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- 1.1 **"Intellectual Property"** means all copyrights, trademarks, trade secrets, patents, utility models and other intellectual property rights recognized in any jurisdiction worldwide, including all applications and registrations.
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- 2.3 Except as stated in this License, Buyer may not without Honeywell prior written consent which may not unduly be withheld: (a) permit any third parties or non-licensed entities, including contractors, to use the Software; (b) copy, modify, sublicense, rent, lease, loan, timeshare, use in the operation of a service bureau, sell, distribute, disclose, publish, assign, grant a security interest in, encumber or transfer in any manner the Software or any license rights; (c) use the Software for other than the Licensed Use; (d) create derivative or merged works of the Software or separate the component parts of the Software; (e) use or allow use of the Software for processing data of any person or entity other than Buyer; (f) input, upload, transmit or otherwise provide to or through the Software, any unlawful, injurious or malicious information, materials or code; (g) perform, publish or release any penetration or vulnerability assessments, benchmarks or other comparisons regarding the Software; (h) alter or remove any proprietary rights notices or legends on or in the Software; (i) use Honeywell trademarks, service mark, logos or other indicia of source; (j) use the Software in hazardous environments requiring fail-safe performance where the failure of the Software could lead directly or indirectly to death, personal injury, or severe property or environmental damage, including, without limitation, the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems; (k) give a Honeywell competitor direct or indirect access to the Software or use the Software for development, provision or use of a competing software service or product; or (l) disclose any

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- 2.5 Buyer acknowledges there are measures in the Software designed to prevent unlicensed or illegal use of the Software. Buyer must not: (a) disclose keys required to use the Software to any third party, (b) circumvent any license management, security devices, access logs, or other Software protection measures, or (c) modify, tamper with, reverse engineer, reverse compile or disassemble keys. Upon use of a new Software key, Buyer will not use the old key.
- 2.6 Buyer may not directly or indirectly deconstruct, decompile, disassemble, decode, translate, reproduce, redesign, reverse assemble or reverse engineer or otherwise attempt to derive the source code of Software, or allow any third party to do so. If applicable local law requirements (in particular law implementing European Union Directive 2009/24/EC on the legal protection of computer programs) prohibit enforcement of the aforementioned restrictions Buyer shall be entitled to deconstruct, decompile, disassemble, decode, translate, reproduce, redesign, reverse assemble or reverse engineer or otherwise attempt to derive the source code of Software, or allow any third party to do so, but only in the following scenarios: (a) if these measures are indispensable to produce the information necessary to achieve interoperability of an independently created computer program with the Software and (b) Honeywell has refused to provide the required information in writing within 30 days despite a written request. Honeywell may impose reasonable conditions and request a reasonable fee before providing such information. Any information supplied by Honeywell or obtained by Buyer by measures taken pursuant to this clause 2.6 shall not be used for any purpose other than to achieve the interoperability of the independently created software, shall not be disclosed to any third party, except where this is necessary for the interoperability of the independently created software, and shall not be used for the development, production or marketing of any software which is substantially similar in appearance or for any other acts which infringe copyright. Honeywell reserves all rights not expressly granted in this section.
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- 2.9 Unless otherwise specified in the Licensed Use, Buyer may only use the Software in a physical operating system environment (an operating system environment

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that is configured to run directly on a physical hardware system) and may not use the Software in a virtual (or otherwise emulated) or cloud-based system or platform.

