Software License Agreement

(hereinafter referred to as "SLA" or "this Agreement")

THE FOLLOWING IS AN AGREEMENT BETWEEN BACHMANN ELECTRONIC GMBH OR ANY OF ITS AFFILIATES (HEREINAFTER REFERRED TO AS "BACHMANN") AND YOU, THE USER (HEREINAFTER REFERRED TO AS "Licensee", WHICH MAY REFER TO A NATURAL PERSON OR LEGAL ENTITY). IF YOU ARE A NATURAL PERSON ACTING FOR A LEGAL ENTITY, YOU HEREBY CONFIRM THAT YOU HAVE THE NECESSARY POWER OF ATTORNEY TO REPRESENT AND EFFECTIVELY BIND SUCH LEGAL ENTITY TO THIS AGREEMENT. BACHMANN HEREBY ASSURES THAT TO THE BEST OF ITS KNOWLEDGE AND BELIEF IT IS AUTHORISED TO GRANT THE RIGHTS OUTLINED BELOW. BY OPENING, DOWNLOADING, INSTALLING, ACCESSING, USING OR MAKING AVAILABLE THIS SOFTWARE PRODUCT, AS WELL AS BY EXERCISING YOUR RIGHTS TO USE THIS SOFTWARE PRODUCT, YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU DO NOT FULLY OBSERVE THESE CONDITIONS AND IN THE ABSENCE OF A SEPARATE WRITTEN CONTRACT BETWEEN BACHMANN AND YOU REGARDING THE USE OF BACHMANN'S SOFTWARE PRODUCTS, REFRAIN IMMEDIATELY FROM ANY FURTHER USE, TERMINATE THIS INSTALLATION AND REMOVE ANY SOFTWARE THAT HAS ALREADY BEEN INSTALLED, AND RETURN THE SOFTWARE PRODUCT TO THE SOURCE OF SUPPLY.

1 License

1.1 BACHMANN shall grant Licensee the non-exclusive and non-transferable (except as stated in this Agreement) right to use the software product (and the accompanying documentation) subject to the terms hereof, provided that the relevant license fees are paid. Licensee shall comply with all restrictions and obligations herein defined.

1.2 In accordance with the provisions herein, Licensee shall be entitled to sub-license or transfer the software product to its customers to the extent this is intended for the software product in question and in each case limited to the use on the machine/plant for which the software product has been licensed.

1.3 Licensee acknowledges that the software product has been licensed and not sold. Licensee has only been granted a license for the intended use of the software product subject to the conditions of this Agreement, in accordance with the use described in the accompanying documentation and in any additional written contract (if any) between BACHMANN and Licensee.

1.4 Subject to the provisions herein, Licensee shall not be entitled to modify or extend the software product, except to the extent that this is necessary for the software product's intended use or error correction. Beyond that, all rights of property, license and use for these modifications or extensions shall be assigned to BACHMANN and Licensee shall only be granted a right to use such modifications and extensions.

1.5 Whenever a software product or component thereof is offered with various levels of functionality, Licensee shall solely be granted the right to use the basic version of the software product. Certain components, parts or functions of the software product are beyond the scope of the basic version and may be used only if an additional license has been granted by BACHMANN in writing. In any case, Licensee must not manipulate any technical feature protecting the software product or limiting its use.

2 Limited warranty

2.1 The following terms exclusively govern the warranty in relation to the software product:

The obligations of BACHMANN with regard to warranty shall be correction or replacement of a faulty software product only. In the event of a warranty claim and subject to Licensee submitting a written report to BACHMANN within the warranty period, BACHMANN shall make reasonable efforts to rectify or replace the software for Licensee free of charge; for the avoidance of doubt: "To make reasonable efforts" shall refer to "rectify" only. BACHMANN shall not be obliged to provide corrections to or replacements for the software product if the relevant functionality is already provided by an updated version of the same software product even if the updated software product deviates from the version originally used by Licensee so that reasonable efforts have to be made by Licensee to ensure its original use (Licensee may have to e.g. re-compile or re-configure). If BACHMANN is not successful in remedying the faulty software product within reasonable time, Licensee shall be entitled to terminate this Agreement and BACHMANN shall repay the license fees minus an appropriate amount for the usage consumed. Licensee accepts that it shall not be entitled to receive for free any updates of the software product which offer additional functionality.

