

ROCKWARE CORP.

GENERAL LICENSE TERMS AND CONDITIONS

These General License Terms and Conditions (these “**General Terms**”) apply to any Customer Contract (defined below) between Rockware Corp. (“**Rockware**”) and the Customer identified on such Ordering Document. Rockware and Customer may be referred to herein as a “**Party**” and, together, as the “**Parties.**”

SECTION 1 DEFINITIONS

“**Add-On Module**” means any of Rockware’s proprietary software applications, including any Third-Party Components therein, that is installed, pursuant to a Launch Agreement, on a Machine or Device running, at a minimum, the IMM Software in order to provide additional functionality thereto, as further described in the Documentation related thereto, including but not limited to the related information provided at http:\rockwarecorp.com/downloads\2022_Add-On_Schedule.pdf.

“**Affiliate**” means, with respect to a Party, any entity that controls, is controlled by, or which is under common control with, such Party, where “control” means ownership of at least fifty percent (50%) of the outstanding voting shares of an entity, or the contractual right to establish policy for, and manage the operations of, such entity.

“**Agreement**” means these General Terms, each Customer Contract, the Support Terms, the Privacy Policy, and any additional exhibits, attachments, schedules, and appendices referenced in and incorporated into any of the foregoing.

“**Applicable Law**” means any statute, law, regulation, ordinance, or rule, whether now or hereafter in effect, of a governmental authority having or asserting jurisdiction over the Parties or the subject matter of the Agreement or the transactions contemplated hereby.

“**Agreement Term**” has the meaning set forth in Section 9.1.

“**Authorized User**” means any of Customer’s personnel, Affiliates, or Contractors to whom Customer has granted access to the System in accordance with these General Terms.

“**CIT Software**” means Rockware’s proprietary Central Intelligence Tracking (CIT) software, including any Third-Party Components incorporated therein, that, when installed on a Customer Machine running the IMM Software, provides Customer with the added ability to interlock Customer equipment and trace and track manufacturing transactions at the Site Location, as further described in the Documentation related thereto, including but not limited to the related information provided at http:\rockwarecorp.com/downloads\2022_Add-On_Schedule.pdf.

“**Confidential Information**” has the meaning ascribed to such term in Section 6.1.

“**Contractor**” means a third-party contractor engaged by Customer.

“**Continuing Support Fees**” has the meaning ascribed to such term in Section 5.2.

“**Continuing Support Agreement**” means a Purchase Order submitted by Customer and accepted in writing (e-mail suffices) by Rockware, setting forth the Customer-specific terms and conditions applicable to a Continuing Support Subscription purchased by Customer.

“**Continuing Support Subscription**” means the right to receive, for a fixed duration of time, Support Services from Rockware following the Initial Support Term, in accordance with the additional terms set forth in such Continuing Support Agreement and the Support Terms.

“**Continuing Support Term**” has the meaning set forth in the [Support Terms](#).

“**Customer**” means any customer that enters into a Launch Agreement (and, if applicable, a Continuing Support Agreement) with Rockware.

“**Customer Contract**” means a Quote, Purchase Order, or Master Agreement, as applicable, executed by Customer and (if applicable) by Rockware.

“**Customer Data**” means any and all information provided by or on behalf of Customer, whether to Rockware directly or via the Rockware Platform, whether such information is stored on Rockware’s or Customer’s hardware, network, or cloud-based systems, including, without limitation, (a) any such information that is provided by Customer’s Affiliates, Contractors, employees, agents or representatives; (b) any information described in the foregoing clause (a) that is initially obtained from a third party; (b) any information described in the foregoing clauses (a) or (b) that constitutes PII, and (c) any information that is derived from any of the information described in the foregoing clauses (a), (b), or (c) through the processing of such information via the Rockware Platform.

“**Database**” means a database in which the following is input via the Rockware Platform and stored: (a) Customer Data, and (b) the results of any processing of Customer Data through the Rockware Platform.

“**Device**” means any computer hardware (*e.g.*, computer tablet or other handheld device) that is (a) not used directly in Customer’s manufacturing processes, (b) owned or otherwise controlled by Customer, (c) located at the Site Location, and (d) identified by a unique serial number listed on the License Schedule attached to the applicable Ordering Document.

“**Documentation**” means any documentation and other materials, including but not limited to any information manuals containing operating instructions or performance specifications and any training materials (*e.g.*, training booklets, videos or presentations) that Rockware delivers, whether in hard copy or electronically, in connection with the delivery of the Rockware Platform or any Services provided to Customer by Rockware under any Ordering Document.

“**Effective Date**” has the meaning set forth in the Preamble to these General Terms.

“**Expenses**” has the meaning set forth in [Section 5.2](#).

“**Fees**” has the meaning ascribed to such term in [Section 5.1](#).

“**IMM Software**” means Rockware’s foundational proprietary Intelligent Manufacturing Machine (IMM) software, including any Third-Party Components incorporated therein, providing Customer with centralized machine automation and plant management capabilities when installed on a Machine at the Site Location, as further described in the Documentation related thereto, including but not limited to the related information provided at http://rockwarecorp.com/downloads/2022_IMM_License.pdf.

“**IMM Platform**” means a combination of the IMM Software with any or all of the following: the CIT Software, the OEI Software, and any Add-On Modules, and any Rockware Hardware or any other proprietary technology provided in connection therewith.

“**Improvements**” means any and all improvements, modifications, or extensions to or derivative works of the Rockware Platform or any component thereof, and any and all inventions based thereon or derived therefrom, whether conceived of or first reduced to practice by or on behalf of Rockware or Customer.

“**Initial Support Term**” has the meaning set forth in the [Support Terms](#).

“Installation and Configuration” means the installation and configuration of the Rockware Platform, or any component thereof, at the applicable Site Location pursuant to a Launch Agreement, in order to make each component of the Rockware Platform operational at such Site Location in accordance with its intended functionality, in Rockware’s sole discretion, as set forth in such Launch Agreement and any applicable Documentation.

