

## **CIRCOR Select END-USER SOFTWARE LICENSE AGREEMENT**

BEFORE CONTINUING, READ THE FOLLOWING AGREEMENT AND LICENSE CAREFULLY. THE FOLLOWING DESCRIBES THE TERMS ON WHICH CIRCOR INTERNATIONAL, INC. ("LICENSOR") OFFERS YOU USE OF ITS SOFTWARE. BY PRESSING THE "I AGREE" BUTTON, YOU ACCEPT THE TERMS AND CONDITIONS BELOW.

YOU SHOULD CAREFULLY READ THE FOLLOWING TERMS AND CONDITIONS BEFORE ACCEPTING. INSTALLING THIS SOFTWARE, AND PRESSING THE "I AGREE" BUTTON, MEANS YOU ACCEPT THESE TERMS AND CONDITIONS. IF YOU DO NOT ACCEPT THE TERMS OF THIS AGREEMENT, PRESS "CANCEL".

### **1. DEFINITIONS**

The following words shall have the following meanings when used in this Agreement:

1.1 "License" shall mean the limited, non-exclusive, non-transferable, non-assignable object code license to use the Software developed by Licensor for use by you.

1.2 "Object Code" shall mean the binary machine-readable

version of the Software.

1.3 "Software" shall mean Licensor's proprietary CIRCOR Select program.

1.4 "Source Code" shall mean those statements in a computer language, which once processed by a compiler, assembler, or interpreter become executable by a computer.

1.5 "You" or "Your" shall mean the person agreeing to the terms of this License Agreement and the company by whom that person is employed.

### **2. LICENSE**

2.1 Subject to the provisions of this Agreement, Licensor grants to you and you accept a limited, non-exclusive, non-transferable, non-assignable Object Code license to use the Software only on your company's server.

2.2 You acknowledge and agree you are authorized to and do hereby bind to the terms of this Agreement the company by whom you are employed and for whom you are using the Software.

2.3 Your use of the Software shall be subject to the following

restrictions:

2.3.1 You must register your copy of the Software when prompted to do so after the initial installation of the Software, and you are not authorized to use the Software until you do so.

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2.3.6 You are permitted to use the Software only to facilitate the selection of Licensor's or its affiliate's goods.

2.4 The Software, including, without limitation, Source Code, Object Code, micro code and mask works, including any computer programs and any documentation relating to or describing the Software, such as, but not limited to, instructions for use of the Software and formulation of theory upon which the Software is based, are furnished to you only under a non-exclusive, non-transferable, non-assignable Object Code License solely for your use.

2.5 Except as provided in this Agreement, no License under any patents, copyrights, trademarks, trade secrets or any other intellectual property rights, expressed or implied, are granted by Licensor to you under this Agreement.

2.6 All patents, copyrights, circuit layouts, mask works, trade

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**SUPPORT, INSTALLATION, TRAINING SERVICES** This License does not include support services, installation services, or training of any kind from Licensor.

#### **4. TERM AND TERMINATION OF AGREEMENT AND/OR LICENSE**

4.1 The License granted by this Agreement is perpetual but is subject to termination by the Licensor in accordance with the terms of this Agreement.

4.2 Licensor shall have the right to terminate this Agreement and, at its option, take possession of the Software, if you neglect or fail to perform or observe any of its obligations under this Agreement. Notwithstanding anything contained in this Agreement, Licensor shall have the right to immediately terminate this Agreement without notice if you breach Sections 2 or 6 or otherwise misuses the Software in contravention of this Agreement.

4.5 Within ten (10) days of the termination, cancellation or expiration of the License granted hereunder, you shall, upon Licensor's request, certify in writing that all copies of the Software, in whole or in part, have been removed from your computer network. Concurrent with this certification, you will return to Licensor all documentation and Software required by Licensor to be returned, or you will certify to Licensor that such documentation and Software have been destroyed.

#### **5. OBLIGATIONS THAT SURVIVE TERMINATION**

The parties recognize and agree that their obligations under Sections 2.3, 2.6, 6, and 11 of this Agreement survive the cancellation, termination, or expiration of this Agreement and the License granted hereunder.

#### **6. PROPRIETARY INFORMATION**

6.1 Each party acknowledges that this Agreement creates a relationship of confidence and trust between the parties with respect to any information disclosed by one to the other during the course of this Agreement, including, but not limited to, the Software (including its Source Code), secret processes, formulas, trade secrets, techniques, inventions (whether or not patentable) and know-how (hereinafter collectively called "Proprietary Information"). Each party shall hold such Proprietary Information communicated to it by the other, and documents containing it, such as specifications, sales and service manuals, samples and correspondence, in trust and confidence at all times during the term of this Agreement and after its termination, and will refrain from using or disclosing any Proprietary Information except when acting pursuant to this Agreement.

6.2 For purposes of this section, the term "Proprietary Information" shall not include: information that is in the public domain; information known to the recipient party as of the date of this Agreement as shown by the recipient's written records, unless the recipient party agrees to keep such information in confidence at the time of its receipt; and information properly obtained hereafter from a source that is not under an obligation of confidentiality with respect to such information. Notwithstanding anything contained in this Agreement, all Software shall be considered proprietary and confidential. The provisions of this Section 6 shall survive termination or expiration of this Agreement, for any reason.