2.2 BACHMANN warrants to Licensee that the software product functions substantially in accordance with the accompanying documentation (this shall exclude evaluation versions without a RELEASE status – see Section 7). BACHMANN shall not be liable for the merchantability, fitness for a particular purpose, or performance other than as specified in the accompanying documentation. If product functions described in the documentation are granted only if applied separately, the functioning of any combination of product functions or several functions of the same kind at a time cannot be guaranteed. Thus, any combined use of functions within Licensee's application must be evaluated on a case-by-case basis.

2.3 Furthermore, BACHMANN does not warrant that the software product fulfils specific requirements not stated in the accompanying documentation or functions in the specific combinations required by Licensee, operates error-free or uninterrupted, or complies with the requirements concerning the functional safety of automated equipment (resulting from applicable law or standards such as IEC, ISO and the like). BACHMANN disclaims any liability in this regard. Licensee assumes full responsibility for determining whether the software product meets requirements which are not stated in the accompanying documentation.

2.4 BACHMANN warrants that the media on which the software product is supplied is free of defects in materials and workmanship, and that the unmodified software product performs the functions described in the accompanying documentation subject to proper installation and use. In case of internet downloads, this warranty applies to BACHMANN's own download platform but does not extend to the entire transfer process. BACHMANN is offering secured downloads with state-of-the-art measures to ensure data integrity and strictly recommends to use such methods only. However, the history of IT security and data encryption shows that advanced methods and increased computation power continuously push forward the limits of code breaking and intrusion and Licensee acknowledges this fact and that BACHMANN cannot be held liable for any damage resulting from anything beyond its duty to comply with state-of-the-art procedures.

2.5 At the time of it being made available BACHMANN warrants that the software product does not infringe any copyrights, patents or other intellectual property rights according to the law determined in Article 14. If it does, BACHMANN shall fully indemnify Licensee against all costs and damage arising from any such infringement provided that Licensee notifies BACHMANN in writing within 30 calendar days after learning of a claim, provided further that BACHMANN has exclusive control in contesting such a claim, and Licensee

provides BACHMANN with full information, authorisation and support in contesting this claim or in the negotiation of a settlement.

2.6 Upon receiving notification of the actual or alleged infringement of third party rights, BACHMANN shall be entitled to either:

- terminate this Agreement and refund the license fee(s) paid by Licensee for the software product minus an appropriate amount for the usage consumed, or
- replace the relevant software product, or modify it in such a way that third party rights are no longer infringed while providing substantially the same functionality, or
- purchase the right of use of the software product for Licensee

unless an infringement could have been avoided through the use of a current version of the software product. Also, there is no liability/indemnification if the infringement arises from the use or combination of the software product with soft-, firm- or hardware not supplied by BACHMANN, or if the function for which the infringement of copyright, patent or other intellectual property right has been claimed is a component supplied by a third party.

3 Limitation of liability, third party damage

3.1 Beyond the software-related turnover generated with Licensee within the 12-month-period preceding any damage event, BACHMANN shall not be liable to Licensee for any damage suffered in connection with the supply and/or use of (or inability to use) any software product. In any case, BACHMANN shall not be liable for any loss of business, profit or production, loss (or delay) of income or earnings, loss of data, environmental and reputational or any sort of indirect, special, incidental, consequential, exemplary or punitive damage(s) arising from the use, failure or inability to use the software product, even if BACHMANN has been notified of the possibility of such damage(s).

3.2 Licensee acknowledges that it is fully responsible for the use of the software product. Accordingly, Licensee agrees to indemnify, defend and hold BACHMANN harmless from and against any and all demands, claims, or suits by third parties for loss, damage, costs, or expenses (including attorneys' fees) arising out of, or related to, use of the software product by third parties who were not intended to receive and/or use of the software product.

