

THE FOLLOWING TERMS AND CONDITIONS CONSTITUTE THE SOLE TERMS AND CONDITIONS UPON WHICH AUTANI, LLC ("Seller") AGREES TO SELL THE AUTANI AND THIRD PARTY PRODUCTS AND PROVIDE THE SERVICES ORDERED PURSUANT TO THIS AGREEMENT AND SHALL BECOME THE EXCLUSIVE AND BINDING AGREEMENT BETWEEN THE Seller AND Buyer COVERING SUCH PRODUCTS AND SERVICES. ANY ACCEPTANCE OF THIS OFFER IS LIMITED TO ACCEPTANCE OF THE EXPRESS TERMS OF THE OFFER INCLUDING THESE TERMS AND CONDITIONS WITHOUT ALTERATION. ANY PROPOSAL OR OFFER BY BUYER THAT INCLUDES ADDITIONAL OR DIFFERENT TERMS OR ANY ATTEMPT BY BUYER TO VARY IN ANY DEGREE ANY OF THE TERMS OF THIS OFFER IN BUYER'S ACCEPTANCE, WHETHER IN THIS OR ANOTHER DOCUMENT SHALL BE DEEMED MATERIAL AND IS HEREBY OBJECTED TO AND REJECTED AND SHALL NOT OPERATE AS A REJECTION OF THIS OFFER AND A COUNTER-OFFER BY BUYER.

Notwithstanding the foregoing, the Seller and Buyer may directly enter into further agreements that may vary the terms and conditions of sale for products and services purchased by the Buyer, but in no way alter or change these terms and conditions of sale of products and services sold hereunder relative to Buyer's assignors or assignees of such products and services without the express written consent of Seller.

**BUYER HEREBY AGREES** to include these terms and conditions of sale and any modifications agreed to in writing by Seller and Buyer as part of any assignment to any assignee of the products and services purchased hereunder and such assignee shall assume the rights and responsibilities of the Buyer pursuant to this agreement. However, the assignment by Buyer shall not relieve Buyer of any outstanding obligations pursuant to this agreement, unless the obligations are expressly assumed by the assignee in writing and the writing is expressly provided by the Buyer to the Seller and assignee assuming the obligations.

**1****1. PRICE**

- 1.1. Prices for products are F.O.B. Seller's location, unless otherwise specifically provided. List prices do not include any sales, use, or other taxes, and such taxes shall be paid by Buyer, or in lieu thereof, Buyer shall provide a valid exemption certificate acceptable to taxing authorities. Quoted prices are valid for thirty (30) days from the date of quotation.

**2****2. ITEMS INCLUDED**

- 2.1. Each sale includes only the products and/or services described in the order and does not include any other product or service, unless specifically provided in Seller's quotation.

**3****3. PAYMENT TERMS AND CREDIT**

- 3.1. Upon shipment and/or completion of the services, Seller shall generate an invoice for the products shipped or services provided. **Payment terms are net thirty (30) days from the date of invoice.** On any past due invoice, interest shall accrue from the payment due date to the date of payment at a rate which is the lesser of 1½ % per month and the maximum allowed by applicable law, and Buyer shall be charged for Seller's reasonable attorney fees and collection costs.
- 3.2. Buyer acknowledges that Seller may, in its sole discretion, change its payment terms and credit at any time, including requiring payment in advance of delivery. Should Buyer become delinquent in payment of any sum due hereunder, Seller shall not be obligated to continue performance under this agreement.

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#### 4. SECURITY INTEREST

- 4.1. If Buyer fails to pay the total sum due hereunder within thirty (30) days of shipment, Seller hereby reserves and Buyer hereby grants a purchase money security interest in the products sold hereunder and the proceeds thereof. In the event of default by Buyer of any of its obligations to Seller, Seller shall have the right to repossess the products sold hereunder with liability to Buyer. Upon request of Seller, Buyer agrees to promptly execute financing statements and such other instruments as Seller desires to perfect or maintain its security interest.