“Intellectual Property Rights” means any and all now known or hereafter existing (a) rights associated with works of authorship, including copyrights, mask work rights, and moral rights; (b) trademark or service mark rights; (c) trade secret rights; (d) patents, patent rights, and industrial property rights; (e) layout rights, design rights, and other proprietary rights of every kind and nature other than trademarks, service marks, trade dress, and similar rights; and (f) registrations, applications, renewals, extensions, and reissues of the foregoing, in each case in any jurisdiction throughout the world.

“Launch Agreement” has the meaning set forth in Section 2.1.

“Launch Fees” has the meaning set forth in Section 5.1.

“Launch Services” has the meaning set forth in Section 3.1.

“License” has the meaning set forth in Section 2.2.

“Licensed Components” has the meaning set forth in Section 2.1.

“License Schedule” means a schedule attached to a Launch Agreement or Continuing Support Agreement and setting forth the Licensed Components and the related Launch Fees owed thereunder.

“License Term” has the meaning set forth in Section 2.2.

“Machine” means any manufacturing machine or other piece of hardware that is (a) used directly in Customer’s manufacturing processes, (b) owned or otherwise controlled by Customer, (c) located at the Site Location, and (d) identified by a unique serial number listed on the License Schedule attached to the applicable Ordering Document.

“Marks and Notices” means all Rockware trademarks, service marks, trade names, and logos, whether registered with the United States Patent and Trademark Office or protected under common law, including but not limited to those listed on the Rockware Trademark Schedule available at http:\rockwarecorp.com\downloads\2022_Trademark_Schedule.pdf, and any notices regarding any of the foregoing that may be incorporated within any Documentation as originally provided by Rockware to Customer hereunder.

“OEI Software” means Rockware’s proprietary Operator Entry Interface (OEI) software, including any Third-Party Components incorporated therein, that, when installed on a Customer Machine running the IMM Software, provides Customer with an interface to input transaction-related information via the IMM Software via a Device, and then stores such information to the Database, as further described in the Documentation related thereto, including but not limited to the related information provided at http:\rockwarecorp.com\downloads\2022_Add-On_Schedule.pdf.

“Ordering Document” means any Launch Agreement, Continuing Support Agreement, Statement of Work (each as defined herein) or other order acknowledgment executed by both Parties.

“PII” means any data or other information that can be used to determine an individual's identity, whether in isolation alone or in combination with any other such information, including but not limited to such individual’s name, address, gender, computer IP address, Social Security number, biometric records, date or place of birth, or driver’s license number.

“**Professional Services**” means any services provided to Customer by Rockware pursuant to a Statement of Work, which services are not included in the Support Services, including but not limited to consulting, development, and implementation services and any other services identified in the Support Terms as out of the scope of the Support Services.

“**Professional Services Fees**” has the meaning set forth in Section 5.3.

“**Privacy Policy**” means Rockware’s privacy policy available at http://rockwarecorp.com/downloads/2022_Privacy_Policy.pdf.

“**Quote**” has the meaning set forth in Section 2.1.

“**Rockbox System**” and Rockware’s proprietary computer software and hardware platform attached to a Machine at the Site Location to provide control, test, and acquisition functionality for Customer manufacturing processes, as further described in the Documentation related thereto, including but not limited to the related information provided at <https://teamraytech.com/rockbox>.

“**Rockware Hardware**” means any computer or other hardware provided to Customer by Rockware in connection with the IMM Platform or the Rockbox System pursuant to a Launch Agreement and as described therein.

“**Rockware Platform**” means, collectively, the IMM Platform and the Rockbox System, and any other proprietary technology to which Rockware may grant Customer a License pursuant to a Launch Agreement, and including any Updates and Upgrades thereto, any New Releases therefor, and all Documentation related thereto.

“**Services**” means, collectively and individually, the Launch Services, the Continuing Support Services, and any Professional Services provided to Customer under an Ordering Document.

“**Site Location**” means the location of Customer’s physical manufacturing plant where the Licensed Components are installed.

“**Statement of Work**” has the meaning set forth in Section 3.2.

“**Support Services**” has means the technical support and maintenance services to be provided to Customer under a Launch Agreement during the Initial Support Term and, if applicable, in connection with a Continuing Support Subscription during the Continuing Support Term.

“**Support Terms**” means the terms and conditions governing Rockware’s provision of Services to Customer hereunder, available at http://rockwarecorp.com/downloads/2022_Support_Terms.pdf.

“**Third-Party Components**” has the meaning set forth in Section 2.4.

“**Updates**” has the meaning ascribed to such term in the [Support Terms](#).

“**Upgrades**” has the meaning ascribed to such term in the [Support Terms](#).

SECTION 2 PURCHASE ORDERS; LICENSES

2.1 Launch Agreements. For any Licenses or Services Customer is interested in obtaining from Rockware, Rockware will submit to Customer a quote setting forth a description of the components of the IMM Platform or Rockbox System to be licensed thereunder (the “**Licensed Components**”) or the Services to be provided thereunder, the applicable Fees, and any other Customer-specific terms that may be applicable thereto (each a “**Quote**”). Customer will indicate its acceptance of the terms set forth in

such Quote, by submitting to Rockware a purchase order that is substantially consistent with the terms set forth in such Quote (each a “**Purchase Order**”); provided, however, that no Purchase Order will be binding upon Rockware unless and until executed by an authorized representative of Rockware. Each Purchase Order accepted and agreed to by Rockware is hereby incorporated into, and will at all times be subject to, these General Terms and the Support Terms.

