

# STANDARD INDUCTIVE AUTOMATION CONTRACT FOR AWS MARKETPLACE

*Last updated: October 2, 2023*

This Standard Inductive Automation Contract for AWS Marketplace (“**Standard Contract**”) sets forth the terms and conditions applicable to Your acquisition and licensing of the Product from Inductive Automation, where You are Subscribing to such Product through the AWS Marketplace via a Product Listing. The offer of the Product as a Product Listing on the AWS Marketplace, and Your purchase of the corresponding Subscription on the AWS Marketplace, constitutes each party’s respective acceptance of this Standard Contract and their entry into this Agreement (as defined below). If the individual person accepting these terms is acting on behalf of another person, company or other legal entity, such individual represents and warrants that it has the full authority to bind that other person, company or legal entity to these terms.

## 1. DEFINITIONS.

- 1.1. “**Agreement**” has the meaning set forth in Section 2.2.
- 1.2. “**Affiliates**” means entities that Control, are Controlled by, or are under common Control with a party.
- 1.3. “**AWS Marketplace**” means the software marketplace operated by Amazon Web Services, Inc. located at <https://aws.amazon.com/marketplace> as it may be updated from time to time.
- 1.4. “**AWS Services**” means the cloud computing services offered by Amazon Web Services, Inc. as they may be updated from time to time.
- 1.5. “**Confidential Information**” has the meaning set forth in Section 8.1.
- 1.6. “**Control**” (including the terms “**Controlled by**” and “**under common Control with**”) means authority which an entity has over another entity through any of the following, directly or indirectly: (i) ownership of 50% or more of the share capital or other ownership interest in such other entity; (ii) the right to exercise 50% or more of the votes in such other entity; (iii) the contractual right to designate more than half of the members of such other entity’s board of directors or similar executive body; or (iv) by virtue of any power conferred by the Laws, constitutional documents, agreements or arrangements regulating or relating to such undertaking.
- 1.7. “**Disclosing Party**” has the meaning set forth in Section 8.1.
- 1.8. “**Documentation**” means the user guides, manuals, instructions, specifications, notes, documentation, printed updates, “read-me” files, release notes and other materials related to the Product (including all information included or incorporated by reference in the applicable Product Listing), its use, operation or maintenance, together with all enhancements, modifications, derivative works, and amendments to those documents, that Inductive Automation publishes or provides under this Agreement.
- 1.9. “**Effective Date**” means the date that You enter into this Agreement with Inductive Automation.
- 1.10. “**Export Laws**” has the meaning set forth in Section 13.1.
- 1.11. “**High Risk Activities**” has the meaning set forth in Section 12.
- 1.12. “**Inductive Automation**” means Inductive Automation, LLC, a California limited liability company, having a principal place of business at 90 Blue Ravine Road, Folsom, California 95630, USA.

- 1.13. “**IP Claim**” has the meaning set forth in Section 10.
- 1.14. “**Laws**” means all applicable international, federal, state and local laws, including common laws, ordinances, codes, rules and regulations.
- 1.15. “**Licensed Materials**” means the Product, Documentation and any other items or materials that Inductive Automation provides as part of a Subscription.
- 1.16. “**Receiving Party**” has the meaning set forth in Section 8.1.
- 1.17. “**Representatives**” has the meaning set forth in Section 8.1.
- 1.18. “**Product**” means the computer software and any associated data, content and/or services identified in the applicable Product Listing that Inductive Automation provides as part of a Subscription, including any patches, bug fixes, corrections, remediation of security vulnerabilities, updates, upgrades, modifications, enhancements, derivative works, new releases and new versions of the foregoing that Inductive Automation provides as part of the Subscription.
- 1.19. “**Product Listing**” means the description of Product and other product information listed on the AWS Marketplace and offered by Inductive Automation or its authorized reseller, including Support Services and Inductive Automation’s policies and procedures incorporated or referenced in the product information.
- 1.20. “**Subscription**” means a Product subscription for a specific use capacity purchased by You and fulfilled by Inductive Automation for the licensing and provision of a Product.
- 1.21. “**Support Services**” means the support and maintenance services for the Product that Inductive Automation provides as described in the Product Listing.
- 1.22. “**Taxes**” has the meaning set forth in Section 6.2.
- 1.23. “**User**” means You, Your Affiliates and any person or software program or computer systems authorized by You or any of Your Affiliates to access and use the Product as permitted under this Agreement, including Your and Your Affiliates’ employees, consultants, authorized contractors, agents and other users.
- 1.24. “**You**” and “**Your**” mean the person, company or other legal entity which is subscribing to the Product, and any successor or assignee of same.
- 1.25. “**Your Computing Environment**” means Your computing environment in which Inductive Automation authorizes use of the Subscription.
- 1.26. “**Your Responsible Claims**” has the meaning set forth in Section 10.
- 1.27. “**Warranty Period**” has the meaning set forth in Section 9.1.