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#### 5. SHIPMENT/ PERFORMANCE SCHEDULES

- 5.1. Shipment of products and performance of services shall be scheduled as mutually agreed upon between Buyer and Seller. Seller shall make reasonable efforts to meet any shipment or performance date(s) quoted or acknowledged; however, Seller shall not be liable for any failure to meet such date(s) unless Seller has agreed in writing to accept a penalty clause. Shipment commences upon receipt of an executed purchase order only.
- 5.2. Rescheduling. Buyer may reschedule an order for products or services only upon the written consent of Seller. Any such rescheduling must be for delivery of products or performance of services within three (3) months of the originally scheduled delivery or performance date, and Buyer shall be required to pay a progress payment for materials and labor in progress.

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#### 6. DELIVERY / SHIPMENT, PACKING AND RISK OF LOSS

- 6.1. Point of Delivery and Shipping Charges. Delivery shall be made F.O.B. Seller's location. Buyer shall pay all shipping and insurance charges incurred from the delivery point (including transportation, routing, rigging and accessorial charges). In the event of foreign sales, Buyer shall pay all shipping charges incurred from Seller's dock to Buyer's dock including charges for customs clearance site.
- 6.2. Method of Delivery / Shipment. Unless otherwise agreed in writing, Seller shall prepay freight charges for Buyer and add such charges to Seller's invoice. Seller shall ship in accordance with its standard shipping practices.
- 6.3. Packing. Unless otherwise agreed in writing, all products shall be packed, if appropriate, for shipment and storage in accordance with standard commercial practices. All packing shall conform to requirements of the carrier's tariffs. Any request from Buyer to package products differently may subject Buyer to an additional charge.
- 6.4. Risk of Loss. Title to the products and risk of loss or damage shall pass to Buyer upon delivery via designated common carrier, F.O.B. Seller's location.

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#### 7. INSTALLATION/ACCEPTANCE

- 7.1. Installation of the products is the responsibility of the Buyer. Seller is not responsible for any loss or damage after delivery, unless the loss or damage is proximately caused by Seller's negligence.
- 7.2. Acceptance. Acceptance shall be deemed to occur at the earliest of: 1) the time custom products or services comply with acceptance criteria, 2) forty-five (45) days after shipment, 3) the completion of standard one-time services, or 4) any productive use of the products or services. Upon acceptance, no returns will be accepted by Seller and no refunds or exchanges will be given for any products or services, except as provided under the warranty provisions herein.

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**AUTANI PRODUCTS & SERVICES**

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**8. CANCELLATION CHARGES**

- 8.1. In the event Buyer cancels all or part of a released order, the following cancellation charges and price adjustments shall apply.
- A. standard products and services, Buyer shall pay cancellation charges in an amount equal to 25% of sale price for the cancelled products and services and all pricing for non-cancelled products and services will be revised to reflect the reduced quantities in the released order, or
  - B. custom products and services, Buyer shall pay cancellation charges in an amount equal 100% of sale price for the cancelled products or service.
  - C. All pricing for non-cancelled products and services will be revised, if necessary, to reflect the reduced quantities in the released order due to the cancellation.
- Buyer shall NOT return any product without first requesting and receiving a Return Material Authorization (“RMA”) number from Seller that sets forth the terms and conditions for the return. Authorized returned items must be returned in original, unopened packaging in resalable condition. Buyer is responsible for all shipping charges relating to cancelled orders for products and services.
- Buyer acknowledges and agrees that these charges are necessary and appropriate to compensate Seller for the cancellation of a released order and are reasonable in view of the circumstances of this transaction.
- Buyer agrees to pay all invoices for cancellation charges pursuant to the terms of Sections 3 and 4 herein.

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**9. WARRANTY AGAINST INFRINGEMENT; INDEMNIFICATION BY BUYER**

- 9.1. Seller warrants that the Autani products sold hereunder shall be delivered free of the rightful claim of any third person by way of infringement or the like; provided, however, that if Buyer furnishes specifications to Seller, then Buyer must hold Seller harmless and indemnify Seller against any infringement or other claim involving alleged violation of intellectual property rights arising out of compliance with Buyer’s specifications. Seller’s warranty against infringement shall not apply to any claim based upon (a) any alteration of Autani’s product by any person other than Seller or (b) use of Seller’s product on or in conjunction with any equipment or item not supplied by Seller for use with the product or (c) use of the Autani products in connection with any process. Buyer’s and Seller’s indemnification obligations shall survive the termination of this agreement.
- 9.2. Seller makes now warranty with respect to third party products purchased by Buyer through Autani. Seller will cooperate with and assist Buyer in its efforts to enforce any warranty provided by such third-party product manufacturer.

