



Service level agreement for CODESYS Automation Server

1. Scope of validity and glossary of terms

1.1. The user agreement for the CODESYS Automation Server is entered into by 3S-Smart Software Solutions GmbH (hereinafter referred to as "**3S**" or "**we**", "**us**", "**our**") and the contract-concluding natural or legal entity stated in the order form (hereinafter referred to as the "**Customer**", "**you**", "**your**"). The order form refers to the user agreement for the CODESYS Automation Server and can exist in the form of a document, an electronic form or an online tool (hereinafter referred to as the "**order form**").

1.2. The user agreement for the CODESYS Automation Server contains the general contract conditions under which we provide services for you, including services for the use of an app provided by us and/or of materials which you order at the respective time via order forms (all these services and materials are jointly referred to hereinafter as "**services**"), which are currently based on or related to a cloud-based platform solution operated under the product name "CODESYS Automation Server". The services are described in further detail in the respective service-specific data sheets ("data sheets").

2. Definitions

2.1. "**Account**" describes one or more web-based accounts, individual or joint, which enable access to and the use of certain services provided on the platform including any sub-accounts which are set up under the account.

2.2. "**App**" describes software which is interacting with the services.

2.3. "**Third party**" describes any natural or legal entity apart from 3S, you or your affiliated companies.

2.4. "**Laws**" describes all laws, regulations, provisions, standards and directives which apply in relation to the use of the services.

2.5. "**High-risk system**" describes devices or systems, which must be equipped with robust security functions such as failsafe or failure-tolerant functionalities in order to guarantee safety including if it is anticipated that the failure of the device or of the system could directly lead to death, physical injury or property damage. High-risk systems may be needed especially in the case of critical infrastructures, direct life preservation systems, aircraft, trains, shipping and vehicle navigation or communication systems, air traffic control, weapons systems, nuclear plant, power stations, medical systems and equipment and transport systems.

2.6. "**Your content**" describes all information, programs, software, apps, program codes of any type, scripts, libraries or data entered, stored or transferred by you or a user of your account in the context of the use of the services. The services are not part of your content.

2.7. "**Material**" describes software, sample codes, scripts, libraries, software development kits, technology, documentation and other copyright protected material or information, provided to you by us or in our name during the provision of the services.

2.8. "**Users**" describes all natural entities who access or use your content and/or the services on their account and to whom you (or we, on your instruction) have provided login details for your account (including all sub-accounts set up by you, on your account or with your agreement). "Users" also describes your customers, employees, consultants, agents and contractors.

2.9. "**Affiliated companies**" describes corporations and other legal entities in which either party has a majority shareholding or is controlled by either party or which has a majority holding in either party or controls either party, or which is under joint control with either party, which control may respectively



be by direct or indirect means wherein the term "control" describes the direct or indirect possibility of controlling the business of another company or legal entity or making decisions on its business policy.

2.10. "**Confidential information**" describes all information, disclosed by one party to the other party in relation to the user agreement for the CODESYS Automation Server or in the order form and which at the time of the disclosure is marked as "confidential" or which comprises information, whose nature or context gives the receiving party sufficient indication that it is confidential. In addition the order form and all information and materials received by you in the context of the user agreement for the CODESYS Automation Server, an order form or your reception of the services, is confidential information, particularly the services, information with regard to the business strategies and methods, trade secrets, know-how, pricing, technology, software, interfaces for the app programming, the characteristics of the interfaces for the app programming, product plans, services and customer lists of 3S, their business partners and information about employees, customers, sales partners, consultants and affiliated companies of 3S.

3. Subject of the contract and scope of applicability

3.1. We are obliged to provide services to you once we have accepted your order for the services by e-mail, have issued the respective documents or have confirmed your electronic or online orders. Additionally we can enable you to order new services and/or configure agreed services via your account. Such orders or configurations can lead to additional costs which are made binding by your confirmation and which are also regulated by this user agreement. We may refuse your orders or configurations on our own discretion.