## 2. SCOPE.

- 2.1. **Product Subscription.** Subject to the terms and conditions of this Agreement, Inductive Automation will fulfill Your Subscription during the term of the Subscription. A Subscription, as described in the

applicable Product Listing and the corresponding purchase transaction, will be for a Product deployed in Your Computing Environment. The pricing and term are set forth in the Product Listing. Additional information concerning the Product and included services that is included or referenced in the Product Listing is a part of the Product Listing; such information may include but is not limited to: intended geographic use of the Product, any technical requirements for use of the Product, and Support Services (which may vary by geography). If You agree to automatic renewal of the Subscription during the process of purchasing the Product via the Product Listing, such Subscription will automatically renew for periods equal to the initial term of the Subscription specified for that Subscription until You cancel Your subscription through the termination or cancellation functionality available through AWS Services.

- 2.2. **Agreement.** Each Subscription is subject to and governed by this Standard Contract, the applicable Product Listing, and any amendments to any of the foregoing as may be agreed upon by the parties, which together constitute the agreement between You and Inductive Automation (“**Agreement**”). Each Subscription is a separate agreement between You and Inductive Automation. In the event of any conflict between the terms and conditions of the various components of this Agreement, the following order of precedence will apply: (a) any amendment agreed upon by the parties; (b) the Product Listing; and (c) this Standard Contract.

### 3. LICENSE.

- 3.1. **Inductive Automation License Grant.** You acknowledge and agree that the Licensed Materials are licensed, not sold. Subject to Your compliance with all the terms and conditions of this Agreement, Inductive Automation grants You, during the term of the Subscription, a worldwide (subject to Section 13), non-exclusive, non-transferable and non-terminable (except as provided in Section 14) license to deploy, operate and use the Product in Your Computing Environment and to allow Your Users to access and use the Product as so deployed, in accordance with the Product Listing and the usage purchased in the Subscription. You may use the Product only: (i) in support of the internal operations of You and Your Affiliates’ business(es) or organization(s); (ii) in connection with You and Your Affiliates’ products and services (but, for clarity, not as a stand-alone product or service of You or Your Affiliates); or (iii) in connection with You and Your Affiliate’s interactions with Users. You may make a reasonable number of copies of the Documentation as necessary to use such Product in accordance with the rights granted under this Agreement, provided that You include all proprietary legends and other notices on all copies. Inductive Automation retains all rights not expressly granted to You under this Agreement.
- 3.2. **Cirrus Link Products.** The Product may contain computer software developed and distributed by Cirrus Link Solutions, LLC (“**Cirrus Link**”). Notwithstanding anything to the contrary in this Agreement, You acknowledge and agree that Cirrus Link-branded products, software or services (collectively, “**Cirrus Link Products**”) contained in the Product, if any, are provided by, and are the sole responsibility of, Cirrus Link, and Your rights and obligations related to the Cirrus Link Products are governed by the terms and conditions of the Cirrus Link Solutions Software License Agreement available at <https://cirrus-link.com/wp-content/uploads/2021/06/CLSSLA-May-2021.pdf>. The parties acknowledge and agree that, with respect to the Cirrus Link Products, the following Sections of this Agreement, and only the following Sections, are applicable unless specifically agreed to in writing signed by authorized representatives of both parties: Sections 2.1, 4, 6, 9.2, 9.3, 11, 13, and 16.
- 3.3. **Applications as a Service.** Notwithstanding anything to the contrary in this Standard Contract, You may use the Licensed Materials to (i) create applications or projects, and (ii) provide one or more third parties with services via such applications or projects; provided, that such third parties do not have access to or use of the Ignition designer or gateway configuration interface made available as part of the Licensed Materials.

**4. SUPPORT SERVICES.** Inductive Automation will make available to You Documentation concerning the use and operation of the Product, and Inductive Automation will provide Support Services to You as described, incorporated or referenced in the Product Listing.

