

## **END USER LICENSE AGREEMENT**

### **[VIEW AVAILABLE TRANSLATIONS](#)**

#### **IMPORTANT — READ THIS AGREEMENT CAREFULLY**

This end user license agreement (“EULA”) is a legal contract between You (either an individual or a single entity) and Rockwell Automation, Inc. (“Rockwell Automation”) for the Software product(s) and Documentation that Rockwell Automation licenses to You. ROCKWELL AUTOMATION IS WILLING TO LICENSE THE SOFTWARE AND DOCUMENTATION TO YOU ONLY ON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS AND CONDITIONS IN THIS EULA. YOU ACCEPT AND AGREE TO BE BOUND BY THE TERMS OF THIS EULA BY DOWNLOADING, INSTALLING, COPYING, OR OTHERWISE USING THE SOFTWARE. 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 PROMPTLY RETURN THE SOFTWARE WITH ALL ACCOMPANYING ITEMS TO YOUR PLACE OF PURCHASE FOR A FULL REFUND, OR IF YOU DOWNLOADED THE SOFTWARE, CONTACT THE PARTY FROM WHOM YOU ACQUIRED IT.

#### **PART A**

##### **1. Definitions**

1.1. Activation Certificate: means a document included with the Software that may provide, among other things, Your Software Activation Key and specific information regarding the License Type and License Term.

1.2. Activation Key: means the alphanumeric code that enables You to activate and use the Software.

1.3. Addendum/Addenda: means one or more addenda referencing this EULA and providing specific terms applicable to a particular piece of Software or Cloud Service.

1.4. Affiliates: means an entity that is directly or indirectly controlled by or is under common control with such 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.

1.5. Availability Requirement: means the availability requirement set forth in the attached Addendum for Cloud Services.

1.6. Beta Software: Rockwell Automation may provide You with a preproduction release of the Software.

1.7. Capacity: means a specific licensed size criteria as described on the Activation Certificate 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.

1.8. Client: means a Device running, accessing or utilizing, directly or indirectly, the Software on a Server.

1.9. Cloud Services: means hosted Software, subscription services, cloud services, and related technology made available for access by You over the internet for, among other things, the management of data from industrial assets.

1.10. Complementary Software: means samples, utilities, plug-ins, user interface components and/or reports that are generally not included in a default Software installation or that may be provided in connection with your use of a Cloud Service, but are provided as an accommodation to You, without separate additional charge.

1.11. Confidential Information: means (i) the Software and Documentation; (ii) the technology, ideas, know-how, documentation, processes, algorithms and trade secrets embodied in the Software; (iii) any software keys related to the Software; and (vi) 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.

1.12. Designated Location: Means the site, Equipment and/or application owned and operated by You as designated by Rockwell Automation in the Activation Certificate or other agreement between the parties.

1.13. Device: means 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.

1.14. Documentation: means the then-current documentation regarding the Software that is generally provided or made available to You by Rockwell Automation either in print or electronic, and which may include end user manuals, operation instructions, installation guides, release notes, and on-line help files regarding the use of the Software.

1.15. Equipment: means any physical asset, sub-component or grouping thereof.

1.16. EULA: means this End User License Agreement.

1.17. Feature: means an add-on functionality and libraries to the Software.

1.18. License Term: means the time duration of the Software license as specified in the Activation Certificate, Your selection of term during the ordering process, or other agreement between the parties.

1.19. License Type: means, for locally installed Software, user, Server, Capacity Based or Named Software or subscription license and, for Cloud Services, access on a subscription basis. The License Types may be used individually or in combination with other License Types.

1.20. Permitted User: means an individual who is authorized by You to use the Software, such use to be solely in accordance with the terms and conditions of this EULA and applicable Addenda. Permitted Users are limited to Your employees, consultants, subcontractors, suppliers, business partners and customers who (i) are not direct competitors of Rockwell Automation or employed by competitors of Rockwell Automation with regard to the Software and (ii) are directly involved in the utilization of the Software solely in support of Your internal business purposes.