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7.1 YOU USE THE SOFTWARE AT YOUR OWN RISK. LICENSOR MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SOFTWARE, OR SUPPORT SERVICES TRAINING OR INSTALLATION FOR THE SOFTWARE, SHOULD IT CHOOSE TO PROVIDE ANY, OR THEIR CONDITION, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR USE BY YOU.

7.2 Licensor does not warrant that the operation of the Software will be uninterrupted or error-free or defect-free.

7.3 The Software is provided to registered users to be used as a tool in the sizing of valves and other related flow/pressure/temperature/level control devices. Although the product data and sizing algorithms imbedded in the Software are believed to be technically accurate and complete, Licensor does not warrant suitability for a particular purpose or guarantee integrity of the results obtained through the use of the Software. Responsibility for proper selection and specification of valve/device configuration, materials of construction including selection of accessory options to ensure suitability to application rests entirely with the user.

## **8. INDEMNIFICATION & LIMITATION OF LIABILITY**

8.1 LICENSOR SHALL NOT BE LIABLE FOR ANY (A) SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, ARISING FROM OR RELATED TO THIS AGREEMENT OR THE OPERATION OR USE OF THE SOFTWARE AND ANY SUPPORT SERVICES, INCLUDING, WITHOUT LIMITATION, SUCH DAMAGES ARISING UNDER CONTRACT LAW, TORT LAW, WARRANTY OR OTHERWISE, OR ARISING FROM LOSS OF DATA OR PROGRAMMING, LOSS OF REVENUE OR PROFITS, FAILURE TO REALIZE SAVINGS OR OTHER BENEFITS, DAMAGE TO EQUIPMENT, AND CLAIMS AGAINST LICENSEE BY ANY THIRD PERSON, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; (B) DAMAGES (REGARDLESS OF THEIR NATURE) FOR ANY DELAY OR FAILURE BY LICENSOR TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT DUE TO ANY CAUSE BEYOND LICENSOR'S REASONABLE CONTROL; OR (C) CLAIMS MADE A SUBJECT OF A LEGAL PROCEEDING AGAINST LICENSOR MORE THAN ONE HUNDRED EIGHTY (180) DAYS AFTER ANY SUCH CAUSE OF ACTION FIRST AROSE.

8.2 YOU SHALL INDEMNIFY AND HOLD LICENSOR HARMLESS FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, OBLIGATIONS OR OTHER LIABILITIES, DIRECTLY OR INDIRECTLY CAUSED BY YOUR USE OF THE SOFTWARE, AND ANY EXPENSES INCURRED BY LICENSOR IN CONNECTION THEREWITH, INCLUDING REASONABLE ATTORNEY'S FEES.

8.3 NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, LICENSOR'S LIABILITIES UNDER THIS AGREEMENT, WHETHER UNDER CONTRACT LAW, TORT LAW, WARRANTY OR OTHERWISE SHALL BE LIMITED TO DIRECT DAMAGES NOT TO EXCEED ONE HUNDRED DOLLARS (\$100).

## **9. ASSIGNMENT**

You may not assign or transfer your interests, rights or obligations under this Agreement or in the Software by written agreement, merger, consolidation, operation of law or otherwise, without the prior written consent of an authorized executive officer of Licensor. Any attempt to assign this Agreement by you shall be null and void.

## **10. INJUNCTIVE RELIEF**

Should you attempt to use or disclose Proprietary Information in violation of Section 6 above, or if you attempt to misuse the Software licensed under this Agreement in a manner contrary to the terms of Section 2.3.4 or any other section of this Agreement, in competition with Licensor, or otherwise in derogation of Licensor's proprietary rights, whether those rights are explicitly stated hereunder, determined by law or otherwise, Licensor shall have, in addition to any other remedies available to it, the right to seek injunctive relief against you to stop such actions.

## **11. SEVERABILITY**

If any provisions of this Agreement shall be held to be illegal, unenforceable or in conflict with the law governing this Agreement, the validity of the remaining portions shall not be affected thereby.

## **12. GOVERNING LAW**

This Agreement shall be construed and enforced according to the laws of the State of Florida (excluding choice of law provisions). Jurisdiction over any disputes arising from this Agreement shall be vested exclusively in the courts of Hillsborough County, Florida. Venue for the purpose of any trial with respect to this Agreement shall be in Hillsborough County, Florida.

## **13. ENTIRE AGREEMENT**

This Agreement, including any and all Exhibits attached hereto, constitutes the complete agreement between the parties. No modification or amendment of this Agreement will be binding on either party unless acknowledged in writing by their duly authorized representatives.

Circor Select is provided to our customers under license as a convenience in helping to educate our customers on their selection of our products. Circor pressure relief valves are built to ASME standards. Users of the Circor Select program are reminded that ASME Section VIII, Division 1, Section 125(a)(3) provides that, "If a pressure relief device(s) is to be installed, it is the responsibility of the user or his/her designated agent to size and select the pressure relief device(s) based on its intended service." In accessing and using the Circor Select program, the user/licensee agrees that it is entirely responsible for selection of the proper pressure relief device(s) described herein for the user's/licensee's intended use thereof.

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Should you have any questions concerning this Agreement, you may contact CIRCOR International, Inc. at [CIRCOR\\_Select\\_Support@Circor.com](mailto:CIRCOR_Select_Support@Circor.com).

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