

# MindConnect Hardware Terms

March 2019, Americas

## 1. Subject Matter and Scope

**1.1. Subject Matter.** The following terms and conditions (“**Terms**”) govern the sale and use of MindConnect hardware devices including all software (including firmware) installed on or provided with or in connection with such hardware and related support services (the “**Product**”). The Product is further described in the applicable product sheet (the “**Product Sheet**”) which is accessible at our document repository [www.mindsphere.io/terms](http://www.mindsphere.io/terms). The Product Sheet and other documents which describe and/or further govern the Product and which are referenced in the Order are collectively referred to as “**Transaction Documents**”.

**1.2. Parties and Contract Formation.** These Terms are agreed between the Siemens entity (“**we**”, “**us**”, or “**our**”) and the contracting person or entity (“**you**” or “**your**”) indicated in the order referencing these Terms, which may be in the form of a document, an electronic form, or an online instrument (“**Order**”). We are only obliged to provide you with the Product if we accept your order of the Product through an Order. We and you are referred to individually as a “**Party**” and collectively as the “**Parties**”. The Order which has been accepted by us, the Terms and the Transaction Documents constitute together the Product purchase agreement (“**Agreement**”). All references in these Terms to “**Siemens**” refer to Siemens AG and its affiliates including us and our affiliates.

## 2. Use of the Product

**2.1. Prerequisites.** The transmission of data from devices, systems and equipment (collectively hereinafter referred to as “**Assets**”) to the cloud-based platform known as MindSphere (“**Platform**”) through the Product requires that the Asset be MindSphere enabled and that you have an active account to access the Platform with onboarding information (e.g. token, IDs) to connect the Product to the Platform (“**Onboarding Information**”). You acknowledge that the mere ownership and/or use of the Product does not grant you or any third party any rights in relation to the use of the Platform.

**2.2. Responsibility for the use of the Product.** You are solely responsible for the use of the Product, regardless of whether the use is undertaken by you, your employees, or any third party that buys, leases, or is otherwise provided with a Product by you and all liabilities or other consequences arising from such use. This does not apply to the extent a damage or breach is caused by our violation of the terms of this Agreement. You will ensure that the use of a Product by you, or your employees, or any third party complies with your obligations under this Agreement. Should you become aware of any violation of your obligations under this Agreement, you will (i) immediately inform us thereof in reasonable detail, and (ii) cease to use the Product, and (iii) ensure that the respective employees and third parties cease to use the Product. You are solely responsible for the content, integrity, security, accuracy, and timeliness of data being transferred from a Product to the Platform and vice-versa from the Platform to a Product.

**2.3. Your Rights to Use Software in the Product.** We grant you the non-exclusive, non-transferable, royalty-free and, subject to these Terms, perpetual right to install and use the software installed on or provided with or in connection with the Product solely to configure and use the Product in accordance with this Agreement, with the limited right to transfer the right to use software as specified in this Section 2.3 solely to a third party to which you provide the Product. This license excludes the right to install or use the software for applications other than the Product.

**2.4. Your Obligations when Using the Product.** You are solely responsible for (i) properly configuring and using the Product, (ii) making sure that a Product is able to connect to the Platform, (iii) regular monitoring of the content, integrity, security, accuracy and timeliness of the data transmission (e.g. by monitoring such transmission over the Platform), (iv) the

security of a Product, and (v) the security of your and any third party system or any data stored on such systems. You shall:

- a) comply with all applicable laws and regulations at all times when using the Product, in particular by obtaining and maintaining at your own expense all necessary permits and registrations, and not violate any third party rights (including without limitation intellectual property rights);
- b) not translate, disassemble, decompile, reverse engineer or otherwise modify, tamper with, repair or attempt to discover the source code of any software contained in the Product (unless required by applicable laws or expressly permitted otherwise);
- c) not install additional software or hardware on a Product, unless explicitly permitted by us or our affiliates;
- d) not create derivative works of, or based on, the Product or any parts of the Product;
- e) not engage in any activity or modification or attempt to modify the Product in such a way as to negatively impact on the performance of the Platform;
- f) use the Product only to transmit data from Assets to the Platform;
- g) use the software installed on the Product only in connection with your use of the Product;
- h) carefully store any Onboarding Information and protect them from unauthorized access and only use Onboarding Information for the Product for which it was created; and
- i) not use the Product to send data volumes to the Platform which exceed the data volume you defined in the data model for the respective Product.

