



END USER LICENSE AGREEMENT

End User (full legal name):			
End User Address:			
City, Province/State:		Postal/ZIP Code:	
Contact Name:		Title:	
Telephone:		Email:	
Name of reseller which sold Product(s) to End User (if applicable):		Not Applicable	
The Effective Date of this EULA is:			

This End User License Agreement, including any Order Form between Rockwell Automation, Inc. (“Rockwell Automation”) and End User which by this reference is incorporated herein (this “EULA”), is entered into between Rockwell Automation and the entity accessing Rockwell Automation proprietary Software (“End User”), and is effective as of the date accepted by End User (the “Effective Date”). This EULA applies only for End User’s purchases of Clearpath Robotics Hardware and Software from Rockwell Automation or from an authorized reseller. This EULA is not applicable to any other Rockwell Automation branded software products.

1. Application

Under a separate agreement, End User has agreed to acquire certain Hardware and license certain Software manufactured or developed by Rockwell Automation. The Hardware and Software are individually referred to as the “Product” and collectively referred to as the “Products”. The purchase, activation, installation and use of Products by End User, is conditional upon End User entering into this EULA with Rockwell Automation.

2. Definitions

In addition to terms defined elsewhere in this EULA, the following capitalized terms shall have the following meanings:

“Academic work” means any report whether written, oral for the purposes of conferring and/or discussing with colleagues and peers, and/or presenting reports as defined above at conferences, and/or publishing papers that are instructional in nature or research based.

“ App” means the user interface to the Vehicle Software.

“Claim” means claims, suits, actions or proceedings brought against End User in a court of competent jurisdiction in a Covered Country by a third party which allege an infringement of the third party’s patent, copyright, or trade secret rights of which Rockwell Automation is aware existing under the laws of the Covered Countries.

“Confidential Information” means any information, technical data, or know-how relating to Rockwell Automation or End User, as applicable, including that which relates to past, present and future products, software, services and research (including Rockwell Automation Products or products of End User, as applicable, and any unannounced products of Rockwell Automation or of End User, as applicable, or services, including unannounced services), Documentation or any part thereof, customers, employees, markets, software, intellectual property, developments, inventions, processes, designs, drawings, engineering, hardware configuration information, marketing or finances of Rockwell Automation or End User, information relating to the assets, business plans, equipment, financial statements and financial performance, inventory, market strategies, operations, pricing, suppliers and trade secrets of Rockwell Automation or End User, as applicable, all analyses, compilations, records, data, reports, correspondence, memoranda, specifications, materials, applications, technical data, studies, derivative works, reproductions, copies, extracts, summaries or other documents containing or based upon, in whole or in part, any of the information listed above, whether communicated in written form, orally, visually, demonstratively, technically or by any other electronic form or other media, or committed to memory, and whether or not designated, marked, labeled or identified as confidential or proprietary, and if given orally, is confirmed in writing, within thirty (30) days of its disclosure as having been disclosed as confidential or proprietary.

“Covered Countries” means Canada and the United States.

“Documentation” means the user guides, operating manuals, written instructions and release notes regarding the Products as updated from time to time provided by Rockwell Automation or located at <https://support.clearpathrobotics.com/hc/en-us> or a substitute location as may be provided by Rockwell Automation.

“End User Data” means any and all data relating to End User’s use of Products, including a Product’s operational status, Product usage statistics and data collected or generated by a Product (including sound, video and images), that is communicated or uploaded by End User or a Product to Rockwell Automation.

“Functional Release” means a new major or minor release version of the Software which includes enhancements and/or new features and functionality to the Software as may be provided by Rockwell Automation from time to time under the terms of a separate Support and Subscription Agreement.

“Hardware” means any Rockwell Automation’ Vehicles, equipment, machinery, parts and other hardware acquired by the End User.

“Intellectual Property Rights” means all intellectual property of any kind, including, without limitation, copyrights, patents, patent applications, trademarks, business names, trade secrets know-how, inventions, discoveries, modifications, improvements, software source code, documentation, drawings, industrial designs, logos or designations.