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**10. PROPRIETARY INFORMATION AND TECHNOLOGY RIGHTS**

- 10.1. Proprietary Information - Confidentiality. Subject to any separately negotiated Mutual Non-Disclosure Agreement in place between the parties, any documentation, data, or information Seller to Buyer shall be deemed proprietary to Seller and treated as confidential by Buyer. Seller retains for itself all proprietary rights in and to all Confidential Information. Buyer shall not disclose, without Seller’s written consent, any Confidential Information to any other person, or use Confidential Information for any purpose other than performing under this agreement. Buyer shall return to Seller or destroy all Confidential Information, together with all copies thereof, at Seller’s request or when Buyer no longer owns or has the right to use Seller’s products. The obligations under this paragraph shall survive the cancellation, termination or completion of this agreement. Seller may, at its sole option, require Buyer to execute a separate confidentiality agreement acceptable to Seller as a condition to providing any documentation or data which it considers confidential.
- 10.2. Technology Rights. All products, services, information and technology produced, conceived or otherwise developed by or for Seller, or as a result of technology furnished by Seller, shall be the sole property of Seller, and Buyer shall have no ownership or other rights in such property. Buyer agrees to 1) use such property only in connection with products or services furnished by Seller and otherwise to retain them as confidential in accordance with Section 10.1 above, 2) not to copy or reverse engineer the products or services in any way, and 3) not to challenge the Seller rights in such property and Seller’s intellectual property concerning such property. Buyer hereby assigns, and agrees to assign, to Seller without further attribution of any kind, any and all right, title and interest to any suggestions, enhancement request, recommendations, proposals, correction or other feedback or information provided by Buyer to Seller and shall fully cooperate with and assist Seller in perfecting such rights.

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**11. INTELLECTUAL PROPERTY LICENSE AND DATA**

- 11.1. The sale of products or services hereunder by Seller does not convey any license to or, any ownership interest in, any intellectual property or other proprietary rights, which are expressly reserved by the Seller. The Seller is granted the right to use the products and services for their intended purposes in accordance with Autani's End User License Agreement ("EULA") and this Agreement.
- 11.2. Operating Data. Non-user identifying information collected by Autani products and services (including EnergyCenter, Autani Enterprise), collectively "the Data", will be jointly owned by both the Buyer and Autani without any further financial obligation to the other party. Autani may use Buyer or user identifying information to provide or offer products and services to user or Buyer. Autani may not disclose any Buyer or user identifying information with the Data to any third party without the written consent of the Buyer, which shall be unreasonably withheld, unless such third party is using the information to support Autani in providing products or services to the Buyer or user. Similarly, the Buyer's or user's ownership in the Data does not include any rights to any Autani or third party property including intellectual property associated with the Data, such property including but not limited to Autani hardware, software, analytics, algorithms, schemas, report results and formats, patents, trademarks, copyrights, trade secrets, and trade dress of Autani product and services. If the Buyer or user desires access to the Data in a format that is not available from Autani products and services, Autani will work with Buyer or user at then-current Engineering Services rates to provide the Data in the requested format.

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**12. MODIFICATIONS AND CHANGES**

- 12.1. If Buyer makes changes in the specifications applicable to products ordered hereunder and if Seller agrees to make such changes, Buyer shall be responsible for Seller's additional costs in complying with such changes.

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**13. USE OF PRODUCTS**

- 13.1. No High-Risk Use. Buyer hereby acknowledges that Seller's products and services as well as any third-party products are designed and intended to provide basic building management functionality, and are neither designed nor intended for use in high-risk activities including, but not limited to: air, land, delivery of medical care and water traffic management, power plant operations, disinfection, public health & safety and military applications. Seller hereby expressly disclaims any express or implied warranty of fitness for such purposes.