**2.5. Security Obligations.** You shall ensure that your use of the Product will not: (i) constitute a threat to the security or functionality of the Platform; (ii) adversely impact the Platform, us or any third party; or (iii) subject Siemens or any third party to liability. Further, you shall: (a) during the use of the Product and before transferring data take all reasonable precautions against security attacks, including appropriate measures to prevent viruses, trojan horses or other programs that may damage the Product or data that shall be transmitted through the Product; (b) not interfere with or disrupt the integrity or performance of the Product or other equipment or networks connected to the Platform, and in particular not transmit any content containing viruses, trojan horses or other programs that may damage software through the Product; (c) not use the Product in a way that could damage, disable, overburden, impair or compromise any of Siemens’ systems or their security or interfere with users of the Platform; (d) not connect to the Product any Asset that does not comply with state-of-the-art security policies (e.g., password protection, virus protection, update and patch level).

**2.6. Updates.** We may, at our sole discretion, make available updates or security patches for the Product and will provide reasonable notice when such updates or security patches are available. Separate terms and conditions may apply to the download or other installation of such updates or security patches, but these Terms will apply to your use of such update or security patch. A Product with older firmware may not be able to be updated to the current version. A Product running with outdated firmware may not be able to transmit data to the Platform. As such, you shall, and you shall ensure that the future recipients of the Product shall update the Product without undue delay after the publication of such updates and patches for the Product. Data collected during an update procedure may be lost. We disclaim all warranty and liability for such data loss.

### 3. Third Parties

In case you provide a Product to or provide services in relation to your Product to a third party you acknowledge and agree that any contractual relationship regarding your Product and any related services is solely between you and the third party and you shall:

- a) ensure that the underlying contract with the third party is consistent with and not less protective of Siemens than this Agreement between you and us;
- b) advise the third party that if specific Onboarding Information attributed to a Product is passed on to another third party with access to a MindAccess Developer Plan or MindAccess Operator Plan account on the Platform, then such other third party may conduct automatic remote updates of the Product after onboarding the Product onto the Platform;
- c) ensure that the underlying contract with the third party fully disclaims our liability and releases us from any claims or damages in connection with the passing of any Onboarding Information attributed to a Product to another third party; and
- d) ensure that the underlying contract with the third party will be suspended or terminated, as the case may be, if the relevant third party commits any of the acts that would allow us to suspend or terminate the Agreement with you had you committed such acts.

### 4. Intellectual Property Rights

4.1. **Intellectual Property Rights in the Product.** All intellectual property rights in and to the Product, including any know-how and any part and improvement thereof, shall remain wholly vested in Siemens or its third party business partners and/or licensors. You grant Siemens a worldwide, perpetual, irrevocable, transferable, sublicensable, fully paid, royalty-free license to use any suggestion, recommendation, feature request, or other feedback related to the Product provided by or on your behalf.

4.2. **Third Party Software.** Insofar as the Product contains third party software, including open source software (collectively "**Third Party Software**"), we will provide the applicable license conditions with the Product. With respect to such Third Party Software, those license conditions shall govern your use of such Third Party Software. Details regarding Third Party Software contained in the Product are available in the documentation (e.g. README\_OSS).

### 5. Fees, Payment Terms and Taxes

5.1. **General.** You agree to pay to us the purchase price specified for the Product at the then current price. The purchase price is due upon receipt of the invoice and payable within 30 days of the invoice date using one of the payment methods we support. Any overdue payment shall accrue interest at the lower of (i) the rate of 2 % per month or (ii) the highest rate legally permitted.

5.2. **Taxes.** All prices and payments relating to the Product are exclusive of any applicable taxes, customs and import duties, levies, and charges of any kind whatsoever. Any such taxes, customs and import duties, levies, and charges that may be imposed on or paid by us shall be borne or reimbursed by you. Any sums to be paid to us shall be net of any applicable taxes, duties and levies that might be levied or withheld on payments made by you to us. Should any such taxes, duties or levies be levied or withheld by you on payments due to us, then you shall gross up the net payments to us by such an amount necessary to ensure that we receive a net amount equal to the full amount invoiced. In any case, you are obligated to provide us promptly with the official tax receipt, which confirms the tax payment on your behalf.

