

REV Oct 1, 2024

SOFTWARE AND CLOUD SERVICES AGREEMENT

IMPORTANT - READ THIS AGREEMENT CAREFULLY

To assist You in better understanding this Software and Cloud Services Agreement, we provide this overview. Capitalized terms are defined below. The Agreement comprises:

- **Article 1:** Structure; Common Terms: Specific Software Legal Terms and General Commercial/Legal Terms common to all Rockwell Automation Software and Cloud Services offerings.
- **Article 2:** Cloud Services: Specific terms applicable only to Rockwell Automation Cloud Services offerings.
- **Article 3:** On-Premise Software: Specific terms applicable only to Rockwell Automation On-Premise Software offerings installed at Your facilities.

ARTICLE 1 - STRUCTURE

- 1.1 Structure of the Agreement. This Agreement is a legal contract between You (either an individual or a single entity) and Rockwell Automation. This Agreement gives You the right to use the Software.

The Order Form identifies the Software this Agreement applies to, including any specific terms agreed to by You and Rockwell Automation. Each Order Form is a part of and incorporated into this Agreement. In the event of a conflict between an Order Form and this Agreement, the Order Form will govern. In the event the Order Form expressly references and incorporates an existing agreement between the parties, the provisions of that agreement will govern solely in the event of a conflict between that agreement and the General Commercial/Legal Terms in Part B of this Article 1.

ACCEPTANCE. ROCKWELL AUTOMATION WILL PROVIDE THE SOFTWARE AND/OR CLOUD SERVICES TO YOU ONLY ON THE CONDITION THAT YOU ACCEPT AND COMPLY WITH ALL TERMS AND CONDITIONS IN THIS AGREEMENT. YOU ACCEPT AND AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT BY DOWNLOADING, INSTALLING, COPYING, OR OTHERWISE USING THE SOFTWARE AND/OR CLOUD SERVICES. IF YOU ARE ACCEPTING THESE TERMS ON BEHALF OF ANOTHER PERSON, COMPANY, OR OTHER LEGAL ENTITY, YOU REPRESENT AND WARRANT THAT YOU HAVE FULL AUTHORITY TO BIND THAT PERSON, COMPANY, OR LEGAL ENTITY TO THESE TERMS. IF YOU DO NOT AGREE TO THESE TERMS, DO NOT DOWNLOAD, INSTALL, COPY, ACCESS, OR USE THE SOFTWARE AND/OR CLOUD SERVICES.

ARTICLE 1 – COMMON TERMS

PART A – SPECIFIC SOFTWARE LEGAL TERMS

- 1.2 Common Terms; Definitions.

- 1.2.1 Affiliates: an entity that is directly or indirectly controlled by or is under common control with a party, where “control” means an ownership, voting, or similar interest representing fifty percent (50%) or more of the total interests then outstanding of the relevant entity.
- 1.2.2 Agreement: this Software and Cloud Services Agreement and any Order Forms.
- 1.2.3 Cloud Services: the software-as-a-service offering identified in an Order Form made available for access by You over the internet.
- 1.2.4 Complementary Software: samples, utilities, plug-ins, user interface components, and/or reports that are

generally not included in a standard Software offering, but are provided as an accommodation to You, without separate additional charge.

- 1.2.5 Confidential Information: (i) the Software; (ii) the technology, ideas, know-how, documentation, processes, algorithms, and trade secrets embodied in the Software; (iii) any software keys related to the Software; (iv) any other information in written or electronic media that is identified as “confidential,” “proprietary,” or with a similar legend at the time of such disclosure; and (v) Your electronic data and information submitted by or for You to the Cloud Services.
- 1.2.6 Designated Location: the site, Equipment, and/or application owned and operated by You as designated by Rockwell Automation in the Order Form, Activation Certificate, or other agreement between the parties.
- 1.2.7 Documentation: the then-current documentation regarding the Software that is generally provided or made available to You by Rockwell Automation.
- 1.2.8 Equipment: any physical asset, sub-component, or grouping thereof.
- 1.2.9 Feature: an add-on functionality.
- 1.2.10 Malicious Code: software viruses, worms, or any other computer code, files or programs designed to disable, interrupt, destroy, redirect, monitor another user's usage, limit, or otherwise inhibit the functionality of any computer software or hardware or telecommunications equipment.
- 1.2.11 On-Premise Software: Software installed and runs on computers or devices on the premises of the person or facility using the Software, rather than Cloud Services.
- 1.2.12 Order Form: an ordering document, including quotation, furnished by Rockwell Automation, setting forth the Software purchased, Term of Use, Use Type, and other relevant terms agreed to by You and Rockwell Automation.
- 1.2.13 Permitted User: an individual authorized by You, or a device accessing and/or utilizing the Software, to use the Software in accordance with the terms of this Agreement and applicable Order Form(s). Permitted Users are limited to Your employees, consultants, subcontractors, suppliers, business partners, and customers who use the Software solely to support Your internal business purposes.
- 1.2.14 Preproduction Release Software: beta or other preproduction release Software that Rockwell Automation may provide to You.
- 1.2.15 Reseller/VAR Product: a product into which a system integrator (“SI”) or value-added reseller (“VAR”) has integrated the Software.
- 1.2.16 Rockwell Automation: Rockwell Automation, Inc., a Delaware corporation, and its Affiliates (including an Affiliate identified in or executing an Order form), having a principal place of business at 1201 South 2nd Street, Milwaukee, Wisconsin 53204.
- 1.2.17 Software: Rockwell Automation’s computer software, programs, technology, Cloud Services, Complementary Software, firmware, associated media, the associated Documentation, and any updates, upgrades, or enhancements thereto, or portions thereof, including revisions or modifications.
- 1.2.18 Support Services: support and maintenance services, including updates, upgrades, or enhancements to the Software, as described in Rockwell Automation’s then current maintenance and support program.
- 1.2.19 Term of Use: the time period specified in the Activation Certificate or Order Form.
- 1.2.20 Third-Party Software: non-Rockwell Automation branded software furnished with or as part of the Software.

