

ROCKWARE CORP.
SUPPORT & MAINTENANCE TERMS & CONDITIONS

These Support and Maintenance Support Terms and Conditions (these “**Support Terms**”) apply to all Services to be provided under any and all Launch Agreements, Continuing Support Agreements, Statements of Work and other ordering documents executed between the Parties (each an “**Ordering Document**”) between Rockware Corp. (“**Rockware**”) and the Customer identified in such Ordering Document, and supplement, and are at all times subject to the terms of, the Rockware General License Terms and Conditions available at http://rockwarecorp.com/downloads/2022_General_License_Terms_and_Conditions.pdf (the “**General Terms**”), which are hereby incorporated by reference into these Support Terms. Capitalized terms not otherwise defined herein have the respective meanings ascribed to such terms in the [General Terms](#).

1. PURPOSE AND SCOPE

These Support Terms apply to any and all Support Services provided to Customer by Rockware under any Ordering Document. Rockware’s obligation under these Support Terms shall solely be to undertake the agreed Support Services as set forth herein and not to achieve any particular technical, economic, or other results. Any Professional Services will be provided to Customer in accordance with the terms of the Statement of Work pursuant to which Customer ordered such Professional Services and are outside the scope of these Support Terms.

2. DEFINITIONS

- (a) “**Business Hours**” means 7:30 a.m. to 4:30 p.m., Monday to Friday in the time zone of the applicable Site Location, excluding official U.S. holidays.
- (b) “**Continuing Support Term**” has the meaning set forth in [Section 3\(c\)](#).
- (c) “**Customer Contact**” means, as applicable, an employee of Customer designated by Customer to be the primary contact for purposes of receiving and coordinating Support Services from Rockware hereunder and, if applicable, an additional employee designated by Customer to serve as a backup contact to such primary contact.
- (d) “**Defect**” means a failure of any portion of the Rockware Platform to materially conform to the applicable Documentation in effect on the Launch Date, as a result of a bug or other error present in the source code or object code of the applicable Rockware Platform.
- (e) “**Initial Support Term**” has the meaning ascribed to such term in [Section 3\(b\)](#).
- (f) “**Launch Date**” means the date upon which Rockware determines, in its sole and reasonable discretion, that Installation and Configuration of the Rockware Platform under a particular Launch Agreement is complete.
- (g) “**New Release**” means any subsequent release version of Rockware Platform that Rockware, in its sole discretion, makes generally available to customers under license to the Rockware Platform.
- (a) “**Problem**” means any issue with the functionality or operability of the Rockware Platform encountered by Customer as a result of a Defect or other issue, including but not limited to connectivity issues with any Customer Machine,
- (b) “**Problem Report**” means a report submitted to Rockware by Customer describing, in reasonable detail, a Defect discovered or other issue with the functionality of the Rockware Platform.
- (c) “**Response**” means Rockware’s initial contact with the Customer Contact following Rockware’s receipt of a Problem Report.
- (d) “**Response Time**” means, excluding any duration of such period that falls outside of Business Hours, the amount of time between Rockware’s receipt of a Problem Report (phone or web) from a Customer Contact and Rockware’s Response.
- (e) “**Severity Level**” means the applicable classification of a Problem, as determined by Rockware, in its reasonable discretion, within one of the following three categories of Problems:
 - “**Severity Level 1**” means any Problem that, in Rockware’s reasonable discretion, based upon Customer’s description of the resulting impact on Customer’s business operations, constitutes either (i) total Rockware Platform inoperability, or (b) a safety hazard or risk of security breach with respect to Customer Data.
 - “**Severity Level 2**” means a Problem that is not a Severity Level 1 but that seriously degrades the operation, maintenance or administration of the Rockware Platform, and requires immediate attention during Business Hours to resolve the situation.
 - “**Severity Level 3**” means any Problem that is not a Severity Level 1 or Severity Level 2 Problem, such as any Problem resulting in little or no impairment to the functionality of the Rockware Platform.
- (h) “**Support Term**” means the Initial Support Term and, if applicable, the Continuing Support Term.
- (i) “**Updates**” means any “bug” fixes or error corrections of the Rockware Platform or any component thereof provided under these Support Terms.
- (j) “**Upgrades**” means, other than Updates, any enhancements to the functionality of or other modifications to the Rockware Platform or any component thereof that may be provided to Customer by Rockware under these Support Terms.