2.2 License Grants. Upon Rockware’s execution of a Purchase Order for any components of the IMM Platform or the Rockbox System, subject to these General Terms and the terms and conditions of such Purchase Order, and conditioned upon Customer’s payment of all applicable Fees due in accordance with the terms of such Purchase Order, Rockware hereby grants to Customer the following non-exclusive, non-transferable, fully paid-up right and license, without the right to grant or authorize sublicenses, solely for Customer’s internal business operations and for use by Authorized Users only, (each a “**License**”) solely during the Initial Support Term, any Continuing Support Term, and any term of a Statement of Work surviving the expiration of such Continuing Support Term, if applicable (together, the “**License Term**”).

(a) *Software License*. For each Launch Agreement executed by the Parties, Rockware agrees to grant, and hereby does grant, to Customer a License to have installed, on a single server located at the Site Location, the Licensed Components and (subject to these General Terms, including but not limited to Section 2.3) to access and use such Licensed Components, and all related Documentation, at the Site Location for Customer’s own internal business purposes only.

(b) *Documentation License*. The License granted under Section 2.2(a) include the right to use and distribute internally a reasonably limited number of copies of the Documentation related to the Licensed Components under such Launch Agreement, provided that Customer includes on all such copies all Marks and Notices included in the originals of such Documentation.

2.3 License Restrictions. Customer will use the Rockware Platform only as expressly set forth in Section 2.2 and as otherwise specified in the Agreement. Specifically, Customer will not, at any time, do or attempt to do any of the following: (i) reverse engineer or decompile, decrypt, disassemble or otherwise reduce any software component of the Rockware Platform or any portion thereof to human-readable form, except and only to the extent that any such restriction is prohibited by applicable law; (ii) install the Rockware Platform on any Machines or Devices not expressly authorized under the applicable Launch Agreement; (iii) prepare derivative works from, modify, copy, or use the Rockware Platform in any manner other than as expressly permitted under these General Terms; (iv) transfer, sell, rent, lease, distribute, sublicense, loan, or otherwise convey the Rockware Platform, in whole or in part, to any third party; (v) use the Rockware Platform for providing time-sharing services, any SaaS offering, service bureau services, or as part of an application services provider or other software offering; (vi) circumvent any limitations on use of the Rockware Platform that are imposed or preserved by any means of prevention; (vii) alter or remove any Marks or Notices included in the Rockware Platform; (viii) make available to any third party any analysis of the results of operation of the Rockware Platform, including benchmarking results, without the prior written consent of Rockware.

2.4 Third-Party Components. The Rockware Platform may include, incorporate, or otherwise be provided with certain third-party components, utilities, libraries, documentation, or other materials, including any of the foregoing provided as a part of open-source software contained within the Rockware Platform, as listed on the Third-Party Components Schedule available at http://rockwarecorp.com/downloads/2022_3rd_Party_Software_Schedule.pdf (collectively, “**Third-Party Components**”). Notwithstanding anything to the contrary herein, any such Third-Party Components will be subject to the license terms and conditions imposed by the applicable third-party licensor, to the extent required by such licensor, which terms and conditions will in no event expand the rights granted to Customer hereunder.

2.5 Reservation of Rights. Customer acknowledges that Customer is not obtaining any Intellectual Property Rights in or to the Rockware Platform or the Documentation other than the limited license rights granted to Customer under [Section 2.2](#). Nothing contained in the Agreement, whether written or oral, will constitute or be construed as an assignment of any of Rockware’s rights in or to the Rockware Platform or the Documentation, and all such rights are expressly reserved to Rockware.

2.6 Remedies. Customer acknowledges that any failure to comply with the restrictions set forth in this [Section 2](#) will be deemed a material breach of the applicable Launch Agreement. In the event of any such breach, Rockware may, at Rockware’s sole option, and without prejudice to any other remedies available hereunder, at law or in equity, either suspend the License rights provided to Customer hereunder if Customer fails to cure such breach within five (5) days following receipt of written notice thereof from Rockware, or, immediately upon written notice to Customer, terminate such Launch Agreement, in whole or in part.

SECTION 3 SERVICES

3.1 Launch Services. With respect to each Launch Agreement, Rockware will perform Installation and Configuration of the Licensed Components thereunder, and thereafter will provide, for the duration of the Initial Support Term, the Support Services for such Licensed Components, as further described in the [Support Terms](#) (collectively, the “**Launch Services**”).

3.2 Continuing Support Services. If, and only if, Customer has purchased a Continuing Support Subscription for the component(s) of the Rockware Platform licensed to Customer under a Launch Agreement, Rockware will provide Customer with Support Services for such component(s) following expiration of such Launch Agreement, and will continue to provide such Support Services for the duration of the Continuing Support Term, as further described in the [Support Terms](#) and the applicable Continuing Support Agreement. Each Continuing Support Agreement is hereby incorporated by reference into, and will be at all times governed by the terms and conditions of, these General Terms.

3.3 Professional Services. From time to time, Customer may request, and Rockware may provide, Professional Services to Customer. The terms of any Professional Services provided by Rockware, including the applicable Professional Services Fees, will be agreed upon by the Parties and set forth in a separate statement of work referencing these General Terms and the Support Terms and executed by an authorized representative of each Party (each a “**Statement of Work**”). Each Statement of Work is hereby incorporated by reference into, and will be at all times governed by the terms and conditions of, these General Terms.

3.4 Restrictions. All Services provided by Rockware to Customer hereunder are provided solely for Customer’s benefit and internal use. Customer will not use the Services to supply any consulting, support, training, or other services to any third party. Customer acknowledges that any failure to comply with the terms of this [Section 3.3](#) will be deemed a material breach of the Agreement.

3.5 Reservation of Rights. Customer acknowledges that Customer is not obtaining any Intellectual Property Rights in or to the Services other than the rights of use set forth in the Agreement, including but not limited to any Ordering Document, these General Terms, and the Support Terms.