3.2. The following are excluded from the services:

- the provision of web-based or offline software or services not provided by 3S (including any apps developed by you or third parties), including in the case that the performances interact with the services or are offered on an online marketplace provided by 3S;
- transfer of data from and to the WAN outputs of the data centre which is used for provision of the services;
- all external websites (including embedded widgets and other access opportunities), which can be accessed by the services;
- any hardware and/or software for the connection of devices, systems or other accessories to the platform.

All services executed under clause 3.2. must always be purchased separately.

An internet connection is required for the use of the services. You are solely responsible for securing and maintaining the internet connection and the appropriate connectivity.

4. Use of the services: Usage rights, responsibility and duties of the user

4.1. According to the provisions of the user agreement for the CODESYS Automation Server we allow you the access and use of certain services via an account assigned to you and the access information disclosed by us to you.

4.2. We grant you under the restrictions of the user agreement for the CODESYS Automation Server and under the restrictions of the respective order form the non-transferable, non-sublicensable, time limited and revocable right to provide your users with access to the services and use of said services via your assigned account by using the disclosed login details. The login details are respectively only valid for one user and may only be used by one user. You and your users may only access the services for internal purposes or for the purpose of end use. If, as part of the services, we enable



you to use certain software provided by a third party (including documentation), this software is neither sold to you nor can it be sold by you; You may only use such software only as part of the services.

4.3. You are solely responsible for ensuring that

- all login details which are used to access and use the services are used only by those users for which they were created;
- login details are carefully safeguarded and protected against unauthorised access;
- you and the users of your accounts do not gain access to the services by means other than your account or other media permitted by us;
- you and the users of your accounts do not create false identities or use login details of other persons to access your account or the platform.

4.4. Unless caused by a breach of our duties from the user agreement for the CODESYS Automation Server or the respective order form, you are solely responsible for all activities on your account . You must ensure that all users who use the services by your order or with your approval, fulfil the duties of the user agreement for the CODESYS Automation Server.

4.5. You are responsible for the correct configuration and use of the services. You are obliged to comply with all laws at any time during your access and use of the services. You are also obliged not to copy, sell, resell, licence, assign sub-licence, hire, lease or otherwise make available to your affiliated companies or other third parties the services or the platform either in whole or in part. It is not permitted to edit the delivered software or change, modify, disassemble, decompile it or to apply other methods of reverse engineering, to bypass the licensing mechanism or transfer such tasks to third parties, unless to do so is urgently required to exercise the licence rights of any open source components included. The software may include components which are licenced as open source software. The contents of the respective open source licences apply for said components to the extent that they are included in the software. A listing of the components and the associated licence conditions can be viewed before the purchase and are included in the software. The licensee receives a simple usage right for the open source software from the respective copyright holder under the conditions provided by the respectively valid licence conditions. These licence conditions apply only for components, which are not licenced as open source software. All further rights for the use and reuse of the software remain with the manufacturer. You are furthermore obliged not to create derivative works or edited versions based on the services or the platform or parts thereof. You are also obliged not to change or remove from the services or the platform messages, identifications or comments which relate to intellectual property or brand names.

4.6. If or when you conclude a contract with a third party for the use of an app provided by a third party ("third-party app") you may use such a third-party app on the platform. With use of the third-party app you confirm and declare that

- all contractual relationships with regard to all rights and services for the use of the third-party app and all related services exist exclusively between you and the third party;
- 3S accepts no duties or responsibility on your behalf with regard to your use of the third-party app or any of its related services;
- 3S has no duty to test, validate or otherwise check third-party apps;
- your use of a third-party app may result in the provider of the third-party app being able to access your content and the third-party app may be able to gather and use data because of you using the third-party app. 3S accepts responsibility neither for the publishing, change, destruction, loss or deletion of your content nor for any infringements of applicable data protection directives resulting from access to your content via a third-party app.

4.7. You are solely responsible for the development, the content, the management, the use and quality of your content and the methods with which you acquire content and share it with others. You



are particularly solely responsible for guaranteeing the technical operation of your content including the compatibility of all the service call ups which you make with the CODESYS Automation Server.

