

## **SUBSCRIPTION TERMS AND CONDITIONS**

1. **SCOPE.** By accessing, using, downloading, installing, or copying the System, and/or accessing or using the Services, Customer expressly agrees to and accepts the Terms on behalf of itself and its Authorized Users and enters into a binding agreement with Wesco, and represents and warrants that it has the full authority to bind itself and its Authorized Users to the Terms. If Customer is accepting the Terms on behalf of another person or other company or entity, Customer represents and warrants that Customer has full authority to bind that person or company or entity to the Terms. If Customer does not agree to the Terms, Customer must not download, install, copy, access, or use the System and must not access or use the Services, and Company must immediately notify Wesco to return the System and cancel the Services without accessing or using the Services. Customer must ensure that its Authorized Users comply with the Terms and is responsible for its Authorized Users compliance with or breach of the Terms. If a conflict arises between or among the Terms, the Application, and the SOW, the Terms shall prevail unless otherwise expressly agreed in writing by authorized representatives of the parties. Any additional, preprinted or different terms contained on any Order, portal, or other communication (electronic or otherwise) from Customer purporting to apply shall be deemed void and unenforceable unless expressly agreed and signed in writing by authorized representatives of both parties. For terms governing access to and use of the Sites, please refer to Wesco's Terms of Use published on the Sites. The Terms shall apply to any quote issued by Wesco to Customer, any Order issued by Customer to Wesco, and any SOW regarding the System and/or Services, regardless of whether or not any of such documents reference the Terms. In the event Customer purchased access and use of the System and/or Services from an Authorized Partner, the Terms and EULA apply to Customer's access and use of the System and/or Services and prevail over any inconsistent provisions in Customer's agreement with such Authorized Partner.
2. **DEFINITIONS**
  - 2.1. "Affiliate" means any entity(ies) that directly or indirectly controls, is controlled by, or is under common control (defined as having more than 50% ownership or the right to direct the management of such entity) with a party.
  - 2.2. "Application" means Wesco's application for business credit extended to and signed by Customer in connection with the Terms.
  - 2.3. "Authorized Partner" means any of Wesco's integrators, resellers, or other business partners. For the avoidance of doubt, Authorized Partners have no authority to modify any of the Terms or EULA, and any Product, Software, Service, and/or Platform purchased through any Authorized Partner shall remain governed by and subject to the Terms and EULA, as applicable.
  - 2.4. "Authorized User" means the unique individual whom Customer authorized to access and use the System and Services pursuant to Customer's access rights under the Terms, including Customer employees, Affiliates, subcontractors, and authorized agents.
  - 2.5. "Confidential Information" means information received by the receiving party from the disclosing party which (a) is marked as "Confidential" or "Proprietary"; or (b) would reasonably be considered confidential and/or proprietary under the circumstances surrounding disclosure.
  - 2.6. "Customer" means the unique person or entity specified in the SOW or Subscription Confirmation that is licensed or authorized to access and use the System and Services pursuant to the Terms and EULA.
  - 2.7. "Customer Data" means any information, data, document, and other content, relating directly or indirectly to an identified or identifiable individual as defined by applicable domestic and international data protection laws, submitted by Customer and Authorized User for processing by the Platform, and the output of the processing of such data, information, and content by the System and Service. Examples of Customer Data include, but are not limited to, Customer and Authorized User name, address, telephone number, and email address.
  - 2.8. "Deliverables" means any work product, reports, or other deliverables developed and provided by Wesco as part of the Services and required under the SOW.
  - 2.9. "Derivative Work" means a work that is based on one or more preexisting works which, if created without the authorization of the copyright owner of the preexisting work(s), would constitute copyright infringement under applicable law.
  - 2.10. "Documentation" means any explanatory materials, operation manuals and other user manuals, such as user manuals, training materials, user guides, or product descriptions, regarding the implementation and use of the System and/or Services that are made available by Wesco to Customer. Documentation is provided in printed, electronic, or online form.
  - 2.11. "End User License Agreement" or "EULA" means the End User License Agreement provided by Wesco and/or the respective Software manufacturer, which governs Customer's download, installation, copying, access, and/or use of any Software and the Platform.
  - 2.12. "High Risk System" means a device or system that requires extra safety functionalities such as fail-safe or fault-tolerant performance features to maintain a safe state where it is reasonably foreseeable that failure of the device or system could lead directly to death, personal injury, or catastrophic property damage. A device or system with a fail-safe feature in the event of failure may revert to a safe condition rather than break down, may include a secondary system that comes into operation to prevent a malfunction, or may operate as a backup in the event of a malfunction. A device or system with a fault-tolerant feature in the event of failure may continue its intended operation, possibly at a reduced level, rather than failing completely. Without limitation, High Risk Systems may be required in critical infrastructure, industrial plants, manufacturing facilities, direct life support devices, aircraft, train, boat or vehicle navigation or communication systems, air traffic control, weapons systems, nuclear facilities, power plants, medical systems and facilities, and transportation facilities.
  - 2.13. "Intellectual Property Rights" means all intellectual property or other proprietary rights throughout the world, whether existing under statute, at common law or in equity, now existing or created in the future, including: (i) copyright, trademark and patent rights, trade secrets, moral rights, right of publicity, authors' rights; (ii) any application or right to apply for any of the rights referred to in paragraph (i); and (iii) all renewals, extensions, continuations, divisions, restorations or reissues of the rights or applications referred to in paragraphs (i) and (ii).
  - 2.14. "Order" means any order placed by Customer to Wesco for the purchase, access or use of the System and Services.
  - 2.15. "Platform" means the cloud service offerings that Wesco provides to Customer as specified in the SOW, under the terms and conditions of the EULA. Platform also includes any applicable Software and Documentation.
  - 2.16. "Products" means those products, materials, or goods described in the SOW.
  - 2.17. "Services" means the Platform, Deliverables, Support, and/or those services that Wesco agrees to provide to Customer as specified in the SOW.
  - 2.18. "Sites" means [www.wesco.com](http://www.wesco.com) [www.anixter.com](http://www.anixter.com), and any other websites or mobile applications where Wesco offers the Products, Software, and Services for subscription and that link to the Terms.
  - 2.19. "Software" means any computer program, operating system, interface, software, application, or other software owned or licensed by Wesco, as the context requires, in object code format, provided by Wesco to Customer which may be required in order for Customer to access the Services or is embedded in or pre-loaded on the Products and/or Platform. Software may also include additional features or functionality that can be accessed with either a Subscription or Support agreement to certain Services as required by the specific offering and subject to the Terms and EULA, as applicable.
  - 2.20. "Statement of Work" or "SOW" means that certain statement/scope of work document that identifies, amongst other things, the Services provided by Wesco to Customer and incorporates the Terms and/or the EULA. For purposes of the Terms, a Subscription Confirmation may also be referred to as a "Statement of Work" or "SOW".
  - 2.21. "Subscription" means Customer's order to receive, access, and use the System and Services, as specified in the SOW.
  - 2.22. "Subscription Confirmation" means any written (electronic or otherwise) confirmation notice that Wesco issues to Customer confirming the Subscription purchased and applicable Product Entitlement. For purposes of the Terms, a Subscription Confirmation may also be referred to as a "Statement of Work" or "SOW".
  - 2.23. "Subscription Fee" means the subscription fees set forth in the SOW.
  - 2.24. "Subscription Period" means the period specified in the SOW for which Customer has purchased the right to receive, access, and use the System and Services and the time period for which Customer has purchased the right to receive Support, as applicable.
  - 2.25. "Support" means the technical support services that Wesco (or an authorized partner) provides for the support of the System and Services, as specified in the SOW.