1.21. Reseller/OEM Product: means a product into which a system integrator or original equipment manufacturer has integrated the Software.

1.22. Rockwell Automation: means Rockwell Automation, Inc., a Delaware corporation, and its Affiliates, having a principal place of business at 1201 South 2<sup>nd</sup> Street, Milwaukee, Wisconsin 53204.

1.23. Server: means any Device that hosts Software and can be run, accessed, or used by another Device.

1.24. Software: includes any of the following: Rockwell Automation's computer software, programs, technology, Cloud Services, services, Complementary Software, firmware and associated media and any updates, upgrades or enhancements thereto, or portions thereof.

1.25. Support Services: means support and maintenance services, including updates, upgrades or enhancements to the Software, as described in Rockwell Automation's then current maintenance and support program.

1.26. Third Party Software: means third party software furnished with or as part of the Software.

1.27. Trial Software: Software, including Cloud Services, provided on a limited trial basis, without charge.

1.28. You: means the purchaser of the Software and/or the user of the Software.

## **2. License Type**

2.1. Named License: means a license to use the Software only by the identified individual person.

2.2. Concurrent License: means a license 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 You have purchased.

2.3. Device License: means a license to use the Software on any Device that hosts Software that can be run, accessed, or used by another Device.

2.4. Site License: means a license to use the Software by an unlimited number of Your employees or Your authorized contractors at a Designated Location.

2.5. Capacity Based License: means a license to use the Software based upon a Capacity.

2.6. Capability License: means a usage license required for each Feature that runs, accesses or utilizes, directly or indirectly, the Software.

2.7. Cloud Services: Means a license to access Software hosted by Rockwell Automation.

### **3. Grant of License**

3.1. The rights granted to You with respect to the Software are based on the License Type and the License Term. The License Type and the License Term are detailed in Rockwell Automation's Activation Certificate supplied to You at the time of Your purchase confirmation. In addition, certain Software and Cloud Services are provided subject to specific Addenda with modified and additional terms. Your use of that Software or Cloud Services will indicate Your acceptance of those Addenda. In the event of a conflict between the Addenda and this EULA, the Addenda will govern with regard to the relevant Software or Cloud Services.

3.2. Subject to Your compliance with all the terms and conditions of this EULA, Your timely payment of any applicable license or subscription fee, and Your compliance with the activation process if applicable, Rockwell Automation and its third party licensors grant You a limited, personal, nontransferable, non-exclusive license during the License Term to download, install and/or use the Software and Documentation for Your own internal business purposes on a Device and at the Designated Location if specified, pursuant to the License Type(s) that You purchased. You are responsible for ensuring your personnel and authorized contractors comply with all relevant terms of this EULA and any failure to comply will constitute a breach by You. Any use of the Software by authorized contractors shall be solely for Your internal business purposes.

3.3. If You are a system integrator or original equipment manufacturer and You have integrated the Software into a Reseller/OEM Product for purposes of resale to Your end customer, You may assign the Software to Your end customer upon their acceptance of this EULA and Your completion of the Software transfer registration notice at [activate.rockwellautomation.com](https://activate.rockwellautomation.com). If You are an end customer receiving a Reseller/OEM Product, You acknowledge and agree that (i) You have accepted and are bound by this EULA; (ii) the system integrator or original equipment manufacturer is not authorized to modify or amend this EULA 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 EULA; and (iv) You will look solely to the system integrator or original equipment manufacturer for any defects in the Reseller/OEM Product, or incompatibilities with the Software.

