRANTIES AGAINST INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS, STATUTORY, EXPRESS, IMPLIED, OR OTHER, ARE HEREBY DISCLAIMED.

20. LIMITATION OF LIABILITY.

a. IN NO EVENT SHALL FIPLEX BE LIABLE UNDER THIS AGREEMENT, REGARDLESS OF WHETHER LIABILITY ARISES FROM FIPLEX'S INDEMNIFICATION OBLIGATIONS HEREUNDER OR A BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), OPERATION OF LAW, OR OTHERWISE, FOR ANY SPECIAL INCIDENTAL INDIRECT, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, ALL DAMAGES DUE TO BUSINESS INTERRUPTION, LOST PROFITS OR REVENUE, LOSS OR CORRUPTION OF DATA, OR LOST USE OF ANY PROPERTY OR CAPITAL) EVEN IF FIPLEX HAS BEEN ADVISED OF OR IS OTHERWISE AWARE OF THE POSSIBILITY OF SUCH DAMAGES AND/OR CLAIMS.

b. ALL PRODUCT AND SERVICE CLAIMS ARE LIMITED TO THOSE EXCLUSIVE REMEDIES SET FORTH IN SECTION 14 (LIMITED WARRANTY) OF THESE TERMS AND CONDITIONS. FIPLEX SHALL HAVE NO LIABILITY FOR ANY DAMAGES OR INJURIES ARISING FROM SERVICES PROVIDED BY BUYER TO ITS CUSTOMERS, INCLUDING WITHOUT LIMITATION SERVICES PERFORMED BY BUYER ON FIPLEX PRODUCTS SOLD HEREUNDER. NOR SHALL FIPLEX BE LIABLE FOR ANY CLAIMS OF THIRD PARTIES RELATING TO THE PRODUCTS, SAVE THE INDEMNIFICATION OBLIGATIONS SET FORTH IN THIS AGREEMENT.

c. FIPLEX'S AGGREGATE LIABILITY IN CONNECTION WITH THE AGREEMENT, THE PARTIES' RELATIONSHIP, THE SALE OF PRODUCTS, AND ANY PROVISION OF SERVICES TO BUYER, SHALL NOT EXCEED THE LESSER OF THE AGGREGATE PURCHASE PRICE OF THE PRODUCTS OR SERVICES PAID BY BUYER TO FIPLEX FOR THE PRODUCTS OR SERVICES (i) GIVING RISE TO THE CLAIM OR (ii) PROCURED BY BUYER IN THE TWELVE (12) MONTHS PRIOR TO WHEN THE CLAIM AROSE.



d. BUYER WILL NOT BRING A LEGAL OR EQUITABLE ACTION AGAINST FIPLEX MORE THAN ONE YEAR AFTER THE FIRST EVENT GIVING RISE TO A CAUSE OF ACTION, UNLESS A SHORTER LIMITATIONS PERIOD IS PROVIDED BY APPLICABLE LAW.

e. Buyer shall include a Limitation of Liability provision in any written contract it has with a customer to which it sells Fiplex products or its own services (each, a “**Customer**”). In the event Buyer does not have a written contract with a specific Customer, Buyer shall include a Limitation of Liability provision in the terms and conditions of sale provided to its Customers. For purposes of this Section, “**Limitation of Liability provision**” shall mean a limitation of liability provision that (a) is commercially reasonable under the circumstances and (b) includes both (1) an express disclaimer of exemplary, incidental, consequential, statutory, punitive, special, and indirect damages (including lost profits and lost revenues) by Buyer to the Customer, and (2) an aggregate cap on the liability of Buyer to the Customer not exceeding the cost of the Products or services purchased.