“Maintenance Release” means Software updates, as may be issued by Rockwell Automation from time to time, to the given version of the Software, corrections or patches intended to correct errors, bugs or problems and may include minor enhancements.

“Fleet Manager” means Rockwell Automation’ fleet-manager software that connects multiple self-driving vehicles and having the features and functionality as more particularly described in the Software Documentation.

“Rockwell Automation Parties” means Rockwell Automation, its affiliates and each of their respective contractors, licensors and agents and all such persons’ officers, directors and employees.

“Safety Standards” means generally accepted safety standards for driverless, automatic guided vehicles and automated functions of manned vehicles, and equivalent standards in other countries.

“Services Data” means any and all data and information generated through Rockwell Automation’ analysis or processing of End User Data, including data specific to End User that is generated by Rockwell Automation.

“Software” means Rockwell Automation’ Vehicle Software, App and Fleet Manager, and shall include Maintenance Releases and Functional Releases.

“Software Documentation” means the specific documentation which sets out the features and functionality and technical specifications for the Software.

“Support and Subscription” means a separate, paid agreement providing access to Rockwell Automation technical support and Functional Releases.

“Vehicle” means any Rockwell Automation robot or vehicle manufactured by Rockwell Automation.

“Vehicle Software” means all software running on the Vehicle including but not limited to the perception software, the autonomy system, the control software, and the server for the App.

3. Software Licenses, Intellectual Property and Data

(a) **License.** Rockwell Automation Software is licensed, not sold, to End User. Subject to the terms of this EULA, Rockwell Automation grants to End User a limited, non-transferable and non-exclusive license to use the Software with the Hardware in the country in which the Products were delivered to End User and in machine readable form. The license to use the given version of the Software (including any subsequent Maintenance Releases for the given functional version of the Software) is perpetual. No rights to access or use Software source code are granted to End User. Software Documentation supplied or made available may only be used solely to install, operate, maintain and support the Software for End User’s internal business use and operations.

(b) **Restrictions Regarding Software.** End User shall not, directly or indirectly, and will not allow its suppliers, agents, or any third party, to: (i) use the Software for any purpose other than its internal business use in connection with its use of the Hardware and/or on the Hardware in which it is embedded or installed; (ii) gain access to, modify, change, alter or adapt the Software, or any portion thereof, or do anything or permit anything to be done, whether by way of reverse engineering, decoding, decompiling, disassembling, or anything else that is intended to discover the source code, Confidential Information or trade secrets inherent in the Software; (iii) remove or alter any patent, trade-mark, copyright or confidential information notices, or any other notice of ownership included in the Software; (iv) sell, assign, transfer, rent, lease, sublicense, export or lend the Software or Documentation, or any portions or copy thereof, to any third party or allow any third party to gain access to the Software or any portion or copy thereof; (v) permit the Software to be subject to any timesharing, service bureau, subscription service or rental activities; (vi) create derivative works of the Software or make any attempt to do so; (vii) reproduce, transmit, translate, copy, use or disclose the Software in any manner or for any reason whatsoever other than as expressly permitted by this EULA; (viii) contest the validity of any of Rockwell Automation’ Intellectual Property Rights in and to the Software; (ix) except with the prior written consent of Rockwell Automation, make any report (whether written, oral or otherwise) concerning its evaluation or use of the Product to any third party nor disclose the results of any benchmark test; and (x) except with the prior written consent of Rockwell Automation or in the case of academic work, make any report whether written, oral or otherwise concerning its evaluation or use of the Product to any third party nor disclose the results of any benchmark, publicly distribute, or permit the public distribution, a review of the Product comparing it to competing products.

(c) **Restrictions Regarding Hardware.** Except where performed by an Rockwell Automation certified technician, or with the consent of Rockwell Automation, End User shall not, directly or indirectly, and will not allow its suppliers, agents, or any third party, to: (i) gain access to, modify, change, alter or adapt the Hardware, or any portion thereof, or do anything or permit anything to be done, whether by way of reverse engineering, decoding, decompiling, disassembling, or anything else that is intended to discover the Hardware's method of operation, underlying ideas, algorithms, source code, Confidential Information or trade secrets; (ii) permit the Hardware to be subject to any timesharing, service bureau, subscription service or rental activities; (iii) remove any product information, confidentiality, copyright notices, patent notices, trademark notices or other notices or proprietary restrictions from the Hardware; (iv) reproduce, copy, market, sell, distribute, transfer, modify, adapt, or create derivative components from the Hardware; (v) attempt to probe, scan, render unusable or test the vulnerability of the Hardware or to breach or tamper with any of its security features, or (vi) remarket, sell, license or lease Hardware to others in the regular course of business.