### 3. **TERMINATION OF LICENSE AND SURVIVAL**

The Software license granted is effective on the date Buyer first installs, uses, downloads, accesses or takes delivery of the Software, and continues for the duration specified in Software License Certificate for the Software issued by Honeywell, a written agreement between Honeywell and Buyer, the Honeywell proposal, or the Buyer order accepted by Honeywell (taking precedence in that order) or until terminated as stated in this License. Honeywell may terminate the License for a compelling reason without a notice period pursuant to § 314 German Civil Code. A compelling reason shall be given if Buyer defaults under the License and does not remedy the default within 10 days after receiving written notice from Honeywell, or if Buyer is in dissolution, or receivership proceedings. Upon termination of the License Agreement or the rights of use granted under this License Agreement (e.g. by rescission (*Rücktritt*) or in the event of a replacement delivery (*Nachlieferung*)): (a) Buyer shall return Software and all copies to Honeywell, (b) Buyer must immediately stop use of Software and return, destroy or delete, as directed by Honeywell, all copies of Software and associated keys from its system; and supply written certification of that destruction, deletion or return, and (c) the license to the Software terminates. These remedies are cumulative and in addition to any other remedies available to Honeywell and termination does not affect any cause of action accruing to Honeywell before termination

### 4. **BUYER OBLIGATIONS**

4.1 Buyer must maintain complete, current and accurate records documenting the location, access and use of Software. Honeywell or its designee may: (a) require Buyer to send written certification of compliance with the terms and conditions of this License Agreement within 30 days of Honeywell request; (b) request, after written notice to be given at least 30 days in advance, the submission of the records relating to the Software and inspect the installation and use of the Software by Buyer on site. At Buyer's request, the audit shall be performed by an independent auditor.

To conduct the audit, Buyer shall grant Honeywell or its designee access to Buyer's offices during regular business hours at Buyer offices in a manner not to interfere unreasonably with Buyer's normal business activities. Buyer agrees to provide Honeywell with all necessary assistance to conduct the audit and exercise its rights under this License Agreement. In particular, Buyer allows access to its computers and the necessary documents.

4.2 If any audit discloses any use by Buyer that exceeds the use that is authorized under this License Agreement, Buyer must promptly pay Honeywell an appropriate compensation proportional to the overuse. The outstanding amount ("Underpayment") shall be paid together with interests at an annual rate of nine (9) percentage points above the base rate. If the Underpayment is 5% or more of the purchase price paid for the Software, Buyer shall reimburse Honeywell the costs of the audit and related expenses.

Honeywell shall use the information obtained in the course of the audit solely for the purpose of verifying compliance with this License Agreement or of providing a breach hereof.

### 5. **SOFTWARE LIMITED WARRANTY**

5.1.a The Software is free of material defects (*Sachmangel*) if – at the time of delivery - it essentially complies with the user documentation published by Honeywell and is suitable for the use stipulated in the License Agreement. Beyond the aforementioned, Honeywell does not owe a more extensive quality of the Software.

5.1.b Buyer shall promptly inspect the delivered Software and shall notify Honeywell of any defects detectable in the due course of an intake inspection without undue delay in writing at the latest however within ten (10) days of delivery. Buyer shall notify any defect which cannot be detected within the due course of an intake inspection, without undue delay at the latest however within three (3) days of their discovery. Buyer shall be deemed to have accepted any Products delivered hereunder and to have waived any such nonconformance in the event such a written notification is not received by Honeywell within the deadlines stipulated above.

5.1.c If at the time of delivery the Software was defect and Buyer notifies such defect to Honeywell pursuant to clause 5.1.b, Honeywell will at its own choice rectify the defect (*Nachbesserung*) or deliver Software free of defects (*Nachlieferung*) ("Subsequent Performance", *Nacherfüllung*).

5.1.d If Honeywell provides Buyer with reasonable and suitable possibilities to avoid the effects of the defect, this shall also be deemed a proper rectification.

5.1.e Any subsequent performances (*Nacherfüllung*) executed by Honeywell shall be made without acknowledgement (*Anerkenntnis*) of any legal obligations to do so.

In the event of rectification (*Nachbesserung*), the remaining part of the original limitation period shall commence with the delivery of the rectified Software. The same shall apply in the event of a replacement delivery (*Nachlieferung*).

If Honeywell perform any error corrections, updates, upgrades, changes, revisions or additional copies without being obliged to do so, this shall not trigger

a new commencement of the limitation period for warranty rights, nor shall it have any other effect on the limitation period.