3.4. If You use any third party software not supplied by Rockwell Automation, including open source software, in conjunction with any Software, You must ensure that such use does not require (i) disclosure or distribution of any Software in source code form, (ii) licensing of any Software for the purpose of making derivative works, or (iii) redistribution of any Software

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3.5. Rockwell Automation or its suppliers may make changes to the Software from time-to-time. If You have paid for the Software, Rockwell Automation will use reasonable efforts to provide You with prior notice before removing any material feature or functionality, unless security, legal, or system performance considerations require an expedited removal.

#### **4. Restrictions**

4.1. Permitted Users. You are responsible for ensuring your Permitted Users comply with all relevant terms of this EULA and applicable Addenda. Any failure to comply will constitute a breach by You. No Permitted User will be deemed a third party beneficiary hereunder.

4.2. Copy/Design Restrictions:

4.2.1. You may not copy the Software or Documentation except to the extent stated in this Section.

4.2.1.1. You may make a copy of the Software provided that any such copy is only for archival purposes to internally back up the Software.

4.2.1.2. 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.

4.2.1.3. 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.

4.2.1.4. You will retain and reproduce all copyright or proprietary notices in their exact form on all copies (including partial copies) of the Software or Documentation made by You as permitted per this Section 4.1.

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4.2.2.1. If You upgraded or updated the Software to a newer version of the Software, You may not transfer the prior edition or prior version to another user.

4.2.2.2. 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 or Documentation.

4.2.2.3. You may not use the Software or Documentation to make Software training materials to be sold, licensed, used, or distributed, except for Your internal use of Documentation copied in its entirety, and screen captures of Your Software application. You are solely responsible and liable for any such training materials You produce.

4.3. Use Restrictions:

4.3.1. You may not provide, utilize, or commercially host the Software as an application service provider or the like for other third parties.

4.3.2. Except as expressly stated herein, You may not sublicense, rent, resell, lease, or transfer the Software without Rockwell Automation's prior written consent.

4.3.3. You may not use the Software for benchmarking or other competitive purposes.

4.3.4. You may only use the Software at the Designated Location if a Designated Location has been specified.

4.3.5. You may only use the Software on the Designated Device if a Designated Device has been specified.

4.3.6. You may not use the Software beyond the License Type or License Term You have purchased in your Activation Certificate.

4.3.7. The number of users accessing or using the Software at the same time may not exceed the number of valid software activations You have purchased.

4.3.8. 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.

4.3.9. You may not use any Confidential Information to contest the validity of any intellectual property of Rockwell Automation or its licensors.

4.4. Other Restrictions:

4.4.1. You may not separate component parts of the Software for independent use.

4.4.2. 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.

4.4.3. You may not use any tool, utilities, programming techniques or command lines to provide enhanced interfacing to the Software beyond authorized Rockwell Automation available interfaces.

4.4.4. You are not granted a license to 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.

4.4.5. Any application created by use of the Software is prohibited from being translated into instructions that run on third party Software or hardware platforms without our written consent.

4.4.6. You may only install the Software for use with one architecture and one operating system at any given time.

5. **Academic Use.** If this Software was purchased for academic or research use by an educational institution, it may be used for teaching and research purposes only. Commercial use of the Software is prohibited if the software was intended for educational use. Only the instructor/professor registered to the Software is eligible to contact Rockwell Automation for technical support and product updates. If this Software is Arena simulation software, You have the right to make copies of the Software (the media excluding activation) solely for academic, teaching and research purposes.

## **6. Preproduction Releases; Trial Software; Complementary Software**

6.1. As an accommodation to You, Rockwell Automation may provide You with access to Beta 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 Beta 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 Beta Software, Trial Software, and Complementary Software is in your discretion.

6.2. Unless otherwise agreed 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.

6.3. 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.