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- 2.26. "System" means, collectively, the Products and Software, as installed at the location(s) designated in the SOW.
- 2.27. "Terms" means these Subscription Terms and Conditions.
- 2.28. "Wesco" means the selling entity specified in the SOW.
- 2.29. "Wesco Materials" means any and all processes, formulas, tools, ideas, concepts, methodologies, software, know-how, business practices, trade secrets, object code, source code, documentation, Wesco Derivative Works, information and ideas developed by Wesco or its licensors, and all intellectual property rights therein.
- 3. RIGHT OF USE AND ACCESS.**
- 3.1. Subject to the Terms, Wesco grants Customer a limited, personal, non-exclusive, non-transferable right to access and use the System and Services described in the SOW during the applicable Subscription Period solely for Customer's internal business purposes and the Products shall be kept at the Customer location(s) identified in an SOW. Customer's access and use of the System and Services depends on the type of Subscriptions purchased as identified in an SOW. Customer understands that it must have an active Subscription for the, System and Services or have an active Support agreement for the Services, as applicable, in order to continue to receive access to use the System and Services. Customer acknowledges that as part of Wesco providing the System and Services to Customer, Wesco may be required to accept a EULA on Customer's behalf and Customer expressly authorizes Wesco to do so on its behalf. Customer shall only use the Products, Services, and Software with those authorized third-party devices (e.g., displays, sensors, cameras, or monitoring devices) which are compatible with the Products, Services, and Software.
- 3.2. If Wesco provides Products and Software to Customer to access the Services, Customer must access the Services with that Software and Product for Customer's internal business purposes only and those Products shall be kept at those Customer location(s) identified in the SOW. Customer acknowledges and agrees that the Platform and Software is provided to Customer subject to the applicable EULA for the Platform and Software. In the event of a conflict or inconsistency between the EULA and the Terms, the EULA shall prevail as it relates to Platform and Software only, and the Terms shall prevail as they relate to Services or other matters.
- 3.3. Customer is responsible for any and all activity occurring under Customer's Subscription accounts. Customer will provide Wesco with all information and assistance required to supply the Services or enable Customer's use of the Services. Customer will immediately notify Wesco of any unauthorized account use or other suspected security breach, or unauthorized use, copying, or distribution of Software, Services, Platform, Documentation, or Customer Data. Customer shall maintain the Products in good operating condition at its sole expense.
- 3.4. Customer may not move the Products to a different location from those location(s) identified in the SOW, without Wesco's express prior written authorization. All Products are subject to availability, and Wesco reserves the right to impose quantity limits on any Order, cancel all or part of an Order, and discontinue Products. Note that inventory on the Sites may not be up-to-date, and Product availability is not guaranteed.
- 3.5. Unless otherwise explicitly agreed to by both parties in the SOW, (A) Customer shall use a third-party to install and configure the System at the Customer location(s) identified in the SOW; (B) Customer shall be solely and exclusively responsible for (i) selection, supervision, and direction of any third-party that installs and configures the System at Customer's location(s), (ii) confirmation and verification that the installation and configuration were done properly and accurately, and (iii) obtaining an installation warranty, if any, from such third-party; (C) Customer acknowledges and agrees that Wesco shall not be responsible or liable for any act or omission, of any kind, by any third-party installers.
- 3.6. Wesco does not permit Customer to purchase the System and have it shipped to countries other than where Customer has a registered address. In order to complete a transaction under the Terms, the billing and shipping addresses must match the country Customer designated as part of its online account registration. In addition, Wesco does not offer the System and Services to individuals who intend to use such System and Services for personal, family, or household purposes. By placing an Order, Customer represents and warrants that any System and Services use shall be made for business purposes only and not for personal, family, or household purposes.
- 3.7. Product depictions, including color, on the Sites or any other marketing collateral are for illustrative purposes only. Access to the Sites does not constitute the right to purchase, access or use the System or Services. Wesco reserves the right to revise publishing errors on the Sites or any other marketing collateral. Despite Wesco's efforts, occasional pricing errors may occur on the Sites. Wesco reserves the right to cancel, without any liability, any and all Orders resulting from such pricing errors, even if Customer has an SOW from Wesco.
- 4. ORDERS.**
- 4.1. Except as expressly permitted herein, an Order is non-cancelable. Wesco has the right, in its sole discretion, to cancel, accept, or reject any Order, in whole or in part, at any time. Any change requested by the Customer to any aspect of the scope of an Order must be agreed in writing by both parties and may result in a price and/or delivery adjustment as determined by Wesco. If Wesco authorizes that all or part of a Subscription be terminated or suspended by modification, rescission or as otherwise provided in the Terms, Customer shall pay termination charges equal to Wesco's costs associated with the Order or SOW, as determined by Generally Accepted Accounting Principles, plus a reasonable profit on the entire Order. Wesco's costs shall include any amount Wesco must pay to its suppliers and manufacturers relating to the relevant Order.
- 4.2. If Customer requests a scope change in connection with the System and Services, Wesco will prepare a scope change form reflecting the requested changes in addition to the impact on the implementation schedule and the System and Services, and associated fees, if any, will be assessed at the mutually agreed upon fees. In the absence of a writing signed by both parties, Wesco shall not be bound to provide the System or perform any additional Services outside the scope of or beyond what is stated in the SOW. All change orders shall be subject to the Terms.
- 5. SERVICES.**
- 5.1. Customer shall provide Wesco with sufficient, free, safe, and timely access to its premises and systems as required to provide the Services. Customer warrants that the premises where the Services will be performed will comply with all applicable federal, state, and local occupational safety, welfare, and health standards, rules, and regulations. Customer agrees to ensure the health, safety, and welfare of Wesco's personnel when on Customer's premises including, but not limited to providing and maintaining premises and systems that are, so far as is reasonably practicable, safe and without risks to health. Wesco may, in its sole discretion, use subcontractors to perform its contractual obligations under the Terms. If Wesco uses subcontractors, Wesco will be solely responsible for ensuring that they comply with their respective contractual requirements. Customer shall not supervise or direct the performance of any Wesco subcontractors. Wesco or Wesco's subcontractors, when applicable, shall obtain and maintain the necessary licenses, certifications, and permits, specialty or otherwise, required to provide the Services. If Wesco's performance of any of its obligations is prevented or delayed by Customer: (a) Wesco shall, without limiting its other rights or remedies under the Terms or as otherwise provided by law or equity, have the right to suspend or terminate performance of the Services; and (b) Customer shall be liable for any costs and expenses sustained or incurred by Wesco as a result thereof. Without limiting the foregoing, completion times provided by Wesco are only estimates. Customer expressly consents to Wesco providing the Services to Customer, and registering, claiming, and/or associating Customer's rooms, buildings, devices, and accounts as part of the System or Services. Upon written notice and subject to the Terms, Customer has the right to terminate, at any time, the registration, claim, or association of Customer's rooms, buildings, and devices as part of the System or Services. Such termination shall serve as Customer's termination of its Subscription pursuant to section 9.4. Customer acknowledges and agrees that installation of the Products is not included as part of the Services provided by Wesco under the Terms or any Subscription, unless otherwise explicitly agreed to by both parties in the SOW.
- 5.2. Wesco shall provide Support to Customer in accordance with the SOW. The Support terms specified in the SOW may be updated from time to time; however, Wesco will not materially reduce the level of performance, functionality, or availability of the Support during the Subscription Period.
- 6. SUBSCRIPTION FEES. PAYMENT. TAXES.**
- 6.1. In consideration of the performance of the Services and System, Customer agrees to pay Wesco the Subscription Fee as set forth in the SOW, Subscription Confirmation, or Wesco's invoice, as applicable.
- 6.2. Payment for the System and Services must be made in the currency identified in the invoice, and by check, eft, on-line banking, debit, wire transfer, or any other means specified by Wesco, at its sole discretion.