You are particularly obliged to ensure that

- you load only content onto the platform which complies with the law and does not infringe third party rights;
- you will handle all disclosures and claims that your content infringes the rights of third parties or laws properly and you do not load any of your own licensed content onto the platform which requires, as a prerequisite for the use, access and/or modification of such content, that software or services of 3S or of business partners of 3S, which interact with your content or are hosted in parallel,
 - a) expansion or disclosure of its source code;
 - b) licences being granted to recipients for the purpose of creating derived works or edited versions;
 - c) licences being granted at no cost;
 - d) licences not being used for commercial purposes;
 - e) other misuse;
- you will not insert, save or send hyperlinks in or as part of your content, nor enable access to external websites or dataflows including embedded widgets or other access means for which you have no rights or which are illegal.

You are obliged to provide information and other material in relation to your content at our request in a reasonable scope to demonstrate that you are in compliance with the user agreement for the CODESYS Automation Server and the respective order form. You will cooperate with us in a reasonable manner in order to identify the cause of any service problems where we can trace that it is attributable to your content.

4.8. You must ensure that your access to the services, their use and the use of your content does not endanger the safety and functionality of the platform and services, has no negative effect on the platform/services/3S/third party and does not cause any liability of 3S or third parties.

4.9. If you become aware of any of the events hereinafter referred to, you must, at your own cost provide reasonable information and support in relation to the event and in order to minimise the damage:

- unauthorised use of your account
- loss or theft of your account information
- official measures or court orders which relate especially to your use of the services or the platform and which could affect the platform or the services.

4.10. You confirm and acknowledge that

- our services are not intended for the operation of or within a high-risk system if the operation of the high-risk system depends on the uninterrupted function of a service;
- your content and its accuracy and appropriateness is outside our control, as are the results of any data processing obtained by the use of the services which relates to your content; you are solely responsible for the use and reliability of the results of this processing.

5. Provision of services, support, monitoring of the use, place of fulfilment, subcontractors, security

5.1. Irrespective of clauses 5.2. and 5.3. we provide access to and enable use of the services substantially according to the functionalities illustrated in the respective data sheet.



5.2. We shall make all reasonable effort to provide you with the services, apart from during scheduled maintenance periods. Provided there is availability in the data sheets our duties are limited to this availability.

5.3. We provide services in a multi-user-environment and grant you access and use of those services which we generally provide to our customers at the respective time. We have the right to update, adjust or develop our technology, its functionalities and its characteristics. Such updates, adjustments or further developments may have effects on your access to the services and their use and we are subject to no duty to provide former versions of services. If any substantial changes to the services and/or requirements are implemented which have an effect on your access to the services or to their use or if substantial characteristics or functionalities of the services are limited or discarded, we will make reasonable efforts to inform you in advance.

5.4. 3S can monitor your use of the services and your use of third-party apps for internal operating purposes of 3S, e.g. for security and availability grounds or to ensure compliance with the user agreement for the CODESYS Automation Server, in order to provide you with reports about the use of the services by your users or to offer further products or services, in accordance with all applicable statutory regulations, which are not yet part of the services. We also have the right to use user information on an aggregated basis to improve our services and other products and services of 3S.

5.5. The services and/or the technical support are provided in data centres and/or support centres which may be located outside the country in which your business is situated. An list of the sites is shown in the respective data sheet.

5.6. We may involve our affiliated companies and other third party partners as sub-contractors for the provision of the services. You declare your willingness to cooperate with us as far as we deem reasonable to transfer certain parts of the service to existing subcontractors or other subcontractors.

5.7. Without restriction of your duties according to clauses 4.7. and 4.8. we shall maintain a formal security program, developed to protect your content from threats and risks and prevent unauthorised access to your content. This includes

- obliging the suppliers of our cloud infrastructure and their subcontractors to implement and maintain their standard security measures,
- protecting the platform by firewalls, anti-malware software, intrusion detection/prevention systems (IDS/IPS) and corresponding management processes which have been developed to protect the service provision against harmful software,
- testing the platform communication interfaces with the Internet for vulnerabilities before any substantial productive release,
- protecting physical and logical access limitations of your content.