6.4. All use of the Beta Software, Trial Software, and Complementary Software will be subject to the terms of this EULA relating to the Software; except that all Beta 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 Beta Software, Trial Software, and Complementary Software,

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7. **Third Party Software or Services.** The Software and Cloud Services 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. Such required third party notices and/or additional terms and conditions are identified in 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 EULA, or as provided in the Product Compatibility Download Center located at <https://compatibility.rockwellautomation.com/Pages/home.aspx>. By accepting this EULA, You agree to review such terms and conditions set forth therein, if any, and Your use of the Software and Cloud Services will be deemed to be Your acceptance thereof. You are responsible for periodically visiting the foregoing web site to review any and new or modified third party terms and conditions. Continued use of the Software and Cloud Services will be deemed Your acceptance of those terms.

8. **Support Services.** Support Services are included in the applicable fees for Cloud Services. Support Services for locally installed Software are subject to Your payment of applicable annual support fees. Rockwell Automation offers multiple software support services. For more information contact your local distributor or Rockwell Automation representative or available on our website.

## 9. **Data Rights**

9.1. Your Data. You grant Rockwell Automation a non-exclusive, world-wide, royalty-free license to use Your data or other information input into the Software, including the Cloud Services (the “**Your Data**”) for purposes of performing this Agreement, including the performance of sales and services by Rockwell Automation and its Affiliates (including, but not limited to, quality, safety, energy, security, analytics, software updates, product and service diagnostics and prognostics, support and reporting), and to improve its products and to facilitate or improve Your use of the products, Software and services. Your Data includes Your customer’s or other third party Data you make available to the Software, including the Cloud Services. You are responsible for obtaining all rights, permissions, licenses, and authorizations to provide Your Data for use as contemplated under this Agreement. Except for the limited license provided above, You retain all right, title, and interest in Your Data.

9.2. Software and Documentation. The Software and Documentation are 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 and Documentation, including permitted copies. You do not acquire any rights, express or implied,



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9.3. 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.

9.4. Equitable Relief. You agree that a material breach of this EULA 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.

**10. Fees and Taxes.** You will pay Rockwell Automation the applicable fees for Software and Cloud Services according to Rockwell Automation's then current payment terms or as otherwise specifically agreed upon by the parties. Except as expressly provided in this EULA or an Addendum, 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 licenses to the Software or use of the Cloud Services; excluding, however, income taxes on profits which may be levied against Rockwell Automation. Payments not made within the time required will be subject to late charges equal to the lesser of (a) one and one-half percent (1.5%) per month of the overdue amount or (b) the maximum amount permitted under applicable law. Unless agreed otherwise by the parties in writing, fees applicable during a Renewal Term, as defined in Section 11.1, will be at Rockwell Automation's then current generally applicable rates.

## **11. Term and Termination**

11.1. Initial and Renewal Term. This EULA takes effect upon Your downloading, installing, copying, accessing or otherwise using the Software or Cloud Service and remains effective through the License Term set forth in the applicable Activation Certificate or the number of years You select during Your purchase of the license (the "Initial Term"), unless earlier terminated as provided in this EULA. Following the Initial Term, the License Term for each item of Software or Cloud Service will automatically renew for periods equal to the Initial Term (each, a "Renewal Term"), unless either party gives notice to the other party of its intent not to renew at least thirty (30) days prior to expiration of the then pending term. The License Term refers to the Initial Term and any renewal terms under this Section.

11.2. Termination. You may terminate it at any time by destroying all copies of the Software and Documentation in Your possession. This EULA will also automatically terminate if You fail to comply with any term or condition of this EULA. You agree upon termination of this EULA to cease using the Software and either return to Rockwell Automation or destroy all copies of the Software and Documentation in Your possession. If this Software has

been licensed to You as part of a subscription service or limited License Term, this EULA shall terminate after the period of the subscription or Licensed Term has lapsed. Termination of this EULA will automatically terminate all licenses granted herein. The protections in this EULA relating to intellectual property protection, confidentiality, disclaimers, and liability limitations shall survive any termination or expiration of this EULA. Any termination or expiration of this Agreement will not relieve you of Your payment obligations through the end of the then pending License Term. However, in the event of termination for breach by Rockwell Automation or pursuant to Sections 13.2, 14.1.2, or 15, 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.

