



TERMS AND CONDITIONS OF SALE FOR HONEYWELL HTT PRODUCTS (Rev. 2008-02-29)

1. APPLICABLE TERMS & CONDITIONS: THESE TERMS AND CONDITIONS OF SALE ESTABLISH THE RIGHTS, OBLIGATIONS AND REMEDIES OF THE APPLICABLE HONEYWELL ENTITY ("HONEYWELL") AND BUYER WHICH APPLY TO ANY ORDER ISSUED BY BUYER FOR THE PURCHASE OF HONEYWELL'S PRODUCTS ("PRODUCTS"). UNLESS OTHERWISE STATED IN A WRITTEN PURCHASE AGREEMENT SIGNED BY AUTHORIZED REPRESENTATIVES OF HONEYWELL AND BUYER AND COVERING THE SPECIFIC PRODUCTS THAT ARE THE SUBJECT OF ANY BUYER'S PURCHASE ORDER, HONEYWELL'S ACCEPTANCE THEREOF IS MADE EXPRESSLY CONDITIONAL ON ASSENT BY BUYER TO THE TERMS AND CONDITIONS OF SALE INCLUDED HEREIN. NO ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS, WHETHER CONTAINED IN BUYER'S PURCHASE ORDER FORM OR ANY OTHER DOCUMENT OR COMMUNICATION PERTAINING TO BUYER'S ORDER, WILL BE BINDING UPON HONEYWELL UNLESS ACCEPTED IN WRITING, AND HONEYWELL HEREBY EXPRESSLY OBJECTS TO ANY SUCH TERMS AND CONDITIONS WHICH SHALL BE DEEMED INEFFECTIVE AND ARE REJECTED.

2. DELIVERY/SHIPPING TERMS: Delivery terms are EXWORKS (Incoterms 2000), Honeywell's facility. Honeywell will schedule delivery in accordance with its standard lead time unless Buyer's Order requests a later delivery date; or Honeywell agrees in writing to a separate delivery date. If Honeywell prepays transportation charges, Buyer will reimburse Honeywell upon receipt of an invoice for those charges. Title will pass to Buyer when Honeywell places Product at the disposal of Buyer at Honeywell's facility. Honeywell reserves the right to quote additional charges for any special routing, packing, labeling, handling or insurance requested by Buyer.

3. ACCEPTANCE - PRODUCT: Unless other acceptance criteria have been expressly agreed to by the Parties under this Agreement the Buyer will inspect Products within a reasonable period after delivery not to exceed 30 calendar days. Products are presumed accepted unless Honeywell receives written notice of rejection explaining the basis for proper rejection within the same timeframe. Honeywell will have a reasonable opportunity to repair or replace rejected Products, at its option. Honeywell assumes shipping costs in an amount not to exceed normal surface shipping charges to Honeywell's designated facility for the return of properly rejected Products. Following initial delivery, the party initiating shipment will bear the risk of loss or damage to Products in transit. If Honeywell reasonably determines that rejection was improper, Buyer will be responsible for all expenses caused by the improper rejection.

4. PRICES, TAXES, DUTIES & ORDER SIZES: All prices are in the applicable currency of the Agreement and are based on delivery EX-WORKS. If, notwithstanding the provisions hereof, Buyer's terms and conditions of purchase are deemed to apply by a court of competent jurisdiction, then Honeywell reserves the right to either (a) modify the prices (including retroactively) according to the additional level of risk and responsibility that Buyer's terms and conditions require Honeywell to undertake; or (b) cancel the Agreement any time after such determination without liability for such termination other than for the Products already delivered on the terms set out herein. Prices do not include any charges for services such as packaging; insurance; or brokerage fees. Honeywell's pricing excludes all taxes (including but not limited to, sales, use, excise, value-added, and other similar taxes), duties and charges. Buyer is responsible for all such taxes, duties and charges resulting from this Agreement or as a result of Honeywell's performance hereunder, whether now or hereafter imposed, levied, collected, withheld, or assessed. If Honeywell is required to impose, levy, collect, withhold or assess any such taxes, duties or charges on any transaction under this Agreement, then in addition to the purchase price, Honeywell will invoice Buyer for such taxes, duties, and charges unless at the time of order placement Buyer furnishes Honeywell with an exemption certificate or other documentation sufficient to verify exemption from such taxes, duties or charges. Honeywell reserves the right to establish minimum order sizes. Honeywell reserves the right to change its prices if series production ends, or if, from the time of quotation (i) raw material and/or component prices have changed; or (ii) actual volume is less than forecast volume; or (iii) there is any significant change in economic circumstances.

5. PAYMENT TERMS: Payment is due 30 calendar days from the date of invoice. Payments must be made in the applicable currency quoted. If Buyer is delinquent in its payment obligation to Honeywell, Honeywell may upon written notice to Buyer stop work and withhold future shipments until all delinquent amounts and late interest, if any, are paid. Additionally, Honeywell may at its option: 1) repossess Products for which payment has not been made; 2) charge interest on delinquent amounts at the maximum rate permitted by law for each full or partial month; 3) recover all costs of collection, including but not limited to reasonable attorneys' fees; 4) combine any of the above rights and remedies as may be permitted by applicable law. These remedies are in addition to all other remedies available at law or in equity. Honeywell may re-evaluate Buyer's credit standing at all times. If Honeywell reasonably determines in its sole discretion that Buyer fails to qualify for the above payment terms at any time, then Honeywell may without notice to Buyer modify or withdraw credit terms, including but not limited to requiring advance payment, guarantees, or other security.