6. Payment, payment terms, payment adjustment

6.1. In return for provision of the services you agree to pay us the sum stated in the user agreement for the CODESYS Automation Server and the respective order form. All payments must be made to our specified account free of charge for us and without deductions. Unless explicitly otherwise specified in the respective order form or the respective data sheet, invoices must be paid monthly in retrospect. You must settle each invoice within fourteen (14) days from the invoice date. For each payment not received on the payment date, interest will be charged at a rate of eight (8) percentage points above the base rate as set by the European Central Bank. You are only entitled to offset or reserve payment in relation to any claims which are undisputed by us, ready for decision or legally enforceable.

6.2. We have the right to change the payment or introduce new payable elements to take into reasonable account:



- changes to the quality or the functionalities of the services;
- substantial changes to the market conditions;
- increases of general wage costs or other employment costs;
- changes to our purchase costs due to price changes made by our suppliers.

The change in payment is limited to the scope to which the changes in the provision of the agreed services affect us. We shall inform you of any change in payment at least 60 days before the key date of said change in payment. You have the right to terminate services subject to the change in payment before the key date of the change in payment.

6.3. We can ask you to pay the respectively up-to-date applicable payment for any use of services which exceeds the agreed use according to the respective order form and the respective data sheet.

7. Changes to the user agreement

We reserve the right to update or change the contract provisions of the user agreement for the CODESYS Automation Server in order particularly to take into consideration updates and developments of the services or changes to the law.

We will inform you of the updated contract provisions by granting you access to the updated contract provisions and by providing you with at least thirty (30) days advance notice unless we provide a shorter period of advance notice which becomes necessary to implement changes to the law (including in order to follow an interim injunction or judgement). You can terminate services affected by the updated contract provisions before the end of the period of notice if the continuation of the services with the updated contract provisions has substantial effects on the rights, duties, responsibilities or use of the services. If you do not assert your right of termination as per the previous clause, the updated contract provisions are binding for the parties on the expiry of any such period of notice. The remaining termination rights of the parties remain unaffected.

8. Data protection

Both parties must comply with the laws on the protection of personal data.

9. Rights to the platform and services and to your content, feedback

9.1. With the exception of the rights explicitly granted in the user agreement for the CODESYS Automation Server and the respective order form, all rights, claims and know-how about and on the platform and services, and parts and developments thereof and all intellectual property rights in or to the aforementioned remain in full with 3S or the 3S licensors.

9.2. We gain no rights or claims to your content unless these are granted according to the user agreement for the CODESYS Automation Server and/or by other agreement reached in the respective order form or in other documents.

9.3 You grant 3S and its affiliates the worldwide, non-exclusive, transferable, sublicensable, and payment-free right to use, host, transfer, display, change or reproduce your content for the purposes of providing the services and for assessing compliance with all agreed requirements and duties.

9.4. You grant 3S the worldwide, permanent, irrevocable, transferable, sublicensable, fully paid and payment-free right, to implement or otherwise use any suggestions, recommendations, functionality requests or any other feedback related to the services and/or platform transmitted by or on your behalf and otherwise use any feedback in connection with the services, the platform and/or any other products or services without compensation to you. You confirm that 3S handles feedback as non-confidential information.



10. Warranty, restrictions

10.1. Irrespective of clause 5.3 we guarantee that the services during the respective runtime are provided substantially in accordance with the respective data sheet. You must inform us immediately of any non-fulfilment.

10.2. Unless explicitly otherwise stated, the provisions of the user agreement for the CODESYS Automation Server cannot be understood as a fault-based guarantee.