- 1.2.21 Trial Software: Software, including Cloud Services, provided on a limited trial basis, without charge.
- 1.2.22 Use Type: for locally installed Software, Named Use, Device Use, Site Use, Capacity-Based Use, Capability Use, or subscription license and, for Cloud Services, access on a subscription basis. The Use Types may be used individually or in combination with other Use Types.
- 1.2.23 You(r): either an individual or a single entity purchasing the Software.

1.3 Grant of Use.

- 1.3.1 License or Right to Use. Subject to Your compliance with all the terms and conditions of this Agreement, Your timely payment of any applicable license or subscription fee, and Your compliance with any activation process, Rockwell Automation and its third-party licensors grant You a limited, personal, non-transferable, non-exclusive license or, if for Cloud Services, right during the Term of Use to download, install, and/or use the Software in accordance with the Documentation and relevant Order Form, for Your own internal business purposes. You are responsible for ensuring Your personnel and Permitted Users comply with all relevant terms of this Agreement and any failure to comply will constitute a breach by You. Any use of the Software by Permitted User shall be solely for Your internal business purposes.
- 1.3.2 Reseller/VAR Products. Notwithstanding Article 1, Section 1.20 (“Assignment”), if You are a SI or VAR and You have integrated the Software in a Reseller/VAR Product for purposes of resale to Your end customer and not as a discrete product or service, unless otherwise authorized by Rockwell Automation in Your Activation Certificate, You may only assign the Software to Your end customer upon their acceptance of this Agreement and Your completion of the Software transfer registration notice available on Your Rockwell Automation online account. If You are an end customer receiving a Reseller/VAR Product, You acknowledge and agree that (i) You have accepted and are bound by this Agreement; (ii) the SI or VAR is not authorized to modify or amend this Agreement or to offer any warranties or representations regarding the Software; (iii) Rockwell Automation’s sole obligations with regard to the Software are as set forth in this Agreement; and (iv) You will look solely to the SI or VAR for any defects in the Reseller/VAR Product, or incompatibilities with the Software.
- 1.3.3 Changes to Software. Rockwell Automation or its suppliers may make changes to the Software from time-to-time. Changes for Cloud Services will be deployed by Rockwell Automation. Changes for On-Premise Software will be provided to You pursuant to Your active Support Services agreement to be installed by You. If You have paid for the Software, Rockwell Automation will use reasonable efforts to provide You with prior notice of any material changes to the Software.
- 1.3.4 Administration. Your use of the Software may require a user account. You are responsible for all activities that occur under Your user account. You are responsible for identifying and authenticating all users, approving access by such users, and controlling unauthorized access to Your user account. You are responsible for maintaining the confidentiality of Your user account information and passwords. Rockwell Automation will rely on any information received from any person or entity using Your user account and password, and Rockwell Automation will incur no liability arising out of such reliance. Rockwell Automation is not responsible for any harm caused by Your users, including individuals who were not authorized to have access to the Software. If You become aware of any unauthorized use of Your password or user account, it is Your responsibility to notify Rockwell Automation as promptly as possible.
- 1.3.5 Permitted Users. You are responsible for all use of the Software by Your Permitted Users. You are responsible for ensuring Your Permitted Users comply with all relevant terms of this Agreement and the applicable Order Form(s). Any failure to comply will constitute a breach by You. No Permitted User will be deemed a third-party beneficiary hereunder.

1.4 Restrictions.

- 1.4.1 You may not reverse assemble, reverse engineer, decompile, modify, translate, or create derivative works or

improvements of the Software except and only to the extent that such restrictions may be permitted by applicable law. You may not work around or bypass any technical restrictions or limitations in the Software or Cloud Services, including, but not limited to, any password or other security protection.

- 1.4.2 Except as expressly stated herein, You may not sublicense, rent, resell, lease, lend, transfer, or otherwise make available the Software, or any features or functionality of the Software, to any third-party for any reason.
- 1.4.3 You may not use the Software for benchmarking or other competitive purposes.
- 1.4.4 You may not remove, minimize, block, or modify any logs, trademarks, copyrights, or other notices of Rockwell Automation or its licensors that are included in the Software.
- 1.4.5 You may not use the Software to make software training materials to be sold, licensed, used, or distributed, except for Your internal use of Documentation, and screen captures of Your Software application. You are solely responsible and liable for any such training materials You produce.
- 1.4.6 You may not use the Software in violation of the metrics and usage limitations, including authorized users, set forth in the Order Form.
- 1.4.7 You may not use hardware, software, or programming techniques to pool connections, reroute information, or reduce the number of required licenses that directly access or use the Software.
- 1.4.8 You may not use the Software to process or store government confidential, classified or controlled data as defined by applicable government laws or regulations.
- 1.4.9 You may not use any tool, interface, utilities, programming techniques, or command lines for any purpose not authorized by Rockwell Automation.
- 1.4.10 You may not use the automation interface or other programmatic interfaces contained within the Software in conjunction with any third-party software not authorized by Rockwell Automation in writing, including, but not limited to, change management systems.
- 1.5 Academic Use. Software purchased for academic or research use by an educational institution may be used for teaching and research purposes only. Commercial use of Academic Use Software is prohibited. Only the instructor/professor registered to the Academic Use Software may contact Rockwell Automation for technical support and product updates. You may make copies of Arena Simulation Software (the media excluding activation) solely for academic, teaching, and research purposes.
- 1.6 Preproduction Release Software; Trial Software; Complementary Software.
 - 1.6.1 As an accommodation to You, Rockwell Automation may provide You with access to Preproduction Release Software to preview new functionality and capabilities, Trial Software to test and evaluate Software for Your potential use, or Complementary Software for example purposes or to provide additional complementary features. The Preproduction Release Software, Trial Software, and Complementary Software may be furnished with additional terms regarding their use. You must accept those terms, if any, to use that Software. Use of the Preproduction Release Software, Trial Software, and Complementary Software is in Your discretion.