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Customer shall pay any Wesco invoice within 30 days from the invoice date, unless otherwise explicitly stated in the SOW, Subscription Confirmation, or Wesco's invoice, as applicable, without any right to offset, counterclaim, holdback, or deduction. All Payments paid by, or on behalf of, Customer hereunder shall be non-refundable. All Payments shall be delivered to Wesco at its address specified on Wesco's invoice (or such other place as Wesco, in writing, directs) without notice or demand. Wesco reserves the right to require guarantees, security or payment from Customer in advance of shipment. In the event Customer fails to timely pay any invoice by the due date or if an Insolvency Event (as defined below) occurs, Wesco may change the payment terms on any future Orders and/or the entire outstanding balance due to Wesco for the Subscription Term shall be accelerated and become due in full immediately. Late payments are subject to interest of one and one-half percent (1.5%) per month or the maximum allowable charge and/or interest allowed by applicable laws shall be applied to all past due accounts commencing from the due date of the invoice until paid. Wesco shall also be entitled, in addition to all other remedies available at law or in equity, to suspend performance of the Services and to recover reasonable attorneys' fees and/or other expenses incurred collecting all outstanding sums from Customer or otherwise enforcing or successfully defending the Terms, regardless of whether a lawsuit is filed. Wesco may set off any amount due from Customer from any amounts due to Customer. Wesco reserves the right to convert any payment into electronic funds at its discretion.

6.3. Customer shall be responsible for, as and when due, and shall indemnify and hold Wesco harmless from and against all present and future taxes, duties, levies, tariffs, and any other governmental charges however designated, or any increases therein (including, without limitation, sales, use, leasing and stamp, value-added, goods and services, digital services, personal property, and gross receipts based taxes and license and registration fees (collectively, "Transaction Taxes")) and amounts in lieu of such taxes and charges and any penalties or interest on any of the foregoing, imposed, levied upon, in connection with, or as a result of the purchase, ownership, delivery, possession, or use of the System or Service, or based upon or measured by the Services, Subscription Fees, or any other payments made hereunder. Such Transaction Taxes shall be due whether or not included on the invoice. All payments due from Customer will be made free and clear and without deduction for any present and future taxes imposed by any taxing authority. If Customer is required by applicable law to deduct or withhold income taxes from amounts payable to Wesco under the Terms, Customer will remit, and provide Wesco with evidence that Customer has remitted, such withholding taxes to the appropriate taxing authority. Customer shall provide Wesco with proof of any exemption from Transaction Taxes when placing an Order.

6.4. If Wesco extends business credit to Customer under an Application, Wesco's Business Credit Terms published on the Sites, as amended from time-to-time, shall apply and are expressly incorporated herein by reference.

6.5. If the SOW includes an option to purchase the Products at the end of the Subscription Period, or if this Agreement is otherwise deemed at any time to be one intended as security, Customer grants Wesco a security interest in the Products (and all accessions thereto and substitutions therefore) and the proceeds from the sale, lease, or other disposition thereof to secure all indebtedness owing under the SOW. Customer authorizes Wesco to file a financing statement or equivalent document (and any and all amendments thereto) with respect to the Products and hereby appoints Wesco as Customer's attorney-in-fact to do all acts or things that Wesco may deem necessary to protect Wesco's title and interest hereunder. If the SOW does not include an option to purchase the Products at the beginning or end of the Subscription Period, the parties agree that any filing of a financing statement is for precautionary purposes to give public notice of Wesco's ownership of the Products only and shall not be construed as evidence of a transfer of title to Customer or a secured transaction.

### **7. DELIVERY. TITLE.**

7.1. Unless otherwise agreed to in writing, (i) all Product shipments shall be FOB shipping point, and (ii) Wesco may, in its sole discretion, use any commercial carriers and method and route of transportation for shipment of the Products. Customer shall be responsible for shipping charges, including all applicable freight, shipping, insurance, and handling charges unless otherwise agreed to in writing. Software and access to the Platform may be delivered electronically. Customer's requested delivery or need by date is subject to review and approval by Wesco. Shipping dates or other

applicable performance dates are estimated on the basis of prompt receipt of all required and detailed information, specifications, drawings, and approvals from Customer. In the event Customer, verbally or in writing, confirms a delivery date with Wesco but subsequently suspends the Order or is unable to accept delivery, Customer shall reimburse Wesco for all costs and expenses Wesco incurs as a result thereof, including, but not limited to, reasonable storage costs. No delay in the shipment or delivery of any Products relieves Customer of its obligations under the Terms. Wesco reserves the right to make partial shipments without liability or penalty. Customer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of an Order or SOW.

7.2. Unless explicitly stated in the SOW, the Products are, and shall at all times be and remain, the sole and exclusive property of Wesco, and Customer shall have no right, title, or interest therein or thereto, except as to the use thereof subject to the Terms. Customer will not directly or indirectly create, incur, assume, or allow to exist any lien, claim, or encumbrance (each, a "Lien") on or with respect to any Products. Customer, at its own expense, will promptly pay, satisfy, or otherwise take such actions as may be necessary to keep the Products free and clear of any and all such Liens. The System is and shall at all times remain personal property notwithstanding how it or any item thereof may now be or hereafter become affixed, attached, or imbedded in resting upon real property or any improvement thereof. If requested by Wesco, Customer will promptly obtain and deliver to Wesco waivers of interest or Liens in form satisfactory to Wesco from all persons or entities claiming any interest in the real property or improvements where a System is installed or located. Wesco may attach markings to the System indicating Wesco's ownership thereof. All equipment, software, upgrades, parts, and replacements for or which are added to or become attached to or a part of a System shall be deemed incorporated into the System and become the property of Wesco without further action on its part. Customer hereby assumes and shall bear the entire risk of loss, destruction, or damage to the System or any component thereof from any and every cause whatsoever during the Subscription Term and thereafter while any Products are in Customer's possession, custody, or control, whether or not insured. Any loss, destruction, or damage to the System shall not relieve Customer from any obligation under this Agreement.

8. **ACCEPTANCE.** Customer shall be deemed to have accepted the System and Services unless written notice of rejection is given to the Wesco within five (5) business days from date of delivery or activation, whichever occurs first.

### **9. TERM. TERMINATION. SUSPENSION.**

9.1. The Subscription Period shall automatically renew for the period stated in the SOW. The Subscription Period and the Terms will continue until terminated in accordance with the Terms.

9.2. Upon expiration or termination of a Subscription, Customer shall immediately (i) discontinue use and access to the System and Services, (ii) unless otherwise stated in the SOW, return, at its sole expense, the Products to Wesco's designated location but in no event more than fifteen calendar (15) days from the termination or expiration date, and (iii) uninstall, destroy, and delete permanently all copies of the Software, Documentation, and Confidential Information. Wesco is not responsible for obtaining or paying for any return, access, destruction, or uninstallation of the System or Services.