21. LIABILITY DISCLAIMER FOR BUYER SERVICES.

a. Buyer acknowledges that due to the unique nature and potential safety risks posed by certain Products Buyer is not authorized to perform design, installation, repair, or other services (“**Services**”) for its customers (“**Customers**”) on certain Products (“**Certified Products**”), unless it enters into a separate written agreement with Fiplex and complies with the required training and certification obligations of such agreement. Buyer further agrees that performance of Services for Customers on Certified Products absent adherence to the conditions in this paragraph will void the Limited Warranty on such Certified Products.

b. As of the Terms and Conditions Effective Date Certified Products include at least the following product lines, but may be amended from time to time: Fiplex BDA Systems.

c. Buyer further acknowledges and agrees that to the extent it performs Services for its Customers on any Fiplex Product (including, without limitation Certified Products), it does so at its own expense and liability, and shall defend, indemnify and hold the Fiplex Indemnitees harmless from and against any Claims arising out of those Services it or its agents perform for its Customers as per the Indemnification Procedures of Section 18 (Indemnification). This Section shall be subject to Fiplex’s rights under Section 20 (Limitation of Liability).

22. TERMINATION & SUSPENSION OF PERFORMANCE. Fiplex may terminate this Agreement and any or all unperformed Orders immediately upon notice to Buyer upon the occurrence of any of the following events: (a) Buyer fails to perform or breaches any of its obligations and covenants under this Agreement, and such default continues for more than fifteen (15) days after written notice specifying the failure to perform or breach (unless such breach is incurable, in which case termination is effective immediately); (b) Buyer fails to make any payment hereunder due within three (3) calendar days after written notice of such non-payment; (c) attempted assignment of this Agreement by Buyer or any rights hereunder without Fiplex’s prior written consent, which includes a sale or transfer of substantially all of Buyer’s assets, a majority interest in its voting stock, or a merger or consolidation with one or more entities; (d) Buyer experiences one or more of the of the following insolvency-related circumstances: (i) it ceases to function as a going concern or to conduct its operations in the normal course of business (including an inability to meet obligations as they mature), (ii) a receiver is appointed for its assets, (iii) bankruptcy or insolvency proceedings are brought by or against it, or (iv) it makes an assignment for the benefit of creditors; (e) Buyer’s principal(s), owner(s), or persons essential to the performance of this Agreement are removed, reassigned or die; (f) Buyer violates the law or any of its owners, officers, principals, members or partners is indicted or convicted on charges of felony, conversion, embezzlement or any morally reprehensible act which could, in Fiplex’s sole discretion, adversely impact Fiplex; or (g) Buyer engages in any conduct or practice which, in Fiplex’s sole discretion, is or could be detrimental or harmful to the good name, goodwill and reputation of Fiplex or Products. Termination does not affect any debt, claim, or cause of action accruing to any party against the other before the termination. The rights of termination provided in this clause are not exclusive of other remedies that a party may be entitled to under this Agreement or in law or equity. Fiplex may suspend performance under this Agreement at Buyer’s expense if Fiplex determines that performance may violate the law and/or cause a safety, security, or health risk.

23. DATA COLLECTION, TRANSMISSION, & USE. Buyer acknowledges that certain Products may include Software that collects information about how, and under what conditions, the Product is used and functions, including, without limitation, information describing use of operator inputs such as touch panel, buttons, and voice/audio input; power status



and management; device location; ambient conditions such as pressure, temperature, and/or humidity levels. The information collected by such software may be used by Fiplex for purposes including, but not limited to, assistance with Product repairs, diagnostics, research and analytics to improve functionality or optimize customer usage, development, and quality control/improvement of such Products. In addition, Buyer understands that any point-of-sale information it provides to Fiplex or Fiplex's designee may be used by Fiplex for any business purpose, including, but not limited to, research and analytics to improve functionality or optimize customer usage, development, and quality control/improvement of such Products and/or relating the marketing and sale of the Products. No end-user identifiable data will be provided by Fiplex to any third party. Buyer shall notify its Customers that Fiplex is collecting this information and shall contractually bind all Customers reselling the Products to notify their end-user customers that such information may be collected and used by Fiplex as described above.