5.3. **Transfer of Title.** Title in any part of the Product shall remain with us until we have received full payment for that part of the Product. Upon conclusion of the Agreement you authorize us, if applicable, to notify or enter this retention of title into public registers, books or similar records kept for this purpose by the competent authorities of the relevant countries and to fulfil all required formalities at your expense.

### 6. Indemnification

You will indemnify, and hold Siemens and its suppliers and contractors and each of their respective employees, officers, directors, and representatives harmless from and against, and, at Siemens' option, defend Siemens from and against all claims, liabilities, losses, expenses, damages and costs, including reasonable attorneys' fees, resulting from or arising out of (i) any violation of this Agreement by you or any other person you provided with the Product, regardless of your knowledge; (ii) any claims by any person you provided with the Product; (iii) any use of the Product by you that impacts the security of the Platform or causes any loss of data or content of Siemens or any third party; (iv) any violation of laws or rights of others by your use of the Product; (v) your use of the Product for the operation of or within a system that requires enhanced safety functionalities such as fail-safe or fault-tolerant features to maintain a safe state where it is reasonably foreseeable that failure of the device or system could lead directly to death, personal injury, or catastrophic property damage ("**High Risk System**"), if the functioning of a High Risk System depends on the proper functioning of the Product, or a Product caused the High Risk system to fail.

### 7. Liability and Warranty

7.1. **Transfer of Risk.** The risk of damage to or loss of the Product shall pass to you upon delivery. The Product shall be deemed delivered if and when you fail to accept delivery without cause. In such case, the Product can be stored and insured at your risk and expense, any payment shall become due, and all other consequences of the delivery shall apply accordingly. The same consequences shall apply on the scheduled date of delivery if the dispatch is postponed for reasons attributable to you.

7.2. **Disclaimer of Liability.** Subject to the following Section 7.3, we disclaim all liability for all claims, damages and indemnities in relation to the Product regardless of the form of action, whether in contract, tort or otherwise. However, the exclusions and limitations in this Agreement shall not apply: (i) to the extent that liability cannot be limited or excluded according to applicable law (Section 10.5); (ii) in cases of willful misconduct and gross negligence; and (iii) in cases of fraud or fraudulent misrepresentation. In cases of gross negligence, liability is limited to the amount foreseeable loss that would have been prevented through the exercise of due care. In cases of gross negligence, liability is limited to the amount foreseeable loss that would have been prevented through the exercise of due care. Any limitations of liability set forth in this Agreement shall also apply for the benefit of our suppliers, employees, directors, agents, business partners or any other person acting for us. Any and all or our liability under this Agreement shall cease with the expiry of the defects liability period of the Product.

### 7.3. Warranty.

(i) **LIMITED WARRANTY, DISCLAIMERS.** TO OUR KNOWLEDGE, THE PRODUCT DOES NOT VIOLATE ANY THIRD PARTY RIGHTS IF THE PRODUCT IS USED IN ACCORDANCE WITH THE AGREEMENT. EXCEPT FOR THE EXPRESS LIMITED WARRANTY PROVIDED IN THE PRECEDING SENTENCE, THE REPAIR OR REPLACEMENT COMMITMENTS SET FORTH IN SECTION 7.3 (ii) AND EXCEPT TO THE EXTENT PROHIBITED BY APPLICABLE LAW SPECIFIED IN SECTION 10.5, THE PRODUCT IS PROVIDED "AS IS" AND WE MAKE AND YOU RECEIVE NO EXPRESS OR IMPLIED WARRANTIES. ANY STATEMENTS OR REPRESENTATIONS ABOUT THE PRODUCT OR ITS FUNCTIONALITY IN ANY DOCUMENTS OTHER THAN IN THIS SECTION 7.3 CONSTITUTE MERELY TECHNICAL INFORMATION AND ARE NOT A GUARANTEE OR AN EXPRESS OR IMPLIED WARRANTY. IN ADDITION AND EXCEPT AS PROVIDED IN THE FIRST SENTENCE OF THIS PARAGRAPH, THE REPAIR OR REPLACEMENT COMMITMENTS SET FORTH IN SECTION 7.3 (ii) AND TO THE EXTENT PROHIBITED BY APPLICABLE LAW SPECIFIED IN SECTION 10.5, WE SPECIFICALLY DISCLAIM ANY OTHER WARRANTY OR DEFECT LIABILITY INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF NON-INFRINGEMENT, OR ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING AND USAGE OF TRADE. WITHOUT LIMITING THE FOREGOING, SIEMENS DOES NOT WARRANT THAT THE PRODUCT WILL BE FAIL-SAFE, FAULT-TOLERANT, UNINTER-