4. Ownership

(i) End User agrees that: (A) the Products are proprietary to, and include Confidential Information and proprietary material of, Rockwell Automation and its licensors; and (B) that all rights and title and interest in and to the Intellectual Property Rights in the Products and Software Documentation, and all modifications, updates and enhancements thereto shall at all times vest and remain exclusively with Rockwell Automation except that title to and ownership of any portion of the Intellectual Property Rights in or related to the Hardware that is owned by a third party or Rockwell Automation licensor shall remain with the relevant third party or licensor.

Rockwell Automation reserves all rights to the Products that are not expressly granted in this EULA and, except as expressly set out herein, this EULA does not convey to End User any interest, including any Intellectual Property Rights, in or to the Products and Software Documentation.

5. Third Party Software

Products may include software created by persons other than Rockwell Automation ("Third Party Software"), including "open source" software that is subject to "open source" or "free software" licenses ("Open Source Software") and to the extent included in the Software the license granted in Section 3(a) of this EULA includes a right to use such Third Party Software in accordance with this EULA. Rockwell Automation warrants that it has received a license to use all Third Party Software embedded in Products from the third-party licensor and, except for such warranty and notwithstanding any other term of this EULA, Rockwell Automation provides no, and expressly disclaims any and all other, representations, warranties and conditions concerning any Third Party Software. Nothing in this EULA limits End User's rights under, or grants End User rights that supersede or extend beyond, the terms and conditions of any applicable Open Source Software license. If required by any Open Source Software license, Rockwell Automation makes such Open Source Software, and Rockwell Automation's modifications to that Open Source Software, available by written request to Rockwell Automation.

6. Software Support and Maintenance

Except as may be expressly agreed in a separate Support and Subscription written agreement between End User and Rockwell Automation, Rockwell Automation is not obligated to provide any Software Functional Releases or support services of any kind for the Hardware (beyond the warranty) or Software.

7. Relief

End User acknowledges that damages may not be an adequate remedy for a breach of this EULA or a breach or misappropriation of Rockwell Automation's (or its or its third-party licensors') Intellectual Property Rights by End User. End User shall not, and nothing in this EULA shall, interfere with, delay, obstruct, or prevent Rockwell Automation from taking, or require Rockwell Automation to take, any steps prior to taking action to seek an interim and interlocutory equitable remedy on notice or ex parte basis to enforce any provision herein to protect its rights concerning the Products or other intellectual or proprietary rights. Any

such relief or remedy shall not be exclusive, but shall be in addition to all other available legal or equitable remedies. End User agrees that the provisions of this Section are fair and reasonable in the commercial circumstances of this EULA.

8. Data Link

Data Link (“Data Link”) means a connection from the End User’s site to Rockwell Automation and all data and information uploaded and/or submitted into or captured by Clearpath Robotics software in the course of the use and operation of Clearpath Robotics Vehicles. End User Data (“End User Data”) consists of all confidential data, or information that is not otherwise publicly known, shared with Rockwell Automation by the End User. As between Clearpath Robotics Inc and End User, End User is and shall remain the sole and exclusive owner of all rights in and to the End User Data.

End User acknowledges that Products are optimally supported and serviced using data that is automatically collected via a Data Link or via software updates and configuration changes provided by Clearpath Robotics Inc via a Data Link. End User grants to Clearpath Robotics Inc, and Clearpath Robotics Inc accepts, a non-exclusive, worldwide transferable, sublicensable (to its affiliates, subcontractors, and service providers), irrevocable, royalty-free, fully paid up license to access data from a Data Link.