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**14. WARRANTY**

- 14.1. Warranty and Warranty Period. Seller warrants that all Autani products provided hereunder shall be free from defects in material and workmanship under normal use and service, and all services shall be performed in a good and workmanlike manner. This warranty is subject to the following conditions: (a) misuse, unauthorized repair, inadequate or improper maintenance, alteration of product, or similar inappropriate conduct by Buyer shall absolve Seller from any liability attributable thereto; and (b) Buyer must notify Seller of any claim for breach of warranty within the warranty period. This warranty does not extend to any defect which arises as a result of causes external to the product (such as power or air conditioning failure) which are not covered by warranty or which arise out of the installation or use of parts not authorized by Seller. Except as otherwise agreed by Seller in writing, this warranty does not extend to any custom products which have been produced to Buyer's specifications or any third-party products. Unless a specific warranty period is delineated in Attachment A hereto, the foregoing warranty shall extend from the date of shipment for a period of (a) three years for any Autani manufactured hardware product that is installed by Seller or a third party authorized by Seller, (b) one year for any Autani software and Manager, (c) one year for any Autani product not installed pursuant to (a), or (d) a pass-through warranty for such time as is equal to the original equipment manufacturer's warranty period.
- 14.2. Buyer will indemnify and hold Seller harmless from and against any and all liability, damage, loss, cost, or expense resulting from any third party claims made or suits brought against Seller, to the extent arising out of (a) Buyer's breach of any representation, warranty, covenant, or agreement set forth in this agreement or (b) any negligent or willful act or omission of Buyer in relation to the promotion, distribution, sale, or use of products provided by Seller hereunder. Upon the filing of any such claim or suit, Seller shall immediately notify Buyer thereof and shall permit Buyer, at its cost, to handle and control such claim or suit; provided, however, that Seller may, at its own expense, retain such additional attorneys as it may deem necessary. Seller's attorneys will be permitted by Buyer and their attorneys reasonably to observe and/or to participate in all aspects of the defense of such claims or suits. Buyer shall not settle or consent to any entry of judgment in any such claims or suits without the prior written consent of Seller, which shall not be unreasonably withheld.
- 14.3. Seller will indemnify and hold Buyer harmless from and against any and all liability, damage, loss, cost, or expense directly resulting from any third party claims made or suits brought against Buyer, to the extent caused by or arising out of (a) Buyer's use, sale, offer for sale of products and services provided by Seller, including any product liability or any infringement of any intellectual property rights arising as a result of any such use of the Autani products and services provided by Seller by or on behalf of Buyer, or (c) any negligent or willful act or omission of Seller in relation to the manufacture or delivery of the Autani products and services provided by Seller hereunder. Upon the filing of any such claim or suit, Buyer shall immediately notify Seller thereof and shall permit Seller, at its cost, to handle and control such claim or suit; provided, however, that Buyer may, at its own expense, retain such additional attorneys as it may deem necessary. Buyer's attorneys will be permitted by Seller and their attorneys to reasonably observe and/or participate in all aspects of the defense of such claims or suits. Seller shall not settle or consent to an entry of judgment in any such claims or suits without the prior written consent of Buyer, which shall be unreasonably withheld or delayed.
- 14.4. **DISCLAIMER. THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, EXCEPT FOR ANY WARRANTIES SET FORTH IN THIS DOCUMENT, ARE EXCLUDED FROM THIS TRANSACTION AND SHALL NOT APPLY TO THE PRODUCTS OR SERVICES SOLD.**
- 14.5. Warranty Claims. Buyer's exclusive remedy against Seller for Autani products and services under warranty shall be for Seller to use its best efforts to repair or replace any defective Autani products or remedy any Autani services not meeting specifications. Any such repair, replacement or remedy shall be at no charge to Buyer. If Seller is unable to repair or replace a defective Autani product, or remedy an Autani service then Buyer's sole remedy shall be the return of the purchase price for that product or service. No other remedies (including, but not limited to, incidental or consequential damages for lost profits, lost sales, injury to person or property, or any other incidental or consequential loss) shall be available to Buyer. Buyer shall NOT return any product without first requesting and receiving a Return Material Authorization ("RMA") number from Seller that sets forth the terms and conditions for the return.
- 14.6. **BACK CHARGES:** Buyer agrees that it shall not withhold payment from, back charge, invoice, or otherwise hold the Seller accountable for costs incurred by Buyer or any third party resulting from the performance, or lack of performance, of any product or service whatsoever.