RUPTED, ERROR FREE, FREE OF HARMFUL COMPONENTS, OR THAT ANY DATA OR THIRD PARTY SOFTWARE WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED. Without limiting the foregoing, the following shall not be defects in the Product:

- a) normal wear and tear, non-conformity resulting from excessive strain;
  - b) non-conformity resulting from faulty or negligent handling; non-compliance with instructions or recommendations in operation or maintenance manuals and other documents (e.g. usage of not specified or disabled hardware interfaces);
  - c) installation, erection, modification, commissioning, pre-commissioning or de-commissioning, in each case not carried out by us;
  - d) non-reproducible software errors; and
  - e) defects which do not significantly impair the use of the respective Product.
- (ii) INSPECTION; REPAIRS; LIMITATIONS.
- a) YOU SHALL IMMEDIATELY INSPECT THE PRODUCT UPON DELIVERY AND SHALL NOTIFY US IN WRITING OF ANY DEFECTS WITHOUT UNDUE DELAY. YOUR CLAIMS IN RESPECT OF DEFECTS ARE EXCLUDED FOR ANY APPARENT DEFECTS, IF YOU FAIL TO DO SO. UPON SUCH WRITTEN NOTIFICATION, WE SHALL, AT OUR SOLE DISCRETION, REMEDY THE DEFECT BY REPAIR, REPLACEMENT, OR RE-PERFORMANCE. WE MUST BE GIVEN A REASONABLE PERIOD OF TIME AND OPPORTUNITY TO REMEDY THE DEFECT. FOR THIS PURPOSE, YOU SHALL GRANT US WORKING ACCESS TO THE NONCONFORMING PRODUCT, SHALL UNDERTAKE ANY NECESSARY DISASSEMBLY AND REASSEMBLY, AND SHALL PROVIDE ACCESS TO OPERATION AND MAINTENANCE DATA, WITH ONLY MATERIAL COSTS ARISING BY YOUR MEASURES TO BE BORNE BY US.
  - b) UNLESS OTHERWISE AGREED, THE DEFECTS LIABILITY PERIOD FOR THE PRODUCTS IS 12 MONTHS. IT STARTS AT THE DATE OF TRANSFER OF RISK. TO THE EXTENT THAT LIABILITY CANNOT BE LIMITED OR EXCLUDED ACCORDING TO APPLICABLE LAW (SECTION 10.5), IN CASES OF WILLFUL MISCONDUCT AND GROSS NEGLIGENCE, IN CASES OF BODILY INJURIES OR DEATH CAUSED BY OUR NEGLIGENCE AND IN CASES OF FRAUD OR FRAUDULENT MISREPRESENTATION THE STATUTORY LIMITATION PERIOD APPLIES. FOR REPLACED OR REPAIRED PARTS OF THE PRODUCTS, THE DEFECTS LIABILITY PERIOD IS 6 MONTHS FROM THE DATE OF REPLACEMENT OR REPAIR, IF THE ORIGINAL DEFECTS LIABILITY PERIOD FOR THE PRODUCTS EXPIRES EARLIER. IN ANY EVENT, THE DEFECTS LIABILITY PERIOD SHALL END NO LATER THAN 24 MONTHS FROM THE BEGINNING OF THE ORIGINAL DEFECTS LIABILITY PERIOD.
  - c) IF SOFTWARE IS DEFECTIVE, WE MAY, AT OUR SOLE DISCRETION, FULFILL OUR DUTIES BY PROVIDING YOU WITH AN UPDATED VERSION OF THE SOFTWARE IN WHICH THE DEFECT HAS BEEN REMEDIED IF SUCH UPDATED VERSION IS REASONABLY AVAILABLE FROM US OR, IF WE ARE ONLY LICENSEE, FROM OUR LICENSOR, AND IF THIS FORM OF RE-PERFORMANCE DOES NOT CONSIDERABLY DISADVANTAGE YOU. IF THE SOFTWARE HAS BEEN MODIFIED OR INDIVIDUALLY DEVELOPED BY US, WE SHALL PROVIDE YOU ADDITIONALLY WITH A WORKAROUND OR OTHER INTERIM CORRECTIVE SOLUTION UNTIL AN UPDATED VERSION OF THE SOFTWARE IS PROVIDED, IF SUCH WORKAROUND OR INTERIM SOLUTION IS FEASIBLE AT REASONABLE EXPENSE AND IF OTHERWISE YOUR BUSINESS OPERATIONS WOULD BE SUBSTANTIALLY IMPEDED.
  - d) FOR THE AVOIDANCE OF DOUBT, updates or security patches FOR THE PRODUCT ARE MADE AVAILABLE AT OUR SOLE DISCRETION. WE DO NOT WARRANT THAT UPDATES OR SECURITY