9.3. Wesco may terminate, in whole or in part, any Subscription and the Terms (i) immediately if Wesco considers it necessary to prevent or terminate any actual or suspected prohibited use (e.g., material breach) or to comply with applicable law, (ii) in the event a breach by Customer, by giving ten (10) days' prior written notice thereof; unless Customer cures the breach prior to the expiration of such ten (10) day period, (iii) in the event Customer or Authorized User breaches the EULA, or (iv) for convenience upon notice to Customer, provided Wesco shall refund Customer for any pre-paid Subscription amounts for unused Products, Software, and/or Services. Any termination under part (i), (ii) or (iii) of this section that is later determined to be wrongful or incorrect shall automatically be treated as and/or converted to a termination under part (iv) that is retroactive to the date of the termination notice originally sent under part (i) or (ii).

9.4. In the event Customer elects to cancel or terminate a Subscription prior to the expiration of the Subscription Period, Customer shall (i) remain liable for any and all amounts due for the remainder of the Subscription Period, (ii) be liable for a cancellation fee (based on the full Subscription fee) plus shipping costs to return the Products, (iii) not be entitled to any refund or credit of fees paid or payable hereunder or any unused portions of such

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Subscription, and (iv) be liable for any applicable manufacturer cancellation charges. In the event a Subscription is terminated or expires, all licenses granted therein shall also terminate. Service coverage may not be restored or reinstated following such cancellation or termination.

- 9.5. In addition to any other remedies provided under the Terms or applicable law, Wesco may exercise any reclamation rights and/or suspend or terminate a Subscription with immediate effect if Customer: (i) fails to pay any amount owed to Wesco when due; (ii) fails to comply with any of its obligations herein; (iii) experiences an adverse change in financial position or becomes a credit risk; or (iv) becomes insolvent, is placed in receivership, or becomes a party to a reorganization or assignment for the benefit of creditors, to the extent permissible under law (each, an "Insolvency Event").
- 9.6. After expiration or termination of a Subscription, Customer agrees that Wesco has no obligation to retain Customer Data, which may be permanently deleted as part of Wesco's record and information management and in accordance with applicable laws. If any Customer Data is stored, Customer is solely responsible for retrieving that Customer Data.
- 9.7. Customer's right to access and use the Platform or Software, and any portion thereof, is subject to Wesco's or the manufacturer's end-of-life policy. Upon the end-of-life date of the Platform or Software or any feature therein (as described in the end-of-life policy), Customer's right to access and use the Platform, Software or feature will terminate.
- 9.8. Subject to the limitations and other provisions of the Terms, any provision that, in order to give proper effect to its intent, should survive such expiration or termination, shall survive the expiration or earlier termination of the Terms.
10. **RECOMMENDATIONS.** Customer acknowledges and agrees that any drawings, designs, suggestions, recommendations, or advice as to the Platform, Products, Software, or Services including installation or use recommendations (collectively, "Recommendations") are provided "as-is, where-is" and are for informational and conceptual purposes only. Customer acknowledges that in the event it follows any such Recommendations, it does so at its own risk and agrees that Wesco will not be liable for any damage, claims, liabilities, or losses suffered by Customer or any third-party, directly or indirectly, due to Customer following any Recommendations. Any legal or regulatory compliance obligations shall remain Customer's sole responsibility, and nothing herein is intended to shift any such burden from Customer to Wesco.
11. **WARRANTY.**
- 11.1. **Product and Software Warranty.** Wesco is a reseller of Products and Software and shall transfer and assign to Customer any and all transferable warranties made to Wesco by the manufacturer of the Products and Software. See attached Exhibit A, incorporated by reference, for additional information, if any, on warranties provided by the applicable manufacturer(s) of the Products and Software. Unless otherwise specified in a writing signed by Wesco, Wesco provides no independent warranty for any Products and Software. Customer's sole and exclusive remedy for any alleged non-conforming part, defect, failure, inadequacy, or breach of any warranty related to Products and Software (collectively, "Defects") shall be limited to those warranties and remedies provided by the manufacturers or licensor thereof, if any. Wesco is not responsible for obtaining or paying for access to the Products, uninstalling installed Products, delivering replacement Products to the installation site, or installing replacement Products. Wesco's obligations under this section 11.1 will be void unless Customer provides Wesco with notice of the Defect within thirty (30) calendar days of the date Customer discovered or should have discovered the Defect. Customer shall contact Wesco prior to contacting the manufacturer or licensor. In the event Customer provides notice of a Defect to the manufacturer or licensor, Customer shall immediately notify and engage Wesco on any and all discussions and actions to be taken with such manufacturer. Wesco DOES NOT WARRANT that the Services and Software will be free from errors or defects, free from cyber threats or events, impenetrable, or compatible with other software or system that may be sold by Wesco, or will meet Customer's needs or operate without interruption. Wesco DOES NOT WARRANT that the Services and Software will provide fail-safe performance when used in hazardous environments, including any application in which the failure of the Services and Software could lead directly to death, personal injury, or severe physical or property damage. If Wesco supplies any Products and Software which include open source software, Wesco is not liable for defects in title or quality of the information, software, or documentation, or for ensuring that it is correct, accurate, free of third-party property rights and copyrights, complete

and/or usable. Material Safety Data Sheets ("MSDS") for hazardous substances are prepared and supplied by the manufacturers of the Products and Software. The Parties acknowledge and agree that (i) each location where the System and Services will be utilized has a different design, configuration, or layout which may impact the functionality, in whole or in part, of the System and Services, (ii) any impacted functionality, in whole or in part, does not represent that the System and Services are non-conforming, and (iii) Customer is solely and exclusively responsible for the design, configuration, or layout of all its locations.