11. Infringements against intellectual property rights and indemnity

11.1. Infringements against intellectual property rights and indemnity on our part:

11.1.1. We will defend any action brought against you by third parties arising out of your access to and/or use of the services at our own cost to the extent that the claim is based on the fact that your access to or permissible use of the services breaches intellectual property rights of a third party in the country in which the intellectual property right has been registered or, if unregistered, has arisen. In the context of the regulations of clause 12 we shall accept claims for compensation you were sentenced by a competent court. You must inform us of such claims immediately in writing. Should you neglect to inform us, your neglect shall nevertheless have no effect on our duties from this clause 11.1, unless this neglect has a major effect on us. You will provide us with reasonable support at your own expense. You will also provide us with information and give us sole authority to defend ourselves against the claims or to make a settlement. You may not make concessions to the detriment of 3S or conclude any settlement without our prior written consent. Our indemnity duties in this clause 11.1.1 do not apply in the event that statutory violations occur due to

- your neglecting to use the latest version or one of our remedies or a patch for the services;
 - the combination, operation or use of services in connection with your content or with software, devices, materials, services or products of a third party;
 - any adaptation or configuration of the services not carried out by us;
 - use of the services by you or your users in a manner not permitted in accordance with the user agreement for the CODESYS Automation Server;
 - your use of the services after notification from us not to use them any longer;
- or
- our adherence to designs, schematics or specifications, submitted to us by you or on your account.

11.1.2. This clause 11.1 represents the sole and exclusive liability of 3S in the case of infringements against intellectual property rights in accordance with the user agreement for the CODESYS Automation Server and the respective order form.

11.2. Indemnity by you:

You must indemnify 3S and its suppliers and contract partners against all claims, damage claims, liability, losses, costs and expenses (including reasonable legal advice costs), resulting from or in relation to the following and, at the choice of 3S, defend it against:

- any assertion that your content, the combination of your content with other content, apps or services and/or their use by 3S or by an affiliate of 3S breaches applicable laws or infringes the rights of third parties;
- your use of third-party apps or services in relation to third-party apps if said use results from such a related use;



- any neglect by you, a user, or on the part of your employees, advisors, subcontractors or any other persons acting according to your instructions, to follow the applicable conditions of the user agreement for CODESYS automation server or the respective order form;
- any false statements included in information, including any marketing materials which you provide to us for use vis-à-vis third parties;
- all disputes between you and a user
and
- any use of the services or of your content for the operation of or within a high-risk system, if the operation of a high-risk system depends on the correct operation of a service or a service is responsible for the failure of a high-risk system.

We shall take all reasonable efforts to keep you informed immediately in writing about such claims. Should we neglect to inform you, our neglect shall nevertheless have no effect on our duties from this clause 11.2, unless this neglect has a major effect on you. We shall take all reasonable efforts (at your expense) to inform you of the defence or the conclusion of a settlement and provide reasonable support inasmuch as 3S has the right to take part in the defence or the settlement in relation to the claim at its own expense and with a counsel of its own choosing or to take on and control the defence or the settlement. You may not accept any settlement which would result in liabilities or duties for 3S without the written consent of 3S.

12. Limitation of liability

12.1. 3S has unlimited liability for damage due to deliberate or negligent injury to life, limb or health and for other damage caused intentionally or by neglect of 3S or its statutory representatives or vicarious agents.

12.2. If 3S does not have unlimited liability in accordance with the provisions of the first paragraph in the case of injury caused by simple negligence of a substantial contract duty, the liability of 3S for damage and compensation is limited to the typically foreseeable damage. Substantial contractual duties are duties whose fulfilment is essential to the correct execution of the respective agreement and on whose fulfilment you regularly rely and in which you can trust (cardinal duties).

12.3. The liability of 3S based on the applicable product liability law regulations remains unaffected.

12.4. Any liability of 3S beyond the aforementioned cases is excluded. In these cases in the event of problems or dissatisfaction with the services the sole remedial action open to you is to terminate the use of the available services.

13. Temporary suspension

13.1. We have the right to suspend fully or in part access to your account and/or the provision of services and/or the guarantee of rights conferred in the user agreement for the CODESYS Automation Server or the respective order form immediately and without prior notice at any time if in our justified opinion:

- you may have substantially breached against a regulation of the user agreement for the CODESYS Automation Server or the respective order form;
- you are in default of a payment due according to the respective order form for more than fifteen (15) days and have not settled this in full within this period;
or
- such a suspension is required by law, court order or request from a competent authority.
- We shall notify you as soon as possible about any such suspension.