Unless otherwise agreed to in writing by the parties, You may use the Software for a period of thirty (30) days from the date the Trial Software is first made available to You.
 - 1.6.2 You may modify and create derivative works of Complementary Software that is in the form of samples or reusable application code, but solely for use in connection with the Software with which the Complementary Software was provided.

- 1.6.3 All use of the Preproduction Release Software, Trial Software, and Complementary Software will be subject to the terms and conditions of this Agreement relating to the Software; except that all Preproduction Release Software, Trial Software, and Complementary Software is provided “as-is,” and technical support for and future enhancement of the Software is not guaranteed nor included as part of Rockwell Automation’s standard software support services. Rockwell Automation disclaims all liability and warranties with regard to the Preproduction Release Software, Trial Software, and Complementary Software, including all implied warranties and conditions of merchantability, fitness for a particular purpose, title, and non-infringement. All use of the Software under this Section will be at Your sole risk and liability. Your sole and exclusive remedy and our sole and exclusive liability with regard to the Software under this Section will be for You to cease use of the Software. You waive all claims, now known or later discovered, against Rockwell Automation with regard to the Preproduction Release Software, Trial Software, and Complementary Software.
- 1.7 Third-Party Software or Services. The Software may incorporate, embed, comprise, or be bundled with Third-Party Software or services which require You to accept and be bound by notices and/or additional terms and conditions. The then current required third-party notices and/or additional terms and conditions are identified in the relevant Order Form or the help or about screens and license.txt or readme text files of the Software or identified as part of the Cloud Services and are made a part of and incorporated by reference into this Agreement, or as provided in the Documentation. In addition, separately purchased or bundled third-party products may be accompanied with and subject to relevant third-party terms and conditions. By accepting this Agreement, You agree to review such terms and conditions, if any, and Your use of the Software is Your acceptance thereof.
- 1.8 Support Services. Support Services, if any, will be set forth in the applicable Order Form.
- 1.9 Limited Warranties; Exclusive Remedies; Disclaimers.
- 1.9.1 Limited Warranties. Article 2, Section 2.10 and Article 3, Section 3.6 provide the exclusive, limited warranties made by Rockwell Automation for the Software, (the “Limited Warranties”). In the event of any breach of a Limited Warranty, Rockwell Automation’s sole obligation and liability, and Your sole remedy, shall be for Rockwell Automation to use commercially reasonable efforts to (i) fix or replace the Software so that it conforms to the relevant Limited Warranties; (ii) identify or make available a work-around or alternative approach that achieves substantially the same result or functionality; or, if Rockwell Automation fails to resolve as described in (i) or (ii) above, then Rockwell Automation may terminate this Agreement and relevant Order Form(s) with regard to the non-conforming Software and refund to You the prorated portion of any pre-paid fees for the non-conforming Software. In such event, Your license to use the relevant Software will immediately terminate. The foregoing warranties shall be void if You attempt to modify the Software in any way or use them other than as described in the Documentation or in breach of this Agreement. Rockwell Automation makes no representation or warranty, express or implied, that the operation of the Software will be uninterrupted or error free, or that the functions contained in the Software will meet or satisfy Your intended use or requirements; You assume complete responsibility for decisions made or actions taken based on information obtained using the Software. In addition, due to the continual development of new techniques for intruding upon and attacking networks, Rockwell Automation does not warrant that the Software or any equipment, system, or network on which they are used will be free of vulnerability to intrusion or attack.
- 1.9.2 TO THE MAXIMUM EXTENT PERMITTED BY LAW THE LIMITED WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND ROCKWELL AUTOMATION AND ITS LICENSORS DISCLAIM ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS, INCLUDING (WITHOUT LIMITATION) ANY WARRANTY OF TITLE, NONINFRINGEMENT OF THIRD-PARTY RIGHTS, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO ORAL OR WRITTEN INFORMATION, MARKETING OR PROMOTIONAL MATERIALS, OR ADVICE GIVEN BY ROCKWELL AUTOMATION OR ITS AUTHORIZED REPRESENTATIVES SHALL CREATE ANY ADDITIONAL WARRANTIES OR IN ANY WAY INCREASE THE SCOPE OF THE EXPRESS WARRANTIES PROVIDED IN THIS SECTION OR MODIFY ROCKWELL

AUTOMATIONS OBLIGATIONS UNDER THIS AGREEMENT.