3. SUPPORT SERVICES

- (a) Scope of Support Services. The Support Services include, and (unless otherwise agreed upon in writing by the Parties) are limited to, the following:
- 24x7 remote support for any Rockware Platform Problems;
 - on-site support at the Site Location only if remote support is unable to resolve a Problem;
 - operations support for all applicable modules and add-ons to which Customer has a purchased.
 - Setup, configuration, and monitoring of Rockware's proprietary eErr™ service, an hourly automatic error notification email service;
 - periodic review of all notifications received by Rockware via the eErr™ service and delivery to Customer of any reasonably necessary support in connection therewith;
 - delivery of any applicable Updates, Upgrades, and New Releases, in Rockware's sole discretion, and installation and configuration services with respect to such Updates, Upgrades, or New Releases;
 - installation and configuration of any agreed-upon changes or additions to any components of the Rockware Platform for which Customer holds a License (including any New Releases provided by Rockware to Customer in Rockware's sole discretion and any agreed-upon Improvements) in order to maintain consistency across all aspects of such Rockware Platform and to ensure interoperability of the same;
 - system configuration support as needed including the addition and modification of new models, jobs, tools, parts, down time codes, machine faults, machine rejects, defect codes, standard rates, shift start and stop times, break times; and
 - Initial Training (defined in Section 3(d)(i) below).
- (b) Initial Support. Following the Launch Date, Rockware will provide the Support Services to Customer in accordance with these Support Terms until the expiration of one (1) year following the Launch Date or the effective date of a Continuing Support Subscription (if applicable), whichever occurs earlier (the "**Initial Support Term**").
- (c) Continuing Support Subscriptions. Following the Launch Date, Customer will have the option to purchase an annual renewable subscription to receive Support Services for the Rockware Platform (a "**Continuing Support Subscription**") by executing a Continuing Support Agreement with Rockware. Regardless of when the Continuing Support Subscription is purchased, and subject to Customer's payment of the annual Support Fees, the term of each Continuing Support Subscription will commence on January 1 of the year following the Launch Date and will continue in effect for twelve (12) months, thereafter automatically renewing for successive twelve (12) month periods until Customer provides notice to Rockware of its intent not to renew prior to the expiration of the then-current renewal term (the "**Continuing Support Term**"). By way of example, and not limitation, if Customer purchases a Continuing Support Subscription after January 1 of the calendar year following the Launch Date, the Continuing Support Term will be deemed to have commenced on January 1 of such year, such that the initial term of the applicable Continuing Support Agreement is twelve (12) months, expiring on December 31 of the same calendar year. If Customer does not purchase a Continuing Support Subscription prior to the one (1) year anniversary of the Launch Date, Rockware will cease to provide Customer with any Support Services for the Rockware Platform, without any liability or further obligation to Customer whatsoever with respect to the Rockware Platform or any Support Services, and any further support requested by Customer will constitute Professional Services and rendered by Rockware only pursuant to a separate Statement of Work.
- (d) Training.
- (i) *Initial Training*. If requested by Customer prior to the Launch Date or within the Initial Support Term, Rockware will provide Customer and applicable Customer personnel with training regarding the operation and use of the Rockware Platform as reasonably appropriate, in Rockware's sole discretion ("**Initial Training**").
- (ii) *Additional Training*. If Customer enters into a Continued Support Agreement, Rockware will provide training to Customer as reasonably requested during the Continued Support Term. If Customer has not entered into a Continued Support Agreement, any training services requested by Customer following the expiration of the Initial Support Term may be provided to Customer, at Rockware's option and in Rockware's sole and reasonable discretion, as a complementary service or as Professional Services subject to additional Fees and rendered by Rockware pursuant to a separate Statement of Work.
- (iii) *Training Materials*. Because the Rockware Platform is customized for integration with Customer's Machines, Devices, networks, and other systems, Rockware does not produce, and has no obligation to provide Customer with, standard training manuals or similar materials. Customer may develop such training materials to fit its specific operations and may request Rockware's assistance in developing such materials; provided, however, that any such assistance may, in Rockware's sole discretion, constitute Professional Services subject to additional Fees and will be rendered by Rockware only pursuant to a separate Statement of Work.