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**15. EXCLUSION OF CONSEQUENTIAL DAMAGES; LIMITATION OF LIABILITY**

- 15.1. **NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, SELLER SHALL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO BUYER FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL OR INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREUNDER, EVEN IF SELLER HAS BEEN APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES.**
- 15.2. **LIMITATION OF LIABILITY. IN NO EVENT SHALL SELLER'S LIABILITY TO BUYER EXCEED THE AGGREGATE PRICE OF THE AUTANI PRODUCTS OR SERVICES PURCHASED BY BUYER HEREUNDER FOR ANY BREACH OF THIS AGREEMENT INCLUDING ANY BREACH OF SECURITY OF BUYER'S INFORMATION ACCESSED VIA SELLER'S PRODUCTS AND SERVICES.**

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**16. MERGER CLAUSE, ORAL STATEMENTS NOT BINDING**

- 16.1. Seller's representatives may have made oral statements about the products subject to this agreement. Those statements are not warranties, should not be relied on by Buyer and are not part of the contract for sale. The entire contract is embodied in this writing and Attachment A, referenced herein. This writing constitutes the final expression of the parties' agreement, and it is a complete and exclusive statement of the terms of that agreement.

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**17. MISCELLANEOUS**

- 17.1. Insolvency and Demands for Assurances. Except as may be prohibited by applicable law, Seller may cancel any unfilled order or obligation hereunder in the event one of the following occurs: (i) Buyer becomes insolvent or unable to pay its debts as they mature; (ii) voluntary or involuntary bankruptcy proceedings are instituted by or against Buyer; (iii) a receiver or trustee is appointed for the benefit of Buyer's creditors; (iv) an assignment is made for the benefit of Buyer's creditors; or (v) Buyer fails to provide an adequate written response within ten (10) days to a demand by Seller for assurance of Buyer's intention and ability to perform under any contract with Seller.
- 17.2. Indemnification. Seller makes no representations or promises concerning indemnification of Buyer or Buyer's agents except as set forth in this agreement.
- 17.3. Buyer's Breach. In the event that Buyer breaches this agreement, Buyer shall be liable to Seller for all direct and indirect damages, losses or injuries caused by such breach.
- 17.4. Seller's Quotation and Response to Specifications. Seller's quotation and response to Buyer's specifications, if applicable, shall be deemed to be incorporated herein by reference, but only to the extent consistent with the terms hereof.
- 17.5. Force Majeure. Seller shall not be responsible, in any manner, for any failure or delay in the performance of any of its obligations hereunder caused by a strike, lockout or other industrial disturbance, act of public enemies, any government action, any civil or military action, insurrection, riot, landslide, hurricane, drought, fire, earthquake, explosion, flood, storm, act of God, or any other cause or event not reasonably within Seller's control.
- 17.6. Objection to Arbitration. Seller hereby objects to the submission to arbitration of any claims or disputes concerning this agreement.
- 17.7. Notices. Any required notices shall be given in writing at the address of each party or to such other address as either party may substitute by written notice to the other.