1.9.3 THE SOFTWARE MAY BE USED TO ACCESS AND TRANSFER INFORMATION OVER THE INTERNET OR BE USED IN CONNECTION WITH HARDWARE AND OTHER PRODUCTS THAT ARE CONNECTED TO THE INTERNET. YOU ACKNOWLEDGE AND AGREE THAT ROCKWELL AUTOMATION AND ITS LICENSORS DO NOT OPERATE OR CONTROL THE INTERNET AND THAT: (I) MALICIOUS CODE; OR (II) UNAUTHORIZED USERS (e.g., HACKERS) MAY ATTEMPT TO OBTAIN ACCESS TO AND DAMAGE YOUR DATA, CONFIDENTIAL INFORMATION, WEBSITES, COMPUTERS, OR NETWORKS. ROCKWELL AUTOMATION AND ITS LICENSORS WILL NOT BE RESPONSIBLE FOR THOSE ACTIVITIES.

1.9.4 SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION.

1.10 Intellectual Property.

1.10.1 Software. The Software is protected by copyright and other intellectual property laws and treaties. Rockwell Automation or its licensors retain the title, copyright, and other intellectual property rights in the Software, including permitted copies. You do not acquire any rights, express or implied, other than the limited license granted in this Agreement. The Software is licensed or furnished under a grant of rights, not sold. Nothing in this Agreement constitutes a waiver of our rights under U.S. or international copyright law or any other law.

1.10.2 Feedback. You may provide Rockwell Automation with suggestions, comments, or other feedback with respect to the Software. Feedback is voluntary. Rockwell Automation may use feedback for any purpose, including improvement of the Software, without obligation or restriction of any kind.

1.10.3 Equitable Relief. You agree that a material breach of this Agreement adversely affecting Rockwell Automation's intellectual property rights may cause irreparable injury to Rockwell Automation for which monetary damages would not be an adequate remedy, and Rockwell Automation shall be entitled to seek equitable relief, without posting of bond or other surety, in addition to any remedies it may have hereunder or at law.

1.10.4 Data Use. Except for the limited license granted below, You retain all right, title, and interest in any data and information You made or make available to the Software ("Your Data"), including but not limited to usage data. You grant Rockwell Automation a non-exclusive, fully-paid-up, world-wide, royalty-free license:

(i) to use Your Data in connection with the Software and/or services provided by Rockwell Automation under this Agreement, including to improve Rockwell Automation's products, Software and services,

(ii) to use Your Data for the performance of sales and services by Rockwell Automation, provided Your Data is anonymized and excludes Your Confidential Information or personal data; and

(iii) to use statistical and aggregated data derived from Your Data, including from Your use of the Software and any associated Clients, Devices, and Servers, for Rockwell Automation's business purposes, provided Your Data is anonymized and excludes Your Confidential Information or personal data.

You are responsible for obtaining all rights, permissions, licenses, and authorizations to provide Your Data for use as contemplated under this Agreement.

1.11 Term and Termination.

1.11.1 Initial and Renewal Term. This Agreement takes effect upon Your execution of the Order Form or Your downloading, installing, copying, accessing, or otherwise using the Software and remains effective through

the Term of Use set forth in the applicable Activation Certificate or Order Form (the “Initial Term”), unless earlier terminated as provided in this Agreement. Following the Initial Term, the Term of Use for each Software offering will automatically renew for a period as stated in the renewal Order Form (each, a “Renewal Term”), unless either party gives written notice to the other party of its intent not to renew and to terminate this Agreement at least ninety (90) days prior to expiration of the then pending term. The Term of Use refers to the Initial Term and any Renewal Terms under this Section.

- 1.11.2 **Termination.** Upon sixty (60) days prior written notice, You may terminate this Agreement at any time by (i) destroying all copies of the Software in Your possession, or (ii) ceasing use of the Cloud Services; unless provided otherwise in the Order Form, all fees paid are non-refundable and subscription fees will be due through the remainder of the subscription term. If You breach any term of this Agreement and fail to cure the breach within thirty (30) days (unless the breach is incapable of cure, in which case termination will be immediate) of notice from Rockwell Automation, Rockwell Automation may terminate this Agreement. You agree upon termination of this Agreement to cease using the Software and either return to Rockwell Automation or destroy all copies of the Software in Your possession. If this Software has been licensed to You as part of a subscription service or limited Term of Use, this Agreement shall terminate after the period of the Term of Use has lapsed. Termination of this Agreement will automatically terminate all licenses granted herein. The protections in this Agreement relating to intellectual property protection, use of anonymize and statistical data, confidentiality, disclaimers, and liability limitations and any other provision of this Agreement that must survive to fulfill its essential purpose shall survive any termination or expiration of this Agreement. Any termination or expiration of this Agreement will not relieve You of Your payment obligations through the end of the then pending Term of Use. However, in the event of termination for breach by Rockwell Automation or pursuant to the Warranties and Indemnification sections of Article One, Rockwell will refund to You the unused prorated portion of any prepaid fees. Such refund will constitute Your sole and exclusive remedy and Rockwell Automation’s sole and exclusive liability.
- 1.11.3 **Data Privacy.** Rockwell Automation treats Your Data in accordance with our privacy terms and conditions located at <https://www.rockwellautomation.com/en-us/company/about-us/legal-notices/privacy-and-cookiespolicy.html>. In the event any applicable law restricts or prevents the collection, use, or other processing of Your Data without additional terms and conditions, You agree to be bound by Rockwell Automation's then-current applicable data processing addendum(s) relating to Rockwell's collection, use, and other applicable processing of Your Data, as may be amended from time to time (each, a "Data Processing Addendum"), each available at <https://www.rockwellautomation.com/en-us/company/about-us/legal-notices.html>. Such Data Processing Addendum(s), when applicable, are part of and governed by the Agreement as if set forth therein.
- 1.11.4 **General.** This Agreement is the complete and exclusive agreement between Rockwell Automation and You, and supersedes all prior agreements, whether written or oral, relating to the Software. No additional or different terms and conditions in any purchase order or other similar document furnished by You will be binding on Rockwell Automation and all such terms and conditions are deemed rejected. This Agreement may not be changed or modified except by an instrument in writing signed by a duly authorized representative of Rockwell Automation. If for any reason a court of competent jurisdiction finds any provision of this Agreement or portion thereof, to be unenforceable, that provision of the Agreement shall be enforced to the maximum extent permissible so as to affect the intent of the parties, and the remainder of this Agreement shall continue in full force and effect. The parties acknowledge that they have required the Agreement to be drafted in English. In the event of a conflict between the English and other language versions, the English version will prevail. This Agreement may be accepted in electronic form and Your acceptance is binding between the parties. You agree that You will not contest the validity or enforceability of this Agreement because it was accepted in electronic form.