24. CONFIDENTIALITY. The parties may exchange certain confidential information during the performance or fulfillment of the Agreement. All confidential information shall remain the property of the disclosing party and shall be kept confidential by the receiving party for a period of three (3) years following the date of disclosure. These obligations shall not apply to business contact information or other information which is: (a) publicly known at the time of disclosure or becomes publicly known through no fault of recipient, (b) already known to recipient at the time of disclosure through no wrongful act of recipient, (c) received from a third party without restrictions similar to those in this Section, or (d) independently developed by recipient. A recipient of confidential information may not disclose such confidential information without the prior written consent of the disclosing party, provided, however, that (i) Fiplex may disclose confidential information to its affiliated companies, employees, officers, consultants, agents, and contractors, and (ii) either party may disclose confidential information in response to a court order, government request, or other legally required request where it (I) provides the disclosing party with sufficient notice and an opportunity to object to such disclosure (where possible), and (II) makes the disclosure subject to a protective order or other similar confidentiality restrictions.

25. TRADEMARKS. Buyer acknowledges that Fiplex is the owner of all right, title, and interest in, and to, its trademarks, trade names, service marks, logos and related designs associated with the Fiplex and the Products ("**Trademarks**"). Unless Buyer enters into a separate written agreement with Fiplex, it may not use the Trademarks or benefit from any goodwill associated with the same. This includes, but is not limited to, Buyer not (i) using any trademark, name, trade name, domain name, logo, or icon similar to or likely to cause confusion with the Trademarks; (ii) making any representation to the effect that the Trademarks are owned by Buyer rather than Fiplex; (iii) attempting to register Trademarks in any country or challenge Fiplex's ownership of the same; (iv) using any domain name incorporating in whole or in part the Trademarks; or (v) using any name, trade name, domain name, keyword, social media name, account name, identification, or mark that is confusingly similar to the Trademarks.

26. COMPLIANCE WITH APPLICABLE LAW AND CODE OF BUSINESS CONDUCT. Buyer certifies it has read, understands, and agrees to abide by the provisions of the Honeywell Code of Business Conduct (the "**Code of Conduct**"), available at <https://www.honeywell.com/who-we-are/integrity-and-compliance>. Buyer further acknowledges and agrees that it shall, at its sole cost and expense, comply with all applicable laws, rules, regulations, decrees, and other requirements relating to or affecting the Agreement, the Products (including their sale, transfer, handling, storage, use, disposal, export, reexport, and transshipment), the activities to be performed by Buyer, or the facilities and other assets used by Buyer in performing its obligations under the Agreement. This includes, but is not limited to, Buyer's agreement with the representations and warranties set forth in the following subparagraphs. Buyer will defend, indemnify and hold the Fiplex Indemnities harmless from and against any Claims arising out of Buyer's non-compliance with this Section 26 and its subparagraphs, pursuant to the Indemnification Procedures of Section 18 (Indemnification).

a. Sanctions Compliance. Buyer complies with and will continue to comply with all economic Sanctions Laws administered by the Office of Foreign Assets Control ("**OFAC**"), other U.S. regulatory agencies, the European Union and its Member States, the United Kingdom, and the United Nations ("**Sanctions Laws**"). Buyer is not and will not involve any Sanctioned Persons in any capacity, directly or indirectly, in connection with its performance under this Agreement. Buyer will not take any action that would cause Fiplex to be in violation of Sanctions Laws. As used herein "**Sanctioned Person**" means any individual or entity: (i) named on a governmental denied party or restricted list, including but not limited to: OFAC's list of Specially Designated Nationals and Blocked Persons and Sectoral Sanctions Identifications List, and any sanctions lists under any other Sanctions Laws; (ii) 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 (iii) owned or controlled, directly or indirectly, 50% or more in the aggregate by one or more of any of the foregoing.