Should End User elect, at their discretion, decline to provide a Data Link to Clearpath Robotics Inc as described in this Section, then Clearpath Robotics Inc may not be able to respond or correct product issues in a timely manner or, in some cases, at all.

End User acknowledges that Clearpath Robotics Inc ability to provide support services, uptime, or productivity assurances are diminished by the absence of a Data Link.

9. Data Collection and Feedback

The Products contain software to derive statistical and operational metrics about the performance of the Products (“Statistical Information”). The Products also contain software to track, capture, aggregate, host and transmit encrypted Statistical Information to Rockwell Automation Data is only transmitted should End User set up a Data Link or if data is otherwise sent to Clearpath through another means, ie. Email. Statistical Information does not include End User Personally Identifiable Information.

Statistical Information may be combined with the data of Clearpath Robotics Inc’s other Products, but always in an aggregated manner which does not include Personally Identifiable Information, to derive statistical and performance-related information regarding the provision and operation of the Products.

End User understands that Statistical Information is further defined as follows:

- (i) use any Statistical Information for its internal business purposes to improve and enhance the Products and for other development, diagnostic and corrective purposes and for other purposes Clearpath Robotics Inc may, in its sole discretion, choose; and
- (ii) use, license, sell, disclose and otherwise commercially exploit the Statistical Information without limitation or restriction, for any purpose Clearpath Robotics Inc may, in its sole discretion, choose; and
- (iii) make such Statistical Information publicly available, provided that in each case such Statistical Information does not include any data that would enable, directly or indirectly, the identification of any person or End User or the disclosure of any Confidential Information.

It is understood and agreed, that in addition to the Statistical Information, Rockwell Automation may also utilize the Statistical Information of which may include optimizing resources and support; research and development; automated processes that enable continuous improvement, performance optimization and development of new Clearpath Robotics Inc products and services; verification. The rights to which Statistical Information shall be owned solely and exclusively by Clearpath Robotics Inc, without restriction. Clearpath Robotics Inc agrees, however, that Statistical Information will not/nor incorporate End User Data in a form that could serve to identify End User. End User is granted no right or licenses with respect to Statistical Information.

10. Confidentiality

(a) Neither party will use the other party's Confidential Information except as necessary for the performance of this EULA, will not disclose such Confidential Information to any third party, and will limit its disclosure internally to only those of its employees and contractors and subcontractors that have a need to know such Confidential Information for the performance of this EULA. Each party will use all reasonable efforts to maintain the confidentiality of the other party's Confidential Information in its possession or control, but in no event less than the efforts that it ordinarily uses with respect to its own Confidential Information of similar nature and importance. The foregoing confidentiality obligations will not restrict either party from disclosing the other party's Confidential Information or the terms and conditions of this EULA: (i) pursuant to the order or requirement of a court, administrative agency, or other governmental body, provided that the party required to make such a disclosure gives reasonable notice to the other party to enable it to contest such order or requirement; (ii) on a confidential basis to its legal or professional financial advisors, its current and prospective lenders, purchasers and/or investors, and their legal or professional advisors, provided each of them is bound by legally enforceable restrictions on the use and disclosure of such Confidential Information that are as protective as the provisions set forth in this EULA; or (iii) as required under applicable law.

(b) Confidential Information does not include information, technical data or know-how which: (i) is in the possession of the party receiving the Confidential Information (the "Receiving Party") at the time of disclosure by the party disclosing such Confidential Information (the "Disclosing Party") as shown by the Receiving Party's files and records immediately prior to the time of disclosure; (ii) prior to or after the time of disclosure becomes part of the public knowledge or literature other than as a result of any improper inaction or action of the Receiving Party; (iii) is approved by the Disclosing Party in writing, for disclosure; or (iv) is required to be disclosed by applicable law or proper legal, governmental or other competent authority, and then only to the extent required, provided that the Disclosing Party, as applicable, shall be notified sufficiently in advance of such requirement so that it may seek a protective order (or equivalent) with respect to such disclosure, with which the Receiving Party shall fully comply. For avoidance of doubt, Confidential Information shall not be deemed to have been known by the Receiving Party or to be part of public domain merely because it or portions thereof is expressed in publications or patents in general terms not specifically pertaining to the subject matter of the Confidential Information.