PART B – GENERAL COMMERCIAL/LEGAL TERMS

- 1.12 **Fees and Taxes.** You will pay Rockwell Automation the applicable fees for Software within net thirty (30) days from date of invoice with ongoing approved credit as determined by Rockwell Automation or as otherwise specifically agreed upon by the parties in the Order Form. Except as expressly provided in this Agreement or an Order Form, all fees are non-refundable and non-cancellable. You agree to pay, indemnify, and hold

Rockwell Automation harmless from any sales, use, transfer, privilege, tariffs, excise, and all other taxes and all duties, whether international, national, state, or local, however designated, which are levied or imposed by reason of Your receipt of the Software or use of the Cloud Services; excluding, however, income taxes on profits which may be levied against Rockwell Automation.

- 1.13 Indemnification. Rockwell Automation will pay costs and damages finally awarded in any suit against You by a third-party to the extent based on a finding that the design of Software licensed hereunder by Rockwell Automation infringes any patent, utility model, copyright, or trademark granted or registered in the country where You purchase the Software, provided that You: (A) promptly inform Rockwell Automation of the alleged infringement in writing; (B) provide Rockwell Automation the exclusive right to defend and settle the suit, at Rockwell Automation's expense; and (C) provide all reasonable information and assistance requested for the defense. Rockwell Automation shall have no liability for any infringement that is based upon or arises out of (the "Excluded Claims"): (i) compliance with Your instructions, specifications, or designs; (ii) use of Software in Your or a third-party process; (iii) combinations with other equipment, software, or materials, including Reseller/VAR Products, not supplied by Rockwell Automation; or (iv) Your failure to implement any update to the Software furnished by Rockwell Automation. In the event any software is determined or believed by Rockwell Automation to infringe the rights of a third-party, Rockwell Automation may, at its sole option and expense, elect to: (a) modify the Software so that it is non-infringing, (b) replace the Software with non-infringing Software that is functionally equivalent or superior in performance, (c) obtain a license for You to continue to use the Software as provided hereunder, or (d) if none of the foregoing can be achieved despite the reasonable efforts of Rockwell Automation, terminate the license for the infringing Software, have You return or destroy such Software, and refund to You the license fees paid by You for such Software, prorated over thirty-six (36) months from the date of this Agreement on a straight-line basis. The foregoing states the sole and exclusive obligations of Rockwell Automation for intellectual property infringement.

1.14 Limitation of Liability.

- 1.14.1 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL ROCKWELL AUTOMATION OR ITS THIRD-PARTY LICENSORS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS OR CONFIDENTIAL OR OTHER INFORMATION OR DATA, FOR BUSINESS INTERRUPTION, FOR LOST SAVINGS, FOR LOSS OF PRIVACY, AND FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT, THE SUPPORT SERVICES, OR THE USE OF OR INABILITY TO USE THE SOFTWARE, EVEN IF ROCKWELL AUTOMATION OR ITS RESELLER HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 1.14.2 SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.
- 1.14.3 ROCKWELL AUTOMATION'S AND ITS THIRD-PARTY LICENSORS' MAXIMUM CUMULATIVE LIABILITY RELATIVE TO ALL CLAIMS AND LIABILITIES, INCLUDING THAT WITH RESPECT TO DIRECT DAMAGES AND OBLIGATIONS UNDER ANY INDEMNITY, WHETHER OR NOT INSURED, WILL NOT EXCEED THE LICENSE FEES PAID, IF ANY, FOR THE SOFTWARE GIVING RISE TO THE CLAIM OR LIABILITY DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY.
- 1.14.4 ALL OF THE DISCLAIMERS AND LIMITATIONS OF REMEDIES AND/OR LIABILITY THROUGHOUT THIS AGREEMENT WILL APPLY REGARDLESS OF ANY OTHER CONTRARY PROVISION OF THIS AGREEMENT OR ANY OTHER AGREEMENT BETWEEN YOU AND ROCKWELL AUTOMATION AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE, AND FURTHER WILL EXTEND TO THE BENEFIT OF ROCKWELL AUTOMATION'S AFFILIATES, VENDORS, APPOINTED DISTRIBUTORS, AND OTHER AUTHORIZED RESELLERS AS THIRD-PARTY BENEFICIARIES.