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- 17.8. Assignment. This agreement shall be binding on and inure to the benefit of the parties and their respective successors and assigns. The assignment including resale of products and services provided pursuant to this Agreement does not relieve the Buyer and its successors and assigns from the obligations hereunder.
- 17.9. Waiver. No waiver of any provision of this contract shall be effective unless made in writing. No waiver of any breach of any provision of this contract shall constitute a waiver of any subsequent breach of the same or any other provision of this contract.
- 17.10. Regulations Not Incorporated. No U.S. Government Procurement Regulations shall be included hereunder and binding on either party unless specifically agreed to in writing prior to incorporation herein.
- 17.11. Clerical Errors. Stenographical, typographical and clerical errors are subject to correction.
- 17.12. Compliance with Law. Unless otherwise agreed in writing, Buyer assumes all responsibility for obtaining any required export authorization, and Buyer agrees to indemnify Seller against any liability resulting from Buyer's non-compliance with such law. Buyer acknowledges that Seller's Confidential Information may be subject to the export control laws and regulations of the U.S.A. Buyer confirms that with respect to the Confidential Information, it will not export or re-export it, directly or indirectly, either to (i) any countries that are subject to U.S.A. export restrictions; or (ii) any end user who has been prohibited from participating in the U.S.A. export transactions by any federal agency of the U.S.A. government. Buyer further acknowledges that the requirements of this section continue beyond the term of this Agreement.
- 17.13. Governing Law. The validity, construction, performance, and enforcement of this agreement shall be governed by the substantive laws of the State of Tennessee. The parties consent to the jurisdiction of the courts of the State of Tennessee and agree that venue for any lawsuit shall be Nashville, Tennessee.
- 17.14. Attorney's Fees. The prevailing party in any legal action brought by one party against the other shall be entitled, in addition to any other rights and remedies it may have, to reimbursement for its expenses incurred thereby, including court costs and reasonable attorney's fees.
- 17.15. Severability. The provisions of this agreement are severable and if any one or more such provisions are judicially determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions or portions of this agreement shall nevertheless be binding on and enforceable by and between the parties hereto.
- 17.16. Documentation. All documentation required to meet UFC (unified facilities code) is the responsibility of the DoD.
- 17.17. Commissioning Services. Commissioning service request(s) typically require a minimum of two weeks' notice. Buyer or end-user are responsible for providing a solution to allow remote access during system commissioning. Input provided by others is required in order to complete system commissioning. This includes but is not limited to sequence of operations, graphics, energy estimation details, etc.) Pro Software and other custom work must be defined ahead of system commissioning starting, and no later than the preprogramming meeting. In the event requested inputs are not provided Autani will commission a system using a set of default parameters. Should changes need to be made at a later time then Buyer will issue a change order to address costs and schedule requirements for the additional services. Autani will not be held responsible for delays in system completion resulting from Buyer's failure to provide inputs or remote access connectivity.

**TERMS & CONDITIONS**

**ATTACHMENT "A"**

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The warranty provisions of the TERMS AND CONDITIONS OF SALE - AUTANI PRODUCTS AND SERVICES are hereby modified in scope and/or duration as follows:

**1. STANDARD WARRANTY.**

**1.1. WARRANTY FOR AUTANI PRODUCTS (HARDWARE & SOFTWARE - identified by Autani SKU #. Axx-01- and Axx-02-).**

Autani warrants that Autani Products identified in this subsection will be free from defects in materials and workmanship and conform to its Specifications for a specified, fixed period commencing on its date of shipment and continuing for three (3) years, except the fixed period for Autani Software, Managers, and any Autani Product not installed and commissioned by Autani or its factory authorized representatives shall be for one (1) year (the "Warranty Period"), unless otherwise specified. During the warranty period, if an Autani Product does not function substantially according to its Specification, Autani will either 1) make it do so or 2) replace it with one that is at least functionally equivalent. If Autani is not able to make the warranted product substantially conform with its specifications, Buyer may return it to Autani and the amount paid to Autani for such product will be refunded on a prorated basis relative to the Warranty Period remaining from the first date of the claim.

**1.2. WARRANTY FOR AUTANI SERVICES.**

Autani warrants that it performs each Autani Service using reasonable care and skill and according to its current description (including any completion criteria) contained in this Agreement or an applicable Statement of Work.

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**2. EXTENT OF WARRANTIES.**

If an Autani Product is subject to federal or state consumer warranty laws, Autani's statement of limited warranty applies in place of these warranty laws. The warranties stated above will not apply to the extent that there has been misuse (including but not limited to use of any Product capacity or capability, other than that authorized by Autani in writing), accident, modification, unsuitable physical or operating environment, operation in other than the Specified Operating Environment, improper maintenance by Buyer, or failure caused by a product for which Autani is not responsible. The warranty is voided by removal or alteration of hardware or parts identification labels.

THESE WARRANTIES ARE BUYER'S EXCLUSIVE WARRANTIES AND REPLACE ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

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**3. ITEMS NOT COVERED BY AUTANI PRODUCT WARRANTY.**

Autani does not warrant a) uninterrupted or error-free operation of an Autani Product or Service or that Autani will correct all defects, b) any product or service specifically identified as not being warranted, c) any savings or payback expectations, and d) any products installed or operated with non-Autani authorized devices and cabling (e.g., e>Panels must be installed with Autani supplied cabling and drivers to be covered by this warranty). Products and services not identified by Autani SKU #. Axx-01- and Axx-02- are Non-Autani Products (NAP) and Services (NAS), which are provided with the original manufacturers or service providers' warranty only.