6. SETOFF: Buyer will not set off or recoup invoiced amounts or any portion thereof against sums that are due or may become due from Honeywell, its parent, affiliates, subsidiaries or other divisions or units.

7. CHANGES: Buyer may issue a written change order to request changes within the scope of the Agreement. Such requests are subject to acceptance by Honeywell. Honeywell will inform Buyer if the change will cause an increase in Honeywell's costs or time required to perform. The change will become effective, and Honeywell will commence performance, only upon execution of an amendment to the Agreement. Unless otherwise agreed in writing, upon performance of the change order Honeywell will be entitled to invoice Buyer and Buyer shall be obligated to pay for the costs of the change, even if Honeywell agreed to proceed with the change prior to execution of an amendment.

8. BUYER CAUSED DELAY: Honeywell will not be liable for any delays or increased costs caused by a failure of Buyer, such as delays in providing necessary information or other Buyer deliverables or delays by Buyer designated suppliers in providing goods or services. In the event of a non force majeure Buyer-caused delay, the price and other affected terms will be adjusted accordingly to reflect Honeywell's increased costs and other adverse impacts associated with such delay. In addition, if delivery of goods or services are delayed due to the acts or omissions of Buyer or Buyer-designated suppliers, Honeywell may store the goods at Buyer's risk and expense and, may invoice Buyer just as if there had been no delay in delivery.

9. EXCUSABLE DELAY (FORCE MAJEURE): Except for payment obligations, neither party will be liable to the other for any failure to meet its obligations due to any cause beyond the non-

performing party's reasonable control. If the inability to perform continues for longer than 90 days, either party may terminate this Agreement by providing written notice to the other party and Buyer will pay Honeywell for Products delivered and services performed prior to termination. Force majeure events may include but are not limited to: (1) delays or refusals to grant an export license or the suspension or revocation thereof, (2) any other acts of any government that would limit the ability for performance consistent with the Agreement, (3) fires, earthquakes, floods, severe weather conditions, or any other acts of God, (4) quarantines or regional medical crisis', (5) labor strikes or lockouts, (6) riots, strife, insurrection, civil disobedience, 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), (7) shortages or inability to obtain materials or components, and (8) inability or refusal by Buyer's directed third party suppliers to provide Honeywell parts, services, manuals, or other information necessary to the Products or services to be provided by Honeywell under this Agreement. If a force majeure event causes 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. When performance is excused, Honeywell will allocate its services or its supplies of materials and Products in any manner that is fair and reasonable. However, Honeywell will not be obligated to obtain services, materials or Products from other sources or to allocate materials obtained by Honeywell from third parties for Honeywell's internal use.

10. HARDSHIP: If for any reason Honeywell's production or purchase costs for the Product (including without limitation costs of energy, equipment, labor, regulation, transportation, raw material, or Product) increases over Honeywell's production or purchase costs for the Product on the date of entering into this Agreement, then Honeywell may, by written notice to Buyer of such increased costs, request a renegotiation of the price of the Product under this Agreement. In the event the Parties are not able to agree on a revised Product price within 10 days after a request for renegotiation is given, then Honeywell may terminate this Agreement on 10 days written notice to Buyer.

11. SPECIAL TOOLING: Special Tooling includes, but is not limited to, jigs, dies, fixtures, molds, patterns, special taps, special gages, special test equipment, other special equipment and manufacturing aids and replacements items, now existing or hereafter created, together with all specifications, drawings, engineering instructions, data, material, equipment, software, processes, and facilities related thereto, created or used by Honeywell in the performance of its obligations under this Agreement. Honeywell owns all Special Tooling, except to the extent an authorized representative of Honeywell's procurement department specifically transfers title thereto in a formal, written bill of sale to Buyer. Any transfer of title to Special Tooling does not include transfer of Honeywell's intellectual property used to create or that may be embodied in the Special Tooling, other than a license to use the Special Tooling. This license to use does not include the right to reproduce the Special Tooling unless specifically authorized in writing by Honeywell.

12. LIMITED WARRANTY:

12.1 Definitions.

"Product" for the purposes of this Article means end items, and replaceable components thereof, including those returned for exchange.

"Nonconformance" for the purpose of this Article means failure to comply with the Limited Warranty (as defined in section 12.2) within the Warranty Period. Normal wear and tear, regular overhaul, and periodic maintenance do not constitute Nonconformance. Products in which there is no defect found will not be considered Nonconforming.

The "Warranty Period" for all Products shall begin on the later of (i) the date on which the Product first enters a retail distribution/sales channel, or (ii) the date of delivery to the end user provided Buyer presents the end user's retail invoice demonstrating such date of delivery. The "Warranty Period" shall end on the earlier of the date indicated in the third column of the chart below ("a", "b", or "c") for the applicable Product. In no case shall the Warranty Period extend beyond the date indicated by "c" in the third column of the chart.