b. Export and Import Compliance. Buyer will not distribute or resell any Products or take any actions in relation to or in furtherance of this Agreement which are contrary to U.S. Department of State International Traffic in Arms Regulations (“**ITAR**”) or the U.S. Department of Commerce Export Administration Regulations (“**EAR**”) or any other applicable export control, import control, and economic sanction laws and regulations of any country or countries (collectively, “**Export/Import Control Laws**”). Buyer acknowledges that Export/Import Control Laws may control not only the sale and resale of Products but also the transfer of technical data, Software, plans, and specifications dealing with Products. Buyer further acknowledges that U.S. export control laws (ITAR and EAR) include prohibitions against selling any product to U.S. embargoed countries (currently, Cuba, Iran, North Korea, Syria, and Sudan); prohibitions against sales of ITAR product to any country with which the U.S. maintains an Arms Embargo; prohibitions against sale of certain EAR-controlled product for China military end-use; and other restrictions.

c. Anti-corruption Laws. Buyer acknowledges and agrees that it will comply with the United States Foreign Corrupt Practices Act (as amended, the “**FCPA**”) and all other applicable anti-bribery and anti-corruption legislation (“**Anti-Corruption Laws**”).

27. FORCE MAJEURE. Except for payment obligations, neither party will be liable to the other for any failure to meet its obligations due to any Force Majeure Event. As used herein, a “Force Majeure Event” is one that is beyond the reasonable control of the non-performing party and may include, but is not limited to: (a) delays or refusals to grant an export license or the suspension or revocation thereof, (b) embargoes, blockages, seizure or freeze of assets, or any other acts of any government that would limit a party’s ability to perform the Agreement, (c) fires, earthquakes, floods, tropical storms, hurricanes, tornadoes, severe weather conditions, or any other acts of God, (d) quarantines, pandemics, or regional medical crises, (e) labor strikes, lockouts, or pandemic worker shortages, (f) riots, strife, insurrection, civil disobedience, landowner disturbances, armed conflict, terrorism or war, declared or not (or impending threat of any of the foregoing, if such threat might reasonably be expected to cause injury to people or property), and (g) shortages or inability to obtain materials or components. If a Force Majeure Event results in a delay, then the date of performance will be extended by the period of time that the non-performing party is actually delayed or for any other period as the parties may agree in writing. In the event that a Force Majeure Event is ongoing for a period of time which is sixty (60) days or longer, Fiplex may provide notice to Distributor that it is cancelling any affected outstanding Distributor Orders. For avoidance of doubt, there need not be a Force Majeure Event to invoke Section 4 (Surcharges).

28. NOTICES. Every notice between the parties relating to the performance or administration of the Agreement shall be made in writing and, if to Buyer, to Buyer’s authorized representative or, if to Fiplex, to Fiplex’s authorized representative at the addresses set forth in the separate Agreement between the parties to which these Terms and Conditions attach. In the absence of such a separate Agreement, (a) notices to Fiplex should be delivered to Fiplex Communications Inc., 715 Peachtree Street NE, Atlanta, GA 30308, Attn: Fiplex Building Technologies General Counsel, and (b) notices to Buyer should be delivered to the address provided in the Agreement or for billing purposes hereunder. All notices required under the Agreement will be deemed received when delivered either (a) two calendar days after mailing by certified mail, return receipt requested and postage prepaid; or (b) one business day after deposit for next day delivery with a commercial overnight carrier provided the carrier obtains a written verification of receipt from the receiving party.

29. SEVERABILITY. In the event any provision or portion of a provision herein is determined to be illegal, invalid, or unenforceable, the validity and enforceability of the remaining provisions shall not be affected and, in lieu of such provision, a provision as similar in terms as may be legal, valid, and enforceable shall be added hereto.

30. WAIVER. The failure of either party to insist upon strict performance of any provision of the Agreement, or to exercise any right provided for herein, shall not be deemed to be a waiver for the future of such provision or right, and no waiver of any provision or right shall affect the right of the waiving party to enforce any provision or right herein.