SECTION 4 USE OF THE ROCKWARE PLATFORM

4.1 Use Generally. At all times, Customer will comply, and will ensure that all Authorized Users comply, with all applicable terms of the Agreement; provided, however, that Customer will be responsible for any individual’s access or use of the Rockware Platform in connection with Customer’s

License thereto, regardless of whether such individual is an Authorized User. In the event of any violation of this [Section 4.1](#), Rockware may, immediately upon notice to Customer, suspend Customer's access to the Rockware Platform or any component thereof. In no event will any such suspension relieve Customer of its obligation to pay all Fees owed hereunder or provide for any right to a rebate or return of any Fees already paid by Customer to Rockware.

4.2 [Use by Contractors and Affiliates](#). Without limiting [Section 4.1](#), any authorized use of the Rockware Platform by Contractors or Affiliates of Customer pursuant to any License granted to Customer under [Section 2.2](#) is expressly conditioned upon the following: (a) such use must be solely for Customer's exclusive benefit; (b) Customer will ensure that all such use is at all times in accordance with Applicable Law and the applicable terms of the Agreement; and (c) Customer will remain responsible for any and all acts and omissions of such Contractors and Affiliates in connection with such use, including any such acts or omissions in violation of the applicable terms and conditions of the Agreement.

4.3 [Minimum Hardware and Software Requirements](#). In connection with Customer's use of the Rockware Platform, Customer will to and use and maintain, at a minimum, the hardware and software products required for use of the Rockware Platform, at the time of original implementation and thereafter, as set forth in the Minimum Hardware and Software Requirements provided at http://rockwarecorp.com/downloads/2022_Minimum_Hardware_Specs.pdf, as the same may be modified by Rockware from time to time.

SECTION 5 FEES; PAYMENT TERMS

5.1 [Fees](#). Customer will pay Rockware the Fees as set forth in the applicable Ordering Document (*i.e.*, the Launch Fees, the Continuing Support Fees, and the Professional Services Fees, as applicable) (collectively and individually, the "**Fees**").

5.2 [Expenses](#). Customer will reimburse Rockware for any and all pre-approved, out-of-pocket expenses reasonably incurred by Rockware in the course of performing any Services, including as may be set forth in the applicable Ordering Document (collectively, "**Expenses**").

5.3 [Invoicing](#). Rockware will invoice Customer for Fees due under an Ordering Document in accordance with the applicable Ordering Document. Rockware will invoice Customer for Expenses as incurred and will include reasonable documentation, including receipts if applicable, in support thereof.

5.4 [Payment Terms](#). Customer will pay all invoices for Fees and Expenses within sixty (60) days following the date of the applicable invoice, without offset or deduction. Except as may be set forth in the applicable Ordering Document.

5.5 [Late Payments](#). If Customer fails to make any payment when due hereunder, in addition to all other remedies that may be available, (a) Rockware may charge interest on the past due amount at the rate of one and a half percent (1.5%) per month, calculated daily and compounded monthly, or the highest rate permitted under Applicable Law, whichever is lower; (ii) Customer will reimburse Rockware for all costs incurred by Rockware in collecting any late payments or interest, including reasonable attorneys' fees, court costs, and collection agency fees; and (iii) Rockware may, upon written notice to Customer, demand that Customer cease all access to and use of the Rockware Platform, with respect to any or all Licenses of Customer then in effect, and suspend any or all Services to Customer until all past-due amounts and interest thereon have been paid, without incurring any obligation or liability to Customer or any other person by reason of such prohibition of access and use or such suspension, and Customer will, immediately upon receipt of such written notice from Rockware, comply with such demand and provide Rockware with written certification of such compliance.

5.6 Cancellation. Any purchase order for the Rockware's goods and services may not be cancelled for any reason, in whole or in part, without Rockware's prior written approval. In the event a cancellation is approved by Rockware then, unless otherwise agreed, Party shall pay Rockware (i) all costs and expenses Rockware incurred in relation to the order before Rockware received the cancellation request, (ii) a cancellation charge equal to 25% of the invoice price of any goods cancelled from the order, and (iii) any shipping charges and other out of pocket expenses incurred by Rockware in relation to the cancellation.

5.7 Taxes. All Fees, Expenses, and other amounts due and payable by Customer under this Agreement are exclusive of taxes and similar assessments. Customer is responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Customer hereunder, other than any taxes imposed on Rockware's income.

5.8 Audit Rights and Required Records. Customer agrees to maintain complete and accurate records in accordance with generally accepted accounting principles, during any License Term and for a period of two (2) years thereafter, with respect to matters reasonably necessary for accurately determining amounts due hereunder. Rockware may, at its own expense, on reasonable prior notice, periodically inspect and audit Customer's records with respect to matters covered by these General Terms, provided that if such inspection and audit reveals that Customer has underpaid Rockware with respect to any amounts due and payable under the Agreement, Customer shall promptly pay the amounts necessary to rectify such underpayment, together with interest in accordance with Section 5.6. Customer shall pay for the costs of the audit if the audit determines that Customer's underpayment equals or exceeds five percent (5%) for any quarter. Such inspection and auditing rights will extend throughout such License Term and continue for a period of two (2) years thereafter.

SECTION 6 CONFIDENTIALITY

6.1 Confidential Information. From time to time, either Party (the "**Receiving Party**") may disclose or otherwise make available to the other Party (the "**Disclosing Party**") under the Agreement, whether orally or in written, electronic, or other form or media, information relating to the Disclosing Party's products, technology, services, business and marketing strategies, and other confidential or proprietary information, including but not limited to customer lists and profiles, project plans, product strategies, pricing data, research, advertising plans, leads and sources of supply, development activities, design and coding, computer programs, technical drawings, algorithms, know-how, formulas, processes, ideas, inventions, schematics and other technical plans and software interfaces, any information related to Intellectual Property Rights in any of the foregoing, and third-party confidential information, whether marked, designated or otherwise identified as "confidential" (collectively, "**Confidential Information**"). Confidential Information does not include information that, at the time of disclosure is: (a) in the public domain; (b) known to the Receiving Party at the time of disclosure; (c) rightfully obtained by the Receiving Party on a non-confidential basis from a third party; or (d) independently developed by the Receiving Party.