5.1.f In the event that the performance for defects ultimately fails, Buyer may withdraw from the License Agreement or reduce the purchase price. In the event of a justified rescission (*Rücktritt*), Honeywell shall be entitled to claim appropriate compensation for Buyer's use of the Software up until the rescission. Any duty of Honeywell to pay damages shall be governed by clauses 5.1.g and 7.

5.1.g The limitation period for warranty rights is one year from delivery of the Software. However, this shall not apply if (a) a defect has been fraudulently concealed or (b) a guarantee for the quality of the Software (*Beschaffheitsgarantie*) has been given. In the event of claims for damages due to defects (*Schadensersatzansprüche*), the limitation shall furthermore not apply in the following cases: (a) personal injury (*Verletzung von Leib, Leben oder Gesundheit*), (b) intention (*Vorsatz*), and (c) gross negligence (*grobe Fahrlässigkeit*).

5.2 The Software is free from defects of title (*Rechtsmangel*) if – at the time of delivery – no rights of third parties conflict with its use to the extent provided for in the contract. In the event of a defect of title, Honeywell shall be entitled, in particular, (a) to provide Buyer with the right to continue to use the Software to the contractual extent, or (b) to replace or modify the Software in a way that it no longer infringes the rights of third parties (while retaining the contractually intended functionality). Buyer shall immediately inform Honeywell if it becomes aware that third parties claim the existence of rights to the Software that would prevent the contractually agreed use of the Software by Buyer. In case Buyer envisages defending against any claims of third parties, Buyer shall coordinate with Honeywell and shall only take legal and defensive actions, in particular acknowledgements and settlements, with the prior consent of Honeywell. Clauses 5.1.e to 5.1.g shall apply mutatis mutandis in the event of a defect of title.

5.3 The warranties specified in this Software Warranty clause will not be effective and Honeywell will have no obligation or liability to Buyer if: (a) Software is not used according to the applicable documentation and Licensed Use; (b) Software is used other than for the purposes for which it is delivered; (c) Software has been created in accordance with Buyer's designs, drawings or specifications; (d) Software is altered, modified or revised by or for Buyer; (e) Buyer's computer hardware malfunctions or the electrical power or external electrical circuitry is defective; (f) Buyer uses Software with any computer hardware or software not approved or recommended by Honeywell as compatible with Software in its documentation; (g) Buyer has not installed any updates, upgrades, bug fixes, modifications or revisions; or (h) the warranty claim is unrelated to a warranted defect in Software or cannot be reproduced by Honeywell.

5.4 To the extent not otherwise agreed on in writing, Honeywell does not warrant that the quality or performance of any Software meets Buyer's requirements or that Buyer will achieve any particular results from use of the Software. Buyer assumes full responsibility for: (a) the selection of the Software; (b) – to the extent not otherwise agreed on in writing – the proper installation and use of the Software; (c) verifying the results obtained from the use of the Software; and (d) taking appropriate measures to prevent loss or theft of data. Buyer shall establish procedures and post notices to ensure that persons and property are not harmed in the event of an error, malfunction or unexpected operation of the Software.

5.5 Further warranty rights of any kind are excluded. This shall apply, however, without prejudice to any claims for damages limited in accordance with clauses 5.1.g and 7.

### 6. **PATENT AND COPYRIGHT INDEMNITY**

6.1 Buyer shall notify Honeywell immediately if a third party raised a claim against Buyer arising out of any actual or alleged patent or copyright infringement of a valid patent or copyright (in particular but not limited to German, European or United States patents or copyrights) with respect to the Software. Honeywell may then in its sole discretion decide whether it wishes to defend the claim at Honeywell's expense and indemnify Buyer for any final judgment assessed against Buyer resulting from such claim. In this case Buyer shall be obliged to grant sole and complete authority to defend the claim to Honeywell and Buyer shall provide Honeywell with all required information for the defense of the claim. Honeywell will not be responsible for any waiver, acceptance, compromise or settlement made without Honeywell's written consent.