Application	Product Type	Warranty Period = The Shorter of	Customer Channel
Service/ Aftermarket ^{3,4,5}	Turbocharger	(a) 12 months; (b) 100,000 km; or (c) 18 months from Honeywell's delivery to Buyer	Service/ Aftermarket
Class 1-6 [26,000 lbs or less Gross Vehicle Weight (GVW) ¹] ^{3,5}	Turbocharger	(a) 24 months; (b) 100,000 km; or (c) 30 months from Honeywell's delivery to Buyer	OEM
Class 7-8 Trucks ^{3,5} [26,001lbs and up GVW ¹]	Turbocharger	(a) 24 months; (b) 500,000 km; or (c) 30 months from Honeywell's delivery to Buyer	OEM
Off-Highway ^{2,5}	Turbocharger	(a) 12 months; (b) 4000 hours; or (c) 18 months from Honeywell's delivery to Buyer	OEM
Passenger Cars/Vehicles ⁴	Turbocharger	(a) 24 months (b) 100,000 km; or (c) 30 months from Honeywell's delivery to Buyer	OEM
Off-Highway	Thermal Product	(a) 12 months; (b) 2,000 hrs; or (c) 18 months from Honeywell's delivery to Buyer	Service/ Aftermarket
Off-Highway	Thermal Product	(a) 24 months (b) 4,000 hrs; or (c) 30 months from Honeywell's delivery to Buyer	OEM
On-Highway	Thermal Product	(a) 24 months (b) 325,000 km; or (c) 30 months from Honeywell's delivery to Buyer	OEM
Basic Standard	Thermal Product	(a) 12 months (b) 150,000 km; or (c) 18 months from Honeywell's delivery to Buyer	Service/ Aftermarket

¹ Gross Vehicle Weight (GVW) is defined as the gross weight of the loaded vehicle

² Includes Marine and Industrial

³ With the exception of Passenger Car Vehicles, Commercial Vehicles, and Aftermarket turbochargers that are used in the People's Republic of China: (a) 12 months; (b) 50,000km; or (c) 18 months from Honeywell's delivery to Buyer. HTT can deviate from the above policy for China if agreed in writing by an authorized HTT rep.

⁴ All Independent Aftermarket turbochargers sold by Allied Signal Automotive Ltda ("Honeywell Brazil") will have the Warranty Period specified in the certificate that ships with the turbocharger.

⁵ Turbochargers for OEM or OES applications sold by Honeywell Brazil will have a Warranty Period that equals the shorter of a) one year; or b) 100,000 km.

TERMS AND CONDITIONS OF SALE FOR HONEYWELL HTT PRODUCTS (Rev. 2008-02-29)