31. APPLICABLE LAW AND FORUM. This Agreement will be governed by and interpreted in accordance with the laws of the State of New York and the United States of America, without regard to conflicts of law principles. Fiplex and Buyer expressly agree to exclude from the Agreement the United Nations Convention on Contracts for the International Sale of Goods, 1980, and any successor thereto. **EACH PARTY EXPRESSLY WAIVES ANY RIGHT TO A TRIAL BY**



JURY OR TO PARTICIPATE IN A CLASS ACTION DIRECTLY OR INDIRECTLY RELATED TO THIS AGREEMENT.

The parties further agree that any dispute between them arising out of or relating to this Agreement which is not resolved pursuant to Section 32 (Dispute Resolution), other than claims related to Fiplex's intellectual property rights (or those of any of its licensors, affiliates and partners), will be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules in a neutral venue and by a neutral panel of three (3) arbitrators. The panel shall permit dispositive motions and issue a written decision sufficient to explain the essential findings and conclusions and may award damages. Any award rendered by the arbitrator will be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

32. DISPUTE RESOLUTION. Before the parties initiate any dispute resolution process other than injunctive relief, the parties must schedule a mandatory executive resolution conference to be held within thirty (30) days of receipt of the other party's written request. The conference must be attended by at least one executive from each party. At the conference, each party will present its view of the dispute in detail and the executives will enter into good faith negotiations in an attempt to resolve the dispute. If the dispute is not resolved within fifteen (15) days of the end of the conference, then either party may pursue resolution of the dispute consistent with the other terms of the Agreement.

33. INDEPENDENT CONTRACTOR. The parties acknowledge that they are independent contractors and nothing contained in this Agreement shall be construed to constitute either party hereto as the partner, joint venturer, employee, agent, servant, franchisee, or other representative of the other party hereto, and neither party has the right to bind or obligate the other, except as otherwise provided herein. Furthermore, nothing contained in this Agreement shall be construed to constitute Buyer as an exclusive purchaser of the Products in any respect.

34. HEADINGS AND SECTIONS. The various headings in this Agreement are inserted for convenience only and will not affect the meaning or interpretation of this Agreement or any paragraph or section thereof.

35. INSURANCE. Unless agreed otherwise, Buyer shall, at all times that the Agreement is in force and effect, provide and maintain, at a minimum, insurance with the following limits: A Comprehensive General Liability policy with a single limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate for bodily injury and property damages; Buyer shall deliver certificates to Fiplex upon request. Such certificates must contain provisions requiring the insurance carrier to notify Fiplex at least thirty (30) days prior to any expiration or termination of, or material change to the policy. All insurance required under this Agreement shall be placed with insurance carrier(s) that are rated a minimum "A -, X" by AM Best or equivalent rating agency. In addition, all such policies shall name Fiplex as an additional insured.

36. BUYER FINANCIAL STATUS. Buyer represents and warrants to Fiplex on a continuing basis that it is in good financial condition and able to pay all bills when due. Buyer shall, from time to time furnish any financial statements or additional information as may be requested by Fiplex in order to enable Fiplex to assess Buyer's financial condition and creditworthiness. Additionally, Buyer authorizes Fiplex to obtain financial information regarding Buyer from credit reporting agencies, Buyer's banks and suppliers, and other such sources. Fiplex may, in its sole discretion, increase or decrease the amount of credit (if any) that Fiplex has extended to Buyer in connection with the purchase of Products.

37. ASSIGNMENT; SUBCONTRACTING. This Agreement shall inure to the benefit of and be binding upon any successor or assign of Fiplex. Notwithstanding anything to the contrary herein, Fiplex may engage subcontractors to perform any of its obligations under this Agreement. Use of a subcontractor will not release Fiplex from liability under the Agreement for performance of the subcontracted obligations.

38. SURVIVAL. All provisions of the Agreement that by their nature should continue in force become the completion or termination of the Agreement will remain in force