6.2 Honeywell will have no obligation or liability with respect to: (a) Software provided pursuant to Buyer's designs, drawings or manufacturing specifications; (b) Software used other than for the purpose for which it was delivered; (c) claims of infringement resulting from combining any Software furnished hereunder with any article not furnished by Honeywell; (d) any modification of the Software other than a modification by Honeywell (e) compromise or settlement made without written Honeywell consent, or (f) Buyer's failure to install updates, upgrades, error corrections, changes, or revisions provided by Honeywell.

6.3 If an infringement claim is made or is likely, Honeywell may at its option and expense: (a) procure the right for Buyer to continue using the Software, (b) modify the Software to be non-infringing, or (c) accept return of the Software (and terminate Buyer's applicable software license) and credit Buyer the

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- purchase price paid for the Software, less reasonable depreciation for use, damage and obsolescence. Failure of Buyer to accept any of the above remedies in lieu of the infringing Software relieves Honeywell of any liability for infringement. Failure to ship infringing Software will not breach the Agreement.
- 6.4 Without prejudice to Section 7 which shall also apply, this Section conclusively governs the Parties' entire liability, sole recourse and their exclusive remedies with respect to infringements of intellectual property rights. All other warranties against infringement of any intellectual property rights, statutory, express or implied are hereby disclaimed.
7. **LIMITATION OF LIABILITY**
- 7.1 Honeywell shall be liable for damages without limitation in the event of (a) personal injury (*Verletzung von Leib, Leben oder Gesundheit*), (b) wilful intent (*Vorsatz*) or gross negligence (*grobe Fahrlässigkeit*), (c) assumption of a guarantee (in this case, the liability provision contained in the guarantee shall apply respectively the statute of limitations, provided that such provision is contained therein), (d) fraudulently concealed defects (*arglistig verschwiegene Mängel*), and (e) violations of the German Product Liability Act (*Produkthaftungsgesetz*).
- 7.2 Honeywell shall only be liable in the event of simple negligence (*leichte Fahrlässigkeit*) for the breach of essential obligations, the breach of which threatens the purpose of the contract, or for the breach of obligations whose proper performance is essential for the execution of this contract and on the fulfilment of which Buyer can rely (*Kardinalpflichten*).
- 7.3 The limitation of liability established in clause 7.2 shall also apply to damages caused by gross negligence on the part of employees or vicarious agents (*Erfüllungsgehilfen*) of Honeywell, who are not organs or executives of Honeywell.
- 7.4 In case of a liability under clause 7.2 or 7.3, liability shall be limited to the damages which are foreseeable when the contract is concluded and are typical for the contract.
- 7.5 In case of a liability under clause 7.2 or 7.3, liability of Honeywell shall not exceed the order value. If the order value is more than EUR 1,000,000 liability of Honeywell shall not exceed EUR 1,000,000.
- 7.6 To the extent no shorter limitation period is stipulated herein and in case of liability under clause 7.2 or 7.3, Buyer's claims for damages shall have a statute of limitations of two (2) years starting from the date on which they arose and Buyer became aware of the circumstances giving rise to the claim. Irrespective of Buyer being aware of such circumstances, the limitation period shall be five (5) years starting from the event causing the damage.
- 7.7 Buyer is obliged to take appropriate precautionary measures to reduce the risk of loss of or damage to data and programs, in particular by regularly creating backup copies of all programs and data. If the loss of or damage to data and programs could have been avoided by complying with the obligation to carry out appropriate and periodic data backups, Honeywell's liability shall be limited to the costs that would be incurred for restoring the data if the data had been backed up by Buyer in an appropriate manner. Any liability of Honeywell for loss of or damage to data is subject to the provisions of this clause 7.
- 7.8 The aforementioned limitations of liability pursuant to this clause 7 shall also apply in the event of any claims for damages asserted by Buyer against organs, executive employees, employees or vicarious agents of Honeywell.
8. **[NOT USED]**
9. **GENERAL**
- 9.1 Buyer will comply with all the export control and data privacy and protection laws and regulations of the Federal Republic of Germany, the United States and any country having proper jurisdiction and will obtain all necessary export licenses for any export, re-export, transfer and use of all product, technology and software purchased, licensed, or received from Honeywell.