- 12.2 Honeywell warrants to Buyer that at the time of shipment and for the Warranty Period: (i) the Product will be free from defects in workmanship and materials, and (ii) the Product will comply with the drawings, specifications, vehicle applications, and vehicle operating conditions set forth in the applicable Turbocharger or Thermal Release Agreement ("TRA").
- 12.3 This Limited Warranty does not apply to prototype, development, and pre-production products. All prototype, development, and pre-production Products are accepted by Buyer on an "AS IS" basis with no warranties whatsoever. Furthermore, Honeywell shall not be responsible for any Nonconformance if the Product has been exposed or subjected to any:
- a) use of the Product on an engine, vehicle, or vehicle application other than specified in the applicable Turbocharger or Thermal Product Release Agreement; or
 - b) operation of an engine, vehicle, or vehicle application outside of the limits and operating parameters including, but not limited to, pressures, rotational speed, or temperature specified in the applicable Turbocharger or Thermal Product Release Agreement; or
 - c) maintenance, repair, overhaul, installation, storage, operation or use, which is improper or not in accordance with Honeywell's instructions, manuals, or specifications; or
 - d) use of the Product in racing or competition vehicles of any kind, or for other than automotive purposes such as but not limited to aerospace or marine use, or other use exceeding the limitations established by Honeywell, or are installed on engines, or vehicles, or vehicle applications not specifically approved by Honeywell; or
 - e) alteration, modification, including by "tuning," or repair by anyone other than Honeywell or those specifically authorized by Honeywell;
 - f) accident, contamination, foreign object damage, abuse, neglect or negligence after shipment to Buyer; or
 - g) use of counterfeit or replacement parts that are not manufactured or approved by Honeywell for use in Honeywell's manufactured Products; or
 - h) damage caused by failure of any hardware or software not supplied by Honeywell or a Honeywell supplied Product not under warranty.
- 12.4 This Limited Warranty shall not apply to ordinary or normal wear and tear resulting from use of the Product during the Warranty Period including without limitation any failure of the product to meet calibration settings in the TRA or other tolerances set forth in applicable drawings. It is the responsibility of the Buyer to conduct testing to ensure that the engine or application in which Honeywell's turbochargers or thermal Products are installed meet emission standards or any other relevant standards notwithstanding normal or ordinary wear and tear.
- 12.5 For this Limited Warranty to apply, Buyer must notify Honeywell of any claimed Nonconformance in writing by returning a Returned Material Authorization Form ("RMA Form") to Honeywell.
- a) The RMA Form must be received by Honeywell within ninety (90) days of Buyer's discovery of any claimed Nonconformance and must contain a detailed description of any claimed Nonconformance or Buyer will be barred from any remedy under this Limited Warranty.
 - b) Upon Honeywell's receipt of Buyer's completed RMA Form, Honeywell will provide Buyer with a Returned Material Authorization Number ("RMA#"). Buyer must await its receipt of the RMA# before returning any Product to Honeywell. Honeywell will return, at Buyer's expense, any Product not properly identified or associated with an RMA#.
 - c) When Honeywell requires the examination of claimed nonconforming Product, Honeywell will notify Buyer as to the place of return and will await receipt of the claimed nonconforming Product before further processing the warranty claim. Buyer will ship the Product by normal ground shipment and bear the cost of shipment and risk of loss or damage to Products while in transit to Honeywell. If Honeywell ultimately determines that the failed part is covered under this Limited Warranty, Honeywell will reimburse Buyer for the cost of ground shipment for the Product(s) found to be in Nonconformance. If Honeywell reasonably determines after analysis of the returned Product that a Nonconformance does not exist, then Buyer will pay all expenses related to the improper return including, but not limited to, analysis and shipping charges.
 - d) Any claimed nonconforming Product must be received by Honeywell within 30 days of issuance of a notice to return Product.
- 12.6 If Honeywell determines that a Product does not conform to this Limited Warranty, Honeywell may elect, in its sole discretion, to repair or replace the Product, or credit the original purchase price. In addition, Honeywell will credit Buyer for standard labor and handling costs (to be agreed case by case) per applicable Product. Repair, Replacement, or credit of the original purchase price and standard labor and handling costs are the exclusive remedies under this Limited Warranty. All Products repaired or replaced are warranted for the unexpired portion of the original Warranty Period. In no event shall Honeywell's liability exceed the aggregate sum equal to twice the amount actually paid to Honeywell for Products subject to Buyer's warranty claims. If this contract is subject to Swiss law the above-mentioned Limited Warranty does not apply in the case of Honeywell's unlawful intent or gross negligence. The Limited Liability will apply, however, to the unlawful intent or gross negligence of the auxiliary persons of Honeywell.
- 12.7 All credits of purchase price issued under this Limited Warranty will be accomplished only through Honeywell's issuance of a credit to the Buyer's account. Under no circumstance will Buyer debit or short-pay Honeywell invoices.