- 11.2. **Services Warranty.** Wesco warrants that during the Subscription Period, the Services it provides will be performed substantially in accordance with the associated Documentation. Provided Customer promptly notifies Wesco in writing and in sufficient detail of a breach of the Services warranty in this section 11.2, as soon as is commercially practicable and in any event no later than five (5) business days after provision of the non-conforming Services, Wesco will, at its option, (a) re-perform the Services at no additional cost to Customer or (b) credit Customer the fees actually paid to Wesco associated with the non-conforming Services for the period in which the Service did not materially comply. In no event will Wesco be liable for any costs associated with or caused by any Customer delay in reporting the non-conforming Services, even if notice is provided within five (5) business days after provision of the Services. This is Customer's sole and exclusive remedy, and Wesco's sole and exclusive liability, with respect to any breach of warranty relating to the Services Wesco provides. This Services warranty is personal to Customer and may not be assigned, transferred or passed-through to any third-party. Unless otherwise explicitly agreed to by both parties in the SOW, Customer acknowledges and agrees that (i) Customer shall be solely responsible for the installation and configuration of the Products and Software, (ii) Wesco shall have no responsibility for the installation and configuration of the Products and Software, and (iii) Wesco does not provide any type of warranty whatsoever with respect to the installation and configuration of the Products and Software. Customer acknowledges and agrees that Wesco does not offer or provide any type of warranty for the installation or configuration of the Products as part of the Services provided under the Terms or any Subscription, unless otherwise explicitly agreed to by both parties in the SOW.
- 11.3. **FORFEITURE OF WARRANTY.** The warranties described herein do not cover wear and tear and shall be ineffective and not apply to those Products, Software, and Services that have been subjected to misuse, abuse, neglect, accident, damage, unauthorized modification, improper installation (unless otherwise explicitly agreed to by both parties in the SOW) or configuration, or improper storage, maintenance or repair; malfunction caused by use of incompatible products, software, or services; or malicious or deliberate interference or hacking including, but not limited to, use not in accordance with the manufacturer's or other provider's specifications, instructions or EULA.
- 11.4. **Customer's Information.** Customer acknowledges and agrees that, in performing its obligations under the Terms, Wesco will rely upon the accuracy and completeness of the information and documentation Customer provides, and that Wesco's performance is dependent on Customer's provision of complete and accurate information and data. It is Customer's responsibility to ensure that the System and Services are the ones that it has requested and that all specifications and quantities are correct.
- 11.5. **DISCLAIMER.** THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF, AND WESCO DISCLAIMS AND EXCLUDES, AND CUSTOMER WAIVES, ALL OTHER EXPRESS AND IMPLIED WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, INSTALLATION, CONFIGURATION, DESIGN, LAYOUT, ACCURACY OF THE INFORMATION OR THE SUITABILITY OF THE RECOMMENDATIONS IN ANY MSDS, AGAINST REDHIBITORY DEFECTS, CONFORMITY TO ANY REPRESENTATION, DESCRIPTION, LOCATION OR ROOM CONFIGURATION, DESIGN, LAYOUT, OR SPECIFICATION, PERFORMANCE, NON-INFRINGEMENT, AND OF ANY OTHER TYPE, REGARDLESS OF WHETHER ARISING BY LAW (STATUTORY OR OTHERWISE), COURSE OF PERFORMANCE, COURSE OF DEALING, OR ANY OTHER LEGAL OR EQUITABLE BASIS. IN THE EVENT DISCLAIMER OF WARRANTY STATEMENTS ARE DISALLOWED BY LAW, SUCH EXPRESS OR IMPLIED WARRANTIES SHALL BE LIMITED IN DURATION TO THE LESSER OF THE APPLICABLE MANUFACTURER'S OR LICENSOR'S WARRANTY PERIOD OR THE MINIMUM PERIOD REQUIRED BY LAW. EXCEPT AS OTHERWISE SET FORTH

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HEREIN, THE PLATFORM, PRODUCTS, SOFTWARE, AND SERVICES ARE PROVIDED ON AN "AS-IS" "AS AVAILABLE" BASIS.

- 11.6. NO DATA TRANSMISSION OVER THE INTERNET CAN BE GUARANTEED TO BE SECURE. CUSTOMER ACKNOWLEDGES THAT WESCO IS NOT RESPONSIBLE FOR ANY INTERCEPTION OR INTERRUPTION OF ANY COMMUNICATIONS THROUGH THE INTERNET, NETWORKS, OR SYSTEMS OUTSIDE WESCO'S CONTROL AND THAT THE SERVICES AND SYSTEM MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. CUSTOMER AGREES THAT CUSTOMER IS SOLELY RESPONSIBLE FOR MAINTAINING THE SECURITY OF CUSTOMER'S NETWORKS, SERVERS, APPLICATIONS, AND ACCESS CODES. WESCO IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, LOSS OF CUSTOMER DATA, OR DAMAGES RESULTING FROM THOSE PROBLEMS.
- 11.7. **High Risk Systems.** THE SYSTEM AND SERVICES ARE NOT DESIGNED, DEVELOPED, TESTED, OR INTENDED TO BE RELIABLE IN THE CONTEXT OF HIGH RISK SYSTEMS. WESCO HAS NO RESPONSIBILITY FOR, AND CUSTOMER WILL INDEMNIFY, DEFEND, AND HOLD HARMLESS WESCO, ITS AFFILIATES, AND REPRESENTATIVES FROM ALL CLAIMS, SUITS, DEMANDS, AND PROCEEDINGS ALLEGING, CLAIMING, SEEKING, OR ASSERTING, ANY LIABILITY, LOSS, OBLIGATION, RISK, COST, DAMAGE, AWARD, PENALTY, SETTLEMENT, JUDGMENT, FINE, OR EXPENSES (INCLUDING ATTORNEYS' FEES) ARISING FROM OR IN CONNECTION WITH CUSTOMER'S USE OF THE SYSTEM AND SERVICES ON OR IN A HIGH RISK SYSTEM, INCLUDING THOSE THAT COULD HAVE BEEN PREVENTED BY DEPLOYMENT OF FAIL-SAFE OR FAULT-TOLERANT FEATURES TO THE HIGH RISK SYSTEM, OR ARE BASED ON A CLAIM, ALLEGATION, OR ASSERTION THAT THE FUNCTIONING OF THE HIGH RISK SYSTEM DEPENDS OR DEPENDED ON THE FUNCTIONING OF THE SYSTEM, AND SERVICES, OR THAT THE FAILURE OF ANY SYSTEM AND SERVICES CAUSED A HIGH RISK SYSTEM TO FAIL. THE SYSTEM AND SERVICES SHALL NOT BE USED FOR EMERGENCY RESPONSE SYSTEMS OR TO OPERATE LIFE SAFETY DEVICES.
- 11.8. The Platform and System may contain or otherwise interface with certain third-party products, services, or applications and rely on such third-party products, services, or applications to enable or perform certain functionality of the Platform and System, including malware definitions or URL filters and algorithms. Wesco makes no warranty as to the operation of any third-party products or the accuracy of any third-party information.
- 12. PROPRIETARY RIGHTS. LICENSE.**
- 12.1. **Intellectual Property Rights.** The System and Services are Confidential Information of Wesco (or its licensors). Wesco (or its licensors) owns exclusively and reserves all rights, title, and interest in and to the System and Services, including all Intellectual Property Rights as well as any Derivative Works. Customer may not exercise any right, title, and interest in and to the System and Services, or any related Intellectual Property Rights, except for the limited usage rights granted to Customer in the Terms and EULA. Customer agrees, on behalf of itself and its Affiliates, that Customer, Authorized Users, and its Affiliates will take no action inconsistent with Wesco's Intellectual Property Rights. Each party shall retain ownership of all right, title, and interest in and to its pre-existing intellectual property, Confidential Information, materials, and/or Deliverables. Customer grants to Wesco a fully paid-up, non-exclusive, non-assignable, non-transferable, non-sublicensable license to use Customer Data to perform its obligations during the Subscription Term. Upon payment in full of the applicable Subscription Fees, Wesco grants Customer a fully paid-up, limited, non-exclusive, non-assignable, non-transferable, non-sublicensable, perpetual license to use and reproduce, for Customer's own internal business operations, the Deliverables (and any Wesco Materials solely as provided by Wesco as part of the Deliverables). Services will not be interpreted as "work for hire".
- 12.2. **Software License.** Customer shall be granted a limited license to use any Software strictly pursuant to the EULA provided by the Product or Software manufacturer, and Customer shall be bound by and comply with and ensure that its Authorized Users comply with, at all times, any license terms pertaining to such Product or Software. Software associated with a Product is licensed and not sold to Customer. Customer shall, and shall cause its Authorized Users to (i) comply with any applicable laws, regulations, industry standards, and third-party rights in connection with its access to and use of the Software; (ii) accept and comply with all obligations contained in the EULA provided by the Product or Software manufacturer; and (iii) use reasonable and diligent efforts pursuant to industry standards to protect and maintain user information collected by Customer's