- 1.15 No High Risk Use. The Software is not fault-tolerant and is not designed, manufactured, or intended for use or resale in hazardous environments requiring fail-safe performance in which the failure of the Software could lead to death, personal injury, or severe physical or environmental damage (“High Risk Activities”). Unless Rockwell Automation gives its prior written consent and is consulted regarding the specific Software deployment, use of the Software excludes any High Risk Activities, and You (i) shall not use the Software with respect to any High Risk Activities, and (ii) shall indemnify, defend, and hold harmless Rockwell Automation, its Affiliates and their licensors from all losses, claims, damages, costs, attorneys’ fees and other expenses relating to such High Risk Activities.
- 1.16 Government Restricted Rights. If You are a branch or agency of the United States Government, the following provision applies. The Software is comprised of “commercial computer software” and “commercial computer software documentation” as such terms are used in 48 C.F.R. § 12.212 (SEPT 1995) and are provided to the Government (i) for acquisition by or on behalf of civilian agencies, consistent with the policy set forth in 48 C.F.R. § 12.212; or (ii) for acquisition by or on behalf of units of the Department of Defense, consistent with the policies set forth in 48 C.F.R. § 227.7202-1 (JUN 1995) and § 227.7202- 3 (JUN 1995).
- 1.17 Export Controls.
- 1.17.1 You acknowledge that the Software and associated services may be subject to various export controls and regulations. You agree to comply with all applicable export and re-export laws and regulations, embargoes and sanctions including, but not limited to, those of the United States (collectively the “Export Laws”), and represents and warrants that all Software and services provided hereunder, and any derivatives thereof will not be: (i) used, downloaded, exported, re-exported or transferred, directly or indirectly, contrary to the Export Laws; (ii) used for any purpose prohibited by the Export Laws, including but not limited to, the design, development, manufacture or production of nuclear, missile, chemical or biological weapons; and/or (iii) delivered or supplied to or for use in Russia or Belarus, or to persons/entities otherwise ineligible to acquire or use the Software or services provided hereunder.
- 1.17.2 You represent and warrant that You are not subject to sanctions or otherwise designated on any list of prohibited or restricted parties, and are not owned 50% or more or controlled by such a party, including but not limited to the lists maintained by the United Nations Security Council, the U.S. Government (e.g., the U.S. Department of Treasury’s Specially Designated Nationals list and Foreign Sanctions Evaders list, and the U.S. Department of Commerce’s Entity List), the European Union or its member states, or other applicable government authority. You further warrant that no sanctioned or blocked individual will be involved in the use of the Software and services under this Agreement, including negotiations, contracting, or any other transactions, and shall advise Rockwell Automation immediately in the event an ownership or other change would violate any term in this section, in which case Rockwell Automation shall be relieved from any further responsibilities under this Agreement.
- 1.17.3 You understand that certain functionality of Software, such as encryption or authentication, may be subject to use, import or export restrictions in the event that You transfer the Software from the country of purchase, and you are responsible for complying with any such applicable restrictions. You shall be responsible for procuring all required government authorizations for any subsequent export, import or use of the Software or service.
- 1.18 Audit. You agree that Rockwell Automation or its designee may audit Your use of the Software for compliance with this Agreement upon reasonable notice. You agree to cooperate fully with Rockwell Automation and its authorized agents in any such audit to assist in accurately determining Your compliance with this Agreement. Rockwell Automation and its authorized agents will comply with Your reasonable security regulations while on Your premises. In the event that such audit reveals any use of the Software by You not in full compliance with the terms and conditions of this Agreement, You shall reimburse Rockwell Automation for all reasonable expenses related to such audit in addition to any other liabilities You may incur as a result of such non-compliance.
- 1.19 Confidential Information. Neither party shall use or disclose any Confidential Information, except as expressly authorized by this Agreement, and shall protect all such Confidential Information using the same degree of care

which each party uses with respect to their own similarly valuable proprietary information, but in no event with safeguards less than a reasonably prudent business would exercise under similar circumstances. Each party shall take prompt and appropriate action to prevent unauthorized use or disclosure of the Confidential Information. Each party agrees to provide the other party reasonable notice of any actual or attempted unauthorized use or disclosure of the Confidential Information.

- 1.20 Assignment. Software purchased through the Rockwell Automation Commerce Portal may be assigned by You through the self-service transfer function within the My Subscription dashboard. You may not otherwise assign this Agreement, in whole or in part, without Rockwell Automation's prior written consent. Any attempt to assign this Agreement without such consent will be null and void. Subject to the foregoing, this Agreement will bind and inure to the benefits of each party's permitted successors and assigns.
- 1.21 Governing Law. This Agreement shall be governed by the laws of the State of Wisconsin, without regard to any conflict of laws provisions. The United Nations Convention on the International Sale of Goods will not apply. You agree to bring any action in connection with this Agreement or the Software exclusively in the state or federal courts of Wisconsin, and You further agree to the jurisdiction of the state and federal courts of Wisconsin for any action that Rockwell Automation brings against You.
- 1.22 Force Majeure. Rockwell Automation will not be liable for any loss, damage, or delay arising out of its failure (or that of its subcontractors) to perform hereunder due to causes beyond its reasonable control, including without limitation, acts of God, Your acts or omissions, acts of civil or military authority, fires, strikes, floods, epidemics, quarantine restrictions, war, riots, acts of terrorism, cyber-attacks, scarcity of components or materials, delays in transportation, or transportation embargoes. In the event of such delay, Rockwell Automation's date(s), if any, will be extended for such length of time as may be reasonably necessary to compensate for the delay.
- 1.23 Language. The parties acknowledge that they have required that the Agreement evidenced hereby be drawn up in English. Les parties reconnaissent avoir exigé la rédaction en anglais du Contrat. In the event of a conflict between the English and other language versions, the English version will prevail.