**5. RESTRICTIONS; YOUR RESPONSIBILITIES.**

5.1. **Restrictions.** Except as set forth in Section 3, You will not copy or distribute copies of the Licensed Materials, in whole or in part. You will not reverse engineer, decompile, disassemble or otherwise attempt to reconstruct or obtain any source code of the Product. You will not modify, adapt or create derivative works or improvements of the Licensed Materials or any part thereof. You will not work around or bypass any technical restrictions or limitations in the Product. You will not remove, minimize, block or modify any logos, trademarks, copyright notices or other notices of Inductive Automation or its licensors that are included in the Licensed Materials. You will not distribute, sublicense, rent, lease, sell, trade, resell, publish, transfer or lend the Licensed Materials. Subject to Section 3.3, You will not use the Licensed Materials to act as a consultant, service bureau or application service provider. You will not permit any third party to access the Licensed Materials (except as expressly permitted herein) or violate any of the restrictions set forth in this Section 5.1. The restrictions set forth in this Section 5.1 do not apply to the extent they conflict with mandatory applicable Laws.

5.2. **Security.** You are responsible for the security of Your systems and data, including the Product in Your Computing Environment. You are responsible for excluding code, files, scripts, agents or programs intended to do harm, including, for example, malware, viruses, worms, time bombs, spyware and Trojan horses.

5.3. **Third Party Claims.** You acknowledge that Inductive Automation does not control Your processes or the creation, validation, sale, or use of Your products. Inductive Automation will not be liable for any claim or demand made against You by any third party, except for Inductive Automation's obligations to indemnify You against infringement claims as expressly set forth herein.

5.4. **Responsibility for Users.** You are responsible for Your Users with respect to the Product, the Documentation and this Agreement, including all obligations hereunder arising in connection with such Users' use of the Licensed Materials. Without limiting the generality of the foregoing, any breach of this Agreement by Users, or any actions or omissions of Users pertaining to the Product, the Documentation or this Agreement, will be deemed to be Your breach, action or omission, as applicable. Any use of the Product by Your Users will be solely for Your internal business purposes.

**6. FEES; PAYMENT TERMS; TAXES.**

6.1. **Fees.** You will pay to Inductive Automation all applicable fees for the Licensed Materials when due. Fees will be invoiced to You by Amazon Web Services, Inc. Except as otherwise specified in this Agreement or prohibited by applicable law, payment obligations are non-cancelable, and fees are not refundable.

6.2. **Payment Terms.** Payment terms are typically specified in the Product Listing. If the payment terms are not specified in the Product Listing or otherwise agreed by the parties, the following payment terms will apply: (i) all monetary amounts are denominated in United States Dollars (USD); (ii) all fees will be paid by You in USD; (iii) invoices are due within net 30 days from the date of invoice (unless different payment terms have been agreed between You and Amazon Web Services, Inc., in which case those payment terms will apply); and (iv) fees will be invoiced in full following Your purchase of the applicable Subscription on the AWS Marketplace. Payments not made within the time required may accrue late

interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by applicable Laws, whichever is lower.

6.3. **Taxes.** All prices are exclusive of any taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any governmental authority, including any interest, additions to tax or penalties applicable thereto (collectively, “**Taxes**”). You agree to pay or reimburse Inductive Automation for the payment of any applicable Taxes or duties including, but not limited to, sales Taxes, value added Taxes, goods and services Taxes, consumption Taxes, and any withholding Taxes imposed by any government authority on Your use of or license to the Licensed Materials and on any payments made by You to Inductive Automation with respect thereto, excluding, however, income Taxes on profits which may be levied against Inductive Automation. If You are exempt from value-added or sales tax, then You must provide a valid, timely, and executed exemption certificate, direct pay permit, or other such government-approved documentation to Inductive Automation. Upon Your reasonable request, Inductive Automation shall provide you with a duly executed and properly completed IRS Form W-9. If You are required by Law to make any income tax deduction or to withhold income tax, after the application of reductions or exemptions available under applicable Law or international treaties, from any sum payable directly to Inductive Automation hereunder, You will promptly effect payment thereof to the applicable tax authorities, You will promptly provide Inductive Automation with official tax receipts or other evidence issued by the applicable tax authorities, and You will increase the sum payable to Inductive Automation as necessary so that after such deduction or withholding has been made (including such deductions or withholdings applicable to additional sums payable under this section), Inductive Automation receives an amount equal to the sum it would have received had no such deduction or withholding been made. For the avoidance of doubt, You are responsible for, and will indemnify Inductive Automation for, any Taxes, including withholding Taxes, resulting from making licenses available to users in geographic regions outside the country in which You are located.