applications, including personally-identifiable information, from unauthorized access or use. Customer shall not, and Customer shall instruct its Authorized Users to not: (i) transfer, assign, or sublicense the Software, or its license rights thereto, to any other person, organization, or entity, including through rental, timesharing, subscription, hosting, or outsourcing the Software, except as specifically set forth herein; (ii) use the Software for any unauthorized purpose; (iii) attempt to create any derivative version thereof; (iv) remove or modify any marking or notice on or displayed through the Software or documentation; or (v) de-compile, decrypt, reverse engineer, disassemble, or otherwise reduce same to human-readable form. In the event Software and/or Services are provided and accessed by Customer through the internet at a website provided by Wesco, Customer acknowledges and agrees that Wesco is not responsible for (i) Customer's access to the internet, (ii) any breaches of security, interruptions and/or interceptions of information or communication through the internet, and (iii) changes or losses of data through the internet. Further, Customer acknowledges that security of transmissions over the internet cannot be guaranteed.

### 13. INDEMNIFICATION.

- 13.1. **By Wesco.** Wesco hereby transfers any intellectual property indemnity from the manufacturer of Products, Software, and Services to Customer. Wesco's obligation to indemnify Customer shall not be greater than the intellectual property indemnity provided by the manufacturer of such Products, Software, and Services and shall only apply if Customer complies with section 13.3 herein. In the event of any such infringement claim, Wesco shall, at Wesco's sole option, and as Customer's sole and exclusive remedy: (i) procure for Customer the right to continue using the affected Products, Software, or Services; (ii) replace the affected Products, Software, or Services with non-infringing Products, Software, or Services; (iii) modify the affected Products, Software, or Services so they are non-infringing; or (iv) if fees were paid in advance, refund any prepaid fees associated with the affected Products, Software, or Services. Wesco's indemnification obligation does not apply if (a) Wesco followed Customer's specifications, instructions, or designs relating to the Products, Software or Services; (b) Customer continued to use the Products, Software, or Services after Wesco informed Customer of modifications required to avoid infringement; or (c) the alleged infringement results from Customer's misuse, modification or enhancement of the Products, Software, or Services, whatever the case may be, or from the use of such in combination with other products not provided or approved by Wesco.
- 13.2. **By Customer.** In addition to the obligations undertaken in sections 6.3, 11.6, and 16, Customer shall indemnify and defend Wesco and its affiliates, directors, officers, employees, agents, successors, and permitted assigns ("Indemnitees") against any claims, demands, damages, liabilities, and expenses (including court costs and reasonable attorneys' fees) that Indemnitees incur as a result of or in connection with: (a) any third-party claims arising from Customer's: (i) failure to obtain any consent, authorization, or license required for Indemnitees' use of Customer Data; (ii) use of the System or Services in any manner (e.g., solely or in combination) not expressly permitted by the Terms or the applicable EULA or specifications provided by the Product or Software manufacturer or provider of Services; (iii) misuse, modifications, enhancements, or programming to the System or Services, including but not limited to intellectual property infringement claims based on the Customer's improper use of the System or Services; (iv) breach of its obligations, representations, and warranties under the Terms; or (v) gross negligence or other act or omission in connection with the performance of its obligations under the Terms; (b) Indemnitees' compliance with any technology, designs, instructions, or requirements, including any specifications provided by Customer or a third-party on Customer's behalf; and (c) any reasonable costs and attorneys' fees and expenses required for Indemnitees to respond to a subpoena, court order, or other official government inquiry regarding Customer's use of the System or Services. This indemnity obligation specifically includes liability or alleged liability that may arise from injury or loss suffered by any Customer employee, contractor, or agent regardless of any immunity provided by applicable law. CUSTOMER HEREBY WAIVES ANY SUCH IMMUNITY TO THE FULLEST EXTENT ALLOWED BY LAW.
- 13.3. **Notification.** The indemnified party shall: (i) provide prompt written notice to the indemnifying party; (ii) reasonably cooperate in connection with the defense or settlement of the claim, including providing all reasonable information and assistance at the indemnifying party's cost; and (iii) give