13.2. If an to the extend to which we assert our right to temporary suspension your remain obliged to pay

- the whole sum owed prior to the suspension;
- the whole sum with regard to saving the content connected with your suspended services and any payment for the execution of ongoing tasks after the date of the suspension;
- any agreed payment for access to and use of services, which are not suspended.

We have the right to stop processing some or all of the content of your suspended services. None of your content will be deleted as a result of the suspension unless this is required at our reasonable discretion or on request from a competent authority or to avoid or limit the liability of 3S or a third party or to prevent any adverse effect on the security of systems of 3S. Unless on our opinion your access and your use of the services according to clause 14 need not be terminated, we shall restore the access and the use of the suspended services in the scope to which the reasons for our suspension according to clause 13.1 no longer exist. Our right to temporary suspension exists in addition to our rights of termination according to clause 14 and all other rights and claims available to us. The restoration of your access and the use of the suspended services do not limit these rights and claims.

14. Term, termination

14.1. The user agreement for the CODESYS Automation Server becomes effective with the conclusion of the first order form and remains effective up to its termination or expiry in accordance with its provisions. All termination rights according to this clause 14 must be asserted by notification in the written form to the other party.

14.1.1. Unless otherwise agreed in the user agreement for the CODESYS Automation Server or the respective order form, both parties can terminate any service and/or the user agreement for the CODESYS Automation Server at any time by ordinary notice. An ordinary notice requires a period of at least thirty (30) days to the end of the calendar month.

14.1.2. Each party can terminate a service and/or the user agreement for the CODESYS Automation Server at any time and with immediate effect on serious grounds in accordance with the following regulations. Where a termination-justifying incident relates to a particular service, the party may only terminate the service in question.

14.1.2.1. Each party can terminate a service and/or the user agreement for the CODESYS Automation Server at any time and with immediate effect in the event of a substantial breach of contract on the part of the other party if said breach is not remedied within a period of 30 days from notification of the breach by the other party.

14.1.2.2. Particularly the following reasons justify our termination of one of the services and/or the user agreement for the CODESYS Automation Server:

- Actions or omissions which justify a suspension according to clause 13 for a period of at least thirty (30) consecutive days;
- our duty to meet obligations of applicable law or official orders;
- the termination or the expiry of our contract relationship with a supplier of software and/or services which are essential for the provision of the agreed services and
- if you terminate your ordinary business, make assignments in favour of creditors or similarly dispose of your assets or you are subject to bankruptcy, restructuring, liquidation, dissolution or similar proceedings.

14.1.3. Termination according to clauses 14.1.1 or 14.1.2 can be carried out by either party for each individual service. The same applies if several services form part of an order form, provided that the



price for each service is given separately. If services are offered as part of a package, the services cannot be individually terminated even if the price for one or all of the services is stated separately.

14.2. In the case of a termination or the expiry of a service, irrespective of the reasons and under consideration of clause 14.3., you must cease the use of your accounts and services immediately in the scope to which these are affected by the termination or the expiry and return all materials relating to the terminated or expired services immediately or destroy the same if requested by us. The termination or the expiry of the user agreement for the CODESYS Automation Server is to be considered as termination and/or expiry of all services. Unless otherwise defined in the user agreement for the CODESYS Automation Server you must pay us the full amount due at the time of termination or expiry. Any remuneration paid to us is non-refundable. All contract conditions of the user agreement for the CODESYS Automation Server, from whose purpose this arises, outlast any such termination or expiry and furthermore retain their full validity and effectiveness.