PATCHES ARE MADE AVAILABLE AFTER YOU HAVE PURCHASED THE PRODUCT.

- e) YOU SHALL USE ALL REASONABLE CARE IN EXAMINING THE PRODUCT, BEFORE CLAIMING THE EXISTENCE OF A DEFECT. IF IT IS ESTABLISHED THAT AN ALLEGED DEFECT DOES NOT EXIST OR THAT YOU DO NOT HAVE THE ALLEGED CLAIMS, WE MAY CLAIM COMPENSATION FOR REMEDIAL WORKS OR ERROR DIAGNOSIS, IN ACCORDANCE WITH OUR USUAL RATES OF REMUNERATION, UNLESS YOU USED ALL REASONABLE CARE OR WOULD HAVE MADE THE SAME MISTAKE EVEN IF YOU HAD USED ALL REASONABLE CARE.

## 8. Delivery Times and Delay

8.1. **Delivery Times.** Any agreed dates in respect of the Product shall be extended by a reasonable period of time if and to the extent that we are delayed or impeded in the performance of your obligations by any third party or by your failure to perform your obligations. This includes without limitation the delivery of required documents (including necessary permits and approvals), timely performance of any work to be undertaken by you or any third party appointed by you, and compliance with the terms of payment.

8.2. **Delivery.** We may, at our option, deliver the Product(s) in a number of tranches unless the Agreement specifies that a single delivery must be made.

## 9. Export Regulations

9.1. If you transfer hardware and/or software and/or technology as well as corresponding documentation and/or works and services, regardless of the mode of provision, and/or including all kinds of technical support provided by Siemens to a third party worldwide, you shall comply with all applicable national and international (re-)export control regulations. In any event you shall comply with the (re-)export control regulations of the Federal Republic of Germany, of the European Union, and of the United States of America.

9.2. If required to enable authorities or Siemens to conduct export control or sanctions compliance checks, you, upon request by Siemens, shall promptly provide Siemens with all information pertaining to a particular end customer, destination and particular intended use of the software provided by Siemens, including information on you and your customers as well as any export control restrictions existing.

9.3. **Indemnification.** You shall indemnify and hold harmless Siemens from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any non-compliance with export control regulations by you, and you shall compensate us for all losses and expenses resulting therefrom, unless such non-compliance was not caused by your fault. This provision does not imply a change in the statutory burden of proof.

## 10. General Provisions

10.1. **Assignment.** This Agreement will extend to and be binding upon the successors, legal representatives and permitted assigns of the Parties. This Agreement as well as the rights granted therein may be assigned by us, in whole or in part, to any of our affiliates that assume our obligations. You shall not assign the Agreement or any of the rights granted therein without our prior written consent.

10.2. **Order of Precedence; Applicable Versions.** Unless explicitly set out otherwise in this Agreement, if there is a conflict or inconsistency between any documents, the documents shall prevail in the following descending order of precedence: (i) the Order, (ii) the terms and conditions for Third Party Software, (iii) the applicable Transaction Document; (iv) the Terms, and (iv) other documents referenced in these Terms. The reference to a document that refers to another document shall be deemed to include also such other document. If a document is provided in different languages, the English language version of that document prevails.

10.3. **Force Majeure.** Neither Party shall be liable for any failure or delay in its performance under the MMA due to any cause beyond its reasonable

control, including acts of God, earthquake, fire, flood, embargo, riot, sabotage, attacks on IT systems by Third Parties (e.g., hacker attacks), labor shortage or dispute, acts or omissions of civil or military authorities, war, acts of sabotage or terrorism.