6.2 Nondisclosure and Nonuse. The Receiving Party shall not disclose the Disclosing Party's Confidential Information to any person or entity other than as reasonably necessary to perform its obligations hereunder and except to any Affiliates, Contractors, and employees of the Receiving Party who have a need to know such Confidential Information in order for the Receiving Party to perform its obligations hereunder.

6.3 Compelled Disclosures. Notwithstanding Section 6.2, each Party may disclose Confidential Information, to the limited extent required, in order to (a) comply with the order of a court or other governmental body, or as otherwise necessary to comply with Applicable Law, provided that the

Receiving Party notifies the Disclosing Party in writing prior to such disclosure and makes a reasonable effort to obtain a protective order or to otherwise limit such disclosure to the narrowest portion reasonably possible; or (ii) to establish the Receiving Party's rights under these General Terms, including to make required court filings.

SECTION 7 INTELLECTUAL PROPERTY

7.1 Ownership.

(a) *Rockware Platform.* As between Rockware and Customer, all right, title, and interest in and to the Rockware Platform, including but not limited to all Intellectual Property Rights therein, will be owned exclusively by Rockware or, with respect to any Third-Party Components included therein, by the respective third-party licensors thereof.

(b) *Improvements.* As between Rockware and Customer, all right, title, and interest in and to any Improvements, including but not limited to all Intellectual Property Rights therein, will be owned exclusively by Rockware. Customer hereby assigns all right, title, and interest in and to any and all Improvements conceived of or first reduced to practice by or on behalf of Customer, including all Intellectual Property Rights therein. Notwithstanding the foregoing or anything to the contrary in these General Terms, any Ordering Document, or the Support Terms, (i) Customer will not make any Improvements without the prior written consent of Rockware, (ii) Customer will promptly notify Rockware of any Improvements of which it becomes aware, whether during the License Term or thereafter, and (iii) Customer will, at Rockware's cost and expense, provide Rockware with any assistance required to perfect Rockware's ownership in such Improvements, including with respect to the filing of patent applications, anywhere in the world.

(c) *Customer Data and Database.* As between Rockware and Customer, all right, title, and interest in and to the Customer Data and the Database, including but not limited to all Intellectual Property Rights therein, will be owned exclusively by Customer. Rockware hereby assigns all right, title, and interest in and to the Database, including all Intellectual Property Rights therein. Notwithstanding the foregoing, Rockware may, in Rockware's sole discretion, refuse or remove from its servers any Customer Data, for any reason.

7.2 License to Customer Data and Database. Customer hereby grants to Rockware a worldwide, non-exclusive, royalty-free, fully paid-up, perpetual, irrevocable license to use, reproduce, modify, adapt, and publish the Customer Data and the Database, and any portion or content thereof, as follows:

(a) as reasonably necessary to enable Rockware to perform its obligations under the Agreement;

(b) for Rockware's internal business and archival purposes; and

(c) solely in an anonymized and aggregated manner and format, to use for any reasonable business purpose, including sharing with third parties, provided that such use is in accordance with the [Privacy Policy](#) and all Applicable Law.

7.3 Feedback. If Customer or any of its employees, agents, Contractors, or Affiliates sends or transmits any communications or materials to Rockware, whether by mail, e-mail, telephone, or otherwise, suggesting or recommending changes to any part of the Rockware Platform, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like (collectively, "**Feedback**"), Rockware is free to use such Feedback irrespective of any other obligation or limitation between the Parties. Customer hereby assigns to Rockware, on Customer's behalf and on behalf of its employees, agents, Contractors, and Affiliates, all right, title, and interest in and to all Feedback, and Intersys is free, but under no obligation, to use, without any attribution or compensation to

any party (including Customer), any ideas, know-how, concepts, techniques, contained in the Feedback, for any purpose whatsoever.

7.4 Customer Cooperation and Notice of Infringement. Customer will at all times (a) use commercially reasonable measures to safeguard the Rockware Platform (including any and all copies of the Documentation) against infringement, misappropriation, theft, misuse and unauthorized access; (b) at Rockware's expense, take all such steps as Rockware may reasonably require to assist Rockware in maintaining the validity, enforceability and Rockware's Intellectual Property Rights in the Rockware Platform; (c) promptly notify Rockware in writing if Customer becomes aware of (i) any actual or suspected infringement, misappropriation or other violation of Rockware's Intellectual Property Rights in or relating to any of the Rockware Platform, or (ii) any claim that any component of the Rockware Platform infringes, misappropriates, or otherwise violates the rights of any third party; and (d) at Rockware's expense, fully cooperate with and assist Customer in all reasonable ways in the conduct of any action brought by Rockware to abate or prevent any such infringement, misappropriation, or other violation of Rockware's Intellectual Property Rights, including having Customer's employees, agents, Affiliates, and Contractors testify when requested and making available for discovery or trial relevant records, papers, information, samples, specimens, and the like.

7.5 Remedies for Infringing Use. If Customer's use of any portion of the Rockware Platform is (or, in Rockware's opinion, is likely to be) enjoined, or if Rockware determines, in its sole discretion that any of the following actions is reasonably necessary to avoid material liability, Rockware may, in its sole discretion:

- (a) substitute substantially functionally similar products or services; or
- (b) procure for Customer the right to continue using the allegedly infringing portion thereof; or
- (c) if neither (a) or (b) are commercially reasonable, terminate the applicable License, or any portion thereof, and refund to Customer any Fees that Customer already paid with respect to such terminated portion(s).