- 9.2 If any provision of the License Agreement is determined to be illegal, invalid, or unenforceable, the validity of the remaining provisions will not be affected.
- 9.3 The failure of either party to enforce at any time any provision of the License Agreement may not be construed to be a continuing waiver of those provisions.
- 9.4 The construction, interpretation and performance of this License Agreement and all transactions hereunder shall be governed by the laws of the Federal Republic of Germany, excluding its principles or laws regarding conflicts of laws. Application of the United Nations Convention on the International Sale of Goods of 1980, and any amendments or successors thereto is specifically excluded. In the event that the parties are unable to resolve the disputes, the parties shall submit the disputes to the courts of Offenbach, Federal Republic of Germany. However, Honeywell shall be entitled to initiate legal proceedings against Buyer at the court competent for Buyer's registered office.
- 9.5 The License Agreement, including all documents referred to in this License Agreement, contains the entire agreement between the Parties regarding the subject matter and supersedes any prior representation or agreement, oral or written, and all other communications between the parties relating to the subject matter. Application of any conflicting or supplementary terms and conditions of Buyer is excluded; irrespective of whether they have been expressly rejected by Honeywell or whether they have been referred to in Buyer's orders and Honeywell, in full knowledge of them, performs its duties without reservation.
- 9.6 The License Agreement may not be varied or waived except by a written change signed by authorized representatives of both Parties. Provisions of the License Agreement that by their nature should continue in force beyond expiration or termination of the License Agreement will remain in force. If there is a conflict between this License Agreement and the terms of any other documents or agreements, this License Agreement prevails.
- 9.7 [not used]
- 9.8 Buyer grants Honeywell a royalty-free, fee free, worldwide, irrevocable, perpetual license to use and incorporate into its products and services any suggestions, comments or other feedback provided to Honeywell. Buyer will not give any feedback that it has reason to believe is subject to any third party Intellectual Property claim or right.
- 9.9 Buyer will not delegate, transfer, or assign the License Agreement, or rights or obligations under it, without Honeywell's prior written consent which shall not be unreasonably withheld. In the event of an authorized transfer/sale of the Software, the License binds any successors or assignees and Buyer must present the License to any assignee and the assignee must agree in writing to be bound by the License. For purposes of this Section, assignment includes any change in control of Buyer or transfer by operation of laws (e.g. the merger of Buyer with any other legal entity or split of Buyer pursuant to the German Transformation Act (UmWG)). In the event Buyer is in breach of the transfer and change of control restrictions defined herein, Honeywell shall be entitled to terminate the order and claim damages resulting herefrom.
- 9.10 Honeywell and its Affiliates have the right to retain, transfer, disclose, duplicate, analyze, modify and otherwise use Input Data to provide, protect, improve or develop Honeywell's products or services. Honeywell and its Affiliates may also use the Input Data for any other purpose provided it is in an anonymized form that does not identify Buyer. Any Buyer Personal Data contained within Input Data shall only be used or processed in accordance with the data privacy terms of this Agreement and applicable law. All information, analysis, insights, inventions and algorithms derived from Input Data by Honeywell and/or its Affiliates (but excluding Input Data itself) and any intellectual property rights related thereto, are owned exclusively and solely by Honeywell and are Honeywell's confidential information. This section survives termination of this Agreement. In this context, "Input Data" means data and other information that Buyer or persons acting on Buyer's behalf input, upload, transfer or make accessible in relation to, or which is collected from Buyer or third party devices or equipment by Honeywell. "Buyer Personal Data" means Personal Data received by Honeywell from or on behalf of Buyer in connection with Honeywell's performance of its obligations under the this License Agreement.

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