- 12.8 Buyer assumes all risks and responsibility for the Product purchased hereunder and agrees to indemnify and hold harmless Honeywell against any and all claims and/or liability for damages to property or injury to persons arising from the use and/or operation of such Product if such Product, (i) has been or is being used in racing boats or racing vehicles of any kind, (ii) has been or is being used in contests or other use which imposes unusual loads upon the Product, (iii) is subjected to pressures, rotational speed, or temperature higher than those in which the Product is designed to operate, (iv) is subjected to any condition which imposes stresses upon the Product in excess of limitations set forth by Honeywell, or (v) if the Product has been or is mounted in such a manner as to be exposed to or does in fact come into contact with water, spray, mud, or other liquid or viscous substance(s) during operation of the Product, and Buyer agrees to reimburse Honeywell for all reasonable costs, including attorney fees, incurred by Honeywell in defending against any claim based on any of the above occurrences or conditions.
- 12.9 Honeywell has no obligation under this Limited Warranty unless Buyer maintains records that accurately document operating time, maintenance performed and the nature of the unsatisfactory condition of Honeywell's Product. Upon Honeywell's request, Buyer will give Honeywell access to these records for substantiating warranty claims.
- 12.10 In the event of any accident, occurrence or warranty claim concerning the Product, Buyer must notify Honeywell promptly in writing and permit Honeywell to preserve evidence, test the Product, and investigate the cause thereof. Buyer shall give Honeywell prompt and continuing access to the Product for inspection and testing, to the environment and location of the Product, and shall cooperate with Honeywell by promptly furnishing all relevant information, data, test results, witnesses, and other information relative to any occurrence, accident or claimed Nonconformance in the Product. Failure of Buyer to give prompt notice as required herein or to cooperate in the investigation of an occurrence, claim or accident concerning the goods, shall bar Buyer from any remedy against Honeywell.
- 12.11 **THESE LIMITED WARRANTIES AND REMEDIES ARE THE ONLY WARRANTIES AND REMEDIES AND ARE IN LIEU OF ALL OTHER WARRANTIES APPLICABLE TO THE PRODUCT. ALL OTHER WARRANTIES, WHETHER WRITTEN, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE ARE DISCLAIMED. NO EXTENSION OR MODIFICATION OF THIS WARRANTY WILL BE BINDING UPON HONEYWELL UNLESS SET FORTH IN WRITING AND SIGNED BY HONEYWELL'S AUTHORIZED REPRESENTATIVE.**
- 12.12 **ANY LEGAL ACTION BROUGHT FOR BREACH OF THIS WARRANTY MUST BE BROUGHT WITHIN THE EARLIER OF (i) ONE YEAR AFTER THE END OF THE APPLICABLE WARRANTY PERIOD, OR (ii) ONE YEAR AFTER THE CLAIMED NONCONFORMANCE WAS DISCOVERED BY BUYER.**
13. **PATENT/ COPYRIGHT INDEMNIFICATION:** Honeywell will defend any suit against the Buyer arising out of any actual or alleged patent or copyright infringement of a valid United States patent or copyright, to the extent based on the Product as delivered by Honeywell, and indemnify for any final judgment assessed against Buyer resulting from such suit provided that Buyer notifies Honeywell at such time as it is apprised of the third-party claim, and agrees to give sole and complete authority, information and assistance (at Honeywell's expense) for the defense and disposition of the claim. Honeywell will not be responsible for any compromise or settlement made without Honeywell's written consent. Honeywell will have no obligation or liability with respect to: (a) Products provided pursuant to Buyer's designs, drawings or manufacturing specifications; (b) Products used other than for their ordinary purpose; (c) claims of infringement resulting from combining any Product furnished hereunder with any article not furnished by Honeywell; (d) use of other than the latest version of software Product released by Honeywell; or (e) any modification of the Product other than a modification by Honeywell.
- Further, Buyer agrees to indemnify and defend Honeywell to the same extent and subject to the same restrictions set forth in Honeywell's obligations to Buyer as set forth in this Article for any suit against Honeywell based upon a claim of infringement resulting from (a), (b), (c), (d) or (e) of the preceding paragraph. Because Honeywell has exclusive control of resolving infringement claims hereunder, in no event will Honeywell be liable for Buyer's attorney fees or costs. If a claim is made against a Product, or if Honeywell believes that such a claim is likely, Honeywell may, at its option, and at its expense, (i) procure for Buyer the right to continue using the Product; (ii) replace or modify the Product so that it becomes non-infringing; or (iii) accept return of the Product, or terminate Buyer's license to use the infringing Product, and grant Buyer a credit for the purchase price or license fee paid for such product, less a reasonable depreciation for use, damage, and obsolescence. Further, if a claim of patent or copyright infringement is made against a Product, or if Honeywell believes that such a claim is likely, Honeywell may cease shipping infringing Products without being in breach of this Agreement. Any liability of Honeywell under this Article is subject to the provisions of the "Limitations of Liability" Article of this Agreement. This Article states the parties' entire liability, sole recourse and their exclusive remedies with respect to infringement. All other warranties against infringement of any intellectual property rights, statutory, express or implied are hereby disclaimed.
14. **LIMITATION OF LIABILITY:** IN NO EVENT WILL HONEYWELL BE LIABLE FOR ANY INCIDENTAL DAMAGES, CONSEQUENTIAL DAMAGES, SPECIAL DAMAGES, PUNITIVE DAMAGES, STATUTORY DAMAGES, INDIRECT DAMAGES, LOSS OF PROFITS, LOSS OF REVENUES, OR LOSS OF USE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. HONEYWELL'S LIABILITY FOR DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL IN NO CASE EXCEED IN THE AGGREGATE A SUM EQUAL TO TWICE THE AMOUNT ACTUALLY PAID TO HONEYWELL FOR THE PRODUCTS OR RELATED SERVICES FROM WHICH THE CLAIM AROSE. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THESE LIMITATIONS AND EXCLUSIONS WILL APPLY REGARDLESS OF WHETHER LIABILITY ARISES FROM BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE), BY OPERATION OF LAW, OR OTHERWISE. NOTHING HEREIN, HOWEVER, IS INTENDED TO DISCLAIM HONEYWELL'S LIABILITY FOR PERSONAL INJURY OR DEATH CAUSED BY DEFECTIVE PRODUCTS TO THE EXTENT SUCH LIABILITY IS MANDATED BY APPLICABLE LAW.