11.3. FactoryTalk® Expiration. This Software will cease to operate at the expiration of your License Term, or whenever the Software is unable to locate a FactoryTalk® Activation. Software that is enabled with a grace period will continue to operate for seven (7) days without a FactoryTalk® Activation to provide users with a grace period for renewing applicable licenses or resolving your FactoryTalk® Activation issue. During the grace period, product features in excess of that originally licensed may be accessible. Licensee is not authorized to use features in excess of those originally licensed.

12. **General.** This EULA, and any amendment or addendum to this EULA that accompanies the Software, is the complete and exclusive agreement between Rockwell Automation and You, and supersede all prior agreements, whether written or oral, relating to the Software provided and the Documentation. No additional or different terms in any purchase order or other similar document furnished by You will be binding on Rockwell Automation and all such terms are deemed rejected. This EULA 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 EULA or portion thereof, to be unenforceable, that provision of the EULA shall be enforced to the maximum extent permissible so as to affect the intent of the parties, and the remainder of this EULA shall continue in full force and effect. The parties acknowledge that they have required the EULA to be drafted in English. In the event of a conflict between the English and other language versions, the English version will prevail.

## **PART B**

### **13. Limited Warranties**

13.1. 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. Cloud Services are warranted to substantially comply with their Documentation during the applicable License Term. Rockwell Automation will use commercially reasonable efforts designed to identify and remove any viruses or other similar intentionally harmful 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. The foregoing warranties shall be void if You attempt to modify the Software in

any way or use the Software in breach of this EULA. 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 the Software is used will be free of vulnerability to intrusion or attack. Following the warranty period, above, Support Services, if purchased, will apply to address covered issues in the Software and the Availability Requirement will apply to the Cloud Services.

13.2. In the event of any breach of a warranty in Section 13.1, Rockwell Automation's sole obligation, 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 warranties in Section 13.1; (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 EULA 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.

13.3. TO THE MAXIMUM EXTENT PERMITTED BY LAW THE LIMITED WARRANTIES IN SECTION 13.1 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 OR ANY WARRANTY UNDER UCITA. 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 AUTOMATION'S OBLIGATIONS UNDER THIS EULA.

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13.5. 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.

#### **14. Limitation of Remedies**

14.1. Rockwell Automation's entire liability and Your exclusive remedy for breach of the Limited Warranties shall be:

14.1.1. The correction of the Software or, with regard to locally installed Software, replacement of the Software not meeting the Limited Warranties specified above which is returned with proof of purchase during the warranty period; or

14.1.2. If Rockwell Automation is unable through reasonable efforts to correct the Software or deliver replacement Software which meets the Limited Warranties specified above, You may terminate this EULA by returning or destroying the Software as provided herein, and Rockwell Automation or its reseller will refund the prorated portion of any prepaid fees.

15. **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 of Rockwell Automation's shipping destination to You, provided that You: (i) promptly inform Rockwell Automation of the alleged infringement in writing; (ii) provide Rockwell Automation the exclusive right to defend and settle the suit, at Rockwell Automation's expense; and (iii) 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"): (a) compliance with Your instructions, specifications or designs; (b) use of Software in Your or a third-party process; (c) combinations with other equipment, software or materials, including Reseller/OEM Products, not supplied by Rockwell Automation; or (d) 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 Customer for such Software, prorated over sixty (60) months from the date of this EULA on a straight-line basis. The foregoing states the sole and exclusive obligations of Rockwell Automation for intellectual property infringement.

## 16. Limitation of Liability

16.1. 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 EULA, 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.

16.2. 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.

16.3. 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.

16.4. ALL OF THE DISCLAIMERS AND LIMITATIONS OF REMEDIES AND/OR LIABILITY THROUGHOUT THIS EULA WILL APPLY REGARDLESS OF ANY OTHER CONTRARY PROVISION OF THIS EULA 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 VENDORS, APPOINTED DISTRIBUTORS AND OTHER AUTHORIZED RESELLERS AS THIRD-PARTY BENEFICIARIES.