ARTICLE 2 - CLOUD SERVICES

2.1 Definitions.

2.1.1 Access Credentials: any username, identification number, password, license or security key, security token, PIN, or other security code, method, technology, and/or device used, alone or in combination, to verify an individual's and/or device's identity and authorization to access and/or use the Cloud Services, either assigned by You or by Rockwell Automation at Your request.

2.1.2 Availability Requirement: the standard service availability requirement provided in the applicable Order Form.

2.1.3 Plan: Rockwell Automation's disaster recovery plan for the applicable Cloud Services.

2.2 Use of Access Credentials. This Section applies to Cloud Services for which the Order Form requires Access Credentials. In those cases, it is expressly prohibited for any Permitted User to share the assigned Access Credentials with any other person, entity, or device. You are responsible for Your Permitted Users' compliance with the Agreement and represent and warrant that each Permitted User will not share any Access Credentials.

2.3 Your Data Location. Pursuant to applicable laws and regulations, Rockwell Automation may process and store Your Data anywhere Rockwell Automation or its agents maintain facilities. By using the Cloud Services, You consent to this processing and storage of Your Data.

2.4 Connectivity. You and Your Permitted Users are solely responsible for all telecommunication or internet connections required to access the Cloud Services, as well as all required hardware and software (as may be detailed in the Documentation for the Cloud Services) at Your and their facilities. In addition to other third-party costs that may apply, You are responsible for paying all telecommunications costs, fees, and services required for access to the Cloud Services.

2.5 Data Warranties. You represent and warrant that You have sufficient rights to Your Data for Rockwell Automation to perform its obligations under the Agreement and Order Form, and that such access to and use of Your Data will not infringe or violate any agreement, confidentiality obligations, privacy rights, or intellectual property rights of any third party.

2.6 Acceptable Use. You may not: (a) upload, post, e-mail, or otherwise transmit any content that is unlawful, harmful, threatening, intimidating, abusive, harassing, tortious, defamatory, derogatory, vulgar, obscene, libelous, invasive of another's privacy, disrespectful, hateful, or racially, ethnically or otherwise objectionable; (b) impersonate any person or entity or falsely state or otherwise misrepresent their affiliation with a person or entity or create a false persona; (c) forge headers or otherwise manipulate identifiers in order to disguise the origin of any content transmitted through the Cloud Services; (d) upload, post, e-mail, or otherwise transmit any content that violates applicable law, including infringement of any patent, trademark, trade secret, copyright, or other proprietary rights of any party; (e) upload, post, e-mail, or otherwise transmit any material that contains Malicious Code; (f) interfere with or disrupt the Cloud Services or networks connected to the Cloud Services, or disobey any requirements, procedures, policies or regulations of networks connected to the Cloud Services.

2.7 Your Indemnity. You will defend, indemnify, and hold harmless Rockwell Automation and its licensors against any liabilities, damages, sanctions, fines, and costs arising from (a) the use of Your Data as set forth in this Agreement, including Your failure to comply with the requirements of Data Warranties and Acceptable Use of this section, or (b) Your use of the Cloud Services in violation of the Agreement or Order Form.

2.8 Monitoring. You acknowledge that Rockwell Automation or a third-party on Rockwell Automation's behalf may monitor Your access to and use of the Cloud Services to the extent required to ensure compliance with the Agreement and Order Form.

2.9 Information Security. Consistent with laws applicable to Rockwell Automation and its then current practices and procedures, Rockwell Automation will maintain and enforce administrative, technical, and physical

safeguards designed to reasonably protect the confidentiality, availability, and integrity of Your Data stored in the Cloud Services. Rockwell Automation will report to You any compromise of security that it confirms impacts Your Data. For more information about the measures used to protect the Cloud Services and Your Data, please refer to <https://www.rockwellautomation.com/en-us/company/about-us/integrity-sustainability/trust-security.html>.

- 2.10 Limited Warranties – Cloud Services. Cloud Services are warranted to substantially comply with their Documentation during the applicable Term of Use. Rockwell Automation will use commercially reasonable efforts designed to identify and remove any Malicious Code from the Cloud Services. The foregoing warranties shall be void if You attempt to modify the Cloud Services in any way or use them in breach of this Agreement.
- 2.11 Availability. Rockwell Automation will use commercially reasonable efforts to make the Cloud Services available for Your access and use, as contemplated under this Agreement and Order Form, an average of at least 99.9% of the time during each month during the relevant Term of Use or as otherwise set forth on the Order Form (the “Availability Requirement”), excluding any period of Permitted Unavailability. “Permitted Unavailability” includes Planned Outages (as defined below) and any unavailability due to causes beyond Rockwell Automation’s reasonable control, including, without limitation: any software, hardware, or telecommunication failures; interruption or failure of telecommunication or digital transmission links; internet slow-downs or failures; failures or default of Third-Party Software, vendors, or products; and unavailability resulting from Your actions or inactions or a failure of Your communications link or systems. “Planned Outages” means the period of time during which Rockwell Automation conducts systems maintenance and any instances requiring emergency maintenance. Rockwell Automation will use reasonable efforts to schedule Planned Outages during non-peak hours. In the event of any failure to achieve the Availability Requirement, Rockwell Automation will use commercially reasonable efforts to correct the interruption as promptly as practicable. In the event Rockwell Automation fails to achieve the Availability Requirement in two (2) consecutive months during the relevant Term of Use, You may terminate the relevant Cloud Services within thirty (30) days of the end of the second consecutive month, without further obligation, and receive a prorated refund of any pre-paid, unused recurring fees for the terminated Cloud Service. The refund will constitute Your sole and exclusive remedy and Rockwell Automation’s sole and exclusive liability for failure to achieve the Availability Requirement.
- 2.12 Disaster Recovery. Rockwell Automation has developed and implemented a Plan for the Cloud Services. Consistent with its then current practices, Rockwell Automation will periodically test and re-assess the Plan.
- 2.13 Suspension or Termination. Rockwell Automation may suspend or terminate Your access to the Cloud Services at any time, if Rockwell Automation reasonably believes: (i) You have violated the Agreement or Order Form; (ii) it is necessary or prudent to prevent damage or disruption of the Cloud Services; (iii) Rockwell Automation’s provision of the Cloud Services is no longer commercially viable; and/or (iv) it is necessary or prudent to protect Rockwell Automation from potential liability, including compliance with applicable law. Rockwell Automation will make reasonable efforts to notify You by the email address associated with the user account. On any termination or expiration of the Agreement, You will have a period of ten (10) days to download a copy of Your Data using the inherent functionality of the Cloud Services in a format then supported by the Cloud Services. Thereafter, Rockwell Automation may delete or render inaccessible any of Your Data that remains in the Cloud Services, and Rockwell Automation will have no liability for deletion of Your Data.
- 2.14 Data Overage. Rockwell Automation reserves the right to charge You if You exceed the level of usage authorized in Your Order Form for the Cloud Services.
- 2.15 Applicability. The Agreement and Order Form are between Rockwell Automation and You, regardless of whether the purchase is made directly from Rockwell Automation or through any authorized distributor or any other authorized reseller. No reseller is authorized to modify the Agreement or Order Form.