(c) The parties acknowledge and agree that any violation or breach of the provisions of this Section 10 may cause the Disclosing Party serious harm for which there will be no adequate remedy at law. Therefore, the Disclosing Party is entitled, without the requirement of posting a bond or other security, to equitable relief, including injunctive relief and specific performance, as a remedy for any such breach. Such relief shall be in addition to, and not in lieu of, all other remedies available at law or in equity.

(d) Each party shall notify the other party promptly upon discovery of any unauthorized use or disclosure of the other party's Confidential Information, and will cooperate with the other party in every reasonable way to help regain possession of such Confidential Information and to prevent its further unauthorized use or disclosure.

(e) Upon termination of this EULA or upon the request of the Disclosing Party (except as otherwise required in connection with the performance of obligations under this EULA), the Receiving Party shall, at the option of the Disclosing Party, destroy or return: (i) all forms of Confidential Information in its possession, and (ii) all copies of all materials that incorporate or reflect Confidential Information, and shall certify to the Disclosing Party that such materials have been either returned or destroyed, in each case except as to executed original copies of any contractual documents or other materials customarily held or retained by the Receiving Party as legal archival material in the ordinary course of business, or as required to comply with applicable law. This Section 10 will survive the termination of this EULA.

11. End User License

Without limiting the generality of Section 9, to the extent that End User Data is communicated by Products directly or indirectly to Rockwell Automation or its Hosting Provider (as defined below), End User hereby grants to Rockwell Automation an irrevocable, limited, non-exclusive, non-transferable and fully paid-up license to access, process, store and use End User Data

and Services Data for the purpose of, and only to the extent required in order to, perform its obligations under this EULA and to otherwise provide End User with Product support and other services (such as data analytics services) as may be procured by End User from Rockwell Automation from time to time under separate agreement. End User agrees that Rockwell Automation reserves the right to transfer End User Data to, and that End User Data, Services Data and Statistical Information may be stored, generated and processed on, systems operated and supported by a third party hosting provider and its subcontractors and agents (“Hosting Provider”). To the extent permitted by the Anti-Deficiency Act, End User agrees to indemnify and hold the Rockwell Automation Parties harmless from all third party claims, and all liabilities, losses and damages which result from or arise out of Rockwell Automation’ use of the End User Data as authorized herein.

12. Compliance

End User is responsible for complying with all applicable laws and is solely responsible to obtain, and represents and warrants to Rockwell Automation that it has obtained, or shall obtain, all necessary consents (including all consents that are required under applicable privacy and data protection laws) to provide End User Data to Rockwell Automation in accordance with this EULA. As a processor of End User Data, Rockwell Automation will store and process End User Data for the purposes contemplated by this EULA. Upon End User’s written direction, Rockwell Automation will return or destroy

End User Data and/or Services Data (but may retain the Statistical Information it has the right to use under Section 9. End User acknowledges that in communicating End User Data to Rockwell Automation End User Data and Services Data will be transmitted via public telecommunications networks, including the Internet and may be transmitted across provincial, state or international territorial borders, therefore End User shall be solely responsible for determining whether any such transfers comply with applicable local laws in the jurisdiction of the End User. Rockwell Automation does not guarantee the integrity of, or inadvertent disclosure of, or corruption or loss of End User Data or Services Data transmitted via telecommunications networks.

13. End User Indemnification

To the extent permitted by the Anti-Deficiency Act, End User hereby agrees to indemnify and hold harmless the Rockwell Automation Parties from and against all claims, demands, suits, actions, proceedings, losses, damages, costs and/or expenses (including reasonable legal fees) which may be asserted against, incurred or suffered by any of the Rockwell Automation Parties in relation to: (a) End User’s failure to incorporate a Product update, modification or upgrade; (b) the service, repair, programming or modification of any Product by any party other than Rockwell Automation or its authorized representatives; (c) the combination or use of any Product with software, hardware, firmware, data, or technology not licensed to End User by Rockwell Automation or approved by Rockwell Automation in writing; (d) unlicensed or unauthorized activities of End User; (e) storage, handling, use, maintenance or repair of the Product not in accordance with the Documentation; (f) a breach by End User of any obligation, undertaking, warranty, representation and/or provision of this EULA; (g) any acts or omissions which involve negligence, recklessness or intentional misconduct on the part of End User; (h) any allegation or claim of trademark infringement by reason of Rockwell Automation’ use of End User’s name, logo or trademark in connection with this EULA; and (i) End User’s use of the Products.