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- the indemnifying party sole control over the defense and settlement of the claim, provided that any settlement of a claim shall not include a specific performance obligation or admission of liability by the indemnified party. Failure to provide timely notice that prejudices the indemnifying party shall relieve the indemnifying party of its obligations under the Terms to the extent the indemnifying party has been prejudiced, and the failure to provide timely notice shall relieve the indemnifying party of any obligation to reimburse the indemnified party for its attorneys' fees incurred prior to notification.
- 13.4. The foregoing indemnities are personal to Wesco and Customer and may not be transferred or assigned to anyone. This section 13 states the parties' exclusive remedies for any claims arising under sections 13.1 and 13.2, other than any remedies that may be available against third-party manufacturers or providers of the Products, Software, or Services.
- 13.5. THIS SECTION SETS FORTH YOUR SOLE AND EXCLUSIVE REMEDY AND WESCO'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SYSTEM, OR SERVICES OR ANY SUBJECT MATTER OF THE TERMS OR EULA INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD-PARTY.
14. **LIMITATION OF LIABILITY.** UNDER NO CIRCUMSTANCES WILL WESCO BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, OR EXTRA-CONTRACTUAL DAMAGES OF ANY KIND OR FOR LOSS OF PROFITS, LOSS OF GOODWILL, LOSS OF PERSONNEL SALARIES, COSTS OF OBTAINING A SUBSTITUTE SYSTEM OR SERVICES, BUSINESS OR SYSTEM INTERRUPTION, DENIAL OF ACCESS OR DOWNTIME, ANY LOST OR DAMAGED DATA OR SYSTEMS OR ASSOCIATED RESTORATION COSTS, NOR WILL WESCO BE LIABLE FOR ANY DAMAGES RELATING TO CLAIMS THAT THE SYSTEM, OR SERVICES DOES NOT OPERATE INTERRUPTION- OR ERROR-FREE, OR DO NOT PROTECT AGAINST ALL THREATS, IN ALL CASES REGARDLESS OF LEGAL THEORY AND WHETHER OR NOT FORESEEABLE, EVEN IF THE EXCLUSIVE REMEDIES PROVIDED BY THE TERMS OR EULA FAIL OF THEIR ESSENTIAL PURPOSE AND EVEN IF EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OR PROBABILITY OF SUCH DAMAGES. FURTHERMORE, TO THE FULLEST EXTENT PERMITTED BY LAW, WESCO'S ENTIRE AGGREGATE LIABILITY FOR ANY CLAIM ARISING OUT OF OR CONNECTED WITH THE SUBJECT-MATTER OF THE TERMS AND EULA SHALL NOT EXCEED THE TOTAL FEES RECEIVED BY WESCO FROM CUSTOMER FOR THE SUBSCRIPTION WITHIN THE PRECEDING 3-MONTH PERIOD (DETERMINED AS OF THE DATE OF THE EVENT GIVING RISE TO THE CLAIM). NOTHING IN THE TERMS AND EULA LIMITS OR EXCLUDES ANY LIABILITY THAT CANNOT BE LIMITED OR EXCLUDED UNDER APPLICABLE LAW. THESE LIMITATIONS OF LIABILITY ARE CUMULATIVE AND NOT PER INCIDENT AND SURVIVE ANY TERMINATION OR EXPIRATION OF THE TERMS OR EULA.
15. **CONFIDENTIALITY.** The receiving party shall protect the disclosing party's Confidential Information with the same degree of care as the receiving party normally uses in the protection of its own Confidential Information, but in no case with any less degree than reasonable care. The receiving party shall not disclose to any third-party any Confidential Information it receives from the disclosing party. Confidential Information excludes information that: (i) is publicly available other than by an act or omission of the receiving party; (ii) subsequent to its disclosure was lawfully received from a third-party; (iii) was known by the receiving party prior to its receipt without any breach of any confidentiality obligations; or (iv) was independently developed by the receiving party without use of the disclosing party's Confidential Information. If the receiving party becomes legally obligated to disclose any Confidential Information by subpoena, court order, or other lawful government action, the receiving party may disclose the Confidential Information only to the extent so ordered and, to the extent permitted by law, after providing prompt written notification to the disclosing party of the pending disclosure. Neither party may use such Confidential Information in any way for any purpose, except as authorized under the SOW. Either party may disclose Confidential Information to its auditors or attorneys, to Wesco's affiliates and/or authorized third-party partners on a need-to-know basis to the extent necessary under an obligation of confidentiality no less stringent.
16. **COMPLIANCE WITH LAW.** Each party shall comply with all applicable laws, rules, and regulations, including but not limited to, export and import, trade restrictions, FARs, anti-bribery and anti-corruption, anti-money laundering, anti-human trafficking and slavery, environmental protection, and health and safety. Products and Software may be subject to export controls under the laws, regulations, sanctions, and/or directives of the United States and other countries, in which case, the Products and Software are only authorized for use (e.g., via a government-approved and issued export license, which Customer must obtain) by the ultimate Authorized User in the destination identified in the transaction documents between Wesco and Customer. Customer shall not sell, export, re-export, or transfer, or cause a deemed export or re-export of the Products and Software (in their original form or after being incorporated into other items) to any country or person to which/whom sell, export, re-export, or transfer (actual or deemed) is prohibited without first obtaining all required authorizations or licenses. To the extent permitted by law, Customer shall indemnify and hold Wesco harmless from any loss or damage arising from its violation of any such laws, rules, and regulations. Furthermore, Customer shall not use, transfer, or access any Products, Software, or Services for end use relating to any nuclear, chemical, or biological weapons, or missile technology unless authorized by the manufacturer and the U.S. government by regulation or specific license. If Wesco receives notice that Customer is or becomes identified as a sanctioned or restricted party under applicable law (including without limitation, the U.S. Commerce Department Bureau of Industry and Security ("BIS") Denied Persons List; Entity List or Unverified List; the U.S. Treasury Department Office of Foreign Assets Control ("OFAC") Specially designated Nationals and Blocked Persons List; or the U.S. State Department Directorate of Defense Trade Controls ("DDTC") Debarred Parties List), Wesco will not be obligated to perform any of its obligations under any Order or SOW. Equipment, systems, or services provided by Wesco may incorporate, include, or use telecommunications equipment, systems, parts, components, elements, or services that have sourcing restrictions depending on the intended use under section 889 of the National Defense Authorization Act for Fiscal Year 2019 (Pub. L. No. 115-232). It is Customer's responsibility to advise Wesco whether an Order is funded in any part by funds from or related to the American Reinvestment and Recovery Act ("ARRA") (Pub. L. No. 111-5) (i.e., Stimulus Funds). Upon request, Wesco will provide country of origin information so that Customer may determine compliance with any applicable requirements under ARRA Section 1605 or any other applicable regulations. While all products listed on GSA Advantage!® meet the requirements of the Trade Agreements Act ("TAA"), as implemented by Federal Acquisition Regulations Part 25, other products sold on the Sites may not meet the requirements. Any federal customer purchasing Products, Software, or Services on the Sites will be making an "open market" purchase that is not covered by any contract. Federal customers are advised that the open market purchases are NOT GSA schedule purchases. By purchasing any Products, Software, or Services on the open market, Customer represents that it has authority to make such purchase and has complied with all applicable procurement regulations.
17. **DATA PRIVACY.** Each party shall comply with all applicable laws governing the collection, use and disclosure of Customer Data. Customer and Wesco agree that, in relation to the System and Services, the Customer is the controller of Customer Data, and Wesco is the processor of such data. Unless a specific agreement has been executed between the parties, by agreeing to the Terms, the parties are deemed to have executed a Customer Data Processing Agreement ("DPA") as set out in full on the Site, which will have legally binding force on the parties. In the event of any conflict between the terms of the DPA and the Terms, the terms of the DPA will prevail. Customer acknowledges and expressly consents to Wesco, Wesco's subcontractors, and the applicable manufacturer of the Software accessing and using the Customer Data pursuant to the Terms. Customer further acknowledges and expressly agrees that the following policies shall apply to the collection, transmission, storage, access, use, and processing of Customer Data from Customer downloading, installing, copying, accessing, or using the System and Services: (i) Wesco's Privacy Notice as published on the Sites, as may be updated from time to time, and (ii) the respective privacy policy and statements from the applicable manufacturer of the Software. Upon written notice to Wesco, Customer has the express right to terminate Wesco's, Wesco's subcontractors' and the applicable manufacturer of the Software's right to access or use the Customer Data. Such termination shall serve as Customer's termination of its Subscription pursuant to the Terms. Customer acknowledges that Wesco is headquartered in the United States and operates globally, and that data collected by Wesco from Customer in connection with the Terms may be transferred into and processed in the United States or other locations and expressly consents to such transfer and processing, which will have legally binding force on the parties. By purchasing such Services, Customer

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expressly consents to (and shall procure all required consents from its personnel, representatives, and agents) to the collection, transmission, storage, access, and processing of Customer Data in accordance with the terms of such third-party policies as may be specified in the SOW.

Customer shall maintain a formal security program in accordance with industry standards that is designed to: (i) ensure the security and integrity of Customer Data; (ii) protect against threats or hazards to the security or integrity of Customer Data; and (iii) prevent unauthorized access to Customer Data. Customer shall promptly notify Wesco of any failure of such security measures, practices, and procedures to accomplish the foregoing protection or regarding any security breach or incident related to Customer Data, and shall promptly provide Wesco, as applicable, with full and detailed written information regarding such failure, incident, or breach and fully cooperate with and assist Wesco, as applicable, in any efforts to address or otherwise respond to such failure, incident or breach.

Prior to initiation of the Services or installation of the System and on an ongoing basis thereafter, Customer agrees to provide notice to Wesco of any extraordinary privacy or data protection statutes, rules or regulations which are or become applicable to Customer's industry and which could be imposed on Wesco as a result of provision of the System or Services. Customer will ensure that: (a) Customer's transfer to Wesco of any Customer Data for storage by Wesco's or Wesco's supplier's data center is not prohibited under applicable data protection laws and regulations; and (b) Customer will obtain consents from individuals for such transfer and storage to the extent required under applicable laws and regulations.

Customer is explicitly prohibited from using the Products, Software, or Services in any way to collect data that the Products, Software, or Services would otherwise not collect by themselves and/or is outside of its intended use or purpose. Customer agrees to indemnify Wesco and hold it harmless for any claims, damages, penalties and fines related to such data collection.