17. **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 deployment, system set-up and Software support plan, the License 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.

18. **Government Restricted Rights.** If You are a branch or agency of the United States Government, the following provision applies. The Software and Documentation are

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).

19. **Export Controls.** The Software and Documentation supplied by Rockwell Automation under this EULA are subject to export controls under the laws and regulations of the United States (“U.S.”) and any other applicable countries' laws and regulations. You shall comply with such laws and regulations governing export, re-export, import, transfer and use of Rockwell Automation Software and Documentation and will obtain all required U.S. and local authorizations, permits, or licenses. You and Rockwell Automation each agree to provide the other information, support documents, and assistance as may reasonably be required by the other in connection with securing authorizations or licenses.

20. **Audit.** You agree that Rockwell Automation or its designee may audit Your use of the Software for compliance with this EULA, 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 EULA. 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 other than in full compliance with the terms of this EULA, 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.

21. **Confidential Information.** You shall not use or disclose any Confidential Information, except as expressly authorized by this EULA, and shall protect all such Confidential Information using the same degree of care which You use with respect to Your own similarly valuable proprietary information, but in no event with safeguards less than a reasonably prudent business would exercise under similar circumstances. You shall take prompt and appropriate action to prevent unauthorized use or disclosure of the Confidential Information.

22. **Aggregated Data.** You grant Rockwell Automation a non-exclusive, world-wide, perpetual, irrevocable, fully-paid-up, royalty free license to use, copy, distribute, and otherwise exploit operations and maintenance data and other statistical and aggregated data derived from Your use of Software, including the Cloud Services and associated Clients, Devices, and Servers (the “**Aggregated Data**”) for Rockwell Automation’s business purposes, including the provision of products and services to its customers; provided the Aggregated Data does not identify You.

23. **Assignment.** You may not assign this EULA, in whole or in part, without Rockwell Automation’s prior written consent. Any attempt to assign this EULA without such consent will be null and void. Subject to the foregoing, this EULA will bind and inure to the benefits of each party’s permitted successors and assigns.

24. **Governing Law.** This EULA 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 EULA 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.

## English Addendum

### **IMPORTANT READ THIS AGREEMENT CAREFULLY**

This Addendum for Cloud Services (“Addendum”) to the Rockwell Automation End User License Agreement (“EULA”) is between You and Rockwell Automation for Your access to, and use of, Cloud Services (as defined in the EULA). In the event of a conflict between this Addendum and the EULA, the terms of this Addendum shall govern with regard to the Cloud Services. Capitalized terms not otherwise defined in this Addendum will have the meanings assigned to them in the EULA.

1. **Subject Matter.** Rockwell Automation provides access to the Cloud Services through “myRockwellAutomation” services or other means as may be designated by Rockwell Automation from time-to-time. As part of the Cloud Services, Rockwell Automation may provide You access to applications such as FactoryTalk Analytics. The Cloud Services provided or used with the Software or service, such as Microsoft Azure, as well as FactoryTalk Analytics, may be accessible via an account on-line through a web interface at myRockwellAutomation and applicable sub domains as well as any successor and related site or portal designated by Rockwell Automation from time-to-time.

2. **Use of the Cloud Services.** During the License Term, You may access the Cloud Services solely for Your internal business operations. You may not sublicense or transfer these rights, except as specifically provided in the EULA. All other restrictions applicable to the Software in the EULA will apply to your use of the Cloud Services.