4 Activities involving increased risk

The software product was not designed, developed, or manufactured for use (or resale) as a fail-safe or real-time processing system the failure of which may cause direct or indirect property or environmental damage or personal injury (with or without loss of life) – each being an increased risk activity – unless explicitly stated otherwise in the respective user manual. Any warranty as regards a fail-safe or real-time processing system or the suitability of the software product for activities involving increased risk shall be excluded. Licensee herewith agrees that BACHMANN shall not be liable for any damage or claim arising from such use of the software product.

5 Termination of the contract

5.1 BACHMANN shall be entitled to terminate this Agreement for the following reasons:

(a) if Licensee is in material breach of any term of this Agreement and a cure period of 30 calendar days after a written notification has expired; or

(b) if a regular (e.g. monthly) payment of the license fee is agreed and if insolvency or similar proceedings have been initiated in respect of Licensee's assets, if the application for such proceedings has been rejected e.g. due to insufficient funds, or if Licensee suspends payment.

5.2 Upon termination of this Agreement, Licensee shall immediately suspend the use of the software product, remove all copies of the software product from its systems, and – at BACHMANN's option – destroy the software product including the accompanying documentation or return it to BACHMANN at its own expense. Licensee shall certify in writing within 30 calendar days after the removal or destruction that this has been completed. BACHMANN shall be entitled to verify the destruction or removal of the software product on Licensee's premises.

5.3 The termination of this Agreement does not release Licensee from its liability for any unfulfilled obligations (such as payment of fees incurred or confidentiality).

6 Definitions, Property Rights, and Confidentiality

6.1 Definitions

'**Firmware**' shall mean a specific class of computer software that provides the low-level control for a device's specific hardware. It is tightly linked to the hardware, held in persistent memory devices and cannot be removed by the user.

'**OSS / Open Source Software**' shall mean computer software that is released under a license in which the copyright holder grants users inter alia the rights to use, study, change, and distribute the software and its source code to anyone and for any purpose. A more detailed definition has been developed by the Open Source Initiative/OSI – go to: https://opensource.org/osd

'**Run-time components**' shall mean all software which is needed by the user to run application programs.

'**Software product**' refers to the software supplied together with libraries in binary format or as source code, including all additional components, e.g. firmware, forming part of a certain hardware, test programs, examples or configurations as well as updates made available in the context of maintenance, product support or trainings, regardless of how any of this has been made available. Installation programs, configuration files or other types of resource files, including all hardware or system description files, all types of manuals, documentation, online help files or product specifications, descriptions and depictions of procedures followed as well as training documents shall also be deemed components of a software product unless these have generally been made accessible to the public.

'**User manual**' shall be that part of the documentation (as defined below) which contains a technical specification and detailed description for the intended use of the software product in question.

6.2 Intellectual property

6.2.1 Subject to third party rights (see below), all intellectual property rights for and in the software product shall belong to BACHMANN. Only a license shall be granted (see Section 1). Licensee shall protect these rights with at least the same care as it does with regard to its own property rights and undertakes not to compromise, restrict or otherwise affect BACHMANN's property rights.

6.2.2 Component parts contained in the software product or with the installation of the software product may be subject to separate property rights. Licensee undertakes to fully acknowledge, not to compromise, restrict or otherwise affect these property rights.

6.2.3 Except as stated herein, Licensee shall not be permitted to disclose, make accessible or transfer the software product or parts thereof to third parties, or to copy, translate, reverse engineer, decode, decompile, disassemble or otherwise try to access the source code or the process contained therein or modify the software product without the prior written consent of BACHMANN. Licensee shall not be entitled to rent, lease, donate or make the software product or parts thereof otherwise available to a third party, unless BACHMANN has given its prior written consent. Modifications of the relevant part of any software product for Licensee's own use and reverse engineering for debugging purposes are herewith permitted if such rights have been established by the underlying OSS license. However, forwarding to third parties the knowledge acquired during reverse engineering shall be prohibited. Furthermore, it is prohibited to distribute modified versions of the software product. Warranty claims for a modified software product shall lapse unless Licensee can prove that the defect would also be present without the modifications performed by Licensee.