7. **OWNERSHIP.** Ownership of the Licensed Materials remains with Inductive Automation. You are not obtaining ownership of the Product, the Documentation or any intellectual property rights related to them by licensing the Licensed Materials. Inductive Automation retains all right, title and interest in and to the Licensed Materials, including any enhancements, updates, upgrades, modifications, improvements and derivatives thereof, and all intellectual property rights therein. You will not use any Confidential Information to contest the validity, enforceability or ownership of any intellectual property of Inductive Automation or its licensors. Except as otherwise expressly provided in this Agreement, nothing herein will be construed to grant You any rights or licenses, either express or implied, in or to any patents, copyrights, trademarks or other intellectual property rights owned by Inductive Automation.

## 8. CONFIDENTIALITY.

8.1. **Confidential Information.** “**Confidential Information**” means all information disclosed by a party (“**Disclosing Party**”) to the other party (“**Receiving Party**”) under this Agreement, whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information of Inductive Automation includes (i) the Licensed Materials, and (ii) the technology, ideas, know-how, documentation processes, algorithms and trade secrets embodied in the Licensed Materials. Confidential Information of each party includes business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. Except for rights expressly granted in this Agreement, each party reserves all rights in and to its Confidential Information.

8.2. **Exclusions.** Confidential Information does not include information that: (i) is known to the Receiving Party prior to disclosure by the Disclosing Party; (ii) is or becomes publicly available without breach of

any obligation owed to the Disclosing Party; (iii) is received by the Receiving Party from a third-party without knowledge of any breach of any obligation owed to the Disclosing Party; or (iv) is or has been independently developed by the Receiving Party without the use of or reference to the Disclosing Party's Confidential Information.

- 8.3. **Use and Disclosure of Confidential Information.** The Receiving Party will (i) not disclose Confidential Information of the Disclosing Party, except on a need-to-know basis to its employees, members, directors, officers, consultants and representatives (including, but not limited to, financial, tax and legal advisors) (collectively, "**Representatives**"), (ii) use and copy Confidential Information only as required to exercise rights or perform obligations under this Agreement, and (iii) protect Confidential Information from unauthorized use or disclosure using the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care). The Receiving Party (a) will ensure that all its Representatives receiving Confidential Information are bound by confidentiality obligations and use restrictions at least as restrictive as those herein, and (b) will be liable for compliance with this Section 8 by each of its Representatives.
- 8.4. **Permitted Disclosure.** The Receiving Party may disclose the Disclosing Party's Confidential Information if required by a governmental agency, by operation of law, or if necessary, in any proceeding to establish rights or obligations under this Agreement; provided, that the Receiving Party gives the Disclosing Party prior notice of the required disclosure (if permitted to do so under law) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.
- 8.5. **Publicity.** Inductive Automation may identify You as a customer (by name, logo or other mark) on its websites and in customer lists and other marketing materials.

## 9. LIMITED WARRANTIES; DISCLAIMERS.

- 9.1. **Limited Warranty.** Inductive Automation warrants that the Product will conform in all material respects with the Documentation provided to You by Inductive Automation for a period of 30 days after Your purchase of the Subscription or the term of the Subscription, whichever is shorter ("**Warranty Period**"). This warranty will be void if the non-conformity is caused by Your failure to use the Product in accordance with the Documentation or comply with the terms and conditions of this Agreement.
- 9.2. **Remedies.** If any Product fails to conform to the foregoing limited warranty, Inductive Automation will, at its option and expense, correct the Product as necessary to conform to the limited warranty. If Inductive Automation does not correct the Product to conform to the limited warranty within a reasonable time, not to exceed 30 days (or such other period as may be agreed upon by the parties) (the "**Cure Period**"), as Your sole remedy and Inductive Automation's exclusive liability, You may for a period of 30 days following the conclusion of the Cure Period (or such other period as may be agreed upon by the parties), elect to terminate the Subscription and this Agreement without further liability and Inductive Automation will provide You with a refund of any fees prepaid to Inductive Automation by You, prorated for the portion of the Subscription unused at the time You reported the breach of warranty to Inductive Automation.
- 9.3. **Disclaimers.** EXCEPT FOR THE EXPRESS LIMITED WARRANTIES PROVIDED IN THIS AGREEMENT, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, (I) INDUCTIVE AUTOMATION MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE LICENSED MATERIALS, AND (II) THE LICENSED MATERIALS PROVIDED UNDER THIS AGREEMENT ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. INDUCTIVE AUTOMATION EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, REGARDING THE LICENSED MATERIALS, INCLUDING (WITHOUT LIMITATION) ANY IMPLIED WARRANTY OF TITLE, NON-

INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INTERRUPTION OF USE AND FREEDOM FROM BUGS. INDUCTIVE AUTOMATION MAKES NO WARRANTY THAT THE PRODUCT WILL MEET YOUR REQUIREMENTS, OR THAT THE PRODUCT WILL BE UNINTERRUPTED OR ERROR-FREE; NOR DOES INDUCTIVE AUTOMATION MAKE ANY WARRANTY THAT ANY DEFECTS IN THE PRODUCT WILL BE CORRECTED OR THAT THE PRODUCT WILL BE COMPATIBLE WITH ANY OTHER HARDWARE, SOFTWARE OR SERVICE. YOU ASSUME COMPLETE RESPONSIBILITY FOR DECISIONS MADE OR ACTIONS TAKEN BASED ON INFORMATION OBTAINED USING THE PRODUCT. NO ORAL OR WRITTEN INFORMATION, MARKETING OR PROMOTIONAL MATERIALS, OR ADVICE GIVEN BY INDUCTIVE AUTOMATION OR ITS AUTHORIZED REPRESENTATIVES WILL CREATE ANY ADDITIONAL WARRANTIES OR IN ANY WAY INCREASE THE SCOPE OF THE EXPRESS WARRANTIES PROVIDED IN THIS AGREEMENT. THE PRODUCT 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 INDUCTIVE AUTOMATION DOES NOT OPERATE OR CONTROL THE INTERNET AND THAT: (A) VIRUSES, WORMS, TROJAN HORSES, OR OTHER UNDESIRABLE DATA OR SOFTWARE; OR (B) UNAUTHORIZED USERS (E.G., HACKERS) MAY ATTEMPT TO OBTAIN ACCESS TO AND DAMAGE YOUR DATA, WEBSITES, COMPUTERS OR NETWORKS. INDUCTIVE AUTOMATION WILL NOT BE RESPONSIBLE FOR THOSE ACTIVITIES. 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.

## 10. INTELLECTUAL PROPERTY INFRINGEMENT INDEMNITY.

- 10.1. **Infringement Claim Indemnity.** Inductive Automation will defend You against any claim, suit or action brought against You by a third party alleging that the Licensed Materials infringe such third party's copyrights, patents or trademarks, in each case, granted or registered by the United States ("**IP Claim**"), and will indemnify You from any damages and costs (including reasonable attorney's fees) finally awarded against You by a court of competent jurisdiction as a result of, or for amounts paid by You under a settlement approved by Inductive Automation in writing of, an IP Claim; provided, that You give Inductive Automation (i) written notice of any IP Claim within 15 days of Your receipt of such IP Claim (provided the failure to give such notice will not relieve Inductive Automation of its indemnification obligations except to the extent that Inductive Automation is prejudiced by such failure), (ii) the sole control of and authority over the defense and settlement of the IP Claim, and (iii) all requested information and reasonable assistance. Inductive Automation will not admit liability or incur obligations on Your behalf without Your written consent.
- 10.2. **Injunction.** If a permanent injunction is obtained against Your use of the Product, Inductive Automation will, in its sole discretion: (a) modify the Product so that it is non-infringing; (b) replace the Product with non-infringing Product that is functionally equivalent in performance; (c) obtain a license for You to continue to use the Product as provided hereunder; or (d) terminate the license for the infringing Product and refund to You any license fees prepaid by You to Inductive Automation prorated for the unused portion of the Subscription. Inductive Automation may, in its sole discretion, provide the remedies specified in this Section 10.2 to mitigate infringement prior to the issuance of an injunction.
- 10.3. **Exclusions.** Notwithstanding anything to the contrary in this Agreement, Inductive Automation will have no defense or indemnification obligations or liability to You if: (A) the IP Claim does not state with specificity that the Licensed Materials are the basis of the IP Claim; (B) the total aggregate fees Inductive Automation has received from You for the Licensed Materials under this Agreement during the 12 months immediately preceding the IP Claim is less than \$50,000 USD; or (C) an IP Claim is based upon

or arises out of (I) compliance with Your instructions, specifications or designs, (II) the combination, operation or use of the Licensed Materials, or any part thereof, with any equipment, technology, software, processes or materials not provided by Inductive Automation, if the Product, Documentation or use thereof would not infringe without such combination, (III) Your failure to use the latest release or version of the Product (including any corrections, patches or enhancements) where such use would have prevented the IP Claim, (IV) modifications, enhancements, or derivatives of the Licensed Materials not made by Inductive Automation, or (V) Your breach of this Agreement or failure to comply with the Documentation (all of the items under clause (C), collectively, are referred to as “**Your Responsible Claims**”).