7.6 Impairment of Rockware's Rights. Customer shall not at any time, whether during or after any License Term, do or cause to be done any act or thing challenging, contesting, impairing, invalidating, or tending to impair or invalidate any of Rockware's rights, including but not limited to Intellectual Property Rights, in or to the Rockware Platform or any Improvements.

SECTION 8 NON-COMPETITION & NON-SOLICITATION

8.1 Non-Compete. Customer agrees that it will not compete with Rockware by developing a competing system, nor by marketing or selling any software, hardware, or services that Compete with the Rockware Platform or any Services, or any portion thereof, either, directly or indirectly, within the United States during any Agreement Term and for one (1) year thereafter, for any reason. For purposes of these General Terms, "Compete" shall mean having any interest in (whether as founder, proprietor, officer, director or otherwise), entering the employment of, acting as agent, broker or distributor for or adviser or consultant to, or in any way assisting (whether by solicitation or customers or employees or otherwise) any individual, partnership, joint venture, corporation or other business entity directly or indirectly engaged in any business or enterprise which directly or indirectly competes with its Rockware Platform; marketing, selling, or partnering with any third party to develop a competing system; soliciting, diverting, or taking away (including any attempt to solicit, divert or take away) any customer or the business of any customer with respect to the products and services of Rockware sold to, or offered for sale to, such customer.

8.2 Non-Solicitation. Customer shall not, during any Agreement Term and for one (1) year thereafter, directly or indirectly recruit, seek to employ or retain, or solicit any of Rockware’s current or former employees, independent contractors, or customer of Rockware.

8.3 Reasonable Restrictions. Customer agrees, while acknowledging that the obligations of Rockware are adequate consideration, that the duration, activities restricted, and scope of the provisions set forth above are reasonable and are necessary to protect Rockware’s legitimate business interests and goodwill. If any court determines any of the above to be unreasonable and/or unenforceable, Customer agrees that the provision shall remain in full force and effect as proscribed by law.

SECTION 9 TERM & TERMINATION

9.1 Term. The term of each Ordering Document will be as set forth in the respective Ordering Document. The term of the Agreement will continue in effect until the expiration or termination of the last to survive of any Ordering Document between the Parties (the “**Agreement Term**”).

9.2 Termination.

(a) *For Material Breach*. Either Party may terminate any Ordering Document or this Agreement in its entirety, in such Party’s sole discretion, upon written notice to the other Party in the event of such other Party’s (i) material breach of such Ordering Document (including these General Terms as incorporated therein), which breach remains uncured thirty (30) days following receipt of written notice of such breach (in reasonably sufficient detail) from the non-breaching Party; or (ii) assignment or attempted assignment of the Agreement in violation of Section 14.1.

(b) *For Bankruptcy, Insolvency, or Invalid Assignment*. The Agreement will terminate immediately in the event (i) a receiver is appointed for the other Party or its property; (ii) the other Party makes an assignment for the benefit of its creditors; (iii) proceedings are commenced by or for the other Party under any bankruptcy, insolvency, or debtor's relief law (and not dismissed within sixty (60) days); (iv) the other Party liquidates or dissolves or attempts to do so.

9.3 Effect of Expiration or Termination. Upon any expiration or termination of the Agreement Term, Customer will immediately return or destroy, at Rockware’s sole option, all Documentation and all Confidential Information of Rockware then in Customer’s possession or control.

9.4 No Limitation of Remedies. Termination of the Agreement will be in addition to and not in lieu of any equitable remedies available to the terminating Party.

9.5 Surviving Provisions. this Section 9.5, and Sections 2.3, 2.4, 2.5, 2.6, 5 through 8, 9.3, 9.4, and 10 through 14.

SECTION 10 INDEMNIFICATION

10.1 Indemnification by Rockware.

(a) Rockware will defend Customer and its Affiliates and each of their respective officers, directors, employees, agents, subcontractors, and representatives from and against any and all claims, suits, proceedings, and other actions brought by a third party (each a “**Claim**”) alleging that the Rockware Platform, or any portion thereof, when used as authorized under the Agreement, actually infringes a third party’s patent, copyright, or trademark registered in the United States, and will indemnify and hold harmless Customer from and against any damages, awards, settlement amounts, fines and penalties, and

costs and expenses (including reasonable attorney's fees) (collectively, "Losses") incurred by Rockware as a result of such Claim.

(b) The foregoing indemnification obligation of Rockware shall not apply in the event that:

(i) the Rockware Platform was modified by any party other than Rockware, but solely to the extent the alleged infringement is caused by such modification;

(ii) the Rockware Platform is combined with products or processes not provided by Rockware, but solely to the extent the alleged infringement is caused by such combination;

(iii) the Claim arises from unauthorized use of the Rockware Platform by any party;

(iv) the Claim arises as a result of Customer Data or any Third-Party Components, but solely to the extent that the alleged infringement is based upon or caused by such Customer Data or Third-Party Components;

(v) the Claim relates to any release or version of the Rockware Platform other than the then-current release or version, as provided by Rockware hereunder; or

(vi) Customer settles or makes any admissions with respect to such Claim without Rockware's prior written consent.

(c) SECTION 7.5 AND THIS SECTION 10.1 SET FORTH ROCKWARE'S SOLE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM THAT THE ROCKWARE SYSTEM OR ANY PORTION THEREOF INFRINGES A U.S. PATENT, COPYRIGHT, OR TRADEMARK.

10.2 Indemnification by Customer. Customer will defend Rockware and its Affiliates and each of their respective officers, directors, employees, agents, subcontractors, and representatives from and against any Claim arising from or relating to:

(a) any Machines or Devices that the Rockware Platform interfaces with or is connected to, to the extent such Claim would not have arisen but for such interface or connection;

(b) Rockware's compliance with any specifications or directions provided by or on behalf of Customer, solely to the extent prepared without any contribution by Rockware;

(c) any facts that, if true, would constitute Customer's breach of any of its representations, warranties, covenants, or obligations under the Agreement; or

(d) Customer's gross negligence or more culpable act or omission in connection with the Agreement,

and Customer will indemnify and hold harmless Rockware from and against any and all Losses incurred by Rockware as a result of such Claim.