14. Safety

It is End User’s responsibility to be familiar with the Safety Standards and ensure that each Product is maintained and operated in a safe manner and suitable environment. Rockwell Automation does not monitor Products for compliance with Safety Standards. End User will only allow persons to operate the Product who are adequately trained and comply with all health and safety and workers' compensation laws, ordinances, rules, decrees, codes and regulations, present and future, applicable to End

User's intended activities and their ownership, possession and use of the Product. Modification, removal or addition of components or changes to the functionality or operation of the Product in any way except as expressly authorized by Rockwell Automation in writing may jeopardize the safety of the Product and Rockwell Automation shall have no responsibility or liability with respect to any such modifications.

15. Disclaimer and Risk of Use

(a) SUBJECT TO THE TERMS OF THE MANUFACTURER'S WARRANTY (IF ANY) THE PRODUCTS ARE PROVIDED TO END USER ON AN "AS-IS", "AS AVAILABLE" AND "WITH ALL FAULTS" BASIS, AND ROCKWELL AUTOMATION EXPRESSLY DISCLAIMS ANY AND ALL OTHER REPRESENTATIONS, WARRANTIES AND CONDITIONS CONCERNING THE PRODUCTS OR THEIR USE, WHETHER EXPRESS OR IMPLIED OR STATUTORY OR OTHERWISE ARISING IN LAW (INCLUDING DURING THE COURSE OF DEALING, USAGE OF TRADE) AND WHETHER ORAL OR WRITTEN, INCLUDING, BUT NOT LIMITED TO, ANY AND ALL REPRESENTATIONS, WARRANTIES OR CONDITIONS OF (I) DESIGN, (II) MERCHANTABILITY, (III) FITNESS FOR ANY PARTICULAR PURPOSE, INCLUDING HIGH RISK ACTIVITIES, (IV) NON-INFRINGEMENT, (V) PERFORMANCE, INCLUDING UPTIME AND PRODUCTIVITY, INCLUDING THAT THE SOFTWARE IS ERROR FREE, OR THAT THE SOFTWARE WILL OPERATE UNINTERRUPTED, AND (VI) COMPLIANCE WITH STANDARDS OR LAWS. END USER CONFIRMS THAT IT HAS THE SOLE RESPONSIBILITY FOR INSTALLING ANTI VIRUS SOFTWARE TO PROTECT THE SOFTWARE AND ALL USE OF THE PRODUCTS AND FOR ALL DECISIONS TAKEN FROM SUCH USE. END USER ASSUMES ALL RISK FOR ALL DAMAGES THAT MAY RESULT FROM END USER'S USE OF THE PRODUCTS, INCLUDING BUT NOT LIMITED TO, BODILY INJURY (INCLUDING DEATH) AND PROPERTY DAMAGE AND, TO THE EXTENT PERMITTED BY THE ANTI DEFICIENCY ACT, END USER AGREES TO INDEMNIFY AND HOLD HARMLESS THE ROCKWELL AUTOMATION PARTIES FROM ALL LIABILITIES, LOSSES AND DAMAGES THAT RESULT FROM OR ARISE OUT OF END USER'S USE OF THE PRODUCTS.

(b) SOME JURISDICTIONS MAY PROHIBIT A DISCLAIMER OF WARRANTIES AND END USER MAY HAVE OTHER RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION. NOTHING IN THIS EULA LIMITS OR EXCLUDES ANY END USER RIGHTS THAT CANNOT BE LIMITED OR EXCLUDED UNDER APPLICABLE LAW.