6.2.4 Licensee shall be entitled to make a limited number of copies of the software product for backup purposes only (no productive use allowed).

6.2.5 Except for OSS, software products that are designed and supplied for use on or in conjunction with BACHMANN hardware must be used by Licensee solely in combination with this hardware and not stand-alone or in conjunction with other systems.

6.2.6 BACHMANN reserves the right to trace serial numbers, license codes and other data useful for the determination of license compliance at any time, and Licensee undertakes to offer the appropriate assistance. BACHMANN warrants the confidentiality of this data and undertakes not to use it except for license enforcement, selective product information (in case of defects), product improvement and strategy and Licensee assistance.

6.2.7 BACHMANN reserves the right enforce a registration or technical licensing process prior to any product usage. Licensee shall not be entitled to any compensation for reasonable additional effort resulting from registration requirements and/or technical licensing protection.

6.2.8 BACHMANN reserves the right to monitor and trace user activity related to the software product's functions whereby any data suitable to identify a specific user or application content is eliminated immediately and will neither be available for computation nor storage by BACHMANN. The only purpose of such user activity tracing is to gain a better understanding of human behavior during usage of the software product and subsequently the ability to improve it. BACHMANN ensures confidentiality throughout this process and grants Licensee the ability to disable this mechanism ("opt out").

6.2.9 Licensee shall grant BACHMANN the right to receive, store and process automated, semi-automated or manually initiated problem and/or system information reports. Licensee acknowledges that all

information submitted may be used by BACHMANN for error analysis and assistance and that Licensee shall be responsible for reducing the information submitted to whatever level is permissible to be disclosed.

6.3 Transfer of rights

6.3.1 Licensee shall not be entitled to transfer the rights granted for the intended use of the software product to third parties or to assign or pass them on in any other way. This does not apply to run-time components; these, however, must not be transferred or used apart from the target application. Any further distribution of run-time components shall be subject to the restrictions of this Agreement.

6.3.2 Any personal access information (user name, password, anonymous access links, etc) regarding product information and/or download sites shall be kept confidential by the respective user.

6.3.3 Licensee shall make a written license agreement with its customers before using BACHMANN software products which provides for the legally binding transfer to its customer of the obligations as intended by this Agreement. Upon BACHMANN's written request such agreement(s) shall be evidenced.

6.3.4 As required by the Enterprise License Agreement concluded with BACHMANN, WIND RIVER SYSTEMS INC. ("Wind River") and its licensors are third party beneficiaries of this Agreement and the provisions related to run-time components are for the benefit of and are enforceable by Wind River and its licensors.

6.4 Confidentiality

6.4.1 Licensee shall treat as confidential and keep secret all information about the software product supplied by BACHMANN, in particular processes, functions and capabilities no matter if source code or documentation only has been made available. It shall not pass them on or make them directly or indirectly accessible to third parties without BACHMANN's prior written consent.

6.4.2 Furthermore, Licensee shall treat as confidential and keep secret all additional source code, interface descriptions or other information about the software product, even if these are required for the use of the software product.

6.4.3 If Licensee is required by applicable law to disclose information about BACHMANN software products, it shall inform BACHMANN of such disclosure immediately.

6.4.4 In case of a separate confidentiality / non-disclosure agreement between BACHMANN and Licensee, this provision shall be supplemented by the stipulations of such separate agreement; in case of contradiction, the latter shall prevail.

7 Product versions, evaluation and test samples

7.1 A specific version number and status (e.g. 2.01 RELEASE) shall be assigned to all software products. The version number indicates the ordinal position of the version within the development process compared to previous versions. Ascending version numbers without explicit assurance do not indicate compatibility with previous versions. The status (e.g. ALPHA, BETA or RELEASE) indicates the stage within the development process for a particular version number. The number and status can be determined according to the corresponding documentation.

7.2 Only software products that are marked as RELEASE are designed for productive use and fully functional applications (i.e. production level).