10.3 Indemnification Procedure. Each Party will promptly notify the other Party in writing of any Claim for which such Party believes it is entitled to be indemnified pursuant to Section 10.1 or Section 10.2, as the case may be. The Party seeking indemnification (the "**Indemnitee**") will cooperate with the other Party (the "**Indemnitor**") at the Indemnitor's sole cost and expense. The Indemnitor shall immediately take control of the defense and investigation of such Claim and will employ counsel of its

choice to handle and defend the same, at the Indemnitor's sole cost and expense. The Indemnitee's failure to perform any obligations under this Section 10.3 will not relieve the Indemnitor of its obligations under this Section 10.1 or Section 10.2 (as the case may be) except to the extent that the Indemnitor can demonstrate that it has been materially prejudiced as a result of such failure. The Indemnitee may, but has no obligation to, participate in and observe the proceedings at its own cost and expense with counsel of its own choosing. The Indemnitee may not settle any Claim without the Indemnitor's prior written consent unless such settlement unconditionally releases the Indemnitee from all liability and does not require the Indemnitee to take or refrain from taking any action (except with respect to use or non-use of the Rockware Platform or any allegedly infringing portions thereof).

SECTION 11 LIMITATION OF LIABILITY

11.1 Liability Exclusions. SUBJECT TO SECTION 11.4, NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, RELIANCE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING BUT NOT LIMITED TO LOSS OF GOODWILL, REPUTATION OR OPPORTUNITY, LOST PROFITS OR REVENUE, ANY LOSS OF USE, LOSS OF DATA, LOSS OF ANTICIPATED SAVINGS, ANY ACCOUNT OF PROFITS, OR INTERRUPTION OF BUSINESS), ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT OR ANY BREACH OR NON-PERFORMANCE OF IT, NO MATTER HOW FUNDAMENTAL, AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

11.2 Liability Cap. SUBJECT TO SECTION 11.4 AND EXCEPT FOR AMOUNTS PAYABLE PURSUANT TO A PARTY'S OBLIGATIONS UNDER SECTION 10 (INDEMNIFICATION) OR CLAIMS ARISING FROM BREACH OF A PARTY'S OBLIGATIONS UNDER SECTION 6 (CONFIDENTIALITY), NOTWITHSTANDING ANY OTHER PROVISION OF THE AGREEMENT TO THE CONTRARY, EACH PARTY'S ENTIRE LIABILITY TO THE OTHER PARTY ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT WILL NOT EXCEED THE FEES ACTUALLY PAID BY CUSTOMER TO ROCKWARE UNDER THE SUBSCRIPTION AGREEMENT OR STATEMENT OF WORK UNDER WHICH SUCH LIABILITY AROSE DURING THE SIX (6) MONTHS PRECEDING THE DATE THE EVENT GIVING RISE TO SUCH LIABILITY OCCURRED.

11.3 Failure of Essential Purpose. The Parties agree that the limitations specified in this Section 11 will survive and apply even if any limited remedy specified in the Agreement is found to have failed of its essential purpose.

11.4 Exceptions. Notwithstanding any contrary provision in the Agreement, neither Party's liability will be excluded or limited hereunder with respect to (a) any death or personal injury caused by its gross negligence or willful misconduct, (b) fraudulent misrepresentation, or (c) any other statutory or other liability that cannot be excluded or limited under Applicable Law.

SECTION 12 REPRESENTATIONS AND WARRANTIES

12.1 Mutual Representations and Warranties. Each Party hereby represents and warrants that:

(a) such Party is duly organized, validly existing and in good standing as a corporation or other entity under the Applicable Laws of the jurisdiction of its incorporation or other organization;

(b) such Party has the full right, power and authority to enter into, and to perform its obligations and grant the rights and licenses it grants or is required to grant under, the Agreement.

(c) the execution of any Ordering Document by its representative whose signature is set forth at the end of these General Terms has been duly authorized by all necessary corporate or organizational action of such Party; and

(d) when executed and delivered by both Parties, each Ordering Document will constitute the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.

12.2 Representations by Customer. Customer hereby represents and warrants that:

(a) Customer has obtained the Customer Data in compliance with all Applicable Laws;

(b) Customer owns or has all necessary licenses to provide the Customer Data to Rockware and to grant to Rockware for use as contemplated hereunder;

(c) to Customer's knowledge, the Customer Data, Customer's provision of the Customer Data to Rockware, and Rockware's use of the Customer Data as contemplated hereunder does not and will not infringe any Intellectual Property Right or privacy right of a third party.

12.3 Representations by Rockware. Rockware hereby represents and warrants that:

(a) Rockware either is the exclusive owner of the Rockware Platform and the Documentation or, with respect to any Third-Party Components included therein, Rockware has sufficient rights to grant to Customer the Licenses set forth in Section 2.2; and

(b) to Rockware's knowledge, at the time of delivery to Customer, the Rockware Platform will not contain any malware, viruses or other disabling devices, or any codes or instructions that can access, modify, damage, or disable Customer's computer networks or systems.

12.4 Disclaimer of Warranties. EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED BY ROCKWARE UNDER THIS SECTION 12 OR OTHERWISE UNDER AN ORDERING DOCUMENT, ROCKWARE HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, REGARDING THE RESULTS OBTAINED FROM CUSTOMER'S USE OF THE ROCKWARE SYSTEM, AND ANY WARRANTY OF NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. ALL THIRD-PARTY COMPONENTS ARE PROVIDED "AS IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY THIRD-PARTY COMPONENTS IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-PARTY OWNER OR LICENSOR OF SUCH THIRD-PARTY COMPONENTS.