18. **FORCE MAJEURE.** Wesco shall not be liable for any failure to perform its obligations under the Terms resulting directly or indirectly from, or contributed to or by, acts of God, acts of terrorism, civil or military authority, epidemic or pandemic disease, fires, strikes or other labor disputes, accidents, floods, war, riot, inability to secure raw material or transportation facilities, hacking or other malicious attack, dissolution of the applicable manufacturer's business, acts or omissions of carriers, or any other circumstances beyond Wesco's reasonable control.
19. **LAW. VENUE.** The Terms and any transactions contemplated herein shall be governed according to the substantive laws of the Province of Ontario and, where applicable, the federal laws of Canada, without regard to principles of conflicts of law, and shall not be governed by the U.N. Convention on the International Sale of Goods. Any issue, dispute or controversy ("Dispute") between the parties, including with respect to contract formation or the interpretation of the Terms, that cannot be commercially resolved by the parties shall, at Wesco's election, be submitted to nonbinding mediation as a condition precedent to litigation. If Wesco elects mediation, the parties shall mutually agree upon the mediator and shall share equally in the mediator's fees. If Wesco does not elect mediation or the parties cannot resolve their Dispute through the mediation process, the parties hereby consent to (i) the exclusive jurisdiction and venue of the state or federal courts located in Toronto, Ontario and shall not contest or challenge the personal jurisdiction or venue of such courts, and (ii) extra-territorial service of process. **TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES HERETO EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING ARISING IN OR IN CONNECTION WITH THE TERMS AND THE TRANSACTIONS CONTEMPLATED HEREIN.** Notwithstanding the foregoing, if Wesco is sued in any other jurisdiction or forum (including but not limited an arbitration proceeding) for matters related to any System or Services sold to Customer, Wesco shall have the right to join Customer as a party to any such proceeding, and Customer hereby consents to such joinder.
20. **RELATIONSHIP OF PARTIES.** The parties are independent contractors and expressly disclaim any partnership, franchise, joint venture, agency, employer/employee, fiduciary, or other special relationship. A person who is not a party to the Terms shall not have any benefit or rights under or in connection with either.
21. **INSURANCE.** Customer shall at all times insure the System against all risks of loss or damage from every cause including, without limitation, loss by fire, mysterious disappearance, natural disasters, and such other risks of loss as are customarily insured against for goods and systems of the type

subject to this Agreement by businesses of the type in which Customer is engaged, in an amount not less than the replacement cost of the System without deductible and without co-insurance. Customer shall also obtain and maintain commercial general liability insurance covering liability for bodily injury, including death, and property damage resulting from the use, operation or return of the System with a combined single limit of not less than \$1,000,000 per occurrence. All such insurance will be in a form, in an amount and with companies reasonably satisfactory to Wesco. Wesco and its successors or assigns shall be the sole named lender loss payee (or equivalent) with respect to the property insurance for the System and shall be named as an additional insured on the liability insurance. Customer shall deliver to Wesco documents evidencing: (a) the insurance required hereby and (b) an endorsement to the policy or policies required hereunder requiring the related insurer to provide Wesco with not less than thirty (30) days' prior written notice of the effective date of any material alteration, cancellation, or non-renewal of a policy. Customer hereby irrevocably appoints Wesco as Customer's attorney-in-fact (which power shall be deemed coupled with an interest) to make claim for, receive payment of, and execute and endorse all documents, checks, or drafts received in payment for loss or damage under any such insurance policy. If Customer shall fail to procure, maintain, and pay for such insurance, Wesco shall, in addition to its other rights hereunder, have the right, but not the obligation, to obtain such insurance on behalf of and at the expense of Customer, and Wesco may charge Customer an incremental fee which incremental fee may include a profit.

22. **GENERAL.** Paragraph headings are inserted for reference purposes only and shall not affect the interpretation or meaning hereof. The Terms constitute the entire, integrated agreement between the Customer and Wesco with respect to the subject matter of any SOW, and any and all discussions, understandings, agreements, representations, courses of dealings, customs, and usages of trade heretofore made or engaged in by the parties with respect to the subject matter hereof are merged into the Terms which alone fully and completely expresses the parties' agreement. The Terms shall be construed and interpreted without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. No amendments, modifications, waivers, rescission, or termination of the Terms can be made through the parties' course of dealings, and no such change can be made except in writing and signed by authorized representatives of the parties. Failure by a party to exercise any right or remedy under the Terms shall not be deemed a waiver of such right or remedy unless in writing signed by the party, nor shall any waiver be implied from the acceptance of any payment. No waiver by a party of any right shall extend to or affect any other right, nor shall a waiver by a party of any breach extend to any subsequent breach. Customer shall not assign the Terms, an SOW, or the rights thereunder or sublease the System, by operation of law or otherwise, without the express written approval of Wesco. Any attempt to assign or transfer all or any part of the Terms without first obtaining that written consent will be void or voidable, and no assignment or sublease shall relieve Customer of its obligations hereunder. Customer acknowledges and agrees that Wesco shall have the right to subcontract the provision of any portion of the Services to a third-party. Any provision of the Terms that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be limited or eliminated to the minimum extent required by that jurisdiction, and the remaining provisions shall remain in full force and effect. Customer acknowledges that the terms or content of any hyperlinked document, as amended from time to time, are incorporated in the Terms by reference, and that it is Customer's responsibility to review the terms or content in the hyperlinks referenced. All notices under the Terms must be in writing (e.g., e-mail or physical mail) and addressed to the other party at its address set forth in the SOW. Customer acknowledges that the SOW and any documents related thereto were delivered to Customer in electronic format only. By executing and delivering such documents, Customer represents and warrants that, except as expressly agreed to by Wesco in writing, neither the SOW nor any such related document has been altered or modified in any manner from the final version Wesco delivered to Customer for execution and in the event of any discrepancy, the final version of each such document delivered by Wesco shall be deemed the definitive version thereof. The Terms and all related documents may be executed in counterpart. If Customer signs any such document electronically, the sole original for all purposes (including chattel paper purposes if applicable) shall be the copy manually countersigned by Wesco or attached to its

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original signature counterpart and an electronically reproduced copy thereof shall be admissible as legal evidence thereof. For additional information and binding contractual terms provided by the applicable

manufacturer(s) of the Products and Software, if any, see attached Exhibit A, incorporated by reference.



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### Exhibit A Additional manufacturer material

The terms in the following hyperlinks, as they may be amended from time to time, are incorporated by reference as if set forth fully herein:

A. For those Products and Software from the manufacturer “Crestron Electronics”:

- ) Standard limited warranty: <https://www.crestron.com/Legal/sales-terms-conditions-warranties/Standard-Limited-Warranty>.
- ) Extend the warranty: <https://www.crestron.com/Legal/FlexCareTerms>, as may be updated from time to time.
- ) EULA: <https://www.crestron.com/Legal/software-products-on-premises-and-cloudware/cloudware-license-agreement>.
- ) Privacy Policy: <https://www.crestron.com/legal/privacy-policy>
- ) Privacy Statement: <https://www.crestron.com/legal/crestron-privacy-statement-regarding-internet-data-collection>.

B. For those Products and Software from the manufacturer “Logitech”:

- ) Logitech Terms and Conditions for Sync and Select: <https://www.logitech.com/en-us/tos/select-service-terms-conditions.html>

C. For those Products and Software from the manufacturer “Utology”:

- ) EULA: <https://www.utology.com/utology-software-license-agreement-2/>