7.3 Software products with a different status (e.g. ALPHA, BETA, RELEASE CANDIDATE, …) are exclusively for information, evaluation and/or testing. They are provided without any warranty and must only be used after appropriate risk assessment in a suitable and safe test environment under supervision of qualified staff. In addition to the general liability restrictions stipulated herein, the user / integrator must be aware of the following when testing such versions: Each type of software without a RELEASE status was possibly not tested at all or not tested to the extent that can be expected of a software product with RELEASE status. In certain circumstances, the functionality or the expected and/or required degree of stability may not be available. Software products without RELEASE status are possibly not compatible with previous or later versions, or generate or modify data which is not compatible with previous or later versions. For this reason, BACHMANN urgently recommends the creation of a backup copy of all data and/or files prior to usage with a software product without RELEASE status.

7.4 BACHMANN may supply software products with RELEASE status together with the same or other software products without RELEASE status as download package or on one and the same medium (e.g. USB-stick). This is in order to provide interested customers with advance information, but does not indicate the fitness for use of the software product without RELEASE status, and is not intended to encourage the use of this software product outside of a laboratory or test environment.

8 Third party software

8.1 The software product may contain third party software, including OSS. It is only made available to Licensee for use as part of the software product. If the software product in question contains OSS (e.g. libraries), certain rights and obligations are resulting from distribution of the software product to third parties. Licensee shall be aware of and comply with obligations such as making available of license texts and warranty disclaimers.

8.2 Other third party software (e.g. Adobe Acrobat Reader) may be made available as a separate software product which is licensed to Licensee directly by the third party (original manufacturer) in accordance with the respective terms and conditions. BACHMANN disclaims warranties of any kind for third party software supplied by BACHMANN as separate software component and does not accept liability for any damage resulting from such software component's use and/or inability to use.

8.3 Special provisions with regard to Wind River's VxWorks Header Files & Documentation to be observed by Licensee and/or Licensee's customer:

Any end user shall be prohibited from:

(a) copying any VxWorks Header or Documentation Files except for archive purposes consistent with the end user's archive procedures;
(b) transferring any VxWorks Header or Documentation Files to a third party;
(c) exporting any VxWorks Header or Documentation Files or underlying technology in contravention of applicable U.S. and foreign export laws and regulations; and
(d) using any VxWorks Header or Documentation Files other than for the purposes of creating, editing and compiling the end user's own source code or BACHMANN's source code to be executed on the authorised run-time module.

In addition, Licensee agrees to the following:

(i)   any VxWorks Header and Documentation Files are licensed, not sold, and that BACHMANN and its licensors retain ownership of all copies of the VxWorks Header and Documentation Files;

(ii)   BACHMANN, on behalf of Wind River, disclaims all implied warranties, including without limitation the implied warranties of merchantability, fitness for a particular purpose, title and non-infringement;

(iii)   all liability of Wind River and BACHMANN for any special, indirect, punitive, incidental and consequential damages are excluded;

(iv)   with respect to any VxWorks Header and Documentation Files, Wind River and its licensors are third party beneficiaries of these conditions and that the provisions related to any VxWorks Header and Documentation Files are made expressly for the benefit of, and are enforceable by, Wind River and its licensors.

8.4 The complete list of the third party suppliers may be obtained from BACHMANN on written request:

software@bachmann.info

8.5 When required by the respective third party manufacturer, the license terms of the third party manufacturer in relation to BACHMANN (or the end user) are stored in the target directory of the software product concerned.

8.6 "Eclipse" is a registered trademark of the Eclipse Foundation. Important components which are used as a basis for various BACHMANN software products are available also as source code from the Eclipse Foundation: http://www.eclipse.org/.

8.7 The manufacturer or product names stated in this Agreement or in the documentation may be registered trademarks of these manufacturers and subject to statutory protection. By naming these, BACHMANN does not intend to breach these rights or to claim a special suitability, qualification, certification or other manufacturer approval but solely to inform Licensee.

9 Update procedure

9.1 From time to time, BACHMANN will make available updated versions of the software product. These updates shall only be made available to Licensee on the basis of a maintenance contract for the respective software product or if this is provided for in a cooperation or OEM agreement.