10.4. **Sole and Exclusive Infringement Remedy.** THIS SECTION 10 STATES INDUCTIVE AUTOMATION’S SOLE OBLIGATION AND LIABILITY, AND YOUR EXCLUSIVE REMEDY, WITH RESPECT TO CLAIMS OF INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.

11. **LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL INDUCTIVE AUTOMATION, ITS AFFILIATES OR ITS LICENSORS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES OR COSTS FOR LOST PROFITS, LOST REVENUE, LOST DATA, LOSS OF GOODWILL, COST OF COVER OR BUSINESS INTERRUPTION) ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE USE OF OR INABILITY TO USE THE LICENSED MATERIALS, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, EVEN IF INDUCTIVE AUTOMATION, ITS AFFILIATES, ITS DISTRIBUTORS OR ITS RESELLERS HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES OR IF ANY REMEDY SPECIFIED IN THIS AGREEMENT OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. 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. THE MAXIMUM AGGREGATE LIABILITY OF INDUCTIVE AUTOMATION TOGETHER WITH ALL OF ITS AFFILIATES AND LICENSORS ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER OR NOT INSURED, WILL NOT EXCEED THE TOTAL FEES ACTUALLY PAID BY YOU FOR THE LICENSED MATERIALS UNDER THIS AGREEMENT DURING THE 12 MONTHS IMMEDIATELY PRECEDING THE CLAIM; BUT, IN NO EVENT, MORE THAN \$100,000 USD.

12. **NO HIGH RISK USE.** The Product is not fault-tolerant and is not designed or intended for use or resale in hazardous environments requiring fail-safe performance in which the failure of the Product could lead to death, personal injury, or severe physical or environmental damage (“**High Risk Activities**”). The license granted in this Agreement excludes any High Risk Activities, and You will not use the Product for High Risk Activities. You will defend, indemnify and hold harmless Inductive Automation, its Affiliates and their respective officers, managers, members, directors, employees, agents, successors, licensors and assigns against any losses, claims, damages, fines, and costs (including attorney’s fees and expenses) relating in any way to Your noncompliance with this Section 12; provided, that Inductive Automation reserves the right, in its sole discretion and at its own expense, to assume the exclusive defense and control of any claims (and without limiting Your indemnification obligations with respect to such claims), and You agree to reasonably cooperate as requested by Inductive Automation in the defense of any claims.

### 13. EXPORT COMPLIANCE.

13.1. **Export.** Inductive Automation’s obligations under this Agreement are conditioned upon Your compliance with, and You agree to comply with, all applicable export and re-export controls, embargoes,



and economic and trade sanctions laws and regulations, including those of the United States (“**Export Laws**”). You represent that any Licensed Materials provided hereunder and any derivatives thereof will not be (i) downloaded or accessed by a Sanctioned Person, (ii) exported, re-exported (including any ‘deemed exports’), shipped, distributed, delivered, sold, resold, supplied, or otherwise transferred, directly or indirectly, to any Sanctioned Person or otherwise in a manner contrary to the Export Laws, (iii) used for any purpose prohibited by the Export Laws, or unless expressly authorized by Inductive Automation in writing, or (iv) used for non-civilian purposes (e.g. armaments, nuclear activities, weapons, rockets, long-range unmanned aerial vehicles any other usage in the field of defense and military). Without limiting the foregoing, You represent and warrant that (a) You are not a Sanctioned Person, and (b) You will not download or otherwise access, or facilitate a third party’s download or access of, any Licensed Materials from a Sanctioned Country. You will, at least once per year, review and update Your list of Users who have access to the Licensed Materials and confirm that no such User is a Sanctioned Person and that all such Users may continue to access the Licensed Materials in compliance with Export Laws. Inductive Automation may conduct the necessary Export Laws checks and, upon request, You will promptly provide Inductive Automation with any necessary information. “**Sanctioned Country**” means a country or territory that is itself the subject or target of any comprehensive trade or economic sanctions (currently Belarus, Cuba, Iran, North Korea, Russia, Syria, and certain regions of Ukraine). “**Sanctioned Person**” means any person (i) included on an export control or sanctions list of designated or blocked persons maintained by the U.S. Department of Treasury’s Office of Foreign Assets Control, the U.S. Department of Commerce, the U.S. Department of State, the United Nations Security Council, the European Union, any Member State of the European Union, or the United Kingdom; (ii) operating, organized, or resident in a Sanctioned Country; (iii) the government of, or acting for or on behalf of the government of, Afghanistan, Myanmar, Venezuela or a Sanctioned Country; or (iv) owned or controlled by one or more such persons.