(c) THE ROCKWELL AUTOMATION PARTIES SHALL NOT BE LIABLE TO END USER OR ANY OTHER PERSON FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OR OTHER CONSEQUENTIAL LOSS OF ANY KIND OR NATURE (INCLUDING LOST PROFITS OR REVENUES, LOSS OF USE OF THE PRODUCT(S) OR ANY ASSOCIATED EQUIPMENT OR DATA, COST OF CAPITAL, COST OF SUBSTITUTE OR REPLACEMENT EQUIPMENT OR SOFTWARE, OR DOWNTIME COSTS) REGARDLESS OF

THE FORM OF ACTION OR THEORY OF LIABILITY, INCLUDING FOR BREACH OF CONTRACT, TORT, NEGLIGENCE AND BY STATUTE, EVEN IF SUCH DAMAGES ARE FORESEEABLE OR ROCKWELL AUTOMATION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(d) THE ROCKWELL AUTOMATION PARTIES' TOTAL LIABILITY AND OBLIGATION TO END USER, IN THE AGGREGATE, FOR ANY AND ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THE PRODUCTS AND THIS EULA, WITH RESPECT TO ANY EXPENSE, DAMAGE, LOSS, INJURY, OR LIABILITY OF ANY KIND, REGARDLESS OF THE FORM OF ACTION OR THEORY OF LIABILITY (INCLUDING FOR BREACH OF CONTRACT, TORT, NEGLIGENCE, BY STATUTE OR OTHERWISE) SHALL BE LIMITED TO THE ACTUAL DIRECT DAMAGES SUFFERED AND SHALL NOT EXCEED THE GREATER OF \$50,000 OR THE AGGREGATE AMOUNT ACTUALLY PAID BY END USER TO ROCKWELL AUTOMATION IN THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE FINAL EVENT GIVING RISE TO SUCH LIABILITY.

16. Miscellaneous

(a) Entire Agreement. This EULA and Purchase Order No. ### constitute the entire agreement between the parties pertaining to the subject matter of this EULA and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties.

(b) Assignment. Neither this EULA, nor any right or obligation under this EULA may be assigned by End User without the prior written consent of Rockwell Automation.

(c) Where the End User entering into this EULA is a customer of an Rockwell Automation Value Added Reseller (“VAR”), it is the contractual responsibility and liability of the VAR to obtain the End User’s acceptance signature of this EULA.

(d) Applicable Law. This EULA is governed by, and is to be construed and interpreted in accordance with, the laws of the United States. End User acknowledges that the Products may be subject to export and import control laws and agrees to comply fully with those laws in connection with its acquisition and use of the Product.

(e) Amendment. This EULA may be amended by written agreement of Rockwell Automation and End User.

(f) Vienna Convention. *The United Nations Convention on Contracts for the International Sale of Goods* is expressly disclaimed and does not apply to this EULA.

(g) Termination. This EULA may be terminated: (i) immediately by either party if the other party is in default of any material term of this EULA and if such default is unable to be cured, or has not been cured within 30 days of written notice of that default having been given by the non-defaulting party to the defaulting party; and (ii) immediately by either party if the other party initiates proceedings for the liquidation, dissolution, winding-up, insolvency, receivership or bankruptcy of its business or a court of competent jurisdiction determines such other party to be insolvent, bankrupt or appoints a receiver in respect of such party’s business or affairs; and (iii) immediately by Rockwell Automation, if Rockwell Automation becomes liable for, or pays, the total and cumulative liability amount described under Section 15 (d). Upon termination of this EULA for any reason, all rights and privileges granted by one party to the other party under this EULA will terminate and cease to be valid, subject to any sections which are expressed to survive termination and provided that termination of this EULA will not release, discharge or otherwise affect the obligation of Purchaser to pay any license fees which accrued before the termination took effect.

(h) Survival. Sections 3, 4, 5, 7, 9, 10, 11, 12, 13, 14, 15, and 16 shall survive any termination of this EULA.

(i) Counterparts. This EULA may be executed and delivered by the parties in one or more counterparts, each of which will be an original, and each of which may be delivered by e-mail or other functionally equivalent electronic means of transmission, and those counterparts will together constitute one and the same instrument.

IN WITNESS WHEREOF, authorized representatives of the parties have entered into this End User License Agreement as of the date of the last signature below.