TERMS AND CONDITIONS OF SALE FOR HONEYWELL HTT PRODUCTS (Rev. 2008-02-29)

15. **TRADEMARKS AND OTHER LABELS:** Buyer agrees not to remove or alter any indicia of manufacturing origin or patent numbers contained on or within the Products, including without limitation the serial numbers or trademarks on nameplates or cast or machined components.

16. **SOFTWARE LICENSE:** Software, if included in the Agreement, is hereby licensed and not sold. The license is nonexclusive, and is limited to such equipment and/or location(s) as are specified in the Agreement. No other use is permitted and Honeywell retains for itself (or, if applicable, its suppliers) all title and ownership to any software delivered hereunder, all of which contains confidential and proprietary information and which ownership includes without limitation all rights in patents, copyrights, trademarks and trade secrets. Buyer shall not attempt any sale, transfer, sublicense, reverse compilation or disassembly (save to the extent expressly permitted by law) or redistribution of the software. Nor shall Buyer copy, disclose or display any such software, or otherwise make it available to others (except as Honeywell authorizes in writing).

17. **CONFIDENTIALITY:** "Proprietary Information" means: 1) any information, technical data or know-how in whatever form, including, but not limited to, documented information, machine readable or interpreted information, information contained in physical components, maskworks and artwork, that is clearly identified as being confidential, proprietary or a trade secret, 2) business related information including but not limited to pricing, manufacturing, or marketing, 3) the terms and conditions of any proposed or actual agreement between the parties, 4) either party's business policies, or practices, and 5) the information of others that is received by either party under an obligation of confidentiality. The receiving party will keep all Proprietary Information disclosed hereunder confidential for a period of 7 years following the expiration or termination of this Agreement. Each party will retain ownership of its Proprietary Information including, without limitation, all rights in patents, copyrights, trademarks and trade secrets. No right or license is granted hereby to either Party or its customers, employees or agents, expressly or by implication, with respect to the Proprietary Information or any patent, patent application or other proprietary right of the other Party, notwithstanding the expiration of the confidentiality obligations stated herein. Honeywell agrees to use the Proprietary Information of Buyer only to provide products or services for Buyer. Buyer agrees that it will not use or disclose Honeywell's Proprietary Information for any purpose besides the purchase or use of products or services under this Agreement. Buyer will not use Honeywell's Proprietary Information to provide services or for the manufacture or procurement of parts that are the subject of this Agreement or any similar parts or to cause such services to be provided or products to be manufactured or procured from any other source.

The receiving Party has no duty to protect information that is proven by written records to be: (a) publicly known at the time of disclosure or becomes publicly known through no fault of recipient, (b) known to recipient at the time of disclosure through no wrongful act of recipient, (c) received by recipient from a third party without restrictions similar to those in this section, or (d) independently developed by recipient.

18. **EXPORT AND IMPORT COMPLIANCE:** Buyer is responsible for compliance with all import and export control laws and regulations. Buyer will obtain import, export, and re-export approvals and licenses required for Products, transfers, services and technical data delivered and will retain documentation evidencing compliance with those laws and regulations.

Honeywell will not be liable to Buyer for any failure to provide Products, services, transfers or technical data as a result of government actions that impact Honeywell's ability to perform, including:

- (1) The failure to provide or the cancellation of export or re-export licenses;
- (2) Any subsequent interpretation of applicable import, transfer, export or re-export law or regulation after the date of any order or commitment that has a material adverse effect on Honeywell's performance; or
- (3) Delays due to Buyer's failure to follow applicable import, export, transfer, or re-export laws and regulations.

If Buyer designates the freight forwarder for export shipments from the United States, then Buyer's freight forwarder will export on Buyer's behalf and Buyer will be responsible for any failure of Buyer's freight forwarder to comply with all applicable export requirements. Honeywell will provide Buyer's designated freight forwarder with required commodity information.

19. **COMPLIANCE WITH LAWS:** Buyer shall comply with all local laws and regulations applicable to the installation, use, or import of all Products delivered hereunder. As a condition of purchase, Buyer shall comply with all applicable export control laws and regulations of the United States, the European Union and any other country having proper jurisdiction and shall obtain all necessary export licenses in connection with any subsequent export, re-export, transfer and use of all Products and technology delivered hereunder. Buyer shall not sell, transfer, export or re-export any Honeywell Products or technology for use in activities which involve the design, development, production, use or stockpiling of nuclear, chemical or biological weapons or missiles, nor use Honeywell Products or technology in any facility which engages in activities relating to such weapons.

20. **TERMINATION:** A Party may terminate this Agreement and any or all unperformed Orders by giving written notice to the other party upon the occurrence of any of the following events:

- (a) the other Party materially breaches this Agreement and fails to remedy the breach within 60 calendar days after receipt of written notice that specifies the grounds for the material breach;
- (b) the other Party fails to make any payment required to be made under this Agreement when due, and fails to remedy the breach within 7 calendar days after receipt of written notice of non-payment; or
- (c) any insolvency or suspension of the other Party's operations or any petition filed or proceeding made by or against the other Party under any state, federal or other applicable law relating to bankruptcy, arrangement, reorganization, receivership or assignment for the benefit of creditors or other similar proceedings.

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 either party may be entitled to under this Agreement or in law or equity.

21. **ASSIGNMENT:** Neither Party will assign any rights or obligations under this Agreement without the advance written consent of the other Party, which consent will not be unreasonably withheld. Either Party may assign this Agreement to any affiliate of such party or in connection with the sale or

transfer of all or substantially all of the assets of the product line or business to which it pertains. Any attempt to assign or delegate in violation of this clause will be void.

22. **WAIVER:** The failure of either party to enforce at any time any of the provisions of this Agreement shall not be construed to be a continuing waiver of any provisions hereunder nor shall any such failure prejudice the right of such party to take any action in the future to enforce any provisions hereunder.

23. **HEADINGS AND CAPTIONS:** Headings and captions are for convenience of reference only and do not alter the meaning or interpretation of this agreement.

24. **PUBLICITY:** Any news release, public announcement, advertisement, publicity or any other public disclosure concerning this Agreement requires prior written approval of the parties, which approval will not unreasonably be withheld.