14.3. For a period of thirty (30) days after the expiry or termination of a service we shall not delete the content which is saved to your account in the course of providing the services at the time of such an expiry or termination. After this period of thirty (30) days we are not obliged to retain the content which is related to your terminated or expired service or to guarantee access to this content and we can delete, destroy or anonymise all the content which you have stored on the platform in connection with the terminated or expired service unless otherwise agreed. At your request we will largely provide the same post-contractual support that we generally offer to all of our customers. This can include the option of calling up certain parts of your content which are stored on your account at the time of your request. The latter does not apply if we did terminate on serious grounds or if applicable law or requests from authorities prevent us from providing post-contractual support. Any post-contractual support requires the conclusion of a separate order form and the payment of an additional fee as agreed in this order form.

15. Confidentiality rules

15.1. Confidential information may not, unless explicitly otherwise regulated in this user agreement, be used by the party receiving the confidential information ("recipient"), for purposes outside the user agreement for the CODESYS Automation Server or the order form, under which or in connection with which it was disclosed. Confidential information shall be treated in strict confidence by the recipient with the same care given to its own equivalent information and data and at least with reasonable care. Confidential information may not be transferred or disclosed by the recipient in any way to third parties other than those employees, affiliated companies, business partners, advisors and the respective employees of said companies, business partners and advisors of the recipient, who must for their part be subject to similarly stringent non-disclosure duties and user limitations as the recipient in accordance with this user agreement for the CODESYS Automation Server and respective order form.

15.2. The non-disclosure obligation from clause 15.1 does not apply to confidential information which

- is in the public domain without infringement of the user agreement for the CODESYS Automation Server or other misconduct;
- is or was made available to the recipient by any source other than the party disclosing the confidential information, provided that the recipient has no reason to believe that said source is itself bound by any obligation of confidentiality or that such source has obtained the information by illegal or impermissible acts;
- was legally possessed by the recipient before receipt by the disclosing party, without a corresponding non-disclosure obligation;



- will be developed by the recipient independently without use or reference to confidential information;
- must be disclosed by statutory regulation or court order or official order.

16. Export control and sanctions

16.1. You agree to observe all applicable sanctions (including embargos), (re-) export control laws and regulations, particularly those of the Federal Republic of Germany, the European Union and the United States of America (jointly "Export control and sanction law").

16.2. Irrespective of the existing provisions from clause 16.1 you are obliged to check and ensure by appropriate measures, that

- you are not violating any sanctions imposed by the European Union, the United States of America, the United Nations or any other competent authority through downloads, exports, re-exports (including any transport operations which are export transactions), transfers or other disseminations of services, the platform or software or technology;
- the services are not intended for use in relation to armoury, nuclear technology, chemical or biological weaponry or rocket technologies if and as far as said use is banned or requires permission unless the licence or permission has been requested first.

16.3. You are obliged to

- refuse and prevent access to services from a prohibited location in accordance with export control and sanctions law;
- carry out ongoing checks of all users and all your customers of whether they appear on a sanctioned party list;
- guarantee that individuals or corporations, including your customers and users, who appear on one of these lists will have no access to services including all materials.

16.4. To the extent necessary for export controls or sanction compliance control by 3S or any government agency you are required to immediately provide 3S with all information relating to the particular destination, the end user and the intended use of the services provided by 3S, including information about you, your customers and users when asked to do so.

16.5. We are not obligated to fulfil the user agreement for the CODESYS Automation Server or the respective order form if such fulfilment is prohibited or restricted by national or international foreign trade or customs provision or embargo or other sanction. You furthermore confirm that 3S, due to export control and sanctions laws which affect 3s, may be obliged to limit or block your access and/or the access of your users to the services.

17. Restrictions for free services

17.1. The restriction from this clause 17 apply inasmuch as we provide you with access and use of specific services free of charge, e.g. for specific cost-free online support, services for testing and evaluation purposes, "trial services", "pre-release" "beta" or "preview versions" (such services are jointly described as "free services").

17.2. We have the right, without prior notification at any time and at our discretion, to change, limit or cancel your access to and use of all or parts of a free service and to no longer offer the free service, including the access to and use of your content which has been collected in relation to your use of the free services. This includes particularly our right to change or swap materials which are provided to you in relation to the free service and the right, at any time and without prior notice at our discretion, to delete content which has accumulated in relation to your use of the free services.