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## TERMS &amp; CONDITIONS

ATTACHMENT "A"

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**4. WARRANTY SERVICES.****4.1. SERVICES FOR AUTANI PRODUCTS DURING WARRANTY PERIOD.**

Autani provides certain types of service to keep Autani Products in, or restore them to, substantial conformance with their Specifications. Autani will inform Buyer of the available types of service for Autani Products. At its discretion, Autani will 1) either repair or exchange failing hardware and 2) provide the service either at Buyer's location or Autani's service center. When the type of service requires that Buyer deliver failing hardware to Autani, Buyer agrees to ship it suitably packaged (prepaid unless Autani specifies otherwise) to a location Autani designates after first requesting and receiving a Return Material Authorization ("RMA") number from Autani that sets forth the terms and conditions for the return. After Autani has repaired or exchanged the hardware, Autani will return it to Buyer at its expense unless Autani specifies otherwise. Autani is responsible for loss of or damage to the returned hardware while it is 1) in Autani's possession or 2) in transit in those cases where Autani is responsible for the transportation charges. Any feature, conversion, or upgrade of Autani services must be installed on Autani hardware which is 1) for certain hardware, the designated, serial-numbered hardware and 2) at an engineering-change level compatible with the feature, conversion, or upgrade.

**4.2. ENGINEERING CHANGES TO AUTANI PRODUCTS.**

Autani manages and installs selected engineering changes that apply to Autani Products and may also perform preventive maintenance. Buyer agrees to:

1. OBTAIN AUTHORIZATION FROM ANY USER FOR AUTANI TO SERVICE AUTANI PRODUCTS AND SERVICES NOT UNDER THE CONTROL OF THE BUYER; AND
2. WHERE APPLICABLE AND BEFORE AUTANI PROVIDES SERVICE A) FOLLOW ALL AUTANI PROBLEM DETERMINATION, PROBLEM ANALYSIS, AND SERVICE REQUEST PROCEDURES, B) SECURE AND BACKUP ALL PROGRAMS AND DATA CONTAINED IN OR INTERACTING WITH AUTANI PRODUCTS, AND C) INFORM AUTANI OF CHANGES IN AUTANI PRODUCT LOCATION.

**4.3. REPLACEMENTS.**

When service involves the exchange of Autani hardware or part(s), the item Autani replaces becomes its property and the replacement becomes Buyer's. Buyer represents that all exchanged items are genuine and unaltered and acknowledges that the replacement may not be new, but will be in good working order and at least functionally equivalent to the item replaced. The replacement assumes the warranty or maintenance service status of the replaced item. Before Autani exchanges Autani hardware or part(s), Buyer agrees to remove all non-Autani features, parts, options, alterations, and attachments. Buyer also agrees to ensure that the item is free of any legal obligations or restrictions that prevent its exchange.

Some Autani products or parts thereof are designated as Customer Replaceable Units (called, "CRUs"), including but not limited to, power strips, motion detectors, environmental sensors. Autani provides CRUs to Buyer for replacement by Buyer. Buyer must return all defective CRUs to Autani within 30 days of Buyer receipt of the replacement CRU. Buyer is responsible for following CRU instructions for use, which may include downloading and installing updates to the CRU.

**4.4. SERVICES NOT COVERED**

Repair and exchange services do not cover:

1. Accessories, supply items, and certain parts, such as batteries, frames, and covers;
2. Hardware damaged by misuse, accident, modification, unsuitable physical or operating environment, or improper maintenance by anyone other than Autani;
3. Hardware with removed or altered hardware or parts identification labels;
4. Failures caused by a product for which Autani is not responsible;
5. Service of hardware alterations; or
6. Service of Autani product being used for a non-authorized purpose or outside of the product specification.

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**5. TERMINATION AND WITHDRAWAL OF A SERVICE.**

Either Autani or Buyer may terminate an Autani service if the other party does not meet its obligations concerning the service. Buyer agrees to pay Autani for 1) all services Autani provides and any products and work product Autani delivers through service termination, 2) all expenses Autani incurs through service termination, and 3) any charges Autani incurs in terminating the service. For products not under warranty, Autani may withdraw a service or support for an eligible product on thirty (30) days written notice to Buyer. If Autani withdraws a service for which Buyer has prepaid and Autani has not yet fully provided it to Buyer, Autani will provide Buyer with a prorated refund of the amount Autani received for providing the service.