25. **DISPUTE RESOLUTION – CHOICE OF LAW AND FORUM:**

A. If Honeywell is a legal entity formed in Switzerland, or a member state of the European Union other than the United Kingdom, then the construction, interpretation and performance hereof and all transactions hereunder shall be governed by the laws of Switzerland including the UN Convention on Contracts for the International Sale of Goods of 1980 (and any amendments or successors thereto), and the courts of Lausanne, Switzerland shall have exclusive jurisdiction of any dispute.

B. If Honeywell is a legal entity formed in the United States, then the construction, interpretation and performance hereof and all transactions hereunder shall be governed by the laws of the State of New York, U.S.A. without regard to or application of its principles or laws regarding conflicts of laws, and including the United Nations Convention on the International Sale of Goods of 1980 (and any amendments or successors thereto). Any dispute not resolved by the parties shall be subject to the exclusive jurisdiction of the courts of New York, New York.

C. If both parties are legal entities formed in The People's Republic of China, then the construction, interpretation, and performance hereof and all transactions hereunder shall be governed by the laws of The People's Republic of China without regard to or application of its principles or laws regarding conflicts of laws, and including the United Nations Convention on the International Sale of Goods of 1980 (and any amendments or successors thereto). Any dispute not resolved by the parties through consultations shall be subject to binding arbitration in accordance with the rules of the China International Economic Trade Arbitration Commission (CIETAC). In any arbitration there shall be three (3) arbitrators. Each Party shall select and appoint one (1) arbitrator within thirty (30) days after the date of a request for arbitration. The third arbitrator shall be jointly selected and appointed by the Parties. If the Parties fail to select and appoint the third arbitrator, the Chairman of CIETAC shall select the third arbitrator. If a Party does not select and appoint an arbitrator within thirty (30) days after the selection and appointment of the first arbitrator, the relevant selection and appointment shall be made by the Chairman of CIETAC. The place of arbitration shall be Shanghai. Either party may apply to the arbitrators seeking injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. Either party also may, without waiving any remedy under this Agreement, seek from any court having jurisdiction any interim or provisional relief that is necessary to protect the rights or property of that party, pending the arbitrators' determination of the merits of the controversy.

If the Buyer is not a legal entity formed in The People's Republic of China, then the construction, interpretation, and performance hereof and all transactions hereunder shall be governed by the laws of Singapore without regard to or application of its principles or laws regarding conflicts of laws, and including the United Nations Convention on the International Sale of Goods of 1980 (and any amendments or successors thereto). Any dispute not resolved by the parties shall be subject to arbitration in accordance with the rules of the Singapore International Arbitration Centre.

D. If both parties are legal entities formed in Japan, then the construction, interpretation, and performance hereof and all transactions hereunder shall be governed by the laws of Japan without regard to or application of its principles or laws regarding conflicts of laws, and including the United Nations Convention on the International Sale of Goods of 1980 (and any amendments or successors thereto). Any dispute not resolved by the parties shall be subject to the exclusive jurisdiction of the Courts of Tokyo.

E. If Honeywell is a legal entity formed in Japan and the Buyer is not a legal entity formed in Japan, then the construction, interpretation, and performance hereof and all transactions hereunder shall be governed by the laws of Singapore without regard to or application of its principles or laws regarding conflicts of laws, and including the United Nations Convention on the International Sale of Goods of 1980 (and any amendments or successors thereto). Any dispute not resolved by the parties shall be subject to binding arbitration in accordance with the rules of the Singapore International Arbitration Centre. Either party may apply to the arbitrators seeking injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. Either party also may, without waiving any remedy under this Agreement, seek from any court having jurisdiction any interim or provisional relief that is necessary to protect the rights or property of that part, pending the arbitrators' determination of the merits of the controversy.

F. If both parties are legal entities formed in the Republic of Korea, then the construction, interpretation, and performance hereof and all transactions hereunder shall be governed by the laws of the Republic of Korea without regard to or application of its principles or laws regarding conflicts of laws, and including the United Nations Convention on the International Sale of Goods of 1980 (and any amendments or successors thereto). Any dispute not resolved by the parties shall be subject to binding arbitration in accordance with the rules of the Korean Commercial Arbitration Board. The place of arbitration shall be Seoul. Either party may apply to the arbitrators seeking injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. Either party also may, without waiving any remedy under this Agreement, seek from any court having jurisdiction any interim or provisional relief that is necessary to protect the rights or property of that part, pending the arbitrators' determination of the merits of the controversy.

TERMS AND CONDITIONS OF SALE FOR HONEYWELL HTT PRODUCTS (Rev. 2008-02-29)

If the Buyer is not a legal entity formed in Korea, then the construction, interpretation, and performance hereof and all transactions hereunder shall be governed by the laws of Singapore without regard to or application of its principles or laws regarding conflicts of laws, and including the United Nations Convention on the International Sale of Goods of 1980 (and any amendments or successors thereto). Any dispute not resolved by the parties shall be subject to binding arbitration in Singapore in accordance with the rules of the Singapore International Arbitration Centre.