9.2 Having licensed a software product in a certain version, Licensee shall not be automatically entitled to receive an update or new version of the same software product. Moreover, Licensee shall not be entitled to such software product being developed any further or compatibility between a current and a previous version of the same software product.

10 Documentation

Documentation comprises all types of written information pertaining to a specific software product. The documentation is normally made available by BACHMANN in a digital format which is integrated in the software product or is stored in the target directory of the software product during the installation. No

other documentation is available. All references in this Agreement to "(accompanying or relevant) documentation" refer to the documentation as described in this provision.

11 Export control

11.1 Licensee undertakes not to export in any way or fashion to a country software product or package, its underlying technology, or an application that was developed using the software product, or to reimport it from this country if this is prohibited by applicable law, and undertakes not to use the software product in a way that is prohibited by applicable law.

11.2 It is the obligation of Licensee to obtain any approvals or exemptions required for the export of the software product. Licensee shall fully indemnify and hold BACHMANN harmless against all damage, loss and claim suffered by BACHMANN as a result of Licensee having breached its respective obligations.

11.3 Upon written request (cf email-address provided above), BACHMANN shall provide a list of the relevant manufacturers whose components have been integrated in the BACHMANN software product and shall thus enable Licensee to clarify any export requirements.

13 Use for demonstration and evaluation purposes

13.1 The terms of this Agreement must also be observed if the software product is used for demonstration or evaluation purposes.

13.2 Use of the software product for demonstration and/or evaluation purposes is only permissible if BACHMANN has given its prior consent in writing. A license to use a software product for demonstration and/or evaluation purposes may be revoked by BACHMANN at any time.

13.3 The software product must not be used without a valid license key or license agreement in an environment which is not a bona fide demonstration / evaluation environment.

14 License audit

Licensee shall be obliged to maintain accurate written records of the location and use of each software product obtained from BACHMANN. To ensure compliance with the terms of this Agreement, BACHMANN (or third party appointed by BACHMANN) shall have the right, during the term of this Agreement or for twelve (12) months thereafter, exercisable upon reasonable prior notice, to conduct an inspection and audit of such records and to obtain true and correct photocopies of such records, during Licensee's regular business hours at Licensee's offices, and in such a manner as not to interfere unreasonably with Licensee's normal business activities. Any underpayment of fees shall carry interest at the statutory rate or a rate of five percent (5%) whichever is higher. If the audit reveals that Licensee has underpaid BACHMANN by five percent (5%) or more of the amount owed for any period audited, then Licensee shall immediately reimburse BACHMANN for its reasonable costs and expenses associated with such audit.

15. General

15.1 This Agreement shall be subject to the substantive law (excluding its rules and regulations on conflict of laws) of the jurisdiction in which the respective BACHMANN entity granting this License is domiciled. In any case, the UN Sales Law Convention shall be excluded. Venue and method of dispute resolution with regard to this Agreement shall be in accordance with the (cooperation, OEM, etc) agreement concluded by BACHMANN and Licensee. In the absence of such agreement, any dispute shall exclusively be decided by the courts having jurisdiction over the BACHMANN entity as defined in this Article.

15.2 BACHMANN may modify this Agreement – and it may change the SLA's digital format – at any time and without prior notice, so Licensee is encouraged to review this Agreement as published on Bachmann's website

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on a regular basis. If Licensee objects to any term or condition of this SLA after any change, Licensee agrees that its sole remedy will be to discontinue using the software product. Licensee agrees that its continued use of the software product after any change to this SLA will be deemed its consent to the updated SLA. This Agreement supersedes all previous BACHMANN terms and conditions with the same subject matter, including the "End-User License Agreement/EULA".

15.3 If any provision of this Agreement is or becomes ineffective or unenforceable, the remaining provisions shall be unaffected thereby. The ineffective or unenforceable provision shall be deemed replaced by an effective and enforceable provision that approximates the intended commercial and legal effect of the original provision as much as possible.

15.4 All amendments and/or additions to this Agreement (in particular warranties with regard to the features, functions, performance or quality of the software product) must be agreed in writing.

15.5 Communications in relation to this Agreement must be made in writing in GERMAN or ENGLISH.