- (e) Support Standard. Rockware will provide the Support Services in a professional and workmanlike manner, using its own personnel or any third-party suppliers or subcontractors deemed reasonably qualified by Rockware, in its sole discretion. Rockware will use commercially reasonable efforts to resolve Problems but does not guarantee that it will be able to do so or that any resolution will be satisfactory to Customer.
- (f) Delivery of Support. Unless otherwise agreed upon by the Parties in writing or otherwise set forth in these Support Terms, all Support Services will be provided by Rockware remotely (*e.g.*, via the Internet, telephone, or by electronic submission, as applicable). Rockware will have no obligation to provide any on-site Support Services at the applicable Site Location and any such Support Services requested by Customer will be provided only in Rockware's sole discretion and will be subject to Customer's payment of Rockware's then-current per diem rate, per each Rockware personnel providing such on-site Support Services.
- (g) Initiating a Problem Report. Customer may initiate a Problem Report through a Customer Contact only. All Problem Reports may be initiated by telephone or email twenty-four (24) hours a day, seven (7) days a week, at the e-mail address and phone number provided for notices under the applicable Ordering Document, or such other address or number that Rockware may provide to Customer in writing from time to time. Customer will include within each Problem Report any and all information reasonably necessary to enable Rockware to assign a Severity Level to such Problem and to assist Rockware with resolution of such Problem.
- (h) Severity Levels: Rockware reserves the right to downgrade at any time the Severity Level assigned to a Problem (i) if the Problem is determined to be less severe than originally reported; (ii) as Rockware provides solutions to reduce the impact of the Problem; or (iii) if Rockware is unable to effectively provide Support Services due to Customer's failure to provide cooperation reasonably requested by Rockware.
- (i) Service Availability and Response Times. Rockware will use commercially reasonable efforts to respond to Customer within the time frames below, each in the time zone of the applicable Site Location. Rockware's Response, restoration, and resolution times for Rockware Platform are as set out below. Such times shall constitute targets only.

Severity Level	Response Time
1	2 Hours
2	16 Hours
3	48 Hours

Rockware will record any delays. Notwithstanding the foregoing or anything to the contrary in these Support Terms, the cases below will not be counted for purposes of calculating elapsed Response Time:

- (i) any period of time outside of Business Hours;
 - (ii) excessive delay in testing or deploying a proposed solution due to Customer resource constraints;
 - (iii) Customer delay in supplying sufficient information to commence or continue problem resolution;
 - (iv) inability to gain access to the Site Location or to Customer's system, network, Machines or Devices (whether on-site or remotely) as may be necessary to resolve the Problem;
 - (v) if, at Rockware's discretion, the resolution is deferred until an upcoming planned Update is implemented by Rockware, provided that Rockware has previously notified Customer of such planned Update and Rockware has, in the interim, implemented a temporary resolution for such Problem.
- (j) Out-of-Scope Errors. If Customer submits a Problem Report either after expiration of the Support Term or involving a Problem that Rockware determines, in its **sole** discretion, is not included in the Support Services, Rockware will so notify Customer, who may then either (i) instruct Rockware to proceed with resolution of such Problem, which will be at Customer's expense and rendered by Rockware only pursuant to a Statement of Work (*i.e.*, as Professional Services); or (ii) advise Rockware that Customer does not wish to pursue resolution of such Problem, in which case Rockware will not pursue such resolution and will have no further obligation to Customer with respect to such Problem.

4. UPDATES; UPGRADES; NEW RELEASES

Updates will be made available to Customer at such times and in such form and format and on such media as Rockware, in its sole discretion, deems appropriate, or as otherwise provided in these Support Terms. Rockware is under no obligation to develop any future programs, enhancements or functionality to the Rockware Platform and reserves the right not to develop the same. While Rockware may market new versions of the Rockware Platform as New Releases or new products for additional consideration, nothing

herein shall obligate Rockware to make available, or entitle Customer to receive, any New Releases or new products. If Customer installs a New Release, Customer will no longer have a license to the previous version(s) and must discontinue use of such previous version(s). Customer's use of any Updates, Upgrades, or New Releases will be subject to all applicable license limitations and restrictions contained in the [General Terms](#).

5. ROCKWARE LIAISON

At any time during the Support Term, if Rockware determines, in its sole discretion, that, based upon the number of Licenses to the Rockware Platform held by Customer at such time, Rockware or Customer would benefit from the presence of a Rockware representative on site at the Site Location of Customer, Rockware will notify Customer of the same, and Customer will permit such representative to visit the On-Site Location on a regular basis, for any number of days and hours during Business Hours as Rockware may deem appropriate, in its sole discretion.

6. CUSTOMER RESPONSIBILITIES

Customer will:

- (a) if requested by Rockware, assign a Customer Contact to act as the main liaison between the Parties, and will ensure that such Customer Contact has and maintains an appropriate level of knowledge and skill to collaborate with Rockware in connection with the Support Services;
- (b) notify Rockware of any Problem in a timely manner;
- (c) maintain Customer-developed/custom software and interfaces, and obtain support from third parties, as required, for components not included in the Rockware Platform;
- (d) ensure that all provided Updates are promptly installed upon receiving notification of their availability from Rockware;
- (e) participate in operational review meetings with Rockware, as reasonably necessary or requested by Rockware;
- (f) provide Rockware remote access to Customer's systems as may be reasonably necessary or reasonably requested by Rockware in order to enable Rockware to provide the Support Services.