2.1. **OEM Customers.** If You are an original equipment manufacturer (“OEM”), You may make the Cloud Services available to Your customers as an integral part of Your product or service and not as a discrete product or service, unless authorized by Rockwell Automation in Your Activation Certificate. Rockwell Automation consents to such use of the Cloud Services provided You abide by the EULA and Addendum terms, and You shall be fully responsible for Your customers’ acts and omissions, including Your customers’ compliance with the EULA and Addendum. If You are an end customer receiving an OEM product, You acknowledge and agree that (i) You have accepted and are bound by this Addendum and the EULA; (ii) the OEM is not authorized to modify or amend this Addendum or the EULA or to offer any warranties or representations regarding the Cloud Services; (iii) Rockwell Automation’s sole obligations with regard to the Cloud Services are as set forth in the EULA and this Addendum; and (iv) You will look solely to the OEM for any defects in the OEM product and services, or any incompatibilities with the Cloud Services.

3. **Administration.** Your use of the Cloud Services involves having a user account as may be required by Rockwell Automation. You agree to accept responsibility 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 against unauthorized access. You are responsible for maintaining the confidentiality of Your users’ account information and passwords. Rockwell Automation will have the right to 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 Cloud Services. 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.

4. **Your Data Location.** Pursuant to applicable laws and subject to the terms and conditions of any applicable Data Processing Addendum between You and Rockwell Automation, if any, 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.

5. **Connectivity.** You, Your Authorized Users, and customers 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.

6. **Data Warranties.** You represent and warrant that You have sufficient rights to Your Data for Rockwell Automation to perform its obligations under the EULA and this Addendum, 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.

7. **Acceptable Use.** In Your use of the Cloud Services, you may not: (a) upload, post, e-mail or otherwise transmit any content that is unlawful, harmful, threatening, intimidating, abusive, harassing, tortuous, 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 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 or otherwise transmit any material that contains software viruses or 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; (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.

8. **Your Indemnity.** You will defend, indemnify, and hold harmless Rockwell Automation and its Affiliates and their licensors against any liabilities, damages, sanctions, fines, and costs arising from (a) the authorized use of Your Data, including Your failure to comply with the requirements of Section 6 (Data Warranties) and 7 (Acceptable Use), or (b) Your use of the Software or Cloud Services in violation of the EULA or this Addendum.

9. **Data Storage.** Rockwell Automation and its suppliers are not responsible, or liable for, the deletion of or failure to store any of Your Data and other communication maintained or transmitted through use of the Cloud Services. You are responsible for Your own disaster recovery plan, including but not limited to, securing access to and backing up Your Data. On any termination or expiration of the EULA and this Addendum, You will have a period 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.

10. **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 EULA and Addendum.

11. **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 becomes aware of with regard to Your Data. For more information about the measures used to protect the Cloud Services and Your Data, please refer <https://www.rockwellautomation.com/en-us/company/about-us/integrity-sustainability/trust-security.html>.

12. **Data Privacy.** Rockwell Automation treats Your Data in accordance with our privacy terms 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 execute 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 EULA as if set forth therein.

13. **Availability.** Rockwell Automation will use commercially reasonable efforts to make the Cloud Services available for Your access and use, as contemplated under this Addendum, an average of at least ninety-nine (99%) of the time during each month during the relevant License Term (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 License Term, 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.

14. **Disaster Recovery; Business Continuity.** Rockwell Automation has developed and implemented a disaster recover/business continuity plan (the "Plan") for the Cloud Services. Consistent with its then current practices, Rockwell Automation will periodically test and re-assess the Plan.

15. **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 EULA or this Addendum; (ii) Your user account should be removed due to prolonged inactivity; (iii) to prevent damage to or disruption of the Cloud Services; (iv) Rockwell Automation's provision of the Cloud Services is no longer commercially viable; and (v) 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.

16. **Data Overage.** Rockwell Automation reserves the right to charge You at the end of Your License Term if You exceed the level of usage authorized in your initial purchase of the Cloud Services.

17. **Applicability.** The EULA and this Addendum 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 EULA or this Addendum.

18. **General.** This Addendum is a part of and governed by the EULA.