17.3. Unless and as far as not prohibited by the applicable law according to clause 18.4, and without limiting our liability from clauses 12.1 and 12.3, free services are provided "as is", i.e. without guarantees or liability of any type. The basis for this is the respectively latest version. 3S is not bound to any duties in relation to support for and availability regarding this provision. We are not obliged to offer post-contractual support.

18. General provisions

18.1. The user agreement for the CODESYS Automation Server and the respective order forms also apply and are binding for the legal successors, statutory representatives and legitimate assignees of the parties. The user agreement for the CODESYS Automation Server and the respective order forms and all rights guaranteed therein can be transferred by us in whole or in part to our affiliated companies provided they assume our duties. You may not assign the user agreement for the CODESYS Automation Server, an order form or the rights guaranteed therein without our prior written consent.

18.2. Order of priority, valid versions. Unless explicitly otherwise agreed in the user agreement for the CODESYS Automation Server or in the respective order form, in the case of a conflict or of a discrepancy between documents the provisions of the documents apply in the following, descending order: (i) the order forms; (ii) the respective data sheets and (iii) this primary document.

18.3. Force majeure. Neither party is held responsible for unfulfillment or delayed fulfilment of duties from the user agreement for the CODESYS Automation Server or an order form caused by events reasonably beyond the control of said party. These include, in particular, natural disasters, earthquakes, fires, floods, embargoes, riots, sabotage, attacks on IT systems by third parties (e.g. attacks by hackers), workforce shortages or industrial disputes, acts or omissions of civilian or military authorities (including currency restrictions and suspension or revocation of import or export licenses), war, sabotage or terrorist attacks. The same applies even if these circumstances occur with a supplier, agent or affiliated company. The party hindered from delivering its performance on time shall inform the other party immediately of the reasons therefore and shall make all commercially reasonable efforts to remedy the non-performance or late performance as quickly as possible.

18.4. The user agreement for the CODESYS Automation Server and the respective order forms are subject to the law of the Federal Republic of Germany. The UN Convention on Contracts for the International Sale of Goods does not apply.

18.5. As per the user agreement for the CODESYS Automation Server and the respective order forms we can provide notice to you by posting a notice on your account or by sending a message to the email address connected with your account. You are responsible for regularly accessing your account and keeping your email address up-to-date. If you fail in these duties or if a message is not received due to a technical problem in relation to the technical equipment or services which lie under your control or the control of one of your subcontractors, messages apply as having been received two (2) days after they have been transmitted to you. Messages to us must be sent via "My question" in the CODESYS Store. Irrespective of the above, messages about claims and messages with regard to dispute must always be made in writing and they must be sent to the contact address given in the respective order form.

18.6. If a provision of the user agreement for the CODESYS Automation Server or an order form be declared invalid, illegal or unworkable, this shall in no way affect the validity, the legal appropriateness and the workability of the remaining provisions. Such provisions should be reformulated according to the applicable laws and reflect the original intentions of the parties as far as possible.



18.7. The user agreement for the CODESYS Automation Server and the respective order form make up the entirety of the contract conditions agreed between the parties with regard to the subject of the contract and they replace all prior written or verbal agreements, accords or discussions. The user agreement for the CODESYS Automation Server and the respective order forms may not be changed unless such a change is executed by authorised representatives of both parties in the written form or by means of an online mechanism which is provided by us especially for this purpose. There apply no other terms and conditions, even if included in other orders, order confirmations or other correspondence from you to us and/or from us to you unless these have been explicitly agreed in writing as a deviation from the user agreement for the CODESYS Automation Server and the respective order form.

18.0. The parties are considered in all respects as independent companies and none of the content of the user agreement for the CODESYS Automation Server or an order form applies can be considered as the creation of a joint venture or a company or as the basis of an employer-employee relationship or any other representative relationship. Neither party is, or considers itself as having been granted authorisations or rights to enter or execute binding contractually duties or actions in the name of the other party.