7. LIMITATIONS AND EXCLUSIONS

- (a) Modifications. Rockware will not be obligated to provide Support Services for any portion of the Rockware Platform that has been modified by any person or entity other than Rockware or its personnel or representatives, except to the extent such modifications were directed or approved by Rockware in advance in writing and made in strict conformance with all specifications and instructions provided by Rockware in such writing;
- (b) Excluded Defects: Rockware shall not be obligated to provide Support Services with respect to any Defects caused by or resulting from, whether directly or indirectly, any of the following:
 - (i) Customer's mishandling, abuse, misuse, or use of the Rockware Platform in violation of the [General Terms](#) or these Support Terms or not in accordance with the applicable Documentation;
 - (ii) Customer's failure to comply with the Rockware's Minimum Hardware & Software Specifications, available at http://rockwarecorp.com/downloads/2022_Minimum_Hardware_Specs.pdf;
 - (iii) Customer's use of any portion of the Rockware Platform with hardware or software that was not expressly specified in writing by Rockware as suitable for use with such portion of the Rockware Platform;
 - (iv) changes to the Site Location, Machines or Devices in connection with which the Rockware Platform was provided;
 - (v) any third-party products (other than Third-Party Components incorporated within Rockware Platform as provided to Customer);
 - (vi) any action or omission of a person or entity other than Rockware or its personnel or representatives, including but not limited to any installation, maintenance, or repair of the Rockware Platform, or any portion thereof, except to the extent authorized by Rockware in advance in writing;
 - (vii) failure to implement all Updates and Upgrades made available to Customer (provided, for the avoidance of doubt, that Rockware is not obligated to make available any Updates or Upgrades to Customer); or
 - (viii) Force Majeure conditions as defined in the [General Terms](#).
- (c) Previous Releases. Rockware shall not be obligated to provide Support Services for any release version of the Rockware Platform other than (i) the most recent version provided to Customer by Rockware; and (ii) for a period of up to twelve (12) months following the issuance of such most recent version, the immediately preceding release version.
- (d) Professional Services. The Support Services do not include, and Rockware is under no obligation to provide Customer with, any of the following services except as may be agreed upon by the Parties pursuant to a separate Statement of Work, and all such services will constitute Professional Services subject to additional Fees:
 - (i) any Customer-requested Improvements to any portion of the Rockware Platform, including but not limited to custom add-on modules, program development, coding, and customization of the Rockware Platform, not originally included in

- the Installation & Configuration services provided by Rockware for such portion of such Rockware Platform;
- (ii) Rockware's assistance in developing any customized training materials pursuant to Customer's request;
- (iii) any configuration of Rockware Hardware or any Customer Machines or Devices required in connection with Installation and Configuration;
- (iv) data recovery services, regardless of the cause of data loss; or
- (v) migration, decommissioning or disposal of any portion of the Rockware Platform.

8. LIMITED WARRANTY AND DISCLAIMER

- (a) Limited Warranty. Rockware will perform the Support Services substantially in accordance with these Support Terms.
- (b) Exclusive Remedy. If, during the Continuing Support Term (if applicable), any Support Services materially fail to conform to the limited warranty set forth in Section 8(a), Customer may terminate the Continuing Support Subscription (in accordance with the General Terms) if Rockware fails to cure such non-conformance within thirty (30) days after receiving Customer's detailed request to cure such failure. Termination shall not affect (i) Customer's obligation to pay for any Support Services already performed before Rockware receives such request to cure; or (ii) any other obligations of Customer under these Support Terms. **THE REMEDIES EXPRESSLY PROVIDED IN THIS SECTION 8(b) WILL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES AND SHALL BE IN LIEU OF ANY OTHER RIGHTS OR REMEDIES CUSTOMER MAY HAVE AGAINST ROCKWARE WITH RESPECT TO A NON-CONFORMANCE OF THE SUPPORT SERVICES.**
- (c) Warranty Disclaimer. **EXCEPT AS SPECIFIED IN SECTION 8(a) ABOVE, ROCKWARE MAKES NO EXPRESS REPRESENTATIONS OR WARRANTIES WITH REGARD TO ANY SUPPORT SERVICES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ROCKWARE DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, CONDITIONS, AND REPRESENTATIONS, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, REGARDLESS OF THE LEGAL THEORY ON WHICH SUCH IMPLIED WARRANTY, CONDITION OR REPRESENTATION MAY BE BASED, INCLUDING, WITHOUT LIMITATION, CONTRACT, COURSE OF DEALING, USAGE, OR TRADE PRACTICE. CUSTOMER SHALL HAVE NO WARRANTY CLAIM UNDER SECTION 8(a) UNLESS ROCKWARE RECEIVES CUSTOMER'S WRITTEN REQUEST TO CURE A NON-CONFORMANCE WITHIN THIRTY (30) DAYS AFTER ITS OCCURRENCE.**

9. SURVIVAL

Notwithstanding any expiration of the Support Term, Section 8 of these Support Terms will survive in full force and effect thereafter.