10.4. **Venue.** For any claim, dispute or controversy arising out of or in connection with this Agreement, including the formation, interpretation, amendment, breach or termination thereof, the Parties hereby irrevocably consent to the venue and jurisdiction of the federal courts located in the Southern District of New York.

10.5. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the state of New York, USA, without giving effect to any choice-of-law rules that may require the application of the law of another jurisdiction. The UN Convention on Contracts for the International Sale of Goods shall not apply.

10.6. **Notices.** We may provide notice to you under this Agreement by email. Notwithstanding the foregoing, notices of claims or notices regarding disputes shall always be in writing and be sent by facsimile or postal mail to the contract address provided in the respective Order.

10.7. **Validity and Enforceability.** If any provision of the Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired, and such provision will be deemed to be restated to reflect the original intentions of the Parties as nearly as possible in accordance with applicable law.

10.8. **Publicity.** Except as may be required by applicable law, neither Party shall issue a press release in connection with the subject matter hereof without the prior written consent of the other Party, which shall not be unreasonably withheld. Notwithstanding the foregoing, Siemens and you shall have the right to disclose the terms of the Agreement to their bona fide financial, tax and legal advisors subject to appropriate confidentiality obligations.

10.9. **Entire Agreement.** The Agreement constitutes the full and complete statement of the terms agreed between the Parties with respect to the subject matter thereof and supersede any previous or contemporaneous agreements, understandings or communications, whether written or verbal, relating to its subject matter. The reference to a document that refers to another document shall be deemed to also include such other document. The Agreement may not be varied other than in writing executed by the duly authorized representatives of both Parties or via an online mechanism, if so provided explicitly for such purpose by us. No other terms and conditions shall apply.

10.10. **Independent Contractors.** For all purposes, the Parties will be deemed to be independent contractors and nothing contained in the Agreement will be deemed to constitute a joint venture, partnership, employer-employee relationship or other agency relationship. Neither Party is, nor will either Party hold itself out to be, vested with any power or right to contractually bind or act on behalf of the other Party.

## 11. Country Specific Provisions

11.1. **Argentina.** These country specific provisions apply if either Party is located in Argentina. In such case, a new Section 10.11 shall be added to this document, as follows:

**Electronic Signature.** The execution or acceptance of this Agreement by either Party through an electronic signature (as such term is defined in Law 25,506) or an electronic mechanism such as a “click through” or a “click and accept” mechanism, shall be considered valid and authentic. The Parties agree that for purposes of this Agreement, electronic signatures shall have the same force and effect as handwritten or digital signatures, and the resulting agreement shall be binding and enforceable for both Parties.

11.2. **Brazil.** These country specific provisions apply if both Parties are located in Brazil. In such case:

Section 10.4 of this document shall be replaced as follows:

**Dispute Resolution.** The Parties, including their successors in any capacity, hereby irrevocably agree to resolve any and all disputes arising out of or in connection with the Agreement, including its existence, validity, enforceability, interpretation, performance, or termination (“**Dispute**”), exclusively through arbitration, administered by the center for arbitration and mediation of the Chamber Of Commerce Brazil-Canada (CAM-CCBC), in accordance with its arbitration rules (“**Arbitration Rules**”) and law 9.307/96. The arbitral tribunal shall be composed of three arbitrators appointed in accordance with the Arbitration Rules. The seat of arbitration shall be the City of São Paulo, State of São Paulo, Brazil and the language of arbitration shall be English. The proceedings shall be confidential. The Parties may seek judicial assistance in support of arbitration through the interim relief measures provided in law 9.307/96, for which purposes the courts of the City of São Paulo, State of São Paulo, Brazil shall hold exclusive jurisdiction to the exclusion of any other. For the avoidance of doubt, a Party’s submission for judicial interim relief in support of arbitration shall not be construed or interpreted as a waiver by any of the Parties to the choice of arbitration as the exclusive method for resolving a Dispute.

Section 10.5 of this document shall be replaced as follows:

**Applicable Law.** The Agreement shall be governed by and construed in accordance with the laws of the Federative Republic of Brazil without giving effect to any choice-of-law rules that may require the application of the law of another jurisdiction. The UN Convention on Contracts for the International Sale of Goods shall not apply.