ARTICLE 3 - ON-PREMISE SOFTWARE

3.1 Definitions.

- 3.1.1 Activation Certificate: a document included with the Software that may provide, among other things, Your Software Activation Key and specific information regarding the Use Type and Term of Use.
- 3.1.2 Activation Key: the alphanumeric code that enables You to activate and use the Software.
- 3.1.3 Capacity: a specific authorized size criteria as described on the Activation Certificate or Order Form and includes, among other measurements, equipment count, I/O count, platform counts, session count, tag counts, screen counts, Equipment counts, and processor counts and/or other units of usage.
- 3.1.4 Client: a Device running, accessing, or utilizing, directly or indirectly, the Software on a Server.
- 3.1.5 Device: any physical or virtual environment, node, server, computer, or other digital workstation, electronic, cellular, or computing equipment that runs, accesses, or utilizes the services of the Software.
- 3.1.6 Server: any Device that hosts Software and can be run, accessed, or used by another Device.

3.2 Use Type.

- 3.2.1 Named Use: a license or right to use the Software only by the identified individual person.
- 3.2.2 Concurrent Use: a license or right to use the Software by a specified number of users, provided the number of users accessing or using the Software at the same time do not exceed the number of valid software activations identified in the Order Form.
- 3.2.3 Device Use: a license or right to use the Software on any Device that hosts Software that can be run, accessed, or used by another Device.
- 3.2.4 Site Use: a license or right to use the Software by an unlimited number of Your employees or Your authorized contractors at a Designated Location.
- 3.2.5 Capacity-Based Use: a license or right to use the Software based upon a Capacity.
- 3.2.6 Capability Use: a usage license or right required for each Feature that runs, accesses, or utilizes, directly or indirectly, the Software.

3.3 Copy/Design Restrictions.

- 3.3.1 You may not copy the Software except to the extent stated in this Section.
 - 3.3.1.1 You may make a copy of the Software provided that any such copy is only for archival purposes to internally back up the Software.
 - 3.3.1.2 You may make a copy of the Software for purposes of installation of the Software within Your organization provided You have purchased licenses for such Software copies.
 - 3.3.1.3 You may copy the Software image with prior written consent by Rockwell Automation provided You have purchased the required licenses for such Software image copies.
- 3.3.2 You will retain and reproduce all copyright or proprietary notices in their exact form on all copies (including

partial copies) of the Software made by You as permitted per this Section.

- 3.3.3 If You upgrade or update the Software to a newer version of the Software, You may not transfer the prior edition or prior version to another user.

- 3.4 Use Restrictions.

- 3.4.1 You may not provide, utilize, or commercially host the Software as an application service provider or the like for other third parties.
- 3.4.2 You may only use the Software at the Designated Location if a Designated Location has been specified.
- 3.4.3 You may only use the Software on the designated Device if a designated Device has been specified.
- 3.4.4 You may download and use Software for a Rockwell Automation product only if such product has been legitimately acquired directly from an authorized Rockwell Automation source and does not have unauthorized modifications. You acknowledge that any unauthorized modifications to a Rockwell Automation product may prevent such product and the Software from operating. All other downloads and use of the Software is strictly prohibited. For example, if You have acquired a Rockwell Automation product from an unauthorized source, e.g., an unauthorized online reseller, You are not permitted to download any materials, including Software and firmware updates, and any use of such materials is prohibited.
- 3.4.5 You may not separate component parts of the Software for independent use.
- 3.4.6 You may only install the Software for use with one architecture and one operating system at any given time.
- 3.5 Disaster Recovery. You are responsible for Your own disaster recovery plan, including but not limited to, securing access to, and backing up Your Data.
- 3.6 Limited Warranties - On-Premise Software. Software installed at Your facilities is warranted for ninety (90) days after its initial delivery to You that it will substantially conform with its Documentation supplied by Rockwell Automation at the time of initial delivery of the Software. Rockwell Automation will use commercially reasonable efforts designed to identify and remove any Malicious Code from the Software prior to delivery to You. Defective media on which the Software was delivered will be replaced without charge if returned during the warranty period.