13.2. **Remedies; Indemnification.** In the event that You fail to comply with any provision of Section 13.1 or violate any Export Laws in connection with the Licensed Materials, Inductive Automation will have the right to act in accordance with the terms of this Agreement and as required by U.S. law or the applicable law. Further, You will defend, indemnify and hold harmless Inductive Automation, its Affiliates and their respective officers, members, directors, employees, agents, successors, licensors and assigns against any losses, claims, damages, fines, and costs (including attorney’s fees and expenses) relating in any way to Your noncompliance with Section 13.1, including Your violation or alleged violation of any Export Laws; provided, that Inductive Automation reserves the right, in its sole discretion and at its own expense, to assume the exclusive defense and control of any claims (and without limiting Your indemnification obligations with respect to such claims), and You agree to reasonably cooperate as requested by Inductive Automation in the defense of any claims.

**14. TERM; TERMINATION.** This Agreement takes effect on the Effective Date and remains effective until conclusion of the Subscription, unless terminated earlier by either party as provided by this Agreement. This Agreement or the Subscription may be terminated at any time by a party if the other party breaches any material term or condition of this Agreement and has not cured such breach within 30 days following receipt of written notice thereof. Upon termination or expiration of the Subscription or this Agreement, Your right to use the Product licensed under such Subscription will terminate, and Your access to the Product provided under such Subscription may be disabled and discontinued. Termination or expiration of any Subscription purchased by You from Inductive Automation will not terminate or modify any other Subscription purchased by You from Inductive Automation. Any termination of this Agreement or the Subscription will not affect Inductive Automation’s rights to any payments due to it. Sections 1, 2.2, 3.2, 5-7, 9.3 and 11-16 will survive the expiration or termination of this Agreement.

**15. THIRD PARTY SOFTWARE.** The Product may incorporate, embed or be bundled with third party software which requires You to accept and agree to 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 Product Listing or

Documentation and are made part of and incorporated by reference into this Agreement.

## 16. GENERAL.

- 16.1. **Severability.** If any provision of this Agreement is found by a competent judicial authority to be unenforceable in any respect, such provision will be limited or eliminated to the minimum extent necessary so that the remainder of this Agreement will continue in full force and effect.
- 16.2. **Waiver.** The failure by either party to enforce any provision of this Agreement will not be construed as a waiver of such provision. No waiver of any rights under this Agreement will be effective unless in writing signed by both parties, and the waiver of any breach or default will not constitute a waiver of any other right under this Agreement or any subsequent breach or default.
- 16.3. **Entire Agreement.** This Agreement is the entire agreement between You and Inductive Automation relating to the subject matter hereof. You acknowledge and agree that this Agreement controls all aspects of the relationship between the You and Inductive Automation with regard to the Subscription and Licensed Materials and supersedes all written or oral statements, promises, representations and agreements between You and Inductive Automation. Neither Amazon Web Services, Inc. nor any of its Affiliates are a party to this Agreement and none of them will have any liability or obligations hereunder. Neither party will be bound by, and each party specifically objects to, any provision that is different from or in addition to this Agreement (whether proffered orally or in any quotation, purchase order, invoice, shipping document, online terms and conditions, acceptance confirmation, correspondence or otherwise), unless such provision is specifically agreed to in a writing signed by both parties.
- 16.4. **Feedback.** If You provide any ideas regarding the Licensed Materials or Support Services, including suggestions for changes or enhancements (collectively, “**Feedback**”) in the course of using or evaluating the Licensed Materials or Support Services, You agree that such Feedback may be used by Inductive Automation without condition or restriction.
- 16.5. **Your Responsible Claims.** You will defend, indemnify and hold harmless Inductive Automation, its Affiliates and their respective officers, managers, members, directors, employees, agents, successors, licensors and assigns against any losses, claims, damages, fines, and costs (including attorney’s fees and expenses) relating in any way to Your Responsible Claims; provided, that Inductive Automation reserves the right, in its sole discretion and at its own expense, to assume the exclusive defense and control of any claims (and without limiting Your indemnification obligations with respect to such claims), and You agree to reasonably cooperate as requested by Inductive Automation in the defense of any claims.
- 16.6. **Force Majeure.** Neither party will be in default nor liable for any delay or failure to comply with this Agreement due to a natural disaster, pandemic, war or act of terrorism, act of government, or other circumstance beyond the reasonable control of the affected party (each a “**Force Majeure Event**”) for the duration of the Force Majeure Event; provided, that such party promptly notifies the other party of the occurrence of the Force Majeure Event. Notwithstanding the foregoing, a Force Majeure Event does not permit You to delay or fail to comply with Your payment obligations under this Agreement unless the Force Majeure Event results in the inability of the banking system to process payments.
- 16.7. **Changes to this Agreement.** You acknowledge and agree that Inductive Automation may modify this Agreement from time to time. Typically, when Inductive Automation makes modifications to the main body of this Agreement, the modifications will take effect at the next renewal of Your Subscription and will automatically apply as of the renewal date unless You elect not to renew in accordance with this Agreement. In some cases (e.g., to address compliance with Laws, or as necessary for new features), Inductive Automation may specify that such modifications become effective during the then-current term of Your Subscription. If the effective date of such modifications is during the then-current term of Your