SECTION 13 FORCE MAJEURE

13.1 No Breach or Default. In no event will either Party be liable or responsible to the other Party, or be deemed to have defaulted under or breached any provision of the Agreement for any failure or delay in fulfilling or performing any term thereof (except for any obligations to make payments thereunder) if and to the extent such failure or delay is caused by any circumstances beyond such Party's reasonable control (a "**Force Majeure Event**"), including acts of God, flood, fire, earthquake or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect during the Agreement Term, national or regional emergency, strikes, labor stoppages or slowdowns or other industrial disturbances, passage of an Applicable Law or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition or any complete or partial government shutdown, or national or regional shortage of adequate power or telecommunications or transportation. Either Party may terminate the affected Ordering Document if such Force Majeure Event continues substantially uninterrupted for a period of sixty (60) days or more.

13.2 Affected Party Obligations. In the event of any failure or delay caused by a Force Majeure Event, the affected Party will give prompt written notice to the other Party stating the period of time the occurrence is expected to continue and use diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

SECTION 14 MISCELLANEOUS

14.1 Assignment. Neither Party may assign any Ordering Document, in whole or in part, or any of such Party's rights or obligations thereunder, without the prior written consent of the other Party, such consent not to be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, either Party may freely assign any and all Ordering Documents hereunder, in their entirety, in connection with the sale of all or substantially all of its assets; any merger, consolidation, or acquisition of such Party with, by or into another entity or person; or any change in the ownership of more than fifty percent (50%) of the voting capital stock of such Party in one or more related transactions. Any purported assignment, delegation or transfer in violation of this Section 14.1 is void. The Agreement is binding upon and inures to the benefit of the Parties and their respective permitted successors and assigns.

14.2 Governing Law, Jurisdiction, and Venue. The Agreement is governed by and will be construed in accordance with the internal laws of the State of Ohio, without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Ohio. Subject to Section 14.3, any legal suit, action or proceeding arising out of the Agreement will be instituted in the federal courts of the United States or the state, county, or local courts of the State of Ohio located in Sandusky County. Each Party irrevocably submits to the personal jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such Party's address for notices provided under Section 14.11 will be effective service of process for any suit, action or other proceeding brought in any such court.

14.3 Dispute Resolution. In the event of any dispute arising out of or relating to the Agreement, or concerning the validity, interpretation, breach, or violation or termination of any terms thereof, in whole or in part, the Party raising such dispute will provide prompt notice to the other Party, and the Parties will immediately commence to work together in good faith to resolve the matter internally, including but not limited to escalating the dispute to higher levels of management for resolution. In the event that any such dispute is not resolved within sixty (60) days following the initiation of such good-faith negotiations toward resolution of such dispute, either Party may, after providing written notice to the other Party, initiate legal proceedings in accordance with Section 14.2.

14.4 Equitable Remedies. Each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its obligations under Section 6 (Confidentiality), Section 7 (Intellectual Property), or Section 12 (Representations and Warranties) would cause the other Party irreparable harm for which monetary damages would not be an adequate remedy. Such Party agrees that, in the event of any such breach or threatened breach, the other Party will be entitled to equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.

14.5 Entire Agreement; Conflicts. These General Terms, together with all Ordering Documents, the Support Terms, the Privacy Policy, and any other schedules, exhibits and other documents incorporated herein by reference, constitute the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersede all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter. In the event of any conflict or inconsistency between the terms of these General Terms and any of the foregoing

incorporated documents, except as may be expressly set forth in any of the foregoing agreements or other documents, the following order of precedence will govern, solely with respect to conflicting provisions, and solely to the extent of such conflict: (a) first, the applicable Ordering Document; (b) these General Terms, excluding any such incorporated document; (c) the Support Terms; (d) the Privacy Policy; and (e) fourth, any other document incorporated herein by reference.

14.6 No Third-Party Beneficiaries. The Agreement is not intended to, and shall not be construed to, give any third party any interest or rights (including, without limitation, any third-party beneficiary rights) with respect to or in connection with any provision hereof or contemplated hereby, except as otherwise expressly provided for in the Agreement.

14.7 Further Assurances. Upon a Party's reasonable request, the other Party shall, at the requesting Party's sole cost and expense, execute and deliver all such documents and instruments, and take all such further actions, as may be necessary to give full effect to the terms of the Agreement.

14.8 Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in the Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

14.9 Modification; Counterparts. No amendment to or modification of the Agreement or any part hereof will be effective unless it is in writing and signed by each Party. The Agreement may be executed in multiple counterparts, each of which will be deemed an original and all of which together will be deemed the same agreement.

14.10 Waivers. No waiver by either Party of any of the provisions of the Agreement will be effective unless explicitly set forth in writing and signed by the Party so waiving. The waiver by either Party of a breach or other violation of any provision of the Agreement will not operate as, or be construed to be, a waiver of any subsequent breach of the same or other provision of the Agreement.

14.11 Notices. Unless otherwise provided herein, any notice, demand, or communication required, permitted, or desired to be given hereunder shall be in writing and shall be delivered by hand, by telex or telecopy, by facsimile, or by registered or prepaid certified mail through the United States postal service, return receipt requested, addressed to such Party at the address provided for notices under the signature block of the applicable Ordering Document, or to such other address, and to the attention of such other persons or officers as either party may designate by written notice. Any notice so addressed and mailed shall be deemed duly given three (3) days after deposit in the United States mail, and if delivered by hand, shall be deemed given when delivered, and if telecopied, telexed, or sent by facsimile, shall be deemed given on the first business day immediately following transmittal.

14.12 Severability. If any provision of the Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of the Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify the Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

14.13 Articles and Other Headings. The articles and other headings contained in these General Terms, the Ordering Documents, the Support Terms, the Privacy Policy, and any additional documents included within the Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of the terms thereof.