- G. If Honeywell is a legal entity formed in Australia, then the construction, interpretation, and performance hereof and all transactions hereunder shall be governed by the laws of New South Wales including the United Nations Convention on the International Sale of Goods of 1980 (and any amendments or successors thereto). Any dispute not resolved by the parties shall be subject to the exclusive jurisdiction of the Courts of New South Wales in the city of Sydney.
- H. If Honeywell is a legal entity formed in India, then the construction, interpretation, and performance hereof and all transactions hereunder shall be governed by the laws of India without regard to or application of its principles or laws regarding conflicts of laws, and including the UN Convention on Contracts for the International Sale of Goods of 1980 (and any amendments or successors thereto). Any dispute arising out of or relating to this Agreement, including the breach, termination or validity thereof, will be finally resolved by a panel of three arbitrators in accordance with the Rules of Arbitration of the London Court of International Arbitration. Judgment upon the award rendered by the arbitrators may be entered by any court having jurisdiction thereof. The place of arbitration will be London, England. The language of the arbitration will be English. Any award will be payable in the currency of this Agreement. Either party may apply to the arbitrators seeking injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. Either party also may, without waiving any remedy under this Agreement, seek from any court having jurisdiction any interim or provisional relief that is necessary to protect the rights or property of that party, pending the arbitrators' determination of the merits of the controversy.
- I. If Honeywell is a legal entity formed in Brazil, then the construction, interpretation and performance hereof and all transactions hereunder shall be governed by the laws of the Federative Republic of Brazil without regard to or application of its principles or laws regarding conflicts of laws, and including the UN Convention on Contracts for the International Sale of Goods of 1980 (and any amendments or successors thereto). Any dispute arising out of or relating to this order shall be settled by arbitration in accordance with the Rules of Conciliation and Arbitration of the International Chamber of Commerce – ICC in the context of an arbitration administered by the Brazil-Canada Chamber of Commerce, and judgment on the award rendered by the arbitrators may be entered into in any court having jurisdiction thereof. If the chosen rules are silent they shall be supplemented by the Brazilian procedural laws, namely the relevant provisions of Federal Law No. 9,307, of September 23, 1996, and those of the Brazilian Civil Procedure Code. The arbitration tribunal shall consist of three (3) arbitrators, of whom one (1) shall be nominated by Honeywell, one (1) by the Buyer and the third, who shall serve as chairman, shall be chosen by the two Party-nominated arbitrators, or, in the event the party-appointed arbitrators are unable to designate the third arbitrator, the third arbitrator shall be appointed within the subsequent period of (10) ten days in accordance with the rules of the ICC. The place of arbitration shall be the City of São Paulo, State of São Paulo, Brazil. The language of the arbitration shall be English. The award of the arbitrators shall be final and binding. The Parties waive any right to appeal, to the extent that a right to appeal may lawfully be waived. Each Party retains the right to seek judicial assistance: (a) to compel arbitration; (b) to obtain interim measures of protection rights prior to institution of pending arbitration and any such action shall not be construed as a waiver of the arbitration proceedings by the Parties; and (c) to enforce any decision of the arbitrators, including the final award. In case the Parties seek judicial assistance, the Central Courts of the City of São Paulo shall have jurisdiction.
- J. If a dispute shall be resolved by paragraphs C, E, F, H, or I, and the dispute or response to any dispute, includes an allegation that potentially concerns whether any intellectual property right owned, controlled or licensable by either party is invalid, unenforceable or infringed or misappropriated, or is otherwise limited in scope or application, then either party may, in its sole discretion, elect to have such dispute adjudicated before a court of competent jurisdiction and this Article shall not be binding on either party with respect to such dispute in its entirety or any related dispute, including any portions of such dispute that do not concern intellectual property rights.
- K. For those Honeywell Entities from countries not identified above, the laws of the country, and if applicable, state or province of the Honeywell Entity issuing the purchase order will apply.

26. **SEVERABILITY:** If any provision of this Agreement is determined to be illegal, invalid, or unenforceable, the validity and enforceability of the remaining provisions of this Agreement will not be affected and, in lieu of such illegal, invalid, or unenforceable provision, there will be added, as part of this Agreement, one or more provisions as similar in terms as may be legal, valid and enforceable under applicable law.

27. **SURVIVAL:** All provisions of this Agreement which by their nature should apply beyond the term of this Agreement will remain in force after acceptance and complete performance of the Agreement including, but not limited to, the Payment, Nondisclosure, Limitation of Liability and Dispute Resolution clauses.

Translations are available for reference at: http://www.honeywell.com/sites/ts/tt/App_Tech.htm . In case of ambiguity between English and translated versions, the English version prevails.

Les traductions sont disponibles pour référence à http://www.honeywell.com/sites/ts/tt/App_Tech.htm . En cas d'ambiguïté entre l'anglais et la version traduite, la version anglaise prévaut.

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번역본 하기 사이트 참조 하십시오. http://www.honeywell.com/sites/ts/tt/App_Tech.htm 영문과 국문 중, 모호한 어구는 영문을 따릅니다.

供参考的译文可以在 http://www.honeywell.com/sites/ts/tt/App_Tech.htm 网站上找到。如果英文版本与译文版本有任何不一致，以英文版本为准。

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