Subscription and you object to the modifications, then (as Your exclusive remedy) You may terminate Your affected Subscription(s) upon notice to Inductive Automation, and Inductive Automation will refund to You any fees You have prepaid for use of the affected Product for the terminated portion of the applicable term of Your Subscription. To exercise this right, You must provide Inductive Automation with written notice of Your objection and termination within 30 days of Inductive Automation providing notice of the modifications through the Licensed Materials, Product Listing or Inductive Automation's website. For the avoidance of doubt, any Subscription is subject to the version of this Agreement in effect at the time of the Subscription.

- 16.8. **Notices.** To be effective, notice under this Agreement must be given in writing. Each party consents to receiving electronic communications and notifications from the other party in connection with this Agreement. Each party agrees that it may receive notices from the other party regarding this Agreement: (i) by email to the email address designated by such party as a notice address for the Standard Contract; (b) by personal delivery; (c) by registered or certified mail, return receipt requested; or (d) by nationally recognized courier service. Notice will be deemed given upon written verification of receipt.
- 16.9. **Assignment.** You may not assign this Agreement, in whole or in part, without Inductive Automation's written consent. Inductive Automation may freely assign this Agreement, in whole or in part, in Inductive Automation's sole discretion. This Agreement will be binding upon and inure to the benefit of each party's permitted successors and assigns.
- 16.10. **Third Party Beneficiaries.** Except as expressly set forth in this Agreement, there are no third party beneficiaries under this Agreement.
- 16.11. **Governing Law and Jurisdiction.** This Agreement will be governed by and construed in accordance with the Laws of the State of California, without regard to the principles of conflicts of law, and any dispute, controversy or claim arising out of, relating to or in connection with this Agreement will be brought exclusively in the state or federal courts of competent jurisdiction sitting in Sacramento, California. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Each party consents to the personal jurisdiction, venue and convenience of such courts.
- 16.12. **Independent Status of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. Each party will be solely responsible for payment of all compensation owed to its employees, as well as all employment-related taxes.
- 16.13. **License Rights Applicable to the U.S. Government.** The Licensed Materials are commercial products that were developed exclusively at private expense. If the Licensed Materials are acquired directly or indirectly for use by the U.S. Government, then the parties agree that the Licensed Materials are considered 'Commercial Items' and 'Commercial Computer Software' or 'Computer Software Documentation', as defined in 48 C.F.R. §2.101 and 48 C.F.R. §252.227-7014(a)(1) and (a)(5), as applicable. The Licensed Materials may only be used under the terms and conditions of this Agreement as required by 48 C.F.R. §12.212 and 48 C.F.R. §227.7202. The U.S. Government will only have the rights set forth in this Agreement, which supersedes any conflicting terms or conditions in any government order document, except for provisions which are contrary to applicable mandatory federal Laws. Inductive Automation will not be required to obtain a security clearance or otherwise be involved in accessing U.S. Government classified information.